

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Alterations and additions**

**139 George Street,  
Avalon Beach**

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**RESPONSIBLE FOR THIS REPORT:**

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# 1 Introduction

## 1.1 Description of the proposed development

This report is a Statement of Environmental Effects (SEE), pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.

The development application seeks consent for alterations and additions to the existing dwelling house, including new swimming pool, at 139 George Street, Avalon Beach.

The existing building already exceeds the building height standard. Alterations and additions, including reconfiguration of the existing roof form is proposed that will provide a recessive upper level, and a more contemporary design that is responsive to the site conditions.

The proposal is depicted in the accompanying architectural plans by Blue Sky Building Designs. A summary of the key aspects of the proposal are noted as follows:

### **Level 1 – entry, car parking and utilities**

Alterations relating to stair modifications, new lift, bathroom enlargement and modified entry, new gym, new storeroom, terrace to front connecting to new swimming pool (see below)

### **Level 2/3 – (split level) principal living spaces**

Alterations to existing spaces as shown, including privacy screens to various balconies; stair modifications and new lift.

### **Level 4 – upper-level bedrooms**

Alterations are proposed to the existing level which comprises: 2 bedrooms, 2 bathrooms and 2 small balconies.

Alterations and additions to the existing roof form, that already exceeds the building height, to enhance sunlight access and views to Pittwater; stair modifications and new lift.

### **Garden and external - (as shown)**

- swimming pool and terrace
- widen driveway
- retaining walls

## **1.2 DA2022/1198**

DA2022/1198 for alterations and additions to the existing dwelling house, including new swimming pool was lodged on 02/08/2022.

The DA was withdrawn on 18/11/2022 in response to issues raised in the assessment regarding the stormwater management including the location and dimensions of Council's stormwater pipelines and associated infrastructure.

In response, the location and dimensions of Council's stormwater pipelines and associated infrastructure are accurately confirmed by the subject DA.

## **1.3 Statement of Environmental Effects**

This Statement of Environmental Effects (SEE) is prepared in response to Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal has been considered under the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

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

- Environmental Planning and Assessment Act, 1979
- Local Environmental Plan
- Relevant State Environmental Planning Policies
- Development Control Plan

The proposal is permissible and conforms with the relevant provisions of the above planning considerations.

Overall, it is assessed that the proposed development is satisfactory, and the development application may be approved by Council.



**Figure 1 - Existing front / northern elevation**



**Figure 2 - Proposed front / northern elevation**

## 2 Site Analysis

### 2.1 Site and location description

The site is located at 139 George Street, Avalon Beach and legally described as Lot 4 in Deposited Plan 204164. The site has an area of 1,170m<sup>2</sup>.

The site is located on the southern side of George Street and is accessed via a long 'battle-axe shaped' driveway from George Street.

The allotment is of irregular shape, with a narrow northern street frontage of 4.57m.

The site has a long, narrow driveway which provides access to the dwelling house and is positioned close to the rear boundary.

The allotment has a second egress from its western side via Careel Bay Crescent.

The property contains an existing large split-level dwelling house, carport, double garage, with various elevated decks above the ground level. There is existing elevated deck and pergola on the eastern side of the dwelling house that is to remain.

The topography slopes steeply from the rear of the dwelling to the front of the site. There is a level difference of approximately 9.46m between the rear of the dwelling house and the front boundary (RL 17.99 to RL 8.53).

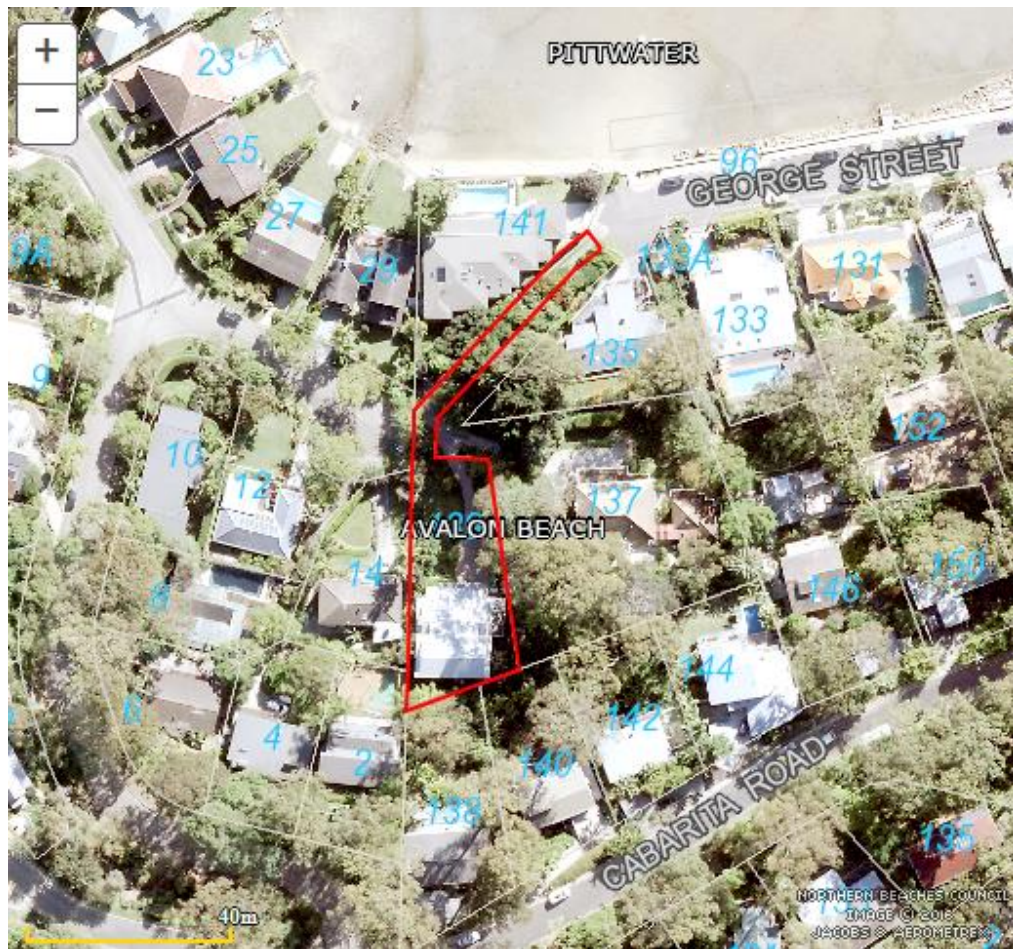
The property is within a north facing hillside that enjoys views over Careel Bay and Pittwater. There is dense vegetation to the east and south of the site.

The undulating topography results in dwelling houses being sited at different levels and within an irregular pattern within the hillside.

Neighbouring properties to the east, south, south-east and south-west are significantly separated, elevated, and screened by vegetation.

The figures on the following pages depict the character of the property and its existing development.





**Figure 3 – Alignment, orientation, and spatial layout of the subject site and adjoining dwellings (courtesy Northern Beaches Council)**





**Figure 4 – the configuration and orientation of the subject site (courtesy Northern Beaches Council Maps)**



**Figure 5 – access driveway to the site**



**Figure 6– existing development as viewed from the entry driveway**





**Figure 7 – existing dwelling's eastern elevation**



**Figure 8 – to the north from the dwelling house**

## 3 Environmental Assessment

### 3.1 Section 4.15 of the Environmental Planning & Assessment Act, 1979

The following section of the report assesses the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended.

Under the provisions of the Environmental Planning and Assessment Act 1979 (the Act), the key applicable planning considerations, relevant to the assessment of the application are:

- Pittwater Local Environmental Plan
- State Environmental Planning Policies – as relevant
- Pittwater Development Control Plan

The application of the above plans and policies is discussed in the following section of this report.

The application has been assessed against the relevant heads of consideration under Section 4.15 of the Act; a summary of these matters are addressed within Section 7 of this report, and the town planning justifications are discussed below.

## 4 Section 4.15 (1)(i) the provisions of any environmental planning instrument

### 4.1 Pittwater Local Environmental Plan 2014 –

#### 4.1.1 Zoning

The property is zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014 (LEP) as is most of the surrounding land.



**Figure 9 – zone excerpt (Northern Beaches Council)**

The proposal constitutes alterations and additions to the existing dwelling house and are permitted with Development Consent.

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone' in relation to the proposal. The objectives of the zone are stated as follows:

*To provide for low-impact residential development in areas with special ecological, scientific, or aesthetic values.*



*To ensure that residential development does not have an adverse effect on those values.*

*To provide for residential development of a low density and scale integrated with the landform and landscape.*

*To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

It is assessed that the proposed development is consistent with the zone objectives as it:

- will provide low-impact development compatible with the other developments within the visual catchment.
- is located appropriately upon the site in terms of the topography.
- will be positioned within a landscaped setting, compatible with the surrounding development.
- retains a low impact residential use on the site which, based on the information accompanying this DA, does not give rise to any unacceptable ecological, scientific or aesthetic impacts.

Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.

#### **4.1.2 Other relevant provisions of the LEP**

Other provisions of the LEP that are relevant to the assessment of the proposal are noted and responded to as follows:

LEP Provision	Response	Complies
<b>Part 4 of LEP – Principal Development Standards</b>		
LEP Clause 4.1 Minimum subdivision lot size	700m <sup>2</sup>	NA
LEP Clause 4.3 – Height of Buildings 8.5m	Exceeds as shown on the architectural plans.	No
LEP Clause 4.4 – Floor space ratio	NA	NA
LEP Clause 4.6 – Exceptions to development standards	Yes – for building height. The proposal satisfies the provisions of clause 4.6. See attached cl4.6 report.	Yes
<b>Part 5 of LEP – Miscellaneous Provisions</b>		
LEP Clause 5.4 Controls relating to miscellaneous permissible uses	NA	NA
LEP Clause 5.10 Heritage Conservation	NA	NA

<p>LEP Clause 5.21 Flood planning</p> <p>Clause 5.21(2) and (3) state:</p> <p><i>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</i></p> <p><i>(a) is compatible with the flood function and behaviour on the land, and</i></p> <p><i>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</i></p> <p><i>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</i></p> <p><i>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</i></p> <p><i>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</i></p> <p><i>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</i></p> <p><i>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</i></p> <p><i>(b) the intended design and scale of buildings resulting from the development,</i></p> <p><i>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe</i></p>	<p>Council's maps identify the site as being affected by medium flood risk.</p> <p>The proposed development is accompanied by a flood risk management assessment report. It confirms that the property is capable of accommodating the proposed development without inappropriate impacts on the subject property, risk to life, or neighbouring land.</p> <p>The proposal principally involves alterations and additions to an existing multilevel dwelling house. The proposal involves minimal changes to the existing dwelling house footprint and the majority of the dwelling house extent is established on the property.</p> <p>Response to subclause 2:</p> <p>In response to (2)(a), the proposal is compatible with the flood function and behaviour on the land.</p> <p>In response to (2)(b), the accompanying flood risk management report has considered the location of the proposed development on the property and found it to be satisfactory.</p> <p>The proposal is on a property that includes habitable levels above the flood planning level facilitating safe occupation of the land during a flood event.</p> <p>In response to (2)(c), there remains adequate egress to and from the front and western side of the property via Careel Bay Crescent. Therefore, the proposal will not inappropriately affect the safe occupation or evacuation of people in the event of a flood.</p> <p>In response to (2)(d), the proposal incorporates appropriate measures to manage risk to life in the event of a flood.</p> <p>In response to (2)(e), the proposal is not within proximity to riparian land or water courses. The proposal will not adversely affect the environment by causing avoidable erosion, siltation.</p> <p>Response to subclause 3:</p> <p>In response to 3(a), the flood planning levels for the site have considered and incorporated</p>	<p>Yes</p>
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<p><i>evacuation of people in the event of a flood,</i></p> <p><i>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</i></p>	<p>potential impacts resulting from climate change.</p> <p>In response to 3(b), the proposed development comprises alterations and additions to an established property used for residential purposes. The proposed development will involve modest changes to the existing flood circumstances.</p> <p>In response to 3(c), the dwelling comprises multi levels and is capable of providing shelter above the flood plane during a flooding event to minimise the risk to life in future flooding situations.</p> <p>In response to 3(d), the dwelling house is established upon the sought; minimal changes are proposed to the existing dwelling house footprint. It is capable of being modified if the area is impacted by flooding.</p> <p>Therefore, the proposal will not adversely affect flood behaviour in a way that results in detrimental increases to the potential flood affectation of other development or properties.</p> <p>Based on the above the proposed development satisfies the considerations within clause 5.21 and the site is suitable for the development proposed.</p>	
<b>Part 6 of LEP – Additional Local Provisions</b>		
<p>LEP Clause 7.1 Acid sulfate soils</p>	<p>The site is identified as being within class 5 acid sulfate soils. Modest excavation for footings is proposed below the existing site levels which are at approximately RL 8 in relation to the proposed swimming pool and above RL 5.</p> <p>Based on the above the proposed development satisfies the considerations within clause 7.1 and the site is suitable for the development proposed.</p>	<p>Yes</p>
<p>LEP Clause 7.2 Earthworks</p>	<p>Modest excavation for footings is proposed below the existing site levels.</p> <p>The application is accompanied by a stormwater management plans and geotechnical assessment report that conclude that the proposal is appropriate for the site.</p> <p>A stormwater management plan accompanies the application and makes appropriate</p>	<p>Yes</p>

	<p>provision for the management of stormwater. Drainage patterns and soil stability are not adversely impacted, and stormwater will be managed in accordance with the stormwater management plan.</p> <p>Appropriate measures are proposed to avoid, minimise, or mitigate the impacts of the proposed development of the land including appropriate stormwater management, siltation control, and landscaping.</p> <p>The architectural plans make appropriate provision for the design of cut, fill, and treatment of the site's external areas. No inappropriate amenity impacts on neighbouring properties relating to earthworks upon the site are anticipated from the proposed development.</p> <p>The Development Application is accompanied by a waste management plan which addresses the destination of excavated material. Further conditions of development consent may reasonably be imposed to ensure this occurs in an authorised manner. Fill will be sourced from excavated areas within the site.</p> <p>No significant amount of fill is proposed by the DA.</p> <p>Heritage is not relevant to the proposed development. Not being in a heritage conservation area, it is unlikely relics will be disturbed.</p> <p>There are no drinking water catchments or environmentally sensitive areas proximate to the site.</p> <p>The siting and design of the proposed development has considered the matters within clause 7.2(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Based on the above the proposed development satisfies the considerations within clause 7.2 and the site is suitable for the development proposed.</p>	
LEP Clause 7.5 Coastal risk planning	NA	NA
LEP Clause 7.6 Biodiversity	Pursuant to Clause 7.6, the site is identified on the biodiversity map.	Yes

	<p>Residential use is long established upon the site and it is fully developed to accommodate a dwelling house and associated structures.</p> <p>The biodiversity mapping generally relates to the ecological community of the Pittwater Spotted Gum.</p> <p>The proposed works are located on an area with no significant vegetation.</p> <p>Except for the proposed swimming pool and terrace, the proposed works utilise a comparable footprint of the existing development located upon the property. No existing significant trees are proposed to be removed by the proposal.</p> <p>No designated trees are proposed to be removed by the proposed works. It is considered that the works will not give rise to any significant adverse impacts to the biodiversity value of the area nor any endangered spotted gum trees.</p> <p>Based on the above, it is unlikely that the proposal would have an adverse impact on any threatened ecological community and the provisions of clause 7.6 are assessed as being satisfied by the proposal.</p>	
LEP Clause 7.7 - Geotechnical hazards	<p>The site is identified as being subject to geotechnical hazards H1.</p> <p>The proposal is accompanied by a geotechnical assessment that concludes that the proposal is appropriate for the site.</p> <p>The siting and design of the proposed development has considered the matters within clause 7.7(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Based on the above the proposed development satisfies the considerations within clause 7.7 and the site is suitable for the development proposed.</p>	Yes
LEP Clause 7.8 Limited development on foreshore area	<p>Pursuant to clause 7.8 of the LEP, the northern tip of site (comprising a part of the front battle-axe driveway) is identified as being within foreshore area.</p> <p>The development that is subject of the DA is not within the foreshore area.</p> <p>Based on the above the proposed development satisfies the considerations</p>	Yes



SECTION 4.15 (1)(I) THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

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	within clause 7.8 and the site is suitable for the development proposed.	
LEP Clause 7.10 - Infrastructure	The dwelling is established on the property and is serviced by the appropriate infrastructure.	Yes

## **4.2 State Environmental Planning Policy**

### **4.2.1 State Environmental Planning Policy - BASIX**

The proposed development is BASIX affected development as prescribed. A BASIX assessment report accompanies the application and satisfies the SEPP in terms of the DA assessment.

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

The following aspect of State Environmental Planning Policy (Biodiversity and Conservation) 2021 is applicable are applicable to the land and the proposed development:

- Chapter 2 - Vegetation in Non-Rural Areas

This matter is addressed below.

#### **Chapter 2 - Vegetation in Non-Rural Areas**

Vegetation is prescribed under Pittwater DCP for the purposes of the SEPP.

A Mango tree requires removal to accommodate the proposed swimming pool. Exempt tree species are listed on Northern Beaches Council's website. It states the following tree species are suitable for removal without consent unless identified as a heritage item or within a heritage area: All non-native fruit producing trees listed as (Loquat, Paw Paw, Citrus, Kumquat, Apple, Mulberry, Avocado, Apricot, Almond, Cherry, Plum, Peach, Mango).

The proposal does not involve the removal of any designated trees and therefore the provisions of this policy are satisfied by the proposal.

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

The following aspects of State Environmental Planning Policy (Resilience and Hazards) 2021 - are applicable to the land and the proposed development:

- Chapter 2 – Coastal Management
- Chapter 4 - Remediation of Land

These matters are addressed below.

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

The Coastal Management Act 2016 establishes a strategic planning framework and objectives for land use planning in relation to designated coastal areas within NSW. The Act is supported by Chapter 2 Coastal Management and Chapter 4 - coastal use area. It is applicable because the site is within the designated:

- Chapter 2 - coastal environment area
- Chapter 4 - coastal use area

As relevant to these affectations, the aims of the SEPP within clauses 13 and 14 addressed below. In summary, the proposal is assessed as being consistent with the aims and objectives of the SEPP.

### Chapter 3 - coastal environment area

The provisions of clause 2.10 *Development on land within the coastal environment area* are addressed as follows:

2.10 Development on land within the coastal environment area	Response
<b>(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:</b>	
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	<ul style="list-style-type: none"> <li>The land and its development for residential purposes is established on the site. The extent of proposed works is supported by the appropriate range of technical studies. The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
(b) coastal environmental values and natural coastal processes,	<ul style="list-style-type: none"> <li>The land and its development for residential purposes is established on the site. The extent of proposed works is supported by the appropriate range of technical studies. The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	<ul style="list-style-type: none"> <li>Provision of appropriate stormwater management has been made for the site.</li> <li>The proposal does not relate to sensitive coastal lakes identified in Schedule 1</li> <li>The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	<ul style="list-style-type: none"> <li>The subject site is established for residential purposes. The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	<ul style="list-style-type: none"> <li>The proposal will not adversely impact upon existing access provisions. The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
(f) Aboriginal cultural heritage, practices and places,	<ul style="list-style-type: none"> <li>The proposal is not known to be located in a place of Aboriginal cultural heritage significance. The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
(g) the use of the surf zone	<ul style="list-style-type: none"> <li>Not relevant to the assessment of the proposal.</li> </ul>
<b>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</b>	

2.10 Development on land within the coastal environment area	Response
<i>(a) to the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or</i>	<ul style="list-style-type: none"> <li>Responses have been made above in relation to the considerations within subclause (1).</li> <li>The proposal is assessed as satisfactory in relation to these considerations.</li> </ul>
<i>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>	<ul style="list-style-type: none"> <li>The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
<i>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</i>	<ul style="list-style-type: none"> <li>Aside from compliance with relevant codes, standard conditions of consent, and Australian Standards there are no other mitigation measures foreseen to be needed to address coastal impacts.</li> <li>The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
<i>(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</i>	<ul style="list-style-type: none"> <li>Noted; not applicable.</li> </ul>

## Chapter 4 - coastal use area

The provisions of clause 2.11 *Development on land within the coastal environment area* are addressed as follows:

2.11 Development on land within the coastal use area	Response
<p><i>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:</i></p> <p><i>(a) has considered whether the proposed development is likely to cause an adverse impact on the following:</i></p>	
<i>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	<ul style="list-style-type: none"> <li>The proposal will not adversely impact upon existing access provisions.</li> </ul>
<i>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	<ul style="list-style-type: none"> <li>The proposal will not result in any significant or excessive overshadowing of the coastal foreshore. Nor will result in significant loss of views from a public place to the coastal foreshore.</li> </ul>
<i>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	<ul style="list-style-type: none"> <li>The proposal is commensurate with the nature and scale of development on adjoining properties. It will not result in any</li> </ul>

2.11 Development on land within the coastal use area	Response
	<p>significant additional visual impact on the coastal foreshore. Nor will result in significant loss of views from a public place to the coastal foreshore.</p> <ul style="list-style-type: none"> <li>▪ The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
<i>(iv) Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and is satisfied that:</i>	
<i>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i>	<ul style="list-style-type: none"> <li>▪ The proposal is not known to be located in a place of Aboriginal cultural heritage significance</li> <li>▪ The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
<i>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>	<ul style="list-style-type: none"> <li>▪ See above response.</li> </ul>
<i>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i>	<ul style="list-style-type: none"> <li>▪ See above response.</li> </ul>
<i>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i>	<ul style="list-style-type: none"> <li>▪ The subject site is established for residential purposes. Relatively modest alterations and additions are the subject of this DA.</li> <li>▪ The proposal will not result in any significant additional visual impact on the coastal foreshore. Nor will result in significant loss of views from a public place to the coastal foreshore.</li> <li>▪ The proposal is assessed as satisfactory in relation to this consideration.</li> </ul>
<i>(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</i>	<ul style="list-style-type: none"> <li>▪ Noted; not applicable.</li> </ul>

## Chapter 4 – Remediation of Land

Chapter 4 – Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. Council is required to consider whether land is contaminated prior to granting consent to carrying out of any development on that land. In this regard, the likelihood of encountering contaminated soils on the subject site is low given the following:

- Council's records indicate that site has only been used for residential uses.



- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines.
- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed residential development. Therefore, pursuant to the provisions of the SEPP, Council can consent to the carrying out of development on the land.

## 5 Development Control Plan

### 5.1 Overview

In response to Section 4.15 (1)(iii) of the Act, the Pittwater Development Control Plan (DCP) is applicable to the property. Relevant provisions of the DCP are addressed below.

### 5.2 Avalon Beach Locality

The property is within the Avalon Beach Locality.

The accompanying plans and this report demonstrate that the proposal has been designed to meet the desired future character locality through its, location, form, setbacks, height, landscaped areas, quality of design and materials.

The building designer has responded to the client brief to provide a development of visual interest. The proposal harmonises with the locality, natural slope and vegetated, landscaped character of the site and hillside.

The proposal displays an appropriate bulk and scale within a vegetated, hillside, landscaped setting, noting:

- The proposal maintains the existing developments setback pattern.
- The property has a limited visual catchment due to its position within a battle-axe allotment and the vegetated character of the surrounding land.
- The proposal involves a modest GFA/FSR increase noting the existing GFA is 322m<sup>2</sup> (FSR of 0.28:1) and the proposed GFA is 347m<sup>2</sup> / 0.29:1, maintaining a suburban character below 0.5 to 1 as per the planning principle for 'Compatibility in a suburban context' established in *Salanitro-Chafei v Ashfield Council* [2005] NSWLEC 366 at 23-28.

The design, scale and treatment of the proposed development is compatible with other development within the local hillside setting. The development responds positively to the desired future character of the locality and will contribute to the visual amenity of the locality.

### 5.3 Key DCP controls

A table demonstrating compliance with the relevant provisions of the DCP is detailed as follows.

Control	Requirement	Proposed	Complies
<b>Part D: Locality Specific Development Controls</b>			
Front setback	6.5m or established building line, whichever is the greater	> 50m	Yes
Side and rear setbacks	Side: 2.5m one side 1m to other side	<b>Side setbacks - below level 4</b> East – no change West – no change  <b>Side setbacks - level 4</b> East – 5.4m to new balcony West:	NA NA  Yes

Control	Requirement	Proposed	Complies
		<ul style="list-style-type: none"> <li>2.5m to new balcony</li> <li>1.910m to dwelling house existing/maintained</li> </ul>	Yes Yes
	Rear: 6.5 m	Dwelling house – No change	Yes
Swimming pool setbacks		Swimming pool – West side <ul style="list-style-type: none"> <li>1.45 to pool coping</li> <li>Terrace - variable: 1.45m to 2.5m</li> </ul> East side <ul style="list-style-type: none"> <li>10.5m (min) to pool coping</li> </ul>	Yes Yes  Yes
Building Envelope	3.5m at 45 degrees plane to maximum building height boundary.	West side – exception existing and proposed to level 4. Exception variable – setbacks approx. 1.9 to 2.5m	No
	West – 5.4 to 6m  East – 8.18 to 10.17m	East side – complies	Yes
<b>Objectives</b>  <i>‘To achieve the desired future character of the Locality. (S)</i>  <i>To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.</i>  <i>To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.</i>  <i>The bulk and scale of the built form is minimised. (En, S)</i>  <i>Equitable preservation of views and vistas to and/or from public/private places. (S)</i>  <i>To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)</i>  <i>Vegetation is retained and enhanced to visually reduce the built form. (En)’</i>		The proposed alterations and additions seek an exception to the building envelope for a modest section of the upper level on the western side.  The numerical variation is acknowledged, and justification is provided in response to the planning control objectives, the circumstances of the site, and the merits of the proposal, as noted below: <ul style="list-style-type: none"> <li>The proposal is consistent with the desired future character of the locality as previously addressed within section 5.2 of this report.</li> <li>The proposal appropriately responds to, reinforces, and sensitively relates to the spatial characteristics of the site’s setting and its environmental characteristics including, but not necessarily limited to, the sloping topography, irregular dwelling house pattern, allotment configuration, established landscape screen planting, orientation, outlook, and built form context.</li> <li>The proposed upper-level modifications are setback from the northern façade, comprise a reduced volume of the dwelling’s first floor level, and are recessed.</li> <li>The bulk and scale of the built form is minimised through the recessive upper-level form, the landscape setting that it will be sited within, and the large side separation to most adjoining dwelling houses.</li> <li>As noted within the table below the proposed development outcome is assessed as satisfying</li> </ul>	

Control	Requirement	Proposed	Complies
		<p>the DCP's solar access requirements and will provide appropriate amenity to the adjoining properties. There will be no unreasonable amenity impacts in terms of these or privacy arising from the minor extent of the building envelope exceedance.</p> <ul style="list-style-type: none"> <li>The proposal will not result in the loss of any significant trees and will maintain adequate areas to sustain a garden setting within the property.</li> </ul> <p>Based on the above, it is assessed that the exception is minor, and the objectives of the control are satisfied. Therefore, there are appropriate circumstances for the flexible application of the numerical control.</p>	
Landscaped Area – C4	60% minimum. Site area: 1,170m <sup>2</sup> , Required: 702m <sup>2</sup>	<p>Existing – 636.5m<sup>2</sup> / 54.4%</p> <p>Proposed – 550.5m<sup>2</sup> / 50.5%</p> <p>The existing and proposed Landscaped area demonstrates non-compliance with the numerical control of 60%.</p> <p>The proposal results in an 86 square metre reduction (12% of requirement) in landscaped area. The reduction relates principally to the addition of the elevated swimming pool/terrace and widened driveway that will provide additional on-site visitor car parking and vehicle manoeuvring space.</p> <p>The numerical variation is acknowledged, and justification is provided in response to the planning control objectives, the circumstances of the site, and the merits of the proposal, as noted below.</p>	<p>No</p> <p>No</p>
Outcomes	<p><i>'Achieve the desired future character of the Locality.</i></p> <p><i>The bulk and scale of the built form is minimised.</i></p> <p><i>A reasonable level of amenity and solar access is provided and maintained.</i></p> <p><i>Vegetation is retained and enhanced to visually reduce the built form.</i></p> <p><i>Conservation of natural vegetation and biodiversity.</i></p> <p><i>Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.</i></p>	<ul style="list-style-type: none"> <li>The site has a long, narrow driveway which provides access to the rear of the lot where the dwelling is situated. The existing dwelling house is positioned close to the rear boundary. The driveway therefore occupies a significant and larger portion of the site area, with a corresponding diminution of landscaped area. This is an existing circumstance of the property.</li> <li>The existing development on the site is non-compliant with the numerical control and was built prior to the commencement of the DCP (around 2004). Strict numerical compliance is not achievable with this control.</li> </ul> <p>The proposed design provides an appropriate outcome when considered against the objectives of the control:</p>	

Control	Requirement	Proposed	Complies
	<p><i>To preserve and enhance the rural and bushland character of the area.</i></p> <p><i>Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.</i></p> <p><i>Variations</i></p> <p><i>Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:</i></p> <ul style="list-style-type: none"> <li>▪ <i>1. impervious areas less than 1 metre in width (e.g. pathways and the like);</i></li> <li>▪ <i>2. for single dwellings on land zoned R2 Low Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).</i></li> </ul>	<ul style="list-style-type: none"> <li>▪ As noted within section 5.2, the proposal is consistent with the desired future character of the locality.</li> <li>▪ The bulk and scale of the built form is minimised by a modest GFA and recessive upper level building character. Furthermore, there is a reduction in the floor plate area of the upper level from 144m<sup>2</sup> to 121.3m<sup>2</sup> (reduced from 135m<sup>2</sup> in DA 2022/1198).</li> <li>▪ As noted within the table below the proposed development outcome is assessed as satisfying the DCP's solar access requirements and will provide appropriate amenity to the adjoining properties. 'Screen planting' is proposed along the western side of the proposed swimming pool to facilitate visual softening of the pool and visual screening of the adjacent terrace. Therefore, a <i>reasonable level of amenity and solar access is provided and maintained</i>.</li> <li>▪ There are no designated trees proposed for removal and therefore the proposal is not antipathetic to the objective to conserve natural vegetation and biodiversity.</li> <li>▪ There remain appropriately located landscaped areas on the property to serve the function of the dwelling house, enhance separation to neighbouring properties, and provide a landscaped setting to the local context.</li> <li>▪ Stormwater runoff is reduced by the proposed addition of a water tank to meet basics requirements. No inappropriate change to the existing stormwater management will result from the proposed development.</li> <li>▪ The site does not have a bushland character; it has a treed and vegetated hillside setting. Sufficient established vegetation is retained to visually 'soften' the built form when viewed from adjoining land. The proposal will maintain adequate areas to sustain trees, gardens, and vegetation within the property. The proposal will not result in the loss of any significant trees. The proposal will not result in the loss any significant identified biodiversity areas.</li> <li>▪ Soil erosion and siltation is currently avoided by the landscaping of the areas external to the site.</li> <li>▪ In this instance the proposed swimming pool does not meet the provisions of the variation control. This is due to the sloping topography of the site and the desire to position the pool in a manner that is accessible from the main living areas of the dwelling house. If the pool surface was included as is common under the Pittwater,</li> </ul>	



Control	Requirement	Proposed	Complies
		<p>and Warringah DCP's, the landscaped area would be increased.</p> <p>For these reasons it is assessed that the proposed design entirely satisfies the front set back control and will provide a compatible and enhanced streetscape outcome.</p>	
<b>Part C: Development Type Controls</b>			
Private Open Space (PoS) (C1.7 DCP)	<p>80 m<sup>2</sup> at ground floor</p> <p>16 m<sup>2</sup> (out of the 80m<sup>2</sup>) must be provided off a principal living area of the dwelling. 4m x 4m min dimension and grade no steeper than 1 in 20 (5%)</p>	Compliance maintained and enhanced by additional swimming pool and pool terrace.	Yes
Solar Access (C1.4 DCP)	<p>Min 3 hours to each proposed dwelling within the site.</p> <p>Min 3 hours to neighbouring dwellings PoS areas.</p> <p>In accordance with Clause C1.4 the main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.</p> <p>Windows to the principal living areas of the proposal and the adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st to at least 50% of the glazed area.</p>	<p>Compliant solar access is maintained and enhanced to the subject dwelling house through the proposed building alterations and additional north facing openings at the upper level.</p> <p>The proposal is accompanied by shadow diagrams demonstrating the extent of proposed shading.</p> <p>They show that shade will be cast over the rear of the adjacent property at 2 Careel Bay Crescent at 9am and over the rear of 138 and 140 Cabarita Road at 3pm. This represents a modest and even distribution of shade to the adjoining properties.</p> <p>The shade will not be cast onto the principal private open space but onto landscaped areas at the rear of the properties and for a compliant period of time.</p> <p>The proposal will not unreasonably reduce the available sunlight to the adjoining land and the provisions of the control are satisfied.</p>	Yes
Views (C1.3 DCP)	New development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	There are significant views of Pittwater and Careel Bay to the north of the location. As shown within the photographs at Figure 15, the three properties to the south of the site enjoy these views. It is observed from this photograph that the roofs of the dwellings in the foreground of the photos do not impede on these views. The proposed development involves a	Yes

Control	Requirement	Proposed	Complies
		<p>lowering of the existing roof height and there are unlikely to be adverse view sharing impacts.</p> <p>Given the sloping topography and the siting of the proposed structure, the proposal is not anticipated to adversely impact on the established views from surrounding residential properties or any public vantage points and achieves a reasonable sharing of views in accordance with the control.</p>	
Privacy	DCP objectives.	<p>Privacy has been considered in the proposed design. The following key aspects are noted:</p> <p>The undulating topography results in dwelling houses being sited at different levels and within an irregular pattern within the hillside. Neighbouring properties to the east, south, south-east and south-west are significantly separated, elevated, and screened by dense hillside vegetation.</p> <p>The property contains an existing large split-level dwelling house, carport, double garage, with various elevated decks on the upper 2 levels.</p> <p>Privacy screens and obscure side facing balustrades are proposed to several existing and proposed elevated balconies and these will improve the existing privacy circumstances.</p> <p>Appropriate side dwelling house setbacks are maintained by the proposal.</p> <p>The proposal will maintain the existing pattern of uses / balconies established on the subject site which is compatible with the location of private open spaces on the adjacent properties.</p> <p>As shown on the architectural plans planting is proposed along the western side of the swimming pool and will provide visual screening compatible with the landscape character established in the location. The maintenance of such planning my for my condition of development consent.</p> <p>It is concluded that the proposal will not significantly or unreasonably affect</p>	Yes

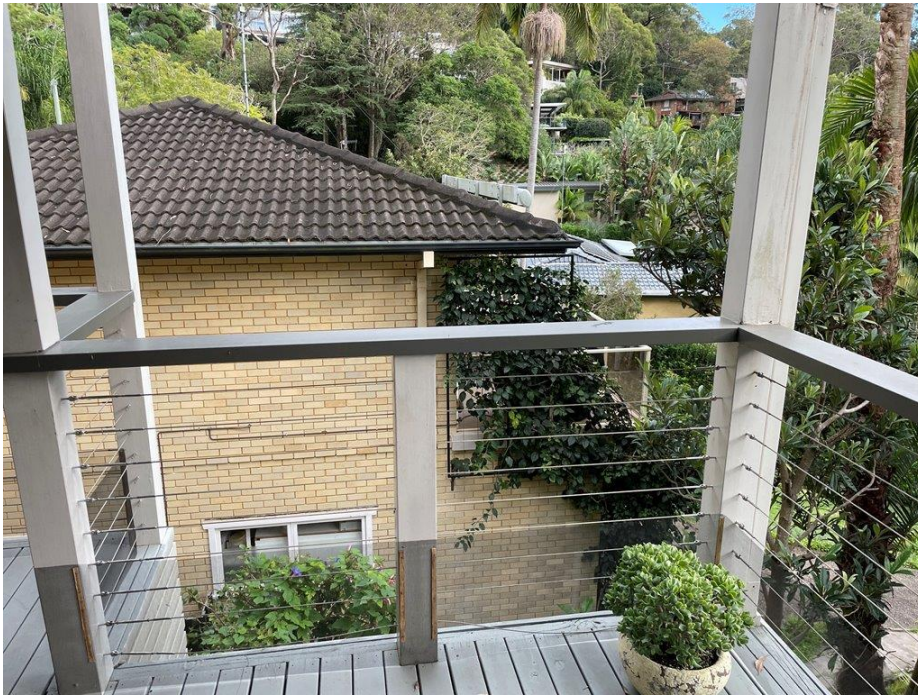
Control	Requirement	Proposed	Complies
		the visual privacy of the neighbouring properties.	
<b>Part B: General Controls</b>			
B5.10 Stormwater Discharge into Public Drainage System.	Connected by gravity means to street or established piped system.	Connected to the existing system by gravity means to street.	Yes
Car Parking (B6.5 DCP)	2 spaces per 2 or more bedroom dwelling.	2 separately accessible car parking spaces exist and will be maintained.	Yes
<b>RESIDENTIAL DEVELOPMENT CONTROLS</b>			
Character as viewed from a public place	Buildings which front the street must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality.	<p>The development is not visible from the site's George Street frontage and is significantly set back from Careel Ave.</p> <p>The proposed bulk and scale is appropriate in its context and compatible with the scale of development within the local area.</p> <p>The proposal is of a character and scale that will be compatible with other development within the site's hillside context.</p>	Yes
Scenic Protection – General	<p>Achieve the desired future character of the Locality.</p> <p>Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment.</p>	The proposed development will be within a landscaped setting and will be compatible with similar structures that are characteristic of the hillside location.	Yes
Building Colours and Materials	<p>The development enhances the visual quality and identity of the streetscape.</p> <p>To provide attractive building facades which establish identity and contribute to the streetscape.</p> <p>To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater.</p>	<p>The proposed development will present appropriately to the public spaces and adjoining land.</p> <p>The proposed materials and finished will employ earthy tones, compatible with the location and context.</p>	Yes

Control	Requirement	Proposed	Complies
	<p>The colours and materials of the development harmonise with the natural environment.</p> <p>The visual prominence of the development is minimised.</p> <p>Damage to existing native vegetation and habitat is minimised.</p>		



Figure 10 – existing privacy interface with eastern adjoining property at 137 George Street





**Figure 11 – existing privacy interface with western adjoining property at 14 Careel Bay Crescent – privacy screens are proposed to this interface**



**Figure 12 – existing privacy interface with eastern adjoining property at 137 George Street**







VIEW FROM 139 GEORGE ST, AVALON - RIDGE LINE  
(IMAGE FROM REALESTATE.COM.AU)



VIEW FROM 2 CAREEL BAY CRES, AVALON  
(IMAGE FROM REALESTATE.COM.AU)



VIEW FROM 140 CABARITA RD, AVALON  
(IMAGE FROM REALESTATE.COM.AU)



VIEW FROM 138 CABARITA RD, AVALON  
(IMAGE FROM REALESTATE.COM.AU)

**Figure 15 – the character of views to Pittwater from four nearby / adjoining properties**

## 6 Section 4.15 the Environmental Planning and Assessment Act 1979 – Summary

The proposal has been assessed having regard to the matters for consideration pursuant to S.4.15 of the Act and to that extent Council can be satisfied of the following:

- There will be no significant or unreasonable adverse built environment impacts arising from the proposed physical works on the site.
- The site is appropriate for accommodating the proposed development. The proposal has sufficiently addressed environmental considerations. There will be no significant or unreasonable adverse environmental impacts arising from the proposal.
- The proposal will result in positive social and economic impacts, noting:
  - Employment during the construction phase of the works;
  - Economic benefits, arising from the investment in improvements to the land;
  - Social (and environmental) benefits arising from the improvements to the dwelling house and BASIXs compliance.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP. The proposal satisfies the provisions of the relevant provisions of the council's DCP.
- It is compatible with the current and likely future character of development within the local context.
- It will not result in any significant unacceptable offsite impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposal will have an acceptable impact when considering key amenity issues such as visual impact, views, overshadowing, noise and privacy.
- Given the site's location and established function, the site is assessed as being entirely suitable for the proposed development.
- The public interest is best served through the approval of the application.



## 7 Conclusion

The application seeks development consent for alterations and additions to the existing dwelling house, including new swimming pool, at 139 George Street, Avalon Beach.

The proposed development is permissible and consistent with the provisions of the planning controls as they are reasonably applied to the site.

The variations proposed to the built form controls have been appropriately acknowledged and their acceptability assessed, having regard to the objectives of the controls, and the circumstances of the property. This report demonstrates that the proposal is appropriately located and configured to complement the property's established neighbourhood character. The exceptions will not give rise to any unacceptable residential amenity or streetscape consequences.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 and should be granted development consent.

### **BBF Town Planners**



**Michael Haynes**  
**Director**