

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE DEMOLITION OF THE EXISTING DWELLING, LOT CONSOLIDATION AND
CONSTRUCTION OF A NEW DWELLING, ENTRY PARKING STRUCTURE & RECONSTRUCTION
OF A PORTION OF THE EXISTING COMMON ACCESS DRIVEWAY WITHIN
THE EXISTING RIGHT OF WAY**

LOCATED AT

139 – 141 RIVERVIEW ROAD, AVALON BEACH

FOR

MMIG DEVELOPMENTS PTY LTD



**Prepared
December 2024**

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1.0 Introduction

This Statement of Environmental Effects accompanies details prepared on behalf of MMIG Development Pty Ltd by CM Studio Pty Ltd for the proposed demolition of the existing dwelling, consolidation of the existing two allotments which comprise the parcel and the construction of a new dwelling, swimming pool, carport and associated structures and new driveway, together with the reconstruction of the existing common access driveway within the existing right-of-way driveway on land at **139-141 Riverview Road, Avalon Beach**.

The architectural plans prepared by CM Studio Pty Ltd comprise Project Number 2023_152 Issue 1 dated 11 September 2024, comprising:

DA000 Title Page	DA204 Street Elevation
DA001 Basix Commitments	DA220 Entry Portico Elevations
DA010 Building Envelope Compliance	DA300 Section AA
DA020 8.5m Height Plane Compliance	DA301 Section BB
DA030 10m Height Plane Compliance	DA302 Section CC
DA040 Site Plan (Existing)	DA310 Entry Portico Sections
DA050 Site Plan (Proposed)	DA320 Pool Plan
DA060 Compliance Analysis Plan	DA321 Pool Sections
DA070 Demolition Plan	DA410 Landscape Compliance Plan
DA100 Lower Ground Floor Plan	DA420 Excavation Footprint Plans
DA101 Ground Floor Plan	DA500 Schedule of Finishes
DA102 First Floor Plan	DA600 Shadow Diagram - 21 June 9am
DA103 Second Floor Plan	DA601 Shadow Diagram - 21 June 12pm
DA104 Roof Plan	DA602 Shadow Diagram - 21 June 3pm
DA105 Entry Portico Lower Floor Plan	DA610 View from Sun-Summer Solstice
DA106 Entry Portico Floor Plan	DA611 View from Sun-Autumn Equinox
DA107 Entry Portico Roof Plan	DA612 View from Sun - Winter Solstice
DA200 North Elevation	DA613 View from Sun - Spring Equinox
DA201 East Elevation	DA700 Site Waste Management Plan
DA202 South Elevation	DA710 Erosion + Sediment Control Plan
DA203 West Elevation	DA900 Photomontage

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

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

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2021*
- *Biodiversity Conservation Act 2016*
- *Biodiversity Conservation Regulation 2017*
- *The Fisheries Management Act 1994*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*

- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan*

2.0 Property Description

The subject site comprises two allotments, being Lots 1 & 2 within Deposited Plan 833902, described as 139 & 141 Riverview Road, Avalon Beach (“the site”). The site is zoned C4 Environmental Living under the provisions of PLEP 2014.

The site is identified on the NSW Biodiversity Values Map, and a Biodiversity Development Assessment Report (BDAR) is submitted as required by the Biodiversity Conservation Act 2016. This will be discussed further within the submission.

The site is identified as being within the Coastal Environment Area and the Coastal Use Area under the provisions of the SEPP (Coastal Management) 2018. The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council’s Estuarine Hazard Mapping. These matters will be discussed further within this submission.

The proposal is also within 40 metres of a watercourse mapped under the Water Management (General) Regulation 2018, however all works in this application are located above the mean high water mark of the estuary. As a result, the development application is not integrated development and a referral to the NSW Department of Planning and Environment – Water will be at Council’s discretion.

The site is identified within the Class 3 and Class 5 Acid Sulfate Soils Area and is affected by the Foreshore Building Line. These matters will be discussed further within this submission.

In addition, the site is identified as being subject to Low and Medium flooding, as shown on the Flood Hazard Map and will be discussed further within the submission.

The site is affected by Council’s Geotechnical Hazard mapping Geotechnical Hazard Map – H1 and accordingly a Geotechnical investigation has been prepared by AscentGeo Geotechnical Consulting, dated December 2024. This issue will be discussed further within this submission.

The site is not identified as being in the vicinity of heritage item or area.

There are no other hazards affecting this site.

3.0 Site Description

“The site” currently comprises two lots located on the western, lower side of Riverview Road. Site - 141 Riverview Road (Lot 2 DP833902) has a front boundary to Riverview Road of 25.33m, and northern and southern side boundaries of 33.52m and 26.99m. The western boundary, that adjoins No. 141 Riverview Road (Lot 1 DP 833902) measures 13.44m and 12.005m and lot has a total area of 740.3m².

No 139 Riverview Road has northern and southern side boundaries of 31.83m to the MHW and 72.17m (for a narrow access handle frontage to the street), with an area of 1043m². The collective area for both lots is 1783.43m². In the event that development consent is granted for the new dwelling, the lots will be consolidated into a single parcel.

The site is currently burdened by a right-of-carriageway easement benefiting the adjoining properties at No. 143 and No. 145 Riverview Road.

The land has an exceptionally steep slope of over 30m from the eastern, front setback to the western mean high water mark to the Pittwater waterway. Stormwater from the site is currently directed to Pittwater waterway.

The land is currently developed with an existing dwelling house, with a carport accessed from the existing driveway that also services No. 143 and No. 145 Riverview Road via reciprocal rights of way in favour of all parties. The site also contains a boat shed, boat ramp and decks which are sited around and below the Mean High Water Mark and on Crown Land, with these structures to be unchanged.

The site has numerous trees throughout the site, non-native and exotic, as well as several rock features.

The details of the existing site levels are indicated within the Survey Plan prepared by Hill and Blume Consulting Surveyors, Drawing No. 64900001C, Issue C dated 24 October 2024.



**Fig 1: Location of Subject Site
(Source: Six Maps)**



Fig 2: View of the driveway entry to the subject site, looking west from Riverview Road



Fig 3: View of the neighbouring carport structure at No 147 Riverview Road, looking north west



Fig's 4 & 5: Views of the common access driveway to the site, looking south-west



Fig 6: View of the existing dwelling and carport to be demolished, looking south-west



Fig 7: View of the existing dwelling at No 143 Riverview Road, looking north-east



Fig 8: View looking north along the waterfront boundary of the site

4.0 The Surrounding Environment

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

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

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

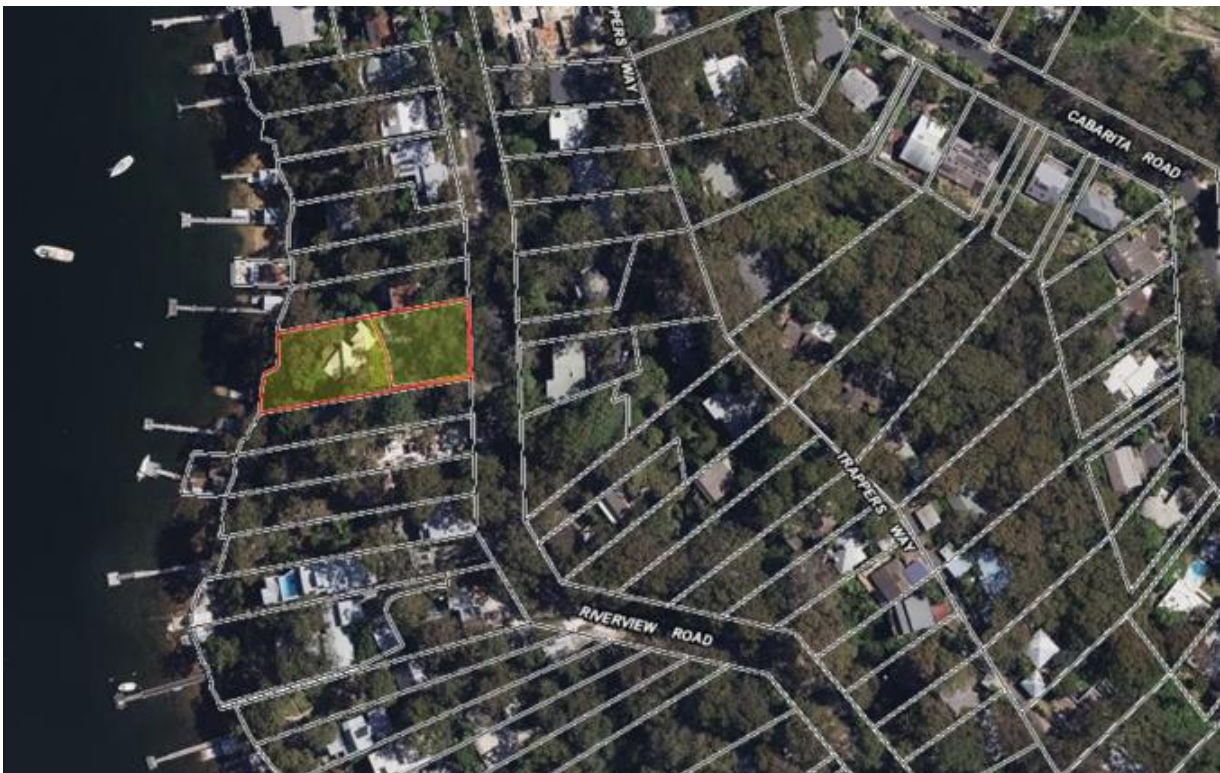


Fig 9: Aerial Photograph
(Source: Six Maps)

5.0 Proposed Development

As detailed within the accompanying plans, it is proposed to provide for the demolition of the existing dwelling and the construction of a new dwelling with a swimming pool and associated landscaping.

The development will comprise the following works:

Entry & Parking Level

- New open carport and covered entry at street level, with driveway crossing to Riverview Road
- New storage room below carpark level
- New lift from street entry to the main garage level below
- New pedestrian path and access stairs from car parking level to front yard and to main garage level
- New parking/entry level to provide for four car garage with storage, guest bedroom with ensuite, mudroom, library, W.C, balcony,
- Stair access to upper parking and storage levels and internal vertical lift

First Floor Level

- Three bedrooms with ensuites (two with rear terraces and one with Juliette balcony), master suite with ensuite and walk in robe, drying room, internal stair access and vertical lift to entry/parking level.

Ground Floor Level

- Open plan kitchen and pantry area, lounge area, rumpus room, central courtyard garden dining & living room, outdoor living area, powder room, internal stair access to upper levels and internal vertical lift.

Lower Ground Floor Level

- Gym & wellness area, sauna, changing area, W.C & shower, pool storage area, services and equipment area, laundry & drying room
- Internal vertical lift access

External Works

- Proposed new driveway to provide access to the parking deck and garage. Reconstruction of the portion of the common access driveway within the right-of-way area with reciprocal rights of way to be maintained over the driveway to retain the current access rights for the adjacent northern properties.
- New swimming pool and spa. The details of the proposed swimming pool are also included within the Landscape Plan prepared by Myles Baldwin Design. The proposed swimming pool will be fenced in accordance with requirements of the Swimming Pools Act.
- Level garden area adjacent to the Mean High Water Mark at the north-western corner of the site

It is anticipated that a separate Development Application will be lodged for the new jetty (33m X 1.5m), installation of a mesh ramp (6m x 1.5m) and fiberglass pontoon (3m x 4m). These works are indicated on the application however not coloured to confirm they not part of this current proposal. The works are provided to give clarity to the proposed future use of the foreshore area.

The proposed works represent a high-quality architectural design solution that will provide a significant enhancement to the amenity and usability of the site and provide a new dwelling that corresponds with the significant slope of the site. The resultant development is highly articulated, with skillful use of glazed window openings, flat green roof forms and materiality to break down the apparent size of the and reduce bulk and scale.

The articulated side boundary setbacks maintain the rhythm of development and building setbacks within the street and provides appropriately for spatial separation, tree retention, deep soil landscape opportunity, privacy, solar access and view sharing.

The internal design and arrangement will afford exceptional amenity to future occupants of the new dwelling without unreasonably compromising the amenity of surrounding residential properties or the foreshore scenic attributes of the precinct.

The proposed external finishes have been detailed within the submission and comprise of timber, stone, metal and rendering of a mix of lighter and darker tones to complement surrounding development and have been detailed in Sheet DA601.

The proposed new parking areas at the front of the site and adjacent to the new dwelling will provide increased amenity for the occupants and their future guests.

The proposal also includes a reconstruction part of the common access driveway within the neighbouring properties, over which the subject site and the neighbours enjoy reciprocal rights of carriageway. The written consent of the northern property owners affected by the proposed reconstruction of the common access driveway has been provided to the works necessary to facilitate the new driveway construction.

The proposed new multi-level plantings, along with tree retention will further assist in maintaining the privacy and amenity of both the subject and neighbouring properties and will soften the visual impact of the resultant development.

The development indices for the proposal are summarised as:

Site Area	1783.3m ² (including ROW) or 1633.75m ² (excluding the ROW)
Required Building Height	8.5m/10m (See LEP Height discussion)
Proposed Building Height	8.95m for new dwelling (to the highest point of the new work measured above existing ground level)
Required Landscaped Area:	60% or 980.25m ² (excluding ROW site area)
Proposed Landscaped Area:	59.4% or 971m ² (excluding ROW) 64% or 1046m ² (excluding the ROW + including 75m ² of the 6% impervious allowance 98.02m ²)

6.0 Zoning and Development Controls

6.1 Biodiversity Conservation Act 2016 & State Environmental Planning Policy (Biodiversity and Conservation) 2021

The Development Application seeks consent for the construction of a new dwelling on a steep vegetated site. The Arborist Report (Martin Peacock Tree Care dated 11 November 2024) submitted with the Application considers the impact of the work on 43 trees within the site and an additional 23 trees growing within the public areas adjacent to the site and the neighbouring properties. The Assessment confirms that 44 trees will require removal, 12 of which are exempt species, most of which are considered to be medium to low retention value trees.

The property is located within the Biodiversity Values Map designated by the NSW State Government (Department of Planning, Industry and Environment), making it subject to the provisions of the NSW Biodiversity Conservation Act 2016. The removal of native vegetation from within an area mapped on the Biodiversity Values Map triggers the Biodiversity Offset Scheme (BOS) and the subsequent requirement for a Biodiversity Development Assessment Report (BDAR) to be prepared by an accredited assessor and submitted with the application.

The submitted BDAR (Narla Environmental Pty Ltd, dated December 2024) confirms the presence of Pittwater and Wagstaffe Spotted Gum forest, which is listed as an Endangered Ecological Community (EEC) under the NSW Biodiversity Conservation (BC) Act 2016. In accordance with the BDAR, the proposed impacts to biodiversity include the removal of a total of 0.03ha of PWSGF EEC, including the removal of 3 native trees as identified by the Arboricultural Report.

The BDAR states the minimum requirements set out by the Biodiversity Offsets Scheme (BC Act and associated regulation as well as the BAM (DPIE 2020) and BAM Operational Manual – Stage 1 (DPIE 2020)) are satisfied. The assessed residual impacts of the development results in the following offset requirements under the Biodiversity Offset Scheme:

- Retirement of two (2) ecosystem credit for Hunter Coast Lowland Spotted Gum Moist Forest (which forms part of the 'Pittwater and Wagstaffe potted Gum Forest in the Sydney Basin Bioregion Endangered Ecological Community (PWSGF EEC) listed under Schedule 2 of the Biodiversity Conservation Act 2016 (BC Act) (PCT 3234)
- Retirement of eight (8) species credit owing to suitable habitat identified within proximity to the site for the large-eared pied bat and eastern bat cave is required.

The retirement of offsets can be conditioned as part of the consent.

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the Biodiversity & Conservation SEPP) contains planning controls for the removal of vegetation on the land within non-rural areas of the State. The policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of nonrural areas of the State through the preservation of trees and other vegetation. Thirty eight trees are proposed to be removed as part of the proposed development, with the offset requirements to ensure the protection of biodiversity value to be undertaken.

Replacement tree planting and additional landscaping is to be undertaken as part of the proposal in order to satisfy the intent of the SEPP and is demonstrated on the Landscape Plan prepared by Myles Baldwin Design, Drawing No 825_DA_01 – DA 825_DA_050 dated 16 December 2024 submitted with the application.

6.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The proposed development site has been within on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP). Hence, Divisions 3, 4 and 5 of the SEPP apply.

The stated Aim of the Policy under Chapter 2.1 is to:

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

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

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

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

- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the Marine Estate Management Act 2016.*

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

2.10 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) coastal environmental values and natural coastal processes,*
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*

- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment: The site is required to meet the objectives that includes avoiding adverse impact to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. A BDAR, Arborist Report, Coastal Report and Landscaping Plan have been submitted as part of the application. The retirement of offset credits as identified within the BDAR, along with the protection of existing and nearby trees combined with tree replacement planting ensure the development satisfies the requirement of this clause.

The matters for consideration under Division 4 of the SEPP are:

2.11 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment: The proposal provides for a new dwelling that corresponds with the steep slope of the site in order to minimise the bulk and scale ensuring the new dwelling will not adversely affect the visual amenity of the locality.

Public access along the foreshore is not readily available (unless the tide is particularly low). The proposal does not alter the provision of public access currently provided. The proposal does not generate any unreasonable impacts by way of overshadowing of the public domain and does not unreasonably impede on views available from Riverview Road. The works are not anticipated to impact on any heritage items, however if such items are identified during works, then their protection can be secured by way of appropriate condition.

Accordingly, the development is unlikely to detract from the scenic quality of the locality, maintaining an appropriate visual relationship with the surrounding built environment.

The matters for consideration under Division 5 of the SEPP are:

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

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

Comment: The proposal will not cause an increased risk of coastal hazards on the site or surrounding land.

The assessment has concluded that the proposed development is consistent with the matters for consideration under the SEPP (Resilience and Hazards) 2021.

Chapter 4 – Site Contamination

SEPP (Resilience and Hazards) 2021 and in particular Clause 4.6(2) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

6.3 State Environmental Planning Policy (Sustainable Buildings) 2022

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

6.4 Pittwater Local Environmental Plan 2014

The Subject site is zoned C4 Environmental Living under the provisions of the PLEP 2014, and the proposed new dwelling is permissible with consent within the zone.



Fig 10: Zoning extract – Pittwater LEP 2014

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

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

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

It is considered that the proposed demolition works, and the construction of the new dwelling and associated structures will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality.
- The proposal provides for the construction of a new dwelling with associated facilities and landscaping, with a complementary bulk and scale which will not have any substantial impact to the neighbouring properties.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any unreasonable impact on long distance views
- The proposal has been designed and sited to achieve compatibility with existing development within the Waterway while also achieving the desired future character of the locality.
- The proposal will not compromise the ecological or scenic values of natural waterways
- The development facilitates recreational fishing and will have no adverse impact on this or on sustainable fishing industries.
- The proposal does not unreasonably impact on the natural environment nor obstruct navigation within the waterway.

Clause 4.3 – Height of Buildings

The maximum building height in this portion of Avalon is 8.5m. The proposal provides for a maximum height of up to 8.95m above natural ground level which marginally exceeds the building height control.



Fig 11: Architectural plan extract to identify the area of the proposed roof to exceed the 8.5m height control (8.95m max height)

Clause 4.3(2D) of PLEP 2014 provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria.

In this instance, the particularly steep nature of the site as it falls towards the west results in the site gradient through the building area exceeding 16.7° and therefore the relevant height control can be considered as 10m, subject to the site achieving the objectives of the height control in clause 4.3. In this instance, as discussed in this submission, the proposal is considered to achieve the objectives of the variations provision within clause 4.3.

On the basis that the relevant height for the site should be 10m, the proposal comfortably complies with Council's height control, with the maximum building height measured above existing ground level to be 8.95 m.

Clause 5.21 Flood Planning

The site is partially located within the Low and Medium Risk Flood Precinct on the Flood Hazard Map of P21 DCP. As indicated within Figure 13 below, the area of impact is minimal and located at or near the mean high water mark boundary of the site, significantly below the level of the new construction work. On this basis, no further investigation of flood risk is considered to be warranted.

The application is supported by an Estuarine Risk Management Advice prepared by Horton Coastal Engineering dated 17 December 2024 that confirms that the proposed dwelling has been designed to consider the coastal processes in the vicinity of the site.

The Advice confirms that in order to achieve a design life of 60 years, the adopted Estuarine Planning Level (EPL) is RL 2.6m AHD.

The Advice also confirms that the only new physical works relative to the EPL involve the creation of a level area at the foreshore, which is not of significance in relation to the estuarine risk.

The new construction works for the dwelling are significantly above RL 2.6m AHD (minimum lowest habitable floor level RL 9.85m AHD) and therefore as noted within the Estuarine Risk Management Report, the proposal would *"have an acceptably low risk of being damaged by estuarine inundation over an acceptably long life"*.

In accordance with the Advice prepared by Horton Coastal Engineering, Council can be satisfied that the proposed development has been designed to be safe from the estuarine hazard, consistent with the objectives and requirement of Section B3.7 of P21 DCP.

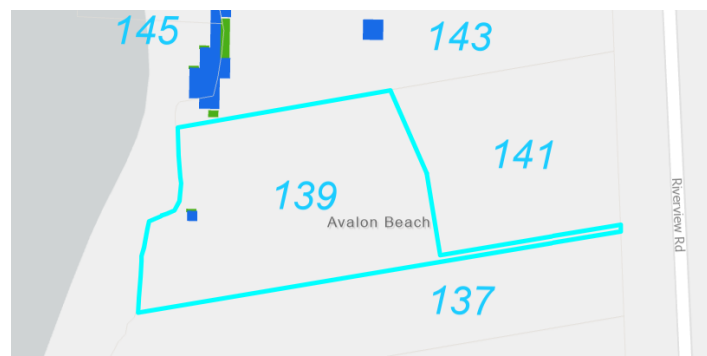


Fig 13: Extract of NBC Flood Hazard Map

Clause 7.1 - Acid sulfate soils.

The site has been identified as being within the Class 5 Acid Sulfate Soils Area. The proposed works are not anticipated to lower the water table, and therefore acid sulfate soils will not be encountered.

Clause 7.2 – Earthworks

The proposal will require some excavation of the site in order to accommodate the proposed floor levels. The proposal is accompanied by a Geotechnical Assessment prepared by Ascentgeo Geotechnical Consulting, Reference AG 24222, dated 11 December 2024.

The Assessment makes the following Conclusion and provides recommendations to ensure that the site will remain in a stable condition:

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

The proposed construction works will be carried out under the directions of the Consulting Structural Engineer and Geotechnical Engineer and will observe the recommendations within the Geotechnical Assessment.

The report is considered to address the provisions of this clause.

Clause 7.6 – Biodiversity protection

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

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

The development is supported by a BDAR, Arborist Report and Landscape plan to ensure that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land.

It is considered the construction of the new dwelling and associated works will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.



Fig 14: Extract of Pittwater Local Environmental Plan 2014 Biodiversity Map

The proposal includes appropriate measures to avoid, minimise, or mitigate the biodiversity impacts of the development.

Clause 7.7 – Geotechnical Hazards

The site is identified as “Hazard H1’ on Council’s Geotechnical Map. The proposal seeks to provide for the construction of a new dwelling, swimming pool and car parking.

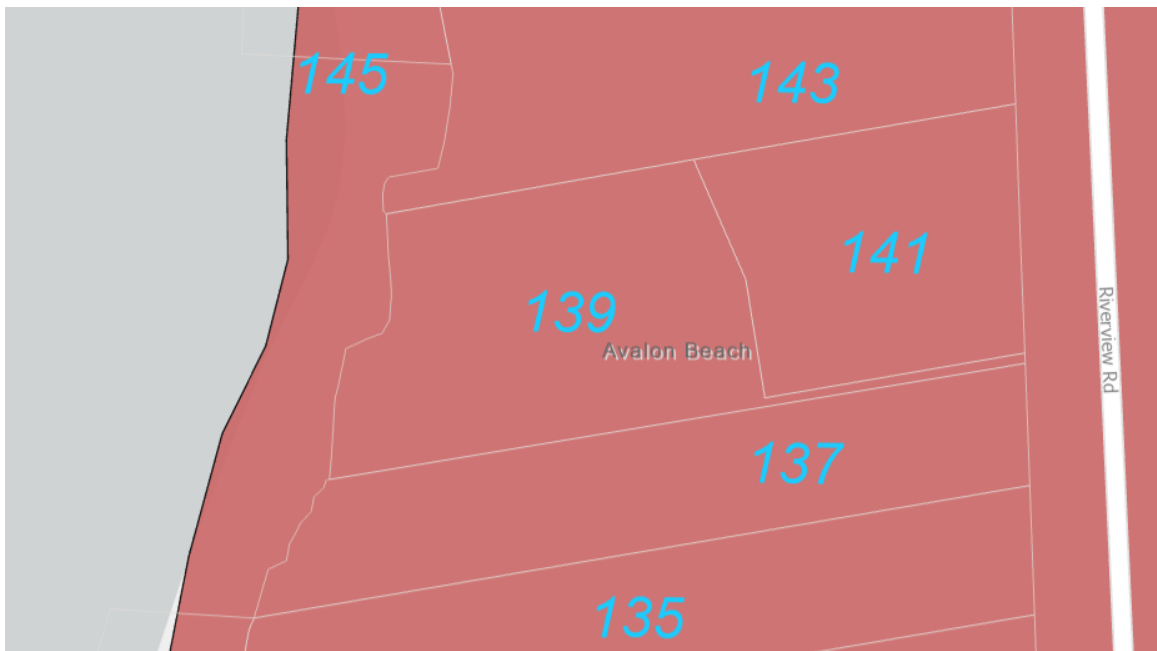


Fig 15: Extract of Pittwater Local Environmental Plan 2014 Geotechnical Hazard Map

The site is noted as 'Hazard H1' on Council's Geotechnical Hazard Map. Accordingly, a Geotechnical Assessment prepared by Ascentgeo Geotechnical Consulting, Reference AG 24222, dated 11 December 2024 which confirms that all geotechnical risks have been considered.

The Geotechnical Report concludes:

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

The proposed works will be carried out in accordance with the recommendations of the Consulting Geotechnical Engineer.

The proposed development is also supported by stormwater management plans prepared by RTS Civil Consulting Engineers, Project No 240601 dated 10 December 2024 that demonstrate waste water, stormwater and drainage are suitably managed on site.

The proposal is therefore considered to satisfy the provisions of this clause.

Clause 7.8 – Limited development on foreshore area

The site is bisected by the foreshore building line, as shown on the Foreshore Building Line Map of PLEP2014.

The foreshore area is defined as:

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

The objectives of this clause are as follows:

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

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

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

The proposed development proposes a new swimming pool, pathways and landscaping including a level garden area at the north-western corner of the site as depicted within the supporting architectural

plans, prepared by CM Studio. A separate application will be prepared for further structures below the mean high water mark, however all works proposed within this submission are located above the mean high water mark.

As the new works constitute development PLEP 7.8 (2)(b) is development which is permissible within the foreshore area, a Clause 4.6 Written Request to vary the development standard is not necessary in this instance.

Clause 7.10 – Essential Services

The proposal will see the existing essential services to the site being maintained.

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

There are no other provisions of the Pittwater LEP 2014 that are relevant to the proposed works.

6.5 Pittwater 21 Development Control Plan 2014

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

6.5.1 Shaping Development – Desired Character

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

A4.1 Avalon Beach Locality

The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

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

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

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

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

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors. The natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.

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

The resultant form and scale is both consistent and compatible with the scale of surrounding dwellings along Riverview Road, where large multi-level houses are a common feature.

The design quality and visual aesthetic of development on this site is significantly enhanced as a consequence of the contemporary design, facade treatments and extensive landscaping proposed.

The height, form and massing of the development is complementary and compatible with that established by adjoining dwelling houses, and other ancillary structures within the site's visual catchment. The new dwelling is a stepped design in order to correspond with the slope of the site and will not be a visually prominent feature within the locality.

The height, bulk and scale of the development will not give rise to any adverse streetscape impacts and will enhance the scenic amenity/ built form quality of the area when viewed from surrounding public and private land.

The proposed development will result in an enhancement of landscaping to improve and soften the visual impact of the development and enhance the landscape character of the area.

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

6.5.2 Section B General Controls

The General Controls applicable to the proposed demolition of existing structures and the construction of a new single dwelling and associated detached garage, carport, swimming pool and landscaping are summarised as:

B3.1 Landslip Hazard

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

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

The site is identified as Landslip Prone on Council's Hazard Mapping. The proposal seeks the demolition of the existing dwelling and construction of a new dwelling.

A Geotechnical Assessment has been prepared by Ascentgeo Geotechnical Consulting, Reference AG 24222, dated 11 December 2024. Subject to compliance with the recommendations contained within this report, the proposal will satisfy the provisions of this clause.

B3.7 Estuarine Hazard – Low density residential

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

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

The application is supported by an Estuarine Risk Management Advice prepared by Horton Coastal Engineering dated 17 December 2024 that confirms that the proposed dwelling has been designed to consider the coastal processes in the vicinity of the site.

The Advice confirms that in order to achieve a design life of 60 years, the adopted Estuarine Planning Level (EPL) is RL 2.6m AHD.

The Advice also confirms that the only new physical works relative to the EPL involve the creation of a level area at the foreshore, which is not of significance in relation to the estuarine risk.

The new construction works for the dwelling are significantly above RL 2.6m AHD (minimum lowest habitable floor level RL 9.85m AHD) and therefore as noted within the Estuarine Risk Management Report, the proposal would *"have an acceptably low risk of being damaged by estuarine inundation over an acceptably long life"*.

In accordance with the Advice prepared by Horton Coastal Engineering, Council can be satisfied that the proposed development has been designed to be safe from the estuarine hazard, consistent with the objectives and requirement of Section B3.7 of P21 DCP.

The works will be carried out in accordance with the recommendations of the report.

The proposal is considered to satisfy the outcomes of the clause.

B3.11 Flood Prone Land

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

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

As discussed, the site is partially located within the Low and Medium Risk Flood Precinct on the Flood Hazard Map of P21 DCP. The area of impact is minimal and located at or near the mean high water mark boundary of the site, significantly below the level of the new construction work. On this basis, no further investigation of flood risk is considered to be warranted.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The controls seek to achieve the outcomes:

Conservation of intact Pittwater Spotted Gum Forest EEC. (En)

Regeneration and/or restoration of fragmented and / or degraded Pittwater Spotted Gum Forest EEC. (En)

Reinstatement of Pittwater Spotted Gum Forest to link remnants. (En)

Long-term viability of locally native flora and fauna and their habitats through conservation, enhancement and/or creation of habitats and wildlife corridors. (En)

The development is supported by a BDAR, Arborist Report and Landscape plan to ensure that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, specifically the Pittwater Spotted Gum.

As stated previously, the assessed residual impacts of the development results in the following offset requirements under the Biodiversity Offset Scheme:

- Retirement of two (2) ecosystem credit for Hunter Coast Lowland Spotted Gum Moist Forest (which forms part of the 'Pittwater and Wagstaffe potted Gum Forest in the Sydney Basin Bioregion Endangered Ecological Community (PWSGF EEC) listed under Schedule 2 of the Biodiversity Conservation Act 2016 (BC Act) (PCT 3234)
- Retirement of eight (8) species credit owing to suitable habitat identified within proximity to the site for the large-eared pied bat and eastern bat cave is required.

The retirement of offsets can be conditioned as part of the consent.

It is considered the proposal includes appropriate measures to avoid, minimise, or mitigate the biodiversity impact on the Pittwater Spotted Gum Forest.

B5.13 Development on Waterfront Land

The controls seek to achieve the outcomes:

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

The development is supported by a Geotechnical Report, Arborist Report, Landscape Plan, Marine Habitat Survey and Estuarine Hazard Report to ensure that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, or within the marine habitat.

The proposed development will maintain the stability and stormwater flows of the site.

The proposal will therefore comply with this control.

B5.15 Stormwater

The controls seek to achieve the outcomes:

Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;
Minimise the risk to public health and safety;
Reduce the risk to life and property from any flooding and groundwater damage;
Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.
Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle
Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources
Protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.

The proposed development is also supported by stormwater management plans prepared by RTS Civil Consulting Engineers, Project No 240601 dated 10 December 2024 that demonstrate waste water, stormwater and drainage are suitably managed on site.

The proposal is therefore considered to satisfy the provisions of this clause.

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

The controls seek to achieve the outcomes:

Safe and convenient access. (S)
Adverse visual impact of driveways is reduced. (En)
Pedestrian safety. (S)

An effective road drainage system. (En, S)

Maximise the retention of trees and native vegetation in the road reserve. (En, S)

The site will provide for the construction of a new dwelling, which will include parking within an open style carport to provide for off-street car parking.

A new crossing and layback is proposed from Riverview Road to provide access to the new carport. Parking facilities are also provided within the site, however access to this area is from the existing ROW access from No. 143/154 Riverview Road. The new driveway cross over from Riverview Road is designed in accordance with Councils guidelines and Australian Standards to ensure vehicles can enter and exit the site.

A Civil Works Plan has been prepared by Quantum Engineers, under Job No 230419, Drawing No's D1 - D 13, Issue I dated 17 December 2024 which details the proposed driveway and parking arrangements.

The works are considered to satisfy Council's access requirements.

B6.2 Internal Driveways

The controls seek to achieve the outcomes:

Safe and convenient access. (S)

Reduce visual impact of driveways. (S)

Pedestrian safety. (S)

An effective road drainage system. (En, S)

Maximise the retention of trees and native vegetation.

Reduce contaminate run-off from driveways.

The proposal provides for a new driveway access to the garage area from the ROW internal driveway that also services No. 143/154 Riverview Road, together with the partial reconstruction of the common excess driveway within the right of carriageway. As indicated in the submitted drawings and the Civil Works plans prepared by Quantum Engineers, the internal driveway area and garage level are of appropriate grades to allow safe transition from the ROW to the hardstand area, with a mechanical turntable to ensure vehicles can leave the site in a forward direction.

The internal access from the ROW will comply with Council's requirements and provide for safe and functional access to the garage from Riverview Road.

B6.3 Off-street Vehicle Parking Requirements

The controls seek to achieve the outcomes:

Safe and convenient parking (En,S)

The controls require a minimum of 2 parking spaces for a dwelling with 2 bedrooms or more. Parking facilities for four vehicles is to be provided which will provide for the parking needs for the site, together with the opportunity to enter and leave the site in a forward direction.

B8.1 Construction & Demolition – Excavation and Landfill

The controls seek to achieve the outcomes:

Site disturbance is minimised. (En)

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

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

The proposal will require excavation to accommodate all levels of the dwelling house and the swimming pool. Accordingly, the proposal is accompanied by a Ascentgeo Geotechnical Consulting, Reference AG 24222, dated 11 December 2024 which is considered to address the provisions of this clause.

In addition, the works will be carried out in accordance with the recommendations of a qualified Structural Engineer.

B8.3 Construction & Demolition – Waste Minimisation

The controls seek to achieve the outcomes:

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

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

6.5.3 Section C Development Type Controls

The Development Controls applicable to the proposed demolition works and the construction of a new dwelling with garage, carport, swimming pool and associated landscaping are summarised as:

C1.1 Landscaping

The controls seek to achieve the outcome:

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

The development is supported by a BDAR, Arborist Report and Landscape Plan prepared by Myles Baldwin Design to ensure that the development will not have any adverse impact on the condition, ecological value and significance of the flora on the land.

The site retains generous areas of landscaping, with a robust landscaping plan and planting schedule to provide multi-level vegetation on the site to appropriately accommodate habitat while providing a design that shows connectivity to the bushland characteristic of the site. It is considered the replanting of the site will not only screen and soften the built form but improve the landscape presentation to the Pittwater waterway, Riverview Road and neighbouring sites.

The proposal will retain a suitable area of soft landscaping on site, and the site will maintain its contribution to the landscaped character of the locality and is considered to maintain consistency with the provisions of this clause.

C1.2 Safety and Security

The controls seek to achieve the outcomes:

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

Due to the slope of the site, view lines to Riverview Road are not achievable. However, the new entry portico and carport will allow the opportunity to view the driveway and street area with casual surveillance of the immediate area available.

1.3 View Sharing

The controls seek to achieve the outcomes:

A reasonable sharing of views amongst dwellings. (S)

Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)

Canopy trees take priority over views. (En, S)

The proposal provides for the construction of a new dwelling, which steps to follow the sloping topography of the site.

The primary outlook of the surrounding dwellings is to the west towards Pittwater Waterway which is consistent with other properties along the street. The siting of the new dwelling within the sloping topography allows highly valued views from all neighbouring dwellings to be largely retained (see Figure 16 below). The Figure demonstrates No. 137 Riverview Road is sited forward of the new dwelling, while No. 143/145 is sited higher than the new dwelling.



Figure 16: Relationship of the new dwelling and neighbouring dwellings for view retention.

The adjoining dwellings will continue to retain the significant views currently available due to the location of the new dwelling on the site and its considered setbacks to neighbouring dwellings.

The proposed dwelling results in minor built form encroachments, including side boundary envelope, but the minor non-compliance is which a result primarily from the fall in the site levels, do not adversely affect neighbour views.

C1.4 Solar Access

The controls seek to achieve the outcomes:

Residential development is sited and designed to maximise solar access during mid-winter.

(En)

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)

Reduce usage and/dependence for artificial lighting. (En)

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

The proposal is accompanied by Shadow Diagrams (Drawing No. 600 – 602, 610 - 613) which provide a shadow assessment in both plan and elevational views.

The proposed development is multi storey, will be excavated into the natural landform and the site has an east-west orientation.

The proposal maintains a compliant provision of solar access in excess of 3 hours of direct sunlight retained to the main private open spaces and windows of adjoining properties No. 137 and No. 143/145 Riverview Road.

Furthermore, the proposed dwelling will receive in excess 3 hours of direct sunlight retained to the dwelling and principal areas of private open space in midwinter, consistent with the requirements of this clause.

The proposal does not unreasonably prejudice the ability for neighbouring properties to successfully establish solar collectors or photovoltaic cells on their roofs.

The subject site and neighbouring properties will maintain suitable solar access between 9am and 3pm on 21 June.

C1.5 Visual Privacy

The controls seek to achieve the outcomes:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)

A sense of territory and safety is provided for residents. (S)

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

The proposal has been designed to achieve a high level of visual privacy to the northern and southern adjoining neighbouring properties. The visual privacy has been addressed via the location and orientation of the proposed dwelling on the sloping topography, the positioning of windows, and privacy treatments to windows and terrace areas and reasonable landscaped setback areas to the side boundaries to provide additional screening.

The access stairs within the southern boundary are a transitory area not a habitable space. All windows on the side elevation provide generous setbacks greater than 9m to the nearest dwelling, and landscape screening, meaning potential overlooking impacts are minimised.

The proposal also includes the retention of existing landscaping and the inclusion of additional landscaping within the setbacks of the subject site. As a result, the existing and additional landscaping vegetation in conjunction with the proposed spatial distance are suitable in providing adequate privacy to the neighbouring sites. As such, the development optimises privacy for both the subject site and adjacent sites through good design

C1.6 Acoustic Privacy

The controls seek to achieve the outcomes:

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

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or recreation areas (S)

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

Given the residential nature of the works, there will not be any significant impact on the surrounding locality in terms of acoustic privacy. The proposed pool equipment will be contained within a soundproof enclosure.

C1.7 Private Open Space

The controls seek to achieve the outcomes:

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

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

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

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

The proposal retains a generous area of private open space both elevated and at ground level due to the sloping nature of the site.

The living areas will enjoy good solar access and landscaping for privacy.

C1.12 Waste and Recycling Facilities

The controls seek to achieve the outcomes:

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

The required controls to achieve the outcomes are to ensure that adequate area remains for the storage of waste and recyclable materials.

A bin storage area for waste and recyclables has been provided within the garage level, with convenient access to the street for bins to be removed by Council contractors via the household garbage service.

6.5.4 Section D Design Criteria

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

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

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

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

D1.1 Character as viewed from a public place

The control seeks to achieve the outcomes:

To achieve the desired future character of the Locality.

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

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

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

High quality buildings designed and built for the natural context and any natural hazards. (En, S)
Buildings do not dominate the streetscape and are at 'human scale'.

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

The required controls to achieve the outcomes are to ensure that the building maintains a compatibility with the locality through appropriate design relief including roof forms textures, materials, the arrangement of windows, modulation of wall and roof planes, spatial separation, landscaping etc.

The proposal will provide for the demolition of existing structures and the construction of a new multi-level dwelling which will provide a bulk and scale which is in keeping with existing surrounding development.

Views over and to the side of the dwelling will be retained for the neighbouring dwellings.

The setbacks provided reflect the setbacks of the adjoining properties. The proposed reconstruction of a portion of the existing common access driveway within the existing right-of-way will utilise the

existing ROW with the new layback and crossover centralised on the site consistent with the driver treatments of the immediate neighbours.

The proposed dwelling is well articulated to provide visual interest and reduce bulk when viewed from the public domain. In addition, the existing and proposed landscaping will ensure that the proposed works will be interspersed with the natural landscape setting.

D1.5 Building Colours, Materials and Construction

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality.

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

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

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

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

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

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

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

The required controls to achieve the outcomes are to ensure that the external colours and materials shall be darker and earthy tones as indicated within the DCP, which have been detailed in Sheet DA-500.

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

D1.8 Front Building Line

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality. (S)

The amenity of residential development adjoining a main road is maintained. (S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

Vehicle maneuvering in a forward direction is facilitated. (S)

To encourage attractive street frontages and improve pedestrian amenity.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment

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

The new dwelling will stand well in excess of 6.5m from the front boundary with the proposed carport and portico entry located on the front boundary. The proposed carport, portico and storage area setbacks are consistent with the established streetscape along Riverview Road.

The western side of Riverview Road accommodates examples of structures located forward of the front building line, with car parking structures on the front boundary common place due to the steeply sloping topography. In this regard, the location of the proposed carport and entry will not be out of context with the established streetscape character. Additionally, the proposed access carport and entry presents a modest height, is an open style structure of minimal bulk and scale.

Furthermore, given the significant slope of the site, the storage area would be below street level and would not dominate the streetscape

Existing and proposed vegetation and landscaping will further alleviate the visual impacts when viewed from the street and surrounding properties.

The proposal provides a bulk and scale, which is in keeping with the character of development in the locality.

The proposal is in keeping with the desired outcomes of this clause and is considered worthy of support on merit.

D1.9 Side and rear building line

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality. (S)

The bulk and scale of the built form is minimised. (En, S)

Equitable preservation of views and vistas to and/or from public/private places. (S)

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

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)

Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)

Flexibility in the siting of buildings and access. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

To ensure a landscaped buffer between commercial and residential zones is established. (En, S)

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

The new works will present compliant setbacks to provide for articulation and to reduce the extent of impacts to neighbouring properties. The setbacks to the northern boundary vary from 2.5m to greater than 2.5m, with the setbacks to the south being from 1m to greater than 1m. The setbacks of the development intended to observe the desired outcomes of Council's controls, whilst presenting an articulated and modulated façade to each neighbouring property.

As discussed within the submission, the proposal does not adversely affect the privacy, amenity and solar access of the neighbouring property, with substantial areas retained for landscaping and enhancement of the existing vegetation within the site.

The swimming pool and associated landscape works are located below the foreshore building line, however as the structures are permissible features within the foreshore area, no further assessment under clause 4.6 of the Pittwater LEP is required.

The proposal is considered to achieve the desired outcomes of the control.

D1.11 Building Envelope

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

The bulk and scale of the built form is minimised. (En, S)

Equitable preservation of views and vistas to and/or from public/private places. (S)

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

The required controls to achieve the outcomes are to maintain the development within a height envelope which provides for a height of 3.5m with an angle projected at 45°.

The control anticipates departures to the numerical requirements on lots that experience a steep topography, slope of more than 16.7 degrees specifically allows a merit assessment (rather than strict numerical assessment). Such a scenario is the case for this proposal.

As a result of the sloping topography of the site, a small portion of the northern and southern side elevations will encroach on the side boundary envelope control. See Figure 17 & 18 over:

The variations sought to the northern and southern side boundary envelope are not uncommon with those variations experienced on other surrounding buildings, or for recent approvals.

The extent of encroachment is limited to the upper portion of the rooflines on the upper floors, limiting the degree of impact from the non-compliance. The articulated nature of the side elevations of the building assists in distributing the bulk of the building and with views and reasonable solar access being retained for the neighbours, the objectives of the control are respected.

The proposed encroachment to the building envelope is not visually identifiable from the Riverview Road street view and does not materially alter the streetscape. The overall height and scale of the encroachment areas are below existing tree heights, meaning the trees will continue to tower over the built form.

Extensive vegetation is to be retained and improved as part of the proposal, with a robust landscaping schedule to appropriately screen and soften the built form as detailed within the Landscape Plan and accompanying schedule prepared by Myles Baldwin Design dated 16 December 2024.

It is therefore considered the proposal is consistent with the requirements of the clause and acceptable on merit.



Figure 17: Minor Envelope variation on the northern boundary

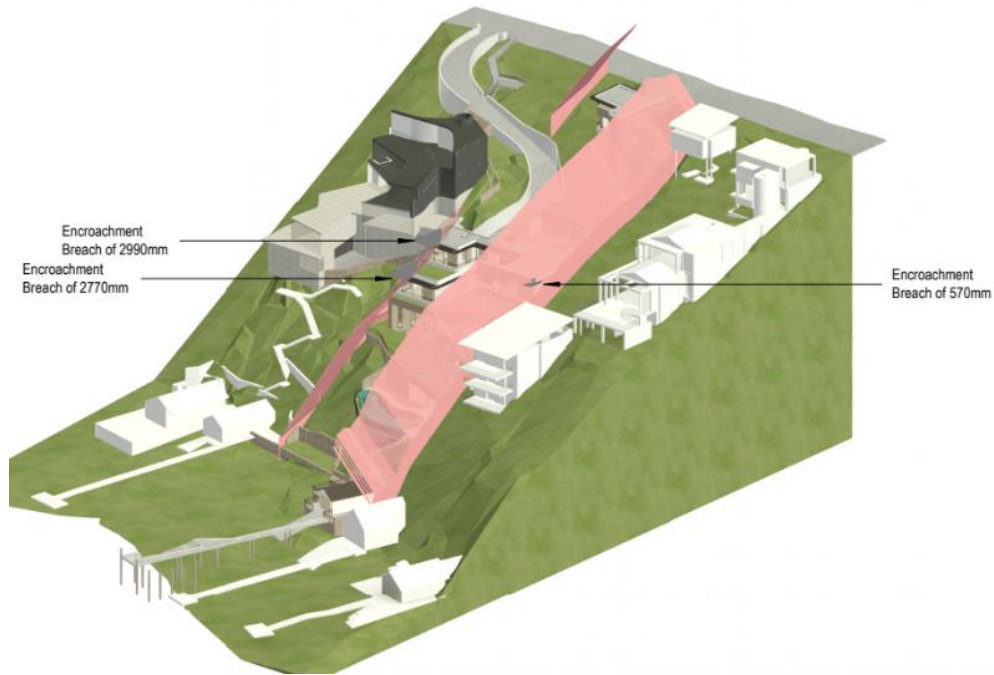


Figure 18: Minor Envelope variation on the southern boundary

D1.14 Landscaped Area – Environmentally Sensitive Land

The controls seek to achieve the outcomes:

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

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

The proposed dwelling and the associated works will provide for a soft landscaped area of approximately 64% or 1046m² excluding the ROW area and including the permissible 6% concession for functional landscaped area.

The proposal is constrained by the extent of the ROW and therefore contributes to the extent of the built form.

The proposed development is consistent with the desired future character of the Avalon Beach Locality, as the development is designed to ensure that the visual impact of the development is secondary to landscaping.

In addition, it can be said that the proposal has been effectively integrated within the landform, through retaining existing trees, incorporating new multi-level planting including additional canopy trees and ensuring a considerable landscape buffer areas in the front, sides, and rear of the site remain.

The proposal will not result in any unreasonable impact on light, solar access or privacy. This is as a result of the sufficient orientation and separation of the proposed dwelling.

The proposal is also supported with a comprehensive Landscape Plan prepared by Myles Baldwin Design which provides for the managed replanting of the site and the introduction of green roofs and additional tree cover.

A considerable portion of the new roofed areas are green roofs, maximising water infiltration. Furthermore, stormwater will be appropriately managed on the site.

As the works achieve the objectives of this clause, the proposal is considered acceptable on merit.

D1.20 Scenic Protection Category One Areas

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality.

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

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

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

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

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

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

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

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

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

The proposal will maintain the more significant plantings within the site and provides for additional screen planting to surround the proposed additions.

Given the scenic importance identified by the C4 Environmental Living Zone, the design has placed particular emphasis on stepping floor levels to follow the site contour and maintaining low profile roof elements. The proposed landscape plan prepared by Myles Baldwin Design will provide for new plantings which further soften the built form of the development.

The site will maintain a generous area of soft landscaping.

The bulk and scale of the development is generally in keeping with the extent of development in the immediate locality.

The proposal will maintain suitable privacy, amenity and solar access for neighbouring dwelling. The proposal is therefore considered to be in keeping with the provisions of this clause.

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

7.1 The provisions of any environmental planning instrument

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

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

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

There are no draft instruments applying to the land.

7.3 Any development control plan

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

The application has been prepared having regard to the requirements of Section B, Section C and Section D of the Pittwater 21 DCP.

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

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

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

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

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

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

We request that Council applies considered flexibility where the application seeks variations to

numerical development controls in the DCP as justified in this report. In particular, we consider that the variations to the building envelope control & front setback are a reasonable alternative solutions to compliance where the site conditions results in a challenge to designing for new development which fully respects the criteria.

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

7.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

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

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

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

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

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

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

7.7 The suitability of the site for the development

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

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

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

7.9 The public interest

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

8.0 Conclusion

The principal objective of this development is to provide for the demolition of the existing dwelling and the construction of a new dwelling with car parking structures, swimming pool and associated landscaping together with the re-construction of a portion of the existing common access driveway within the existing right of carriageway, which respect and complement the site's location.

The proposal is a site-specific design response which takes advantage of the properties superior locational attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining development.

The outcome is a modernised dwelling exceptional design quality which displays a highly articulated building form which appropriately responds to the sites existing geometry and the constraints imposed by the siting and design of adjoining development in relation to privacy, solar access and views.

The proposal floor plan is appropriately distributed throughout the site, with the dwelling displaying a complementary and compatible building form when compared to other development located along this section of Riverview Road and within the site's visual catchment generally.

The articulated side boundary setbacks maintain the rhythm of development and the setbacks provide for appropriate spatial separation, landscape opportunity, privacy, solar access and view sharing.

By maintaining our neighbour's amenity and by complementing the scale and form of other development in the immediate locality, the stated objectives have been satisfied.

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

VAUGHAN MILLIGAN

Town Planner

Grad. Dip. Urban and Regional Planning (UNE)