

STATEMENT OF ENVIRONMENTAL EFFECTS

**New dwelling house,
secondary dwelling, and
swimming pool**

37 Heath Street, Mona Vale

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.

This report accompanies and supports a Development Application (DA) for demolition, new dwelling house, secondary dwelling, and swimming pool at 37 Heath Street, Mona Vale.

The proposal is depicted in the accompanying architectural plans by Markham-Lee Architecture. A summary of the key aspects of the proposal are noted as follows:

Demolition

- Demolition of existing structures as marked on the architectural plans

Dwelling house

- Two storeys, located within the rear section of the site

Secondary dwelling & garage

- Single storey, located within the front section of the site
- Double garage and new driveway incorporating off street parking space for the secondary dwelling

Landscaping and site works

- Swimming pool and spa, located within the middle section of the site
- Garden areas, front fence, access pathways, and landscaping as depicted within the accompanying plans

1.2 Statement of Environmental Effects

This report is a Statement of Environmental Effects. 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 generally in conformity 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.

2 Site Analysis

2.1 Site Description

The site is located 37 Heath Street, Mona Vale. It is legally described as Lot 31, Sec G in Deposited Plan 7236. The site has an area of 929.0 m². The property is rectangular in shape; the site dimensions are as follows:

- Northern front and southern rear boundary of 15.24m
- Eastern and western, side boundaries of 60.96m

2.2 Features of the site and its development

Key features of the site and its development include:

- The site is zoned R2 Low Density Residential and is located towards the eastern end of Heath Street in close proximity to the beach. The site and the adjoining properties have a north/south orientation to Heath Street.
- The land is developed with a single storey, 3 bedroom, fibro residence, with metal roof, positioned approx. 7.5m from the front boundary, with a detached secondary dwelling positioned to the rear of the property, approximately 4m from the rear boundary. There is an existing in ground swimming pool at the front of the dwelling and a carport adjacent to the western boundary. All structures are proposed to be demolished.
- There are a mix of housing types and development scales within the streetscape noting the presence of residential flat buildings (up to 4 storeys) multi-dwelling housing, single and 2 storey dwelling houses. There are also various building elements within the streetscape including, garages, carports, swimming pools and front fences.
- The property is relatively flat, with an average relative level of 4.5m AHD with an overall level difference of approximately 0.13m between the rear south eastern corner and the front north eastern corner (RL 4.52 to RL 4.39).
- The site has numerous trees, and shrubs to its perimeter, with a large 'central' area of lawn between the principal and secondary dwellings, a characteristic that is retained by the proposed development.

2.3 Previous planning approvals

Recent planning approval history for the property includes:

Development Application 2019/1140

Alterations and additions to a dwelling house

Construction Certificate CC0049/15

New semi-inground spa, access deck and pool fencing with gate

Development Application N0446/14

New semi-inground spa, access deck and pool fencing with gate

Development Application N0016/14

Construction of swimming pool, associated decking and fences

Complying Development Certificate CDC0093/13

Construction of a secondary dwelling

Development Application AB6/0238/95

Attached dual occupancy & subdivision construction of attached dual occupancy and subdivision. DA 2123/37

2.4 Zoning and key environmental considerations

The property is zoned R2 Low Density Residential under the Pittwater Local Environmental Plan 2014 (LEP) as is most of the surrounding land.

The site is not affected by key environmental considerations like, for example, biodiversity, geotechnical risk, heritage and bush fire.

The site is affected by acid sulfate soils, flood risk and coastal planning considerations. These matters will be addressed in Section 4 of this report. There are no zoning or environmental characteristics that present impediments to the improvements proposed to the land.

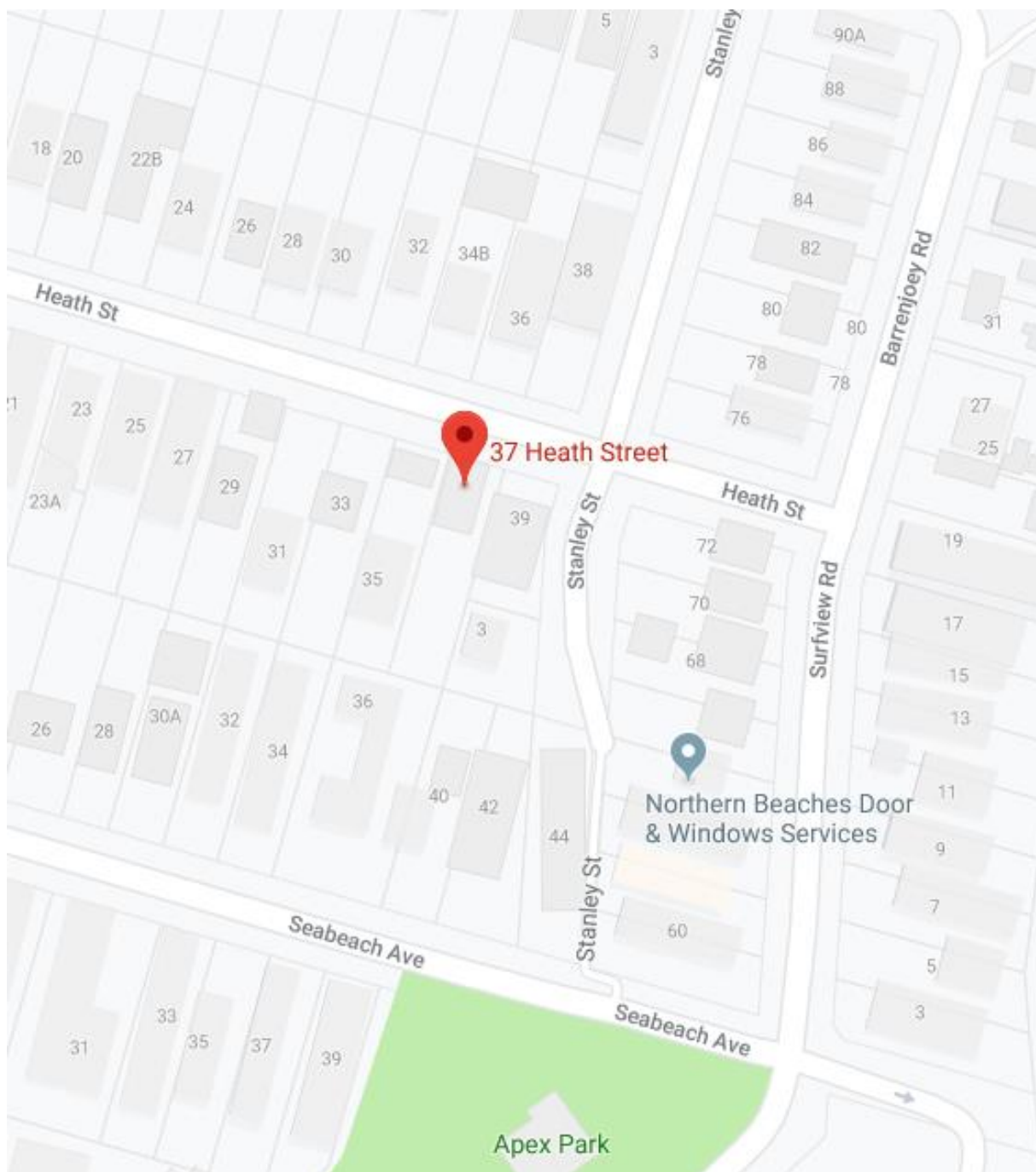


Figure 1 – Location of the site within its wider context (courtesy Google Maps)



Figure 2 –The site and its development context (courtesy Northern Beaches Council Website)

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:

- State Environmental Planning Policies – as relevant
- Pittwater Local Environmental Plan 2014
- 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 is addressed within Section 5 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 – Zoning

As previously noted, the site is zoned R2 Low Density Residential pursuant to the provisions of the Pittwater Local Environmental Plan 2014 (LEP).

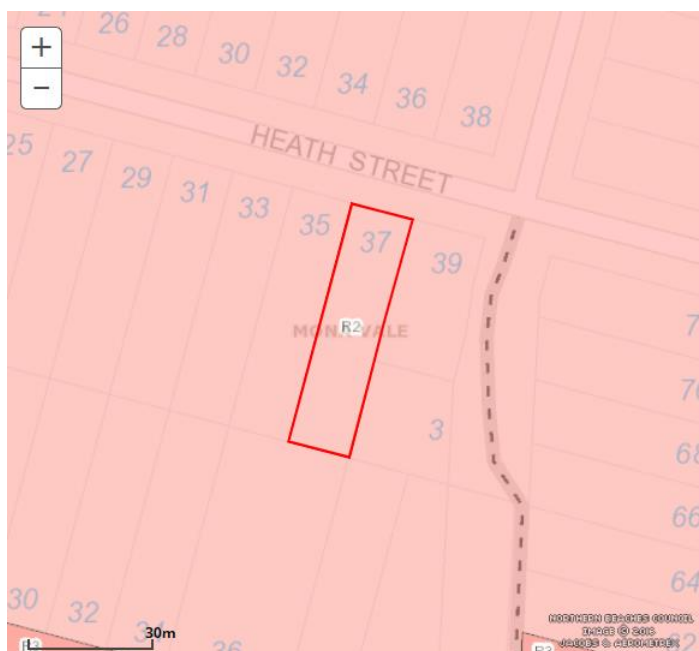


Figure 3 – zone excerpt (Northern Beaches Council)

The proposal constitutes residential development. The proposal is permitted within this zone 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 the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses*

It is assessed that the proposed development is consistent with the zone objectives as the land will continue to provide for the housing needs of the community in a manner that is compatible with the low density residential environment and landscape setting of the property. Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.

4.2 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
Part 4 of LEP – Principal Development Standards		
LEP Clause 4.1 Minimum subdivision lot size	700m ²	NA
LEP Clause 4.3 – Height of Buildings	Complies as shown on the architectural plans.	Yes
LEP Clause 4.4 – Floor space ratio	NA	NA
LEP Clause 4.6 – Exceptions to development standards	NA	NA
Part 5 of LEP – Miscellaneous Provisions		
<p>LEP Clause 5.4 Controls relating to miscellaneous permissible uses</p> <p>Pursuant to clause 5.4(9) of the LEP, if development for the purposes of a secondary dwelling is permitted under the Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:</p> <p>(a) 60 square metres,</p> <p>(b) 25% of the total floor area of the principal dwelling.</p>	<p>In response:</p> <p>A secondary dwelling is permitted under the Plan and the total floor area of the dwelling does not exceed 60 square metres (approx. 49 square metres proposed).</p>	Yes
LEP Clause 5.10 Heritage Conservation	NA	NA
Part 6 of LEP – Additional Local Provisions		
LEP Clause 7.1 Acid sulfate soils	<p>The proposal is within an area deemed to be acid sulphate soils Class 4 on the LEP maps. Excavation is proposed for the development's footings and a new swimming pool. For Class 4 land, clause 7.1 states:</p> <p>(4) <i>Despite subclause (2), development consent is not required under this clause for the carrying out of works if—</i></p> <p>(a) <i>a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and</i></p> <p>(b) <i>the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the</i></p>	Yes

LEP Provision	Response	Complies
	<p><i>assessment by notice in writing to the person proposing to carry out the works.</i></p> <p>As a result of the above, a geotechnical report including preliminary acid sulfate soils assessment accompanies the proposal. The report finds that the proposed development upon the site is satisfactory subject to compliance with recommendations to mitigate any potential impacts.</p> <p>Based on the above, the provisions of the clause are assessed as being satisfied by the proposal.</p>	
LEP Clause 7.2 Earthworks	<p>Modest excavation is proposed for the development's footings and a new swimming pool.</p> <p>A geotechnical assessment report accompanies the proposal. The report finds that the proposed development upon the site is satisfactory subject to compliance with recommendations to mitigate any potential impacts.</p> <p>The consent authority may be satisfied that in relation to any ancillary earthworks, that the matters within 7.2(3) (a) to (i) are able to be satisfied by the proposal. The provisions of the clause are assessed as being satisfied by the proposal.</p>	Yes
LEP Clause 7.3 Flood planning	<p>A flood information request was obtained from Council on 8 October 2019. It shows that the proposed development is located outside of the extent of flooding shown on 'flood map C' (excerpt below) which, to a very minor extent, affects the rear, south western edge of the property. The 1% annual exceedance probability (AEP) does not affect the footprint of the proposed development, meaning that the flood planning level does not affect the proposed development. For these reasons, and in response to clause 7.3(3), the consent authority may be satisfied that the development:</p> <ul style="list-style-type: none"> ▪ is compatible with the flood hazard of the land, and ▪ due to the minor flood affection to the site, the proposal will not significantly adversely affect flood behaviour resulting in 	NA

LEP Provision	Response	Complies
	<p>detrimental increases in the potential flood affectation of other development or properties, and</p> <ul style="list-style-type: none"> due to the minor flood affectation to the site, the proposal does not need to incorporate measures to manage risk to life from flood, and due to the minor flood affectation to the site, will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and due to the minor flood affectation to the site, is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. <p>The provisions of the clause are assessed as being satisfied by the proposal.</p>	
LEP Clause 7.5 Coastal risk planning	NA	NA
LEP Clause 7.6 Biodiversity	NA	NA
LEP Clause 7.7 Geotechnical hazards	NA	NA



Figure 4 – Excerpt Flood Map C: Flood Planning Area Extent showing the site its development context and 1 in 100 year flood extents (courtesy Northern Beaches Council flood information request)

4.3 State Environmental Planning Policy

4.3.1 SEPP (Vegetation in Non-Rural Areas) 2017

Vegetation is prescribed under Pittwater DCP for the purposes of SEPP (Vegetation in Non-Rural Areas) 2017. In response, the proposal is accompanied and supported by an arborist report by Naturally Trees consulting arborists. The report concludes:

Four low category trees will be lost because of this proposal. However, two are causing damage to the existing footpath and two are exempt from Northern Beaches Council's Tree Preservation Order. A comprehensive landscaping scheme to mitigate these losses is proposed that will include the planting of new trees. The proposed changes may adversely affect a further one low category tree if appropriate protective measures are not taken. However, if adequate precautions to protect the retained trees are specified and implemented through the arboricultural method statement included in this report, the development proposal will have no adverse impact on the contribution of trees to local amenity or character.

The recommendations of the report may reasonably form conditions of development consent. Based on the above, the provisions of this policy are satisfied by the proposal.

4.3.2 State Environmental Planning Policy - BASIX

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

4.3.3 State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. Clause 7 of SEPP 55 requires Council 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 extremely 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 of SEPP 55.
- 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 SEPP 55, 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 Mona Vale Locality

The property is within the Mona Vale Locality. This report demonstrates that the proposed new dwelling has been designed to meet the desired future character of the Mona Vale Locality through its design, siting, and ability to sit compatibility within a landscaped setting that is compatible with the pattern of surrounding development.

The proposal is:

- located within a landscaped setting and will be appropriately treated to blend with the character and pattern of development within the local context;
- compatible with the architectural form and style of the development within the local context and will complement this character when viewed from the street and public spaces;
- designed from an appropriate mix of high-quality materials and finishes, in a contemporary style.

A table demonstrating compliance with the relevant provisions of the DCP is detailed as follows. Where a numerical non-compliance is identified, this is addressed separately below the table.

5.2.1 Principal built form controls

Control	Requirement	Proposed	Complies
Part D: Locality Specific Development Controls			
Front building line	6.5m or average of adjoining	6.5m Note: existing in-ground swimming pool to be demolished.	<ul style="list-style-type: none"> ▪ Yes
Side and rear building line	Side: <ul style="list-style-type: none"> ▪ 1.0m one side ▪ 2.5m to other side 	Side setbacks Entry / garage / secondary dwelling East – 1.0 to secondary dwelling West – 2.9m (approx.) to garage. 1.0m to entry (screen wall) being a detached landscaping element. Dwelling house East – 1.66m to 5.2m (approx.) West – 1.0m to 2.94m. 2 sections (a 4.4m and 8.5m section (approx.)) of the	<ul style="list-style-type: none"> ▪ Yes ▪ Yes ▪ Yes ▪ No*

Control	Requirement	Proposed	Complies
		proposed dwelling house display a 1.m side setback which is an exceedance of the control.	
	Rear: 6.5 m	5.350m - predominant rear setback at ground level Note: upper floor window boxes 4.715m, within articulation zone	<ul style="list-style-type: none"> No*
Building Envelope	3.5m at 45 degrees measured at the side boundary: <ul style="list-style-type: none"> East side – 5.164 to 8.715 West side – 4.5 to 6.4 	Dwelling house: <ul style="list-style-type: none"> East side – exceedance upto 400mm for length of 17.5m West side – exceedance upto 1.75m for length of 4.4m Nature and extent of exceedance marked the on architectural plans in figures below. Secondary dwelling	<ul style="list-style-type: none"> No* No* Yes
Landscaped Area - General	50% minimum	Existing: <ul style="list-style-type: none"> 446.7m²/48.1% Proposed: <ul style="list-style-type: none"> 457.5 m²/50.8% Calculation provided on sheet DD12 of the plan set	<ul style="list-style-type: none"> No Yes
Part C: Development Type Controls			
Views C1.3	New development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	Given the relatively flat topography, the siting of the existing development within the neighbourhood context, the proposal is not anticipated to significantly or unreasonably impede any established views from surrounding residential properties or public vantage points. The proposal will achieve an appropriate view	<ul style="list-style-type: none"> Yes

Control	Requirement	Proposed	Complies
		sharing outcome between the neighbouring properties.	
Solar Access C1.4	<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>The proposal is accompanied by shadow diagrams demonstrating the extent of proposed shading.</p> <p>The subject site and the adjoining properties have a north / south orientation to Heath Street.</p> <p>In relation to the southern rear property at 36 Seabeach Ave, it accommodates a residential flat building. The rear of the property comprises a turfed area which accommodates a 'hills-hoist' for communal clothes drying. There are no formalised private courtyards or communal recreational facilities within this space. The proposed shadowing impact on the property is modest and within the limits of the DCP.</p> <p>The shadow diagrams demonstrate that the main private open spaces of the adjoining dwellings will receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.</p> <p>The proposed shading outcome provides an acceptable increase in shading on the neighbouring properties that is compatible with and consistent with orientation of the allotment/-subdivision and development pattern. It is therefore concluded that the proposal will not significantly or unreasonably reduce the available sunlight to the adjoining properties and the provisions of the control have been satisfied.</p>	<ul style="list-style-type: none"> ▪ Yes
Privacy C1.5	Privacy DCP's objectives.	<p>Privacy has been considered in the proposed design and satisfies the DCP's objectives. The following key aspects are noted:</p>	<ul style="list-style-type: none"> ▪ Yes ▪

Control	Requirement	Proposed	Complies
		<ul style="list-style-type: none"> No large balconies adjacent to living rooms are proposed at first floor level. Privacy screens are incorporated within the balustrade of the first floor master bed deck. There are limited side facing windows within the proposed side elevations. The east and west garden courtyards also have privacy screens so that privacy is maintained from the second living area. A vegetation buffer (mainly bamboo) is established along the west side interface of the property and is proposed to be retained. Private open spaces are proposed at ground level in similar locations to those established currently within the front and middle sections of the property. In this way the proposal will maintain the existing pattern of land use established on the subject site. This pattern is compatible with the location of private open spaces on the adjacent properties. The landscaped area to the rear of the proposed dwelling house is designed for use as a landscaped garden and clothes-drying space. It will have a utility function and is not designed for outdoor recreation. 	

Control	Requirement	Proposed	Complies
		<ul style="list-style-type: none"> The site/landscape conditions will be maintained and are assessed as appropriate in accommodating the proposed development. It is concluded that the proposal will not significantly or unreasonably affect the visual privacy of the neighbouring properties. 	
Private Open Space C1.7	<p>80 m² at ground floor</p> <p>16 m² (out of the 80m²) 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>	<p>Dwelling house:</p> <ul style="list-style-type: none"> Approx. 255m² <p>Secondary dwelling</p> <ul style="list-style-type: none"> Approx. 32m² off principal living space to north Amenity in the forms of sunlight and sea breezes are available principally to the north and north east of the property. The north of the dwelling and secondary dwelling provides the principal areas of private outdoor space on the property. 	<ul style="list-style-type: none"> Yes Yes
Part B: General Controls			
Stormwater Discharge into Public Drainage System B5.10	Connected by gravity means to street or established piped system.	Connected by gravity means to the street system.	<ul style="list-style-type: none"> Yes
Car Parking B6.5	<p>2 spaces per 2 or more bedroom dwellings</p> <p>1 space per secondary dwelling.</p>	3 car parking spaces are accommodated on-site; 2 in a tandem arrangement via a slightly wider driveway of 4.6m at the vehicle entrance to the property.	<ul style="list-style-type: none"> Yes
RESIDENTIAL DEVELOPMENT CONTROLS			
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,	The proposed development will improve the property's built-form quality and streetscape presence, noting the context which has a mix of flat and pitched roof developments along with the mixed character of the surrounding development. The proposal will present	<ul style="list-style-type: none"> Yes

Control	Requirement	Proposed	Complies
	landscaping etc) that are compatible with any design themes for the locality.	appropriately to the site's street frontage.	
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>	<p>The proposed development will be within a landscaped setting and will present appropriately to the street and surrounding land.</p> <p>The proposal is of a character and scale that will be compatible with other dwellings within the site's context.</p>	<ul style="list-style-type: none"> 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 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>	<p>The proposed development will present appropriately to the adjoining land.</p> <p>The proposed materials and finishes will employ a range of natural, earthy tones, compatible with the location and context.</p>	<ul style="list-style-type: none"> Yes

5.3 Overview - variations to numerical aspects of the DCP

As identified within the above table, variations are exhibited by the proposal with the following numerical aspects of the DCP:

- Side and rear building line
- Building Envelope

These are addressed below.

5.3.1 Side and rear building line

As identified within the table above and described further below, the proposal displays numerical exceedances with the rear and western side building line. These variations are acknowledged, and justification is provided below, having regard to the circumstances of the case, merits of the design, and in response to the objectives of the planning control.

The objectives of the control are:

To achieve the desired future character of the Locality.

The bulk and scale of the built form is minimised.

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

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.

Substantial landscaping, a mature tree canopy and an attractive streetscape.

Flexibility in the siting of buildings and access.

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

To ensure a landscaped buffer between commercial and residential zones is established.

In relation to the western side building line

2 sections (a 4.4m and 8.5m section (approx.)) of the proposed dwelling house display a 1.m side setback which is an exceedance of the control. The longer 8.5m section is single storey in height and forms the western wall to the dwelling house entry.

The extent of the exceedance is assessed as modest within the context of the site and the overall extent of development proposed, being a modest 21% of the length of the western boundary which is 60.96m.

The proposed 4.4m section that exceeds the 2.5 metre side setback is appropriately offset by other sections of the western side of the building that provide an increased side setback of approx. 3m. In this way the proposal seeks to apply flexibility in the siting of the building (the 7th objective of the control) whilst maintaining the objectives of the control

The location of the exceedance is appropriate given that it is adjacent to the rear section of the dwelling house at 35 Heath St.

Having regard to the objectives of the control the following aspects are noted:

- The desired future character of the area has been previously addressed. The following gives consideration to the existing character and pattern of development within the local context.
- The western side building line exceedance occurs approx. 39m from the front boundary and will not be visible from the streetscape.
- The proposed development will be located within a landscaped setting and will be appropriately treated to blend with the character and pattern of development within the local context.
- The western side building line exceedance will not result in adverse impacts or removal of designated vegetation.

It is assessed that the proposed exceedance will not result in significant or inappropriate adverse physical or amenity impacts on the adjoining properties noting:

- There will be no diminution of privacy resulting from the proposed western side setback. As previously noted, there are no balconies proposed at first floor level. There is limited side facing windows within the proposed side elevations. There are appropriate landscaping elements (existing and proposed) to facilitate the maintenance of privacy to the adjoining properties.
- There will be no diminution of the extent and quality of landscaped space resulting from the proposed western side setback exceedance.
- An appropriate view sharing outcome is achieved by the proposal and will not be diminished by the western side setback exceedance.
- An appropriate solar access outcome is achieved by the proposal as previously addressed within this report.

Based on the above, and having regard for clause (3A)(b) of Section 4.15 of the Act, it is assessed that there are appropriate circumstances for the consent authority to be flexible in the application of the side setback numerical control.

In relation to the Rear setback

The proposed dwelling house displays a 5.350m rear setback on the ground floor, a 650mm exceedance of the control (or 10.8%), which is 6m. It is noted that window boxes at the first floor setbacks are 4.715m, these are cantilevered, lightweight elements and are assessed as modest in nature extent.

As depicted within figure 5, the proposal displays a rear setback that is the average of the adjoining residential dwelling houses to the east and west. This is assessed as appropriate in being compatible with the established development and landscaped pattern within the local context, further discussed below.

The proposal maintains a similar, but increased, rear setback to the existing secondary dwelling on the site, which as previously noted, displays a rear setback of approximately 4m.

Having regard to the objectives of the control the following aspects are noted:

- The desired future character of the area has been previously addressed. The following gives consideration to the existing character and pattern of development within the local context.
- The existing development upon the site has a large 'central' area of lawn between the principal and secondary dwellings. The north of the dwelling house (front setback) and secondary dwelling (large 'central' area) provides the principal areas of private outdoor

space on the property. The proposed development maintains the essential pattern and function of these spaces albeit with changes to the proposed boundary setbacks and built form.

- It is noted that the development to the west at 35 Heath St is similarly developed with a single storey garage building form at the front of the site and a 2-storey dwelling house at the rear of the site. There are 2 properties to the east (adjacent to Stanley St, which is a partly unmade roadway). The proposal has appropriately considered the location of the adjacent dwelling houses, their private open spaces, and particularly the rear setback of the development at 3 Stanley St and 35 Heath St, which is located closer to the rear boundary than that proposed on the subject site. Based on these observations it is assessed that the proposal is of a character, scale, configuration, and pattern and that will be compatible with other dwellings within the site's context.
- The proposed development will be located within a landscaped setting and will be appropriately treated to blend with the pattern of development within the local context. The rear building line exceedance will not be visible from the streetscape.
- The proposed dwelling house will achieve an appropriate bulk and scale having regard to the surrounding development context. It is noted that the rear adjoining development at 36 Seabeach Ave is a three storey residential flat building. The proposal will present a lesser bulk and scale than that development. To the east is the dwelling house at 35 Heath St. Sheet DD05 of the architectural plans provide a side-by-side comparison of the bulk and scale of this development as it relates to the subject proposal. Again, the proposal will achieve a lesser bulk and scale. Overall, it is assessed that the proposal presents an appropriate bulk and scale that is both commensurate with the established built form context and that can be anticipated by the reasonable application of the local built form controls.

It is assessed that the proposed exceedance will not result in significant or inappropriate adverse physical or amenity impacts on the adjoining properties noting:

- Amenity in the forms of sunlight and sea breezes are available principally to the north and north east of the property. Private open spaces are proposed at ground level in similar locations to those established currently within the front and middle sections of the property. In this way the proposal will maintain the existing pattern and function of spaces established on the subject site. This pattern is compatible with the location of private open spaces on the adjacent properties.
- The landscaped area to the rear of the proposed dwelling house is designed for use as a garden and clothes drying space. It will have a utility function and is not designed for outdoor recreation.
- There will be no diminution of privacy resulting from the proposed rear setback. As previously noted, there are no living room balconies proposed at first floor level, only a small balcony for the master bedroom. There are no principle living spaces located at the rear of the building. The function of spaces within the rear section of the proposed dwelling house includes bedrooms, study, bathrooms, laundry, media room, rather than principal living / gathering spaces. There are also appropriate landscaping elements existing and proposed to facilitate the maintenance of privacy to the adjoining properties. In these ways the proposal has addressed privacy having regard to the exception proposed to the rear setback control.
- In relation to the southern rear property at 36 Seabeach Ave, it accommodates a residential flat building. The ground floor of the property principally comprises car parking and access to the upper floor apartments. North facing balconies are at first floor level and above, and hence the proposal will not result in any increase in shadow to these areas. The rear of the property comprises a turfed area and a 'hills-hoist' for communal clothes drying. There are no formalised private courtyards or communal recreational facilities within this area. An

appropriate solar access and privacy outcome is achieved by the proposal in relation to this property.

- There will be no inappropriate diminution of the extent and quality of landscaped space resulting from the proposed rear setback. There remains sufficient space to maintain a landscape corridor between the proposed dwelling house and the built form located to the rear at 36 Seabeach Ave.
- An appropriate view sharing outcome is achieved by the proposed rear setback and such will not be diminished by the proposed exceedance.
- An appropriate solar access outcome is achieved by the proposal as previously addressed within this report.

Based on the above, and having regard for clause (3A)(b) of Section 4.15 of the Act, it is assessed that there are appropriate circumstances for the consent authority to be flexible in the application of the numerical control.



Figure 5 – the proposal increases the built form rear setback on the site and meets the predominant rear setback pattern



Figure 6 – side setback character of dwelling house to the west



Figure 7 – rear setback character of dwelling house to the west which the proposal will be compatible with



Figure 8 – character of landscape and built form at 36 Seabeach Ave which is a combined ‘double-allotment’ that adjoins the rear of the site



Figure 9 –character of landscape and built form at 3 Stanley St which is to the east

5.3.2 Building envelope

As noted within the table above, a numerical variation with the building envelope control is proposed in relation to a section of the upper walls of the proposed dwelling house. The location and extent of the exceedances are illustrated within the excerpt from the architectural plans below. The variation is acknowledged, and justification is provided below having regard to the circumstances of the case, merits of the design, and in response to the objectives ('Outcomes') of the planning control.

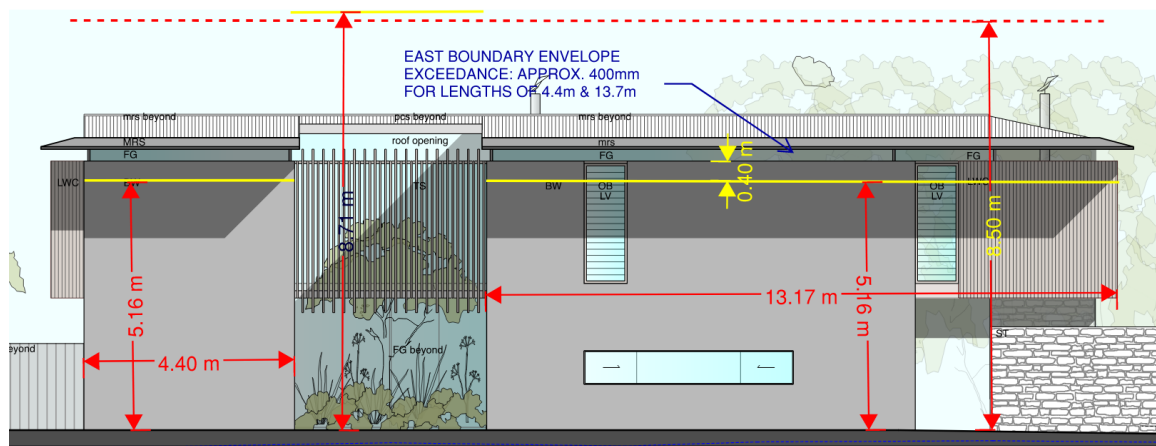


Figure 10 – east building envelope

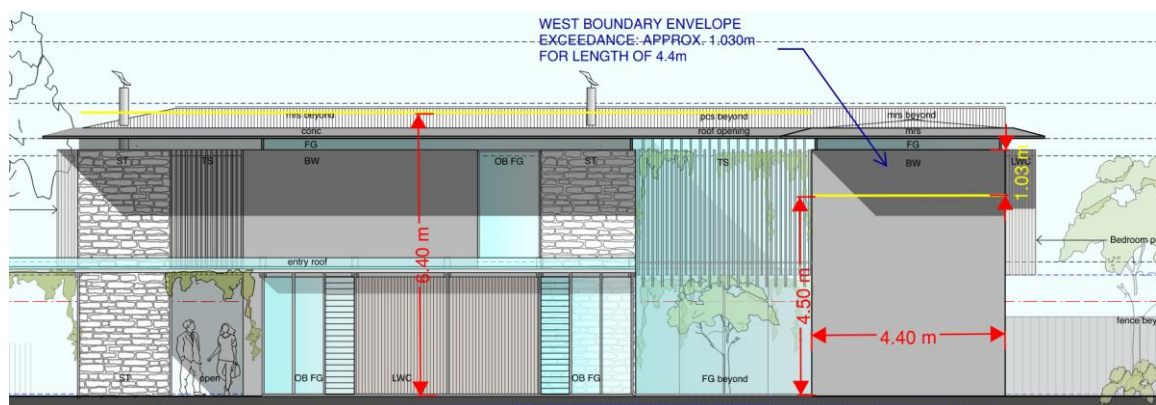


Figure 11 – west building envelope

The objectives of the control repeated below:

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.

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

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.

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

Response -

The desired future character of the area and the existing character and pattern of development of the site and within the local context has been previously addressed. The proposal satisfies these considerations, and the proposed building envelope exceedances will not inappropriately diminish the design's compatibility with the desired future character. Due to their significant 38m (approximate) setback from the front boundary the building envelope exceedances will not be visible from the streetscape.

In relation to bulk and scale:

- The proposal is considerably below the maximum height of building standard under the LEP (8.5m) and well below the height of canopy trees within the surrounding environment and notably below the overall height of all 3 neighbouring developments.
- The proposal does not result in an excessive visual scale, with the proposed design being an articulated building presentation. The design minimises its bulk as it presents to the side boundaries through breaks / recesses approximately midway along the length of these elevations. These recesses comprise garden areas of appropriate depth and area to accommodate landscaping with the capacity to enhance the visual presentation of these elevations.
- The proposed dwelling house will achieve an appropriate bulk and scale having regard to the surrounding development context. To the west is the dwelling house at 35 Heath St. Sheet DD05 of the architectural plans provide a side-by-side comparison of the bulk and scale of this development as it relates to the subject proposal. The proposal will achieve a lesser bulk and scale with an appropriate solar access and privacy interface. To the east is the dwelling house at 3 Stanley St. The proposed boundary envelope exceedance relates to a 4.4m (approx.) section of the first floor level side wall. There are no window openings within this section of wall and the shadow diagrams indicate that an appropriate and solar excess outcome will be achieved. Overall, it is assessed that the proposal presents an appropriate bulk and scale that is both commensurate with the established built form context and that can be anticipated by the reasonable application of the local built form controls.

It is assessed that the proposed exceedance will not result in significant or inappropriate adverse physical or amenity impacts on the adjoining properties noting:

- There will be no diminution of privacy resulting from the proposed building envelope exceedance. As previously noted, there are no unscreened balconies proposed at first floor level. There is limited side facing windows within the proposed side elevations. There are appropriate landscaping elements (existing and proposed) to facilitate the maintenance of privacy to the adjoining properties. Along with privacy screening incorporated within the design of facades.
- There will be no diminution of the extent and quality of landscaped space resulting from the proposed building envelope exceedance.
- An appropriate view sharing outcome is achieved by the proposal and will not be diminished by the building envelope exceedance.
- As previously addressed within this report, an appropriate solar access outcome is achieved by the proposal despite the building envelope exceedance.

Based on the above, and having regard for clause (3A)(b) of Section 4.15 of the Act, it is assessed that there are appropriate circumstances for the consent authority to be flexible in the application of the numerical control.

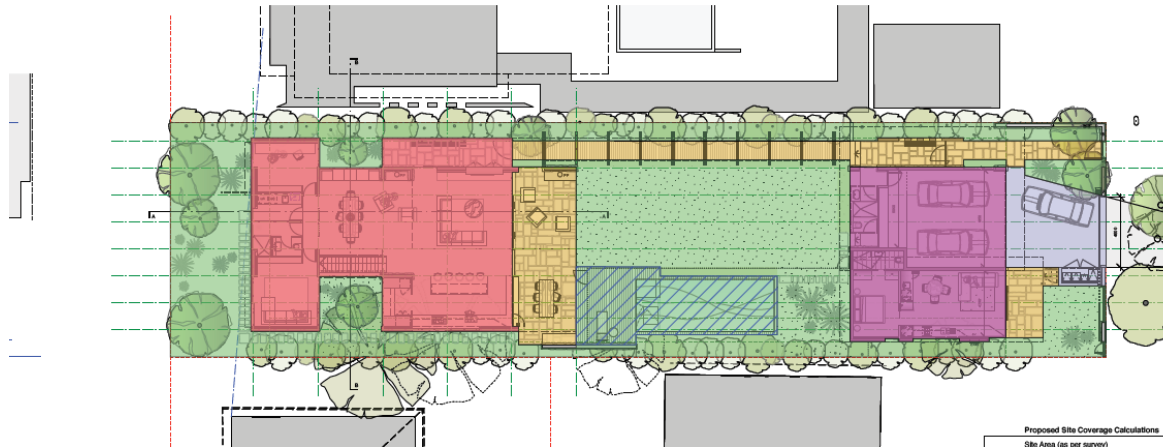


Figure 12 – the proposal responds appropriately to the prevailing pattern of built form and landscaped areas

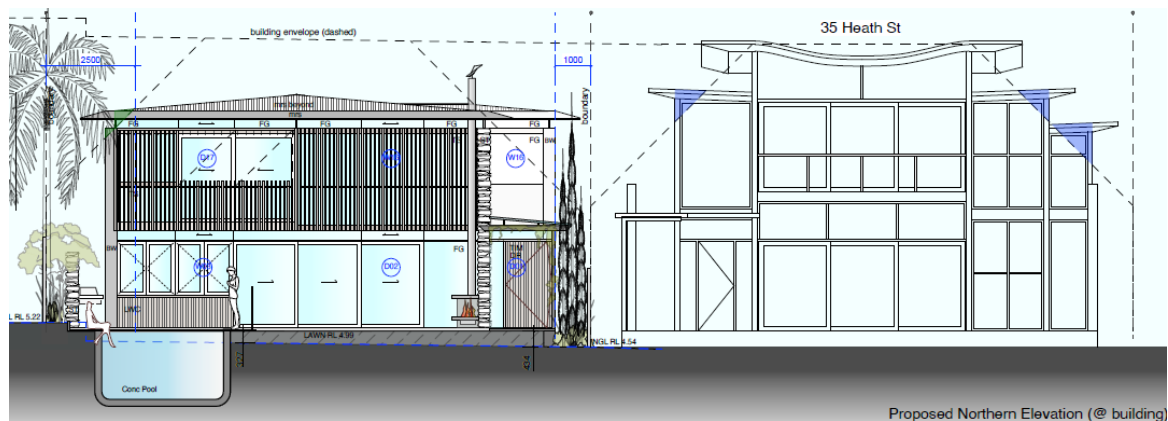


Figure 13 – section showing comparison of building envelope and mass with neighbouring dwelling house at 35 Heath Street (to the west)

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 renewal of the existing housing stock with a BASIX compliant dwelling house and secondary dwelling.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP and 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 demolition, new dwelling house, secondary dwelling and swimming pool at 37 Heath Street, Mona Vale.

Markham-Lee Architecture have responded to the client's brief with an exceptional design that is responsive to the prevailing planning objectives for the site and the development character of the location.

The proposal involves a contemporary design that is appropriately setback from the site edges to maximise light, ventilation, and to achieve privacy. The proposal is located and configured to complement the property's established neighbourhood character without any significant changes or impacts on the existing development character or neighbouring amenity.

The variations proposed to the DCP controls have been appropriately acknowledged and their acceptability assessed and considered, having regard to the objectives of the relevant controls and the circumstances of the case. The report demonstrates that the variations will not give rise to any unacceptable residential amenity or streetscape consequences. Accordingly, the variations proposed are considered acceptable under the circumstances.

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

Appendix 1 DA Appendices – under separate cover