



BLACKWATTLE PLANNING

STATEMENT OF ENVIRONMENTAL
EFFECTS

for alterations and additions to a
dwelling at

**193 Whale Beach Road
Whale Beach**

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1.0 Introduction

This Statement of Environmental Effects accompanies a Development Application for alterations and additions to a dwelling at 193 Whale Beach Road, Whale Beach (the site). The statement is prepared by Blackwattle Planning and relies upon the following documentation:

- Architectural Plans prepared by Campbell Architecture
- Survey Plan prepared by CMS Surveyors
- Geotechnical Report prepared by Asset Geoenviron

2.0 The site and its surrounds

The site is known as No. 193 Whale Beach Road, Whale Beach, being Lot 1 in DP 228203. The land has an area of 835.1sqm. An access handle less than 5m wide joins the site to Whale Beach Road however physical vehicle and pedestrian access to the site is via a right of carriageway over the neighbouring driveway at 191 Whale Beach Road.

The site has an almost north south orientation and occupies a position at the southern end of Whale Beach on the low side of Whale Beach Road. The existing dwelling comprises two and three levels stepping down the steep site. On the northern side of the dwelling facing Whale Beach is a swimming pool and large verandah.

The extended driveway leads to the main area of the allotment some way down slope where the dwelling sits low in the landscape, below and further to the north of No.s 191 and 195 Whale Beach Road. Parking on the site currently occurs on the open paved area, suspended on piers immediately to the south of the dwelling. This generous space permits vehicle turning to allow use of the driveway in a forward direction for both entry and exit.

The curtilage of the dwelling provides a substantial canopy and a mature garden setting, with sweeping views towards Whale Beach and the ocean. Established hedging along the perimeter of the site, and on adjoining sites limits sight lines into and across the site.

Dwellings to the east and west are on similarly steep sites and are variable in their siting as Whale Beach Road turns to the northwest. To the east is No. 191 Whale Beach Road, providing a dwelling on a large allotment of approximately 2700sqm. To the west is No. 195 Whale Beach Road occupying a footprint close to Whale Beach Road.

The dwelling at 193 Whale Beach Road is offset from both these neighbouring dwellings and sited to the north of and at levels well below their respective floor levels. This staggered arrangement creates high levels of privacy and maintains uninterrupted view lines for each dwelling.

To the north of the site are dwellings accessed from Malo Road, which are sited at lower levels, with substantial intervening landscaping. Aerial photos below identify the site within its immediate surrounds and wider locality.

3.0 Site Photos



Figure 3: South elevation of the existing dwelling and suspended paved parking area looking north east **Source:** Blackwattle Planning



Figure 4: Existing dwelling (left) sits below the level of the neighbouring dwelling at 191 Whale Beach Road
Source: Blackwattle Planning



Figure 5: Location of proposed new carport looking south west. No. 195 Whale Beach Road is not viewable behind boundary hedge **Source:** Blackwattle Planning



Figure 6: Site as viewed from Whale Beach **Source:** Blackwattle Planning

4.0 Proposed development

The proposal comprises alterations and additions to the existing dwelling to construct a new double carport over the existing parking platform adjacent the southern elevation of the dwelling .

The details of the proposal are as follows:

Level 2L

- In fill slab (5.8sqm) to existing driveway in location of existing stairs
- Retain and protect existing Cabbage Tree Palm
- Extend new drainage to connect to existing pit
- Construct new carport located centrally on the driveway area
- Construct new stairs to connect parking area with entrance level to dwelling

Level 1L

- Construct new enclosed store in undercroft within the existing building envelope

Level 0L

- Enclose undercroft to create gym within the existing building envelope
- Reuse of existing window at northern elevation and a new window on east elevation recessed into building envelope

5.0 State Environmental Planning Policies (SEPP)

5.1 SEPP (Resilience and Hazards) 2021

Chapter 2 Coastal Management

Division 3 - Coastal Environment

The site is mapped as being within the Coastal Environment Area as mapped below:

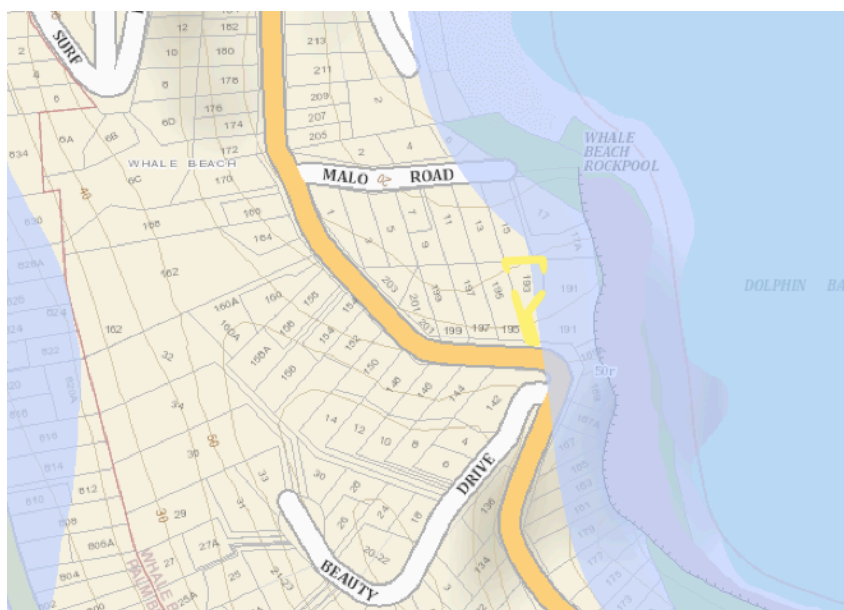


Figure 10: Map of Coastal Environment Area. Site outlined yellow with eastern portion of site within the CEA, shaded blue **Source:** Planning NSW Spatial Viewer

Section 2.10(1) of the this Division requires Council to consider whether the proposed development will have adverse impacts in relation to specific matters relating to the Coastal Environment Area (*italics below*). The proposed design demonstrates that no such impacts will occur, as follows:

(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

The proposed works are entirely within the already disturbed part of the site, well removed from the sensitive foreshore environment. Investigations have been undertaken in relation to geotechnical and stormwater considerations on the site to validate that impacts have been minimised in these areas and that the integrity and resilience of the site will be maintained. Substantial existing landscaping on the site is retained and provides locally native plantings which enhance the ecological value of the site.

(b) coastal environmental values and natural coastal processes,

All proposed works are to be undertaken well above and some distance away from the sensitive foreshore area adjoining Whale Beach. There is extensive separation of the works to the existing dune system and beach environment. Council can be satisfied that environmental values and coastal processes will not be adversely affected.

(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,

The site is not in the vicinity of a coastal lake identified in Schedule 1 of the SEPP and this Clause does not apply to the site.

(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,

Being a significant distance from the foreshore Council can be satisfied that no adverse impact will arise for marine vegetation, or the native vegetation on adjoining sites. Existing high value native canopy plantings are retained and protected.

(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,

No changes to access arrangements along the foreshore, public beach reserve, and beach dune system are proposed.

(f) Aboriginal cultural heritage, practices and places,

The site has been the subject of previous works over many decades and the new work will occupy the footprint of the existing suspended concrete parking area.

(g) the use of the surf zone.

No impacts will arise in relation to the surf zone noting the significant distance of the works from Whale Beach.

Additionally, Council must be satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1). The above discussion addresses these matters in relation to the design, and Council can be satisfied there will be no adverse impact.

Division 4 - Coastal Use

The site is mapped as being within the Coastal Use Area as mapped below:

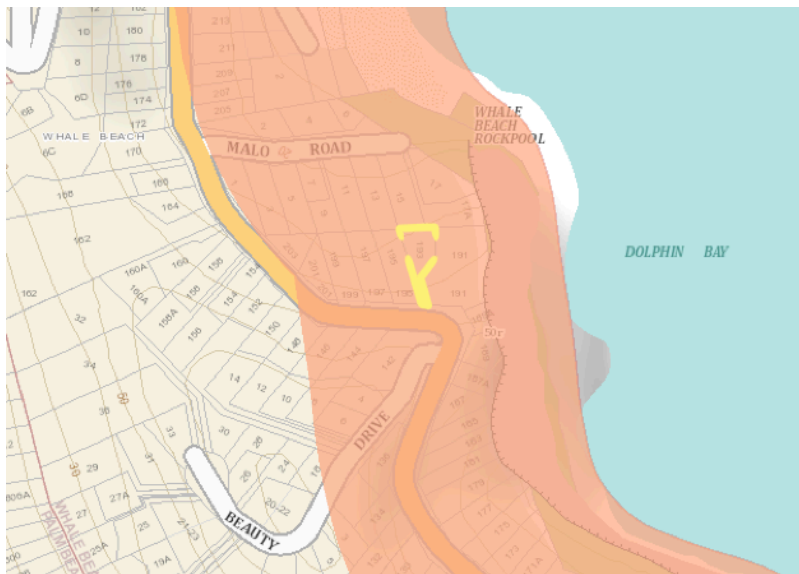


Figure 11: Map of Coastal Use Area. Subject site outlined yellow and within the Coastal Use Area, shaded orange
Source: Planning NSW Spatial Viewer

Section 2.11(1)(a) of this Division requires Council to consider whether the proposed development will have adverse impacts in relation to specified matters relating to the Coastal Use area (*italics below*). The design demonstrates that no such impacts will occur as follows:

- (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

No change to access arrangements along the foreshore area, headland area, or Whale Beach itself will occur.

- (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*

Shadows cast by the new carport structure proposed will only fall on private property. Shadows cast will fall entirely on to driveway and parking areas of the site and adjoining site. No unreasonable wind funnelling is anticipated from the building which remains low profile and open on all sides. Views from the public domain of Whale Beach Road to the foreshore area of south Whale Beach are unaffected, as the proposed carport roof form is located well below street level.

- (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*

The proposed design fits comfortably within the existing coastal character of the architecture in Whale Beach. The open nature of the carport structure and the shallow pitch and hipped form of the roof minimise the bulk presented by the structure. These aspects of the design provide enhanced visual amenity when viewed from the beach and within the general amphitheatre of Whale Beach.

(iv) Aboriginal cultural heritage, practices and places,

The site has been the subject of previous works over many decades and the new work will occupy the footprint of the existing parking hardstand.

(v) cultural and built environment heritage, and

The site is not a listed item within PLEP 2014 or located in a Heritage Conservation Area, and no heritage items are within the vicinity of the site.

Additionally, Council must be satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (1)(a). The above discussion addresses these matters in relation to the design, and Council can be satisfied there will be no adverse impact.

Additionally under subclause (c), Council must take into account *the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

The extent of compliance of the design with applicable development standards and the DCP provisions and/or objectives indicates that the design is appropriate in relation to the bulk, scale and size of the surrounding development.

Division 5 - General

Section 2.12 of this Division requires Council to be satisfied that *the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

The proposed works are located a significant distance and elevation from the sensitive foreshore, bluff, and beach area. Risk reports addressing landslip hazards are provided that address these matters and provide recommendations to ensure the works are carried out with an acceptable level of risk on the land or adjoining land. The land is not mapped as being within the area of Coastal risk and bluff instability. Council can be satisfied that there is an acceptable level of risk relating to coastal hazard as a result of the proposal.

Chapter 4 - Remediation of land

Chapter 4 applies to the land. Clause 4.6 requires that the consent authority must not consent to development unless:

(a) it has considered whether the land is contaminated, and

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

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The site has been utilised for residential purposes for an extended period of time and no change of use is proposed. The risk of contamination is low and there is no information

suggesting the site may be contaminated. The consent authority can be satisfied that the land is suitable for the continued residential use.

5.2 SEPP (Biodiversity and conservation) 2021

Chapter 2 - Vegetation clearing in Urban Areas

Chapter 2 aims to protect biodiversity values and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. The proposed works are consistent with the provisions of the SEPP as no significant native trees are proposed to be removed.

6.0 Pittwater Local Environmental Plan 2011 (PLEP 2011)

Land zoning and permissibility

The site is within the area to which PLEP 2014 applies. Clause 2.2 of the LEP zones the land C4 Environmental Living in accordance with the Land Zoning map, reproduced below:

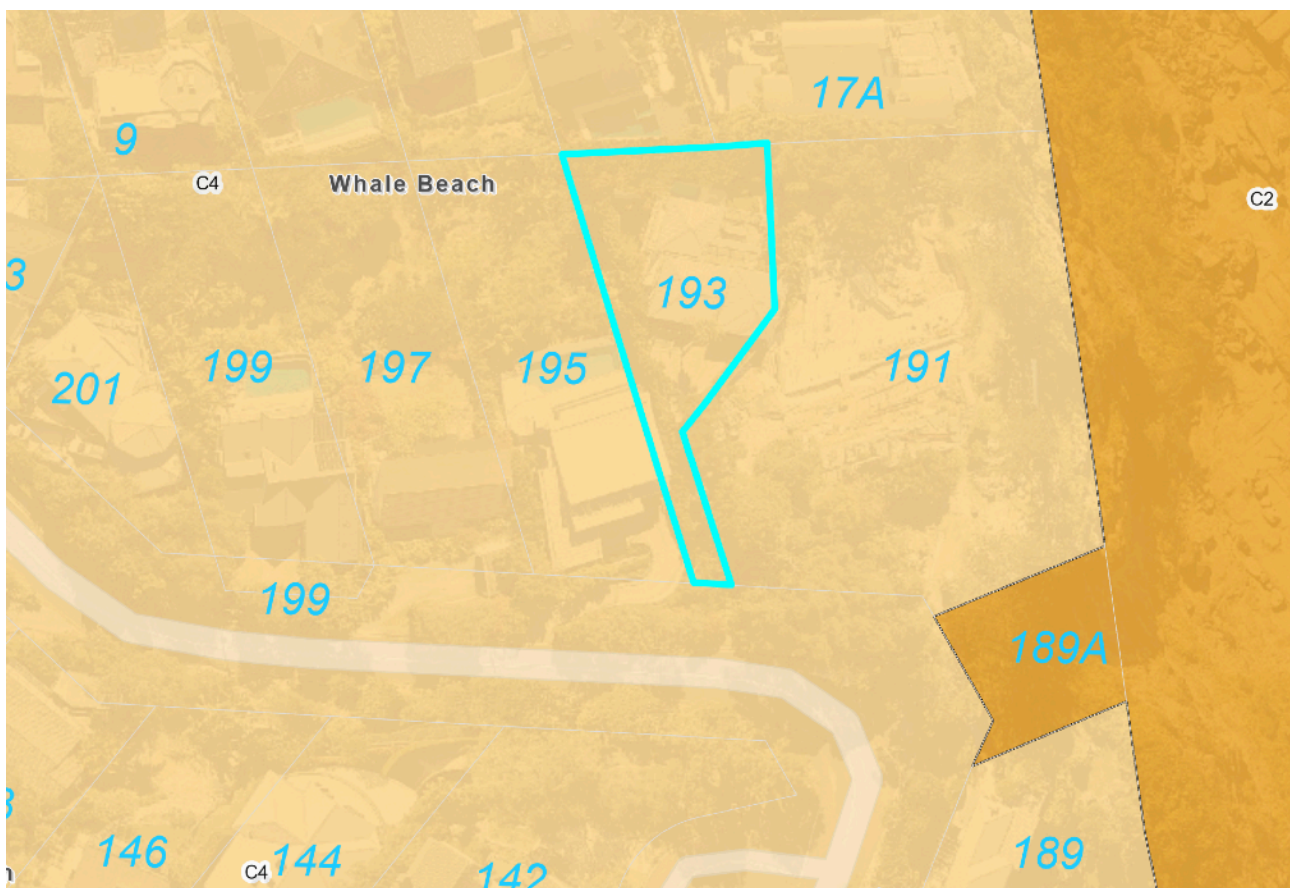


Figure 5: PLEP 2014 Zoning map showing subject site within the C4 Environmental Living Zone **Source:** Northern Beaches Council Mapping

Dwellings are permissible with consent within the C4 Environmental Living Zone as set out in the Land Use Table under Part 2 of PLEP 2014.

C4 Zone Objectives

The objectives of the C4 Environmental Living Zone are met by the proposed development as follows:

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

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

The proposal provides for covered parking over the existing vehicle hardstand. The design is low impact through its open nature and considered location ensuring visual impacts are minimised and view lines retained for neighbours.

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

The dwelling remains at a low density and scale and the design prioritises the landscape by facilitating the retention of the Palm tree through the proposed roof structure of the carport.

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

The location of the works is not in proximity to riparian or foreshore vegetation. The design retains an existing palm tree and otherwise has no impact on the substantial vegetation on the site that contributes to wildlife habitat and connectivity.

Height of buildings

The maximum Height of buildings for this site is 8.5m as indicated by the Height of buildings map pursuant to Clause 4.3 of PLEP 2014, reproduced below.



Figure 6: PLEP 2014 Height of buildings map showing the site mapped as 1, 8.5m maximum height
Source: Northern Beaches Council Mapping

The proposed carport structure has a height of 8.3m above the existing ground level directly under the north western eave and complies with this development standard.

Heritage Conservation

The site is not listed as a heritage item, is not in the vicinity of a heritage item, and is not mapped as being in a Heritage Conservation Area.

Acid Sulfate soils

The site is mapped as Class 5 on the Acid Sulfate Soils Map of PLEP 2014, reproduced below. The works proposed are not below 5m AHD and the water table is not likely to be lowered. An acid sulphate soils management plan is therefore not required.

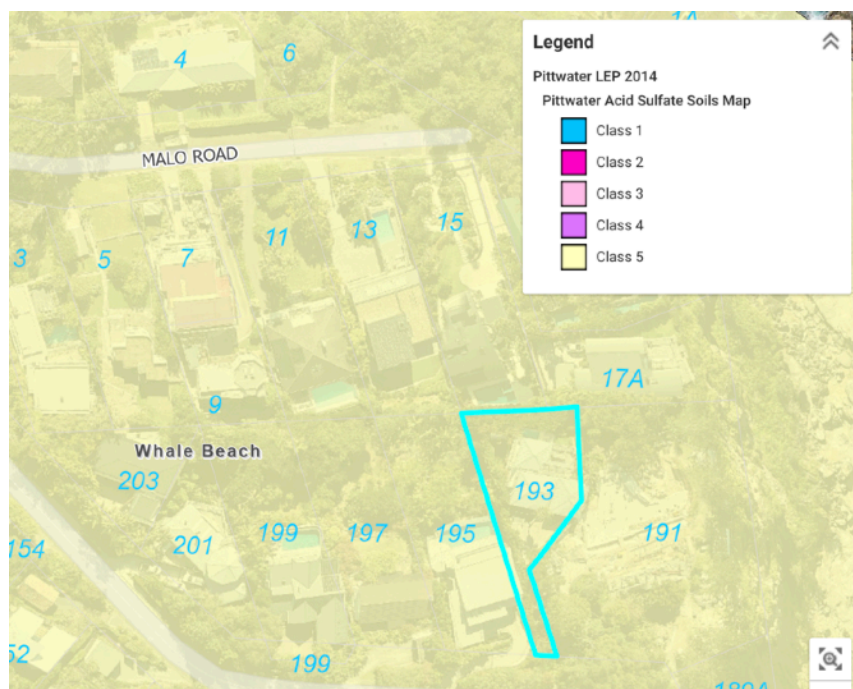


Figure 7: PLEP 2014 Acid Sulfate Soils map showing the site mapped as Class 5
Source: Northern Beaches Council Mapping

Earthworks

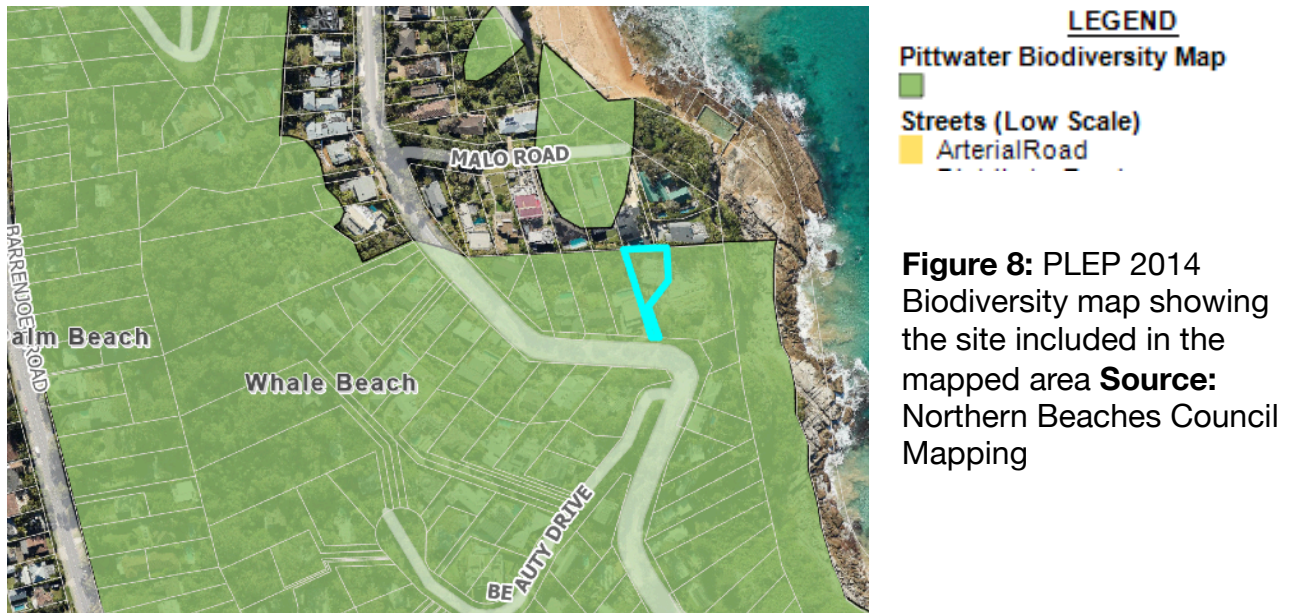
Minor earthworks are proposed for site preparation and footings. No detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land are anticipated.

Coastal Risk Planning

The site is not identified by the Coastal Risk Planning Map as being subject to any Coastal risks (Wave inundation, Coastal erosion, Bluff/Cliff instability) required to be considered under Clause 7.5 of PLEP 2014.

Biodiversity

The site is identified on the Biodiversity Map as being subject to the requirements of Clause 7.6 Biodiversity PLEP 2014. The map is reproduced below.



The relevant matters for consideration under Clause 7.6 are as follows:

- (a) *whether the development is likely to have—*
- (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
 - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
 - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
 - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

This application has considered these matters and we conclude that:

- As the proposed works are above the suspended concrete parking platform there will be no adverse impact upon ecological values and significance on flora and fauna on the land; and,
- As no significant native trees are proposed for removal, there will be no adverse impact upon vegetation on the land that provides for the survival and habitat of native fauna; and,
- The limited additional footprint of the proposal means there is negligible potential for fragmentation of biodiversity on the land and minimal disturbance or reduction in biodiversity structure, function and composition; and,

- The connectivity of habitat on the land with adjoining land is not reduced; and,
- The existing extensive landscaping on the site includes plantings that mitigate any minimal impacts occurring on the land and enhances the long term habitat quality for native wildlife.

The requirements of Clause 7.6 Biodiversity are met by the proposed development as outlined below:

(4) 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 any significant adverse environmental impact, or

The proposed works are proposed within the existing dwelling and driveway footprint avoiding any adverse environmental impact.

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

The proposed site disturbance is negligible and no significant native trees are required to be removed. The design purposively avoids impact, accommodating the retention of a cabbage tree palm centrally on the site.

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

Any impact is minimised and landscaping is retained to enhance habitat opportunities on the site.

Geotechnical Hazards

Clause 7.7 of PLEP 2014 identifies land susceptible to geotechnical hazard, i.e. land identified as Geotechnical H1 and Geotechnical H2 on the Geotechnical Hazard Map. The site is almost entirely mapped as being in Geotechnical H1 under this map, as reproduced below:

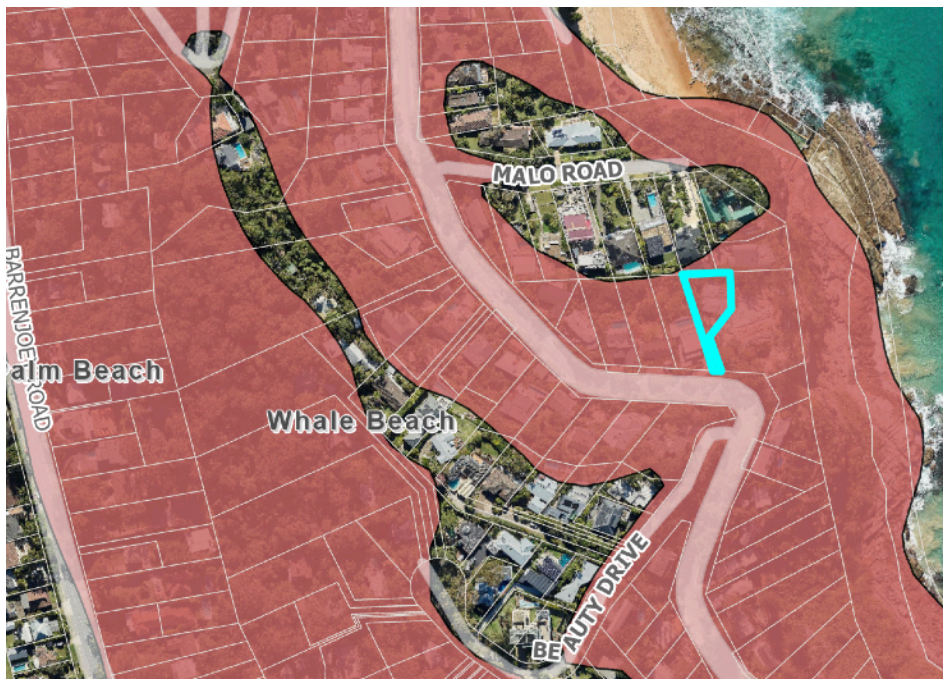


Figure 9: The site identified as Geotechnical H1 on the Geotechnical Hazard map
Source: Northern Beaches Council mapping

A Geotechnical Risk Report accompanies this application and considers the relevant matters for consideration under Clause 7.7(3). The report concludes that the proposed development is appropriate in relation to the matters of which the consent authority must be satisfied of under Clause 7.7 (4)(a) and (b).

Essential services

Essential services listed at Clause 7.10 of PLEP 2014 are available at the site.

7.0 Pittwater 21 Development Control Plan (P21DCP)

A summary of relevant development controls and the extent of compliance under Pittwater 21 DCP is provided in Table 1 below:

DCP Provision		Proposed	Compliance
A4.12 Palm Beach Locality	Consistent with Desired Character Statement	Consistent	YES
B1.3 Heritage Conservation - General	Potential for heritage significance	The existing dwelling does not meet the criteria for heritage listing and is not in the vicinity of an item or within a Conservation Area	YES
B1.4 Aboriginal Heritage Significance	Potential for being an Aboriginal Place or containing an Aboriginal object	The site contains no landscape features that indicate Aboriginal Heritage significance	YES
B3.1 Landslip Hazard	Compliance with the Geotechnical Risk Management Policy for Pittwater	A Geotechnical Risk report accompanies this application	YES
B4.1 Flora and Fauna Conservation Category 1 Land	No adverse impact upon threatened species, endangered populations, or endangered ecological communities	No loss of significant or native tree canopy. Additional plantings proposed for enhanced habitat for locally native species, threatened species, and EEC	YES
B5.15 Stormwater	Compliance with Council's Water Management for Development Policy	A stormwater management plan is provided indicating connection to the existing system.	YES
B6.1 Access driveways	Driveway to comply with AS where additional parking spaces are proposed.	Existing garage and driveway to remain. No new parking spaces proposed however existing parking arrangements more functional with open carport	YES
B6.3 Off Street vehicle parking requirements	2 spaces	2 spaces existing to be retained	YES
C1.1 Landscaping	All canopy trees and 50% other landscaping to be locally native	No change to existing approved landscaping. Substantial existing canopy and mature plantings retained.	YES
C1.2 Safety and Security	Consistent with CPTED principles		YES

DCP Provision		Proposed	Compliance
C1.3 View Sharing	Reasonable sharing of views consistent with Planning Principle	Reasonable view sharing scenario provided. See discussion	YES - See discussion
C1.4 Solar Access	Dwelling and adjoining dwellings to receive 3hrs sunlight between 9am -3pm to POS; and windows to principal living areas.	See discussion	YES - See discussion
C1.5 Visual Privacy	Dwelling and adjoining dwellings protected from direct overlooking within 9m of POS and living rooms	Additional window in eastern elevation of new gym does not overlook private open space or living rooms of neighbouring property.	YES
C1.6 Acoustic Privacy	Pool equipment appropriately housed; bedrooms located away from noise sources	As existing	YES
C1.7 Private Open Space	80sqm directly accessible from living areas, located at rear of dwelling with good solar orientation	As existing	YES
C1.12 Waste and Recycling Facilities	Demonstrate compliance with Waste Management Guidelines	Compliant Waste Management Plan provided.	YES
C1.14 Separately Accessible Structures	Ancillary, and not designed for separate habitation or contain cooking facilities	None provided	N/A
C1.15 Storage Facilities	8 cubic metres to be provided per dwelling	Provided with new store area in undercroft	YES
C1.23 Eaves	Eaves to be provided on all elevations min 450mm width	Eaves provided on new carport roof	YES
D12.1 Character as viewed from a public place	Design features to be provided to front building facade and building bulk minimised	The new carport roof will not be viewable from Whale Beach Road at the property frontage. As viewed from Whale Beach and the wider Whale Beach amphitheatre, the new roof is barely legible, being setback behind the existing dwelling and roof structures, and being shallow pitch and hipped to minimise but and scale	YES

DCP Provision		Proposed	Compliance
D12.3 Building Colours and Materials	Dark and Earthy tones. No white or light coloured roof or walls	Low reflectivity materials used. New metal roof to match existing	YES
D12.5 Front Building Line	6.5m or established, whichever is greater	The carport roof is setback some 27m from the Whale Beach Road frontage	YES
D12.6 Side and rear building line	Side building line - 2.5m and 1m	West - 2.035m East - 4.845m	YES
	Rear - 6.5m	As existing	YES
D12.8 Building Envelope	3.5m + 45 deg measured from ground level on side boundary	The eave of the carport roof projects into the building envelope. Eaves are permitted to extend outside the envelope under this provision	YES
D12.10 Landscaped Area - Environmentally Sensitive Land	60% of the site area to be landscaped area	No change to existing approved landscaped area at 55% (460sqm).	YES
D12.12 Fences - Flora and Conservation Areas	Vegetation preferred to front fencing. Side and rear fencing to be passable by wildlife	As existing	YES
D12.14 Scenic Protection Category One Areas	Minimise impact upon vegetation. Planting and maintenance of native vegetation and no removal of canopy	As existing. The existing Cabbage Tree Palm located adjacent the parking area is able to be retained in the design.	YES

A4.12 Palm Beach Locality

P21DCP provides a desired character statement to guide development in the Palm Beach Locality within which the site is located. The proposed dwelling is consistent with the key elements of the character statement relevant to dwellings, as follows:

- *..a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.*

The proposal remains low density in the form of a single dwelling and presents as two storeys as viewed from adjoining neighbours and from the public domain. Substantial mature canopy to be retained on site ensures that structure remains secondary to the landscape when viewed in the locality. The new carport, addition store room, and additional floor space has been sited to minimise excavation and disturbance on the site.

- *..maintain a building height limit below the tree canopy and minimise bulk and scale whilst ensuring that future development respects the horizontal massing of the existing built form.*

The proposed works are entirely compliant with the 8.5m height limit. An existing cabbage tree palm is retained in the design and the new carport roof achieves a shallow

pitch and hipped form that integrates with the existing roof forms of the dwelling and remains a low element when viewed from elsewhere in the locality.

The design enhances the horizontal massing and compliments the modest elements of the existing dwelling, minimising the overall bulk as viewed from neighbours.

- *Existing and new native vegetation, including canopy trees, will be integrated with the development.*

The new open carport retains an existing valued cabbage tree palm and integrates it with the design. Additional canopy is also proposed, together with retention of a substantial canopy and garden elsewhere on the site.

- *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.*

The proposed alterations together with the existing dwelling contribute varied materials and a well modulated presentation to adjoining neighbours and as viewed in the locality.

- *Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance.*

The new carport roof will contribute to the already stepped design of the dwelling by sitting marginally above the other roof forms, yet still presenting as a low profile element. The dwelling will retain a two storey presentation, and the new roof form is sited to limit the bulk of the building, and to protect viewing corridors of neighbours.

- *balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land.*

Additional footprint on the site is avoided and no removal of significant canopy trees is proposed. The cabbage tree palm located adjoining the parking area is Abel to be retained and integrated into the design of the structure, achieving a balance between the natural features of the site and the development of the 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.*

No native tree removal is proposed and habitat opportunities are enhanced on the site through the proposed new native canopy tree.

C1.3 View Sharing

Views available to the proposed dwelling and to neighbours are expansive and take in the Whale Beach escarpment to the north west, Whale Beach and its wave zone, North Whale Beach Headland and cliff lines and rock platforms below. Distant views of Cape three points are also available in the north east, and the expanse of open ocean to the north east and east.

Views from all levels of the existing dwelling are breathtaking and highly valued. From the lower levels of the rear yard, the substantial mature tree canopy provides a pleasant outlook but limits views.

The addition of the new carport will allow these views to be retained for neighbours. Sight lines from adjoining dwellings run generally to the north and north east of the existing dwelling at 193 Whale Beach Road. The siting of the new carport is at a level well below neighbouring dwellings and behind the existing dwelling on the site. These sightlines across the side boundary are already obstructed to views due to substantial vegetation beyond 193 Whale Beach Road on other properties.

Overall, the proposal has negligible impact upon views from either the private or public domain. The siting of the carport roof, together with its low profile roof design allows existing views to be retained to the west, north and north east. Views are appropriately shared as is anticipated by both P21DCP and the NSW Land and Environment Court Planning Principle.

C1.4 Solar Access

Having an almost true north alignment, the new carport will have little shadow impact upon neighbouring dwellings. The low level of the carport relative to neighbouring dwellings means that any addition shadow impact will remain compliant with the requirements of the DCP which are for a minimum of 3 hours sunlight to windows of living areas between 9am and 3pm in midwinter.

D12.10 Landscape Area - Environmentally Sensitive Land

The site is located within Area 1 of the Pittwater Landscaped Area Map and is therefore considered under the Landscaped Area control for Environmentally Sensitive Land (Figure 11 below). This provision requires 60% of the site area to be landscaped area, which is 634 sqm.

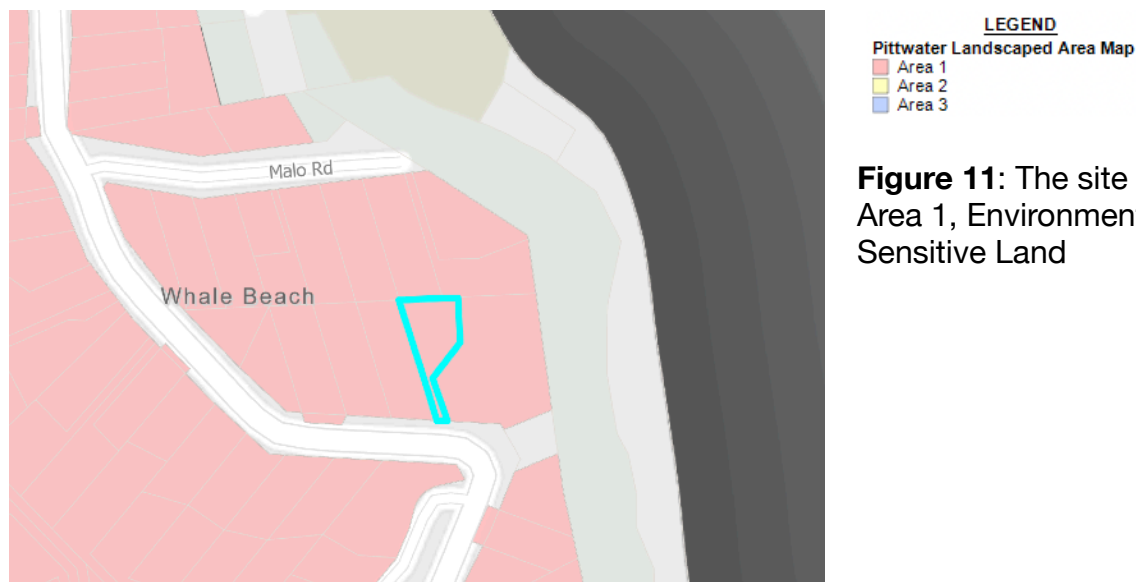


Figure 11: The site located in Area 1, Environmentally Sensitive Land

The DCP adopts the LEP definition of Landscaped Area, which is:

landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

Provided the outcomes of the control are achieved, 6% (or 50sqm) is permitted to be included in the landscaped area calculation for the following:

- *impervious areas less than 1 metre in width (e.g. pathways and the like);*
- *for single dwellings on land zoned R2 Low Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

The existing approved development on the site achieves a landscaped area of 460sqm or 55%. The small additional area of suspended slab required for the carport is proposed above existing decked areas and stairs. This means that the landscaped area remains as approved at 55% and 460sqm.

Whilst not strictly compliant with the numeric requirement of the provision, the proposed design results in no reduction in the existing approved landscape area and easily meets the outcomes of the control in the following way:

Achieve the desired future character of the Locality.

The previous discussion in this statement of the Desired Character as expressed at A4.12 of the DCP demonstrates that the proposal achieves the desired future character of the Palm Beach Locality.

The bulk and scale of the built form is minimised.

The bulk and scale of the carport structure proposed is very minimal noting its compliant height, minimal increase in height above existing roof forms, open construction on all sides, and low pitch and hipped roof design. The new roof will barely be perceived in the wider visual catchment and will have minimal visual exposure to neighbours.

A reasonable level of amenity and solar access is provided and maintained.

As detailed elsewhere in this statement, solar access to the site and its neighbours is maximised by the optimal orientation and appropriate siting of the carport structure. The structure remains low compared to neighbouring dwellings such that its shadow impacts are minimal. For similar reasons, the design ensures that view lines from neighbouring dwellings remain uninterrupted.

Vegetation is retained and enhanced to visually reduce the built form; and,

Conservation of natural vegetation and biodiversity.

The substantial tree canopy currently approved on the site will be retained and the landscape design already delivers substantial plantings throughout the site. When viewed from the beach and elsewhere in the locality, the dwelling will continue to present as significantly framed and obscured by vegetation. Notwithstanding the landscape numerical non-compliance, existing high proportions of vegetation ensure the habitat value of the site and make a meaningful contribution to the biodiversity values of the locality.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels; and,

Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

The stormwater outcomes on the site will be improved by the appropriate collection of stormwater and delivery of it to a system compliant with Council's Water Management for Development policy. A high proportion of the site area remains available for infiltration.

To preserve and enhance the rural and bushland character of the area.

With the retention of existing mature canopy and substantial understorey and gardens on the site, the highly landscaped character of Whale Beach will be enhanced by the proposed design.

Section 4.15(3A) of the Environmental Planning and Assessment Act provides the following (our emphasis added):

*(3A) **Development control plans** If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—*

...

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

...

Under subclause 3A, the Act requires the consent authority to be *flexible* in applying numerical provisions and allow reasonable alternative solutions that achieve the objects of the standard. The proposed development offers an alternative solution of landscape area marginally below the numerical requirement which is considered reasonable because notwithstanding the numerical breach, the design achieves the outcomes of the DCP, as outlined above:

Additionally, it is important to note that the overall noncompliant landscape area on this site can largely be attributed to the existing extended driveway that is required to access the building footprint. Being close to 30m from the front boundary, the existing dwelling must provide a much larger than normal amount of paved area for the driveway and parking. As a result, the proportion of the total hard surface area on the site attributable to the driveway is unusually high due to the site circumstances.

Even so, the hard surface of the driveway is existing and being generally at ground level contributes no bulk or scale to the presentation of the dwelling. The design proposed retains the Cabbage Tree Palm and contributes an additional canopy tree to the curtilage, whilst already providing a high quality and quantity of landscaped area to the setting of the dwelling.

8.0 Section 4.15 of Environmental Planning and Assessment Act 1979

Matters for Consideration

Section 4.15 of the Planning Act requires that the following matters be considered:

Any environmental planning instrument

All relevant SEPP's and PLEP 2014 have been addressed in this statement.

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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

There are no relevant draft instruments that apply to this land or the proposed development.

Any development control plan

The provisions of Pittwater 21 DCP have been considered and addressed in this statement.

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

There is no planning agreement under s.7.4 of the EP & A Act that has been entered into or offered.

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

There are no relevant matters arising from the Regulation in relation to the proposal.

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

The likely impacts of the proposed works have been addressed in this document. The proposed works are unlikely to result in any significant or adverse impacts in relation to privacy for the site or of neighbours, impacts upon sunlight to the site and to neighbours, and view loss from neighbours or the public domain. The proposal is designed to be largely compliant with the provisions of Pittwater LEP 2014 and Pittwater 21 DCP.

The suitability of the site for the development

The site is suitable for the ongoing residential use and for the works proposed. The proposal will fit comfortably within the sensitive coastal context of Whale Beach, and limits its presence such that the building will remain secondary to the natural landscape.

The subject site is suitable for the proposed development.

The site is zoned for low density residential development and the proposed works are permissible in this zone and consistent with the zone objectives. The site is therefore considered suitable for the proposed development.

Any submissions made in accordance with this Act or the Regulations

We understand that the application will be notified in accordance with Council's Community Participation Plan and that any submissions made will be taken into consideration as part of the Council's assessment.

The public interest

Being consistent with relevant objectives of Pittwater LEP 2014 and Pittwater 21 DCP, and noting the positive contribution the proposal will make to the Whale Beach locality, an approval of the proposed works is considered to be in the public interest.

9.0 Conclusion

The proposed additions to 193 Whale Beach Road will result in a dwelling that respects its neighbours and its sensitive coastal context, and will be a good fit for the community.

Given there are no detrimental effects on residential amenity or the environment, the development is considered to be consistent with the objectives of the EP&A Act and is worthy of Council's favourable consideration for Development Consent.

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