



## STATEMENT OF ENVIRONMENTAL EFFECTS

FOR THE CREATION OF A DETACHED DUAL  
OCCUPANCY

AT No.104 TAIYUL RD , Nth NARRABEEN

**Prepared: Aug , 2019**

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### **APPENDIX 1 THE BIODIVERSITY ASSESSMENT**



## 1.0 INTRODUCTION / BACKGROUND

This Statement of Environmental Effects accompanies a development application seeking Council's consent to the construction of a second dwelling in the front yard of the property to create a detached Dual Occupancy.

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

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

The site has been deemed by Council to potentially contain acid sulphate soils and has been classified as Class 5 land which is the lowest risk category. As confirmed later in this Statement this hazard classification also does not constitute an impediment to the proposal. The site has also been classified as having a high biodiversity value.

The site is not subject to any other heritage, hazard or environmental constraints.

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

As confirmed later in this Statement the proposal complies with all of the relevant controls specified by the Pittwater 21 Development Control Plan (the DCP) other than for minor intrusions into the specified building envelope. Notwithstanding this Statement will confirm that the proposal satisfies the objectives of this planning control. This Statement will also confirm that the proposal will have no significant impact on the environment, surrounding properties or the public's perception of the site within the streetscape context.

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

Notwithstanding the site's hazard & biodiversity classifications and the above State Govt planning controls, the proposal constitutes 'Local Development' and therefore can be determined by Council without the need to refer this application to any State Government Department or Agency.

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



The site viewed from its road frontage. From this aspect both the existing & proposed buildings are obscured. This vegetation is to be retained.

A view from directly in front of the site. The proposed dual occupancy will be located behind the vegetation to the left of this photo and the 2 street trees are unaffected by the proposal.



A view from the existing vehicular crossing looking back to the existing dwelling. Also note the cracked concrete driveway which is part of the reason for its replacement.

A view from the top of the driveway looking towards the site frontage. This driveway is to be removed and replaced with a permeable surface towards the right of this photo, therefore further away from the root zone of this significant Eucalypt (Lemon scented Gum )





## 2.0 SITE DESCRIPTION

This application relates to Lot 4 in DP 6555, known as No.104 Taiyul Rd, North Narrabeen.

The site is rectangular in shape with an 18.29m wide front & rear boundary, while the side boundaries have a depth of 54.865m, resulting in a total site area of 1,003m<sup>2</sup>, ( a copy of the site survey is provided on P.6 ).

As confirmed by the survey and the aerial photo over, the existing dwelling is located in the rear third of the site and is a conventional 2 storey building with overlapping floor plates and includes half width balconies on the upper level at the front & rear of the building.

Although no formal or covered parking area is provided off-street parking is available for 4 tandem car parking spaces on the concrete driveway forward of the dwelling which includes a turning area at the northern end to ensure that vehicles can enter & exit the site in a forward direction.

Pedestrian and vehicular access is from the street frontage, the proposed Dual Occupancy use of the site maintains these access and parking arrangements.

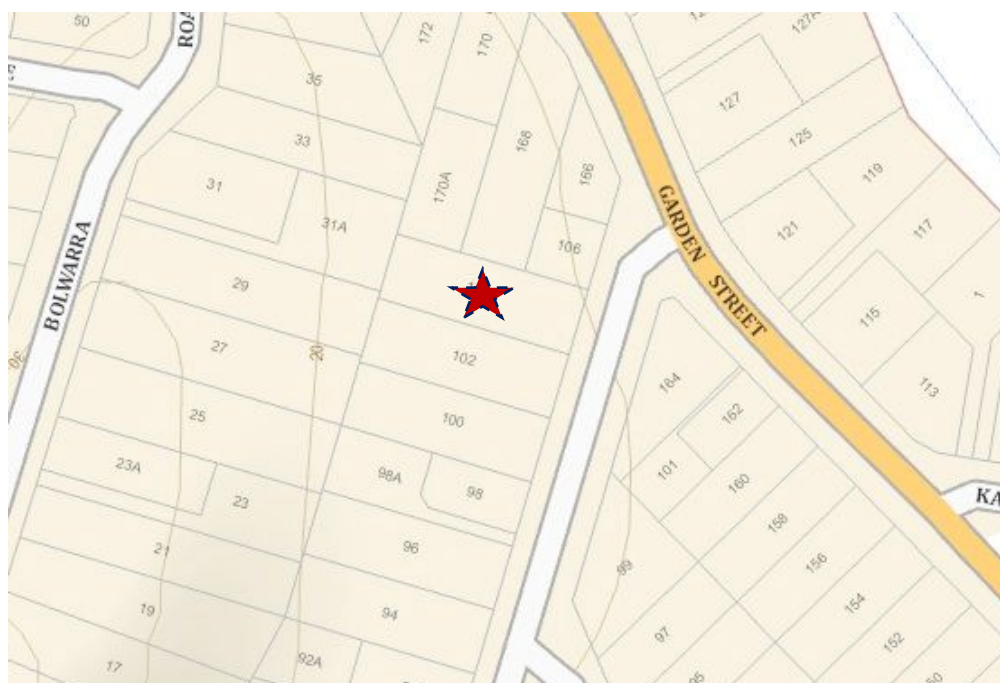
The site boundaries are delineated by 1.8m high lapped & capped fences along the southern side boundary and across the rear boundary, these are to be retained. The front half of the northern boundary is also delineated by a 1.8m high lapped & capped paling fence while the rear half of the boundary is delineated by a mixture of fencing styles, materials and heights, through this application it is intended to extend the existing 1.8m high lapped & capped paling fence through to the rear boundary. The front boundary is to remain unfenced.

Consistent with the general topography in this locality the site has a moderate slope from the rear boundary down to the front boundary which is only interrupted by a 0.6m – 1.32m high treated pine log retaining wall at the rear of the dwelling and a levelled area around the existing in-ground pool in the rear yard which is also supported by a low log retaining wall. No site works or modifications are proposed in the rear yard.

There is a dense band of vegetation across the front yard area and in the rear N/W corner of the site. As discussed later in this Statement only 1 tree is to be removed to facilitate construction of the proposed new dwelling.

Surrounding development is a mixture of predominantly single and occasional 2 storey stepped dwellings of varying age and architectural design. These buildings are generally located on the higher parts of their respective sites so as to maximise the available district and in some cases water views, set within a landscaped perimeter. Only 1 tree in the front yard is to be removed therefore there will be no significant change to the streetscape, the existing character and the desired future character of the locality as a consequence of this proposal.

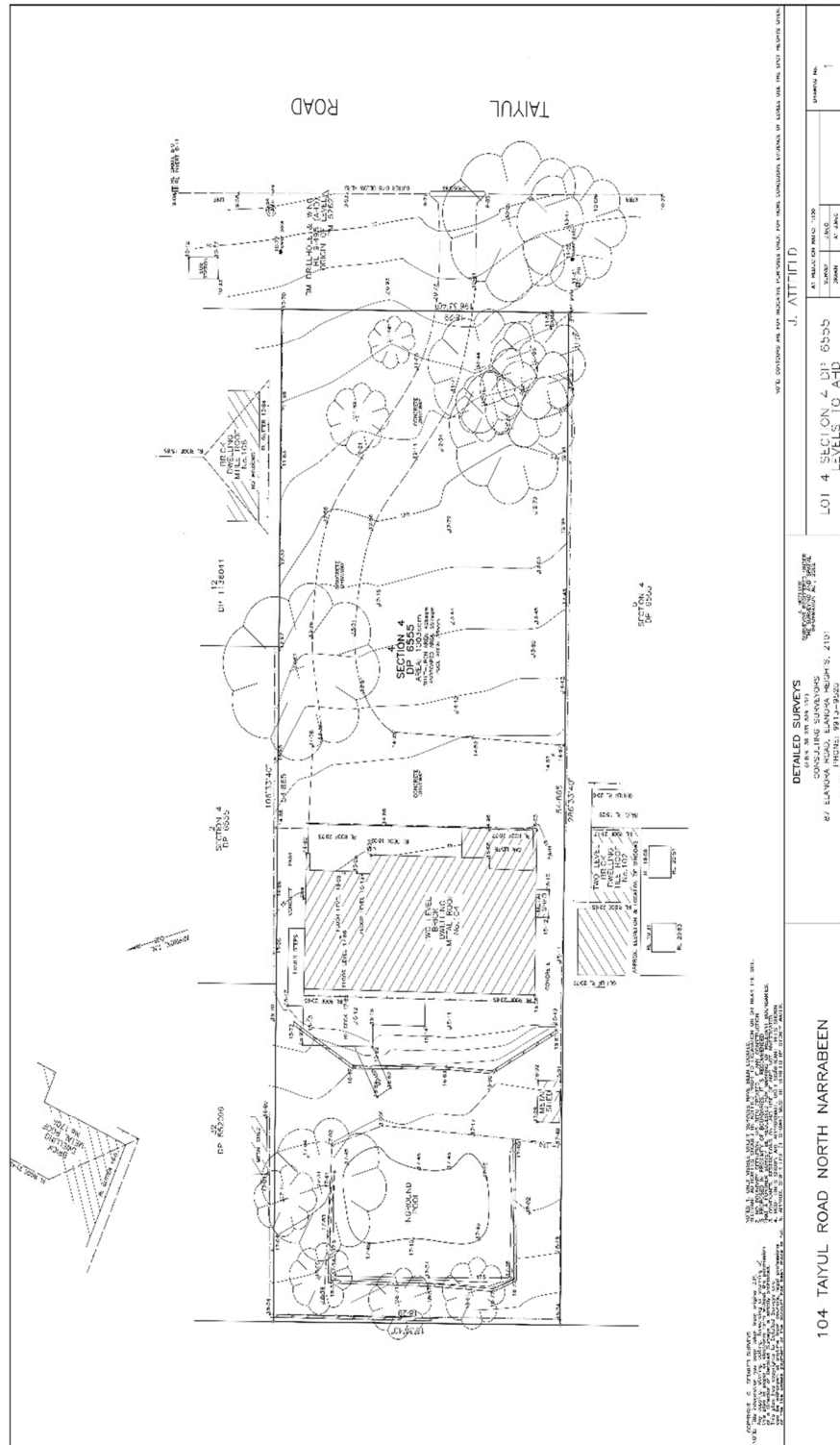




Locality plan with the site highlighted



An aerial view of the site, highlighted, showing the location and nature of surrounding residential development.



The site survey & title details.





A view from the middle portion of the driveway looking towards the front of the building, no changes are required to this building facade.

A view across the front of the building in a southerly direction towards the 2 storey dwelling at No.102 Taiyul Rd. The yellow arrow shows the intended location of the new dwelling. The bamboo screen I located on the adjoining property which will minimise the visual impact of the new dwelling



Looking back to the site frontage from the existing parking area over the site of the proposed new dwelling.

Looking north across the front of the existing dwelling showing the off-street parking area which is capable of accommodating 4 car spaces in a tandem arrangement. Note the screen planting in the rear yard of the adjoining properties which will assist in minimising the visual impact of the new dwelling.







### 3.0 THE PROPOSAL

This application seeks Council consent to the erection of a single storey dwelling in the front yard and subject to Council's approval the site will contain an attached Dual Occupancy.

No significant site excavation / modification is proposed or required to facilitate the proposal.

The current site improvements consist of a 2 storey dwelling which is located on the rear third of the site and an in-ground swimming pool is centrally located in the lawned & landscaped rear yard.

Vehicular access is currently obtained from the site frontage via a concrete driveway. Although no formal or covered parking area is provided off-street parking is available on the driveway forward of the dwelling which includes a turning area at the northern end to ensure that vehicles can enter & exit the site in a forward direction. This proposal maintains these access & parking arrangements, although a new gravel surfaced driveway is proposed to replace the existing curved concrete driveway.

The new single storey dwelling is to be located on the front third of the site and located closer to the southern side boundary to facilitate the new common driveway. The new dwelling contains :-

- an open plan kitchen / dining & living area
- 2 bedrooms with a shared bathroom / toilet
- a master bedroom & en-suite, and
- a laundry

Externally it is proposed to –

- construct a covered entry portico on the northern elevation
- construct a landing & stairs to facilitate access to the southern side boundary setback area which will contain the clothes drying facility
- construct low retaining walls around these entry / exit points
- provide timber awnings over the northern facing windows to satisfy the prescribed BASIX targets
- level portion of the front yard area to create a compliant private open space area for the dwelling occupants, access to this area is to be obtained by a short flight of stairs off the open plan living areas within the dwelling

As shown on the concept landscape plan ( DA8B ) supplementary screen planting is to be provided to the east, north & south of the new dwelling.

A 2,500ltr rainwater storage tank and a fold out clothes line will be provided in the southern building setback area.

No fence is proposed across the front boundary, the existing timber paling fences along both side boundaries are to be retained. A new 1.5 – 1.8m high timber privacy screen is to be constructed at the southern end of the parking area to screen the proposed clothes drying area.



The exterior materials and colours will be :-

- Floor – part concrete slab, part timber floor
- Dwelling walls – timber cladding, painted mid grey
- Roof, gutters and downpipes – metal, colorbond finish – ‘Basalt’, with a 10 degree pitch
- Eaves – cement sheet, painted white
- Window frames – aluminium framed, powder coat finish ‘White’
- Window awnings – timber, painted white
- Doors – timber, painted white
- External stairs – timber, natural finish
- Balustrading – timber, painted white
- Retaining walls – timber, natural stain
- Privacy screen – timber, natural stain



Looking to the S/E over the site of the new dwelling from the intersection of the driveway and the parking area. All of this vegetation other than 1 *Melaleuca* is to be retained.

Looking to the South over the existing off-street parking area, again the vegetation in the background is to be retained.





## 4.0 PERMISSIBILITY OF USE

As indicated earlier, the land is zoned Low Density Residential R2 under the provisions of the LEP. This zoning permits a range of residential & residentially related uses and a limited range of generally low traffic generating commercial and waterfront related uses. The construction of a new dwelling to create a detached Dual Occupancy is permitted with the prior consent of Council.

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

The site has been deemed to potentially contain acid sulphate soils and has been classified as Class 5 land which is the lowest risk category and it has also been classified as having a high biodiversity value.

As the proposal involves contextually minor and shallow excavation to a depth of less than 1m the fact that the site may contain acid sulphate soils does not constitute an impediment to the proposal. In the unlikely event that acid sulphate soils are uncovered during construction these will be removed rather than being spread over the site with disposal most likely at the Kimbriki Resource Recovery Centre.

The proposal involves the removal of one 9m high tree however the assessment at Appendix 1 to this Statement confirms that a Biodiversity Development Assessment Report is not required to accompany this application. Further it is noted that due to the size & location of the new dwelling 11 trees currently on the site and the 2 street trees in the road reserve are retained therefore the site's environmental attributes can be maintained and these will be enhanced by the proposed supplementary screen planting.

As indicated earlier development of the site and this landuse type is subject to the BASIX, 2004, SEPP 19, SEPP 44, SEPP 55, the exhibited draft amendments to SEPP 55, the Vegetation SEPP.

These State Govt Planning controls are discussed in greater detail in Part 6 of this Statement however briefly :-

- the BASIX certificate lodged in support of this application confirms that the proposal satisfies its prescribed targets.
- the site does not adjoin bushland or any public access reserves therefore SEPP 19 is not applicable.
- the site has an area of less than 1ha therefore the provisions of SEPP 44 are not applicable.
- the provisions of SEPP 55 and the exhibited draft amendments have little bearing on the proposal as it involves only minor site disturbance / excavation.
- Only 1 tree is to be removed to facilitate this proposal, the loss of this vegetation is below the Biodiversity Offset Scheme (BOS) threshold and Council can consider this matter on its merits as part of the development approvals process.





## 5.0 DEVELOPMENT STATISTICS

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

Note : The matters in italics are not addressed in Section 6 as they are either not relevant to the development type or the locality

**Compliance Table – Pittwater LEP 2014**

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



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
<b><u>Part 3 Exempt and complying development</u></b>		<i>These planning provisions are not relevant due to the site's environmental sensitivity classification and the development type proposed</i>	N/A
<b><u>Part 4 . Principal development standards</u></b>			
<b>CI 4.1 Minimum subdivision lot size</b>	550m <sup>2</sup>	<i>The site has an area of 1,003m<sup>2</sup> however this proposal does not involve the subdivision of land</i>	N/A
<b>CI 4.1AA Minimum lot size for Community title subdivision</b>		<i>The proposal does not involve a community titled subdivision therefore this planning control is not relevant</i>	N/A
<b>CI 4.1A Minimum lot size for dual occupancy development</b>	800m <sup>2</sup>	1,003m <sup>2</sup> exist	Yes
<b>CI 4.1B Minimum lot size for shop top housing</b>		<i>This planning control is not relevant as the proposal relates to a dual occupancy development</i>	N/A
<b>CI 4.2 Rural subdivision</b>		<i>The land is zoned Low Density Residential and therefore this planning control is not relevant.</i>	N/A
<b>CI 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones</b>		<i>The proposal does not involve strata subdivision and the land is zoned Low Density Residential therefore this planning control is not relevant.</i>	N/A
<b>CI 4.3 Height of buildings</b>	8.5m	The existing dwelling - 5.97m The proposed dwelling 4.5m	Yes
<b>CI 4.4 Floor space ratio</b>	<i>None specified for this locality</i>		N/A
<b>CI 4.5 Calculation of floor space ratio and site area</b>		The site calculations have been carried out in accordance with these requirements	Yes
<b>CI 4.5A Density controls for certain residential accommodation</b>		<i>Dual Occupancy is not referenced in this planning control therefore is not relevant to the current proposal.</i>	N/A



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
<b>CI 4.6 Exceptions to development standards</b>		<i>This proposal complies with the relevant development standards</i>	N/A
<b><u>Part 5 . Miscellaneous provisions</u></b>			
<b>CI 5.1 Acquisition authorities</b>		<i>The site is not subject to any acquisitions or reservation</i>	N/A
<b>CI 5.1A Development on land to be acquired for public purposes</b>		<i>The site is not subject to any acquisitions or reservation</i>	N/A
<b>CI 5.2 Classification of public land</b>		<i>The site is private freehold land</i>	N/A
<b>CI 5.3 Development near zone boundaries</b>		<i>Not adopted</i>	N/A
<b>CI 5.4 Controls relating to miscellaneous permissible uses</b>		<i>The proposed landuse is not listed in this clause</i>	N/A
<b>CI 5.5 Development within the coastal zone</b>		<i>The site is not located in the coastal zone</i>	N/A
<b>CI 5.6 Architectural roof features</b>		<i>Not adopted</i>	N/A
<b>CI 5.7 Development below MHWM</b>		<i>This clause is not relevant as no works are proposed below MHWM</i>	N/A
<b>CI 5.8 Conversion of fire alarms</b>			Satisfactory
<b>CI 5.10 Heritage conservation</b>			Satisfactory
<b>CI 5.11 Bushfire hazard reduction</b>		<i>The proposal does not constitute bushfire hazard reduction works</i>	N/A
<b>CI 5.12 Infrastructure development and the use of buildings owned by the Crown</b>		<i>The proposal does not constitute infrastructure development and the site is private freehold land</i>	N/A
<b>CI 5.13 Eco-tourist facilities</b>		<i>The proposal relates to the residential use of the site</i>	N/A
<b><u>Part 6 . Urban release areas</u></b>		<i>The site and the surrounding area is not located in an urban release area</i>	N/A
<b><u>Part 7 Additional local provisions</u></b>			
<b>CI 7.1 Acid sulphate soils</b>	Class 5 land	Minor excavation required – no potential to lower the water table	N/A
<b>CI 7.2 Earthworks</b>	Consent required	Minor excavation required	Yes





STANDARD	REQUIRED	PROPOSED	COMPLIANCE
<b>CI 7.3 Flood planning</b>		<i>The site has not been classified as being potentially flood prone</i>	N/A
<b>CI 7.4 Floodplain risk management</b>		<i>The site is not located on a floodplain</i>	N/A
<b>CI 7.5 Coastal risk planning</b>		<i>The site is not considered to be at risk from coastal hazards</i>	N/A
<b>CI 7.6 Biodiversity</b>		The site has been classified as having a high environmental biodiversity value	Satisfactory
<b>CI 7.7 Geotechnical hazards</b>		<i>The site has not been classified as geotechnically sensitive</i>	N/A
<b>CI 7.8 Development on foreshore area</b>		<i>The site does not adjoin a foreshore area</i>	N/A
<b>CI 7.9 Residual lots</b>		<i>Not applicable to this site</i>	N/A
<b>CI 7.10 Essential services</b>		The site contains an existing dwelling and all of the usual range of services and utilities are available	Yes
<b>CI 7.11 Converting serviced apartments to residential flat buildings</b>		<i>The proposal relates to future dual occupancy use</i>	N/A
<b>CI 7.12 Location of sex services premises</b>		<i>The proposal relates to future dual occupancy use</i>	N/A



Compliance Table – Pittwater 21 Development Control Plan, 2014

STANDARD	REQUIRED	PROPOSED	COMPLIANCE
<b>Administrative controls</b>			
<b>Sections 4 &amp; 5 - Integrated Development</b>			N/A
<b>Section A Character controls</b>			
Desired future character			Satisfactory
<b>Section B General controls</b>			
<i>Heritage conservation - general</i>		<i>The site does not appear to meet any criteria for the creation of a heritage listing</i>	N/A
Aboriginal Heritage significance			Satisfactory
<b>Hazard controls</b>			
Acid Sulphate Soils	Class 5 land		Satisfactory
<i>Contaminated Land</i>		<i>Land not previously used for a purpose likely to have contaminated site</i>	N/A
<i>Flood hazard</i>		<i>Not deemed flood affected</i>	N/A
<b>Controls relating to the natural environment</b>			
<i>Landscape and flora &amp; fauna enhancement land</i>			N/A
Preservation of trees or bushland vegetation		No vegetation to be removed	Yes
<b>Water management</b>			
Wastewater disposal		Connect to existing sewer connection	Yes
<i>Greywater reuse</i>			N/A
Stormwater harvesting		2,500 ltr rainwater storage tank	Satisfactory
Stormwater management - water quality			Satisfactory
<i>Stormwater discharge into public drainage system</i>			N/A
<i>Stormwater systems and natural water courses</i>			N/A
<i>Development on waterfront land</i>			N/A



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
<i>Stormwater drainage easements (Public stormwater drainage system)</i>		<i>The site is free draining to the adjacent road reserve</i>	<i>N/A</i>
<b>Access and parking</b>			
Access driveways and works on the public road reserve		New driveway and footpath crossing proposed	Yes
<i>Access driveways and works on the public road reserve - Development other than low density residential</i>		<i>The proposal constitutes low density residential</i>	<i>N/A</i>
Internal driveways - Low density residential		New 3m wide driveway	Yes
<i>Internal driveways - Development other than low density residential</i>		<i>The proposal constitutes low density residential</i>	<i>N/A</i>
Off-street vehicle parking requirements - Low density residential	4 spaces	4 tandem spaces proposed	Yes
<i>Off-street vehicle parking requirements - Development other than low density residential</i>		<i>The proposal constitutes low density residential</i>	<i>N/A</i>
<i>Transport and traffic management - all development other than low density residential</i>		<i>The proposal constitutes low density residential</i>	<i>N/A</i>
<b>Site works management</b>			
Excavation and landfill			Satisfactory
Erosion and sediment management		Silt & sedimentation controls proposed	Yes
Waste minimisation		Waste management details provided	Satisfactory
Site fencing and security			Satisfactory
Works in the public domain			Satisfactory
<i>Traffic management plan</i>		<i>Not required</i>	<i>N/A</i>
<b>Section C Development type controls</b>			
Landscaping			Satisfactory
Safety & security			Satisfactory
View sharing			Satisfactory





STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Solar access			Satisfactory
Visual privacy			Satisfactory
Acoustic privacy			Satisfactory
Private open space	80m <sup>2</sup>	80.25m <sup>2</sup>	Yes
Dual Occupancy specific controls	Max FSR 0.4:1	0.316 : 1	Yes
Adaptable housing and accessibility			Satisfactory
Waste and recycling facilities			Satisfactory
Pollution control			Satisfactory
<i>Separately accessible structures</i>		<i>The proposal relates to a proposed detached dual occupancy</i>	<i>N/A</i>
<i>Incline passenger lifts and stairways</i>			<i>N/A</i>
Eaves	450mm min width	750mm min width	Yes
<i>Public Road reserve landscaping and infrastructure</i>	<i>Not required</i>	<i>No change to existing</i>	<i>N/A</i>
<i>Plant, equipment boxes and lift overrun</i>		<i>None proposed</i>	<i>N/A</i>
<b>Section D Locality specific development controls</b>			
<b>Nth Narrabeen locality</b>			
Character as viewed from a public place			Satisfactory
Scenic protection - General			Satisfactory
Building colours and materials			Satisfactory
Front, rear and side building lines	Front, 6.5m or established building line; side 1m & 2.5m rear 6.5m	Front 10.5m; sides (N) 7.7m & (S) 2m; rear 31.6m	Yes
Building envelope			Minor 'eaves' encroachment
Landscaped area General	50% of the site area	569.67m <sup>2</sup> , ie 56.8% of the site area	Yes
Fences - General		No change to existing other than for the rear section of the northern side boundary	Yes
Retaining walls, terracing and undercroft areas		3 retaining walls proposed 0.6m – 0.8m	Satisfactory



## 6.0 DISCUSSION OF DEVELOPMENT CONTROLS

### **Pittwater LEP, 2014**

#### **Part 2 Permitted or prohibited development**

#### **6.1 CI 2.1 & 2.2 Land use zones**

Under these provisions and the associated Land Zoning Map, the site and the surrounding properties are zoned Low Density Residential R2 which permits a range of residential & residentially related uses and a limited range of generally low traffic generating commercial and waterfront related uses. The proposed dual occupancy use of this site is permitted with the prior consent of Council.

#### **6.2 Zone objectives**

Clause 2.3 and the associated Land Use Table identify the objectives for development, the uses that may be carried out without development consent, those that may be carried out only with consent and those that are prohibited in the various land-use zones.

As indicated above the land is zoned Low Density Residential and Council's prior consent is required for the use of the site as a detached Dual Occupancy.

The proposal complies with the relevant objectives of the zone in that :-

- it will provide for the housing needs of the Community within a low density residential environment
- as confirmed later in this Statement the proposal will not compromise the amenity of the surrounding area or the natural or cultural heritage of the area
- a high level of residential amenity will be achieved and maintained for the dwelling occupants and the surrounding property owners due to the intended building footprint, the design and configuration of the building
- a high level of residential amenity will be achieved and maintained for the dwelling occupants and the surrounding property owners due to the intended building footprint, the design & configuration of the building, plus the existing & proposed landscaping
- the perceived built form will be minimised and the character & streetscape of the locality can be maintained due to the front setback of the building and the retained landscaping

Issues related to the potential impact on the residential amenity of surrounding properties are addressed later in this Statement and were found to be satisfactory.

The other 2 objectives of this zone are not applicable as they relate to other non-residential landuses.

#### **6.3 Minimum lot size**

Clause 4.1A of the LEP specifies a minimum 800m<sup>2</sup> lot size for dual occupancy development. The development site has an area of 1,003m<sup>2</sup>.



## **Part 4 Principal development standards**

### **6.4**

#### **Height of buildings**

Clause 4.3 of the LEP and the associated map specify the maximum height of buildings in the various locations throughout the Local Government area. The maximum building height specified for this site is 8.5m. As confirmed in the compliance table and on the submitted architectural plans the existing dwelling has a maximum overall height of 5.97m while the proposed dwelling has a maximum overall height of 4.5m.

### **6.5**

#### **Calculation of floor space ratio and site area**

Clause 4.4 of the LEP and the associated Floor Space Ratio map specifies the maximum floor space for buildings in various locations across the Local Govt Area.

The LEP does not specify a maximum floor space ratio for buildings in this locality. However a floor space ratio is specified for Dual Occupancy development in the DCP and as discussed later in this Statement the proposal complies with this planning control.

Clause 4.5 of the LEP specifies those parts of the site or portions of the building which are included and excluded in the calculation of floor space ratios and is areas. The calculations bot on the submitted plans and those detailed later in this Statement have been carried out in accordance with the requirements of this planning control.

## **Part 5 Miscellaneous provisions**

### **6.6**

#### **Conversion of fire alarms**

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

### **6.7**

#### **Heritage conservation**

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

Council's records confirm that the site does not contain an identified Heritage Item and it is significantly distanced from these Heritage Items & Conservation Areas. The proposed new dwelling and the resultant use of the site as a Dual Occupancy development therefore has no potential for an adverse impact on any identified Heritage Item or Heritage Conservation Area.

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

A detailed site inspection has confirmed that there are no caves or sheltering opportunities or large exposed sandstone shelves on the development site



and it does not appear to contain any particular potential habitation resource or opportunity.

### **Part 7 Additional local provisions**

#### **6.8**

#### **Acid sulphate soils**

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

However acid sulphate soils are unlikely to be encountered on this mid level location which like all of the surrounding properties is well above 5m AHD.

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

#### **6.9**

#### **Earthworks**

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

As shown on the submitted cross section A – A ( Dwg No.DA5A ) in order to create a level building platform it is intended to carry out a cut & fill procedure. The portion of the site to be excavated traverses the central part of the building footprint to a depth of approx 1.04m while the eastern perimeter of the building footprint and the levelling of the front yard to create a 4m wide private open space area is to be filled to a depth of approx 0.35m. Soil excavated from the contextually minor earthworks is expected to be predominantly sandy loam and possibly sandstone / clay therefore it will be appropriate to use as fill. It is also noted that the depth of excavation is roughly equivalent to the depth and extent of the filled area therefore no spoil should be removed from the site and it is unlikely that any fill will have to be imported onto the site.

As detailed later in this Statement it is intended to provide silt and sedimentation controls across the front of the site & the forward section of both side boundaries to ensure that there is no adverse impact on the adjoining properties or the Council's drainage infrastructure within the road reserve as a consequence of the proposed earthworks.

#### **6.10**

#### **Biodiversity**

Clause 7.6 of the LEP and the associated Biodiversity Map indicates that for the purposes of implementation of this planning control the site is classified as having a high biodiversity value.

The objective of this planning control is to maintain terrestrial, riparian and aquatic biodiversity. Sub-clause 3 of this planning control requires that Council must be satisfied that the proposal will not have any adverse impact on :-





- the condition, ecological value and significance of the fauna and flora on the land, and
- the importance of the vegetation on the land to the habitat and survival of native fauna, and
- any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
- any adverse impact on the habitat elements providing connectivity on the land

The proposal involves the removal of one 9m high tree however the assessment at Appendix 1 to this Statement confirms that a Biodiversity Development Assessment Report is not required to accompany this application.

The proposal complies with the objectives of this planning control in that

- as only 1 tree is to be removed the dense vegetation across the front of the site can in large part be retained
- the retention of this vegetation will maintain the condition, ecological value and significance of the fauna & flora on the site
- the retained vegetation its density, leaf litter and the intertwined canopies will maintain the habitat potential of the site and allow it to continue to act as a wildlife corridor
- the removal of this one tree will not fragment or diminish the biodiversity structure, function & composition of the site

Accordingly I am able to conclude the site's environmental attributes can be maintained and these will be enhanced by the proposed supplementary screen planting.

## 6.11

### **Essential services**

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

The site has access to the full range of the usual residential utility services given its current residential use. Under these circumstances the proposal will require new connections to the existing infrastructure.

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### **Administrative Controls**

## 6.12

### **Integrated development**

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

Notwithstanding the site's environmental classification and the applicable State Environmental Planning Policies the proposal constitutes 'Local Development' and



therefore can be determined by Council without the need to refer this application to any State Government Department or Agency

### Section A Character Controls

#### 6.13

#### Desired future character

Clause A3.2 of the DCP seeks to retain & enhance the desired character of the Local Government Area. For the purposes of implementation of this planning control the site is located within the North Narrabeen Locality. The existing and desired characteristics of this locality are specified in Clause A4.11 of the DCP.

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

- post development the locality will remain primarily a low density residential area with both dwellings being no more than 2 storeys in height in a landscaped setting
- the site is on a slight hillslope and only 1 of the existing 12 trees on the site is to be removed therefore the existing vegetated character of the locality is maintained
- the development site has access to adequate infrastructure, including roads, water & sewage facilities and public transport
- the both buildings will be below the tree canopy thus minimising their perceived bulk and scale
- the existing vegetation is integrated with the proposed building and the pattern of vegetation in the locality
- the proposed building incorporates facade modulation and shade elements
- the proposed exterior building materials and colours will be compatible with those in the locality
- there are no hazards identified by Council in relation to this site other than for its potential to contain acid sulphate soils, however as indicated earlier only minor excavation / site disturbance is required
- no safeguards have to be built into the design to ensure that future occupants will be safe from hazards
- as confirmed earlier in point 6.7 and point 6.14 over the proposal has no potential for an adverse impact upon identified Heritage Items or Heritage Conservation Areas
- the creation of a second dwelling on the site and the generation for an additional 2 parking spaces and 2 further traffic movements will not have an adverse impact upon traffic flows in the locality and the provision of compliant off-street parking ensures that there will be no additional demand for kerbside parking by the occupants of the second dwelling



## Section B General Controls

6.14

### Heritage controls

As indicated earlier in relation to Clause 5.10 of the LEP, the site does not contain an identified Heritage Item, nor are there any Heritage Items or Heritage Conservation Areas within a reasonable vicinity of the site which could be adversely impacted upon by the proposed new dwelling.

The site does not contain any known archaeological relic and there is no reason to suggest that this site may have any potential archaeological significance. It is further noted that the development site does not contain any caves or exposed flat sandstone outcrops therefore there is no reason to suggest that this site may have been an aboriginal meeting place.

6.15

### Hazard controls

#### Acid sulphate soils

As indicated at point 6.8 of this Statement the land has been identified by Council as potentially containing Acid Sulphate soils, although the lowest category, ie Class 5 has been applied noting that this low risk classification applies to many sites in the Local Government Area. As indicated earlier, the proposal does not involve or necessitate any significant or deep site excavation / disturbance therefore this potential contamination classification does not constitute an impediment to the proposal.

#### Contaminated soils

The site and the surrounding properties have been used for residential purposes for many years and prior to that appear to have been natural bushland. On the information available there is no evidence of a prior use of this site or any surrounding property which may have resulted in land contamination.

#### Flood potential

The site has not been classified by Council as being potentially flood prone.

6.16

### Controls relating to the natural environment

Pursuant to the provisions of Clause B4.5 of the DCP the site has not been classified as Landscape and Flora & Fauna Enhancement land.

It is however considered to form part of an identified wildlife corridor. This environmental classification does not constitute an impediment to the proposal as only 1 tree is to be removed and the dense band of vegetation across the front of the site with its intertwined canopies, plus the retention of the unaffected vegetation in the rear yard will still enable the site to function as a wildlife corridor

There are to be no changes to the boundary fencing arrangements therefore ground dwelling fauna will still be able to traverse the site as they currently do.

Clause B4 .22 of the DCP details Council aims and objectives in relation to the preservation of trees or bushland vegetation and outlines Council aims, objectives and procedures in relation to its tree preservation order. As indicated earlier, this proposal requires the removal of 1 tree with this loss of vegetation to be offset by the proposed supplementary landscaping



**6.17**

As confirmed later in this Statement only 1 tree is to be removed to facilitate this proposal and this tree removal does not go below the Biodiversity Offset Scheme (BOS) threshold and Council can consider this matter on its merits as part of the development approvals process.

**Water management**

Clauses B5.2 – B5.4, B5.7 & B5.8, B5.10 and B5.12 - B5.14 of the DCP relate to water management.

The proposal results in the creation of additional impervious surfaces in the form of the roof over the new dwelling however this is offset by the removal of the existing concrete driveway and its replacement with a gravel finished driveway. To offset this increase a 2,500ltr rainwater storage tank is provided to satisfy the BASIX provisions and the overflow from this tank will be connected to an on-site stormwater detention facility which in turns will discharge by gravity to Council's drainage infrastructure in Taiyul Rd.

As indicated earlier in relation to Clause 7.10 of the LEP the site has access to the full range of the usual residential utility services given its current residential use therefore the proposal will require new connections to the existing infrastructure. There will however be an increase in the amount of stormwater emanating from the site however this will be restricted & controlled by the rainwater storage tank and the on-site stormwater detention facility.

The provisions of Clauses B5.10, B5.12 – B5.14 of the DCP are not relevant as the stormwater run-off does not discharge into a public drainage system or a natural watercourse, the site is not classified as being waterfront land and the proposal does not involve the creation of a drainage easement.

**6.18**

**Access and parking**

This section of the DCP relates to the size, number & location, grade & design of driveways and also specifies the number of car parking spaces to be provided and the minimum dimensions of these spaces.

Vehicular access is obtained from a curved concrete driveway which commences mid-way across the site frontage and concludes at the northern corner of the existing dwelling. No formal or covered parking area is currently provided. Off-street parking for 4 tandem car parking spaces is available on the concrete driveway forward of the existing dwelling which includes a turning area at the northern end to ensure that vehicles can enter & exit the site in a forward direction.

Through this application it is intended that 2 of these spaces be allocated to the occupants of the existing dwelling and the other 2 spaces to the occupants of the proposed dwelling, thus the proposal will satisfy the requirements of section B6.3 of the DCP. To ensure that these tandem spaces are allocated to the respective building occupants it is intended to create a Section 88b restriction on the title.

As indicated earlier it is intended to remove the existing concrete driveway and provide a new 3m wide gravel surfaced driveway parallel to the northern side boundary. This driveway will observe a 1.7m wide setback from the boundary and importantly the existing vegetation within this corridor will be retained, plus there is the potential for further supplementary planting. Dwg No.DA14A which



6.19

accompanies this application confirms that the new driveway complies with Council's driveway grade profiles.

**Site works management**

Section B8 of the DCP specifies various requirements relating to construction, demolition, excavation, erosion & sediment management, waste management and site security.

These matters are addressed on Dwg No.DA13A which accompanies this application.

A site manager would be appointed to overview the project in consultation with various building contractors. Skip bins for the storage of construction waste are to be located within proposed driveway corridor, these can be accessed from the existing concrete driveway which ultimately be removed. The bins will be disposed of at the Kimbriki landfill site at Terrey Hills or another authorised landfill site as may be selected by the site manager.

Prior to commencement of site excavation, silt and sedimentation control barriers are to be provided across the front of the site & the forward section of both side boundaries to ensure that there is no adverse impact on the adjoining properties or the Council's drainage infrastructure within the road reserve.

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

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

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

Vehicular access, including construction materials delivery is to be obtained via the existing concrete driveway. In order to maintain access for the existing dwelling the area designated as the future driveway will be used for the storage of building materials, a site shed and workers amenities. Under these circumstances no works are proposed or required within the Council road reserve and therefore the provisions of Section 138 of the Roads Act and Section 68 of the Local Government Act will not apply. A traffic management plan is not required as all loading and unloading activities can be conducted within the development site, therefore, there will be no obstruction to traffic within Taiyul Rd.

The site manager would also be responsible for overseeing all construction works to ensure compliance with the requirements of Council's consent, the Construction Certificate details, the relevant Australian Standards and the WorkCover Authority requirements.

In relation to site security the public would be excluded from accessing the site outside of working hours by the erection of a demountable steel mesh fence across the southern portion of the site frontage, the southern side of the existing





driveway and across the rear of the construction area, noting that access to the site from the southern side boundary is prevented by the existing timber boundary fence. This temporary barrier would be erected under the supervision of the building contractor at the conclusion of each workday.

### Section C Residential Controls

6.20

#### Landscaping

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

As indicated earlier most of the vegetation across the front of the site is to be retained and this will minimise the perceived built form. Site landscaping is to be enhanced by the proposed hedge planting of Lilli Pilli's down both sides and across the front of the new dwelling.

The proposal therefore satisfies this planning objective and there will be no removal of or interference with any vegetation on the adjacent properties.

6.21

#### Safety & security

Clause C1.2 of the DCP specifies various requirements for the provision of site safety and casual surveillance of the public domain. Due to the density of the retained vegetation across the front of the site there are few opportunities for a clear line of vision to the road reserve. However consistent with the objectives of this planning control

- the proposed floor plan layout and the northern facing windows enable the future occupants to observe the entry without the need to open the front door and lighting will be provided over the building entries, although this is a matter to be addressed in the Construction Certificate drawings
- the eastern facing windows facilitate overlooking of the front yard area
- the floor plan layout and the proposed landscaping minimise opportunities for concealment and do not result in the creation of blind corners, and
- the building entry is clearly visible from the driveway

6.22

#### View sharing

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

As indicated earlier, the topography of the area has a fairly consistent fall to the N/E, the east & the S/E and it appears there are no corridor views of the Ocean or its interface.

The primary view from the houses on the western side of Taiyul Rd, including the development site is from the front of these properties over the road reserve to



the residential properties opposite, some of these properties also have corridor views over and between the dwellings opposite. Secondary views are also available at the rear of these properties to the west. These views comprise landscaped district views. The primary view from the houses on the eastern side of Taiyul Rd are from the rear over the properties further to the east whilst a secondary view is available at the front of these properties over the road reserve and the residential properties opposite, which includes the subject site.

The proposed dwelling will be seen from the properties opposite and those adjacent although these will be filtered by the retained screen planting. Views from the properties to the west will be obscured by the existing 2 storey dwelling on the site.

As Council will note during its inspection of the site as part of its assessment of this application due to the subdivision pattern, the topography of the area and the height & location of surrounding buildings the proposed dwelling has no potential to impact upon the primary view of any surrounding dwelling.

As indicated some properties in this locality have corridor views over and between dwellings however in relation to the subject site again due to the subdivision pattern, the topography of the area and the height & location of surrounding buildings corridor views are considerably constrained.

There are no extensive views available within the locality which would be impacted upon by the proposed dwelling and it appears that few properties in the locality contain an 'iconic element' as referenced in the Court's planning principle.

Accordingly I am able to conclude that the proposal satisfies the Court's planning principle decision and therefore the proposal results in an appropriate degree of view sharing as promoted by the Land and Environment Court principle and Council's planning controls.

## 6.23

### Solar access

Clause C1.4 of the DCP specifies minimum solar access standards for dwellings and private open space areas. The controls state that :-

- The main private open space of each dwelling and adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm during the winter solstice
- Windows serving the principal living area of the proposed dwelling and those serving the principal living area of adjoining dwellings are to receive a minimum of 3 hours of sunlight to at least 50% of the glazed area of those windows between 9am and 3pm on the winter solstice
- Solar panels for hot water or electricity are to receive at least 6 hours of sunshine between 8.00am and 4.00pm on the winter solstice
- A proposal should maximise sunshine to clothes drying areas of the proposed development and adjoining dwellings.

As confirmed by the shadow diagrams lodged with the application, shadows cast by the proposed building are confined to the development site, the adjacent property, No.102 Taiyul Rd and a minor portion of the road reserve. The shadow diagrams indicate that the shadow pattern does not extend over the roof of



No.102 therefore there is no overshadowing of solar panels if these have been installed since the aerial photo on P.5 of this Statement was taken.

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

As confirmed by the shadow diagram, due to the essentially east / west orientation of the subdivision pattern, all properties are able to receive and maintain a minimum of 3 hours direct solar access on the winter solstice which Council has long held is an appropriate standard within this Local Government Area.

This planning control also references the planning principle established by the Land and Environment Court, in the matter of *Parsonage v Kuringai, 2004* and *The Benevolent Society v Waverley Council, 2010*, to assist in the assessment of overshadowing impacts which is addressed as follows :-

1. The ease at which sunlight access can be protected

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

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

- The shadow diagram in plan confirms that at 9am on the winter solstice the shadow cast by the new dwelling is restricted to the development site and the eastern side of No.102 Taiyul Rd. The shadow diagram indicates during the morning hours that the shadow cast by the new dwelling is restricted to the parking area, the side boundary setback of the new dwelling and approx 25% of the front yard of No.102.

- At midday, the proposed shadows are confined to the front yard of the subject site, the adjacent road reserve and approx 10% of the front yard of No.102.

- At 3pm, shadows cast by the proposed building are restricted to the development site and to approx 10% of the of the front yard of No.102.

Under these circumstances, I am able to conclude that the majority of the front yard of No.102 which is not the principal private open space area, all of the rear yard of the subject site and all of the front yard of the proposed new dwelling will receive in excess of the 3 hour standard specified by the DCP.

3. Overdevelopment arising out of poor design

There is nothing to suggest that the overshadowing cast by the proposed development is as a consequence of the poor design of any element of the proposal or that it constitutes an overdevelopment of the site. As confirmed in



the compliance table in section 5 of this Statement the proposal complies with the primary planning controls.

#### 4. Impacts on windows, doors or glazed areas.

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

As confirmed by the survey on P.6 of this Statement there are no window or door openings on the northern elevation of the dwelling at No.102 Taiyul Rd which will be in shadow. Further there is no shadow affectation in relation to No.102 after 9am on the winter solstice.

Accordingly the proposal satisfies this element of the Court's planning principle.

#### 5. Impacts on private open space

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

As indicated earlier the principal private open space area of the adjoining properties is located in the rear yard.

Due to the east / west orientation of the subdivision pattern the rear yard of the subject site is clear of any shadow as is the rear yard of No.102. At 9am approx 5% of the nominated private open space area of the new dwelling is unshaded. At midday approx 50% of the nominated private open space area of the new dwelling is in shade. At 3pm approx 20% of the nominated private open space area of the new dwelling is in shade.

Under these circumstances, I am able to conclude that for most of the period between the hours of 9am – 3pm on the winter solstice the majority of the private open space area associated with the new dwelling and adjacent properties will not be affected by the shadows cast by the proposed dwelling.

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

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

#### 7. Impacts associated with future development

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

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

It is reasonable to conclude therefore that any future development will seek to maximise the built form so as to be commensurate with other dwellings in the



locality, as the applicant has done in this case. Accordingly within this likely scenario I am able to conclude that the proposed works do not appear to have the potential to limit future development of an adjacent property, nor any future works on the subject property, of course in both cases subject to compliance with the then current Council planning controls.

Therefore I am able to conclude that as required by Clause C1.4 of the DCP adequate access to natural light and solar access has been provided to the proposed dwelling, the adjacent dwellings and their respective private open space areas.

#### 6.24

##### **Visual privacy**

Clause C1.5 of the DCP details requirements for the retention and enhancement of visual privacy.

The proposal satisfies this objective in that the primary or larger windows serving the proposed living areas are orientated to the east ( overlooking the front yard ) and to the north (overlooking the private open space area to the new driveway beyond and the proposed hedge planting ). The northern facing windows therefore are located 7.7m from the side boundary and are orientated away from the existing dwelling on the site. The window serving the bedroom in the N/W cnr of the building similarly overlooks a landscaped area to the new driveway beyond and is also located 7.7m from the northern side boundary.

There are only 2 windows on the western elevation, these serve the bathroom and will be opaque for privacy purposes.

There are 4 windows on the southern elevation, these serve a bedroom, the laundry, the master bedroom, its en-suite which will also be fitted with opaque glass. These windows are located 2.2m from the southern side boundary with this setback including hedge planting in front of these widows.

The potential to provide an appropriate level of privacy to & from the proposed building are facilitated by its single storey design, the various boundary setbacks proposed & existing landscaping and the retention of the existing 1.8m high lapped & capped fences along both side boundaries.

Accordingly, I am able to conclude that the proposal has the potential to provide an appropriate level of visual privacy commensurate with that existing in the locality.

#### 6.25

##### **Acoustic privacy**

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

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

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

The principal private open space area for the future dwelling occupants is located





in the front yard and on the northern side of the building which are a considerable distance from the nearest dwelling.

Any noise generated from the new dwelling upon occupation would be commensurate with other residential development in the locality and it is further noted that the proposed dwelling is located 5.4m from the eastern facing wall of the existing dwelling on the site which is a significantly greater setback than that required from the side of an adjoining property.

## 6.26

### Private open space

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

The principal private open space area for the occupants of the existing dwelling is located in the rear yard which has an area of 88.46m<sup>2</sup>, excluding the in-ground pool & its surround.

The principal private open space area for the occupants of the proposed dwelling is to be located in the front yard and along portion of the northern elevation. This area therefore can be directly accessed from the primary living areas within the dwelling.

The eastern facing portion of the proposed private open space area has a width of 4.36m as required by the DCP and a length of 13.59m ( 51.45m<sup>2</sup> ), the northern facing portion of the proposed private open space area has a width of 3m and a length of 7m ( 21m<sup>2</sup> ), ie 80.25m<sup>2</sup>.

It is further noted that the proposal complies with the objectives of this planning control in that :-

- The location of this area maximises its potential solar access
- This area is integrated with and directly accessible from the living area within the new dwelling thus enabling it to function as an extension of the living area
- Although located in the front yard of the site a high level of privacy is afforded by the existing & proposed screen planting
- The principal private open space area to the east of the dwelling is level, it has a width of 4m and an area of 51.45m<sup>2</sup>
- The clothes drying area is located at the rear of the new dwelling therefore all of this private open space area is available for the passive needs of the future occupants.

The potential impacts on the private open space areas of surrounding properties has been discussed at point 6.20, 6.23 & 25 and was found to be satisfactory.

## 6.27

### Dual occupancy specific controls

As the heading implies Clause C1.8 of the DCP details various planning controls relating to Dual Occupancy development, these are discussed as follows :-



- a landscape buffer strip having a minimum width of 1.5m is provided either side of the new driveway
- the existing building will maintain its 2 storey residential appearance and character, the new building is a single storey structure in a landscaped setting
- a limitation on the size of a second storey addition does not apply in this instance
- as confirmed in point 6.23 of this Statement, the proposal has no potential for an unreasonable impact upon the solar access enjoyed by surrounding property owners or occupiers
- as confirmed in point 6.24 of this Statement as the proposal does not give rise to an unacceptable level of overlooking of the surrounding dwellings or the private open space areas
- as most of the vegetation across the front of the site is to be retained there will be no significant change to the existing streetscape
- similarly the perceived visual bulk of the building will be minimised
- for the purposes of implementation of this planning control the site is located in Area 3. The existing 2 level building has a gross floor area of 216.65m<sup>2</sup>, the new dwelling has a gross floor area of 100.68m<sup>2</sup>. The total gross floor area therefore is 317.33m<sup>2</sup> which equates to a floor space ratio of 0.316 : 1, thus complying with the maximum 0.4 : 1 specified by this planning control

#### **6.28 Adaptable housing & accessibility**

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

This objective cannot be achieved due to the design of the dwelling in that it is necessary to obtain access via a short flight of stairs. Although if required by a future dwelling occupant it is possible to convert the access stairs to a compliant ramp. Therefore the building has the potential to be adapted to achieve aged & disabled access and the cost involved is contextually minor.

#### **6.29 Waste & recycling facilities**

As confirmed by the plans submitted in support of this application the garbage receptacles for both dwellings will be stored on the northern side of the new driveway. In this location they can be readily accessed from vehicles entering & leaving the site. From this location the bins will be wheeled out to the road frontage for collection.

#### **6.30 Pollution control**

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

Site disturbance will be limited to the excavation under the building footprint, land fill in the front yard, the footings for the proposed building and the



	<p>foundations for the retaining walls. As detailed in Section 6.19 of this Statement erosion control devices would be installed prior to the commencement of site works in accordance with the standards specified by the Department of Environment and Conservation's "Managing Urban Stormwater : Soils and Construction Manual, Volume 1, 4th Edition, March 2004" and these would be monitored and maintained by the project manager for the duration of the works or until such time as any site disturbance is consolidated.</p> <p>Upon completion and occupation of the proposed new dwelling given the nature of the use it will not give rise to any excessive air, water, noise or land pollution</p>
6.31	<p><b>Eaves</b></p> <p>Clause C1.23 of the DCP requires a minimum eave width of 450mm. The proposal provides for a 750mm wide eave around the building.</p>
	<p><b>Section D Locality specific development controls</b></p>
6.32	<p><b>Locality Plan – North Narrabeen</b></p> <p>The Pittwater DCP indicates that the site is located in the North Narrabeen Locality and the various requirements of this plan are addressed as follows :-</p>
6.33	<p><b>Character as viewed from a public place</b></p> <p>The proposal involves the construction of a single storey building located behind an established vegetative screen across the front boundary. When seen from the public domain the bulk of the building will be minimised by the vegetation and in those few locations where parts of the building will be seen it will be read against the existing 2 storey building towards the rear of the site and the 2 storey building on No.102 Taiyul Rd. The perceived building bulk when viewed from the intersection of Taiyul Rd &amp; Garden St will be further mitigated by the single storey dwelling which is located on the front portion of No.106 Taiyul Rd.</p>
6.34	<p><b>Scenic protection - General</b></p> <p>This is a general classification applied to many sites in the Local Govt area.</p> <p>The proposal complies with the aims, objectives and requirements of this planning control in that :-</p> <ul style="list-style-type: none"> <li>• as indicated above there will be no significant change to the existing character of the locality</li> <li>• as the vegetation across the front of the site is to be retained the resultant built form of the dwelling will be secondary to the vegetated character of the locality</li> <li>• again due to the retention of the vegetation across the front of the site the proposal has no potential for a significant visual impact on the natural environment when viewed from a road or public reserve, noting that the site cannot be seen from any waterway.</li> </ul>
6.35	<p><b>Building colours and materials</b></p> <p>Clause D1.5 of the DCP also seeks to achieve the desired future character of the Locality by enhancing the visual quality and identity of the streetscape, promoting</p>



colours and materials which harmonise with the natural environment and lessen its visual impact.

As indicated above, it has been concluded that the proposal satisfies the desired future character of the locality. The exterior materials and colours which are detailed on P.9 of this Statement are either recessive or naturally occurring and thus will be compatible with those predominant in the locality and promoted by the DCP.

### 6.36

#### Front building line

Clause D11.6 seeks to achieve the desired future character of the locality by minimising the bulk and scale of the built form whilst maintaining an equitable preservation of views and vistas to and / or from public / private places. Vegetation is to be retained and enhanced to visually reduce the built form and vehicle manoeuvring in a forward direction is encouraged. Attractive street frontages are encouraged with improved levels of pedestrian amenity and new development is to respond to and reinforce the spatial characteristics of the existing streetscape. This Clause also specifies a minimum front building setback of 6.5m or compliance with the established building line, whichever is the greater.

Issues related to the character of the locality, the bulk and scale of the built form, the preservation of views, vehicle manoeuvring and the retention of vegetation have all been addressed previously and were found to be satisfactory.

The proposed dwelling has a front boundary setback of 10.5m and it is located behind the 4.4m building line observed by the dwelling at No.106 Taiyul Rd, however it is well forward of the of 28m building line observed by the dwelling at No.102 Taiyul Rd.

On balance though the proposed setback provides an appropriate transitional solution and as advised previously the perceived visual impact of the new dwelling will be mitigated by the retention of the vegetation across the site frontage.

### 6.37

#### Side and rear building line

Clause D11.7 of the DCP seeks to achieve the desired future character of the locality by minimising the bulk and scale of the built form whilst maintaining an equitable preservation of views and vistas to and / or from public / private places. A reasonable level of privacy, amenity and solar access is to be provided and maintained to residential properties.

Substantial landscaping, retention and enhancement of vegetation, the provision of a mature tree canopy and an attractive streetscape are encouraged.

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

Issues related to the character of the area, privacy, landscaping, solar access and the like have been addressed previously and were found to be satisfactory. As indicated in the compliance table and on Dwg No.DA2A the





6.38

proposed building has a 7.7m setback from the northern side boundary and a 2m setback from the southern side boundary.

In relation to the rear boundary setback, as confirmed in the compliance table, the new dwelling is located 31.6m from the rear boundary.

The proposal therefore complies with the requirements of this planning control.

#### **Building envelope**

Clause D11.9 of the DCP imposes building envelope controls for all new development. These controls relate to the height & setback relationship of buildings to achieve the desired future character of the locality, minimise the bulk & scale of the built form, the preservation of views & vistas to and / or from public / private places and to ensure a reasonable level of privacy, amenity and solar access is provided and maintained between adjoining properties.

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

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

As shown on the eastern & western elevations, Dwg Nos.DA3A & DA4A there is a minor intrusion into the building envelope when measured above the southern side boundary while the proposal easily complies with this planning control when measured above the northern side boundary.

In relation to the intrusion to the south it is noted that this is restricted to the roof ridge which projects by a maximum of 75mm above the building height plane. Council is therefore asked to consider this matter on its merits, noting that :-

- the proposed building is located well forward of the dwelling on the property to the south
- the setback of the building from the southern side boundary exceeds the minimum 1m setback specified by Clause D11.7 of the DCP
- the front yard area of the property to the south is not used as the primary open space area
- the building envelope intrusion is restricted to an area which constitutes an eaves overhang
- as there are no window openings on that part of the southern elevation which projects above the building envelope there is no added potential to overview the adjoining properties
- strict numeric compliance would not result in a significant difference to the perceived bulk or scale of the building
- the building roofline is below the height of the vegetation in the front yard
- notwithstanding this minor non-compliance an appropriate level of privacy, amenity and solar access is provided within the development site and can be maintained in relation to the property to the south



- the proposal as submitted has no potential to significantly diminish views and vistas to and/or from public/private places

#### 6.39

##### Landscaped area – General

Again this is a planning control which applies to many sites in the Local Government Area.

Issues related to the desired future character of the area, the minimisation of bulk & scale, potential amenity and solar access implications, the retention of existing vegetation, the control of stormwater run-off, silt & sedimentation controls have been discussed previously in this Statement and were found to be satisfactory or not relevant in the circumstances.

The proposal complies with the requirements of this planning control in that as confirmed on Dwg No.DA6B :-

- Clause D11.10 of the DCP specifies that the total landscaped area in this landuse zone is 50% of the site area and the use of porous materials and finishes are encouraged where appropriate
- as confirmed by the survey on P.6 of this Statement the site has an area of 1,003m<sup>2</sup>
- the existing landscaped area is 556.99m<sup>2</sup> which equates to 55.53% of site area
- the proposed landscaped area is 569.67m<sup>2</sup> which equates to 56.8% of site area. **Note** : this calculation does not include the new gravel finished driveway which has an area of 69m<sup>2</sup>, so the proposal comfortably satisfies the 50% requirement
- these calculations exclude the concrete paths, the parking area and the pool enclosure
- the increase to the existing landscaped area is to be achieved as a consequence of :-
  - converting portion of a concrete path down the northern side of the existing dwelling to a landscaped area
  - removal of the existing concrete driveway and its conversion to a landscaped area
  - portion of the exiting concrete car stand area forward of the existing dwelling converted to a landscaped area or provided with a porous finish.
- As a consequence the hard surface areas have been reduced by 9.11m<sup>2</sup>. The resultant hard surfaced area is 424.21m<sup>2</sup> which equates to 42.4% of site area

The proposal therefore complies with this planning control.

#### 6.40

##### Fences - General

The proposal does not involve any change to the current site fencing arrangements therefore the provisions of Clause D11.12 of the DCP have no bearing on the assessment of this application.



**6.41**

**Retaining walls, terracing & undercroft areas**

Clause D11.14 of the DCP seeks to achieve the desired future character of the locality by ensuring that the natural topography of the land is retained.

The DCP suggests that retaining walls and terracing should be kept to a minimum. Where retaining walls and terracing are visible from a public place preference should be given to the use of sandstone or sandstone like materials.

A timber retaining wall is proposed located adjacent to the entry of the new dwelling and within the southern building setback corridor. These walls are required to create a level entry and to support the stepped built form through its central portion. The retaining adjacent to the entry has a maximum height of 0.8m while the southern wall has a maximum height of 0.6m. In both cases these walls will be screened by the proposed supplementary screen planting.

To create a level private open space area it is intended to provide a timber retaining wall along its eastern & northern perimeter, this wall will have a maximum height of 0.6m and again screened by the proposed supplementary screen planting.

**6.42**

**State Government planning instruments**

Development of the site is also subject to the provisions of BASIX, 2004, Exempt and Complying Development Codes, 2008, SEPP 19, SEPP 44, SEPP 55, the exhibited draft amendments to SEPP 55 and the Vegetation SEPP.

**BASIX**

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

**Exempt and Complying Development Codes**

Clause 2.3 of the LEP and the associated landuse table confirm that Dual Occupancy development requires Council's prior consent therefore the proposal cannot be classified as either 'Exempt' or 'Complying Development'.

**SEPP 19 – Bushland in Urban Areas**

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

**SEPP 44**

As the development site has an area of less than 1ha and it does not adjoin land in the same ownership which would result in a combined area of 1ha or greater the provisions of State Environmental Planning Policy No 44 have no bearing on



the assessment of this application.

#### **SEPP 55 – Remediation of Land and the exhibited draft amendments**

SEPP 55 applies to the whole of the State.

The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.

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

- specifying when consent is required and when it is not required for a remediation work, and
- specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
- requiring that a remediation work meet certain standards and notification requirements

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

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

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

Further, before determining an application for consent to carry out development that would involve a change of use on any of the land Council must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines. As confirmed by the project description on P.9 of this Statement the proposal does not involve a change of use, ie, the land is currently used for a residential purpose and will remain so.

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

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

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

- whether a site is or is likely to be contaminated



- whether additional information is required to satisfy themselves as to whether the land is contaminated

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

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

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

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

#### **Assessment**

The site and the locality generally have a long history of residential use.

As confirmed earlier in this Statement the proposal requires contextually minor site excavation or disturbance.

#### **The following checklist addresses the considerations contained in SEPP 55**

Is the proposal classified as designated development ?

**No**

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

**No**

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

**No**

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

**No**

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

Is the site located within an investigation area ?

**No**

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





(i) coastal protection

**No**

(ii) conservation or heritage conservation

**No**

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

**No**

(iv) environment protection

**No**

(v) escarpment, escarpment protection or escarpment preservation

**No**

(vi) floodway

**No**

(vii) littoral rainforest

**No**

(viii) nature reserve

**No**

(ix) scenic area or scenic protection

**No**

(x) wetland,

**No**

Is the land is within an investigation area or remediation site

**No**

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

**No**

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

**No**

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

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

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

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

Do any of these uses correlate with the potentially contaminated activities set out in Table 1 of the 1998 Planning Guidelines prepared by the Department of Planning and the Environment Protection Authority ?

**No.**

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

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



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

**No.**

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

**None**

Based upon my observations from within the various road reserves there does not appear to be any potential source of contamination within a reasonable vicinity of the site.

This site is not the subject of an Investigation or a Remediation Order under the provisions of the Contaminated Land Management Act, 1997 or a clean-up notice under the provisions of the Protection of the Environment Operations Act, 1997.

To the best of my knowledge none of the properties in this locality are the subject of an Investigation or a Remediation Order under the provisions of the Contaminated Land Management Act, 1997 or a clean-up notice under the provisions of the Protection of the Environment Operations Act, 1997. This conclusion is further supported by the owners of the subject site who have advised that during their period of ownership they have not observed any site remediation works being undertaken on any of the surrounding properties.

The site is connected to all of the usual utilities which service residential properties and the proposal does not require an amplification of these services, simply new connections thereto. The proposal results in the creation of additional hard surface areas however the additional stormwater runoff and its quality will be minimised by the proposed rainwater storage tank and the on-site stormwater detention facility.

Accordingly the provisions of SEPP 55 and exhibited draft Policy do not constitute an impediment to the granting of consent to the proposal as submitted.

### **The Vegetation SEPP**

As indicated earlier the proposal involves the loss of just one tree which is located within the front yard. The removal of this tree, a 9m high *Melaleuca* (Paperbark) comes about as a consequence of the creation of a level private open space area forward of the proposed Dual Occupancy.

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

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

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



As the Melaleuca is classified as a 'native tree or vegetation' a Biodiversity Assessment has been carried out and is attached as Appendix 1 of this Statement. This assessment confirms that a Biodiversity Development Assessment Report is not required to accompany this application and Council will therefore consider the impact of removing this tree as part of their assessment of the development application.

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



## 7.0 SECTION 4.15 EVALUATIONS

- 7.1 The provisions of any Environmental Planning Instrument**  
The land is zoned Low Density Residential under the provisions of the LEP. This zoning permits a range of primarily residential and residentially related landuses. The proposal which seeks Council's consent to the erection of a new dwelling to create a detached Dual Occupancy is permitted with the prior consent of Council. Accordingly there are no landuse or statutory impediments to the granting of consent to the proposal on the basis of the landuse classification.  
The preceding assessment confirms that the proposal complies with all of the relevant provisions and / or the aims and objectives of the LEP.  
Development of the site and this landuse type is subject to the provisions of BASIX, 2004, SEPP 19, SEPP 44, SEPP 55, the exhibited draft amendments to SEPP 55 and the Vegetation SEPP. This Statement has confirmed that these State Govt planning controls do not constitute an impediment to the proposal.
- 7.2 The provisions of any Draft Environmental Planning Instrument**  
There are no draft planning instruments which apply to this site or development type.
- 7.3 Any Development Control Plan**  
The site is subject to the provisions of the Pittwater 21 Development Control Plan, 2012. The preceding section of this Statement has confirmed that the proposal complies with all of the relevant provisions of the DCP and / or their aims and objectives other than in relation to a 75mm encroachment into the building height plane measured along the southern side boundary.  
Notwithstanding this minor numeric non-compliance this Statement has confirmed that the proposal as submitted satisfies the aims & objectives of this planning control and there are no cumulative impacts upon the adjoining property or within the public domain.
- 7.4 Planning agreements**  
The site and this proposal are not subject to any planning agreement or draft planning agreement under the provisions of Clause 93F of the Environmental Planning and Assessment Act, 1979.
- 7.5 Any matters prescribed by the Regulations**  
The subject site has not been designated as Coastal Land therefore the provisions of Clause 92(1)(a) of the Regulations are not applicable.  
The proposal does not involve the demolition of any structure therefore the provisions of Clause 92(1)(b) are not relevant.  
The development site is not subject to a subdivision order therefore the provisions of Clause 92(1)(c) are not relevant.  
The provisions of Clause 93 are applicable as the proposal involves a change in the use of the building and its reclassification from a Class 1A building to a Class



7.6

2 building under the provisions of the Building Code of Australia. Accordingly it is anticipated that Council may require some upgrading of the existing building to improve the current level of fire safety, while conditions of consent will be imposed in relation to fire safety in relation to the proposed building.

The proposal does not involve an alteration to or an enlargement of the existing building therefore the provisions of Clause 94 are not relevant.

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

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

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

The proposal generates the need for a BASIX assessment therefore the provisions of Clause 97A will apply and it is anticipated that Council will impose conditions of consent to address this matter.

Under these circumstances there are no matters prescribed by the Regulations which would prevent approval of the application as submitted

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

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

The proposal involves contextually minor site disturbance and the removal of 1 tree in the front yard however 6 existing trees in this dense copse of vegetation are to be retained and the loss of this tree will be offset by the proposed supplementary screen planting. The proposed dwelling will also be consistent with the predominant scale, spatial separation and landscaped setting of other dwellings in this locality and its visual prominence will be significantly minimised by the existing & proposed landscaping.

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

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





	<p>an adverse impact in the public domain.</p> <p>Accordingly I am able to conclude that the proposal has no potential for an adverse social or amenity impact upon surrounding property owners / occupiers or a member of the general public.</p>
7.7	<p><b>The suitability of the site for the development</b></p> <p>The site is zoned for residential purposes; the application is therefore consistent with Council's broad objectives for the area.</p> <p>Other than for some contextually minor excavation below the central part of the new dwelling the site contours are maintained. Further as detailed above most of the existing vegetation in the front yard is to be retained and enhanced by the proposed supplementary landscaping therefore the landscaped character of this property and the broader locality will be maintained.</p>
7.8	<p><b>Any submissions made in accordance with the Environmental Planning and Assessment Act or its associated Regulations</b></p> <p>There are no submissions that have been made in accordance with the Legislation, which apply to this site or type of development.</p>
7.9	<p><b>The Public Interest</b></p> <p>It is in the public interest to provide 'compact' and 'affordable' forms of housing which result in a minimal environmental impact, particularly in this highly desirable residential area. It is also in the public interest to provide for a greater diversity of housing types and a wider housing choice in a location which has adequate physical and social infrastructure as is the case in this instance.</p>
7.10	<p><b>Non-discretionary development standards</b></p> <p>This Statement has confirmed that the proposal complies with all of the relevant development standards and / or the aims &amp; objectives specified by Council's LEP and DCP and there are no non-discretionary development standards applicable in this circumstance.</p> <p>As confirmed in point 7.5 above there are no matters prescribed by the Regulations which would prevent approval of the application as submitted</p> <p>This application is not reliant on a performance criteria accreditation.</p>



## 8.0 CONCLUSION

This application seeks Council's consent to the construction of a second dwelling in the front yard of the property to create a detached Dual Occupancy.

The existing dwelling is located in the rear third of the site and is a conventional 2 storey building with overlapping floor plates and includes half width balconies on the upper level at the front & rear of the building.

No formal or covered parking area is provided however off-street parking is available for 4 tandem car parking spaces on the concrete driveway forward of the existing dwelling which includes a turning area at the northern end to ensure that vehicles can enter & exit the site in a forward direction. Through this application it is intended to allocate 2 of these tandem spaces to each of the dwellings that satisfying Council's car parking requirement for Dual Occupancy development.

Vehicular access is obtained from a curved concrete driveway which commences mid-way across the site frontage and concludes at the northern corner of the existing dwelling. It is intended to remove the existing concrete driveway and provide a new 3m wide gravel surfaced driveway parallel to the northern side boundary. This driveway will observe a 1.7m wide setback from the boundary and the existing vegetation within this corridor will be retained.

The proposed single storey building will contain an open plan kitchen / dining & living area, 2 bedrooms with a shared bathroom / toilet, a master bedroom & en-suite, and a laundry.

The building is to observe a 10.5m front boundary setback, a 31.6m setback from the rear boundary setback and side boundary setbacks of 7.7m & 2m. These easily comply with the minimums specified by the DCP.

The 10.5m front setback has been purposely chosen to facilitate the retention of most of the vegetation across the front of the site which is to be enhanced by the proposed hedge planting of Lilli Pilli's down both sides and across the front of the new dwelling.

Site disturbance will be limited to the excavation under the building footprint, land fill in the front yard, the footings for the proposed building and the foundations for the retaining walls. These site works constitute balanced cut & fill, ie, it is anticipated that all excavated material will be retained on site and utilised as fill.

Due to the location and height of the building, together with the retention of the vegetation at the front of the site the proposal has no potential for a significant adverse impact on the streetscape or to impact upon the amenity of the occupants of the surrounding properties.

The land is zoned Low Density Residential under the provisions of the LEP and the proposal which involves the use of the site as a Dual Occupancy development is permitted with consent.

Clause 2.3 of the LEP and the associated landuse table confirm that Dual Occupancy development requires Council's prior consent therefore the proposal cannot be classified as either 'Exempt' or 'Complying Development', hence the



lodgement of this Development Application.

Council records indicate that the site may contain acid sulphate soils, however it has been classified as Class 5 land which is the lowest risk category and as confirmed in this Statement acid sulphate soils are unlikely to be encountered on this mid slope location which like all of the surrounding properties is well above 5m AHD. In the unlikely event that acid sulphate soils are uncovered these would be removed and deposited in an authorised waste facility rather than being used as fill.

Notwithstanding this hazard classification the proposal constitutes 'Local Development' which can be processed by Council without referral to any State Government department or agency.

This Statement of Environmental Effects has confirmed that the proposal complies with all of the relevant provisions of the LEP and there are no heritage, environmental or hazard constraints which apply to this site or development type.

The proposal has been assessed against the relevant provisions of the DCP which indicated that there is a non-compliance in relation to the building envelope control measured above the southern side boundary. This Statement has confirmed that the proposal complies with the objectives of this planning control and that there are no consequential negative impacts on the adjoining property.

Development of the site is also subject to the provisions of BASIX, 2004, SEPP 19, SEPP 44, SEPP 55, the exhibited draft amendments to SEPP 55 and the Vegetation SEPP. In this regard this Statement has confirmed that :-

- the BASIX certificate submitted with this application confirms that the new dwelling will satisfy the prescribed water, energy and thermal comfort targets
- the site does not adjoin bushland or any public access reserves therefore SEPP 19 is not applicable.
- the site has an area of less than 1ha therefore the provisions of SEPP 44 are not applicable.
- the site and the locality generally have a long history of residential use and the proposal requires contextually minor site excavation / disturbance. Based upon observations from within the various road reserves there does not appear to be any potential source of contamination within a reasonable vicinity of the site. The site and the surrounding properties are not the subject of an Investigation or a Remediation Order under the provisions of the Contaminated Land Management Act, 1997 or a clean-up notice under the provisions of the Protection of the Environment Operations Act, 1997. Therefore the provisions of SEPP 55 and the exhibited draft amendments have no bearing on the assessment of this application.
- Only 1 tree is to be removed to facilitate this proposal, the loss of this vegetation is below the Biodiversity Offset Scheme (BOS) threshold



and Council can consider this matter on its merits as part of the development approvals process.

Finally, this Statement has confirmed that the proposal will have no detrimental impact on surrounding landuses in the locality, the amenity of the local residents or the public's perception of the site within the streetscape context, beyond the initial construction period.

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



## APPENDIX 1 THE BIODIVERSITY ASSESSMENT

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

Yes

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

No

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

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

No

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

No

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



### Biodiversity Values Map and Threshold Tool





