

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**FOR THE CONSTRUCTION OF A DETACHED SECONDARY DWELLING,  
GARAGE AND DRIVEWAY**

**LOCATED AT**

**42 ELANORA ROAD, ELANORA HEIGHTS**

**FOR**

**SARAH ATKINSON**



**Prepared  
September 2019**

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## 1.0 Introduction

This Statement of Environmental Effects accompanies details prepared by SketchArc, Drawing No. DA03-DA10, dated 5 September 2019, to detail the proposed construction of a detached secondary dwelling and carparking at **42 Elanora Road, Elanora Heights**.

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

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

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy No 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan 2014*

## 2.0 Property Description

The subject allotment is described as 42 Elanora Road, Elanora Heights, being Lot 91 within Deposited Plan 13643 and is zoned E4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The site has been identified as being Bushfire Prone Land. A Bushfire Risk Assessment has been prepared by Bushfire Planning Services, dated 10 September 2019 and accompanies this submission.

The site has been identified on Council's Geotechnical Hazard Map (Hazard 1). A Geotechnical Risk Assessment has been prepared by White Geotechnical Group Pty Ltd, Reference No. J2328, dated 9 September 2019, and accompanies this submission.

The site is noted as being within a coastal zone. This will be addressed in further detail within this report with reference to *State Environmental Planning Policy (Coastal Management) 2018*.

The site is noted as being within a terrestrial biodiversity area. This will be discussed in further detail within this submission.

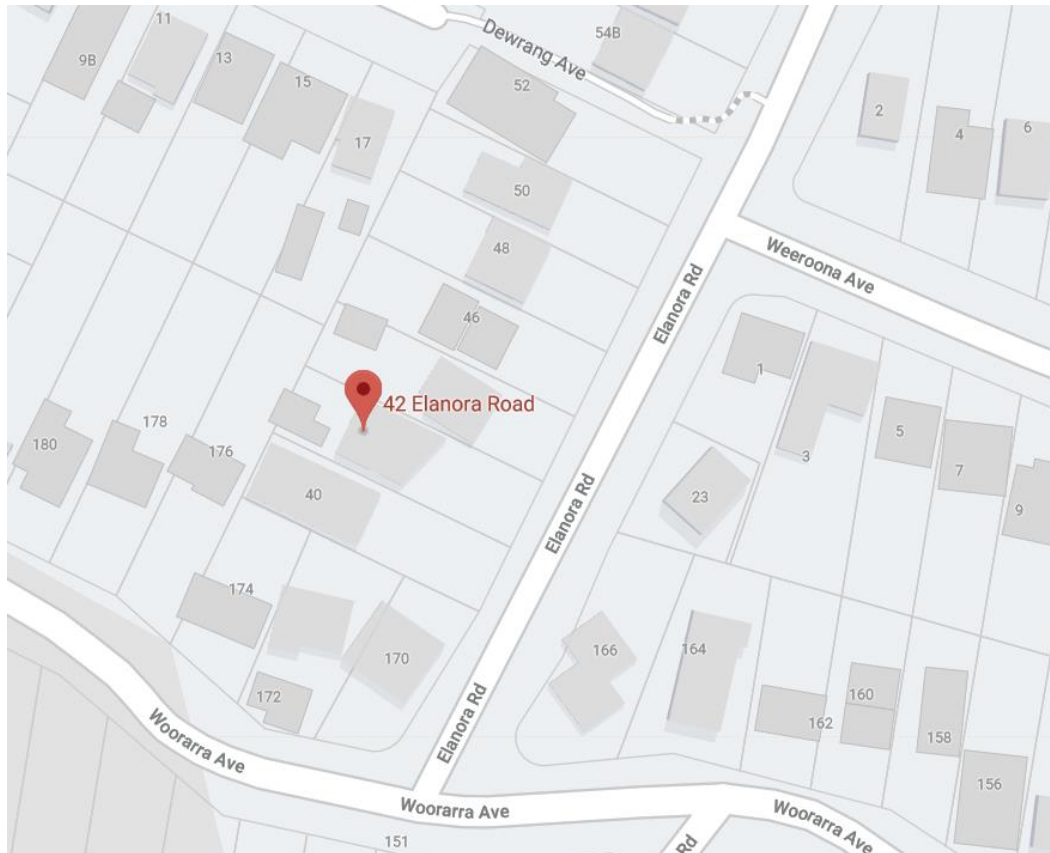
The site is within the Class 5 Acid Sulfate Soils area.

These issues will be discussed with this submission.

### 3.0 Site Description

The site is located on the north-western side of Elanora Road. The site slopes up from the roadway and is currently developed with a dwelling and a detached garage. Vehicular access to the site is currently provided from a common rear access driveway to a double garage at the western end of the site.

The details of the lot are contained within the survey report prepared by LTS Lockley, Reference No.42246, dated 24 August 2018, which accompanies the DA submission.



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



**Fig 2: View of subject site and location of proposed secondary dwelling, looking west from Elanora Road**



**Fig 3: View of recently constructed secondary dwelling (DA 2018/0086) to the south of the site at No 40 Elanora Road**



#### 4.0 The Surrounding Environment

The general vicinity of the site is characterised by residential dwellings and a range of detached outbuildings, of a variety of architectural styles.

The varying age of development in the area has resulted in a mix of materials and finishes, with the development in the area generally presenting a consistent setback to the public domain.

It is not uncommon for sites within this area to have newly developed secondary dwellings on site.

The surrounding properties comprise a range of original style dwellings with an emergence of modern dwellings and additions. The surrounding dwellings comprise a mix of single and two storey dwellings.



**Fig 5: Aerial Photograph**  
(Source: Google maps)

## 5.0 Proposed Development

As detailed within the accompanying plans the proposal seeks consent for the construction of a detached secondary dwelling, garage and driveway in the front yard.

The secondary dwelling will comprise an open plan kitchen and living area, two bedrooms, laundry, wash closet, bathroom and a covered deck.

The secondary dwelling will see an attached double garage and new driveway and crossing.

The proposed secondary dwelling will have an area of 60m<sup>2</sup>.

The proposed secondary dwelling presents a modest height and scale which complements the Elanora Road streetscape. The proposal provides a low pitch skillion room form, which further minimises the visual impact of the proposal.

The proposal does not seek the removal of any significant vegetation.

The proposed works will utilise timber wall and roof framing, timber wall cladding and colorbond roof sheeting.

The development indices for the site are:

Site Area	873.8m <sup>2</sup>
Required Landscape Area	60% or 524.28m <sup>2</sup>
Proposed Landscape Area	44.4% or 387.94m <sup>2</sup> (see DCP discussion)

## **6.0 Zoning and Development Controls**

### **6.1 State Environmental Planning Policy No. 55 – Remediation of Land**

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

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

### **6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

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

### **6.3 State Environmental Planning Policy (Coastal Management) 2018**

The subject site is identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

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

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

The Coastal Management Act 2016 states within **Clause 3**:

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

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*



- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Coastal Management) 2018, as set out in Clause 3 of the Coastal Management Act 2016.

The matters for consideration under Division 5 of SEPP (Coastal Management) 2018 are:

The relevant provisions of this clause are addressed as follows:

### ***Division 3 Coastal environment area***

#### ***13 Development on land within the coastal environment area***

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

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

**Comment:**

The proposal provides for the construction of a detached secondary dwelling, garage and driveway. The proposed works will be carried out in accordance with the recommendations of the consulting Structural Engineer, which will ensure that appropriate structural integrity for the site will be maintained.

The collected stormwater will be directed to the street gutter, which eventually flows to Narrabeen Lagoon. The proposed stormwater management system will be designed to comply with Council's Water Management Policy. Sediment and erosion control measures will be carried out to minimise the impact of the works on the waterway.

**Division 4 Coastal use area**

**14 Development on land within the coastal use area**

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
  - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - (iv) Aboriginal cultural heritage, practices and places,*
    - (v) cultural and built environment heritage, and*
  - (b) is satisfied that:*
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

## **Comment**

The proposal will not result in the removal of any existing public access along the foreshore.

The proposed new development is modest in height and scale, and will not result in any loss of views to the foreshore area. By being stepped to follow the sloping topography of the site, the proposal will protect the visual amenity of the locality.

The site does not contain any heritage items, nor is it within a conservation area. The site has been previously cleared, and it is not anticipated that any items of Aboriginal heritage will be encountered.

## **Division 5 General**

### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

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

## **Comment**

The proposal provides for the construction of a detached secondary dwelling, garage and driveway.. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

### **16 Development in coastal zone generally—coastal management programs to be considered**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.*

**Comment:** No coastal management programs have been identified.

### **17 Other development controls not affected**

*Subject to clause 7, for the avoidance of doubt, nothing in this Part:*

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

**Comment:** Noted

### **18 Hierarchy of development controls if overlapping**

*If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:*

- (a) the coastal wetlands and littoral rainforests area,*
- (b) the coastal vulnerability area,*
- (c) the coastal environment area,*
- (d) the coastal use area.*

**Comment**

Noted

**6.4 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The SEPP commenced on 25 August 2017 and replaced Clause 5.9 of Pittwater Local Environmental Plan 2014.

The aims of the SEPP are detailed in Clause 3 and note:

*The aims of this Policy are:*

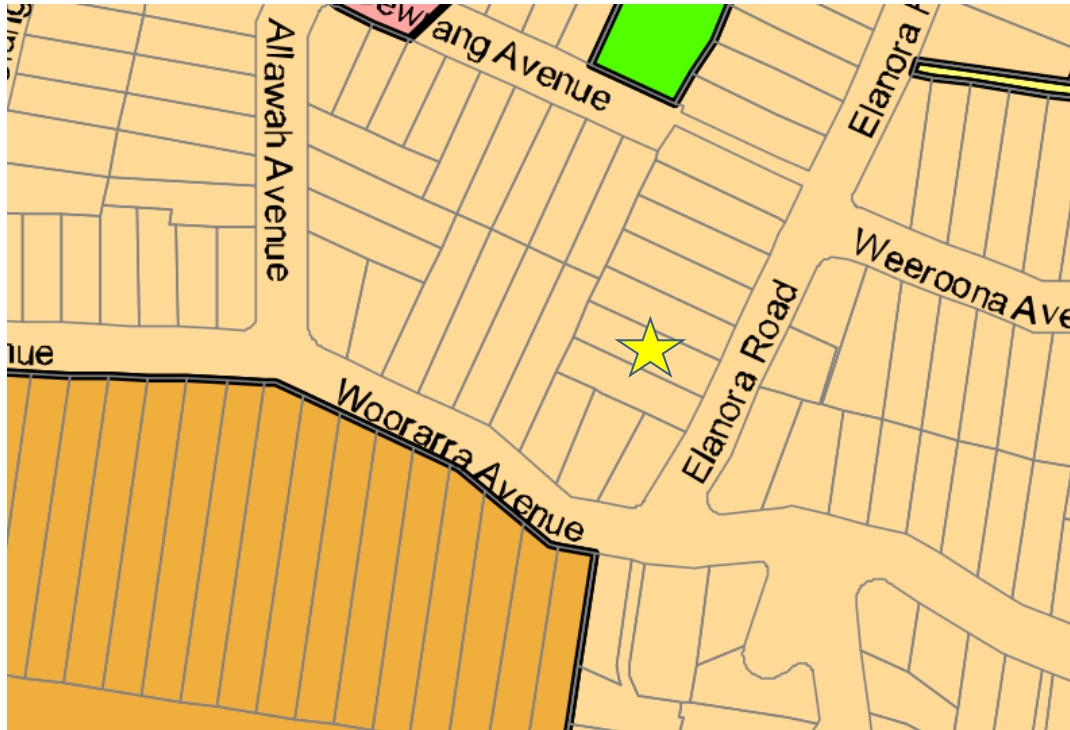
- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

In this instance, the proposal will not see any loss of any substantial vegetation and is therefore considered to be consistent with the aims of the SEPP.

## 6.5 Pittwater Local Environmental Plan 2014

### Clause 2.2 Zone objectives and Land Use Table

The site is zoned E4 Environmental Living under the provisions of the PLEP 2014.



**Fig 6: Extract of Pittwater Local Environmental Plan 2014**

The proposed construction of a new secondary dwelling is considered to be permissible with the consent of Council.

The development of and use of the land for residential purposes within the E4 Zone is consistent with the zone objectives, which are noted as:

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

It is considered that the proposed new secondary dwelling will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.



- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality. The proposal provides for construction of a secondary dwelling in the front yard, which will not have any significant or adverse impact on the streetscape or neighbouring properties.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any adverse impact on long distance views.

#### **Clause 4.3 – Height of Buildings**

The maximum building height in this portion of Elanora Heights is 8.5m. The proposed new works will present a maximum height of approximately 5.1m above existing ground level and will therefore comply with this control.

Clause 4.3 (2FA) restricts the maximum height of a detached secondary dwelling in the E4 Environmental Living Zone is 5.5m. The proposed secondary dwelling will have a height of up to 5.1m above existing ground level and therefore will observe the maximum height of 5.5m above ground.

#### **Clause 5.4 – Miscellaneous permissible uses**

The controls state:

*If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:*

- 60 square metres,
- 25% of the total floor area of the principal dwelling.

The proposed detached secondary dwelling will present a total floor area of 60m<sup>2</sup> and therefore complies with this control. A covered deck along the southern side of the secondary dwelling will be partly enclosed with a privacy screen along its southern perimeter, however the deck is otherwise fully open at each end.

#### **Clause 7.1 – Acid Sulfate Soils**

The site is identified as being within the Class 5 Acid Sulfate Soils area. The proposal will require some excavation of the site for the construction of the attached double garage. All works will be carried out under the supervision of a qualified structural engineer and it is not anticipated that acid sulfate soils will be encountered.

#### **Clause 7.2 – Earthworks**

The proposal will not require any significant excavation of the site. A Geotechnical Risk Assessment has been prepared by White Geotechnical Group Pty Ltd, Reference No. J2328, dated 9 September 2019. All works will be supervised by a suitably qualified structural engineer, to ensure that the proposal maintains compliance with the provisions of this clause.

#### **Clause 7.6 – Biodiversity protection**

The proposal will not require the removal of any significant vegetation to accommodate the secondary dwelling. The proposal will maintain a suitable area of soft landscaping, and is not anticipated to have an adverse impact on any native flora and fauna. The proposal is therefore considered to be in keeping with the provisions of this clause.

#### **Clause 7.7 – Geotechnical hazards**

The site has been identified as Geotechnical Hazard H1. A Geotechnical Risk Assessment has been prepared by White Geotechnical Group Pty Ltd, Reference No. J2328, dated 9 September 2019, and accompanies this submission. The proposal is therefore considered to be in keeping with the provisions of this clause.

#### **Clause 7.10 – Essential services**

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- the supply of water,
- the supply of electricity,
- the disposal and management of sewage,
- stormwater drainage or on-site conservation,
- suitable vehicular access.

The site will retain the normal services which are available for the existing dwelling, to be provided to the secondary dwelling. New vehicular access to the secondary dwelling will be provided via a new driveway and crossing.

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

## **6.6 Pittwater 21 Development Control Plan**

Council's Pittwater 21 DCP Section B (General Controls), Section C (Development Type Controls) and Section D5 Elanora Heights Locality Statement provides a range of outcomes and controls which form the primary criteria for the control for development within the subject locality.

### **A4.5 Elanora Heights Locality**

#### *Desired Character*

*The Elanora Heights locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located only on the plateau on land that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Land in the vicinity of Caladenia Close and Dendrobium Crescent to the west will remain a low-density rural residential area due to the constraints and characteristics of the land, including steepness of slope, species and habitat diversity, and lack of infrastructure. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community, and recreational facilities will serve the community.*

*Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*

*Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development on non-urban zoned land shall maintain generous spatial separation of the built form and low site coverage on large lots. Development will be designed to be safe from hazards including landslip and bushfire.*

*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors.*

*Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

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

It is considered that the proposal is consistent with the desired character of the locality by providing for a detached secondary dwelling and associated car parking which is consistent with the scale and style of development in the vicinity.

The proposal does not require the removal of any significant trees or vegetation, and will maintain suitable areas of soft landscaping on the site.

### **6.3.2 Section B General Controls**

The General Controls applicable to the construction of a secondary dwelling are summarised as:

#### **B3.1 Landslip Hazard**

The controls seek to achieve the outcomes:

*Protection of people. (S)*

*Protection of the natural environment. (En)*

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

The controls seek to ensure that all development complies with Council's Interim Geotechnical Risk Management Policy for Pittwater. A Geotechnical Risk Assessment has been prepared by White Geotechnical Group Pty Ltd, Reference No. J2328, dated 9 September 2019, which concludes that the site is stable subject to the recommendations contained within the report.

The works will be constructed in accordance with the recommendations contained within the Geotechnical Investigation.

#### **B3.2 Bushfire Hazard**

The controls seek to achieve the outcomes:

*Protection of people. (S)*

*Protection of the natural environment. (En)*

*Protection of private and public infrastructure and assets. (Ec)*

The site is identified as bushfire prone on Council's mapping. Accordingly, a Bushfire Risk Assessment has been prepared by Bushfire Planning Services, dated 10 September 2019 and accompanies this submission.

#### **B4.6 Wildlife Corridors**

The controls seek to achieve the outcomes:

*Retention and enhancement of wildlife corridors ensuring/providing the connection of flora and fauna habitats. (En)*

The proposal will not see the removal of significant vegetation and will continue to allow for suitable flora and fauna surrounding the development.

### **B5.8 Stormwater Management – Water Quality – Low Density Residential**

The controls seek to achieve the outcomes:

*No increase in pollutants discharged with stormwater into the environment. (En)*  
*Development is compatible with Water Sensitive Urban Design principles. (En)*

Roofwater from the new roof areas will be directed to the street gutter.

### **B5.10 Stormwater Discharge into Public Drainage System**

The controls seek to achieve the outcomes:

*All new development is to have no adverse environmental impact at the discharge location. (En, S)*

The proposed new roof areas will be directed to the street gutter.

### **B6.1 Access Driveways and Works on the Public Road Reserve – Low Density Residential**

This control seeks to achieve the outcomes:

*Safe and convenient access. (S)*  
*Adverse visual impact of driveways is reduced. (En)*  
*Pedestrian safety. (S)*  
*An effective road drainage system. (En, S)*  
*Maximise the retention of trees and native vegetation in the road reserve. (En, S)*

The new secondary dwelling will see a new driveway and crossing for access to a new garage under the building.

### **B6.3 Off-Street Vehicle Parking Requirements – Low Density Residential**

This control seeks to achieve the outcome:

*An adequate number of parking and service spaces that meets the demands generated by the development.*  
*Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety. Safe and convenient parking. (S)*

For a secondary dwelling a minimum of 1 space is required in addition to the existing requirement for the principal dwelling (based on number of bedrooms in principal dwelling). The construction of the new secondary dwelling will see the construction of an attached double garage to provide for additional on site parking.

A civil works design has been prepared by NB Consulting Engineers -, Job No 190609, Drawing No C01 dated June 2019 which details the driveway details and long section.



### **B8.1 Construction & Demolition – Excavation and Landfill**

The controls seek to achieve the outcomes:

*Site disturbance is minimised. (En)*

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

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

The proposed works will require some excavation for the construction of the new attached double garage.

Appropriate soil barriers will be provided to address any sedimentation issues.

### **B8.2 Construction & Demolition – Erosion and Sediment Management**

The controls seek to achieve the outcomes:

*Waterways, coastal areas, watercourses, drainage systems and the public domain are protected from the transportation of sedimentation from development sites. (En)*

*Reduction of waste throughout all phases of development. (En)*

*Public safety is ensured. (S)*

*Protection of the public domain. (S, En)*

Appropriate sedimentation controls will be implemented throughout construction to prevent transportation of sediment to adjoining properties.

### **6.2.3 Section C Design Criteria**

The Design Criteria applicable to the proposed development and are summarised as:

#### **C1.1 Landscaping**

The controls seek to achieve the outcome:

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

The required controls to achieve the outcomes are to ensure that the development will provide for the reasonable retention and protection of the existing significant trees and to provide for locally occurring species within any proposed replanting of the site.

A Landscape Plan has been prepared by Serenescapes Landscape Designers, Project 19533, Sheets L-01 – L005, Issue C dated 14 August 2019.

Whilst the total landscaped area will not achieve Council's minimum 60% control, the quality of the landscaped treatment will be significantly enhanced.

The proposal will not require the removal of any significant vegetation, and will retain suitable areas for landscaping surrounding the dwelling and within the yard areas.

#### **C1.2 Safety and Security**

The controls seek to achieve the outcomes:

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

The proposed works will not impact on the existing safety or security of the site. Casual surveillance of the street area will be available from the proposed secondary dwelling.

### **C1.3 View Sharing**

The controls seek to achieve the outcomes:

*A reasonable sharing of views amongst dwellings. (S)*

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

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

The subject and adjoining properties currently enjoy views towards Narrabeen Lagoon. Given the modest height of the new works, no significant impacts to the outlook of the neighbouring properties are expected.

### **C1.4 Solar Access**

The controls seek to achieve the outcomes:

*Residential development is sited and designed to maximise solar access during mid-winter. (En)*

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

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

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

Given the single storey height of the proposed secondary dwelling, suitable solar access will be maintained to the north-facing windows and rear yards of the subject and neighbouring properties.

### **C1.5 Visual Privacy**

The controls seek to achieve the outcomes:

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

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

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

The proposed deck is well separated from adjoining development, and is not considered to result in any unreasonable overlooking to neighbouring properties. The proposed deck is modest in size and will be screened by new plantings.

Limited windows are provided within the southern elevation of the proposed secondary dwelling to minimise the potential for overlooking. Windows are elevated to prevent overlooking.

### **C1.6 Acoustic Privacy**

The controls seek to achieve the outcomes:

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

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

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

Given the residential nature of the works, there will not be any significant Impact on the surrounding locality in terms of acoustic privacy.

### **C1.7 Private Open Space**

The controls seek to achieve the outcomes:

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

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

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

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

Private open space areas are provided for occupants of the principal and secondary dwelling, with a deck provided for outdoor recreation for the secondary dwelling. Plantings are maintained throughout the site which assist in preserving neighbour amenity. New plantings are provided to screen the new decking area from southern neighbours.

### **C1.9 Adaptable Housing and Accessibility**

The controls seek to achieve the outcomes:

*The community's lifecycle housing needs are met within Pittwater through well designed adaptable housing. (S)*

*All members of the community enjoy equitable access to buildings to which the general public have access. (S)*

*Housing for older people and people with a disability are accessible, adaptable and safe. (S)*

*Equitable access in the public domain. (S)*

The required controls to achieve the outcomes are to ensure that reasonable and convenient access is maintained to the site and the development for the occupants and visitors.

The works will retain appropriate vehicular and pedestrian access to the site and will provide for convenient access to the dwelling.

### **C1.11 Secondary Dwellings and Rural Worker's Dwelling**

The controls seek to achieve the outcomes:

*Limitation of the visual bulk and scale of development. (En, S)*  
*Provision of design flexibility for second storey development.*  
*Restriction of the footprint of development site. (En)*  
*Retention of natural vegetation and facilitation planting of additional landscaping. (En)*  
*Provision of rental accommodation. (S)*

The proposal is compliant with Council's DCP control, in so far as:

- The development of the secondary dwelling will result in not more than two (2) dwellings being erected on an allotment of land.
- The proposal will not be visually prominent within the locality.
- The site will retain suitable areas of perimeter planting.
- The detached secondary dwelling will only see 1 storey

### **C1.12 Waste and Recycling Facilities**

The controls seek to achieve the outcomes:

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

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

The curtilage to the dwelling and storage area will have adequate area for the on-site storage of waste and recyclables, with the waste removed by Council contractors via the household garbage service.



#### 6.2.4 Section D Design Criteria

The **D5 Elanora Heights Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

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

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

A summary of the DCP controls for the **D5 Elanora Heights Locality** is provided below:

##### **D5.1 Character as Viewed From A Public Place**

The control seeks to achieve the outcomes:

*To achieve the desired future character of the Locality.*

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

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

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

*High quality buildings designed and built for the natural context and any natural hazards. (En, S)*

*Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum. (S)*

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

*To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures, being a secondary component.*

*To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)*

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

The application seeks consent for construction of a secondary dwelling, which will respect and maintain the predominant character of the locality.

The elevations provided with the DA submission confirm that the articulated form of the new works and its modest overall height will be complementary in terms of bulk and scale to the existing surrounding development.

The setbacks provided generally reflect the setbacks of the nearby properties.

### **D5.3 Building Colours, Materials and Construction**

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.*

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

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

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

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

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

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

The required controls to achieve the outcomes are to ensure that the external colours and materials shall be dark and earthy tones as indicated within the DCP.

It is considered that the development is appropriate as it is intended to utilise recessive tones and finishes to match the existing development on site and the locality.

### **D5.5 Front Building Line**

The controls seek to achieve the outcomes:

*To achieve the desired future character of the Locality.*

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

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

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

*Vehicle manoeuvring in a forward direction is facilitated. (S)*

*Preserve and enhance the rural and bushland character of the non-urban area of the locality. (En, S)*

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

*To encourage attractive street frontages and improve pedestrian amenity.*

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

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

The proposed secondary dwelling will stand a minimum of 3m (to the covered deck).

The proposal therefore presents a minor variation to this control, however the relatively wide road reserve and the elevation above the road assist in reducing any sense of unreasonable bulk as viewed from the street.

It is noted that a recent DA (DA 2018/0086) for the adjoining property at No 40 Elanora Road provided for a similar detached secondary dwelling, which provides for a full width front terrace on a setback of 5m.

The proposal will have a terrace with a width of approximately 6.2m (40.6%) of the site width, which when combined with the improved landscape treatment will ensure that the terrace and secondary dwelling structure (setback 6.5m) will not be a dominant element in the streetscape.

Compliance with the front building line is constrained by the sloping location of the site restricting the location of the new secondary dwelling.

The proposed secondary dwelling is modest in bulk and scale, with earthy colours and finishes which are in keeping with the desired future character of the locality.

The proposed open deck will not be overbearing on the streetscape, and the low scale skillion roof form further minimises the visual impact of the development.

The proposal will not see the removal of any significant vegetation, and maintains a suitable area of soft landscaping.

Notwithstanding the variation to the front building line control, the proposal is considered to be in keeping with the objectives of this clause and is worthy of support on merit.

#### **D5.6 Side and rear building line**

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality. (S)*
- The bulk and scale of the built form is minimised. (En, S)*
- Equitable preservation of views and vistas to and/or from public/private places. (S)*
- To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*
- To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*
- Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*
- Flexibility in the siting of buildings and access. (En, S)*
- Vegetation is retained and enhanced to visually reduce the built form. (En)*
- To preserve and enhance the rural and bushland character of the locality. (En, S)*
- To ensure a landscaped buffer between commercial and residential zones is established.*

The relevant controls to achieve this outcome are to maintain a minimum side boundary setback of 2.5m for at least one side and a minimum 1.0m setback for the other side. A setback of 6.0m to the rear boundary is also required by this clause.

The proposal will stand 1m from the southern side boundary to the covered side deck and perimeter privacy screen. The southern wall of the secondary dwelling will stand from 2.7m to the southern boundary and from 2.150m from the north eastern side boundary.

The proposed screen plantings and modest height of the new secondary dwelling will not result in any adverse impacts on neighbouring properties, with the setbacks acceptable on merit.

The proposed secondary dwelling is sited in the front setback, and is therefore not subject to the rear setback control.

#### **D5.7 Building Envelope**

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality. (S)*
- To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*
- To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*
- The bulk and scale of the built form is minimised. (En, S)*
- Equitable preservation of views and vistas to and/or from public/private places. (S)*
- To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*
- Vegetation is retained and enhanced to visually reduce the built form. (En)*

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

The new works will generally comply with these controls, with only a minor breach evident for an open, roofed terrace at the south-eastern corner.

As this area adjoins a driveway within the neighbouring property at No 40 Elanora Road, the minor breach of the building envelope which affects an open terrace will not result in excessive or unreasonable overshadowing.

In this instance, the proposed massing of the building is considered to be appropriate and will not unreasonably impact upon views for any surrounding properties or result in excessive overshadowing.

#### **D5.8 Landscaped Area – Environmentally Sensitive Land**

The controls seek to achieve the outcomes:

- Achieve the desired future character of the Locality. (S)*
- The bulk and scale of the built form is minimised. (En, S)*
- A reasonable level of amenity and solar access is provided and maintained. (En, S)*
- Vegetation is retained and enhanced to visually reduce the built form. (En)*
- Conservation of natural vegetation and biodiversity. (En)*
- Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

*(En)*

*To preserve and enhance the rural and bushland character of the area. (En, S)*

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

The required controls require a minimum landscaped area of 60%. An area of approximately 44.4% or 387.94m<sup>2</sup> (inclusive of 6% allowance for functional landscaped area has been noted as being available as soft landscaping, which presents a minor variation to this control.

Whilst the total landscaped area will not achieve Council's minimum 60% control, the quality of the landscaped treatment will be significantly enhanced. A Landscape Plan has been prepared by Serenescapes Landscape Designers, Project 19533, Sheets L-01 – L005, Issue C dated 14 August 2019.

With the escarpment line through the site, the land effectively has two separate and distinct building areas. The lower portion of the site, which will contain the proposed secondary dwelling will retain an appropriate curtilage, the majority of which will be landscaped.

The proposal will not require the removal of any significant vegetation, and will retain suitable areas for landscaping surrounding the dwelling and within the yard areas.

On balance, the site will continue to maintain the outcomes of the clause for the following reasons:

- The proposal will not be highly visible in the locality.
- The proposal does not result in an unreasonable loss of privacy or amenity to the adjoining premises.
- The proposal does not result in the removal of any significant vegetation with the existing landscaping throughout the site assisting in screening the new built form.

#### **D5.14 Scenic Protection Category One Area**

The controls seek to achieve the outcomes:

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

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

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

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

*To achieve the desired future character of the Locality.*

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

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

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

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



The proposed works are suitable for the site topography and have a modest bulk and scale which will not have any significant impact on the scenic quality of the local area.

The proposal will not see the removal of any significant vegetation.

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

### **7.1 The provisions of any environmental planning instrument**

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

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

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

There are no draft instruments applying to the land.

### **7.3 Any development control plan**

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

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

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

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

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

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

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

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

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular we consider that the variation to the side setbacks and landscape control is a reasonable alternative solution to compliance where the site conditions results in a challenge to designing for new development which fully respects the landscaped area criteria.

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

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

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

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

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

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

It is considered that the proposal, which seeks consent for proposed construction of a secondary dwelling, garage and driveway, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

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

**7.7 The suitability of the site for the development**

The subject land is currently zoned E4 Environmental Living under the Pittwater Local Environmental Plan 2014 and is considered suitable for the proposed development.

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

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

**7.9 The public interest**

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

## **8.0 Conclusion**

The principal objective of this development is to provide for the construction of a new secondary dwelling, garage and driveway, which respects and complements the site's location.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls. By maintaining our neighbours amenity and by complementing the existing style and character of the surrounding locality, the stated objectives have been satisfied.

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

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