

AMENDED STATEMENT OF ENVIRONMENTAL EFFECTS



SITE: Lot 5 DP 237925
108 Cabarita Road
Avalon Beach

PROPOSED DEVELOPMENT: Alterations and additions to an existing three storey dwelling.



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INTRODUCTION

This Statement of Environmental Effects is submitted to Northern Beaches Council in accordance with the Environmental Planning and Assessment Act 1979, in support of a development application for the construction of alterations and additions to an existing three storey dwelling. This report is based on plans prepared by Sketch Studio, Job No. SB-00067, Revision A04.

The proposed works include:

Subfloor

- Minor internal demolition works
- Replacement of laundry window and living room doors

Ground floor

- Internal reconfiguration to allow for open planned kitchen, meals and family room
- Replacement of several windows and doors
- Extension of rear north-eastern deck

First floor

- Demolition works, internal reconfiguration and north-eastern extension to allow for new master bedroom, ensuite, walk-in-robe and rear deck

The subject site is located on the eastern side of Cabarita Road and is irregular in shape. The allotment has a frontage of 19.81m, a depth of 36.765m and a total land area of 695.5m². The site currently contains a three storey dwelling and inground swimming pool that are to be retained, with the dwelling to be modified by the proposed development. The site is accessed via a driveway on the northern side of the allotment. No tree removal is required to site the proposed works, with all significant vegetation to be retained on site in order to maintain the landscape character of the area. Additional landscaping is proposed following construction to enhance the landscape character of the area.

The site has a moderate fall to the north-eastern rear corner. All necessary services are available to the site and drainage from the development is to be directed to the existing drainage system for the property in accordance with the Concept Drainage Plan attached to this application.



The surrounding neighbourhood is currently undergoing an urban renewal phase, setting a contemporary streetscape theme that consists of predominately one, two and three storey dwellings. No heritage items are noted on site or within its immediate surrounds.

The following sections of this statement address the likely impact of the proposal.

LEGISLATIVE REQUIREMENTS

The following sections address the matters for consideration as listed in Part 4 Section 4.15 of the Environmental Planning & Assessment Act 1979. A comment is provided against each relevant matter.

(a)(i) Relevant environmental planning instruments

State Environmental Planning Policy (Building Sustainability Index) 2004

The proposed development has been designed with a high degree of consideration toward energy efficiency and sustainability. A BASIX Certificate has been prepared with the requirements to be implemented during construction and prior to occupation. The development is considered to achieve the aims and objectives of this policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Clause 4.6 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
- (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*



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

The subject site is within an existing area historically utilised for residential purposes. No previous land uses are known to have occurred on the site that would result in potential land contamination. No further assessment is considered necessary in this instance.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Division 17 Roads & Traffic

Subdivision 2 – Development in or adjacent to road corridors and road reservations

2.118 Development with frontage to classified road

(1) The objectives of this section are—

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*



The subject site is not located within proximity to a classified road, and does not have a frontage or common boundary with the classified roadway. No further assessment is anticipated in this regard.

Pittwater Local Environmental Plan 2014

The subject site is zoned C4 Environmental Living pursuant to Clause 2.1 of Pittwater Local Environmental Plan 2014.

The proposed development is ancillary to the existing dwelling house. A "dwelling house" is defined in the Plan as "*a building containing only one dwelling*".

The identified zone permits the ancillary development to a 'dwelling house' subject to development consent from Council.

Clause 2.3 Zone objectives and land use table

The objectives of the C4 Zone are:

- *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.*

The proposed development can satisfy the objectives of the zone as it complements the existing residential setting. Residential amenity can be maintained by the proposed development as the site is within an area intended for this form of development.

The proposed development is compatible with the existing and future character of the locality. The development is designed to provide a high level of amenity for adjoining residents whilst considering the natural constraints of the site.



The siting of the alterations and additions is in the most appropriate location, which minimises disturbance and follows a similar development density evident throughout the area.
The proposed dwelling is considered to meet the objectives of the C4 Zone.

Clause 4.3 Height of Buildings

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
8.5m ridge height	Existing Building - 9.95m	No – Refer to Clause 4.6
	Proposed works – 8.5m	Yes

Clause 4.4 Floor Space Ratio

There are no maximum floor space ratio provisions for the subject site.

Clause 4.6 Exceptions to development standards

Please refer to Appendix 1.

Clause 5.10 Heritage Conservation

Upon reference to Schedule 5 in relation to local, State or Regional items of heritage significance including conservation areas, it was revealed that the subject property was not identified as having heritage significance or located within close proximity to heritage items.

Clause 5.11 Bush fire hazard reduction

The subject site is not identified to be bushfire prone land.

Clause 5.21 Flood planning area

The subject site is not known to be located within a flood planning area.



Clause 7.1 Acid sulfate soils

The subject property is identified as being affected by Class 5 Acid Sulfate Soils. As minimal excavation is required in order to site the proposed additions and alterations, there will be no impact on the water table and as such no specific requirements are anticipated in this regard.

Clause 7.2 Earthworks

Minor earthworks are required to site the proposed works outside the existing building footprint. The level of site works is not considered excessive for the site, and will be suitably retained to ensure no detrimental impact to the adjoining properties.

Clause 7.6 Biodiversity

The subject site is identified as being within an area of terrestrial biodiversity. The proposed development does not involve removal of excessive vegetation or land clearing and will maintain the landscape character of the area. It is not anticipated that the development will detrimentally impact upon the ecological value and significance of the fauna and flora on the land or the importance of the vegetation to the habitat of native fauna and the habitat elements providing connectivity on the land.

Clause 7.10 Essential Services

All necessary services are available on the site including access to water, sewer, telecommunications and electricity.

* * *

Conclusion with respect to LEP requirements

The proposal satisfies the objectives and requirements of the PLEP 2014.



(a)(ii) Relevant draft environmental planning instruments

There are no known draft environmental planning instruments that would prevent the subject development from proceeding.

(a)(iii) Relevant development control plans

Pittwater Development Control Plan No. 21

DCP is divided into several sections of generic and individual locality based controls. The subject site is located within the Avalon Beach Locality. Assessment of the subject proposal against DCP No.21 is provided as follows;

SECTION A

A4.1 Locality character statement – Avalon Beach Locality

Context (extract)

Until the early 1900s, Avalon Beach remained a tiny settlement of isolated farms and fishermen's cottages. Developer Arthur J Small sought to create a retreat similar to that of King Arthur at Avalon, Glastonbury, England, and in the early 1920s, land on the northern peninsula of the locality was subdivided, the Avalon Golf Course and Palm Grove Park established, and Norfolk Island Pines planted along the beachfront. Avalon Beach became a popular holiday destination. Early dwellings consisted of weekenders and holiday homes constructed of local rock, fibro and weatherboard. Residential development and permanent occupation of dwellings increased from the 1950s.

Since this time, the locality has developed into a predominantly low-density residential area, with dwellings built along valley floor, slopes, and ridges. The locality is characterised mainly by one and two-storey dwelling houses on 600-1,000 square metre allotments (some smaller blocks may exist), increasing to 950-1,600 square metres on the plateau and slopes, and up to 8,000 square metres in Ruskin Rowe. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes. The dominant feature of the Avalon Beach locality is houses setback from the street



with low and no front fencing and vegetation used extensively to delineate boundary lines. Medium-density housing is located around the Avalon Beach Commercial Centre and neighbourhood retail centres.

The locality is serviced by the Avalon Commercial Centre at the intersection of Old Barrenjoey Road and Avalon Parade, and neighbourhood retail centres at the intersection of Hudson Parade and Hilltop Road, Elvina Avenue, North Avalon Road, and Careel Head Road. The locality also contains Avalon Primary School, Maria Regina Primary School, Barrenjoey High School, Avalon Surf Life Saving Club, Careel Bay Wetlands, and recreational facilities including Hitchcock Park, Avalon Golf Course, tennis courts, beaches, and several bushland reserves.

Houses, built structures, and vegetation in the vicinity of Cabarita Road, Chisholm Avenue, Hilltop Road, Palmgrove Road, Old Barrenjoey Road, Whale Beach Road, Avalon Golf Course, and Stapleton Park, indicative of early settlement in the locality, have been identified as heritage items. Land in Ruskin Rowe, primarily the subdivision pattern, domination of vegetation over built form, wildlife corridor and lack of fences, has been gazetted as a heritage conservation area.

The locality is characterised by steep slopes to the south, northwest, and east of Careel Bay, leading down to the valley floor. Due to the topography, some significant views can be obtained to the north, east and west. Conversely, the slopes and ridge tops of the locality are visually prominent.

Much of the indigenous vegetation has been retained, particularly where there are large areas of open space, and there are significant wildlife habitats and corridors within the locality. The locality is well serviced by areas of open space including several large parks or bushland areas as well as many smaller reserves. These areas vary greatly from structured golf courses and playing fields to beaches, headlands, and natural bushland (such as Angophora Reserve).

The natural features of the locality result in a high risk of bushfire, landslip, flood, coastal (bluff) hazard, and estuary wave action and tidal inundation.

The major roads within the locality are Barrenjoey Road, Avalon Parade, and Hudson Parade. Barrenjoey Road is the primary access road to the northern suburbs of Pittwater. Many



pedestrian links and pathways exist within the locality, including the Bicentennial Coastal Walkway on the headland.

The proposed development is to be located on a 695.5m² existing allotment being in keeping with the typical size for the area. No trees are required to be removed in order to site the proposed works with all significant existing landscaping to be retained to ensure the landscape character of the area is maintained.

The proposed alterations and additions are considered to be consistent with the intended character of the area and the character of Cabarita Road. The design and style chosen is desired by the market today being of a contemporary nature using appropriate building materials which ensures that the built form will not be out of place and will not detract from the amenity of surrounding properties.

The proposal does not present any detriment to views or streetscape setting and environmental issues are considered to be satisfactorily addressed.

This development application is supported by all the necessary documentation to address the relevant environmental triggers of this Plan, such as landscaping and stormwater plans.

Desired Character (extract)

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

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



and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

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

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

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

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

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



Rowe.

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

The proposed alterations and additions will maintain the existing low-density residential character of dwelling that complements the residential character of the area. The proposed works are considered to be in keeping with newer development throughout the surrounding area and remains below the existing dwelling height and dominant tree canopy height.

No trees are to be removed with existing landscaping to be retained to the front and rear of the allotment to ensure the landscape character of the area is maintained.

Consideration has been given to the natural features and character of the surrounding area of the site during the design selection process with the proposed works considered to be the most suitable development for the site.

The overall design of the alterations and additions has given consideration to the site's environmental constraints, the amenity of neighbouring properties, views obtained from the site and the streetscape.

The proposed dwelling is considered to be in keeping with the desired character of the Avalon Beach area.

SECTION B

B1 Heritage Controls

The subject property is not identified as an item of heritage significance. The site is not within a heritage conservation area or located within close proximity to heritage items.

B3 Hazard Controls

The subject property is not identified to be located within a bushfire prone area.



The subject property is identified as being affected by Class 5 Acid Sulfate Soils. As minimal excavation is required in order to site the proposed additions and alterations, there will be no impact on the water table and as such no specific requirements are anticipated in this regard.

The subject site is not known to be located within a flood planning area.

B4 Controls Relating to the Natural Environment

The subject site is not identified as being within an area of environmental significance.

B5 Wastewater management

Drainage from the subject site is to be directed to the existing drainage collection system for the property.

B6 Access and Parking

The existing driveway access is considered to be suitable to be retained.

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
Driveway width at boundary to be maximum of 3.0m	Existing driveway unchanged. No new driveway proposed.	Yes
Driveway width at kerb to be maximum of 3.5m	Existing driveway unchanged No new driveway proposed.	Yes
Required parking spaces per dwellings (not secondary dwelling) 1bedroom – 1 space 2bedrooms + - 2 spaces	2 parking spaces retained within the existing hardstand area to the rear.	Yes
Min. enclosed garage dimensions - 3.0m x 6.0m	N/A – no garages proposed.	N/A



B8 Site works management

Minimal earthworks are required to site the proposed alterations and additions. An erosion and sediment control plan is attached with this application for Council's consideration. All sedimentation control devices will be in place prior to any site works for the construction of addition.

SECTION C Development type controls

C1 Design Criteria for Residential Development

<i>Requirements</i>	<i>Provision</i>	<i>Compliance</i>
<u>C1.1 Landscaping</u> 60% of front setback to be landscaped.	Unchanged by the proposed development.	Yes
<u>C1.2 Safety & security</u> Be able to view visitor at front door without opening it. Casual surveillance of front yard. Adequate lighting provided to minimise possibility of damage. Lighting to minimise annoyance to neighbours.	The proposed development is not anticipated to result in any loss of safety and security to the existing dwelling. Sight lines from the existing dwelling to the street are retained by the development. Adequate lighting is provided within the front yard to permit access without annoyance to neighbours.	Yes
<u>C1.3 View sharing</u>	The proposed development is not anticipated to have any unreasonable impact on views of surrounding properties. Any views obtained along the street and through the site can still be obtained due to appropriate setbacks.	Yes
<u>C1.4 Solar access</u> 3hrs to POS of proposed and adjoining 9am-3pm.	3hrs solar access provided to the existing dwelling and adjoining dwellings due to appropriate setbacks and height of the proposed	Yes Yes



3hrs to 50% glazing of proposed and adjoining living area windows.	works. Shadows cast from the proposed development are not beyond anticipated levels for the existing three storey development on an allotment with north to the side boundary.	
<u>C1.5 Visual privacy</u>	No loss of visual privacy anticipated from the proposed development.	Yes
<u>C1.6 Acoustic privacy</u>	No significant noise source within direct proximity of the subject site.	Yes
<u>C1.7 Private open space</u> 80m ² POS Min dimension 3m Max 75% POS in front yard Principal area 4m x 4m Accessed via living area. POS to have good solar orientation POS to include provision of clothes drying facilities.	Existing POS areas are maintained by the proposal.	Yes
<u>C1.9 Accessibility</u>	Appropriate access to and from the site is maintained.	Yes
<u>C1.12 Waste and recycling facilities</u>	Adequate area continues to be available for bin storage within the site. Waste Management Plan provided for Council's consideration.	Yes Yes
<u>C1.17 Swimming Pool Safety</u> Swimming Pool fencing and warning notices (resuscitation chart) shall be manufactured, designed, constructed, located and maintained in accordance with the <i>Swimming Pools Act 1992</i> and regulations. The fencing and warning notices (resuscitation chart) shall be permanent structures.	Proposed changes to swimming pool fencing capable of complying with requirements.	Yes



<u>C1.20 Undergrounding of utility services</u>	Necessary services/utilities can be provided for the proposal.	Yes
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SECTION D Locality specific development controls

D1 Avalon Beach Locality

D1.1 Character as viewed from a public place

Site and area analysis has revealed that numerous developments of a similar style and design to the subject proposal have occurred within the area gradually setting a contemporary development theme.

The ancillary development to the existing dwelling has maintained the streetscape appearance of a two storey dwelling that has been effectively characterised. Streetscape presence is reinforced through siting of the proposed development and the existing landscaping to the street frontage.

Existing planting within the front setback ensures the development is softened and does not dominate the street. The high quality design of the development will ensure the visual bulk of the works in is minimised as much as practical for a site containing a three storey dwelling.

Based upon the design of the ancillary development and the nature of the proposal relative to the intended surrounding properties, it is considered that the residence will appropriately blend with the intended future character of Cabarita Road.

The proposed dwelling will successfully contribute to the streetscape and landscape character of the locality.

D1.4 Scenic Protection - General

The proposed development is not considered to have any detrimental impact on the scenic character of the area. The proposed development is designed with contemporary design elements to complement the existing dwelling and changing character of the area.



D1.5 – 1.17 Avalon Beach Locality Residential Sectors

This section of the DCP applies to all land within the Avalon Beach Locality and provides controls for sector planning (subdivision and layout) and built form. An assessment of the proposed development against the built form controls of this section of the DCP is provided in the following compliance table;

<i>Design Guidelines</i>	<i>Proposed</i>	<i>Compliance</i>
<u>D1.5 / Building colours and materials</u> - Dark & Earth tones	Colour schedule provided with DA of tones similar to the existing dwelling.	For Council's consideration.
<u>D1.8 / Front Building line</u> Land adjoining Barrenjoey Road – 10m	N/A	Yes
Land zoned R2 Low Density Residential on the southern side of Avalon Parade between Ruskin Rowe and Bellevue Avenue (being numbers 61 to 93 inclusive). – 18m	N/A	N/A
Land zoned R2 Low Density Residential along Avalon Pde, on the southern side between Gunjulla Place and Ruskin Rowe (being No's 97 to 121 inclusive), and on the northern side (being no's 50 to 112 inclusive). – 10m	N/A	N/A
All other land zoned R2 Low Density Residential, R3 medium Density Residential or E4 Environmental Living – 6.5m or established building line, whichever is greater.	Unchanged by proposal – 8.3m	Yes
All other land – Merit consideration	N/A	N/A



<u>D1.9 / Side and rear building line</u> Land zoned R2, R3 or E4: 2.5m to one side, 1.0m to other side. 6.5m to rear (except land in foreshore)	Southern side setback unchanged by proposal. >2.5m to proposed deck on northern side. 6.5m to proposed deck.	N/A Yes Yes
<u>D1.11 / Building envelope</u> 3.5m above ngl on side boundaries, inward at 45° to max. height. (eaves permitted outside)	Proposed works located within building envelope.	Yes
<u>D1.13 / Landscaped Area – General</u> Landscape area min = 50%	N/A to C4 Zone.	N/A
<u>D1.11 / Landscaped Area – Environmentally Sensitive Land</u> Landscape area min. = 60%	35.7%	No – see below.
<u>D1.15 Fences - General</u> Front fences – Max. 1m high Compatible with the streetscape Not to obstruct views to the road	Front fencing does not form part of the proposed development.	N/A
<u>D1.17 / Retaining Walls</u> Lightweight construction and pier and beam footings should be used in environmentally sensitive areas. Retaining Walls visible from street ideally of sandstone or similar materials. Undercroft areas limited to 3.5m and provided with landscaping.	Retaining walls capable of being suitably constructed if necessary. No new undercroft areas proposed.	Capable of complying. N/A



Variation requests

Landscaped area – Council's DCP requires sites in the C4 Environmental Living Zone to be provided with a minimum landscaped area of 60%. The proposed development provides a landscaped area of 35.7%, thus requiring a variation to this control.

It is understood that the objectives of the landscape requirement are to ensure that the landscape character and natural vegetation of the area is retained and conserved, and is achieving the desired future character of the area. Furthermore, a reasonable level of amenity and solar access should be provided, along with minimising run-off and bulk of built form through retaining vegetation.

The existing development on site provides a non-compliant landscaped area which the proposal is only slightly lowering. Extensive consideration has been given to providing as much landscaped area as possible to the development, whilst retaining existing features on site. The proposed development has been provided with high quality landscaped area throughout the site however due to the existing non-compliant landscaped area, providing dwelling additions has resulted in a lowering of landscaped area.

Tree removal does not form part of the subject proposal as this will be addressed via a separate development application. Additional landscaping to complement existing will occur following construction in order to maintain and enhance the landscape character of the area, minimise run-off and soften the bulk of built form on site.

The proposed dwelling is in keeping with newer developments in the area, ensuring the current and future character of Avalon Beach is retained.

The proposed alterations and additions will provide high quality landscaping and amenity with reasonable solar access maintained. Providing high quality landscaping and enhanced amenity is considered to outweigh the impact of the reduced landscape area and is considered to result in a suitable outcome for the site.

In this instance the reduced landscaped area will not result in any impact beyond that of a compliant proposal and it is therefore considered reasonable and appropriate for the variation to be supported.

* * *



Conclusion with respect to DCP requirements

The proposal is considered to generally satisfy the objectives of the relevant development controls relating to dwellings, as contained within DCP No. 21.

(iiiia) Relevant planning agreement, or draft planning agreements

There are no known planning agreements that would prevent the proposed development from proceeding.

(b) Likely impacts of the development, including environmental impacts on both the natural and built environment of the locality

Siting and Design

The proposed alterations and additions will be compatible in terms of height, bulk and scale with recent developments within the area.

The siting of the proposed works provides generous boundary setbacks, contributing to spatial separation and openness between dwellings. The articulated design of the proposed works will limit the impact on the adjacent properties in terms of bulk, privacy and overshadowing and will not dominate any perceived views enjoyed by others.

The front façade remains appropriately articulated and contains a variety of materials and elements and a central entry feature.

Utilities

The site is connected to all necessary services and utilities including electricity, water, reticulated sewerage and telecommunications.



Sedimentation Control

Minor earthworks will be required for the construction of the proposed works, as shown on the development plans.

All disturbed areas will be provided with sedimentation controls in the form of geofabric fencing and/or stacked hay bales. Soil erosion control measures can easily be provided in accordance with Council's policy with compliance required as a condition of consent.

Waste Minimisation

All waste will be deposited within the waste receptacle in accordance with the waste management plan attached to this application.

Noise and Vibration

All work will be undertaken during hours specified within the development consent. No vibration damage is envisaged to occur during construction.

(c) The suitability of the site for the development

The subject site is within an established residential area within reasonable driving distance to local commercial, retail and transport facilities. The existing road network provides easy access to all locations.

The proposed alterations and additions to an existing three storey dwelling, the subject of the application, can be constructed with all services necessary and have been designed to suit site constraints and the character of the surrounding residential setting.

The proposed works are permissible with development consent under the provisions of Pittwater Local Environmental Plan 2014, and generally satisfies the objectives of the Pittwater DCP No. 21 as discussed above.



(d) Any submissions made in accordance with this Act or the regulations

Council will consider any submissions received during the relevant notification period for this development application.

(e) Public interest

As the proposal can satisfy the objectives of all relevant planning instruments and development control plan, approval of the subject dwelling is considered to be in the public interest.

CONCLUSION

The residential use of the site is permissible with development consent under the provisions of Pittwater Local Environmental Plan 2014, and can satisfy the objectives of the relevant development control plan for the site.

It is considered that the construction of alterations and additions to an existing three storey dwelling will complement and blend with the existing and future character of Avalon Beach. The proposal is not expected to have an adverse impact on the surrounding natural or built environment.

Maxine Booth (B.UrbRegPlan & MPIA)

Town Planner

Urban Planning & Building Consultants

28 March 2023



APPENDIX



Appendix 1 – Clause 4.6 Variation Overall Height

It is requested that Council consider the following request for a variation under the provisions of Clause 4.6 of Pittwater Local Environmental Plan 2014 (PLEP2014) during assessment of this application:

Pittwater Local Environmental Plan 2014

4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—*
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 of the LEP - Exceptions to development standards provides the opportunity for Council to vary the controls based on the merits of the application. It is considered that the current application satisfies the Clause 4.6 criteria in the LEP, and therefore should be supported, as detailed below.

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

The overall height development standard is not expressly excluded from the operation of Clause 4.6.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

As discussed below, it is unreasonable and unnecessary to require compliance with the overall height control as all key Clause 4.6 requirements are satisfied despite the non-compliance.



The proposed first floor addition complies with the maximum permitted building height however the existing built form that it being retained as part of the development has a height of 9.95m requiring a variation to the height of buildings provisions. It is considered that the application, and in particular the proposed building height, should be supported as:

The subject site is zoned 'C4 Environmental Living' under Clause 2.1 of the MLEP2013.

The objectives of the zone are:

- *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.*

The proposed development can satisfy the objectives of the zone as it complements the existing residential setting. Residential amenity can be maintained by the proposed development as the site is within an area intended for this form of development.

The proposed development is compatible with the existing and future character of the locality. The development is designed to provide a high level of amenity for adjoining residents whilst considering the natural constraints of the site.

The siting of the alterations and additions is in the most appropriate location, which minimises disturbance and follows a similar development density evident throughout the area.

The proposed dwelling is considered to meet the objectives of the C4 Zone.

The objectives of Clause 4.3 are:

- (a) *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*



- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The objective of this control is understood to be a measure to ensure the dwelling does not have an unreasonable impact on adjoining properties or the streetscape by way of overshadowing, overlooking or visual bulk.

The 1.45m non-compliance is the direct result of the development retaining the existing non-compliant building height and the topography of the allotment. With a moderate fall through the site, it is difficult to site retain the existing development without a level of non-compliance to the height provisions. It is considered that some level of variation is anticipated on allotments such as the subject site where the allotment has a fall from the street and the need to retain the existing built form of the existing dwelling. Thus, providing a compliant addition is considered acceptable without the need to provide a compliant building height to the existing built form would render re-development of the existing dwelling unviable.

The proposed addition has been designed with consideration given to the existing topography on the site and the existing overall streetscape character. The proposed design incorporates an extension to first floor to provide a master bedroom suite and thus provide enhanced internal amenity.

The required variation will not detrimentally impact on the amenity of the adjoining properties given the articulated design, adequate side and rear setbacks and building separation distances along with the reasonable level of solar access to living areas and private open space areas of the adjoining properties. The windows proposed to the first floor extension have been appropriately offset from neighbouring windows and are able to be screened via landscaping to ensure they do not present opportunities for overlooking. The shadows cast by the proposed development will not have an overall negative impact upon the adjoining properties. Whilst there is still some overshadowing, the POS of the southern adjoining property will have a reasonable level of solar access throughout the day.

The façade and material choices of the proposed development are in keeping with the existing dwelling and complement the existing character of the street which contains two and three storey



dwelling of varied architectural styles. The proposed non-compliance relates to the rear of the dwelling however remains below the maximum ridge height of the existing dwelling to ensure it will not pose detrimental impacts to the dwelling's overall streetscape appearance.

The proposed first floor extension has been designed in keeping with the existing dwelling in terms of materials, articulation and roof form to ensure the dwelling retains its existing streetscape character. The visual bulk of the development as viewed from the adjoining dwellings is not considered to be excessive as the proposed addition is provided with a compliant height and the area of non-compliance relates to the existing structure only. The proposed works are provided with appropriate setbacks and articulation throughout the design in addition to the existing and proposed landscaping to further reduce the bulk of the development. As there is no perceived impact on the streetscape character of the area or the amenity of adjoining properties beyond that of a compliant proposal, the dwelling is considered to be able to meet the objectives of the height control despite the numerical non-compliance.

In the circumstances of this particular case, it is considered that strict compliance with the overall height requirements of Pittwater Local Environmental Plan 2014 is considered unreasonable and unnecessary as the alterations and additions are provided with a compliant building height and the non-compliance relates to the existing built form which is unchanged by the proposed development. The proposed alterations and additions have been designed to reduce the height as much as possible, whilst still providing a design which is in keeping with the existing dwelling and the residents' needs. The height non-compliance is the direct result of the existing non-compliant building height and the topography of the allotment, and remains consistent with the development theme in the surrounding area. Despite the non-compliance the proposed development can still attain the objectives of the Environmental Planning and Assessment Act 1979, C4 Environmental Living zone and the subject development standard.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The requested variation relates to Clause 4.3(2) as shown below:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.



The subject site is identified to have a maximum building height of 8.5m.

In this instance the proposed development provides a maximum building height of 9.95m, requiring a 1.45m variation to the development standard. The proposed addition is provided within a compliant building height of 8.5m and remains below the non-compliant building height of the existing dwelling. The requested variation is restricted to the centre of the dwelling and is the result of the topography of the allotment.

The non-compliant building height is considered to have minimal impact on the overall development in terms of bulk and scale appearance, due to the proposed addition remaining below the maximum building height provisions and being of a reasonable scale. The proposed alterations and additions are not considered to be excessive in size, having been designed to complement the existing dwelling and including extensive articulation. The proposed development is in keeping with surrounding developments in an area where the overall height control appears to have been abandoned with regards to existing built forms due to the topography of the sites. Further the proposed development provides a suitably sized dwelling in keeping with developments of the surrounding area.

The proposed alterations and additions retain a three storey dwelling on the allotment. The proposed development is a reasonable development for the site as three storey dwellings are considered to be a suitable use of the land. The variation directly relates to the topography of the land and the provision of an addition above the existing dwelling walls for structural integrity. Reducing the overall building height of the existing dwelling is not considered feasible as the reduction in existing built form height would detrimentally impact the amenity of the development and render redevelopment of the dwelling unviable.

Despite the variation, the proposed low density residential land use is considered to be an orderly and economic use and development of the land in an established residential area where increased residential dwelling has set a theme for dwellings in this area of Avalon Beach.

The variation will result in maintenance of the existing building height as the proposed works are provided with a compliant building height. The proposed alterations and additions are considered to have minimal impact on the existing dwelling design that already exceeds building height limits. The proposed development is not considered to be excessive in size and provides a suitably sized addition to an existing dwelling in keeping with developments in the surrounding area.



Whilst the existing dwelling is numerically non-compliant with the height of buildings control, the proposed addition is provided with a compliant building height and is not anticipated to detrimentally impact the streetscape or surrounding developments by way of solar access or privacy. Furthermore, the proposed development will result in an improved amenity and streetscape appearance as a result of the urban renewal development and by ensuring that the bulk and scale of the development is consistent with the existing dwelling.

The objects of the Environmental Planning and Assessment Act 1979 are understood to be as follows:

1.3 Objects of Act

The objects of this Act are as follows—

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Most relevant objects to this development are objects 1.3(c), 1.3(g) and 1.3(h) as outlined above.

The proposed development relates to alterations and additions to an existing dwelling within a residential setting. Allowing extension of an existing dwelling, despite the numerical non-compliance with the height of buildings provisions, ensures that the dwelling can be retained on the site whilst



providing improved internal amenity. Further, allowing the existing building height to be retained whilst the proposed addition is provided with a compliant height ensures that the proposed development enhances the amenity of the existing dwelling which is considered to promote orderly and economic use and development of the land.

Allowing the alterations and additions within residential areas ensures that a range of dwelling and development types are available for residential occupation. The design of the proposed development is for the alteration and addition to an existing built form which promotes good design through improved functionality of the floor plan. Further the proposed alterations and additions provide increased areas within the design ensuring that the amenity of the development is enhanced as a result of the development.

The design of the proposed development has given consideration to the streetscape locality, surrounding development along with the orientation of the allotment during the design process. The development is located to the front of the dwelling however has been designed in keeping with the existing dwelling design in terms of materiality, scale, articulation and roof form to ensure the streetscape character of Cabarita Road is maintained. Consideration of these key aspects promotes good design through a high quality architectural development. Further the proposed alterations and additions have been designed to provide a high level of amenity to the development and future occupants of the dwellings.

Whilst “environmental planning grounds” are not separately defined within the EP&A Act 1979 the proposed development is considered to provide orderly and economic use and development of the land through retention of an existing dwelling. Further the proposal meets good design principals and enhanced amenity of the dwelling through additional living spaces without detrimentally impacting the surrounding development by way of visual bulk, privacy, amenity and solar access.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

- (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*



(b) the concurrence of the Planning Secretary has been obtained.

The proposal is able to satisfy 3(a) and 3(b) as discussed above, therefore the proposed development is considered to be in the public interest. Further the proposed alterations and additions are orderly and economic use and development of the land whilst providing good design and amenity for the occupants of the development.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

There is considered to be no public benefit in refusing the application (for the reasons stated above) so as to ensure that full compliance with the maximum height of buildings control is achieved. The contravention of the standard does not raise any matters of state or regional significance nor would it be detrimental to the site or surrounding area.

Accordingly, Council's agreement is sought to the proposed variation in maximum overall building height for the site.