

SUBJECT: N0451/17 – 24 Delecta Avenue, Clareville (Lot 12 DP 13291) - Alterations and additions to a dwelling including new swimming pool

Determination Level: Development Assessment Manager

SUMMARY OF RECOMMENDATION:	SUBJECT TO CONDITIONS
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REPORT PREPARED BY:	Tyson Ek-Moller
APPLICATION SUBMITTED ON:	10 October 2017
APPLICATION SUBMITTED BY:	Claire Cavanaugh C/- Vaughan Milligan Development Consulting PO Box 49 NEWPORT NSW 2106
OWNER(S):	Claire Louise Cavanaugh
COST OF WORKS:	\$850,000
NUMBER OF SUBMISSIONS:	Two (2)

1.0 ISSUES

State Environmental Planning Policy No. 71 – Coastal Protection

Pittwater Local Environment Plan 2014

- Clause 7.8 Limited development on foreshore area
- Clause 5.5 Development within the Coastal Zone

Pittwater 21 Development Control Plan

- Part A4.1 Avalon Beach Locality
- Part B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
- Part B3.7 Estuarine Hazard - Low density residential
- Part C1.3 View Sharing
- Part C1.4 Solar Access
- Part C1.5 Visual Privacy
- Part D1.1 Character as viewed from a public place
- Part D1.8 Front building line
- Part D1.9 Side and rear building line
- Part D1.11 Building Envelope
- Part D1.14 Landscaped Area – Environmentally Sensitive Area
- Part D1.20 Scenic Protection – General

2.0 SITE DETAILS

The subject site is identified 24 Delecta Avenue, Clareville (Lot 12 DP 13291). Aside from a slightly angled front and rear boundaries, the site is otherwise a regularly-shaped allotment; the primary boundary of which is oriented towards the southeast and adjoins the Delecta Avenue road reserve, the rear boundary adjoins Clareville Beach reserve, the northeast side boundary adjoins a reserve/pathway (which connects Delecta Avenue and the beach) and the southwest side boundary adjoins a residential allotment. The subject site contains a detached single storey residential dwelling towards the rear of the site and a detached single-storey studio within the front southeast corner of the site. The subject site has an area of 599.2m² (based on submitted survey information) and is mostly level, with a maximum front-to-rear slope of approximately 700mm.



Figure 1: Aerial photograph of the subject site, outlined by the yellow border (Source: Nearmap, 2017)



Figure 2: Panoramic streetscape photograph of the subject site.

The subject site is located within an E4 Environmental Living zone; the front and side boundaries adjoin other E4-zoned allotments while the rear boundary adjoins an RE1 Public Recreation zone. In addition to the above, there are a number of other zone boundaries within the surrounding area which are as follows:

- A W1 Natural Waterways zone is located approximately 35m to the rear of the subject site.
- Other RE1 Public Recreation zones are located approximately 65m southeast and 200m south of the subject site at their nearest respective points.
- An E2 Environmental Conservation zone is located approximately 230m southeast of the subject site at its nearest point.
- An SP2 Infrastructure (Defence) zone is located approximately 470m west of the subject site.

The site is subject to flooding (subject to tidal inundation), Class 5, 3 and 1 Acid Sulphate Soils, biodiversity mapping (Pittwater Spotted Gum Forest and Saltmarsh & Foreshore Vegetation other than Mangroves) and the Foreshore Building Line. The subject site does

not contain a heritage item nor is it within a heritage conservation area; there are also no heritage items with the immediate vicinity.



Figure 3: Photograph of the subject site from the rear boundary on Clareville Beach.

Except for non-residential zones outlined above, development within surrounding residential-zoned areas consists predominately of detached dwelling houses and associated structures (i.e. swimming pools, outbuildings, etc.).

A site inspection was undertaken by the assessing officer on 18 October 2017; the layout of the site was consistent with the plans (noting that the survey plan was prepared prior to the construction of the studio) and no significant issues were identified.

3.0 PROPOSAL IN DETAIL

The subject development apposition seeks consent for alterations and additions to a dwelling.

The plans propose to change the layout and façade of the existing dwelling, including an expansion of the dwelling and carport towards the front boundary; a new first floor including a master bedroom and associated terrace, ensuite and storage areas are also proposed. A above-ground swimming pool (with a depth of approximately 1.2 metres) is also proposed adjacent to the northeast side boundary.

No changes are proposed to the existing studio.

4.0 BACKGROUND

4.1 Site background:

Date	Comments
12/07/1994	Building application No. 0072629 approved.
19/05/2015	Development Application (tree removal) No. T0229/15 approved for the removal of a paperbark tree and the pruning of a Eucalypt.
30/10/2015	Development Application No. N0409/15 approved for the construction of a studio.
27/09/2016	Development Application No. N0301/16 approved for alterations and additions to the dwelling. Note: Works associated with this structure have not commenced, and would likely be superseded in the event that the subject development application is approved and commenced.
31/07/2017	Development Application (tree removal) No. T0293/17 approved for the removal of two Lilli Pilli trees.

10/10/2017	Subject development application lodged.
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4.2 Application history:

Date	Comments
10/10/2017	Subject development application lodged.
18/10/2017	Site inspection undertaken.
02/11/2017 06/11/2017	Submission received.
03/01/2018	Request for additional information sent to the applicant.
31/01/2018 06/02/2018	Additional information received.

5.0 NOTIFICATION

5.1 Notification

In accordance with Pittwater 21 Development Control Plan, the subject application was notified for a 14 day period from 19 October 2017 until 2 November 2017; this process involved sending letters to the owners and occupiers of six surrounding properties and the erection of a sign at the site.

Two (2) submissions were received in response to notification; both submissions objected to the proposed development.

5.2 Addresses of submissions:

The addresses of the two submissions are as follows:

- 22 Delecta Avenue, Clareville
- 108 Hudson Parade, Clareville



Right: The locations of the subject site (outlined by the yellow border) and the sites from which submissions were received) outlined by green borders).

5.3 Issues raised by submissions:

Issues raised by submissions are as follows:

- It is requested that Council impose a condition(s) to require that any plumbing or venting or ducting or air conditioning units and ducting, hot water systems, be concealed within the walls or thoughtfully concealed within the structure.
- The survey plan predates the construction of all structures on the site. As the studio has not been included, the accuracy of the siting of the studio on the architectural plans is questionable.
- The proposed additions would impose an unreasonable level of solar impact on the windows of living areas within the dwelling at 22 Delecta Avenue. Elevational plans demonstrating the level of impact are requested.
- Views from 22 Delecta Avenue towards the northeast (i.e. across the subject site) would be unreasonably impacted. The proposed fixed privacy screen at the rear of the dwelling would likely have the greatest level of impact on views from the adjoining site.
- The landscape and architectural plans are inaccurate and inconsistent, and the actual landscaped area would be significantly less than what is proposed.

5.4 Response to submission issues:

Issue	Assessment and response
Obscuring of services	Irrespective of the submission, obscuring of services (i.e. vents, ducts, utility connections, air conditioning on the roof, etc.) would be subject to standard recommended conditions in the event that the subject application is recommended for approval.
Inaccurate survey plan	It is acknowledged that the submitted survey plan was submitted prior to the construction of a studio approved by Development Consent No. N0409/15. Despite concerns, the following is noted: - The location of the studio on the current architectural plans is consistent with plans approved by Development Consent No. N0409/15; no changes are proposed to the studio by the subject application. - The main dwelling and the levels of that dwelling were not altered by the approval of DA N0409/15, therefore the date of the survey plans would not affect an assessment of the works to the dwelling. It is agreed that the survey and architectural plans do not correctly reflect existing and proposed landscaped areas (specifically with regard to a hardstand area at the front of the site), though this is separately addressed in association with the assessment of the landscaped area within Part 7 of this report.
Solar access	Refer to the assessment within Part 7 of this report.
View Sharing	Refer to the assessment within Part 7 of this report.
Landscaped area	Refer to the assessment within Part 7 of this report.

6.0 REFERRALS

6.1 Internal referrals:

Officer	Comments
Development Engineer	Recommendation: Supported subject to conditions. Comments: <i>"All estuarine controls are to be assessed by Coast and Catchment.</i> <i>No objection to approval, subject to conditions as recommended."</i>
Natural Environment	Recommendation: Supported subject to conditions. Also note additional comments associated with the assessment of relevant criteria below.
Environmental Health	Recommendation: Supported subject to conditions. Comments: <i>"DA N0451/17 24 Delecta Avenue, Clareville Environmental Health Comments</i> <i>We have been asked to comment on Acid Sulfate Only in regard to this application.</i> <i>The applicant has submitted a report from their Geotechnical Engineer 31 Jan 2018 based on limited sampling but indicating the risk of acid sulfate soil is small due to the limited excavation.</i> <i>This can be dealt with a condition to allow the DA report to proceed :</i> <u>Condition : during construction</u> <i>Acid Sulfate Soil Management</i> <i>Any new information which comes to light during remediation, excavation or construction works which has the potential to alter previous conclusions about the uncovering of Acid Sulfate Soil must be notified to the Certifier as soon as reasonably practicable. This will also require an Acid Sulfate Soil Management Plan, including disposal of affected soil to an approved facility, to be submitted to the</i>

	certifier, before work continues. <u>Reason:</u> To ensure potential Acid Sulfate Soil is appropriately managed Also note additional comments associated with the assessment of relevant criteria below."
Flooding	Recommendation: Supported Comments: "The proposed development is located within the Low Flood Risk Precinct, residential flood related development controls do not apply within the Low Flood Risk Precinct."
Reserves and Recreation	Recommendation: Supported subject to conditions. Comments: "The application in terms of landscape controls under Pittwater DCP 2014 is generally supported, subject to the following Conditions: <i>Protection of existing Cheese Tree</i> A Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to the commencement of works to oversee tree protection measures and works (spa and fencing) in the vicinity of the existing Cheese Tree, located mid site along the eastern boundary. <i>Details are to be submitted to the Certifying Authority by the Project Arborist, that tree protection measures have been undertaken and that the health of the existing Cheese Tree remains healthy, prior to the issue of the Occupation Certificate.</i> <i>The following protection measures shall be addressed during construction works:</i> i) tree protection shall be in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to section 4 - tree protection measures. ii) to minimise the impact on vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of existing vegetation. iii) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees. iv) no tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site. v) all structures are to bridge tree roots greater than 50mm diameter unless directed by a qualified Project Arborist on site. vi) should either or both iv) and v) occur during site establishment and construction works, advice shall be taken from the Project Arborist on construction techniques required to protect the health of the Cheese Tree, and details shall be submitted by the Project Arborist to the Certifying Authority. <i>Reason: to satisfy C1.1 Landscaping control requiring that development results in retention of existing native vegetation.</i> <i>Replacement Tree Planting</i> One (1) indigenous canopy tree, capable of reaching 13 metres at maturity, shall be planted within the front back of the property to compensate for the loss of canopy created by the removal of the existing Mahogany. The selected tree shall be planted at minimum 75 litre size, and shall be planted at least 3m from any structure. <i>Details are to be submitted by the Certifying Authority that this has been undertaken prior to the issue of the Occupation Certificate.</i> <i>Reason: to replace the tree canopy following removal of the existing Mahogany, to satisfy canopy tree requirements under C1.1 Landscaping.</i> <i>Landscaping</i> The landscape area as indicated on drawing DA11 shall consist of soft landscaping, comprising lawn, trees, and planted gardens only.

	<i>The northern boundary along the proposed spa shall include the provision of buffer shrub planting, to the extent of the proposed fencing, as a minimum. Shrubs planting shall consist of native shrubs capable of reaching 3 metres at maturity, and shall be planted at a minimum spacing of 900mm apart.</i> <i>Reason: to satisfy C1.1 Landscaping."</i>
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6.2 External referrals:

None required.

7.0 STATUTORY AND POLICY CONSIDERATIONS

7.1 Applicable instruments and policies:

Where applicable, the following relevant state, regional and local instruments and policies apply:

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Sustainable Building Index: BASIX) 2005
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)
- State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
- Pittwater 21 Development Control Plan (P21 DCP)

Tables of Compliance:

T - Can the proposal satisfy the technical requirements of the control?

Y – Yes

O - Can the proposal achieve the control outcomes?

N – No

N - Is the control free from objection?

N/A or - – Not applicable

7.2 Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Act No. 203				
Clause	Assessment and Comment	T	O	N
147 Disclosure of political donations and gifts	None disclosed	Y	Y	Y

7.3 State Environmental Planning Policies

State Environmental Planning Policies (SEPPs)				
SEPP	Assessment and Comment	T	O	N
SEPP (Sustainable Building Index: BASIX) 2005		Y	Y	Y
SEPP (Infrastructure) 2007	Divisions 5 and 17 of the SEPP are not applicable to the subject development.	-	-	-
SEPP No. 55 – Remediation of Land	A review of the site history indicates that the subject site has been used for residential development purposes for an extended period of time; there is subsequently no evidence to indicate that the subject site has been exposed to activities that would result in land contamination. Further to the site review, the site inspection did not indicate any signs of contamination. With consideration to the above and assuming that recommended conditions are adhered with, the proposal is considered to satisfy the relevant provisions of SEPP No. 55.	Y	Y	Y
SEPP No. 71 – Coastal protection	See assessment below.	Y	Y	Y

7.3A Detailed assessments of applicable SEPPs

State Environmental Planning Policy No. 71 – Coastal protection

The relevant provisions of SEPP 71 are assessed as follows:

Clause	Assessment and comment
Part 1 – Preliminary	
4 – Land and development to which Policy applies	The subject site is within an area of the Greater Metropolitan Region that is within the Coastal zone. SEPP 71 is therefore applicable to the proposal.
Part 2 – Matters for Consideration	
7 – Application for clause 8 matters	Refer to assessment of clause 8 below.
8 – Matters for consideration	(a) The proposal satisfies the applicable aims of the policy for the following reasons: - Assuming that recommendations are adhered with, the proposal should not detrimentally affect marine environments; - The site is highly modified, and areas for potential Aboriginal heritage were not identified. Conditions of consent are nonetheless recommended to address instances where relics and/or areas or heritage are identified during demolition/construction processes; - Access to foreshore areas would not be detrimentally affected; and - The proposed bulk and scale would be acceptable and consistent with surrounding sites. The proposed development is unlikely to affect the area's scenic qualities. (b) Existing foreshore access would be retained and not adversely affected. (c) Existing foreshore access would remain unchanged. (d) The proposed development is for a dwelling house, which is a form of development that is permissible in the zone and is consistent with the surrounding built environment. (e) The proposal is not expected to overshadow the coastal foreshore nor adversely affect views to/from public areas. (f) Scenic qualities would be maintained. (g) Aquatic environments and associated habitats would be maintained. (h) Not applicable. (i) Wildlife corridors would remain unchanged. (j) Subject to compliance with recommended consent conditions, the proposed development is not expected to have any impact on natural hazards (refer to relevant assessments). (k) There would be no foreseeable opportunity for potential conflict over land/water-based activities. (l) The site is highly modified, and areas of potential Aboriginal heritage were not identified. Conditions of consent are recommended to address instances where relics and/or areas or heritage are identified during demolition/construction processes. (m) Assuming that recommended conditions are satisfied, the development is not expected to adversely affect local water quality. (n) There are no heritage items and/or of heritage significance within the immediate vicinity. (o) Not applicable. (p) (i) The development is not expected to have any additional cumulative impacts on the environment; and (ii) Measures related to energy and water efficiency are subject to the provisions of the BASIX certificate that has been provided in accordance with SEPP (Sustainable Building Index: BASIX) 2005.
Part 4 – Development Control	
14 – Public Access	The rear of the site would still permit public access to foreshore areas. The proposal would not affect public access via the adjoining public walkway (subject to conditions). The proposed site layout would still permit land-based right of access of the public to the foreshore.
15 – Effluent disposal	Not proposed; any sewer connection(s) would be connect to Sydney Water infrastructure.
16 – Stormwater	Provided that recommended conditions of consent are adhered with, there is no information to suggest that the development would generate additional and/or untreated stormwater into local public waterways,

With consideration to the above, the proposed development would satisfy the relevant provisions of SEPP No. 71

7.4 Pittwater Local Environment Plan 2014

7.4A Permissibility:

The subject site is located within an E4 Environmental Living zone under Pittwater Local Environment Plan (PLEP) 2014.

The proposed development, as submitted by the applicant, would be defined as alterations and additions to "residential accommodation" and more specifically alterations and additions to a "dwelling house".

Dwelling houses are a form of development that is permissible within the E4 zone under PLEP 2014.

7.4B Zone objectives

The objectives of the E4 zone are as follows:

- *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 would satisfy the objectives of the E4 zone as:

- It would provide for relatively low-impact residential development in an area of special ecological and aesthetic values;
- Should not adversely affect special values;
- Would feature a design that is of a relatively low density and scale that is suitable with regard to the landform and landscape that is consistent with surrounding development; and
- Does not propose development within the foreshore building line and would assist in preserving foreshore vegetation.

7.4C Assessment of Pittwater Local Environment Plan (PLEP) 2014

Refer to sections 3.0 and 3.1 of this report (above) for comments on permissibility and zone objectives. Refer below to a table of compliance for applicable controls under the LEP.

Clause	Numerical Standard	Numerical Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			-	-	-
4.1 Minimum subdivision lot size			-	-	-
4.2 Rural subdivision			-	-	-
4.3 Building Height	Maximum allowable height: 8.5m	Maximum proposed height: 6.7m	Y	Y	Y
4.6 Exceptions to development standards		None proposed	-	-	-
5.4 Controls relating to miscellaneous permissible uses			-	-	-
5.5 Development within the coastal zone		Refer to the assessment below.	Y	Y	Y
5.6 Architectural roof features			-	-	-
5.7 Development below mean high water mark			-	-	-
5.8 Conversion of fire alarms			-	-	-
5.9 Preservation of trees and vegetation			-	-	-
5.10 Heritage conservation			-	-	-
7.1 Acid Sulphate Soils		Refer to Environmental Health officer comments above.	Y	Y	Y
7.2 Earthworks			Y	Y	Y

Clause	Numerical Standard	Numerical Proposal	T	O	N
7.3 Flood planning		Flooding officer comments: "No flood related objections."	-	-	-
7.4 Floodplain risk management			-	-	-
7.5 Coastal risk planning		Despite tidal inundation hazards, the site not affected by the coastal risk hazard map.	-	-	-
7.6 Biodiversity			Y	Y	Y
7.7 Geotechnical hazards			-	-	-
7.8 Limited development on foreshore area		See assessment below	Y	Y	Y
7.9 Residual lots			-	-	-
7.10 Essential services			Y	Y	Y
7.11 Converting serviced apartments to residential flat buildings			-	-	-
7.12 Location of sex services premises			-	-	-

7.4D Discussion of LEP issues:

Clause 5.5 - Development within the coastal zone

A detailed assessment of Clause 5.5 of the LEP has been undertaken as follows:

Control	Compliance
(1) The proposed development would be capable of satisfying the objectives of the clause, assuming that recommended conditions of consent (which seek to minimise environmental impacts) are satisfied. Refer to the assessment of objectives under SEPP 71 (above), which are consistent with the objectives of this clause.	
(2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered: (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to: (i.) maintaining existing public access and, where possible, improving that access, and (ii.) identifying opportunities for new public access, and (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account: (i.) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and (ii.) the location, and (iii.) the bulk, scale, size and overall built form design of any building or work involved, and (c) the impact of the proposed development on the amenity of the coastal foreshore including: (i.) any significant overshadowing of the coastal foreshore, and (ii.) any loss of views from a public place to the coastal foreshore, and (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and (e) how biodiversity and ecosystems, including: (i.) native coastal vegetation and existing wildlife corridors, and (ii.) rock platforms, and	(a) (i) Public access to such foreshore areas would remain unchanged by the proposal. (ii) Due to the layout of the site, new opportunities for public access would not be granted by the proposal. (b) (i) The development is considered to be suitable for the site given the zoning and type of development; (ii) The location of the dwelling is considered to be suitable, given existing built form and associated constraints on the site; (iii) The bulk, scale and overall built form design of the deck is consistent with both applicable development controls, desired characteristics of the locality, zone objectives and surrounding residential development. (c) (i) Due to the southern orientation of the site, there would be no overshadowing of public coastal foreshore areas. (ii) While it would increase the height of the existing dwelling, the proposed development would not have any foreseeable impacts on views from public places. (d) the height, bulk and scale of the building is within the limits of applicable development standards and controls. Subject to conditions, the design would not adversely affect visual amenity and/or scenic qualities. (e) (i) While changes are proposed to the landscape regime on the site, coastal vegetation and wildlife corridors on a broader scale (i.e. beyond the boundaries of the subject site) would be unaffected by the proposal.

(iii.) water quality of coastal waterbodies, and (iv.) native fauna and native flora, and their habitats, can be conserved, and (f) the cumulative impacts of the proposed development and other development on the coastal catchment.	The proposed landscaping changes are considered to be satisfactory, subject to recommended conditions. (ii) Not applicable due to the location and scale of works. (iii) The demolition/construction phases of the development should not affect water quality assuming that recommended consent conditions are adhered with. (iv.) There is no information to suggest that fauna, flora and/or their habitats would be affected by the proposal, assuming that recommended consent conditions are satisfied. (f) There is no information to indicate that the proposed development would have cumulative and/or adverse effects on the local coastal catchments.
(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that: (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and (d) the proposed development will not: (i.) be significantly affected by coastal hazards, or (ii.) have a significant impact on coastal hazards, or (iii.) increase the risk of coastal hazards in relation to any other land.	(a) Subject to conditions, there is no information to suggest that the proposal would adversely affect physical land-based right of access to public areas. (b) Not applicable; onsite effluent storage/disposal is not proposed. (c) Not applicable; the subject application does not propose untreated stormwater discharge into public waterways; discharge of pool overflows, etc. to be subject to recommended conditions.. (d) There is no information to suggest that the proposal would affect/be affected by applicable coastal hazards, nor would they increase the risk/effect(s) of coastal hazards upon other sites.

In summary, the proposal in its current form would satisfy the criteria of Clause 5.5 of the LEP.

Clause 7.8 Limited development on foreshore area

An assessment of Clause 7.8 of the LEP has been undertaken as follows:

Clause	Comment and assessment
(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes: (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so, (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).	Proposed development within the foreshore building area are as follows: The proposal is for the extension of a dwelling that is already partly located within the foreshore area. The location of the additions are considered to be appropriate, with regard to the location of existing development on the site. Not proposed.

Clause	Comment and assessment
(1) Development consent must not be granted under this clause unless the consent authority is satisfied that: (a) the development will contribute to achieving the objectives for the zone in which the land is located, and (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and (c) the development will not cause environmental harm such as: (i.) pollution or siltation of the waterway, or (ii.) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or (iii.) an adverse effect on drainage patterns, or (iv.) the removal or disturbance of remnant riparian vegetation, and (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and (h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.	The proposed development has been assessed against the provisions of the clause as follows: (a) The objectives of the land use zones would be satisfied by the proposal (see above). (b) The appearance of the structures would be consistent with the character of residential development including adjacent sites within the foreshore area. The proposed development would therefore be compatible with the surrounding area. (c) The proposal should not foreseeably cause environmental harm, assuming that recommended consent conditions are adhered with (refer to the assessment of Cl. 5.5 above). (d) The proposal would not cause foreseeable congestion or conflict of recreation and/or waterway areas. (e) Public access to the foreshore would be unaffected by the proposal. (f) The site does not contain a heritage item and is not within a heritage conservation area. Not applicable; considerations regarding aboriginal heritage would be subject to conditions. Considerations regarding aboriginal heritage would be subject to recommended conditions. (g) The proposed development would be consistent with surrounding development. The design of the proposed structures would not have foreseeable adverse impacts on amenity and/or the aesthetic appearance of the foreshore area (h) Not applicable, though potential tidal inundation has been considered.
(2) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following: (a) continuous public access to and along the foreshore through or adjacent to the proposed development, (b) public access to link with existing or proposed open space, (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land, (d) public access to be located above mean high water mark, (e) the reinforcing of the foreshore character and respect for existing environmental conditions.	The proposed development has been assessed against the provisions of the clause as follows: (a) Public access to the foreshore is and would continue to remain attainable. (b) Public access to shore areas would not be affected by the development, and would be subject to recommended conditions. (c) Not applicable. (d) Unchanged. (e) If recommended conditions are satisfied, the proposal would not be out of character with surrounding areas and should not adversely affect the surrounding environment.

In summary, the proposal in its would satisfy the criteria of Clause 7.8 of the LEP.

7.5 Pittwater 21 Development Control Plan (P21 DCP)

7.5A Assessment of Pittwater 21 DCP

Refer below to a table of compliance for applicable controls under the DCP; more detailed assessments and elements of noncompliance are also assessed/discussed in depth below.

Clause	Numerical Standard	Numerical Proposal	T	O	N
Section A Shaping Development in Pittwater					
A1 Introduction					
A1.7 Considerations before consent is granted			Y	Y	Y
A4 Localities					
A4.1 Avalon Beach Locality			Y	Y	Y
Section B General Controls					
B1.3 Heritage Conservation - General			-	-	-
B1.4 Aboriginal Heritage Significance		Natural Environment comments: "No apparent issues" Planner comments: Subject to conditions.	Y	Y	Y
B3.1 Landslip Hazard			-	-	-
B3.2 Bushfire Hazard			-	-	-
B3.6 Contaminated Land and Potentially Contaminated Land		Refer to SEPP 55 assessment above.	Y	Y	Y
B3.7 Estuarine Hazard - Low density residential		See comments below.	Y	Y	Y
B3.11 Flood Prone Land		Planner comments: Refer to flooding officer comments above.	-	-	-
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community		See comments below	Y	Y	Y
B4.15 Saltmarsh Endangered Ecological Community		Natural Environment comments: "No saltmarsh recorded adjacent the site."	-	-	-
B4.16 Seagrass Conservation		Natural Environment comments: "No works proposed below Mean High Water Level."	Y	Y	Y
B4.19 Estuarine Habitat		Natural Environment comments: "See B4.16 for comment."	Y	Y	Y
B4.20 Protection of Estuarine Water Quality		Natural Environment comments: "See B4.16 for comment."	Y	Y	Y
B4.22 Preservation of Trees or Bushland Vegetation			-	-	-
B5.3 Greywater reuse			-	-	-
B5.4 Stormwater Harvesting			Y	Y	Y
B5.7 Stormwater Management - On-Site Stormwater Detention			-	-	-
B5.8 Stormwater Management - Water Quality - Low Density Residential			Y	Y	Y
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential			Y	Y	Y

Clause	Numerical Standard	Numerical Proposal	T	O	N
B5.10 Stormwater Discharge into Public Drainage System		Development Engineer comments: "There is an existing Council drainage easement and pipeline that traverses the adjoining land to the site, however a site inspection revealed that this infrastructure will not be impacted upon by the proposed development."	Y	Y	Y
B5.11 Stormwater Discharge into Waterways and Coastal Areas			Y	Y	Y
B5.12 Stormwater Drainage Systems and Natural Watercourses			Y	Y	Y
B5.13 Development on Waterfront Land			Y	Y	Y
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)			-	-	-
B6.1 Access driveways and Works on the Public Road Reserve			Y	Y	Y
B6.2 Internal Driveways			Y	Y	Y
B6.3 Off-Street Vehicle Parking Requirements	Minimum of two (2) off-street parking spaces required	Minimum two (2) spaces proposed within the proposed carport	Y	Y	Y
B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential (Amended 14/11/15 See B6.3)			Y	Y	Y
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			Y	Y	Y
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition - Traffic Management Plan			-	-	-
Section C Development Type Controls					
C1.1 Landscaping		Natural Environment comments: "See B4.6 for comment." (Note: Comments should refer to Part B4.7 of the DCP; see above.)	Y	Y	Y
C1.2 Safety and Security			Y	Y	Y
C1.3 View sharing			Y	Y	N
C1.4 Solar Access			Y	Y	N
C1.5 Visual Privacy			N	Y	Y
C1.5 Acoustic Privacy			Y	Y	Y

Clause	Numerical Standard	Numerical Proposal	T	O	N
C1.7 Private Open Space	Primary dwelling: Minimum 80m ²	Proposed Private Open Space (POS): Approx. 117m ² Proposed technical noncompliance as the usable POS area would be within the front setback. Such a layout is considered to be satisfactory as the POS area would be situated within a level area of the site that cannot be directly observed from adjoining public areas. The proposed POS area would also be capable of obtaining adequate solar access. The placement of the POS area would subsequently satisfy the outcomes of the controls and is considered to be satisfactory. Note: Above calculations exclude the swimming pool, driveway/carport area and includes minimum dimensions.	N	Y	Y
C1.9 Adaptable Housing and Accessibility			-	-	-
C1.11 Secondary Dwellings and Rural Worker's Dwellings			-	-	-
C1.12 Waste and Recycling Facilities			-	-	-
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures		Development Consent No. N0409/15 included conditions governing the use of the studio. An additional condition is recommended to address the use of the site overall.	Y	Y	Y
C1.16 Development ancillary to residential accommodation - Tennis Courts			-	-	-
C1.17 Swimming Pool Safety			Y	Y	Y
C1.19 Incline Passenger Lifts and Stairways			-	-	-
C1.23 Eaves		No eaves proposed at the rear of the dwelling. The proposed development is of a more contemporary nature that is consistent with other development in the locality. The submitted BASIX information also indicates that the appropriate solar access and shading would be achieved. The outcomes of the control would be satisfied, therefore the noncompliance is considered to be supportable.	N	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure			-	-	-
C1.25 Plant, Equipment Boxes and Lift Over-Run			-	-	-
Section D Locality Specific Development – D1 Avalon Beach Locality					
D1.1 Character as viewed from a public place			N	Y	N
D1.5 Building colours and materials		Materials indicated on the perspectives sheet. To be subject to recommended conditions.	Y	Y	Y

Clause	Numerical Standard	Numerical Proposal	T	O	N
D1.8 Front building line	Minimum 6.5m or prevalent building setback pattern, whichever is greater.	Proposed front setback: Minimum 12m	N	Y	Y
D1.9 Side and rear building line	Side setbacks: • 2.5m on one side • 1m on the other side Rear setback • 6.5m (other than where the foreshore building line applies)	Side setbacks: • Northeast: ○ Minimum 1.8m (to dwelling) ○ Minimum 1m (to swimming pool) • Southwest: 1.1m Rear setback: • Minimum 1m	N	Y	Y
D1.11 Building Envelope			N	Y	Y
D1.14 Landscaped Area –Environmentally Sensitive Area	Minimum 60% of the site (359.5m ² based on a site area of 599.2m ²) is to be landscaped	Proposed site coverage: Approx. 365m ² Proposed landscaped area: Approx. 234m ² or 39% Total landscaped area including allowable 6% variation: Approx. 270m ² , or 45%.	N	Y	N
D1.15 Fences – General		New fences not proposed.	-	-	-
D1.17 Construction, Retaining walls, terracing and undercroft areas			Y	Y	Y
D1.20 Scenic Protection – General			Y	Y	Y
Section D Locality Specific Development – D15 Waterways Locality					
D15.11 Waterfront lighting		Subject to conditions	Y	Y	Y
D15.12 Development seaward of mean high water mark			-	-	-

7.5B Discussion of DCP issues

A4.1 Avalon Beach Locality, D1.1 Character as viewed from a public place and D1.20 Scenic Protection – General

Where applicable, the proposed development would satisfy the desired character requirements of the Avalon Beach locality. The proposed development would be set well back from the road boundary and would be largely screened by the existing studio and existing/proposed landscaping treatments. The height, bulk and scale of the proposed development would be consistent with that of surrounding dwellings when viewed from the reserve to the rear of the site.

The proposed development broadly satisfies the requirements of Part D1.1 of the DCP by introducing articulation on elevations addressing public areas in accordance with the development controls. Issues raised within submissions regarding the concealment of services would be subject to recommended conditions; this would address the concerns of one of the submissions. While the plans propose an approximate 3m extension to the front of the carport, the existing location of this structure (forward of the building line) and its width would remain unchanged. The carport is an open structure, and as it is set back at least 12m from the front boundary, it would not form a prominent streetscape element. The location of such a parking structure in front of the building line is also consistent with existing development patterns within Delecta Avenue. The proposed additions to the carport are therefore considered to be satisfactory and supportable.

The proposed development would also satisfy the requirements of Part D1.20 of the DCP, though conditions are recommended in order for the development to satisfy landscaping requirements and both colours and materials.

B3.7 Estuarine Hazard - Low density residential

Coast and Estuary officer comments:

"The property at 24 Delecta Avenue, Clareville has been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to development proposed at the site."

Estuarine Planning Level information was provided to Mr Power on 23 June 2016. Based upon the survey information supplied by Mr Power at that time, an estuarine planning level (EPL) of RL 2.73m AHD was determined for the subject site. As the site is setback from the foreshore a reduction factor will further reduce the adopted EPL. The ground floor level of the proposed development is shown to have a FFL of RL 2.840m AHD i.e. above the EPL and as such the proposed development satisfies the requirements of the Estuarine Risk Management Policy for Development in Pittwater and associated B3.7 Estuarine Hazard Controls for low density residential development."

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Natural Environment comments:

"An arborist report (Evergreen Tree Services, September 2017) has been submitted with the DA and assesses one (1) tree which is proposed for removal. The tree is within 2m of the existing dwelling and is approved for removal, subject to preparation of a detailed landscape plan incorporating replacement plantings in compensation for removal of the Eucalyptus botryoides and in compliance with conditions of consent for approved DA N0301/16. At least ten (10) replacement canopy trees, selected from the Pittwater Spotted Gum Endangered Ecological Community species list, are required."

C1.3 View Sharing

As indicated within Part 2 of this report, both the subject site and sites to either side back onto a public reserve; surrounding sites therefore have northern views towards Pittwater. Sites on the northern side of Delecta Avenue have views directly across the reserve to those respective properties, while higher dwellings on the southern side of Delecta Avenue would likely have views across the road and sites on the northern side of Delecta Avenue.

As indicated within Part 6 of this report, a submission was received which objected to potential view loss from the rear of that site (the other submission did not raise view loss concerns). While an offer was extended to the owners of the adjoining site (via their representative) to visit their site, the owners declined the offer. Beyond photos provided within one of the submissions, it was therefore not possible to access surrounding residences and undertake a view-loss assessment(s) that could ascertain what, if any, impact the proposed development may have on such views. Despite such limitations, an assessment considering relevant planning principles of *Tenacity Consulting v Warringah Council* [2004] NSW LEC 140 is as follows:

1. Nature of the view to be affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic view (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured."

Comment:

As indicated above, the views likely to be affected from surrounding sites would be views north of the subject site. Such views would incorporate Clareville Beach, Pittwater, the associated foreshore area and the Western Foreshores beyond Pittwater.

2. The part(s) of the property from which the views are obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing

or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”



Figure 4: An extract of the submission showing a photo from the rear of 22 Delecta Avenue, looking northeast across the rear of the subject site, which is outlined by the red box for reference (Source: BBF Planners).

Comment:

The most significant views (as outlined above) would be obtained from the rear of dwellings on the northern side of Delecta Avenue, and the front of dwellings on the southern side of Delecta Avenue.

Given the existing layout of the subject site and its relatively level topography, views from the adjoining road reserve are unlikely to be affected by the proposed development (refer to Figure 2). Significant views from the beach and reserve are also highly unlikely to be affected by the proposed development.

3. The extent of the impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.”

Comment:

22 Delecta Avenue:

As indicated, it was not possible to visit the site to ascertain the likely level of impact by the proposed development; some internal photos were however provided. As the proposed development would not extend significantly further towards the rear boundary, views from the rear of the dwelling at 22 Delecta Avenue towards the north and northwest would be unaffected. Based on photos within the submission, likely views to be affected would be directed towards the northeast, and would be obtained through the northeast side windows at the rear of the dwelling that would look across the existing rear balcony and setback of the subject site (see figure 4).

It is noted that the submission raised concern regarding the installation of a privacy screen on the western side of the proposed rear deck. Subsequent correspondence with the applicant and the objector's representative has resulted in the deletion of the privacy screen; likely impacts on views would therefore be caused by the supports and roof of the rear deck which would filter but not obscure the views towards the north/northeast.

As this dwelling is a single storey structure, the height increase associated with the proposed development would not affect views from this adjoining site.

With regard to the above and in accordance with the planning principles, view loss would likely be classified as minor.

26 Delecta Avenue:

As indicated, it was not possible to visit the site to ascertain the likely level of impact by the proposed development. As this site's dwelling features a larger rear setback than the existing/proposed rear setback on the subject site, the level of impact is unlikely to significantly change. The rear building line of the proposed development is largely consistent with the existing building line, and due to the larger rear setback on this adjoining site views of the rear of the subject site would be obtained from a shaper angle; unlike the views from 24 Delecta Avenue, views would be less likely to be obtained through the rear deck and across the rear of the subject site. While the building height would be increased, the maximum height of the building would also be moved further back from the rear boundary than the existing ridge height, and would therefore be unlikely to significantly affect views.

Irrespective of the above and when viewed from the rear, any views affected by the proposed development would include those towards the far northwest, and views towards the north and northeast (i.e. the majority of views from this site) would remain unaffected. With regard to the above and in accordance with the planning principles, view loss would likely be classified as minor.

Southern side of Delecta Avenue:

As indicated, it was not possible to ascertain the level of impact from dwellings on the southern side of Delecta Avenue. The dwellings on the southern side of the road would look across the subject site, therefore any increase to the building height and/or envelope would likely have some level of impact, and would likely affect views of the foreshore area and/or water immediately in front of the subject site (though the level of impact would also vary depending on the angle of the view(s) from these sites. In accordance with the principles, view loss would likely be classified as minor.

4. The reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

As assessed elsewhere within this report, the proposed development would be well below the height standard; the proposed works would not however comply with side and rear setback requirements and building envelope controls. Despite such noncompliances, it is noted that the proposed setbacks are consistent with current side and rear setbacks and building envelope noncompliance is relatively minor (refer to separate assessments below) and is therefore unlikely to significantly affect views from surrounding sites. The element of greatest contention by the submission was the proposed privacy screens, and the applicant has agreed to remove this feature to improve views.

In summary, it was not possible to undertake a comprehensive assessment of potential view-sharing impacts from adjoining sites. Due to the design of the proposed development and the existing layouts of adjoining sites however, in accordance with the *Tenacity* principles it is unlikely that the proposed development would significantly affect views from surrounding sites and that any element(s) that could affect views considered to be reasonable.

Part C1.4 Solar Access

A submission indicates that the proposed development would excessively overshadow the glazed areas of the dwelling at 22 Delecta Avenue (i.e. the site adjoining the southwest side boundary of the subject site) based on originally submitted information. Subsequent additional information indicates that the proposed development would significantly overshadow this adjoining site at 9:00am on June 21; by 12:00pm however the proposed shadow cast would have moved off all glazed surfaces on that adjoining site's northeast elevation (refer to figure 4 below).

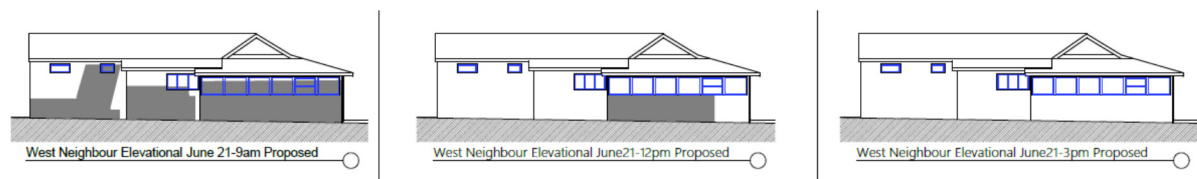


Figure 5: An extract from amended shadow plans of the northeast elevation of the dwelling at 22 Delecta Avenue (i.e. the elevation of the adjoining residential site which faces the subject site).

Despite complying, the resultant overshadowing would notably affect the adjoining site early on June 21, though such an impact would be likely unavoidable due to the northwest/southeast orientation of both 22 and 24 Delecta Avenue. As the proposed development complies with the numerical controls and associated outcomes, any further measures (i.e. substantially increased setbacks and/or a relocated building platform) would be unreasonable.

In summary, submission objected to the proposed development due to overshadowing impacts. The proposed development would notably overshadow the adjoining site at 9:00am on June 21 but would comply with controls and satisfy outcomes within Part C1.4 of the DCP.

Part C1.5 Visual Privacy

The proposed development would mostly satisfy the development control, an assessment of the application has noted two points of noncompliance to this control; such matters were not raised within submissions.

The two noncomplying elements relates to the rear terraces on both floors. Due to the narrow width of the site, privacy screens would be required for balconies/terraces as they would be within 9m of dwellings on surrounding sites. A 700mm side section of the first-floor balcony closest to the adjoining rooms would be screened, however the remainder of this room would remain unscreened. The applicant did originally propose privacy screens for the ground floor terrace, however their deletion has been sought (and would be subject to conditions) following correspondence with the owners of the adjoining site due to concerns about the screens' impacts on views from the adjoining site (refer to the submission and associated correspondence on file).

The deletion of the privacy screens from the ground floor terrace are unlikely to result in additional privacy impacts to surrounding sites (specifically 22 Delecta Avenue), as the existing terrace (at the same height and location as the proposed terrace) is currently unscreened. Visual privacy was not raised as an issue within the submission, nor has any issue been raised following the proposed deletion of the screens. As the dwelling at 26 Delecta Avenue is set further back that the dwelling on the subject site and as a public walkway separates these two sites, it is unlikely that there would be any additional visual privacy impacts on this site.

While the first floor terrace is unscreened, it is unlikely that there would be adverse privacy impacts on adjoining surrounding sites due to the setbacks of the dwelling at 26 Delecta Avenue and the lack of a first floor at 22 Delecta Avenue. As the first floor is associated with a bedroom (i.e. a relatively low-use area), it is unlikely that there would be significant congregation within this area that would result in significant additional overlooking of surrounding areas.

In summary, the proposed development would broadly satisfy the outcomes and development controls that relate to visual privacy. The noncompliance associated with the ground floor terrace was created as a result of negotiation with the owners of the adjoining site, who were concerned that the originally proposed screens would adversely affect visual privacy; despite the noncompliance, it would not increase opportunities for additional overlooking due to existing site conditions. The proposed noncompliance is therefore considered to be supportable on merit.

Part D1.8 Front Building Line

The proposed additions would satisfy numerical controls, as the front setbacks would well exceed the minimum 6.5m requirement. The plans however propose noncompliances in that both the extended carport and proposed swimming pool would be situated forward of the dwelling's front building line. The location and design of the carport was considered with regard to the development controls within Part D1.1 of the DCP and is considered to be satisfactory (see above). Aside from not forming a prominent structure, the proposed swimming pool would be situated behind the studio; both that structure and the existing boundary fences would screen the pool from adjoining public areas. There would subsequently be no adverse impacts on the surrounding area and the outcomes of the controls (where applicable) would be satisfied. With regard to the above, the noncompliances are considered to be satisfactory and supportable.

Part D1.9 Side and rear building line

Note: Despite the one metre side setback of the pool, permitted variations within the DCP would allow for the pool in this location; the setbacks of the pool will therefore not be discussed further.

As indicated above, the plans propose a northeast side setback of between 1.8 and 2.3m, a southwest side setback of 1.1m and a variable rear setback of between 1 and 1.7m; such setback distances would not comply with the minimum side and rear setback requirements, though they would maintain the setbacks of the existing dwelling. Despite such noncompliances, as the existing setbacks would be retained, the proposed development is unlikely to significantly overshadow adjoining sites, nor have significant impacts on the privacy and overshadowing of those same sites.

The outcomes of the control would therefore be met, and the noncompliances are considered to be supportable on merit.

Part D1.11 Building Envelope

Most of the proposed development complies with the building envelope, however the plans propose a breach of the envelope within the southern most part of the southwest side of the first floor. At its maximum point, the breach is approximately 250mm high for the entire 3.1m length of the stairway.

While the noncompliance is acknowledged, the size of the breach would still enable the proposed development to satisfy relevant outcomes; proposed bulk and scale would be consistent with surrounding developments, the noncompliance is unlikely to significantly affect views and compliance with visual privacy and overshadowing controls would be satisfied. For these reasons, the proposed noncompliance is considered to be supportable on merit.

Part D1.14 Landscaped Area – Environmentally Sensitive Area

As indicated above, including exemptions permitted by the Part D10.13 of Pittwater 21 DCP, the plans propose a landscaped area of approximately 270m², or 45% of the site area.

As indicated above, a submission indicates that the landscaped area has been incorrectly calculated due to inconsistencies within the submitted plans. An assessment of the plans concurs with the submission; it is agreed that the proposed landscaped layout at the front of the site does not correctly reflect the existing hardstand area that is located immediately adjacent to the studio; inclusion of this area (approximately 37m²) would reduce the amount of landscaped area on the site to less than 40%.

With regard to the above, the outcomes of the control and conditions recommended by Council's Natural Environment staff (which amongst other things, requires the planting of replacement trees around the site), it is recommended that this hardstand area be removed and replaced with landscaped area. The removal of the hardstand area would:

- Not foreseeably reduce the functionality of the site (noting that sufficient parking is already provided and that there is no requirement for a turning bay within the property boundaries); and
- Would provide a large landscaped area at the front of the site that would be capable of accommodating significant vegetation. Such vegetation would assist in screening the development from the road reserve in accordance with the outcomes of applicable development controls.

If the hardstand area were removed as recommended, the landscaped area of the site would be increased to approximately 51.2%, which is still a notable (i.e. 16%) variation to the 60% landscaped area control. It is however acknowledged that the size and dimensions of the site would significantly constrain the applicant's ability to comply with the 60% requirement. Further, it is noted that the applicant has attempted to mitigate the impacts of the development by:

- Situating most new development within existing development footprints; and
- Removing hardstand areas (such as a pathway along the southwest side boundary) to maximise landscaped area where possible.

With regard to the above, the proposed landscaped area (if provided in accordance with recommendations) would be capable of accommodating landscaping that is in accordance with the control outcomes; the variation to the landscaped area requirement is therefore considered to be supportable, subject to conditions.

9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed within Part 7 of this report.

Two submissions were received, and are assessed within Part 6 of this report. The matters raised have been addressed, subject to conditions that would result in the deletion of two privacy screens in order to maintain views.

The proposal is otherwise generally consistent with the relevant statutory and policy controls and outcomes (refer to relevant assessments within Part 7 of this report), assuming that recommended consent conditions are satisfied. The impacts associated with the proposed dwelling are considered to be acceptable, subject to the recommended conditions. It is therefore recommended that the application be approved.

RECOMMENDATION OF PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application No. N0451/17 for alterations and additions to a dwelling including new swimming pool at 24 Delecta Avenue, Clareville (Lot 12 DP 13291), subject to the recommended conditions of consent.

Report prepared by

Tyson Ek-Moller
PRINCIPAL PLANNER
DEVELOPMENT ASSESSMENT