

**STATEMENT OF
ENVIRONMENTAL EFFECTS**

**PROPOSED DEMOLITION OF
EXISTING DWELLING HOUSING
AND ERECTION OF
NEW DWELLING HOUSE**

**9 WANDEEN ROAD
CLAREVILLE**

DECEMBER 2020

statement of environmental effects

Submission to

NORTHERN BEACHES COUNCIL

**PROPOSED DEMOLITION OF EXISTING DWELLING HOUSE
AND ERECTION OF NEW DWELLING HOUSE**

9 WANDEEN ROAD CLAREVILLE

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This statement has been prepared in consideration of the Expert Witness Code of Conduct in the Uniform Civil Procedure Rules and the provisions relating to expert evidence. The opinions in the statement represent the professional opinions of the authors, based on an assessment of the facts and circumstances as have been cited in the document.

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1.0 INTRODUCTION

This document has been prepared in order to provide information and an assessment in respect of a development application (the 'development application') seeking consent for the demolition of an existing dwelling house and construction of a new dwelling house (the 'proposed development') on the land known as No 9 Wandeen Road, Clareville (the 'site').

Consideration has been given to the environmental merit of the proposal having due regard to the following relevantly applicable legislation, statutory planning instruments and subordinate documents:

- *Environmental Planning and Assessment Act 1979* ('EPAA');
- *Environmental Planning and Assessment Regulation 2000* ('EPAR');
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ('SEPP (BASIX)');
- *State Environmental Planning Policy (Coastal Management) 2018* ('Coastal Management SEPP');
- *Pittwater Local Environmental Plan 2014* ('PLEP'); and
- *Pittwater 21 Development Control Plan* ('PDCP').

Consideration has also been given to the comments and recommendations outlined by Council in their Pre-Lodgement Meeting (PLM) Notes dated the 24th of September 2020 regarding PLM2020/0220.

In our opinion, the development application succeeds on the merits, is pursuant to the relevant legislation and is suitable for a grant of development consent by Council.

2.0 SITE LOCATION AND DESCRIPTION

2.1 Location

The site is located on the lower, south-facing side of Wandeen Road in the Avalon locality. Direct access is provided from Wandeen Road.

The site is only a short driving distance from Clareville Beach and the Avalon Beach Village.

The surrounding area consists of a low-density residential neighbourhood. The area has been settled and used for residential development for a considerable period of time.

A location plan is provided at **Annexure 1**.

An aerial photograph is provided at **Annexure 2**.

2.2 The Site

The site is legally described as Lot A in Deposited Plan 393629 and has an area of approximately 698 sqm.

The land slopes relatively across the block toward the south-west, following the line of Wandeen Road to its intersection with Hudson Parade, down to Refuge Cove and Pittwater.

Currently, the site is occupied by a single storey brick and weatherboard dwelling house with an understory garage to which there is relatively level access from Wandeen Road.

Though at present the dwelling house is dilapidated, the site has a desirable northern aspect, enjoys natural shading and is naturally landscaped to assist in ensuring privacy from adjoining properties.

Photographs of the site and the surrounding streetscape are provided at **Annexure 3**.

3.0 DEVELOPMENT PROPOSAL

The proposed development involves the demolition of an existing, single-storey dwelling house and understory carport and the erection of a new, two-storey dwelling house and understory double garage. Specifically, the proposal involves:

- the demolition of the existing dwelling house and garage;
- the construction of a new stone retaining wall;
- the erection of a new dwelling house including;
 - understory garage with storage and wine cellar;
 - three first floor bedrooms with one ensuite and one shared bathroom;
 - a media room;
 - a study;
 - a laundry room and linen press;
 - an open-plan living and dining room with kitchen, pantry and shared bathroom;
 - a master suite with ensuite and walk-in wardrobe;
 - a second-storey courtyard with plunge pool and built in pizza oven;
 - planter boxes with trailing plants;
- the carrying out of landscaping; and
- The carrying out of relevant stormwater upgrades.

The application is supported by the following documentation:

- Full site survey
- Architectural drawings
- BASIX certificate
- Stormwater management plan + OSD
- Biodiversity impact assessment
- Landscape plan
- Clause 4.6 Variation request
- Arborist report

Please refer to the architectural plans showing the proposed dwelling and detailing the proposed floor layout which accompany the development application, for more information.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Pittwater Local Environment Plan 2014

4.1.1 General

Pittwater Local Environmental Plan 2014 (PLEP) is the relevantly applicable local environmental plan.

4.1.2 Aims

The aim of PLEP is, among other things, to promote economically, environmentally and socially sustainable development in the former Pittwater local government area (now part of the Northern Beaches local government area) and to ensure that development is consistent with the desired character of Pittwater's localities.

4.1.3 Zoning and Permissibility

The site is zoned E4 'Environmental Living' under PLEP.

Development for the purpose of a dwelling house is nominately permissible, with development consent, on land zoned E4.

The erection of a building: see, in that regard, the definition of 'development' in section 1.5(1) of the EPAA, and paragraph (a) of the definition of 'erection' [of a building] in section 1.4(1) of the EPAA.

The other components and aspects of the proposed development are ancillary or purely incidental to the carrying out of development for the purpose of a dwelling house.

A zoning map extract from PLEP depicting the site is provided at **Annexure 4**.

4.1.4 Zone Objectives

The relevantly applicable E4 zone objectives under PLEP (refer land use table, item 1, 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.

Following the Pre DA, the proposal has been redesigned to ensure the retention of T5 on the site, and to provide compatibility with the Pittwater Spotted Gum Ecological Community that has been identified on site. The proposal involves the 'regenerative development' of this ecological community and serves to maintain and enhance local wildlife corridors and riparian areas.

Furthermore, the proposal incorporates a dwelling that blends into the dense greenery of the area through significant landscaping features proposed throughout the site, to maintain the aesthetic values of the area.

The proposed dwelling has been designed to have a minimised impact on ecological value of the surrounding area through the retention of mature vegetation and the use of integrated landscaping features, which allow the proposed development to blend seamlessly with its green surroundings.

In our opinion, the proposed development is consistent with such of the zone objectives as are of relevance.

4.1.5 Height of Buildings

Clause 4.3 of PLEP ('Height of Buildings') is a principal development standard of PLEP and controls the height of buildings.

The objectives of clause 4.3 are as follows (refer clause 4.3(1)):

- (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.

By virtue of clause 4.3(2) of PLEP and the relevantly applicable Height of Buildings Map (see tile HOB 015), the maximum permissible height of a building on the site is 8.5 metres.

The height of the proposed dwelling house will not exceed 10m. However, the eastern section of the site will exceed the 8.5m development control by 800mm at the western elevation of the alfresco dining area, representing a 9.41% variation from the statutory requirement. Thus, an application under clause 4.6 of PLEP is required.

For the following reasons, we submit compliance with the relevant HOB control is unnecessary;

- In accordance with the recommendations of Council provided following the PLM, some considerable architectural changes, including the relocation of the building footprint behind the front building line, providing generous side setbacks and making landscaping changes, were made.
- To address further issues raised by Council, shadow diagrams depicting the window locations of neighbouring properties also accompanies this development application. It highlights the minimal impact that the increased building height will have upon neighbouring dwellings and indeed the negligible impact the exceedance will have upon the living spaces of neighbouring dwellings.

- We respectfully submit to Council that the exceedance of the standard, in this case, is difficult to avoid given the east to west slope that runs parallel to the front boundary of the site.
- Compliance with the height control could be achieved though lowering the ground level of the proposed dwelling, this would require significant excavation and would damage significant remnant vegetation that is important to the character of the site and, indeed, to the streetscape as a whole. Our clients have instead decided to protect this important feature through the erection of the proposed dwelling house at the existing ground level.
- Furthermore, the section of the proposed dwelling that exceeds the 8.5m height limit is one corner only of the living and dining area and the alfresco courtyard area, which will not even provide a solid roof covering. This is a minor exceedance that we argue will not have any noticeably different effect on solar access, views or privacy of neighbouring residences than a building below the 8.5m height limit.
- To ensure that Tree 5 is retained, the dwelling had to be moved towards the rear setback where there is a localised depression in the site, which exacerbates the non-compliance with the HOB control.

- The below image from page 8 of the submitted plans demonstrates that, due to the natural slope of the site, the western side of the slope is depressed, as such results in the height exceedance. The main bulk of the exceedance is the parapet and roof element of the structure.



- Despite the height exceedance the proposed bulk is not excessive, and is compatible with the streetscape.
- There are no heritage items impacted.
- The proposal has been designed to incorporate 'regenerative development' principles to ensure compatibility with the biodiversity and natural environment elements identified within the site. The height exceedance does not impact this.
- The visual impact from the street is not adversely impacted as a result of the height exceedance. This is due to the integration of the built form with the natural landscape and proposed landscaping features.

Additionally, we note that enforcing the 8.5m height control would be unjustified given the situational restrictions of the sloping block and our clients desire to ensure a level floor for the second storey.

The proposed development is, in our opinion, consistent with the objectives of the height of buildings development standard.

Please refer to the architectural drawings, as well as the clause 4.6 written request, accompanying the development application for more specific detail.

A height of buildings map extract from PLEP, depicting the site, is provided at **Annexure 5**.

4.1.6 Acid Sulfate Soils

The site is identified as being within 'Class 5' on the Acid Sulfate Soils Map.

Clause 7.1 of PLEP relates to development on acid sulfate soils. The objective of the clause is to ensure that development does not disturb, expose, or drain acid sulfate soils and cause environmental damage.

The proposed development involves the carrying out of minor earthworks in connection with the construction of the proposed dwelling house. Due to the sloping nature of the site and presence of the existing dwelling, very little excavation is required for construction. The earthworks do not involve the disturbance of more than one tonne of soil (the trigger for an ASSMP). In addition, the water table will not be affected by the proposed works.

Accordingly, an acid sulfate soils management plan (ASSMP) (refer clause 7.1 (6), PLEP) has not been prepared in the present circumstances.

An extract from the Acid Sulfate Soils Map is provided at **Annexure 6**.

4.1.7 Earthworks

As mentioned in section 4.1.6 ('Acid Sulfate Soils') of this document, the proposed development involves minor excavation. However, the earthworks do not involve the disturbance of more than one tonne of soil. In

addition, the water table will not be affected by the proposed works.

Clause 7.2 of PLEP has been considered as part of the development application.

4.1.8 Essential Services

The site currently enjoys the services of water, electricity, sewerage, stormwater drainage and vehicular access.

4.1.9 Biodiversity Protection

The site is within a biodiversity area. Accordingly, clause 7.6 ('Biodiversity') of PLEP applies to the development proposal. The objectives of this clause read as follows (refer clause 7.6(1), PLEP);

- (1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by
 - (a) Protecting native fauna and flora, and
 - (b) Protecting the ecological processes necessary for their continued existence, and
 - (c) Encouraging the conservation and recovery of native fauna and flora and their habitats.

Landscaping and associated biodiversity components are expected to be enhanced as a result of the development. An *Arboricultural Impact Assessment & Biodiversity Impact Assessment* providing detailed information about the flora on the site forms part of the development application.

The report confirms that three (3) trees require removal to accommodate the development proposal. These three trees are identified to be 'Spotted Gums', however, as they are considered to be less significant than tree 5, they are therefore deemed more appropriate to remove and replace.

Council's PLM Notes raised concerns regarding the excessive tree removal associated with the initial design and consequent inconsistencies with the desired future character statement for Avalon. To address these issues, the amended proposal relocates the building footprint from a front boundary setback of 3.96m to the desired setback of 6.5m. This allows the amended proposed development to retain significant mature vegetation, including Tree 5, an endangered Pittwater Spotted Gum, as aforementioned.

The BIA prepared by Paul Burcher provided as follows:

The site is vegetated with remnant native trees above lawn and garden plantings. The remnant native trees are part of the BC Act listed Endangered Ecological Community, Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion (PWSGF).

The proposal would result in the removal of three Spotted Gums with a combined canopy area of approximately 150m². Given the extent of impact and proposed planting of this and other PWSGF species in the landscape plan accompanying the DA, it is considered that in relation to Section 7.3 of the BC Act (the five-part test) the proposed development is unlikely to significantly affect the community, or its habitat.

No threatened fauna or flora species listed under either the BC Act or the EPBC Act were detected or considered likely to occur at the subject site.

The site is not mapped on the Biodiversity Values Map nor is it an area of outstanding biodiversity under the BC Act.

In relation to Section 7.2 of the BC Act, it is considered that the proposed development would not significantly affect threatened species. The proposal does not exceed the thresholds for entry into the Biodiversity Offsets Scheme and a Biodiversity Assessment Report need not accompany the development application.

There would be no impact on any matters of national environmental significance listed under

the EPBC Act. The proposed action is not a controlled action requiring referral to the Federal Minister for the Environment.

The proposed development is consistent with the Biodiversity provisions of PLEP2014 and Clause B4.7 of PDCP21.

We are of the opinion that the proposed development is wholly consistent with the objectives of clause 7.6 of PLEP and warrants approval for this reason. We support the recommendations outlined within the BIA & AIA. The applicant will submit to any reasonable condition of consent in this regard.

An extract from the Biodiversity Map is provided at **Annexure 7**.

4.1.10 Aboriginal Heritage

The site has not been identified as a potential Aboriginal Place or as containing an Aboriginal Object and is not listed in Schedule 5 to PLEP or within the NSW Atlas of Aboriginal Places.

The proposed development will not have any significant impact on the conservation of any known Aboriginal places or objects.

4.2 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (BASIX) encourages the sustainable development of dwelling-type development.

The development proposal involves the carrying out of demolition and construction of new dwelling which triggers the requirement for a BASIX certificate.

Accordingly, the provisions of SEPP (BASIX), as well as the BASIX provisions of the EPAA and EPAR, apply to the proposed development.

A BASIX certificate, less than three months old, accompanies the development application.

4.3 SEPP (Coastal Management) 2018

4.3.1 Objectives

State Environmental Planning Policy (Coastal Management) 2018 ('Coastal Management SEPP') applies to the site.

The primary objective of the Coastal Management SEPP is the management of the coastal environment of New South Wales in an ecologically sustainable manner for the social, cultural and economic wellbeing of the people.

The relevant clauses in the Coastal Management SEPP relating to the development proposal are referred to and discussed below, to the extent to which they are relevant to the proposed development.

4.3.2 Coastal Environment Area

The site lies just within the Coastal Environment Area. As such, the provisions of the SEPP are applicable to the site, the controls pertaining to sites within the Coastal Environment Area will be addressed below, in relation to the proposal.

The provisions of clause 13(1) of the Coastal Management SEPP are as follows:

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - (b) coastal environmental values and natural coastal processes,
 - (c) the water quality of the marine estate (within the meaning of the *Marine Estate Management Act 2014*), in particular, the cumulative



impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- (f) Aboriginal cultural heritage, practices and places,
- (g) the use of the surf zone.

The proposed erection of the new dwelling house is proposed for the most part, to be carried out within the existing building footprint. As such the development will not create additional adverse impacts on the biophysical, hydrological and ecological environment nor to the natural coastal process.

The development does not alter, change or otherwise impact the safe access to and along the foreshore for members of the public.

The proposal is not expected to impact on any native marine vegetation, native fauna, habitats or waterways. This is confirmed within the submitted BIA prepared by Paul Burcher.

Given the nature of the development, the small portion of the site that is within the Coastal Environment Area and the absence of existing native vegetation in the footprint, the proposed development is very unlikely to have an adverse impact.

The proposed development complies with clause 13(1) of the Coastal Management SEPP as the development is designed and sited to avoid any adverse impact of the kind referred to in such of the provisions in the subclause as are relevant to the proposal.

A Coastal Management SEPP coastal environment area extract depicting the site is provided at **Annexure 8**.

4.3.3 Coastal Use Area

The site is within the Coastal Use Area. As such, the provisions of the SEPP are applicable to the site. The controls pertaining to site within the Coastal Environment Area will be addressed below, in relation to the proposal.

The provisions of clause 14(1) of the Coastal Management SEPP are as follows:

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or

- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

The development does not impact access to the Pittwater foreshore. Shadow diagrams of the proposed development which accompany the development application demonstrate that virtually no additional overshadowing is created.

The development sits below the tree canopy. In accord with the DCP.

As discussed in section 4.4.11 ('View Sharing') of this document, the proposal will not result in any significant changes to existing views and thus will not, in our opinion, cause any significant view loss.

The development will not have any impact on the conservation of any known Aboriginal cultural heritage, practices and places because the site has not been identified as a potential Aboriginal Place or as containing an Aboriginal Object and is not listed in Schedule 5 to PLEP or within the NSW Atlas of Aboriginal Places.

Care and effort have been made during the design process to ensure visual bulk is reduced by facade articulation consistent with design. The scenic qualities of the coastal area will be maintained.

In our opinion, the development proposal is consistent with such of the provisions of clause 14 of the Coastal Management SEPP as are of relevance to the subject matter of the proposal.

A Coastal Management SEPP coastal use area extract depicting the site is provided at **Annexure 9**.

4.4 Pittwater Development Control Plan

4.4.1 Objectives

Pittwater Development Control Plan (PDCP) applies to the carrying out of development on the site.

The key aims of PDCP include aims relating to ecologically sustainable development as well as environmental, social and economic objectives.

The principal controls of PDCP relating to the development proposal are referred to and discussed below, to the extent to which they are relevant to the proposed development.

Development control plans contain **guideline** controls at best: see *Zhang v Canterbury City Council* (1999) 105 LGERA 18. This is enshrined in sections 3.42 and 4.15(3A) of the *Environmental Planning and Assessment Act 1979* (NSW), which are as follows:

3.42 Purpose and status of development control plans

(cf previous s 74BA)

(1) The principal purpose of a development control plan is to provide *guidance* on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:

- (a) giving effect to the aims of any environmental planning instrument that applies to the development,
- (b) facilitating development that is permissible under any such instrument,
- (c) achieving the objectives of land zones under any such instrument.

The provisions of a development control plan made for that purpose are not statutory requirements.

(2) The other purpose of a development control plan is to make provisions of the kind referred to in section 3.43 (1) (b)–(e).

(3) Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development. *[Our emphasis]*

4.15 Evaluation

(cf previous s 79C)

... ..

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

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be ***flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development***, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, ***standards*** include performance criteria. *[Our emphasis]*

Thus, any purported ‘requirement’ in PDCP is only a guideline and must be construed as such. It is **not** a statutory requirement.

4.4.2 Locality

The site is located in the Avalon Beach Locality.

In our opinion, the proposed development is generally consistent with the outcomes of clause A4.1 of PDCP.

The development proposal involves the demolition of an existing dwelling and erection of a new dwelling house. In our opinion, the proposed dwelling house will respond to the context in which the site is located.

The site is located on a sloping block, with the existing dwelling house being located at street level, for the most part. The proposed dwelling house will be situated nearly parallel to the front boundary of the site. Though the proposed dwelling will extend above street level, we note that the site is located on a sloping ridge and will therefore not have any significant visual impact on the neighbouring properties given the typography of the area, nor will it have an adverse visual impact from the street given significant proposed planting and the retention of mature trees.

Council raised concerns in the PLM that the non-compliant building height and front boundary setback proposed were not consistent with the desired character of the E4 'Environmental Living' zone for Avalon Beach. The redesign of the proposal to increase the front setback to 6.5m addresses this concern, while still maintaining visual privacy and solar access to neighbouring dwellings.

For greater detail, please refer to the architectural masterplans accompanying this development application.

4.4.3 Aboriginal Heritage

Please refer to section 4.1.11 ('Aboriginal Heritage') of this document.

4.4.4 Endangered Ecological Communities

Control B4.7 of PDCP relates to the protection of the Pittwater Spotted Gum Forest Endangered

Ecological Community. As the site is mapped within a precinct that is identified as containing Pittwater Spotted Gum Forest, this clause is **highly** relevant to the proposal.

In accordance with the recommendations of Council's Biodiversity and Landscape Officers, the design has been amended to increase the front setback to the front building line in order to protect Pittwater Spotted Gums on the site, specifically Tree 5, and therefore reduce the environmental impact of the proposed development.

Furthermore, at least 80% of proposed new planting will be comprised of Pittwater Spotted Gum Endangered Ecological Community species, as required by this control. This includes the replacement of 3 Spotted Gums which must be removed during the construction process.

Furthermore, the proposal complies with the 60% landscaping control.

Please refer to the Biodiversity Impact Assessment Report, Arborist report, Landscape Plan and architectural drawings for greater detail.

4.4.5 Trees and Bushland Vegetation

As the site lies within biodiversity area and is listed within the Pittwater Spotted Gum Forest Endangered Ecological Community, control B4.22 is applicable to the proposal.

As aforementioned, the site is currently dilapidated and overrun with weeds. The proposed development will incorporate native landscaping with Spotted Gum listed species to improve and enhance the preservation of bushland on the site. Amendments to the proposal also make greater contributions to the preservation of significant native trees on the site.

To meet the recommendations of Council provided in the PLM Notes, a Tree Root Investigation and an Arboricultural Impact Report both accompany this development application and address these issues in further detail.

4.4.6 Stormwater Management

As the proposal involves construction of a new dwelling house, section B5.15 Stormwater of the PDCP applies to the site.

The proposal incorporates relevant stormwater management practices, specifically the provision of 2 rainwater tanks to achieve 6000L of water storage capacity.

Additionally, the works involve upgrading the relevant stormwater systems to ensure stormwater is managed in an appropriate way.

As the proposed increase of hard surface area is less than 50 sqm, no OSD is required.

Specifically, the hard surfaces areas are:

- Existing impervious area = 217.2 m² (31.1%)
- Proposed impervious area = 249.1 m² (35.7%)
- Net increase is 32 m² of impervious area.

Despite the proposal resulting in some (but not an appreciable amount of) additional hard surface area, the current stormwater trench and dispersal into Pittwater will be maintained as part of the development. The proposal meets the objectives of the controls and complies with its requirements.

Please refer to the stormwater plans for further details.

4.4.7 Access Parking and Traffic

In respects to control B6.1 'Access driveways and Works on the Public Road Reserve', a civil engineering plan has been prepared to address the concerns and design considerations outlined within the control.

As the proposal involves construction of a new internal driveway control B6.2, Internal Driveways, of the PDCP, must be addressed. The application has considered the objectives of the control and proposed works which are compliant with the relevant Australian standards that must be met.

Additionally, the new dwelling house will have provision for two off-street, secure car parking spaces. Off-street parking as required by Part B6.3 of PDCP is two spaces per dwelling (*not* being a secondary dwelling) with two bedrooms or more. The new parking arrangement is therefore compliant, functional and workable.

In our opinion, the proposed development is consistent with the relevant development controls of Part B6 of PDCP. For additional information please refer to the architectural plans and the civil engineering plans prepared by NB consulting.

4.4.8 Excavation and Landslip Hazard

As mentioned in section 4.1.7 ('Earthworks') of this document, the development proposal involves minimal excavation. Further, though the site is on sloping land, it is not identified to be affected by landslip hazard.

As such, a geotechnical report has not been prepared as regards the development. Nevertheless, care and diligence will ensure the continued stability of the site.

4.4.9 Erosion and Sediment Management

Appropriate erosion and sedimentation management measures, so as to ensure that there is low impact in terms of runoff with a view to meeting the controls contained in Part B8.2 of PDCP, are included as part of the development application.

Please refer to the *Erosion and Sediment Control Plan* for further information.

4.4.10 Waste Minimisation

Waste generation as a result of construction works will be minimised and disposed of at an appropriate waste facility. Alternatively, or additionally, waste will be recycled and re-used on site to the maximum extent possible.

Please refer to the Waste Management Plan for further information.

4.4.11 Site Fencing and Security

Appropriate site protection will be undertaken during the construction stage of the development, so as to ensure public safety and the protection of the public domain, as required by Part B8.4 of PDCP.

4.4.12 Landscaped Area

Control D1.14 of PDCP requires the total landscaped area on land zoned E4 'Environmental Living' to be 60% of the site area. The proposed new dwelling house will result in a landscaped area of 60.50%, or a total of 422.24sqm.

At least 80% of new plants will be Pittwater Spotted Gum species listed to protect the Endangered Ecological Community.

The outcomes of Control D1.14 provide as follows:



- Achieve the desired future character of the Locality.
- The bulk and scale of the built form is minimised.
- A reasonable level of amenity and solar access is provided and maintained.
- Vegetation is retained and enhanced to visually reduce the built form.
- Conservation of natural vegetation and biodiversity.
- Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.
- To preserve and enhance the rural and bushland character of the area.
- Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

The design offers a built form compatible with the surrounding environment and neighbourhood. The proposed dwelling house demonstrates aspects of appropriate contemporary sustainable design that will allow it to blend seamlessly with the local environment. The proposal will retain amenity and solar access for residents and neighbours to the highest possible degree.

The proposal makes significant improvements to the currently dilapidated and weed-strewn landscaping on the property. The proposal seeks to retain significant mature vegetation and, when completed, will deliver a more aesthetic and accessible space that more effectively compliments the character of the streetscape.

The proposed erection of a new dwelling house will achieve the needs of the occupants, without additionally disturbing the site itself. Indeed, as a result of the carrying out of the proposed landscaping works, the existing natural landscaping of the site will be further enhanced.

Stormwater runoff, soil erosion and sedimentation will be reduced through the provision of appropriate landscaping. Trees with significant root structures will be retained.

Site landscaping also allows for infiltration and stormwater management through a semi-impervious driveway and a high percentage of soft landscaping.

As aforementioned, the proposed development will protect and support the Pittwater Spotted Gum Community.

In our view, the application complies with the control.

For further detail, please refer to the Landscape Plan, Biodiversity Impact Assessment and Arboricultural Impact Report that accompany the application.

Annexure 10 shows Landscaped Area per the PDCP.

4.4.13 View Sharing

The proposed development will not materially affect views from any neighbouring properties.

The nature of the sloping site, as well as the existing natural landscaping (which is to be further improved through extensive weed removal), ensures that existing views from adjoining properties are maintained.

Due to the orientation of 221 Hudson Parade Clareville (the property to the rear), and its living spaces and windows, the current proposal isn't expected to impact on the right to adequate view sharing. The property has an aspect towards the south, looking across refuge cove whilst the aspect of 9 Wandeen Road is north towards Tailors Point. There will be no significant impact on view corridors.

As regards neighbouring properties at 219 Hudson Parade & 13 Wandeen Road we note the

development has been designed to provide generous side setbacks, and a compliant front setback to maintain view corridors to the north. The corresponding east and west aspects maintain adequate separation for appropriate view sharing of Pittwater. No 13 Wandeen Road is situated on the high side of the slope and views will not be impacted due to the gradient variance.

The adjoining and adjacent properties will maintain water views of Tailors Point and the greater Pittwater Basin.

In our view, the application is consistent with the planning principle established within *Tenacity Consulting v Warringah Council (2004) NSWLEC 140* ("Tenacity").

Should Council require a further view sharing assessment in accordance with the *Tenacity* view loss principles the applicant is more than happy to prepare same.

Please refer to the architectural masterplans for greater detail, including detail on the window location of neighbouring properties.

4.4.14 Acoustic and Visual Privacy

The new dwelling is located away from the street, thus assisting in maintaining acoustic and visual privacy.

Given the topography of the site and the presence of existing vegetation, the proposed development does not result in any material privacy impacts to nearby neighbours.

Additionally, the proposal incorporates appropriate design solutions to ameliorate privacy issues associated with a new dwelling. These include, but are not limited to, the following solutions;

- All bedrooms are located towards the front of the site.

- Appropriate landscape screening is proposed throughout the site. The proposed planting will achieve appropriate heights.
- High sill windows and window glazing have been proposed on relevant windows which may otherwise create an issue.
- Landscape screening is proposed.
- Generous side setbacks address visual and acoustic privacy concerns.

Privacy issues have been addressed through good design which is compatible with the locality and environmental setting.

In our view, the application is consistent with the Privacy planning principle set out in *Meriton v Sydney City Council [2004] NSWLEC 313 at 45-46*.

For additional information, please refer to the architectural drawings and the photographs of the site and the surrounding streetscape provided at **Annexure 3**.

4.4.15 Solar Access

Extensive balconies and windows to the northern facade provide for appropriate access to sunlight to living spaces (refer Part C1.4, PDCP).

The main private open space area on the second floor of the proposed dwelling house, all habitable rooms, and the proposed new balconies and alfresco area will all receive adequate solar access.

Furthermore, the surrounding dwelling houses will receive a minimum of 3 hours of sunlight between 9am and 3pm on 21st June.

Shadow diagrams accompanying the development application demonstrate that there will be virtually no impact in terms of increased shadow to adjoining residences.

In our view the application is consistent with the control.

4.4.16 Natural Environment

Native vegetation on the site will not be adversely affected by the proposed development when the proposed new landscaping is taken into account. The development proposal does not involve the construction of any permanent fencing on the site, in compliance with the controls contained in Part B4.7 of PDCP.

As required by Parts B4.7(b) and B4.22 of PDCP, an Arborist Report has been submitted. An Arboricultural Impact Assessment and Biodiversity Impact Assessment providing detailed information about flora/fauna accompanies the development application.

The Arboricultural Impact Assessment and Biodiversity Impact Assessment both support the proposed development. We defer to the recommendations outlined within these documents. The applicant will submit to any reasonable condition of consent.

Please refer to the AIA & BIA for more specific detail.

4.4.17 Eaves

The proposed dwelling house does not incorporate eaves given the design objectives of the architect.

Please refer to the architectural masterplans and elevations accompanying the development application.

4.4.18 Private Open Space

The proposed development includes private open space which exceeds the minimum requirements of 80 sqm in area and 3m in width (refer Part C1.7, PDCP).

The proposed 115.50 sqm of private open space is provided through the courtyard, outdoor entertaining area, balconies and an alfresco area with plunge pool.

As respects the use of the alfresco area and the plunge pool and the likely impacts resulting therefrom, the topography of the site, existing vegetation on the site and their elevation will limit overlooking and assist in the maintenance of the privacy both of the occupants of the proposed dwelling and of adjoining residential properties.

The application is compliant with the control. Please refer to plans accompanying the development application for greater detail.

4.4.19 Setbacks and Building Line

Part D1.8 of PDCP provides for a minimum front building line of 6.5m or the established building line, whichever is the greater.

The proposed dwelling house will be located entirely behind the 6.5m front building line. This is an amended element of the original design that changed at the request of Council following a PLM.

Given the circumstances where the existing dwelling house is only set back 3.1m from the front boundary, this is an appropriate improvement. Further, the more articulated design and planting along the front of the house offset the bulk of the proposed dwelling when viewed from the street and, in our opinion minimise impact in terms of streetscape character.

Part D1.9 of PDCP provides for a minimum side building line setback of 2.5m to one side and 1.0m to the other side, and a minimum rear building line setback of 6.5m (other than where the foreshore building line applies).

The proposed development is compliant with the side setback controls, with a generous eastern setback of 4.5m and a western setback of 4.42m.

In order to protect Spotted Gums at the front of the property and retain a consistent visual streetscape character, the proposed dwelling was moved back to encroach the notional rear building line by 2.71m. We note, however, that this marks an improvement to the current arrangement, in which the existing dwelling house encroaches into the rear boundary setback by approximately 2.9m. The encroachment will have a minimal impact upon neighbouring properties and the new dwelling house does not overlook neighbouring living spaces and is not intrusive upon any neighbouring windows.

The shadowing impacts of the rear building bulk will also be concentrated on undeveloped areas. We therefore submit that the proposed rear building line is both appropriate and justifiable in the circumstances, and does not degrade the overall merit of the proposal.

Please refer to the architectural plans accompanying this development application for further detail.

4.4.20 Building Envelope

Part D1.11 of PDCP seeks to ensure that new development responds to, reinforces and relates to the spatial characteristics of the existing natural environment with respect to streetscape, bulk, scale and form, and existing vegetation.

With the exceptions of the minor height exceedance addressed earlier in this document and the rear building line exceedance addressed above, the proposed development is consistent with the desired outcomes of this control. Generally, the design elements of the proposed

dwelling house will provide for modulation of the built form and a suitable overall bulk and scale.

In our opinion, the non-compliance does not impact upon the ability of the development to achieve the desired outcomes of this control of PDCP.

4.4.21 Building Facades

There are no service pipes external to the proposed building facades which are visible to any public places (refer Part C1.10 of PDCP).

Elevation plans of the proposed development accompany the development application.

4.4.22 Colours and Materials

A colours and materials scheme accompanies the development application.

The proposed colours and materials are consistent with Part D1.5 of PDCP, will be dark and earthy tones and will be aligned with the character of the locality.

5.0 KEY ISSUES

5.1 Height of Buildings

The proposed development exceeds the height control under clause 4.3 of PLEP. The maximum permissible height of a building on the site is ordinarily 8.5 metres.

In our opinion, height objectives are satisfied as respects the proposed development and a building height of 9.3m is justified in the circumstances.

We form this opinion on the basis of the following arguments:

- The natural slope of the site means significant excavation would be required for the dwelling to meet the height requirements and at the same time provide a level floorplate.

- The bulk of the proposed dwelling house has been moved behind the front building line, allowing the visual impact of the building to be minimised.
- The need to protect the endangered Spotted Gum trees reduces the developable area of the site, restricting the available floor size so that the needs of the future residents can only be met if greater floor space is provided at 1st floor level.
- The proposed building height does not create significant adverse shadowing impacts upon the habitable areas of neighbouring dwellings.
- The proposed development does not overlook windows or private spaces of neighbouring dwellings.
- Landscaping, setbacks, colours and materials of the proposed dwelling are designed to ensure that it complements the streetscape and is consistent with the desire character of the locality.

Please refer to the architectural drawings, as well as the clause 4.6 written request, accompanying the development application, for more specific detail.

5.2 Natural Resources

Sections 4.1.9, 4.4.4, 4.4.5 and 4.4.16 of this document address issues regarding natural resources surrounding the proposed development.

These sections addressed the primary concerns of Council raised in the PLM regarding the preservation of the Pittwater Spotted Gum Community and the protection of native vegetation.

The proposed dwelling has been moved toward the rear boundary of the site and therefore will not involve the removal of any Pittwater Spotted Gums, which will remain a salient feature of the property and of the streetscape.

Native vegetation on the site will not be adversely affected by the proposed development when the proposed new landscaping, which will be comprised of

species on the Pittwater Spotted Gum Endangered Ecological Community list, is taken into account. An Arboricultural Impact Assessment providing detailed information about flora on the site accompanies the development application. The assessment supports the proposed development.

5.3 Setbacks

The proposed development seeks to improve the setbacks to the front boundary. This amendment to the initial design better preserves key features of the Pittwater Spotted Gum Community and enhances environmental planning outcomes of the development such as visual aesthetics, building articulation, privacy, shadowing, protection of natural vegetation, bulk and scale.

The side setbacks proposed are compliant with the controls and ensure that adequate levels of privacy and solar access to neighbouring properties are retained.

The rear of the proposed dwelling encroaches upon the rear boundary setback line, yet makes a small numerical improvement upon the current setback conditions. Native landscaping will provide additional screening to neighbouring properties where appropriate. The articulation of the facade of the proposed dwelling house will also ensure that it is not visually dominant or unappealing from neighbouring dwellings.

Though the proposal will not meet the rear setback control, this departure does not prevent the proposal from meeting the objectives of the relevant PDGP controls and makes an improvement compared to the previous dwelling house.

5.4 Overshadowing

The bulk and scale of the proposed dwelling house will be in character with the neighbourhood and the streetscape. The use of appropriate setbacks allow overshadowing impact to be minimised.

Please refer to shadow diagrams and sunlight perspective drawings for additional detail.

6.0 CONCLUSION

This document addresses the statutory planning regime applicable to the development application and demonstrates that the proposed development involving the demolition of an existing dwelling house and construction of a new dwelling house on the site is permissible, compliant with the relevantly applicable development standards and other planning controls, generally consistent with the relevant guideline controls contained in PDCP, and appropriate in all the circumstances.

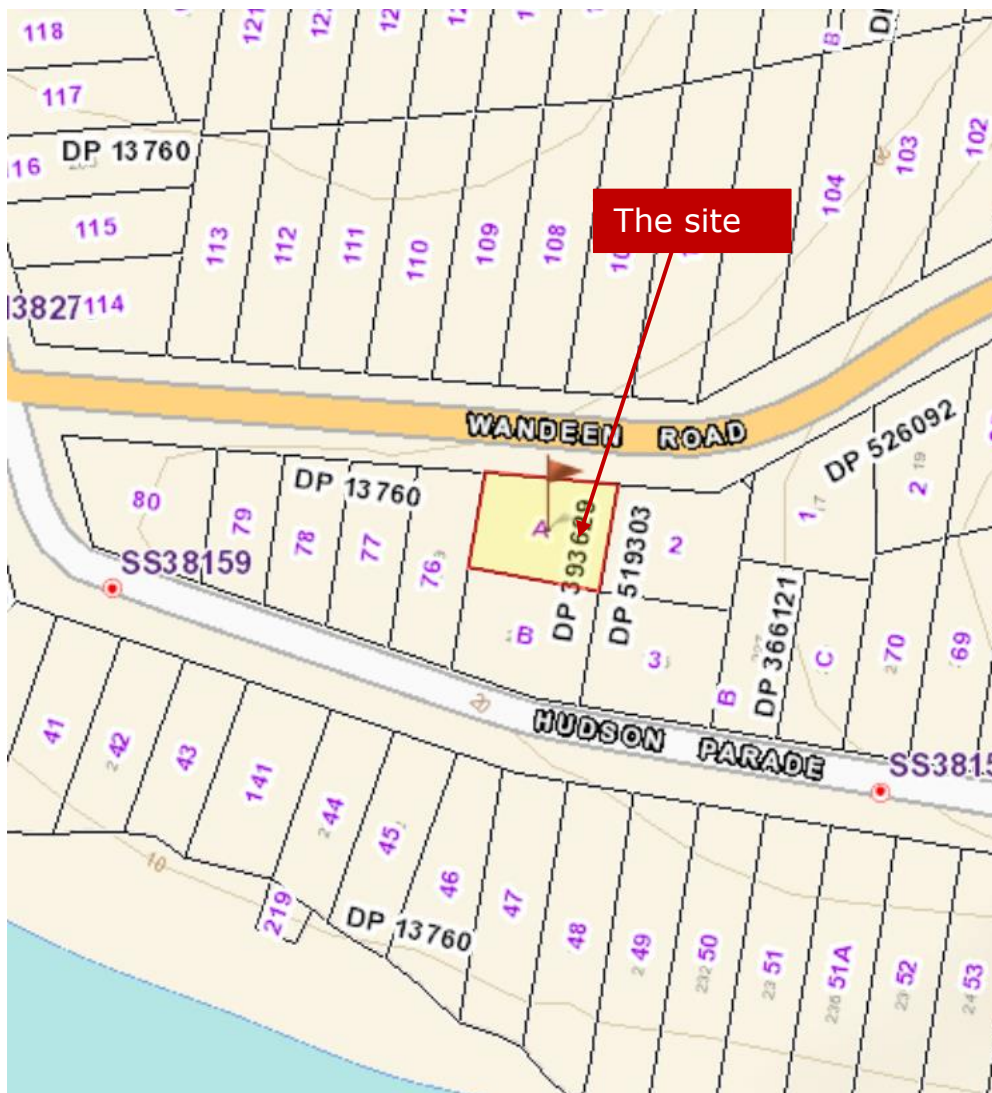
The proposed development has also taken into consideration, and indeed has been amended in light of, the concerns and recommendations of Council outlined in the notes for PLM2020/0220, specifically in the siting of the proposed dwelling, the preservation of the Pittwater Spotted Gum Community and in addressing overshadowing impacts.

The heads of consideration contained in section 4.15 of the EPAA have been examined and considered to the extent to which they are relevantly applicable to the proposed development and, in our opinion, there are no matters which would prevent Council from granting consent to the proposed development in this instance, subject to the imposition of appropriate and reasonable conditions of consent.

In our opinion, the proposed development merits support from the consent authority and a grant of conditional development consent.

ANNEXURE 1

LOCATION PLAN



LOCATION MAP

EXTRACT FROM SIX MAPS



TOWN PLANNERS
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July 2020
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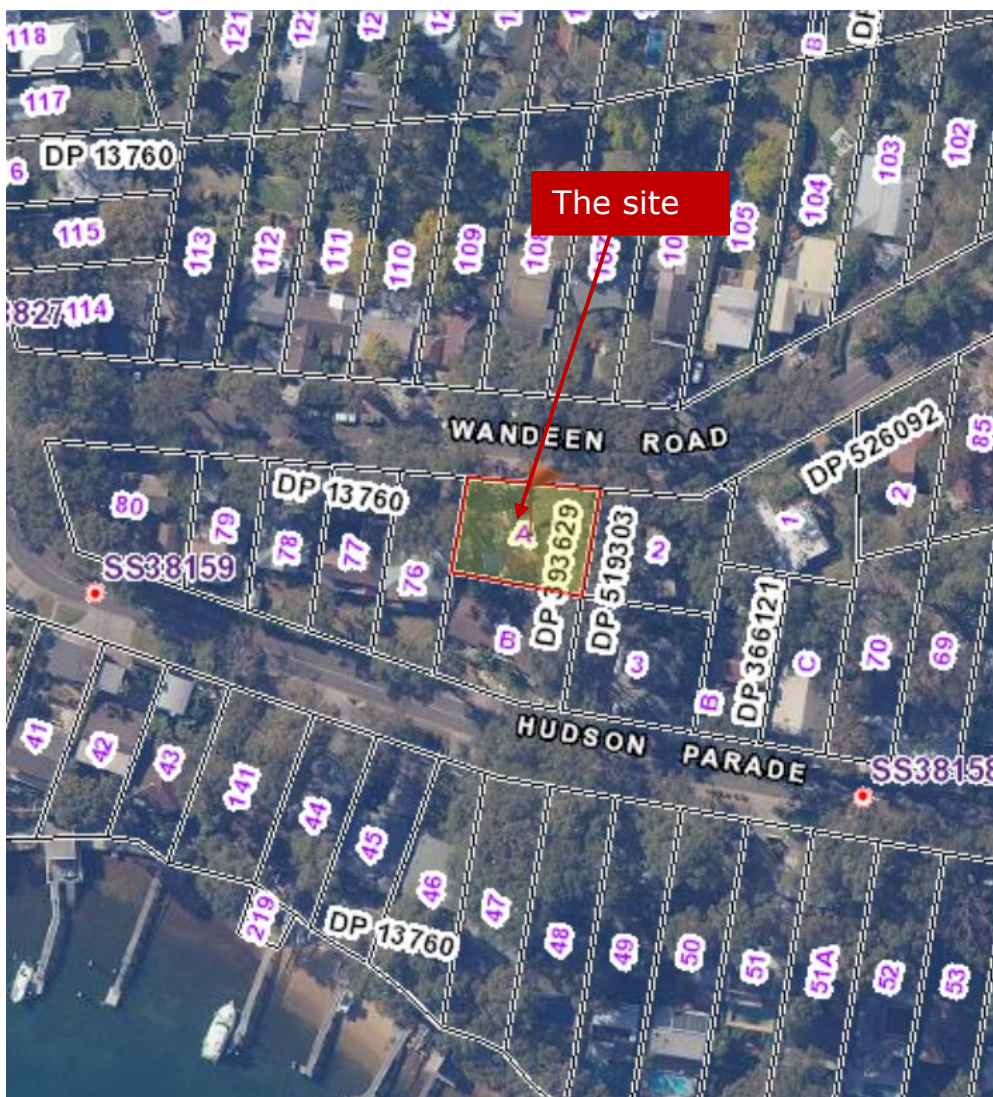
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Annexure 1

9 Wandeen Road
Clareville

ANNEXURE 2

AERIAL PHOTOGRAPH



AERIAL PHOTOGRAPH

EXTRACT FROM SIX MAPS



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ANNEXURE 3

PHOTOGRAPHIC PALETTE



Photograph 1 – The existing dwelling house at 9 Wandeen Road viewed from the driveway



Photograph 2 – The existing dwelling house at 9 Wandeen Road looking to the rear boundary



Photograph 3 – The existing dwelling house at 9 Wandeen Road looking east



Photograph 4 – view looking west along Wandeen Road



Photograph 5 –9 Wandeem Road viewed from 16 Wandeem Road



Photograph 6 – View of Wandeem Road with the subject property to the left



Photograph 7 – The existing dwelling house at 9 Wandeen Road, front view



Photograph 8 – Current streetscape 9 Wandeen Road

ANNEXURE 4

ZONING MAP (EXTRACT FROM PLEP)



ZONING MAP

EXTRACT FROM PLEP



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ANNEXURE 5

HEIGHT OF BUILDINGS MAP (EXTRACT FROM PLEP)



HEIGHT OF BUILDINGS MAP

EXTRACT FROM PLEP



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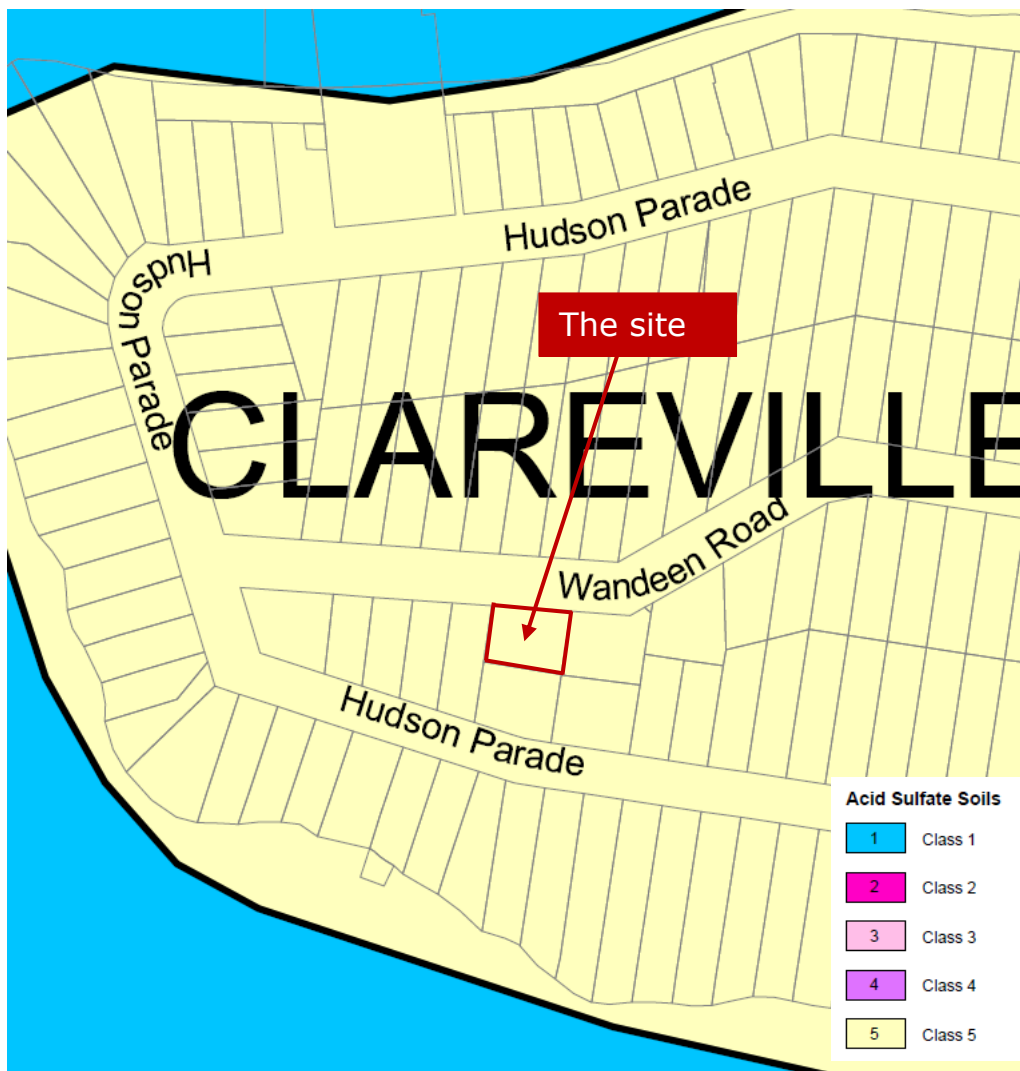
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ANNEXURE 6

ACID SULFATE SOILS MAP (EXTRACT FROM PLEP)



ACID SULFATE SOILS MAP

EXTRACT FROM PLEP



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Annexure 6

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ANNEXURE 7

BIODIVERSITY MAP (EXTRACT FROM PLEP)



BIODIVERSITY MAP

EXTRACT FROM PLEP



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Annexure 7

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ANNEXURE 8

COASTAL ENVIRONMENT AREA MAP (EXTRACT FROM
COASTAL MANAGEMENT SEPP)



COASTAL ENVIRONMENT AREA MAP

EXTRACT FROM COASTAL MANAGEMENT SEPP



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Annexure 8

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ANNEXURE 9

COASTAL USE AREA MAP (EXTRACT FROM COASTAL
MANAGEMENT SEPP)



COASTAL USE AREA MAP

EXTRACT FROM COASTAL MANAGEMENT SEPP



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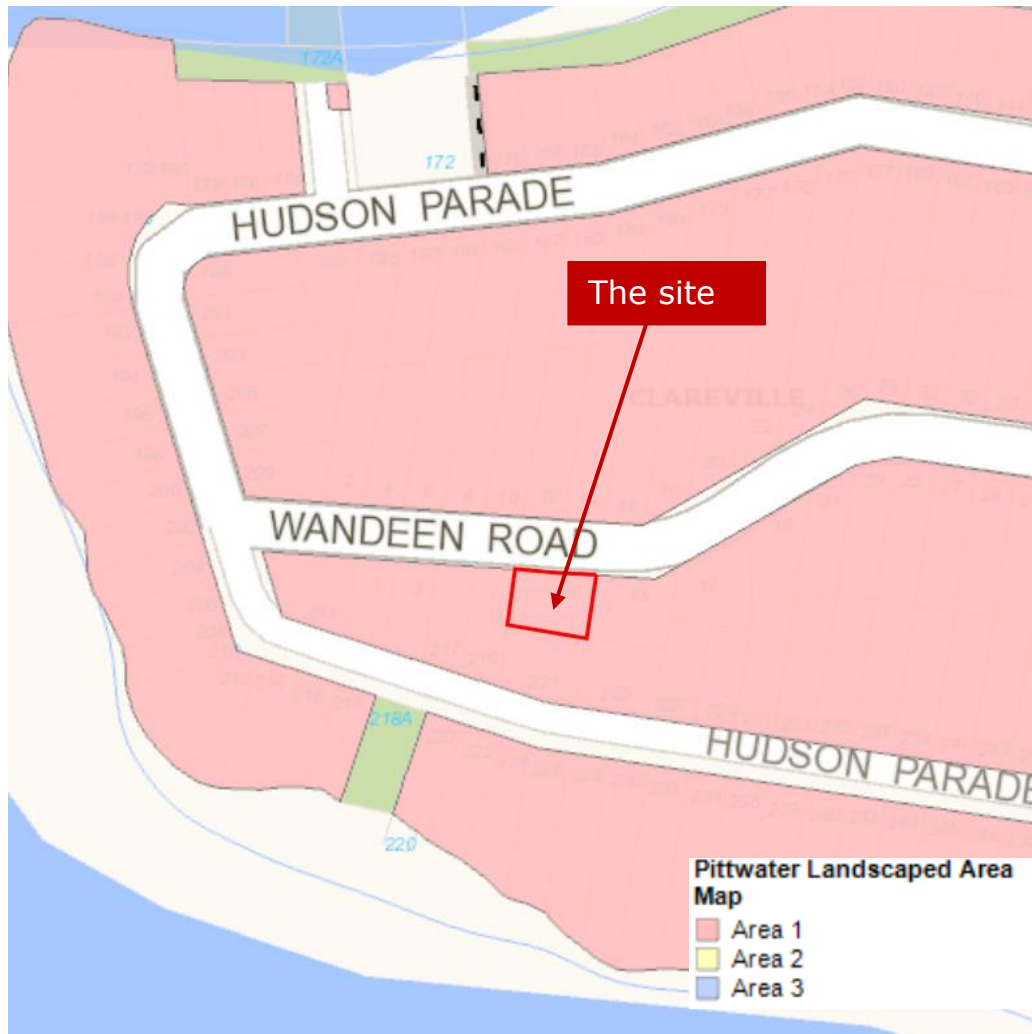
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Annexure 9

9 Wandeen Road
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ANNEXURE 10

PITTWATER LANDSCAPED AREA MAP (EXTRACT FROM
PDCP)



PITTWATER LANDSCAPED AREA MAP

EXTRACT FROM PDCP



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Annexure 10

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