



# BLACKWATTLE PLANNING

STATEMENT OF ENVIRONMENTAL  
EFFECTS

for construction of alterations and  
additions to an existing dwelling at

**40 Paradise Avenue  
Avalon Beach**

## Content

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- 1.0 Introduction
- 2.0 The site and its surrounds
- 3.0 Site Photos
- 4.0 Proposed Development
- 5.0 State Environmental Planning Policies
- 6.0 Pittwater Local Environmental Plan 2014
- 7.0 Pittwater 21 Development Control Plan
- 8.0 Section 4.15 Environmental Planning and Assessment Act
- 9.0 Conclusion

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## 1.0 Introduction

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This Statement of Environmental Effects accompanies a Development Application for alterations and additions to an existing dwelling at 40 Paradise Avenue, Avalon Beach (the site). The statement is prepared by Blackwattle Planning and relies upon the following documentation:

- Architectural Plans prepared by Tanner Kibble Denton Architects
- Survey Plan prepared by CMS Surveyors Pty Ltd
- Geotechnical Report prepared by CEC Geotechnical
- BASIX Certificate prepared by Efficient Living
- Arboricultural Impact Assessment prepared by Earthscape Horticultural Services
- Landscape Concept Plans prepared by Nelson Thomas
- Stormwater Plans prepared by Acor Consultants Pty Ltd

## 2.0 The site and its surrounds

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The site is known as No. 40 Paradise Avenue, Avalon Beach. The land is Lot 132 in DP 1010865 with an area of 1076sqm.

The allotment is irregularly shaped, having a very wide frontage and relatively shallow depth (east to west). An existing dwelling is sited close to Paradise Avenue, however the building footprint and levels are well below the level of the road. An access driveway is provided at the northern boundary of the site which traverses the neighbouring allotment, Lot 2 DP 635433 known as 40B Paradise Avenue which is owned by Northern Beaches Council.

The site is steep, and cut in along the front boundary to allow for appropriate levels for building. The western boundary is formed by the mean high water mark of the Pittwater waterway. The land between the dwelling and the waterway is steep and populated quite densely with canopy trees, including spotted gums.

Steep stairs and informal pathways cut into the hillside provide access through various parts of the foreshore area to the waterway, and to a boat house, boat ramp and jetty which is the subject of a license associated with the allotment.

Dwellings in the vicinity are on similarly steep sites and are variable in their siting relative to both Paradise Avenue and to their foreshore boundaries. The steep land often dictates the location and design of dwellings, together with the significant canopy.

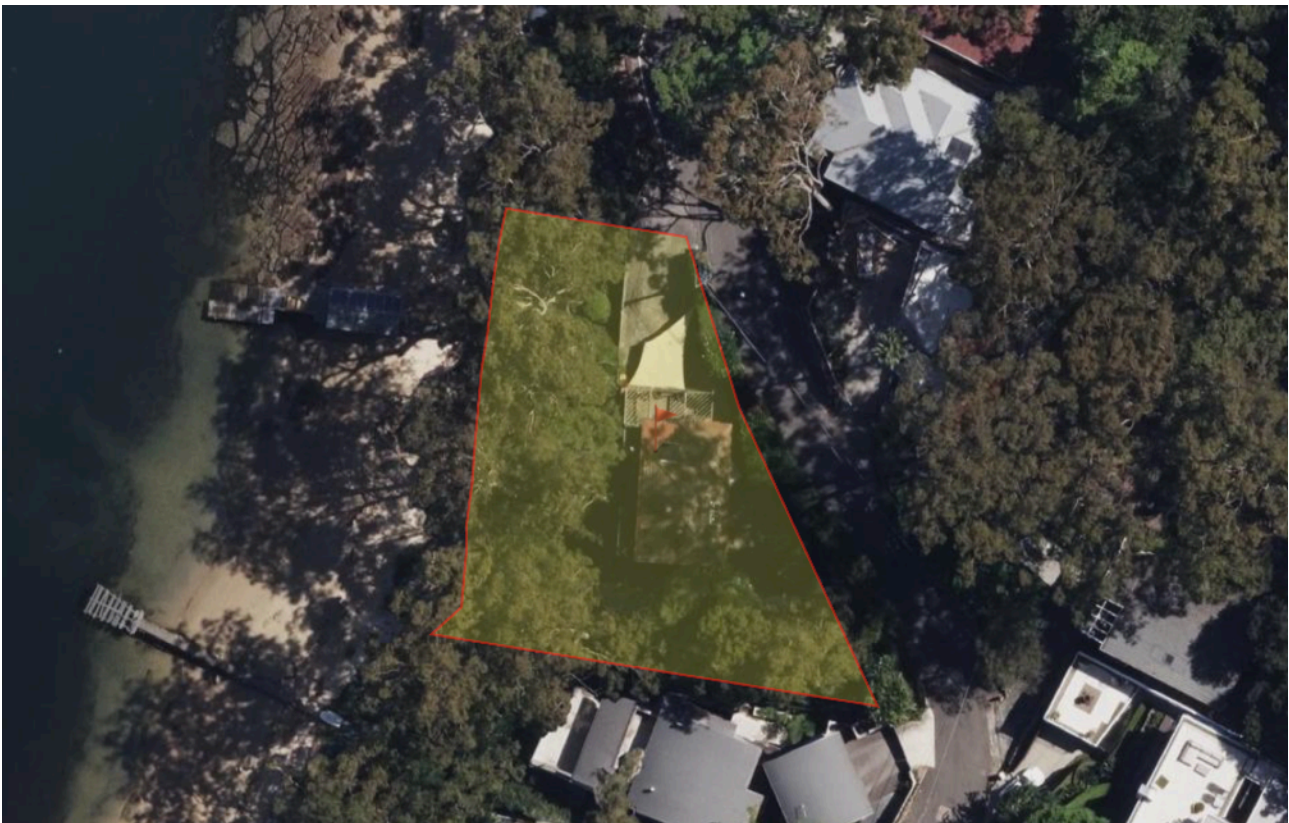
A 3m wide easement runs along the southern boundary for the purposes of draining stormwater.

To the immediate west the site is No. 40B Paradise Avenue, which is Council owned land. Its southern end which adjoins the subject site is generally vacant, vegetated, and falling very steeply towards the water. The land presents as being part of the road reserve. Further to the north, 40B Paradise Avenue facilitates waterfront dinghy storage and beachside public parking and access structures.

Taking in a large portion of the beach and waterway further to the north west is an allotment known as 40C Paradise Avenue, which contains a tidal swimming pool, also known as Paradise Beach baths. This is a listed local Heritage Item under Pittwater LEP 2014.

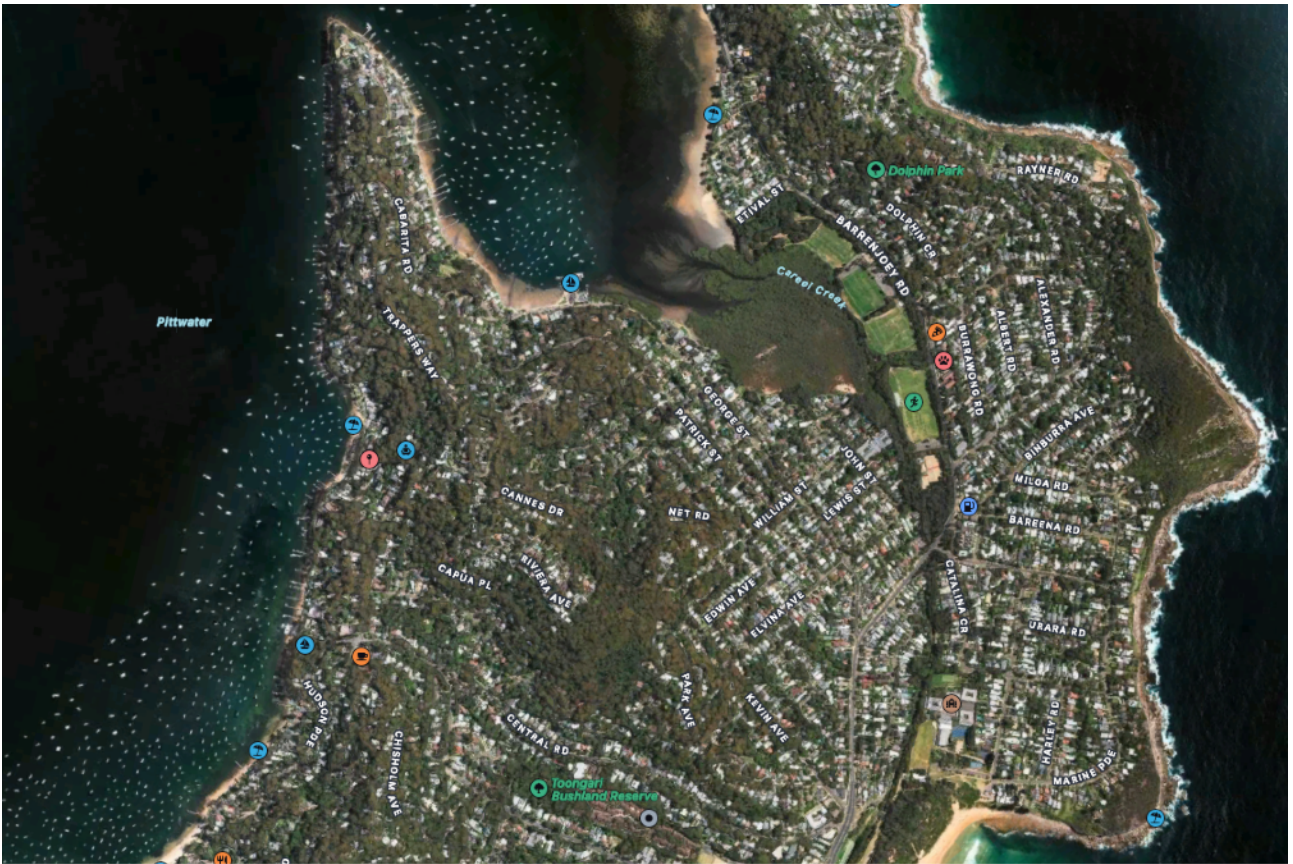
Immediately to the south of the development site is No. 36 Paradise Avenue. This dwelling comprises a structure over multiple levels. On the opposite side of Paradise Avenue are dwellings over two and three storeys which sit at significantly elevated levels looking west over the site to Pittwater and the Western Foreshores.

Aerial photos below identify the site within its immediate surrounds and wider locality.



**Figure 1:** No. 40 Paradise Avenue and immediate surrounds **Source:** Six Maps





**Figure 2:** No. 40 Paradise Avenue in the wider locality **Source:** Apple Maps



**Figure 3:** No. 40 Paradise Avenue **Source:** Northern Beaches Council Mapping



3.0 **Site Photos**

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**Figure 4:** West elevation of the existing dwelling **Source:** Blackwattle Planning



**Figure 5:** South elevation of the existing dwelling **Source:** Blackwattle Planning





**Figure 6:** Existing studio in the south east corner and No. 36 Paradise Avenue beyond **Source:** Blackwattle Planning



**Figure 7:** Existing dwelling as viewed from Paradise Avenue **Source:** Apple Maps



## 4.0 Proposed development

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The proposal comprises alterations and additions to the existing dwelling and outbuilding on the site.

The details of the proposal are as follows:

### Site

- Demolition of existing garage, part of driveway, existing deck areas, and existing studio
- No works are proposed to the existing waterfront structures on the site

### Lower Ground Floor

- Construct new driveway leading to double garage, laundry, and existing bedrooms
- Construct new west facing decks with stair access to rear yard
- Construct new stair access to foreshore area on southern side of site
- Construct new stairs/pedestrian ramp from front yards to street level

### Ground Floor

- Construct new living, dining, kitchen over garage
- Construct new main entrance linking living dining with existing floor space to be retained and utilised as lounge area
- Construct new master bedroom walk in robe and ensuite
- New west facing decks between northern and southern wings of the dwelling.
- Construct new home office in place of existing studio in generally the same location

The existing driveway on the site traverses the neighbouring reserve land for a distance of approximately 6m and encompassing an area of approximately 16sqm. The land upon which this portion of the driveway is located is owned by Northern Beaches Council. Works to this land are unable to be approved under Part 4 of the EP & A Act 1978. Maintenance works to the driveway are approved under a separate permit (Booking Reference Number: IB54072) and do not form part of this application.

## 5.0 State Environmental Planning Policies and Biodiversity Conservation Act

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### 5.2 Biodiversity Conservation Act

The site is mapped on the Biodiversity Values Map, as follows:



**Figure 8:** Site outlined in yellow. Purple area is mapped under the Biodiversity Values Map

**Source:** Planning NSW Spatial Viewer

Accompanying this application is an arborist report prepared by Earthscape Horticultural Services that assesses impacts upon 28 trees on the site. The assessment concludes that three trees will require removal to accommodate the proposed development. One of these trees is an exempt species (Frangipani) but will be relocated on the site.

We are advised that the remaining two trees (Black Tea Tree and Water Gum), are of low retention value and do not form part of a Plant Community that would trigger the need for a BDAR given their proposed removal. Replacement planting is possible, however given the large number of canopy trees already on the site, the arboreal assessment does not consider it necessary in this instance.

### 5.1 SEPP (Resilience and Hazards) 2021

#### Chapter 2 Coastal Management

#### Division 3 - Coastal Environment

The site is mapped as being within the Coastal Environment Area as mapped below:





**Figure 9:** Map of Coastal Environment Area. Site outlined yellow within the CEA, shaded blue **Source:** Planning NSW Spatial Viewer

Section 2.10(1) of the this Division requires Council to consider whether the proposed development will have adverse impacts in relation to specific matters relating to the Coastal Environment Area (*italics below*). The proposed design demonstrates that no such impacts will occur, as follows:

*(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

The proposed works are predominantly limited to the already disturbed part of the site, well removed from the sensitive foreshore environment. Investigations have been undertaken in relation to geotechnical and stormwater considerations on the site to validate that impacts have been minimised in these areas and that the integrity and resilience of the site will be maintained. Renewed landscaping on the site results in a net increase in native and locally native plantings which will enhance ecological value of the site.

*(b) coastal environmental values and natural coastal processes,*

All proposed works are to be undertaken well above and some distance away from the sensitive foreshore area adjoining Paradise Beach. The western face of the proposed Level 1 construction is almost wholly behind the foreshore building line and approximately 8.5m from the Mean High Water Mark. There is substantial separation of the primary works to the beach environment through both distance and elevation. Works within the foreshore area involve rebuilding and making good the existing waterfront access stairs. Council can be satisfied that environmental values and coastal processes will not be adversely affected.

*(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,*

The site is not in the vicinity of a coastal lake identified in Schedule 1 of the SEPP and this Clause does not apply to the site.

*(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

Being some 8.5m from the foreshore and greater than 9m higher in elevation than MHW, Council can be satisfied that no adverse impact will arise for marine vegetation, or the native vegetation adjoining the southern boundary of the site. Existing high value native canopy trees are retained and protected. A net increase in locally native plantings is proposed, ensuring vegetation, fauna and their habitats suffer no adverse impact.

*(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,*

No changes to access arrangements along the foreshore and public beach reserve are proposed.

*(f) Aboriginal cultural heritage, practices and places,*

The site has been the subject of previous work over many decades and the new additions will largely occupy the footprint of the existing dwelling and driveway.

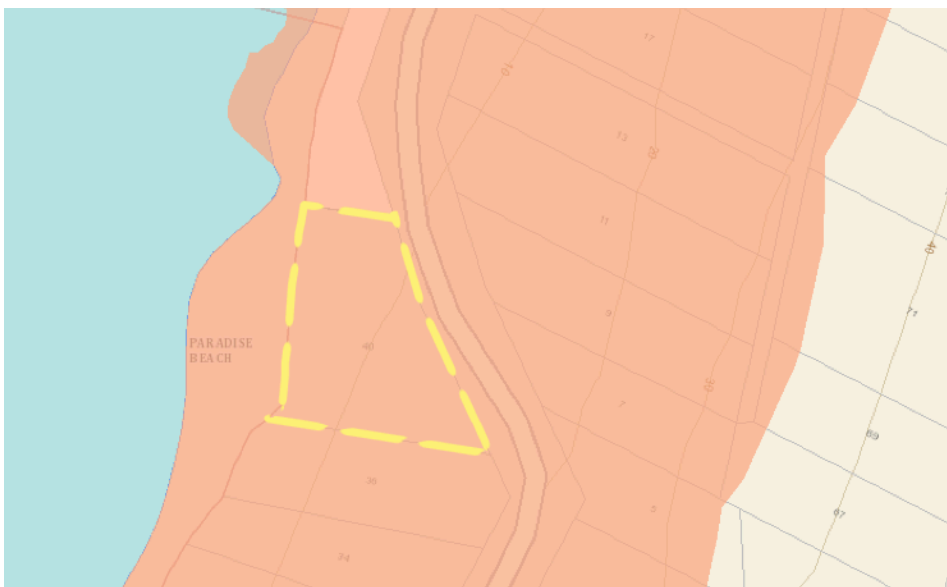
*(g) the use of the surf zone.*

There is no surf zone within this part of Pittwater.

Additionally, Council must be satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1). The above discussion addresses these matters in relation to the design, and Council can be satisfied there will be no adverse impact.

#### Division 4 - Coastal Use

The site is mapped as being within the Coastal Use Area as mapped below:



**Figure 10:** Map of Coastal Use Area. Subject site outlined yellow and within the Coastal Use Area, shaded orange  
**Source:** Planning NSW Spatial Viewer

Section 2.11(1)(a) of this Division requires Council to consider whether the proposed development will have adverse impacts in relation to specified matters relating to the Coastal Use area (*italics below*). The design demonstrates that no such impacts will occur as follows:

*(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

No change to access arrangements along the foreshore area or Paradise Beach itself will occur.

*(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*

Due to the setback of the works from the western boundary and its substantial elevation above MHW, shadows cast by the new pavillion and additions proposed will only fall on private property. No unreasonable wind funnelling is anticipated from the building which remains low profile and of modest footprint. Views from the public domain of Pittwater, Paradise Beach, and the western foreshore are generally retained, as the proposed new roof form sits lower than the existing roof form.

Both the existing and new roof ridges are substantially below those of the neighbouring dwelling at 36 Paradise Avenue, and are also below the level of Paradise Avenue itself as one moves south along the front boundary.

*(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*

The proposed design fits comfortably within the existing coastal character of the architecture in the vicinity of Paradise Beach. The massing of the proposed dwelling is substantially minimised by the modulation of the structure both horizontally and vertically. The dwelling will be unobtrusive as viewed from the water and from Paradise Beach as it sits low in the landscape, under the substantially canopy and considerably lower than other dwellings adjoining and nearby.

*(iv) Aboriginal cultural heritage, practices and places,*

The site has been the subject of previous works over many decades and the new additions will occupy the footprint of part of the existing dwelling and its driveway.

*(v) cultural and built environment heritage, and*

The site is not a listed item within PLEP 2014 or located in a Heritage Conservation Area. The heritage values of the nearby tidal swimming pool will not be impacted by the proposed additions as there is some considerable distance and intervening canopy between the site and the baths.

Additionally, Council must be satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (1)(a). The above discussion addresses these matters in relation to the design, and Council can be satisfied there will be no adverse impact.

Additionally under subclause (c), Council must take into account *the surrounding coastal and built environment, and the bulk, scale and size of the proposed development*. The extent of compliance of the design with applicable development standards and the DCP provisions and/or objectives indicates that the design is appropriate in relation to the bulk, scale and size of the surrounding development.

#### Division 5 - General

Section 2.12 of this Division requires Council to be satisfied that *the proposed development is not likely to cause increased risk of coastal hazards on that land or other land*.

The proposed works are located a significant distance and elevation from the sensitive foreshore and beach area. A risk report addressing landslip is provided that addresses these matters and provides recommendations to ensure the works are carried out with an acceptable level of risk on the land or adjoining land. The vertical elevation of the proposed works at >9.0m AHD above MHWL ensures that no estuarine risk hazards will adversely impact the site. Council can be satisfied that there is an acceptable level of risk relating to hazards as a result of the proposal.

#### Chapter 4 - Remediation of land

Chapter 4 applies to the land. Clause 4.6 requires that the consent authority must not consent to development unless:

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

The site has been utilised for residential purposes for an extended period of time and no change of use is proposed. The risk of contamination is low and there is no information suggesting the site may be contaminated. The consent authority can be satisfied that the land is suitable for the continued residential use.

## 5.2 **SEPP (Biodiversity and conservation) 2021**

#### Chapter 2 - Vegetation clearing in Urban Areas

Chapter 2 aims to protect biodiversity values and preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The proposed works are consistent with the provisions of the SEPP as no significant high value native trees are proposed to be removed. 3 trees are proposed for removal however 1 of these is an exempt species and an additional 2 trees are considered of low retention value. Additional native plantings are proposed on the site. Biodiversity values and overall amenity will be substantially improved as a result.

### 5.3 SEPP (Building Sustainability Index: BASIX) 2004

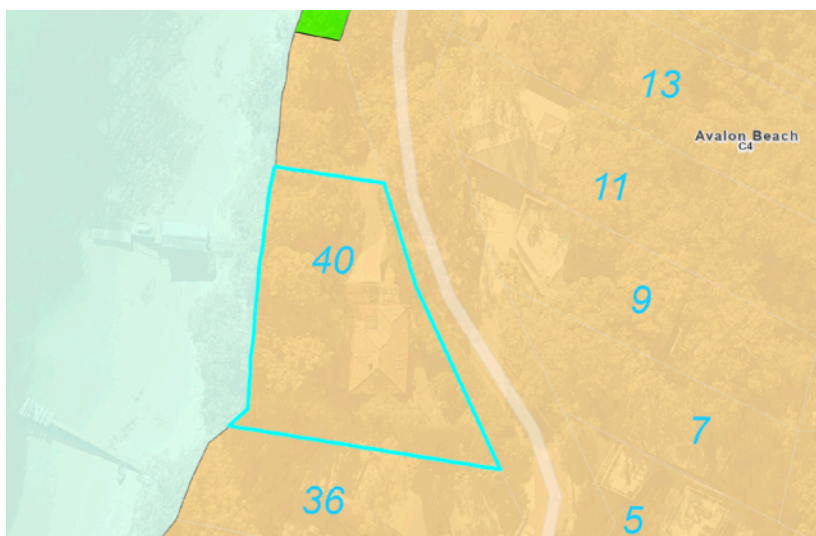
SEPP BASIX applies to the proposed works as they are defined as BASIX affected development under the EP & A Regulation. A BASIX certificate is provided.

### 6.0 Pittwater Local Environmental Plan 2011 (PLEP 2011)

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#### Land zoning and permissibility

The site is within the area to which PLEP 2014 applies. Clause 2.2 of the LEP zones the land C4 Environmental Living in accordance with the below Land Zoning map:



**Figure 11:** PLEP 2014 Zoning map showing the subject site, outlined blue, within the C4 Environmental Living Zone **Source:** Northern Beaches Council Mapping

Dwellings are permissible with consent within the C4 Environmental Living Zone as set out in the Land Use Table under Part 2 of PLEP 2014.

#### C4 Zone Objectives

The objectives the C4 Environmental Living Zone are met by the proposed development as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values; and*
- *To ensure that residential development does not have an adverse effect on those values.*



The proposal provides for additional floor space whilst minimising environmental impacts upon the land. The modest design retains valued view lines for neighbours and the public. The additions are sited in an already disturbed area and within a bushland context with a focus on retention of substantial existing native canopy. The proposal will not have adverse impacts upon the landscape context or the scenic qualities and view lines enjoyed by residents.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

The design works as much as possible with the existing structure on the site and proposes minimal excavation and land disturbance whilst providing the necessary floor space for the dwelling. The scale of the dwelling as viewed from the street, adjoining sites, and from the broader locality is modest as compared to the neighbouring dwelling at 36 Paradise Avenue and dwellings opposite the site, which sit higher and wider in the land and streetscape, and present substantially greater scale and bulk.

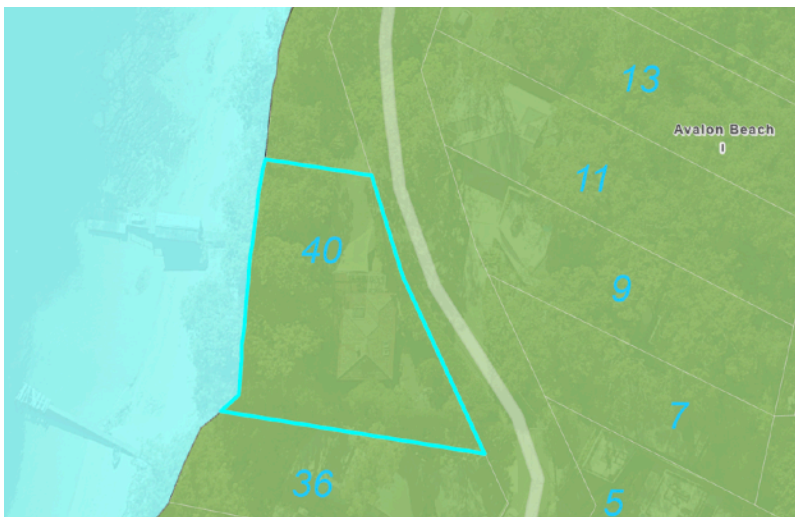
A landscape plan is provided demonstrating the integration achieved, with landscaping focusing on native plantings. Restricting new work largely to the existing dwelling and driveway footprint ensures that the substantial canopy on the site is retained as an integral part of the dwelling design and living experience.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The new pavillion occupies part of the existing dwelling footprint, extending a short distance down the site. The new works are approximately 8.5m from the western boundary adjoining the beach reserve. Native canopy is retained in this undeveloped area, except where of low retention value or exempt species.

## Height of buildings

The maximum Height of buildings for this site is 8.5m as indicated by the Height of buildings map pursuant to Clause 4.3 of PLEP 2014, reproduced below.

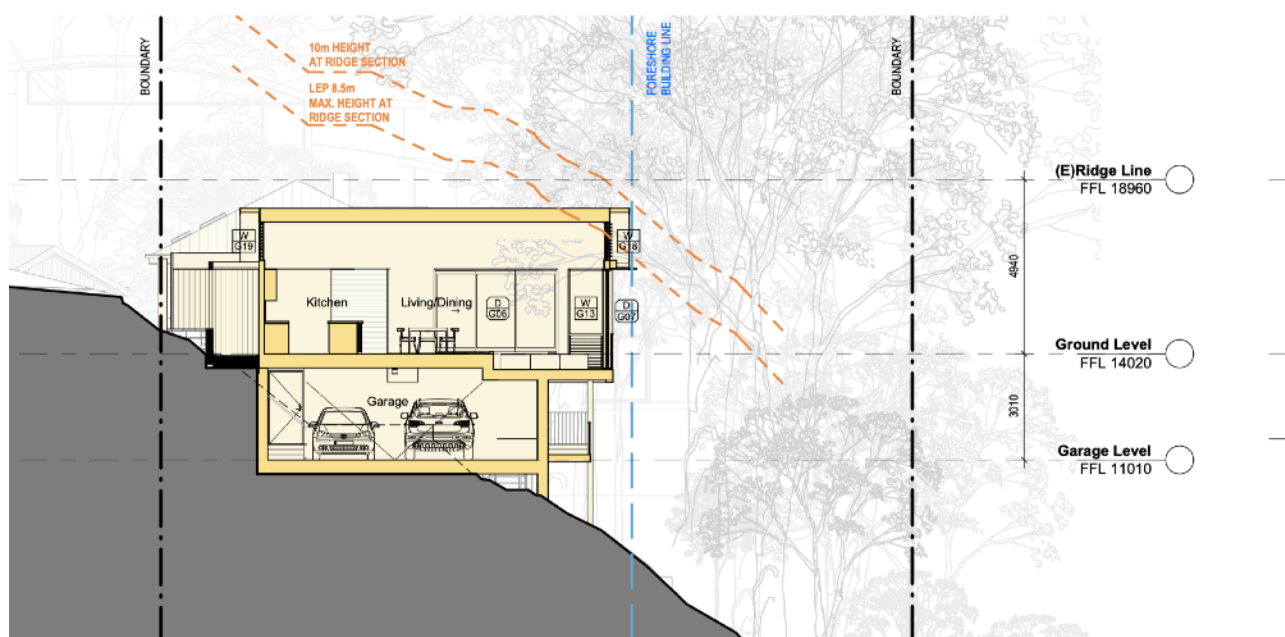


**Figure 12:** PLEP 2014 Height of buildings map showing the site, outlined blue, mapped as Category I, 8.5m maximum height **Source:** Northern Beaches Council Mapping

Overall, the proposed additions are largely compliant with the Height of buildings development standard of 8.5m. Only a minor amount of the structure exceeds the 8.5m height limit to a maximum of 10m, being the western apex of the new gable roofline. The additional height is attributed to a small portion of the gable end and eave, where the land below falls steeply away.

Notwithstanding this, the additions deliver a positive outcome for the site, the neighbours, and the locality and are significantly lower than the existing dwelling on the site as demonstrated below.

## Section 01



**Figure 13:** Section showing that the majority of the proposed additions remain under the 8.5m height limit and a minor breach of eave and roof line. **Source:** Tanner Kibble Denton Architects

Pittwater LEP 2014 Clause 4.3 (2D) provides that, despite the 8.5m height limit applying to the site, development may exceed 8.5m but not be more than 10.0m if certain criteria are met. The criteria (in italics and **bolded**) are provided below, together with an explanation of how they are achieved by the proposal.

***(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the [Height of Buildings Map](#) is minor, and***

The extent of the breach relative to the whole of the development is negligible and well expressed in the section drawing above, which indicates the 8.5m and 10m height lines. A minor portion of the gable apex and eave extend beyond the 8.5m limit. The projection easily meets the criteria of 'minor' when considered as a proportion of the new works proposed and relative to the whole development.

***(b) the objectives of this clause are achieved, and***

The objectives of Clause 4.3 Height of Buildings in PLEP 2014 (in italics below) and the manner in which the proposal meets these objectives is outlined below:

*(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

Pittwater 21 DCP provides a desired character statement in relation to the Avalon Beach Locality within provision A1.1. An analysis of this statement and the extent to which the proposed design is consistent with it is provided in a further section of this Statement. In particular, we note that the great majority of the proposed dwelling sits well below the 8.5m height limit and is substantially lower in scale than the neighbouring dwelling to the south.

*(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

The primary footprint of the additions and existing dwelling sit much lower and are significantly more modest than the dwelling immediately to the south at 36 Paradise Avenue, and dwellings opposite. The dwelling as proposed will present at a lower scale than many of the surrounding dwellings, which have up to four storey elevations facing downslope (west). From the street, the dwelling presents a single level.

*(c) to minimise any overshadowing of neighbouring properties,*

Shadow impacts are reasonable noting the optimal orientation (north to south) of the long axis of the dwelling. The northern elevation of the neighbouring dwelling to the south will receive more than compliant levels of sunlight from late morning until 3pm. The design of the additions also allows the dwelling as proposed to receive compliant levels of sunlight.

*(d) to allow for the reasonable sharing of views,*

Restricting the new roof lines of the addition to below the existing ridge lines ensures that new building elements do not project into the reasonable view lines of neighbours. Additionally, the observance of the foreshore building line restricts the western projection of the building ensuring that angled views to Pittwater from No. 36 Paradise Avenue are not impacted. A view sharing scenario is achieved noting generous side setbacks, a structure fully compliant with building envelope controls, and an overall restricted building footprint on the site.

*(e) to encourage buildings that are designed to respond sensitively to the natural topography,*

Whilst a small amount of excavation is required to ensure appropriate levels for building and access, the dwelling extends along the site contours rather than across them. Existing ground levels are retained where possible and especially in the vicinity of side boundaries. Utilising the existing development footprint on the site for the provision of additional floor space has ensured the additions proposed have minimal impact on the steep land and the native canopy it supports.

*(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items*

The design significantly breaks up the mass of structures through its modulation and varied building elements and roof forms. Integrating the two pavilion elements into a well developed landscape setting retaining substantial native canopy ensures that overall the design will positively contribute to the character of development adjoining Paradise Beach and be secondary to the natural elements of the visual catchment.

The above discussion demonstrates that the objectives of the Clause 4.3 Height of Buildings Development Standard are achieved as required.

***(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and***

The building footprint of the additions extends to the west over approximately 10m and falls 4.5m over that distance, resulting in a slope of approximately 45%.

***(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.***

The design runs along rather than across the contours and takes advantage of the generous width of the site. This ensures excavation is minimised and contained to generally within the existing developed areas on the site. Overall, on such a steep site with significant constraints to the developable area relating to the foreshore building line, the pavillion design works successfully with the topography and minimises excavation needed.

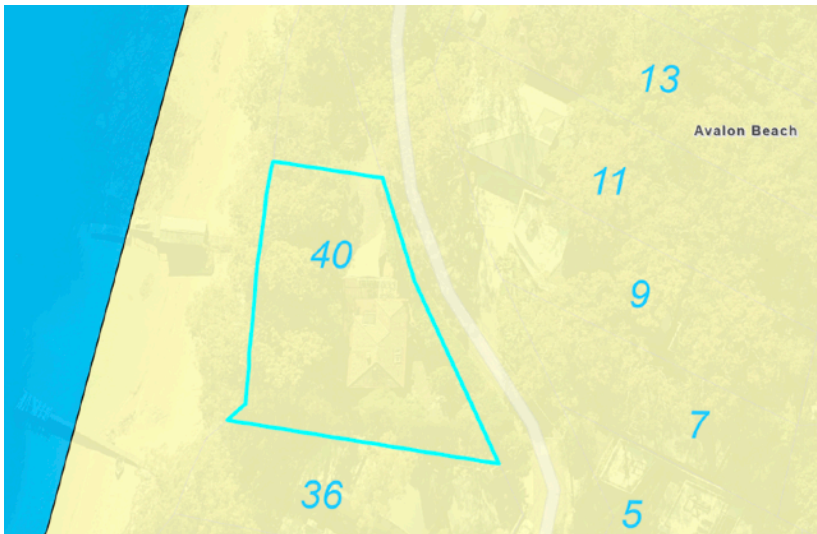
In summary, it is demonstrated that the criteria of Clause 4.3 (2D) are met by the development and the minor building form extending beyond 8.5m is appropriate and without unreasonable impact upon either neighbouring dwellings or the amenity of the Paradise Beach locality.

## **Heritage Conservation**

The site is not listed as a heritage item and is not mapped as being in a Heritage Conservation Area.

The Paradise Baths tidal pool to the north is the closest heritage item, however at a distance of approximately 50m away, and noting the substantial intervening native canopy, there is no likely impact on the heritage item from the proposed additions at 40 Paradise Avenue.

## Acid Sulfate soils



**Figure 14:** Acid Sulfate Soils map with site outlined in blue  
**Source:** Northern Beaches Council. Mapping

The site is classified as Class 5 on the Acid Sulfate Soils Map of PLEP 2014. The works proposed are not below 5m AHD and the water table is not likely to be lowered. An acid sulfate soils management plan is therefore not required.

## Earthworks

Earthworks are proposed for site preparation, footings and for the excavation required for the new garage. No detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land are anticipated as the excavation is generally within the existing built upon area.

## Biodiversity

The site is identified on the Biodiversity Map as being subject to the requirements of Clause 7.6 Biodiversity PLEP 2014. The map is reproduced below.



**Figure 15:** PLEP 2014 Biodiversity map showing the site unaffected by the mapped area (green) **Source:** Northern Beaches Council Mapping

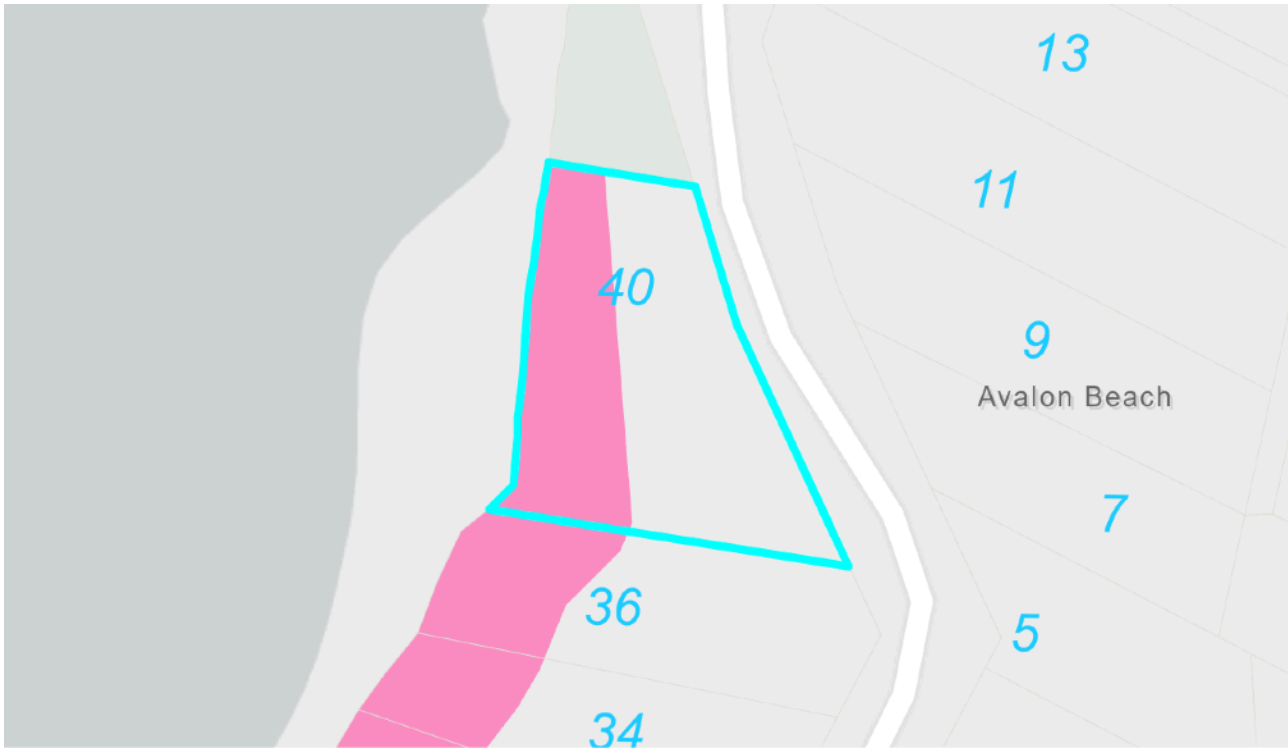


The substantial native canopy trees on the site are able to be retained and protected because the design has deliberately avoided proximity to root zones and encroaching into the foreshore area. Two native trees of low retention value are proposed to be removed, however these species are not part of an endangered plant community, and their replacement is not considered necessary by the arboreal report provided noting the substantial canopy being retained on site.

## Geotechnical Hazards

Clause 7.7 of PLEP 2014 identifies land susceptible to geotechnical hazard, i.e. land identified as Geotechnical H1 and Geotechnical H2 on the Geotechnical Hazard Map. The site is entirely mapped as being in Geotechnical H1 under this map, as reproduced below:





**Figure 17:** The mapped foreshore area comprises more than one third the site area of 40 Paradise Avenue, shown above. **Source:** Northern Beaches Council Mapping

Clause 7.8 of Pittwater LEP 2014 provides the following in relation to permitted development in the foreshore area:

- (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, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
  - (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).*

...

Works proposed in the foreshore area consist of

1. Minor reconstruction of existing retaining walls to allow for regrading and improved site stability, and maintenance as required to existing paths and stairs being retained. Native plantings are proposed to the waterfront access stairs and pathways; and,
2. A very minor extension of the eave and awning to the proposed new northern pavillion.

Item No. 1 above falls within the scope of subclause (a) and (b) of Clause 7.8 and is therefore permitted development. The existing cottage on the site does not currently encroach the foreshore area. The proposed negligible extension of the new roofline into the foreshore area is therefore a technical breach the development standard.

A Clause 4.6 request to vary the development standard accompanies this application and demonstrates that the relevant tests under Clause 4.6 are met by the proposed development and Council has the power to approve the development.

## Essential services

Essential services listed at Clause 7.10 of PLEP 2014 are available at the site.

## 7.0 Pittwater 21 Development Control Plan (P21DCP)

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Pittwater 21 DCP applies to the site and a summary of relevant development controls and the extent of compliance under this policy is provided below:

DCP Provision		Proposed	Compliance
A4.1 Avalon Beach Beach Locality	Consistent with Desired Character Statement	Consistent.	Yes
B1.3 Heritage Conservation - General	Potential for heritage significance	The existing dwelling does not meet the criteria for heritage listing, is not in a Heritage Conservation Area, and has no impact on the nearby heritage item (Tidal Pool)	Yes
B1.4 Aboriginal Heritage Significance	Potential for being an Aboriginal Place or containing an Aboriginal object	Works are restricted to the disturbed parts of the site. No landscape features indicate Aboriginal Heritage significance	Yes
B3.1 Landslip Hazard	Compliance with the Geotechnical Risk Management Policy for Pittwater	The site is mapped as being subject to the H1 geotechnical risk hazard and an assessment by a geotechnical engineer against the requirements of the policy is provided, with no adverse findings.	Yes
B3.7 Estuarine Hazard	Compliance with Estuarine Hazard requirements including a report addressing Estuarine Risk Management	As works are generally above RL 3.16 AHD, no hazard report is required.	Yes

DCP Provision		Proposed	Compliance
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	No significant or net loss in native canopy; Fencing shall allow the safe passage of native wildlife; Development shall ensure that at least 80% of any new planting incorporates native vegetation	Two low retention value trees are required for removal to accommodate the stormwater solution on the site. Substantial high value native canopy is retained on site and additional native vegetation is proposed. The proposed front fence will be passable by wildlife	Yes
B4.22 Preservation of Trees and Bushland Vegetation			Yes
B5.15 Stormwater	Compliance with Council's Water Management for Development Policy	A stormwater management plan is provided in accordance with Council's Water Management for Development Policy	Yes
B6.3 Off Street vehicle parking requirements	2 spaces Enter and leave in a forward direction where internal driveway gradients exceed 1:4	2 spaces provided  Check driveway gradients	
C1.1 Landscaping	All canopy trees and 50% other landscaping to be locally native	A landscape plan is provided indicating 51% of new plantings, and all canopy trees to be endemic o the Pittwater area	Yes
C1.2 Safety and Security	Consistent with CPTED principles	Passive surveillance of public spaces is retained in the design	Yes
C1.3 View Sharing	Reasonable sharing of views consistent with Planning Principle	No unreasonable loss of views will arise	Yes
C1.4 Solar Access	Dwelling and adjoining dwellings to receive 3hrs sunlight between 9am -3pm to POS; and windows to principal living areas.	No impact upon private open space or living areas of site or neighbours will arise	Yes
C1.5 Visual Privacy	Dwelling and adjoining dwellings protected from direct overlooking within 9m of POS and living rooms	Setbacks to side boundaries are in excess of 9m.	Yes
C1.6 Acoustic Privacy	Pool equipment appropriately housed; bedrooms located away from noise sources	Bedrooms appropriately located away from noise sources.	Yes
C1.7 Private Open Space	80sqm directly accessible from living areas, located at rear of dwelling with good solar orientation	No - approximately 50sqm directly accessed from living areas. Other areas provided well in excess of 80sqm	<b>No - See discussion</b>

DCP Provision		Proposed	Compliance
C1.12 Waste and Recycling Facilities	Demonstrate compliance with Waste Management Guidelines	No waste is generated by the structure	Yes
C1.14 Separately Accessible Structures	Permitted for use as a studio, home office, workshop area, rumpus room and the like, provided that it is ancillary to a dwelling; is not designed for separate habitation and does not contain any cooking facilities.	An existing separately accessible structure is proposed to be relocated to be outside the stormwater easement, and extended to provide a home office function in accordance with the policy.,	Yes
D1.1 Character as viewed from a public place	Design features to be provided to front building facade and building bulk minimised	The proposed additions are single storey when viewed from Paradise Avenue and are substantially hidden by vegetation on the for much of the streetscape due to building levels being below road level.	Yes
D1.5 Building Colours and Materials	Dark and Earthy tones. No white or light coloured roof or walls	Colours, materials, and finishes palette are in accordance with Council's requirements.	Yes
D1.8 Front Building Line	6.5m or established, whichever is greater	Encroachments into the 6.5m setback are both existing and proposed	<b>No - See discussion</b>
D1.9 Side and rear building line	Side building line - 2.5m and 1m	Setbacks to side boundaries are in excess of 9m	Yes
	Rear - Foreshore building line applies		<b>No - See Clause 7.8 in LEP and accompanying Clause 4.6 request for variation.</b>
D1.11 Building Envelope	3.5m + 45 deg measured from ground level on side boundary	All works are well within the required envelope	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	60% of the site area (645.6sqm) to be landscaped area	Proposed development results in a landscaped area of 640.2sqm or 59.5%. This is an improvement on the existing circumstance of 556.1sqm	<b>No - See discussion</b>
D1.16 Fences - Flora and Conservation Areas	Vegetation preferred to front fencing. Side and rear fencing to be passable by wildlife	Limited front fencing proposed, and all fencing passable by wildlife	Yes



## **Discussion**

### **A4.1 Avalon Beach Locality**

P21DCP provides a desired character statement to guide development in the Avalon Beach Locality within which the site is located. The proposed additions are consistent with the key elements of the character statement relevant to dwellings, as follows:

- *..a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.*

The proposal remains low density in the form of a single dwelling and presents as single storey to the street, the majority of which will sit below the level of the carriageway. The new roof forms are proposed below existing ridge lines and the linked pavillion design is interspersed with landscaping to ensure that the design is well integrated with the land and vegetation.

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

The proposal is almost entirely compliant with the 8.5m height limit. A small portion of the leading edge of the western gable end and awing breach the 8.5m limit due to the fall of the land towards its western boundary, however the proposed roof form is at a lower RL than the existing dwelling, and meets the relevant tests relating to the 10m height limit.

The design extends the existing cottage along the contours rather than across them and results in a dwelling which presents modestly to both the street and waterway.

- *Existing and new native vegetation, including canopy trees, will be integrated with the development.*

The additions have been sited to ensure that the substantial canopy on the site will be retained and protected. New native plantings are proposed which will enhance the landscape context for the dwelling within areas at the front of the site. The landscape design proposes an increase in locally native plantings surrounding the building footprint.

- *Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment.*

The additions incorporate significant recessing and projections, particularly when viewed from the water way and Paradise Beach. The design contributes varied materials, including those used historically in local beach houses together with contemporary alternatives and colours reflecting muted natural tones in the environment. The additions minimise the additional structure presented to adjoining neighbours and as viewed in the locality.

- *Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance.*

The design achieves this objective by restricting its footprint to being along the contours occupied by the existing cottage and driveway. This allows the development to remain outside the protection zones of the substantial locally native canopy on this site and to minimise overall disturbance.

- *A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land.*

The footprint on the site has been minimised and restricted to the already disturbed areas. Additionally, excavation of the site is limited to ensure existing ground levels are retained where possible.

- *As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

Avoiding disturbance of the substantial Pittwater Spotted Gum forest on the site has been a primary driver of the proposed design. A net increase in native and locally native plantings is proposed and habitat opportunities are enhanced on the site through these plantings as outlined in the landscape plan.

## D1.8 Front Building Line

P21DCP stipulates a front building line requirement of 6.5m measured from the front boundary, or established building line, whichever is the greater. Parts of both the existing cottage and proposed additions breach the 6.5m control due to the circumstances of the site, including the steep topography and the location of the foreshore building line. The existing cottage and new additions have a variable setback of up to 1.5m at the north eastern point.

Section 4.15(3A) of the Environmental Planning and Assessment Act provides the following (our emphasis added):

*(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—*

*...*

*(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*

*...*

Under subclause 3A, the Act requires the consent authority to be *flexible* in applying numerical provisions and allow reasonable alternative solutions that achieve the objects of the standard. The proposed development offers an alternative solution of a reduced front setback which is considered reasonable because:

- Requiring strict compliance with this control would be unreasonable given the steep levels on the site and the restrictive location of the foreshore building line. The remaining developable area once the 6.5m front setback, foreshore building line, and stormwater easement is accounted for is prohibitive to realising a reasonable development footprint on the site. Compliance is also not reflected in the current circumstances where the existing dwelling substantially breaches the front setback; and,
- The substantial amount of native canopy on the site has provided a significant constraint to locating a footprint for a reasonable extension of the existing cottage. The front setback area is already disturbed and excavated, such that additional floor area in this space is available without compromising the Pittwater Spotted Gum Forest. On balance, and noting the minimal impact arising, allowing floor space to breach the front building line is a preferred circumstance to extending the cottage elsewhere on the site that is highly populated by the endangered ecological community; and,
- The modest height of the new work, which sits predominantly below the level of the road, and will be almost entirely screened by roadside planting, allows the development to meet the objectives of the front setback control.

Despite the non-compliance, the design easily achieves the objectives of the DCP as they relate to front setbacks in the following way:

*Achieve the desired future character of the Locality.*

As outlined earlier in this statement, the desired future character of the locality as set out in Pittwater 21 DCP is achieved. In particular, we note that the additions have been sited to retain substantial native canopy, remain low in the landscape and predominantly below the road level, and limit their footprint to already disturbed areas on the site. The overall reduced height relative to the road, retained public and private views, and increased landscaping at the site frontage combine to create a building form that sits discreetly in the streetscape within a high quality landscape setting appropriate to the coastal context.

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

The non-compliant elements of the design are located at the eastern and north eastern parts of the site and will have no impact upon view lines from neighbouring dwelling to the south. Being substantially below the level of the road, dwellings opposite the site look over the top of the elements with the front setback ensuring no view impacts arise as a result.

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

The site does not adjoin a main road. The amenity of the development is enhanced by the proposed design, notwithstanding the non-compliance.

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

Substantial native canopy exists on the site and will be retained in the proposed development. The non-compliant elements of the design will remain in a high quality and well vegetated landscape setting, and will be screened by existing and proposed plantings on the front boundary. Additionally, the built form will sit low in the landscape because the existing ground levels are below the road level and so the built form will be less apparent from the public domain.

*Vehicle manoeuvring in a forward direction is facilitated.*

Manoeuvring in a forward direction is not possible noting the existing access location and footprint is being retained, however the structure is to be reconfigured to improve safety and sightlines at Paradise Avenue, which is a local and low volume road with no on street parking available in the vicinity of the frontage. The existing driveway cannot achieve entry and exit in a forward direction.

*To preserve and enhance the rural and bushland character of the locality.*

Significant native canopy is retained on the site which ensures the dwelling remains well integrated with the landscape setting of Paradise Beach.

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

Notwithstanding the building line breach, the dwelling presents as a single storey to Paradise Avenue. The new roof forms are reduced in scale compared to the existing cottage and represent a significant reduction in scale and building form when compared to adjoining and nearby dwellings. The height of the surrounding native canopy far exceeds the existing cottage and new additions, which will appear quite modest and unobtrusive in the streetscape.

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

By ensuring the new roof forms proposed are well below the RL's of existing ridge lines on the site, the additional structure will not dominate the streetscape or bushland content. Dark colours and earthy tones are proposed in the colour palette to ensure a discreet blending of the dwelling with the bushland context.

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

Steep topography in the immediate locality has resulted in a varied front setback to Paradise Avenue. The proposed additions maintain the existing access arrangements which allows the additions to site below the level of the roadway and deliver a development maintaining the modest scale when presenting to the street and to neighbours.

## D1.14 Landscaped Area

Pittwater 21 DCP requires 60% of the site area (645.6sqm) to be landscaped area. The proposal results in a landscaped area of 640.2sqm or 59.5%. This is an improvement on the existing circumstance of 556.1sqm. The variation is negligible and the variations clause permitting 6% of the site area to be included as landscaped area can be applied, bringing the proposed development well above the 60% minimum.

The provisions of this variations clause is as follows:

*up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

Notwithstanding the improved and near compliant level of landscaped area proposed, we provide the following discussion demonstrating that the development will easily satisfy the the relevant objectives of the DCP:

*Achieve the desired future character of the Locality.*

As outlined earlier in this statement, the desired future character of the locality as set out in Pittwater 21 DCP is achieved. In particular, we note that the additions have been sited to retain substantial native canopy, remain low in the landscape and predominantly below the road level, and limit their footprint to already disturbed areas on the site. The overall reduced height relative to the road, retained public and private views, and increased landscaping at the site frontage combine to create a building form that sits discreetly in the streetscape within a high quality landscape setting appropriate to the coastal context.

*The bulk and scale of the built form is minimised.*

Together with the modest additions, the amount of landscaped area provided substantially softens the presentation of the proposed development from the street, neighbours, and from the Pittwater waterway. The foreshore area is entirely given to the protection of the significant locally native canopy, and maintaining the existing hedge and plantings at the street frontage will screen the majority of the dwelling from the street.

*A reasonable level of amenity and solar access is provided and maintained.*

Restricting the development footprint on the site has resulted in a compliant and entirely reasonable level of amenity for both the occupants of the dwelling and the neighbours.

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

100% of the Pittwater Spotted Gum Forest is retained on the site, and substantial plantings are both retained and proposed within the front setback to provide a high quality and effective vegetated presentation to Paradise Avenue and to neighbours.

*Conservation of natural vegetation and biodiversity.*

100% of the Pittwater Spotted Gum Forest is retained and protected on site and additional locally native plantings provided to ensure the ecologically important vegetation and habitat is maintained.

*Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels; and,*

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

Maximum absorption opportunities are provided by the design, which utilises permeable structures for walkways where possible and stormwater is directed to the existing infrastructure with greater efficiency under the proposed stormwater management plans to be implemented.

*To preserve and enhance the rural and bushland character of the area.*

As discussed, the bushland character of the foreshore area is retained with minimal disturbance for maintenance works to access stairs and pathways. 100% of Pittwater Spotted Gum Forest is retained.

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

Pittwater 21 DCP requires inter alia a minimum of 80sqm of private open space per dwelling at ground level, with no dimension less than 3 metres. No more than 75% of this private open space is to be provided in the front yard.

The steep topography and constraints of the foreshore area make achieving this numerical standard difficult. Strictly applied, the proposal provides approximately 50sqm of private open space meeting the stated dimensions access from the living area. Other areas on the site however are available for private recreation, albeit they may not be directly accessed from a living area or be located under the substantial canopy.

The objectives sought by the policy in relation to private open space are as follows:

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

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

*Private open space receives sufficient solar access and privacy.*



Overall, the quantity and quality of the private open space provided on the site is high, and arguably of greater aesthetic appeal given the bushland context provided and views enjoyed. Sufficient solar access to west facing decks is available and readily accessed from living areas. High levels of privacy are achieved noting the elevation of the dwelling above the level of Paradise Beach. Despite the numerical non-compliance, the above objectives of the control are easily satisfied.

## 8.0 Section 4.15 of Environmental Planning and Assessment Act 1979

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### **Matters for Consideration**

Section 4.15 of the Planning Act requires that the following matters be considered:

#### **Any environmental planning instrument**

All relevant SEPP's and PLEP 2014 have been addressed in this statement.

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

There are no relevant draft instruments that apply to this land or the proposed development.

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

The provisions of Pittwater 21 DCP have been considered and addressed in this statement.

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

There is no planning agreement under s.7.4 of the EP & A Act that has been entered into or offered.

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

There are no relevant matters arising from the Regulation in relation to the proposal.

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

The likely impacts of the proposed works have been addressed in this document. The proposed works are unlikely to result in any significant or adverse impacts in relation to privacy for the site or for neighbours, impacts upon sunlight to the site and to neighbours, and view loss from neighbours or the public domain. The proposal is designed to be largely compliant with the provisions of Pittwater LEP 2014 and Pittwater 21 DCP.

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

The site is suitable for the ongoing residential use and for the works proposed. The proposal will fit comfortably within the sensitive coastal context of Paradise Beach, and limits its presence such that the building will remain secondary to the landscape.

### **The subject site is suitable for the proposed development.**

The site is zoned for low density residential development and the proposed works are permissible in the C4 zone and consistent with the zone objectives. The site is therefore considered suitable for the proposed development.

### **Any submissions made in accordance with this Act or the Regulations**

We understand that the application will be notified in accordance with Council's Community Participation Plan and that any submissions made will be taken into consideration as part of the Council's assessment.

### **The public interest**

Being consistent with relevant objectives of Pittwater LEP 2014 and Pittwater 21 DCP, and noting the positive contribution the proposal will make to the Avalon Beach locality, an approval of the proposed works is considered to be in the public interest.

## **9.0 Conclusion**

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The additions proposed to the existing cottage at 40 Paradise Avenue are respectful of neighbours and the sensitive coastal context, and will be a good fit for the community.

Given there are no detrimental effects on residential amenity or the environment, the development is considered to be consistent with the objectives of the EP&A Act and is worthy of Council's favourable consideration for Development Consent.

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