



STATEMENT OF ENVIRONMENTAL EFFECTS

FOR THE DEMOLITION OF THE EXISTING 2 STOREY
DWELLING AND CONSTRUCTION OF A PART 3
LEVEL DWELLING

AT No.41 MARINE PDE , AVALON

Prepared: June , 2016

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1.0

INTRODUCTION / BACKGROUND

This Statement of Environmental Effects accompanies a development application seeking Council's consent to demolish the existing 2 storey dwelling and the detached garage to facilitate construction of a new part 3 level dwelling.

The land is zoned Environmental Living (E4) under the provisions of Pittwater Local Environmental Plan, 2014 (the LEP) and the proposal which relates to the demolition of the existing site improvements and the construction of a new dwelling is permitted with consent, hence the lodgement of this Development Application.

The proposal cannot be classified as either 'Exempt' or 'Complying Development' under the State Government's Housing Code due to the site's environmentally sensitive classification.

The site has been deemed by Council to be potentially bushfire and landslip prone (H1 classification) and possibly contains acid sulphate soils. As required by Council's procedures, this application is accompanied by a bushfire threat assessment which concludes that subject to compliance with the recommendations contained therein the proposal will satisfy the relevant provisions of the Planning for Bushfire Protection - 2006 and AS 3959 Construction of Buildings in Bushfire Prone Areas - 2009. The geotechnical assessment also confirms that the landslip classification of the site is not an impediment to the proposal again subject to compliance with the recommendations contained in that report. In relation to acid sulphate soils the site has been classified as Class 5 land which is the lowest risk category and as confirmed later in this Statement this hazard classification also does not constitute an impediment to the proposal.

This Statement of Environmental Effects has addressed all of the various operational and environmental consequences of the proposal and concludes that the proposal complies with all of the relevant provisions and / or aims and objectives of the LEP and the Pittwater 21 Development Control Plan (the DCP). Further, that the proposed new dwelling will have no detrimental impact on the environment, the residential amenity of the local residents or the public's perception of the site within the streetscape context beyond the initial construction period.

In addition to the Council's planning controls, development of the site is also subject to 2 State Government planning controls, namely State Environmental Planning Policy No.71 – Coastal Protection and BASIX, 2004. This Statement will confirm that the proposal has no potential for a significant adverse impact upon the heavily vegetated character of the area due to the location, design and exterior finishes of the dwelling. The proposed supplementary landscaping and the construction management measures will also ensure that the proposal will have no adverse visual or physical effect within the Coastal Zone. The submitted BASIX assessment confirms that the specified water, energy and thermal comfort targets will be met.

Notwithstanding the site's hazard and environmental classifications and the above State Government planning controls, the proposal constitutes 'Local Development' and therefore can be determined by Council without the need to



refer this application to any State Government Department or Agency.

Accordingly, there is no impediment to Council granting consent to the proposal as submitted.



The site viewed from its road frontage. From this aspect the proposed part 3 level dwelling will be obscured by the dwelling shown in this photo, ie, No.39 Marine Pde, therefore there is no change to the streetscape as a consequence of this proposal.

Below, a view from the upper section of the existing driveway, the substantive vegetation to be removed is the 2m high creeper/vine highlighted. The pale blue dwelling to the left is located on No.43 Marine Pde.



The rear or southern facade of the existing dwelling, the Norfolk pine centre left of the photo and the Banksia to the left are both retained, the branching to the right is a tea tree which is also unaffected.



2.0 SITE DESCRIPTION

This application relates to Lot 6 in DP 553660, known as No.41 Marine Pde, Avalon.

The site is an irregular hatchet shape allotment with a 3.05m battle axe frontage to the street, the N/E side boundary has a dimension of 102.11m, while the S/E side boundary has a dimension of 60.04m along the access handle and 25.91 along the main body of the site, the rear boundary has a width of 48.73m and the irregular internal boundary separating this site from the property to the north (ie, No.39 Marine Pde) is 35.81m in length, this results in a total site area of 1,515m², (a copy of the site survey is provided over).

As confirmed by the aerial photo and the survey over, the existing dwelling occupies approx 75% of the main body of the site and is located on the higher part of the site, like many dwellings in this locality to maximise the available water and coastal views.

Pedestrian and vehicular access is limited to the street frontage via the brick paved and concrete driveway located in the 3m wide access handle, the proposed development will maintain these access arrangements.

The site boundaries are unfenced, like many in the locality, other than for a short section of brushwood fencing along the driveway adjacent to the dwelling at No.31 Marine Pde, this provides a privacy screen to that dwelling when viewed from the driveway. The proposal does not involve or require any boundary fencing.

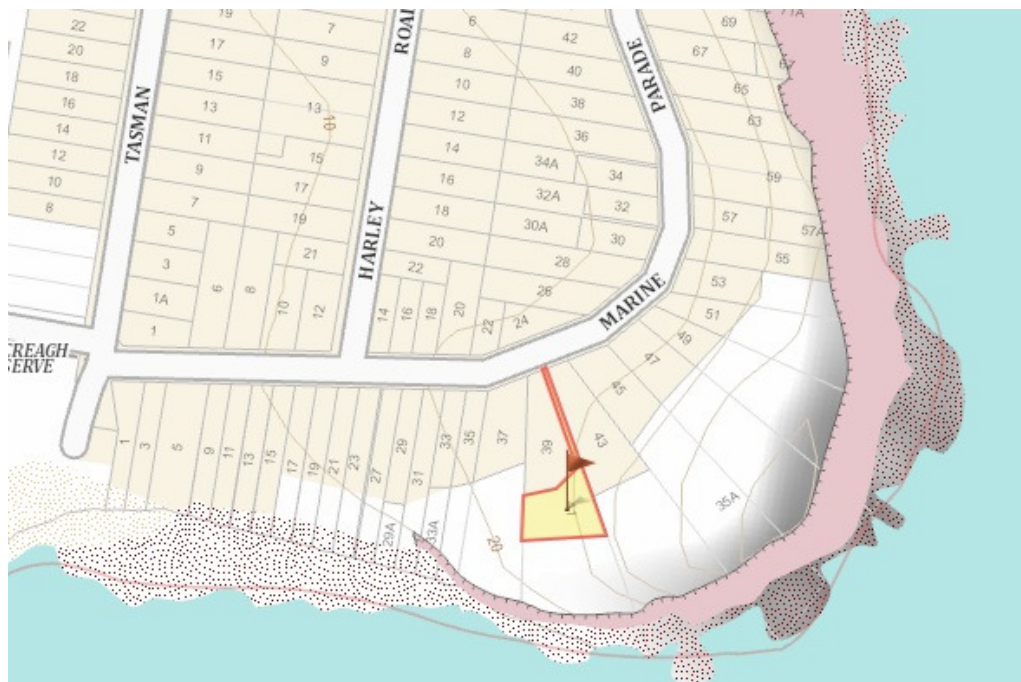
Consistent with the general topography in this locality the site has a consistent moderately steep N/W slope from the rear boundary to the front boundary with a significant and steep fall to the west S/W in the rear corner of the site. As confirmed later in this Statement the proposed dwelling design has regard to these topographic constraints with the proposed 3rd level being located largely within this natural depression and as such only contextually minor site excavation is required to facilitate the proposal.

As confirmed by the site survey and the aerial photo over, the southern and western sides of the main body of the site are densely vegetated with coastal heath vegetation supplemented by Norfolk Island Pines and a large Coastal Banksia, with prominent sandstone outcrops interspersed with this vegetation. The only vegetation to be removed are the heath plants located in the rear site depression and the 2m high creeper / vine shown in the photo on P.3 of this Statement located adjacent to the existing detached double garage which is to be demolished as part of this proposal. The survey plan indicates that there are 4 Norfolk Island Pines located on the site one of these (shown on P.22 of this Statement) has previously been approved for removal under the terms of Council's Tree Preservation Order on the basis that it was too close to the house foundations and this tree would be located within the footprint of the new dwelling. So essentially all of the existing significant trees, the heathland vegetation and the sandstone outcrops are to be retained as a consequence of the design of this new dwelling and the proposed supplementary landscaping shown on the concept plan lodged with this application will maintain and enhance the heavily vegetated character of the site and the area generally.



As confirmed by the photos attached to this Statement, surrounding development is a mixture of predominantly 2 storey stepped dwellings, with some newer part 3 level buildings like that proposed, these are of a varying age and architectural design. As indicated earlier these buildings are generally located on the higher parts of their respective sites so as to maximise the available Ocean, coastal and district views and are set within a landscaped perimeter. Under these circumstances I am able to conclude that the proposed dwelling will be consistent with the development in the locality.

Having regard to the site constraints and the streetscape characteristics, the primary design considerations were to accommodate the client's residential needs, create a built form which would be similar to that of the existing and surrounding dwellings which does not significantly intrude into the primary and peripheral views of surrounding development and which complied with the relevant Council planning controls. As discussed later in this Statement, the proposed dwelling achieves these objectives.



Locality plan with the site highlighted



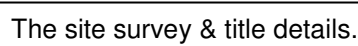
An aerial view of the site, highlighted, showing the location and nature of surrounding residential development.



A view across the rear of the site from within the foreshore reserve, even from this close viewing point the bulk of the dwelling cannot be seen, nor is it seen from the walkway at the base of the North Avalon headland.



A view over the site from the foreshore reserve to the N/E. All of the existing significant trees are retained other than for the one highlighted which has previously been approved for removal.





The site viewed from the southern end of Avalon Beach.



The site viewed from the northern end of Avalon Beach.

The visual prominence or the perceived bulk & scale is one of the primary considerations associated with this proposal and whilst the site has panoramic views over the ocean, the beach and the coastline beyond the visual prominence will be significantly minimised by the retention of the existing trees, the proposed supplementary planting and the proposed exterior building finishes & colours and the building will continue to be read against the vegetated hillside. Further as these photos indicate the perceived bulk & scale of the proposed dwelling which is only marginally higher than the existing is negligible and will be less than that of most of the other dwellings on this escarpment



The view over Nos.39 & 37 Marine Pde looking to the N/W from the ground floor of the existing dwelling. All of the vegetation will be retained and supplemented by the proposed landscaping.

A view to the north N/W over Nos.39 & 37 Marine Pde from the ground floor terrace located in the S/W corner of the existing dwelling. The S/W views from No.37 Marine Pde (highlighted in this photo) over Avalon Beach and the coastal foreshore will be retained due to the height and relative location of the proposed dwelling.



Looking to the west across the rear of the adjacent properties from 1st floor level within the existing dwelling. All of this vegetation other than for the pine and the lower heath vegetation are to be retained.

Looking to north N/W from 1st floor level of the existing dwelling. The extent of overlooking from the proposed dwelling of these yard areas will be less than that existing due to the number and design of the windows on this elevation and the fact that there is no 1st floor external terrace / balcony.





3.0 THE PROPOSAL

This application seeks Council's consent to demolish the existing 2 storey dwelling and a detached garage to facilitate construction of a new part 3 level dwelling and an attached garage.

Vehicular & pedestrian access to the site is via a 3m wide concrete driveway located in the approx 70m long access handle, no changes are proposed to this access arrangement.

The proposed dwelling is to be located in the rear yard and pedestrian & vehicular access would be gained from the existing driveway.

The proposed building footprint is similar to that existing however the new dwelling will be further back from the rear cliff edge with an extension in the S/W corner of the site which involves excavation to a maximum depth of 3m.

Within the site and project context the extent of excavation is minimal as the majority of the works occur on the flatter parts of the site and excavation in these areas is limited to shallow footings for the proposed perimeter walls of the new dwelling and the associated garden walls. As indicated earlier all of the substantive trees and shrubs on the site are to be retained and supplemented by the proposed landscaping detailed on the concept landscape plan.

Off-street parking is currently provided for 2 vehicles in a detached garage, the proposal will replace this with an attached double garage at the eastern end of the new dwelling. Visitor parking / a turning area is available to the east of the existing garage, this opportunity is replicated in front of the proposed double garage.

In detail the proposal involves :-

At the lower level in the S/W corner of the site –

- a plant room to accommodate the rainwater storage tanks, the static water supply tanks required to assist in the fighting of bushfires, the air conditioning plant and the hot water unit
- 2 bedrooms and a shared bathroom
- a cellar
- a second lounge room which could double as a spare bedroom
- an internal stairway which services the upper levels of the building
- the base of an internal passenger lift, which services the upper levels of the building

At ground floor level –

- an internal stairway which connects to the upper & lower levels of the building
- an open plan kitchen / dining & lounge room
- a pantry, storeroom and a wall recess for a day bed
- the passenger lift which services the upper and lower levels of the building



- 2 studys
- a hallway & entry foyer
- a laundry & W/C
- the attached double garage with storage & plant room recesses and the garbage receptacle storage area

At 1st floor level –

- the master bedroom & en-suite
- 2 walk-in wardrobes
- the passenger lift which services the lower levels of the building
- an internal stairway which connects to the lower levels of the building
- a hallway & a wall recess for a day bed

Externally it is proposed to –

At ground floor level –

- it is proposed to provide an 'L' shaped terrace around the S/W corner of the building to serve as an extension to the adjacent lounge room
- construct a terraced entry to the dwelling
- provide a lawned & landscaped area adjacent to the N/E corner of the dwelling and abutting the pedestrian entry point to the body of the site. To achieve an appropriate separation from the driveway and to create privacy this area is to be enclosed by 1.8m high masonry walls
- provide a rectangular shaped terrace at the rear of the laundry with this area to be used as a clothes drying yard
- provide an off-set pitched roof over the garage with the rear roof plane accommodating the required solar panels
- provide a roof over the dwelling entry
- provide skylights to the single storey laundry & W/C at the eastern end of the dwelling

At 1st floor level –

- provide a 1.2m wide S/W facing balcony to the master bedroom and the en-suite

The exterior materials and colours will be :-

- Dwelling walls – brick, stone & off-form masonry, natural colour
- Roof – metal, dark colorbond finish
- Eaves, gutters and downpipes metal, dark colorbond finish
- Windows, window vents & doors – timber, natural finish
- Balustrading – metal, dark colorbond finish
- N/W side boundary fence – metal, black picket
- Terraces/ decks at ground & 1st floor level – sandstone paved



- Garden walls – masonry , brick, stone, natural colour
- Garden paths – sandstone stepping stones and crushed sandstone



The view from the rear of the existing dwelling to the south. All of the vegetation shown in this and the photos below will be retained and supplemented by the proposed landscaping.

The view to the south S/W from the rear of the existing dwelling.



The view to the west S/W from the rear of the existing dwelling. The dwellings in the foreground are Nos.25 – 29 Marine Pde which are not impacted upon by the proposed development.



4.0 PERMISSIBILITY OF USE

As indicated earlier, the land is zoned Environmental Living (E4), under the provisions of the LEP. This zoning permits a range of residential & residentially related, low traffic generating commercial uses and waterfront related uses. The proposed new dwelling is therefore permitted with the prior consent of Council hence the lodgement of this application.

The site was zoned Residential 2(a) under the provisions of Pittwater Local Environmental Plan 1993 and was identified as being potentially landslip liable and classified as a wildlife Habitat Category 2.

The only significant change as a consequence of the introduction of the current LEP and the current zoning classification is a greater focus on the protection, management and restoration of the ecological, scientific, cultural and aesthetic values of the locality and the minimisation of development related impacts. As confirmed by this Statement the proposal and the contextually minor degree of site disturbance will comply with the objectives of the Environmental Living zone.

Accordingly there is no impediment to Council granting consent to the proposal on the basis of the landuse classification.

The site has been deemed to potentially landslip and bushfire prone and possibly contains acid sulphate soils. The geotechnical assessment lodged with this application confirms that the proposed new dwelling is associated infrastructure are suitable for the site and upon completion it will achieve an 'acceptable' risk management level within the terms of the Council's Geotechnical Policy and no geotechnical hazards will be created as a consequence of the proposed works providing they are carried out in accordance with the recommendations detailed in the geotechnical report and subject to good engineering & building practice. The bushfire threat assessment also confirms that subject to compliance with the recommendations contained therein appropriate levels of personal safety and property protection can be achieved. In relation to acid sulphate soils the site has been classified as Class 5 land which is the lowest risk category and as confirmed later in this Statement it is unlikely that these soils would be encountered on the site and the proposal has no potential to lower the water table.

Development of the site and this landuse type is subject to State Environmental Planning Policy No.71 – Coastal Protection, the NSW Coastal Policy and BASIX, 2004.

This Statement will confirm that whilst the new dwelling can be seen from the Pacific Ocean and the coastal interface to the south and S/W the proposal has no potential for a significant adverse impact upon the heavily vegetated character of the area due to its design, location and exterior finishes. The location & design of the dwelling, the elevation of the site above sea level and the vegetation in the adjacent foreshore reserve ensures that there will be no overshadowing of the foreshore. There is public access along this section of the foreshore at both high & low tide, however the proposal has no potential to restrict or impact upon this access. When viewed from the water



and Avalon Beach to the S/W and the residential development generally to the south of the site the new dwelling will be read against other development on this escarpment, within a landscaped setting. Therefore the proposal will comply with all of the relevant development principles, guidelines & prerequisites and the aims & objectives of the Coastal Protection Policies.

The BASIX Certificate lodged with the application confirms that the proposal will or can satisfy its water, thermal comfort and energy targets.



The view down the driveway towards the street frontage. This surface and the brushwood fence along the rear boundary of No.39 Marine Pde are to be retained.



A view along the eastern side boundary from the top of the driveway. This vegetation is in part located in the rear yard of No.43 Marine Pde and the coastal reserve and therefore will be retained.



The view along the S/W side boundary of the site, again this vegetation is to be retained.



5.0 DEVELOPMENT STATISTICS

As detailed below and addressed in Section 6 of this Statement, the proposal complies with all of the relevant development standards and / or the associated aims and objectives specified by the LEP and the DCP.

Compliance Table – Pittwater LEP 2014

STANDARD	REQUIRED	PROPOSED	COMPLIANCE
<u>Part 1 Preliminary</u>			
CI 1.9 Application of SEPP's			N/A
CI 1.9A Suspension of covenants, etc		There are no easements, covenants or restrictions preventing the proposed development	Yes
<u>Part 2 Permitted or prohibited development</u>			
CI 2.1 & 2.2 Land use zones	Environmental Living (E4)	New dwelling	Consent required
CI 2.3 Zone objectives			Yes
CI 2.4 Unzoned land		The land is zoned Environmental Living and therefore this planning control is not relevant.	N/A
CI 2.5 Additional permitted uses for particular land		The site is not listed in Schedule 1 of the LEP and as indicated earlier, the proposal is permitted in this land use zone	N/A
CI 2.6 Subdivision consent requirements		The proposal does not involve the subdivision of land and therefore this planning control is not relevant	N/A
CI 2.7 Demolition requires consent		This component of the proposal forms part of the application	Yes
CI 2.8 Temporary use of land		This planning control is not relevant as the proposal relates to a permitted use in the zone.	N/A
<u>Part 3 Exempt and complying development</u>		These planning provisions are not relevant due to the site's environmental sensitivity classification	N/A



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
<u>Part 4 . Principal development standards</u>			
CI 4.1 Minimum subdivision lot size	700m ²	The site has an area of 1,515m ² however this proposal does not involve the subdivision of land	N/A
CI 4.1AA Minimum lot size for Community title subdivision		The proposal does not involve a community titled subdivision therefore this planning control is not relevant	N/A
CI 4.1A Minimum lot size for dual occupancy development		This planning control is not relevant as the proposal relates to a single dwelling	N/A
CI 4.1B Minimum lot size for shop top housing		This planning control is not relevant as the proposal relates to a single dwelling	N/A
CI 4.2 Rural subdivision		The land is zoned Environmental Living and therefore this planning control is not relevant.	N/A
CI 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones		The proposal does not involve strata subdivision and the land is zoned Environmental Living therefore this planning control is not relevant.	N/A
CI 4.3 Height of buildings	8.5m	The maximum overall height of the new building is 8m	Yes
CI 4.4 Floor space ratio	None specified for this locality		N/A
CI 4.5 Calculation of floor space ratio and site area		The site calculations have been carried out in accordance with these requirements	Yes
CI 4.5A Density controls for certain residential accommodation		The land is zoned Environmental Living and therefore this planning control is not relevant.	N/A
CI 4.6 Exceptions to development standards		The proposal is fully compliant with the LEP controls	N/A
<u>Part 5 . Miscellaneous provisions</u>			
CI 5.1 Acquisition authorities		The site is not subject to any acquisitions or reservation	N/A



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
CI 5.1A Development on land to be acquired for public purposes		The site is not subject to any acquisitions or reservation	N/A
CI 5.2 Classification of public land		The site is private freehold land	N/A
CI 5.3 Development near zone boundaries	Clause not adopted	The site and the adjoining properties are zoned E4, the land opposite R2, the reserve to the rear E2	N/A
CI 5.4 Controls relating to miscellaneous permissible uses		The proposed landuse is not listed in this clause	N/A
CI 5.5 Development within the coastal zone		The site is clearly within the coastal zone	Yes
CI 5.6 Architectural roof features	Clause not adopted		N/A
CI 5.7 Development below MHW		This clause is not relevant as no works are proposed below MHW	N/A
CI 5.8 Conversion of fire alarms			N/A
CI 5.9 Preservation of trees and vegetation		All of the substantive trees and shrubs on the site are to be retained and supplemented by the proposed landscaping detailed on the concept landscape plan	Yes
CI 5.9AA Trees or vegetation not prescribed by a Development Control Plan			Yes
CI 5.10 Heritage conservation			Satisfactory
CI 5.11 Bushfire hazard reduction		The proposal does not constitute bushfire hazard reduction works	N/A
CI 5.12 Infrastructure development and the use of buildings owned by the Crown		The proposal does not constitute infrastructure development and the site is private freehold land	N/A
CI 5.13 Eco-tourist facilities		The proposal relates to the residential use of the site	N/A
<u>Part 6 . Urban release areas</u>		The site and the surrounding area is not located in an urban release area	N/A



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Part 7 Additional local provisions			
CI 7.1 Acid sulphate soils	Class 5 land		Yes
CI 7.2 Earthworks	Consent required	This component forms part of the application	Yes
CI 7.3 Flood planning		The site has not been classified as being potentially flood prone	N/A
CI 7.4 Floodplain risk management		The site is not located on a floodplain	N/A
CI 7.5 Coastal risk planning		The site is not considered to be at risk from coastal hazards	N/A
CI 7.6 Biodiversity		The site has been classified as having an environmental biodiversity value	Yes
CI 7.7 Geotechnical hazards		The site has been classified as geotechnically sensitive H1 land	Yes
CI 7.8 Development on foreshore area		No works below the foreshore bld line	Yes
CI 7.9 Residual lots		Not applicable to this site	N/A
CI 7.10 Essential services		The site contains an existing dwelling and all of the usual range of services and utilities are available	Yes
CI 7.11 Converting serviced apartments to residential flat buildings		The proposal relates to a future single dwelling	N/A
CI 7.12 Location of sex services premises		The proposal relates to future single dwelling	N/A



The view to the east N/E from the 1st floor level of the existing dwelling over the single storey part of the dwelling, with the detached garage to the left looking towards the heath vegetation on the North Avalon headland. The proposed dwelling also will be read against this vegetated hillslope.



Compliance Table – Pittwater 21 Development Control Plan, 2014

STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Administrative controls			
Sections 4 & 5 - Integrated Development			N/A
Section A Character controls			
Desired future character			Satisfactory
Section B General controls			
Heritage controls			
Heritage conservation - general		The site does not appear to meet any criteria for the creation of a heritage listing	N/A
Aboriginal Heritage significance			Satisfactory
Hazard controls			
Landslip hazard		Geotech rpt submitted	Yes
Bushfire hazard		Bushfire threat assessment submitted	Yes
Acid Sulphate Soils			Satisfactory
Contaminated Land		Land not previously used for a purpose likely to have contaminated site	N/A
Estuarine hazard			N/A
Flood hazard	Category 3	Not deemed affected	Satisfactory
Controls relating to the natural environment			
Flora & Fauna Conservation Category 1 land		Flora & Fauna Assessment submitted	Yes
Preservation of trees or bushland vegetation		Only 1 creeper / vine and some lower growing heath vegetation to be removed	Satisfactory
Water management			
Wastewater disposal			Yes
Greywater reuse			N/A
Stormwater harvesting		2,000ltr rainwater storage tank as required by BASIX	Yes



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Stormwater management - water quality			Satisfactory
Stormwater discharge into public drainage system			N/A
Stormwater systems and natural water courses		S'water discharge from the lower portion of the dwelling and the rainwater tanks via a spreader pipe system to the paths of natural run-off in this corner of the site	Yes
Development on waterfront land			N/A
Stormwater drainage easements (Public stormwater drainage system)			N/A
Access and parking			
Access driveways and works on the public road reserve		Existing concrete kerb & layback	Yes
Access driveways and works on the public road reserve - Development other than low density residential		The proposal does not involve works within the road reserve	N/A
Internal driveways - Low density residential		Land zoned Env Living	N/A
Internal driveways - Development other than low density residential		Existing	N/A
Off-street vehicle parking requirements - Low density residential		Land zoned Env Living	N/A
Off-street vehicle parking requirements - Development other than low density residential	2 spaces	2 spaces, plus the potential for 2 visitor spaces	Yes
Transport and traffic management - all development other than low density residential		Not relevant as all construction activity can occur within the site	N/A
Site works management			
Excavation and landfill			Satisfactory
Erosion and sediment management			Satisfactory



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Waste minimisation			Satisfactory
Site fencing and security			Satisfactory
Works in the public domain		None required	N/A
Traffic management plan		Not required	N/A
Section C Development type controls			
Landscaping			Satisfactory
Safety & security			Satisfactory
View sharing			Satisfactory
Solar access			Satisfactory
Visual privacy			Satisfactory
Acoustic privacy			Satisfactory
Private open space		82m ² plus a rear terrace	Yes
Dual Occupancy specific controls		Proposed single dwelling	N/A
Adaptable housing and accessibility			Satisfactory
Waste and recycling facilities			Satisfactory
Pollution control			Satisfactory
Separately accessible structures		Proposed single dwelling	N/A
Incline passenger lifts and stairways			N/A
Eaves	450mm min width		Yes
Public Road reserve landscaping and infrastructure	Not required	No change to existing	N/A
Plant, equipment boxes and lift overrun		All located within the building profile	Yes
Section D Locality specific development controls			
Avalon Beach locality			
Character as viewed from a public place		Restricted public views	Satisfactory
Scenic protection - General			Satisfactory
Building colours and materials			Satisfactory



STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Front, rear and side building lines	Front, 6.5m or established building line; side 1m & 2.5m ; rear 6.5m and compliance with the Foreshore Building Line	Front 62m; sides (E) 1m to garage, 7.8m to dwelling (W) 20.09m – 28.14m to the wall of the dwelling and 19.6m to the external terrace ; rear 15.68m – 29.2m and behind the foreshore building line	Yes
Building envelope			Yes
Landscaped area General		Land classified as environmentally sensitive	N/A
Landscaped area Environmentally sensitive land	Min landscaped area component 60% of the site	Existing 54% including a 3% dispensation for the outdoor recreation area Proposed 70% of the site	Yes
Fences - General		No boundary fencing proposed	N/A
Retaining walls, terracing and undercroft areas		None proposed	N/A
Scenic protection Category 1 areas			Yes



The existing Norfolk Island pine located adjacent to the S/W side of the existing dwelling which has previously been approved for removal.





6.0 DISCUSSION OF DEVELOPMENT CONTROLS

Pittwater LEP, 2014

Part 1 Preliminary

6.1 Application of State Environmental Planning Policies (SEPP's)

Clause 1.9 of the LEP confirms that the provisions of SEPP 1 - Development Standards do not apply for the purposes of implementation of the LEP.

Abolition of the Development Standards Policy is a consistent feature of the NSW Govt standard template for planning instruments and is superseded by a standard Clause 4.6 which operates in a similar fashion to the old Planning Policy.

As confirmed in the compliance table and in the discussion below, this proposal complies with the standards specified by the LEP and therefore does not rely on the provisions of Clause 4.6.

6.2 Suspension of covenants, agreements and instruments

Clause 1.9A of the LEP confirms that any agreement, covenant or similar instrument, which restricts or prohibits development which would otherwise be permitted by the LEP does not apply.

As confirmed by the survey submitted with this application there are no Covenants or other Restrictions of Use over the land that would prevent or otherwise constrain the proposed development.

Part 2 Permitted or prohibited development

6.3 CI 2.1 & 2.2 Land use zones

Under these provisions and the associated Land Zoning Map, the site and the surrounding properties are zoned Environmental Living (E4), under the provisions of the LEP. This zoning permits a range of residential & residentially related, low traffic generating commercial uses and waterfront related uses. The proposed new dwelling is therefore permitted with the prior consent of Council hence the lodgement of this application.

6.4 Zone objectives

Clause 2.3 and the associated Land Use Table identify the objectives for development, the uses that may be carried out without development consent, those that may be carried out only with consent and those that are prohibited in the various land-use zones.

As indicated above the land is zoned Environmental Living and Council's prior consent is required for the erection of dwellings and ancillary facilities.

As confirmed later in this Statement, the proposal complies with the relevant objectives of the zone in that :-

- it will result in low impact residential development in this area which has been designated as having particular ecological, scientific or aesthetic values.
- there will be no adverse effects on the ecological, scientific or



aesthetic values of the locality

- the proposal constitutes low density residential development and its design and scale integrates with the landform and the landscape within the immediate area.
- the proposal has no impact on riparian and foreshore vegetation and the rear (unfenced) yard will continue to supplement the wildlife corridor in the adjacent reserve.

The proposal will have no impact on the scale, character and streetscape of the locality as it is screened by the surrounding dwellings and as confirmed later in this Statement it has no potential for a significant adverse effect upon the residential amenity of surrounding properties beyond the construction phase.

6.5 Demolition

Clause 2.7 of the LEP confirms that Council's prior consent is required for demolition accordingly, this component of the proposal, ie, the demolition of the existing dwelling and the detached garage, form part of this development application.

Part 3 Exempt and complying development

6.6 Exempt and complying development

Part 3 of the LEP details circumstances where proposed development can be classified as either exempt or complying development. These provisions do not apply as the subject site has been classified as being located within an environmentally sensitive area.

Part 4 Principal development standards

6.7 Minimum lot size

Clause 4.1 of the LEP specifies a minimum subdivision lot size in this locality, 700m². As indicated in the compliance table and earlier in this Statement, the proposal does not involve the subdivision of land or an intra-allotment boundary adjustment, noting that the development site has an area of 1,515m².

6.8 Height of buildings

Clause 4.3 of the LEP and the associated map specify the maximum height of buildings in the various locations throughout the Local Government area. The maximum building height specified for this site is 8.5m. As confirmed in the compliance table and on the submitted architectural plans the maximum overall height of the new dwelling will be 8m, which as shown on Dwg A2.3 is comfortably below the 8.5m height plane.

6.9 Calculation of floor space ratio and site area

Clause 4.5 of the LEP specifies those parts of the site or portions of the building, which are included and excluded in the calculation of floor space ratios and is areas.

There is no floor space ratio is specified for buildings in this locality.

The site area calculations have been carried out in accordance with the requirements of this planning control.



6.10

Part 5 Miscellaneous provisions

Development within the coastal zone

For the purposes of implementation of Clause 5.5 the land is clearly located within the “coastal zone”. The plans lodged with this application include the provision of a silt and sedimentation barrier in the rear yard area to ensure that there is no siltation of the adjoining bushland reserve thus protecting the coastal environment. The concept landscape plan provides for the planting of predominantly endemic plant species to further enhance the coastal environment, its ecosystems, ecological processes and biological diversity. As this site is significantly elevated from the coastal interface, the proposal will not give rise to any impact upon the natural, cultural, recreational or economic attributes of the coastline and the existing opportunities for pedestrian access along the foreshore are not restricted as a consequence of the proposal.

Accordingly I am able to conclude that the proposal recognises and accommodates coastal processes and climate change, there is no potential to impact upon the amenity and scenic quality of the coastal zone, rock platforms, the beach environment or its amenities. Given the relative location of the proposed dwelling and the proposed supplementary landscaping the proposal will protect and preserve the native coastal vegetation. Due to the articulated and stepped design of the dwelling, its bulk, scale and size is appropriate for the location and when viewed from the most prominent public viewing points, as confirmed by the photos attached to this Statement, the dwelling will be read against the hillslope and the vegetation on the North Avalon headland.

Issues related to Aboriginal and European heritage are addressed over and were found to be satisfactory.

As detailed on Dwg No.A1.1 effluent associated with the proposed dwelling is to be connected to the existing main within the Council reserve at the rear of the site which also serves the adjoining property, No.37 Marine Pde. Stormwater disposal in the main will be connected to the existing infrastructure which is located within the driveway and discharges into Council's drainage infrastructure in Marine Pde. As noted in the geotechnical report drainage from the lower section of the proposed dwelling will be dispersed via spreader pipes located in the rear yard and this detail will be provided in the Construction Certificate drawings. Under these circumstances, there is no potential to discharge untreated stormwater into the ocean.

Finally, again as confirmed by the Geotechnical Engineer, the proposed dwelling will not be significantly affected by or have a significant impact on coastal hazards, nor will it increase the risk of coastal hazards in relation to the surrounding properties.

Under these circumstances I am able to conclude that the proposal satisfies the requirements of this planning control and Council can be satisfied that they can grant consent to the proposal as submitted.

6.11

Conversion of fire alarms

The provisions of Clause 5.8 are unlikely to be relevant as it is anticipated that the required fire alarms would be hard wired as expected by a condition of



	Council's consent, but at this stage it is anticipated that these alarms would not be monitored by an external provider.
6.12	Preservation of trees and vegetation Clause 5.9 details Council's objective to maximise the retention of trees and other vegetation and details Council's tree preservation order requirements. The proposal does not require the removal of any vegetation covered by Council's tree preservation order.
6.13	Trees or vegetation not prescribed by a Development Control Plan Clause 5.9AA supplements Council's Tree Management Policy and provides further details relating to Council's aims, objectives and procedures relating to the operation of the tree preservation order and confirms that it also covers vegetation not specified by the related clause in the DCP. This issue and the proposal's compliance with this planning control are discussed at points 6.27 and 6.46 of this Statement.
6.14	Heritage conservation Clause 5.10 of the LEP details Council's aims, objectives and procedures relating to the conservation of environmental, heritage, archaeological and aboriginal heritage in the Local Government area. Council's records confirm that the site does not contain an identified Heritage Item, it is significantly distanced from these Heritage Items and Conservation Areas such that the proposed part 3 level dwelling has no potential for an adverse impact. A check of the Aboriginal Heritage Information Management System has established that the site does not contain any known archaeological relic or constitute a known Aboriginal place of heritage significance and there is no indication that this site may have any potential archaeological significance. A detailed site inspection has confirmed that there are no caves, sheltering opportunities or extensive exposed flat sandstone outcrops. No rock engravings or axe grinding grooves were identified on the surfaces of the exposed sandstone bedrock within the site. The Norfolk Island pines are not locally endemic and would have been planted after any Aboriginal occupation and none of the lower growing heath vegetation displayed any evidence of cultural modification or past Aboriginal scarification. No open camp sites were identified on the property and the site does not contain any particular highly valuable resource other than for its ocean frontage. It is likely that the site served as a pathway around the clifftop however this is consistent with the likely function of all the properties in this location which have subsequently been approved for residential development. In the unlikely event that unknown archaeological relics were uncovered all work would cease and Council would be contacted.
6.15	Part 7 Additional local provisions Acid sulphate soils Clause 7.1 of the LEP and the associated Acid Sulphate Soils Map indicates



that for the purposes of implementation of this planning control the site is classified as Class 5 land, ie, the lowest risk category.

However acid sulphate soils are unlikely to be encountered on this upper level location which like all of the surrounding properties is well above 5m AHD.

In this regard the NSW Department of Environment, Climate Change and Water, publication 18/12/2008, notes that acid sulphate soils are widespread along the margins of the NSW coast, in estuarine floodplains and coastal lowlands, including urban areas, farmland, mangrove tidal flats, salt marshes and tea-tree swamps none of these scenarios occur on the site. In the unlikely event that acid sulphate soils are uncovered these would be removed and deposited in an authorised waste facility rather than being spread over the site.

6.16

Earthworks

Clause 7.2 of the LEP states that consent is required for the carrying out of earthworks in association with proposed development. Under these circumstances this component of the proposal forms part of the development application.

The maximum excavation is 3m in the S/W corner of the proposed building footprint to accommodate the lower ground floor level of the proposed dwelling. As noted by the geotechnical engineer this excavation is likely to take place within the sandstone sub-strata, otherwise excavation will be limited to shallow footings for the proposed perimeter walls of the new dwelling and the associated garden walls.

The potential impacts of the proposed earthworks, including issues related to drainage patterns, soil stability, construction methods, the impact on adjoining properties and structures erected thereon have been addressed by the geotechnical engineer in his report which was lodged with the application which concludes that no geotechnical hazards will be created as a consequence of the proposed earthworks.

It is further noted that the report makes various recommendations in relation to the excavation techniques and equipment to be used as a requirement for various progress inspections. It is anticipated that these recommendations will be incorporated in Council conditions of development consent. It is further noted that the report does not recommend the preparation of a dilapidation report in respect of the adjoining properties.

The proposal will not require the importation of any fill onto the site.

As detailed later in this Statement it is intended to provide silt and sedimentation controls at the rear of the site to ensure that there is no adverse impact on the adjoining properties or the adjacent bushland reserve as a consequence of the proposed earthworks.

6.17

Geotechnical hazards

Clause 7.7 of the LEP and the associated Geotechnical Hazard Map confirm that the site is deemed to potentially landslip prone and an H1 classification has been applied.

In accordance with the requirements of Council's Geotechnical Risk Management



Policy, a Geotechnical Risk Assessment was commissioned and was lodged with the application.

This assessment confirms that the proposed dwelling, the associated earthworks, facilities and infrastructure are suitable for the site and upon completion the proposal will achieve an 'acceptable' rating within the terms of the Council's Geotechnical policy and no geotechnical hazards will be created as a consequence of the proposed works providing they are carried out in accordance with the recommendations detailed in the geotechnical report and subject to good engineering & building practice.

As required by the Policy, this assessment includes the associated Forms 1 and 1A.

6.18

Essential services

Clause 7.10 of the LEP states that Council will not grant consent to a proposal unless it is satisfied that the site does or can be connected to a water and electricity supply and a sewage and stormwater disposal system.

The site has access to the full range of the usual residential utility services given its current residential use. Under these circumstances the proposal simply requires new connections to the existing infrastructure. Consistent with the intent of this planning control all new utility services will be undergrounded.

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Administrative Controls

6.19

Integrated development

Sections 4 & 5 of the DCP identify circumstances where proposed development is classified as 'Integrated Development' and therefore requires referral to a State Government agency.

Notwithstanding the site's hazard and environmental classifications and the applicable State Environmental Planning Policies the proposal constitutes 'Local Development' and therefore can be determined by Council without the need to refer this application to any State Government Department or Agency.

Section A Character Controls

6.20

Desired future character

Clause A3.2 of the DCP seeks to retain & enhance the desired character of the Local Government Area. For the purposes of implementation of this planning control the site is located within the Avalon Beach Locality. The existing and desired characteristics of this locality are specified in Clause A4.1 of the DCP.

The proposal will comply with the desired future character in that :-

- post development the locality will remain primarily a low density residential area with dwelling houses being a maximum of 2 storeys in height in a landscaped setting notwithstanding the contextually minor



3rd level component of this proposal which is similar to other recent dwellings in the locality

- the proposed dwelling integrates with the landform and the landscape and as indicated by the photos on P.8 of this Statement will be read against the heavily vegetated North Avalon headland
- the existing tree canopy coverage and habitat diversity is maintained and the design has regard to the hazard and environmental classifications of the site
- all of the proposed dwelling will be below the height of the tree canopy and the perceived bulk and scale of the building has been minimised
- there is no interference with or impact upon pedestrian access around the foreshore due to the location of the proposed dwelling and the elevated site level.
- there is no potential to alter the existing streetscape as the site and the proposed dwelling cannot be viewed from the road reserve due to be topography of the area and the height & location of surrounding dwellings.

Section B General Controls

6.21

Heritage controls

As indicated earlier in relation to Clause 5.10 of the LEP, the site does not contain an identified heritage item, nor are there any heritage items within a reasonable vicinity of the site, which could be impacted upon by the proposed development.

The site does not contain any known archaeological relic and there is no reason to suggest that this site may have any potential archaeological significance. As indicated earlier the development site does not contain any caves or exposed flat sandstone outcrops therefore there is no reason to suggest that this site may have been an aboriginal meeting place.

6.22

Hazard controls

6.22.1 Landslip hazard

As indicated at point 6.17 of this Statement the land has been classified as having an H1 potential landslip potential. In accordance with Council's policy a geotechnical assessment of the proposal was commissioned and is lodged with this application. That report concludes that this landslip classification is not an impediment to the proposal, that the proposed site works and the future dwelling could be constructed on the site to achieve an 'acceptable' rating within the terms of the Council's policy.

6.22.2 Bushfire hazard

The site has also been classified as potentially bushfire prone. As confirmed by the Bushfire Prone Land Map the development site and those surrounding have been classified as being in a vegetation buffer zone while the coastal reserve to the to the rear and east of the site has been classified as Vegetation Category 1. Therefore as required by the Planning for Bushfires provisions and



the requirements of Council's DCP a Bushfire threat assessment has been prepared and lodged with this application

This assessment concludes that

- the proposed works will provide a greater separation distance to the bushfire hazards than the existing building footprint
- the proposed construction materials will provide for a better outcome for fire resilience than the existing dwelling
- the proposal will satisfy the requirements of Planning for Bushfire Protection, 2006 subject to the maintenance of asset protection zones within the property and the provision of a 5,000lt static water supply to assist in the fighting of fires.

The report identifies that the most significant bushfire impact will come from the bushland to the east and west of the site and it recommends that in addition to creating asset protection zones within the site the RFS should carry out hazard reduction works on this headland.

6.22.3 Acid sulphate soils.

As indicated at point 6.15 of this Statement the land has been identified by Council as potentially containing Acid Sulphate soils, although the lowest category, ie Class 5, has been applied noting that this low risk classification applies to many sites in the Local Government Area.

As detailed earlier the Department of Environment, Climate Change and Water advises that acid sulphate soils are usually found in estuarine floodplains and coastal lowlands and are thus unlikely to be encountered on this upper level site.

No excavation occurs below 5m AHD. As indicated earlier, in the unlikely event that acid sulphate soils are uncovered these would be removed and deposited in an authorised waste facility rather than being spread over the site.

6.22.4 Contaminated land.

The site and the surrounding properties have been used for residential purposes for many years and prior to that appear to have been natural bushland, similar to that encountered on the adjacent bushland reserve. On the information available there is no evidence of a prior use of this site or any surrounding properties which may have resulted in land contamination.

6.22.5 Flood hazard

The site has been classified as Flood Category 3 which is a general provision applied to many sites in the Local Government area however the site has not been deemed by Council to be flood prone, further this is most unlikely given its moderate to steep grade and its upper level location.

6.23

Controls relating to the natural environment

Clause B4.1 of the DCP indicates that the site is classified as Flora & Fauna Conservation Category 1 land. The proposal complies with the associated planning controls in that :-

- as confirmed by the Flora & Fauna Assessment lodged with this



application there will be no negative impact on threatened species, endangered populations or endangered ecological communities

- it maintains and enhances known habitats for locally native species, threatened species, endangered populations or endangered ecological communities
- it does not result in a significant on-site loss of canopy cover and there is no net loss of native canopy trees
- in excess of 80% of the supplementary landscaping shown on the concept plan are locally endemic species
- the proposed landscaping is located outside of the core bushland which surrounds the site
- no new boundary fencing is proposed to those areas which abut the foreshore reserve
- as confirmed by the survey and plans lodged with this application all of the substantive trees and shrubs on the site are to be retained

As confirmed by Council records, the site is not considered to constitute a wildlife corridor, whereas the surrounding heathland vegetation acts in this manner. Appropriately the Flora and Fauna consultant notes that the site supplements this wildlife corridor and concludes that the proposal will facilitate its on-going use in this manner and this will be augmented by the proposed planting of essentially locally endemic plant species.

Clearly the site adjoins bushland therefore the provisions of Clause B4.11 apply to the proposal and in this regard the Flora and Fauna Consultant again concludes that the proposal will have no potential for an adverse impact upon the surrounding reserve, including the proposed stormwater disposal arrangements.

The site has not been identified by Council as containing Littoral Rainforest vegetation however the Flora and Fauna assessment has identified a small remnant of this vegetation community along the S/W side of the site. It notes that the condition of this plant material is moderate with a slight degradation due to weed species and that the owner of the property has been actively removing this infestation and there are signs of natural regeneration.

Clause B4 .22 of the DCP details Council aims and objectives in relation to the preservation of trees or bushland vegetation and outlines Council aims, objectives and procedures in relation to its tree preservation order. As indicated earlier the creeper / vine and the heath vegetation are not covered by the provisions of the tree preservation order.

Key findings & recommendations of the flora and fauna assessment

- No significant native vegetation is proposed for removal or disturbance due to the proposed works.
- A construction exclusion zone should be established across the rear of the site to protect the surrounding vegetation.
- Native vegetation will be planted in places where non-native vegetation



is lost.

- **Vegetation on the edges of the subject site and across the adjoining reserve to the east was in good condition. However, there are 2 areas of Council managed land to the east and south of the site that are acting as sources for noxious weed spread and recolonisation onto the site and the surrounding properties. These areas contained dense growth of all of the noxious weeds identified on the site, with many more environmental weeds. (*This area of infestation is shown in figure 5 of the Flora & Fauna Assessment*) . The consultant recommends that Council commission bushland restoration works in the reserve surrounding the site in order to complement the work being undertaken by the owner of the subject property and that this action would increase the likelihood of a controlling local noxious weed problems and in the long term will save resources spent on managing recurring weed infestations**
- Council should require the site to have an ecological sustainability plan / bushland management plan prepared & implemented.
- In relation to the dispersal of stormwater from the lower portions of the proposed dwelling it was intended to install a spreader pipe which would discharge into the paths of natural run-off in this corner of the site. Prior to discharge the stormwater would be piped through rainwater storage tanks and that this method of disposal from the lower portion of the proposed dwelling would not result in any significant ecological effect. Further, the property owner should continue to monitor the potential impact of stormwater flows upon the vegetation both on and off the site and this should be included in & conducted as part of the recommended bushland management plan.
- Sewage disposal is proposed via a new connection to the existing main located within the adjacent Council reserve which currently serves No.39 Marine Pde and this services connection should also be monitored by the property owner as part of the recommended bushland management plan.
- There is no requirement to exclude the keeping of domestic animals from the site owing to its urban nature and the fact that the site has a history of domestic animals being kept on site and it is surrounded by other properties where no such restrictions are in place and most of these properties do not have fencing which would restrict the movement of domestic animals.
- All construction, machinery operation, excavation, vehicle movement and other works should minimise its impact on the sandstone outcropping that occurs on the site, particularly the area containing crevices on the western side of the site as these areas may provide roosting habitat for threatened microbats. Prior to works being carried out on the outcropping sandstone an ecologist should be assigned to undertake a pre-clearing survey to determine the presence of any roosting microbats or other fauna and the findings of this survey should



be provided to the client in a report format before the works continue. The ecologist should supervise the clearing activities and work in & around the sandstone outcropping to observe for any injured or displaced fauna. If such fauna is found during the works, the ecologist would advise the best course of action.

Note : *This report references an arborist's report prepared by Growing My Way Tree Services, that report was supplied to Council in conjunction with the application for removal of the Norfolk Island Pine under the provisions of Council's tree preservation order. For the purposes of project integrity & continuity a copy of that report was provided to both the Landscape consultant and the Flora & Fauna consultant by the project architect.*

6.24

Water management

Clauses B5.2 – B5.4, B5.7 & B5.8, B5.10 and B5.12 - B5.14 of the DCP relate to water management.

The eastern portion of both the existing and the proposed dwelling do and can drain to Council's infrastructure in Marine Pde via gravity with the pipe system being located within the access handle, the lower third of the existing dwelling discharges into the reserve at the rear of the site.

Through this application it is intended to connect the lower portion of the new dwelling to a regulated on-site dispersal system. As suggested by the geotechnical engineer this would be via a spreader pipe arrangement. As there is little change to the current stormwater discharge arrangement and dispersal quantities it is anticipated that Council would impose a condition of consent requiring that these details would be included in the Construction Certificate documentation.

In relation to wastewater disposal the site is connected to the Sydney Water sewage infrastructure. The proposal includes a new connection to the main which services No.37 Marine Pde located to the west of the site.

As required by the BASIX assessment it is intended to locate a series of rainwater storage tanks with a combined capacity of 9,000ltr in the plant room on the lower level of the proposed dwelling. The capacity of these tanks exceed the BASIX requirements and the recommendations contained in the Bushfire Threat Assessment. To satisfy the BASIX requirements stored water within the tanks will be connected to all toilets within the dwelling and an external tap to water the garden. Overflow from these tanks would be disposed of via the regulated on-site dispersal system.

The proposal does not involve the reuse of greywater or blackwater.

In relation to the provisions of Clause B5 .7 of the DCP, as shown on Dwg No.A1.1, the hard surface area is to be reduced by approx 240m² therefore an on-site stormwater detention facility is not required.

As the stormwater run-off discharges into the rainwater storage tank a stormwater quality improvement device required by the provisions of Clause B5 8 is not necessary.

The provisions of Clauses B5.10, B5.12 – B5.14 are not relevant as the



stormwater run-off does not discharge into a public drainage system or a natural watercourse, the site is not classified as being waterfront land and the proposal does not involve the creation of a drainage easement.

6.25

Access and parking

This section of the DCP relates to the size, number & location, grade & design of driveways and also specifies the number of car parking spaces to be provided and the minimum dimensions of these spaces.

As indicated earlier vehicular access is to be obtained from the existing 3m wide concrete driveway located in the access handle. As required by Clause B6.3 of the DCP the proposal includes the provision of 2 off-street car parking spaces in an attached garage at the top of the driveway replicating the current parking provision although that is now located in a detached double garage in the dwelling 'forecourt' area. With the current design it is also possible to accommodate 2 visitor parking spaces forward of the garage however these would have to reverse off the site whereas in the absence of any visitor vehicles the residents would be able to carry out a 3 point turn in the area forward of the garage which would enable them to enter & exit the site in a forward direction.



Pedestrian and vehicular sightlines to the east above and to the west at right. The provision of an on-site turning area ensures safe egress in addition to these extensive sightlines.



6.26

Site works management

Section B8 of the DCP specifies various requirements relating to construction, demolition, excavation, erosion & sediment management, waste management and site security.

As detailed previously, the proposal will require a maximum excavation of 3m in the S/W corner of the proposed building footprint to accommodate the lower



ground floor level of the proposed dwelling whilst the remainder of the excavation is limited to the provision of footings for the proposed perimeter walls of the new building, the 2 garden walls and the installation of underground services.

A site manager would be appointed to overview the project in consultation with various building contractors. As noted on Dwg No.A1.1 of the submitted plans demolition material would initially be stored in skip bins located on the existing driveway, forward of the proposed garage. This will be disposed of at the Kimbriki landfill site at Terrey Hills or another authorised landfill site as may be selected by the site manager. Prior to commencement of site excavation, erosion control devices would be installed across the driveway and across the rear and the western side of the site.

All erosion and sedimentation controls would be installed in accordance with the standards specified by the Department of Environment and Conservation's "Managing Urban Stormwater : Soils and Construction Manual, Volume 1, 4th Edition, March 2004".

These control devices will be monitored by the site manager and maintained for the duration of the works or until such time as all site disturbance is consolidated.

All construction activities would be subject to Council's usual hours of operation and the noise / dust emission controls specified by the Environment Protection Authority.

As indicated earlier vehicular access, including construction materials delivery is to be obtained via the existing driveway located adjacent to the eastern side boundary. The existing / proposed forecourt area at the top of the driveway will be used for the storage of building materials, a site shed and workers amenities. Under these circumstances no works are proposed or required within the Council road reserve and therefore the provisions of Section 138 of the Roads Act and Section 68 of the Local Government Act will not apply. A traffic management plan is not required as all loading and unloading activities can be conducted within the development site, therefore, there will be no obstruction to traffic within Marine Pde.

The site manager would also be responsible for overseeing all construction works to ensure compliance with the requirements of Council's consent, the Construction Certificate details, the relevant Australian Standards and the WorkCover Authority requirements.

In relation to site security the public would be excluded from accessing the site outside of working hours by the erection of a demountable steel mesh fence across the top of the driveway thus maintaining the access arrangements for Nos.39 & 43 Marine Pde, the mesh fence will also extend around the sides and rear of the site. The temporary barrier across the driveway would be erected under the supervision of the building contractor at the conclusion of each workday.



Section C Residential Controls

6.27

Landscaping

This is a general provision of the DCP which is intended to ensure that the built form is dominated by vegetation and to retain & enhance existing site landscaping.

All of the substantive trees and shrubs on the site are to be retained and supplemented by the proposed landscaping detailed on the concept landscape plan plus the retention of the existing Norfolk Island pines will maintain and enhance the heavily vegetated character of the site. The proposal does not require any interference with vegetation on the adjoining properties and the existing vegetated streetscape when viewed from the public domain is unaffected.

6.28

Safety & security

Clause C1.2 of the DCP specifies various requirements for the provision of site safety and casual surveillance of the public domain.

Due to site topography and the height & location of the proposed dwelling and those surrounding this planning control cannot be reasonably complied with.

Whilst it will not be possible to carry out casual surveillance of the public domain from the dwelling an appropriate level of safety and security of the future occupants will be achieved as :-

- the dwelling entry is orientated towards the street frontage
- the design facilitates casual surveillance of the front yard from the central hallway at ground floor level and from the en-suite associated with the master bedroom at the upper level
- the layout of the front yard, including the existing and proposed landscaping minimises opportunities for concealment and blind corners
- adequate lighting will be provided to the entry, although this is a matter of detail to be addressed in the Construction Certificate drawings
- the dwelling entry will be clearly visible from the driveway and pedestrian access to the front door is clearly defined

6.29

View sharing

Clause C1.3 of the DCP seeks to ensure a reasonable sharing of views amongst dwellings and from roads & public places. The planning controls identified by this clause seek to achieve a reasonable sharing of views and where a view may be obstructed structures are to maximise visual access through the structure by the provision of open or transparent building materials. This planning control also references the planning principle established by the Land and Environment Court, in the matter of *Tenacity Consulting v Warringah Council*, to assist in the assessment of the sharing of views.

As indicated earlier, the topography of the area has a fairly consistent fall to the N/W and to the S/E and there are extensive water and coastal views to the south and landscaped district views generally to the west & N/W.



The primary view from the houses on the southern side of Marine Pde, including the development site is from the rear to the ocean and the coastal interface, whilst a secondary view is available at the front of these properties over the road reserve and the residential properties opposite. The primary view from the houses on the northern side of Marine Pde is from the front of the property to the dwellings opposite and in some cases corridor views of the district and the coastal interface are available between the houses, with a secondary view over the rear yard of the surrounding properties and due to topography and the height of these dwellings these views include landscaped district views to the N/W including the vegetated hillslopes of Avalon / Clareville and Ku-Ring-Gai National Park.

Due to the subdivision pattern, the location of the proposed dwelling and the height and location of surrounding dwellings the proposed dwelling will not be seen from the houses opposite in Marine Pde or from the site frontage. The proposed dwelling however will be seen from the rear and the side of the properties on the southern side of Marine Pde.

As confirmed by the locality plan on P.5 of this Statement this is the most southerly site on this side of Marine Pde, nevertheless the proposed dwelling has no potential to impact upon the primary views of the dwellings to the west of the site or those available from the dwellings to the east of the site due to the orientation of the subdivision pattern and the location of the dwellings on the surrounding properties. Peripheral views from these properties are also available over the ocean & the coastal interface and in this regard, the existing 2 storey dwelling constrains some of these views, however, as shown on the submitted architectural plans, particularly Dwg Nos.A2.1 & A2.2, notwithstanding the third level component, which is located within a natural site depression, the height of the proposed building is only marginally higher than the existing and the building footprint is essentially the same as that of the existing dwelling other than it being located further back from the southern cliff edge and the new extension in the S/W corner of the proposed dwelling.

The primary view from No.39 Marine Pde, which adjoins the subject site is currently to the S/W and this corridor view is maintained, the peripheral views from this dwelling are currently constrained by the height and location of the existing dwelling on the development site and as indicated above, the height and location of the proposed dwelling when viewed from this neighbouring dwelling is essentially the same as that existing. Similarly, the primary view from the dwelling on No.43 Marine Pde, to the N/E of the site is in a S/W direction and these views will be unaffected by the proposed dwelling. As is the case in relation to No.39 Marine Pde, peripheral views from No.41 are constrained by the height and location of the existing dwelling and these will be largely unaffected by the proposal.

Accordingly I am able to conclude that the proposal satisfies the Court's planning principle decision. There are no extensive views available within the locality which would be impacted upon by the proposed dwelling, some of these views contain an 'iconic element', being the coastal interface and Avalon Beach however these primary views are unaffected and therefore the proposal results in an appropriate degree of view sharing as promoted by the Land and



6.30

Environment Court principle and Council's planning controls.

Solar access

Clause C1.4 of the DCP specifies minimum solar access standards for dwellings and private open space areas.

As confirmed by the shadow diagrams lodged with the application, shadows cast by the proposed building are confined to the development site and a minor portion of the coastal reserve to the rear.

Due to the essentially north / south orientation of the subdivision pattern, all properties are able to receive and maintain a minimum of 3 hours direct solar access on the winter solstice which Council has long held is an appropriate standard within this Local Government area and the proposal has no shadow impact on these properties.

Whilst this planning control also references the planning principle established by the Land and Environment Court, in the matter of *Parsonage v Kuringai, 2004* and *The Benevolent Society v Waverley Council, 2010*, to assist in the assessment of overshadowing impacts it is considered unnecessary to carry out an assessment of the proposal against this planning principle as the proposal clearly will satisfy the specified assessment criteria.

6.31

Visual privacy

Clause C1.5 of the DCP details requirements for the retention and enhancement of visual privacy.

The proposal satisfies this objective in that the number of windows on both side elevations and across the front of the dwelling have been minimised, in some cases highlight windows are proposed and taller growing or screen planting is proposed along the front and side boundaries to restrict overlooking of the rear yard of the adjoining properties. It is also noted that in every case these windows and the proposed external terrace at ground floor level in the S/W corner of the building are in excess of 9m from the surrounding dwellings and their yard areas and under these circumstances consistent with Council's planning controls no screening devices are required to any of the window openings or the terrace area.

Accordingly, I am able to conclude that the proposal has the potential to provide an appropriate level of visual privacy commensurate with that existing in the locality and the level of privacy achieved will be in excess of that normally associated with dwellings in suburban areas due to the subdivision pattern and the relative location of the dwellings in this locality.

6.32

Acoustic privacy

Clause C1.6 of the DCP seeks to ensure that noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited.

The only significant potential noise source will be during the anticipated 12 month construction period and during this time all construction equipment will be subject to the WorkCover and EPA maximum emissions.



6.33

The proposal does not include the installation of any significant noise generating plant or equipment other than for ducted air-conditioning. The condenser unit will be located within a subterranean plant room at lower ground floor level therefore there will be no impact on the dwelling occupants or the neighbouring properties.

The principal private open space area for the future dwelling occupants is likely to be the terrace in the S/W corner of the dwelling thus it is located in the rear yard as promoted by Council's planning control and its location will be consistent with other dwellings in the locality.

Any noise generated from the new dwelling upon occupation would be commensurate with other residential development in the locality.

Private open space

Clause C1.7 of the DCP seeks to ensure that dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants, which is directly accessible from the living areas of dwellings and that this area receives sufficient solar access and privacy.

This Clause also specifies that dwellings have a minimum 80m² at ground level, with no dimension less than 3m ; that no more than 75% of this private open space be provided in the front yard ; have a minimum principal area of 16m² with a minimum dimension of 4m and grade no steeper than 1 in 20 (5%). Preferably this private open space area should be located to the rear of the dwelling to maximise privacy for the occupants.

This objective is often difficult to achieve in this locality due to the site topography, however the subject site unlike many of those adjoining is comparatively level across the building footprint and the dwelling's curtilage. The proposed dwelling design takes advantage of this situation by again locating the majority of the building on the more level portions of the site.

To achieve Councils planning requirement in relation to the provision of private open space the proposal includes a level lawned area adjacent to the N/E corner of the dwelling. This area will be accessed from the dwelling entry and the central hallway which connects to the primary living areas at ground floor level. This lawned space has an area of 82m² and is supplemented by the external terrace at ground floor level in the S/W corner of the building which has area of approx 38.5m² (*excluding those areas that have a width of less than 3m as required by the planning control, the deck has an area of 21.6m²*) and the terrace is directly accessible from the primary living areas within the dwelling.

The proposal therefore complies with this planning requirement, other than the fact that lawned area is not located at the rear of the dwelling, however, it is optimally located in terms of solar access and an appropriate level of privacy will be achieved by the proposed masonry walls. Due to the orientation of the subdivision pattern, if this private open space area was to be located in the rear yard as promoted by this planning control it would be located within the shadow of the proposed dwelling and the creation of a compliant area at ground level would necessitate a greater degree of site disturbance and the clearing of existing vegetation and thus is not a favoured



option.

Under these circumstances I am able to conclude that the proposal as submitted complies with the aims, objectives and intent of this planning control.

The potential impacts on the private open space areas of surrounding properties has been discussed at point 6.31 above and was found to be satisfactory.

6.34 **Adaptable housing & accessibility**

Clause C1.9 of the DCP seeks to ensure that the Community's lifecycle housing needs are met through well designed adaptable housing and that where possible all members of the Community enjoy equitable access to buildings and the public domain.

This objective cannot be easily achieved due to the topography of the area which necessitates a steep driveway up to the central body of the site, which is well in excess of the 1 : 14 required for disabled access. However, the proposal satisfies this planning objective from the top of the driveway as level access is available to the ground floor of the proposed dwelling which contains the primary living areas and toilet facilities. In addition as indicated earlier, the proposal includes an internal passenger lift which provides access to all levels of the proposed dwelling.

Accordingly, although disabled access is not available from the site frontage the dwelling easily satisfies the intent of this planning control when access is obtained from the top of the driveway.

6.35 **Waste & recycling facilities**

As shown on Dwg No.A1.3 it is intended to provide a garbage receptacle storage area at the top of the driveway adjacent to the entry to the proposed double garage. From this location the garbage receptacles will be wheeled down the driveway for collection at the site frontage by Council's contractors.

6.36 **Pollution control**

Clause C1.13 of the DCP seeks to ensure that development does not adversely impact on public health, the environment or other land.

Site disturbance will be limited to the excavation to accommodate the building in the site depression in the S/W corner, the footings for the proposed building and the foundations for the garden walls. As detailed in Section 6.26 of this Statement, erosion control devices would be installed prior to the commencement of site works in accordance with the standards specified by the Department of Environment and Conservation's "Managing Urban Stormwater : Soils and Construction Manual, Volume 1, 4th Edition, March 2004" and these would be monitored and maintained by the project manager for the duration of the works or until such time as any site disturbance is consolidated.

Upon completion and occupation of the proposed new dwelling, given the nature of the use, it will not give rise to any excessive air, water, noise or land pollution



6.37

Eaves

Clause C1.23 of the DCP requires a minimum eave width of 450mm.

As confirmed by the architectural plans submitted with the application variable width eaves are provided around the dwelling to satisfy the BASIX requirements.

Section D Locality specific development controls

6.38

Locality Plan – Avalon Beach

The Pittwater DCP indicates that the site is located in the Avalon Beach Locality and the various requirements of this plan are addressed as follows :-

6.39

Character as viewed from a public place

Clause D1.1 of the DCP encourages development to achieve the desired future character of the locality, ensuring that new development responds to and reinforces the spatial characteristics of the existing built and natural environment, enhances the existing streetscapes and promotes a scale and density that is in keeping with the height of the natural environment, the visual impact of the built form is secondary to landscaping and vegetation. High quality buildings are desired which have regard to the locality's natural context and accommodating any natural hazards. Buildings should not dominate the streetscape and appear at a 'human scale' and preserve and enhance district and local views which reinforce and protect Pittwater's natural context.

In essence this planning control seeks to promote streetscape compatibility in terms of the built form and its landscaped softened appearance however it is not relevant in this case as the existing and the proposed dwelling cannot be seen from the street due to the height and location of surrounding dwellings and landscaping on these sites and that on the development site. In relation to the perception of the site from the other public vantage points, namely South Avalon headland, Avalon Beach and the coastal interface at the base of North Avalon headland. Public views from these locations are distant as confirmed by the photos on P.8 of this Statement or are constrained by the height of the cliff face which adjoins the coastal interface of the North Avalon headland.

6.40

Scenic protection - General

This is a general classification applied to many sites in the Local Govt area.

The proposal complies with the aims, objectives and requirements of this planning control in that :-

- as confirmed in section 6.20 of this Statement, the proposal will satisfy the desired future character of the locality
- due to the height of the proposed building, the site topography, the height and location of surrounding dwellings and the existing & proposed site landscaping, the built form will continue to be secondary to the bushland character of the area
- again due to the particular site characteristics and the nature of the surrounding development the proposal has no potential for a significant



visual impact on the natural environment when viewed from a waterway, road or public reserve

6.41 **Building colours and materials**

Clause D1.5 of the DCP also seeks to achieve the desired future character of the Locality by enhancing the visual quality and identity of the streetscape, promoting colours and materials which harmonise with the natural environment and lessen its visual impact.

As indicated above, it has been concluded that the proposal satisfies the desired future character of the locality. The exterior materials and colours which are detailed on pages 11 & 12 of this Statement are either dark & recessive or naturally occurring and thus will be compatible with those predominant in the locality and promoted by the DCP.

6.42 **Front building line**

Clause D1.8 seeks to achieve the desired future character of the locality by minimising the bulk and scale of the built form whilst maintaining an equitable preservation of views and vistas to and / or from public / private places. Vegetation is to be retained and enhanced to visually reduce the built form and vehicle manoeuvring in a forward direction is encouraged. Attractive street frontages are encouraged with improved levels of pedestrian amenity and new development is to respond to and reinforce the spatial characteristics of the existing streetscape. This Clause also specifies a minimum front building setback of 6.5m or compliance with the established building line, whichever is the greater.

Issues related to the future character of the locality, the bulk and scale of the built form, the preservation of views, vehicle manoeuvring and the retention of vegetation have all been addressed previously and were found to be satisfactory.

The proposed dwelling has a minimum front boundary setback of approx 62m and is located well behind the established building line defined by the 2 adjoining dwellings.

6.43 **Side and rear building line**

Clause D1.9 of the DCP seeks to achieve the desired future character of the locality by minimising the bulk and scale of the built form whilst maintaining an equitable preservation of views and vistas to and / or from public / private places. A reasonable level of privacy, amenity and solar access is to be provided and maintained to residential properties. Substantial landscaping, retention and enhancement of vegetation, the provision of a mature tree canopy and an attractive streetscape are encouraged.

The minimum side boundary setbacks are 1m from one boundary and 2.5m from the other and a minimum rear boundary setback of 6.5m is specified.

Issues related to the character of the area, privacy, landscaping, solar access and the like have been addressed previously and were found to be satisfactory. As indicated in the compliance table the proposed side boundary setbacks are 1m to the eastern wall of the garage & 7.8m to the



dwelling and between 20.09m – 28.14m to the western wall of the dwelling and 19.6m to the closest corner of the external terrace at ground floor level. Therefore most of the side boundary setbacks significantly exceed those specified by this planning control.

In relation to the rear boundary setback, as confirmed in the compliance table, the rear boundary setbacks are between 15.68m – 29.2m thus easily satisfying the minimum 6m requirement. As shown on the submitted architectural plans the site is also subject to a foreshore building line and the proposed dwelling also complies comfortably with this control.

6.44

Building envelope

Clause D1.11 of the DCP imposes building envelope controls for all new development. These controls relate to the height & setback relationship of buildings to achieve the desired future character of the locality, minimise the bulk & scale of the built form, the preservation of views & vistas to and / or from public / private places and to ensure a reasonable level of privacy, amenity and solar access is provided and maintained between adjoining properties.

These environmental and amenity objectives have been addressed previously and were found to be satisfactory.

The building envelope controls are projected at 45° from a height of 3.5m above natural ground level at the side boundaries.

As shown on the submitted architectural plans the proposal easily complies with this planning control.

6.45

Landscaped area – General

Again this is a planning control which applies to many sites in the Local Government Area.

Issues related to the desired future character of the area, the minimisation of bulk & scale, potential amenity and solar access implications, the retention of existing vegetation, the control of stormwater run-off, silt & sedimentation controls have been discussed previously in this Statement and were found to be satisfactory.

The 50% landscaped area component does not apply as the land is zoned Environmental Living and the control relating to alterations & additions does not apply as the proposal involves the erection of a new dwelling.

As promoted by the DCP the use of porous materials and finishes around the building curtilage is extensive thus minimising stormwater run-off and maximising opportunities for infiltration to the water table.

6.46

Landscaped area – Environmentally sensitive land

For the purpose of implementation of this and other related planning controls this site has been classified as being located in Area 1 as such the minimum landscaped area component is 60% of the site. As shown on Dwg No.A1.1 the existing dwelling has a landscaped open space component of 54% of the site including a 3% dispensation for the outdoor recreation area, this is



increased to 70% with the proposed development and no component is claimed for outdoor recreation areas.

6.47

Fences - General

The provisions of Clause D11.12 of the DCP are not relevant as this proposal does not involve or require fencing to any of the various site boundaries.

6.48

Retaining walls, terracing & undercroft areas

Clause D11.14 of the DCP seeks to achieve the desired future character of the locality by ensuring that the natural topography of the land is retained.

The DCP suggests that retaining walls and terracing should be kept to a minimum. Where retaining walls and terracing are visible from a public place preference should be given to the use of sandstone or sandstone like materials.

The proposal does not include or require any retaining walls and the only new walls, other than those associated with the dwelling, are the two 1.8m high masonry walls on the eastern side of the lawned forecourt and provide privacy to this area. The proposal does not result in the creation of any undercroft areas and no terracing of the landscaped area is proposed, rather the dwelling curtilage is to be sculpted to create a natural bushland appearance and all sandstone outcrops are to be retained.

This approach to the site landscaping complies with the planning control objectives relating to fencing in flora & fauna conservation areas and the absence of boundary fencing will allow it to continue to function as an adjunct to the wildlife corridor around the site.

6.49

Scenic protection Category 1 areas

The site has been classified as scenic protection Category 1 land therefore the provisions of Clause D1.20 of the DCP apply.

The proposal complies with the associated planning controls in that :-

- existing screen planting between the rear of the dwelling and the coastal interface is to be retained and supplemented by the proposed landscaping shown on the concept landscape plan.
- the existing and proposed landscaping incorporates canopy trees.
- as confirmed by the flora and fauna consultant the proposal has no potential for an adverse impact on the existing heathland vegetation.
- the flora and fauna consultant has recommended the preparation of a bushland management plan to assist in the on-going management of the site and it is anticipated that this will include information relating to the retention and regeneration of the existing and proposed native vegetation across the rear portions of the site.
- there is nothing to suggest that the siting, the built form, orientation, and scale of the proposed dwelling will compromise the visual integrity of the site, noting that the proposal does not involve the removal of any canopy trees and as confirmed by the photos on P.8 of this



Statement when viewed from the public viewpoints to the south and west of the site the proposed building will continue to be read against the landscaped escarpment of the North Avalon headland

- the proposed exterior building materials are dark, recessive and naturally occurring

6.50

State Government planning instruments

Development of the site is also subject to the provisions of State Environmental Planning Policy BASIX, 2004 and State Environmental Planning Policy No.71 – Coastal Protection.

BASIX, 2004

The BASIX assessment lodged with this application confirms that the new dwelling will satisfy its water, thermal comfort and energy targets. This is to be achieved by the provision of various facilities / features which have been incorporated in the plans submitted with the development application, together with other facilities / requirements which are to be detailed at Construction Certificate stage and implemented during the course of construction.

Coastal Protection

This Policy applies to land, the whole or any part of which is within the coastal zone and identifies various aims and objectives. Those relevant to the proposal are :

- to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and
- to ensure that the visual amenity of the coast is protected, and
- to protect and preserve native coastal vegetation, and
- to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of Section 6(2) of the Protection of the Environment Administration Act, 1991), and
- to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.

This policy also identifies State significant development in the coastal zone, and requires certain development applications to carry out development in sensitive coastal locations be referred to the Director-General for comment, and identifies master plan requirements for certain development in the coastal zone.

Clause 8 of the policy identifies matters to be taken into consideration by Council, those relevant to the proposal are :-

- the suitability of development given its type, location and design and its



- relationship with the surrounding area,
- any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,
- the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,
- measures to conserve animals (within the meaning of the Threatened Species Conservation Act, 1995) and plants (within the meaning of that Act), and their habitats,
- existing wildlife corridors and the impact of development on these corridors,
- the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- likely impacts of development on the water quality of coastal waterbodies,
- the conservation and preservation of items of heritage, archaeological or historic significance,
- the cumulative impacts of the proposed development on the environment, and
- measures to ensure that water and energy usage by the proposed development is efficient.

Comment :

The provisions of the Policy clearly apply to the development site. The proposal however is not State significant development nor does it require the preparation of a master plan.

In relation to the natural, cultural recreational and economic attributes of the coastline and the protection of its visual amenity, these issues have been addressed previously in this Statement when it was concluded that the new dwelling will be consistent with other residential development on this escarpment and in the locality generally. Further, due to the modulated design of the dwelling, its location on the site, through the retention of the existing substantive vegetation and the proposed exterior materials and colours it will have a lesser perceived bulk & scale that of most of the other dwellings on this escarpment.

The dwelling will have a scale and design similar to that of other multi level dwellings in the locality ; the new building will be below the vegetated ridgeline ; the roof design incorporates several smaller and contrasting roof planes to break up its expanse ; due to the elevation of the site above sea level there will be no reflection on the water from external lighting ; the use of reflective materials has been minimised and the exterior colours & finishes of the dwelling will be sympathetic to the locality ; the rear elevation is extensively modulated and will result in deep shadow lines thus further reducing its potential visual impact when viewed from the Ocean or the Coastal Foreshore.

As advised previously, all of the existing substantive vegetation is to remain and will be supplemented by the proposed landscaping incorporating locally



endemic species therefore the site will continue to complement and enhance the surrounding coastal vegetation. The retention of this vegetation together with the vegetation on surrounding properties will ensure that the proposed dwelling is secondary to the landscaped character of the escarpment thus further reducing any potential to perceive its bulk and scale when viewed from the Ocean or its foreshore.

This Statement has previously confirmed that the new dwelling and the materials used therein will satisfy the ecologically sustainable development principles and that the built form is appropriate for the location and commensurate with other recent development in the locality. Further, the retained landscaping will maintain the natural scenic quality of the surrounding area.

The proposal has no potential to detrimentally impact upon on the amenity of the coastal foreshore, significantly overshadow the coastal foreshore or result in any significant loss of views from a public place to the coastal foreshore due its horizontal and vertical distance from to the foreshore, the topography of the area and the surrounding residential development and its associated screen planting.

Council records indicate that the site does not contain any critical animal habitat nor does it function as a wildlife corridor, however the Flora & Fauna assessment indicates that the site acts as an adjunct to the corridor which encircles the site and it concludes that the proposal will enable this to continue due to the location of the proposed dwelling and the retained & proposed landscaping.

The site is not subject to any coastal processes or hazards. It has been deemed to be potentially landslip liable however the geotechnical assessment which accompanies this application confirms that the proposed dwelling, the associated earthworks, facilities and infrastructure are suitable for the site and upon completion the proposal will achieve an 'acceptable' rating within the terms of the Councils ' Geotechnical policy ' and no geotechnical hazards will be created as a consequence of the proposed works providing they are carried out in accordance with the recommendations detailed in the geotechnical report and subject to good engineering & building practice and there will be no consequential impacts on coastal processes or hazards.

In relation to the conservation and preservation of items of heritage, archaeological or historic significance, this Statement has previously concluded that the proposed dwelling has no potential detrimental impact due to the relative distancing factor involved and the enclosed nature of the site.

Finally, in relation to the likely impacts of the development on the water quality of coastal waterbodies and measures to ensure efficient water and energy usage, the site is connected to the Sydney Water infrastructure thus ensuring the proper and efficient disposal of waste. The proposal will satisfy its BASIX water, thermal comfort and energy targets as confirmed by the certificate lodged with the development application. A series of rainwater storage tanks with a combined capacity of 9,000ltr are to be located in the plant room on the lower level of the proposed dwelling. The capacities of these tanks exceed the



BASIX requirements (2,000lt) and the recommendations contained in the Bushfire Threat Assessment (5,000lt) and the overflow from these tanks would be disposed of on-site via a regulated dispersal arrangement. The Flora & Fauna assessment concludes that this method of dispersal will not have an adverse upon the natural environment and this filtering of the water through the soil and the bushland, which ultimately seeps into the Ocean will assist both in terms of water quality and quantity. The remainder of the stormwater runoff from the new dwelling will be discharged into Council's street drainage system via gravity utilising the piped system in the driveway thus replicating the drainage arrangement associated with the existing dwelling. Finally, as indicated earlier, erosion control barriers will be erected around the rear of the site prior to the commencement of works and these will be maintained until such time as the site disturbance has been consolidated and the areas are either paved or revegetated, thus avoiding siltation of the surrounding bushland.



7.0 SECTION 79C CONSIDERATIONS

7.1 The provisions of any Environmental Planning Instrument

The land is zoned Environmental Living under the provisions of the LEP. This zoning permits a range of residential & residentially related, low traffic generating commercial uses & waterfront related uses and through this classification introduces a greater focus on the protection, management and restoration of the ecological, scientific, cultural and aesthetic values of the locality and the minimisation of development related impacts.

The proposed new dwelling and its ancillary facilities is therefore permitted with the prior consent of Council and there are no landuse or statutory impediments to the granting of consent to the proposal on the basis of the landuse classification.

The preceding assessment confirms that the proposal complies with all of the relevant provisions and / or the aims and objectives of the LEP.

Development of the site and this landuse type is subject to the State Environmental Planning Policy No.71 – Coastal Protection and State Environmental Planning Policy, BASIX, 2004.

The preceding section of this Statement has confirmed that the proposal has no potential for a significant adverse impact upon the heavily vegetated character of the area due to the location, design and exterior finishes of the new dwelling. The proposed supplementary landscaping and the construction management measures ensure that the proposal will have no adverse visual or physical effect within the coastal zone.

The BASIX certificate lodged with the application confirms that the proposal will or can satisfy its water, thermal comfort and energy targets.

7.2 The provisions of any Draft Environmental Planning Instrument

There are no draft planning instruments which apply to this site or development type.

7.3 Any Development Control Plan

The site is subject to the provisions of the Pittwater 21 Development Control Plan, 2012. The preceding section of this Statement has confirmed that the proposal complies with all of the relevant provisions of the DCP and / or their aims and objectives.

7.4 Planning agreements

The site and this proposal are not subject to any planning agreement or draft planning agreement under the provisions of Clause 93F of the Environmental Planning and Assessment Act, 1979.

7.5 Any matters prescribed by the Regulations

The subject site is designated as Coastal Land however in this Local Govt area only areas from the mean high water mark to a point 3 nautical miles seaward are subject to the Government Coastal Policy, therefore the provisions of



Clause 92(1)(a) of the Regulations are not applicable.

The proposal involves demolition of the existing dwelling and the detached garage therefore the provisions of Clause 92(1)(b) are relevant. These works will be carried out by a licensed contractor who will be bound by the provisions of AS 2601-1991 : The Demolition of Structures.

The development site is not subject to a subdivision order therefore the provisions of Clause 92(1)(c) are not relevant.

The provisions of Clause 93 are not applicable as the proposal does not involve a change in the use of the building, the new dwelling will again be classified as a Class 1 building under the provisions of the Building Code of Australia.

Similarly the provisions of Clause 94 are not relevant as the proposal does not involve the rebuilding, alteration or enlargement of the existing building. Under these circumstances it is expected that Council's approval will include a condition requiring compliance with the relevant fire safety provisions of the Building Code of Australia.

It is not anticipated that Council in its determination of the application would impose a deferred commencement condition(s) therefore the provisions of Clause 95 are unlikely to apply.

It is unlikely that Council in its determination of the application would impose a condition under Section 80A(2) of the Act as there is no ancillary aspect of the proposal therefore the provisions of Clause 96 are unlikely to apply.

The proposal does not involve a modification or surrender of a prior development consent therefore the provisions of Clause 97 are not applicable.

The proposal is subject to a BASIX assessment therefore the provisions of Clause 97A will apply and it is anticipated that Council's approval will include a condition requiring compliance with the BASIX commitments during construction and prior to issue of the Occupation Certificate.

Under these circumstances there are no matters prescribed by the Regulations which would prevent approval of the application as submitted

7.6 [Any coastal zone management plan \(within the meaning of the Coastal Protection Act, 1979\)](#)

As indicated earlier the development site is located within the Coastal Zone however Council has not prepared a coastal zone management plan for this locality.

7.7 [Likely impacts of the development, including environmental impacts on both the natural and built environments and social and economic impacts on the locality](#)

The proposal involves contextually minor site excavation and all of the existing substantial trees are to be retained and supplemented by new locally endemic trees & shrubs. Accordingly the heavily vegetated character of the site will be maintained and enhanced. The proposal does not require any interference with vegetation on the adjoining properties and the existing vegetated streetscape



when viewed from the public domain will be unaffected. As confirmed by this Statement and the photos on P.8, when viewed from the public viewpoints to the south and west of the site the proposed dwelling will be read against the landscaped escarpment of the North Avalon headland. Under these circumstances I am able to conclude that the proposal will have a negligible impact on the natural and built environment.

The potential social and economic impacts have been addressed through the design & location of the proposed dwelling & its ancillary facilities and the retained & proposed landscaping around the site perimeter. The height and location of the proposed dwelling has no potential for a significant loss of either primary or peripheral views from any surrounding property. The proposal does not give rise to any significant or unreasonable overshadowing of any adjoining property and the proposal does not appear to have any potential to limit future development on the surrounding properties. So again I am able to conclude that the proposal will result in a minimal social or amenity impact upon surrounding property owners or occupiers.

7.8 The suitability of the site for the development

As previously advised, the site is zoned for residential purposes with a heightened focus on the protection, management and restoration of the ecological, scientific, cultural and aesthetic values of the locality and the minimisation of development related impacts.

The proposal involves contextually minor site excavation / modification and as confirmed by this Statement and the Flora & Fauna Assessment there will be no negative impact on threatened species, endangered populations or endangered ecological communities or the aesthetic characteristics of the locality.

Accordingly I am able to conclude that the proposal is consistent with Council's broad objectives for the area and I note the proposal is consistent with the use, the built form and level of amenity associated with other dwellings in the locality.

7.9 Any submissions made in accordance with the Environmental Planning and Assessment Act or its associated Regulations

There are no submissions that have been made in accordance with the Legislation, which apply to this site or type of development.

7.10 The Public Interest

It is in the public interest to upgrade the housing stock in this highly desirable coastal escarpment which is undergoing varying degrees of gentrification to either upgrade or replace the existing housing stock. It is also in the public interest to provide high-quality housing which caters for the upper end of the property market.

The proposal itself is also considered to be in the public interest given the associated minimal visual impact from the public domain and the immediately adjoining properties and the fact that there are no cumulative impacts on the ecological and aesthetic values of the locality.



8.0 CONCLUSION

This application seeks Council's consent to demolish the existing 2 storey dwelling and the detached garage to facilitate construction of a new part 3 level dwelling and an attached garage.

The proposed building footprint is similar to that currently existing however the new dwelling will be further back from the rear cliff edge with an extension in a natural depression in the S/W corner of the site.

The predominant vegetation on the site is 4 Norfolk Island Pines (one of these has previously been approved for removal by Council under the terms of the tree preservation order), a coastal Banksia, coastal heath, ornamental gardens and lawned areas. All of the substantive trees and shrubs on the site are to be retained and supplemented by the proposed landscaping detailed on the concept landscape plan which includes a further 6 coastal Banksias, 2 Eucalypts and lower growing locally endemic shrubs & ground covers.

The proposed dwelling will not be seen from the street therefore it has no potential for an adverse impact on the streetscape due to the site topography, the subdivision pattern, the height, location & design of the proposed building relative to the surrounding dwellings and the existing screen planting on the development site and those adjoining.

Vehicular & pedestrian access to the site is via a 3m wide concrete driveway located in the approx 70m long access handle, no changes are proposed to this access arrangement. An on-site turning area is currently provided adjacent to the existing garage and this facility is replicated in the proposal thereby enabling vehicles to enter & exit the site in a forward direction. This turning area can also accommodate 2 visitor parking spaces forward of the garage however these would have to reverse off the site.

The land is zoned Environmental Living under the provisions of the LEP and the proposed dwelling is permitted with Council's prior consent. The major differentiation with this zoning from the usual Residential classification is a greater focus on the protection, management and restoration of the ecological, scientific, cultural and aesthetic values of the locality and the minimisation of development related impacts. As confirmed by this Statement the proposal achieves these locality specific objectives.

The proposal cannot be classified as either 'Exempt' or 'Complying Development' under the State Government's Housing Code due to the site's environmentally sensitive classification, hence the lodgement of this Development Application.

The site is not subject to any environmental classification beyond its zoning however it has been deemed to be potentially landslip & bushfire prone and it possibly contains acid sulphate soils. Accordingly this application is accompanied by a Flora & Fauna Assessment, a bushfire threat assessment and a geotechnical assessment.

Flora Assessment confirms that the proposal will have no potential for an adverse impact upon the surrounding reserve and a small remnant area of



Littoral Rainforest vegetation adjacent to the S/W site boundary subject to amongst other things the preparation and implementation of a bushland management plan.

The Fauna assessment revealed that the most significant habitat occurred in the east and S/W corners of the site which were not impacted by the proposed development and that the sandstone outcrop in the S/W corner of the site may include roosting areas for microbats. It therefore recommends amongst other things that a construction exclusion zone be established across the rear of the site and that prior to works being carried out in the S/W corner of the site an ecologist be assigned to undertake a pre-clearing survey to determine the presence of any roosting microbats or other fauna and the findings of this survey should be provided to the client in a report format before the works continue. The ecologist should then supervise the clearing activities and work in & around the sandstone outcropping to observe for any injured or displaced fauna.

The geotechnical assessment confirms that the proposed dwelling, the associated earthworks, facilities and infrastructure are suitable for the site and upon completion the proposal will achieve an 'acceptable' rating within the terms of the Council's Geotechnical policy and no geotechnical hazards will be created as a consequence of the proposed works providing they are carried out in accordance with the recommendations detailed in the report and subject to good engineering & building practice.

The bushfire threat assessment concludes that the proposed works will provide a greater separation distance to the bushfire hazards than the existing building footprint, the proposed exterior building materials will provide better protection than the existing dwelling and the proposal will satisfy the requirements of Planning for Bushfire Protection, 2006 subject to the maintenance of asset protection zones and the provision of a 5,000lt static water supply, to assist in the fighting of fires. The proposal makes provision for this in the basement plant room.

In relation to acid sulphate soils the site has been classified as Class 5 land which is the lowest risk category. Drawing on the information from the Department of Environment, Climate Change and Water, acid sulphate soils are usually found in estuarine floodplains and coastal lowlands and thus are unlikely to be encountered on this upper level site and no excavation occurs below 5m AHD. In the unlikely event that acid sulphate soils are uncovered these would be removed and deposited in an authorised waste facility rather than being spread over the site.

Notwithstanding these hazard classifications the proposal constitutes 'Local Development' which can be processed by Council without referral to any State Government department or agency.

This Statement of Environmental Effects has addressed all of the various operational and environmental consequences of the proposal and concludes that it complies with all of the relevant provisions and / or aims and objectives of the LEP and the DCP.

Development of the site is also subject to the provisions BASIX, 2004 and



SEPP 71 Coastal Protection.

The BASIX certificate lodged with the application confirms that the proposal will or can satisfy its water, thermal comfort and energy targets.

This Statement has confirmed that the proposal has no potential for a significant adverse impact upon the heavily vegetated character of the area due to the location, design and exterior finishes of the new dwelling. The proposed supplementary landscaping and the construction management measures ensure that the proposal will have no adverse visual or physical effect within the coastal zone.

Finally, this Statement has confirmed that the proposal will have no detrimental impact on surrounding landuses in the locality, the amenity of the local residents or the public's perception of the site within the streetscape context beyond the initial construction period.

Summary

The proposal results in a high quality contemporary dwelling which has due regard to its physical setting and its environmental & hazard constraints. The dwelling is extensively modulated both vertically and horizontally, it is well scaled and uses exterior building materials & colours to blend with the surrounding dwellings and the landscaped character of the area thus minimising its potential visual prominence on this elevated site.

The proposal is fully compliant with the Council's planning controls and the aims, objectives and requirements of the relevant State Govt Planning Policies,

Under these circumstances there is no impediment to Council granting consent to the proposal as submitted and it is recommended that the application be determined accordingly.

