

REVISED STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE DEMOLITION OF THE EXISTING DWELLING AND
CONSTRUCTION OF A NEW DWELLING**

LOCATED AT

89 MARINE PARADE, AVALON BEACH

FOR

JENNIFER HEMPTON



**Revised
May 2024**

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1.0 Introduction

This revised Statement of Environmental Effects accompanies details prepared on behalf of Jennifer Hempton by Annabelle Chapman Architect for the proposed demolition of the existing dwelling and the construction of a new dwelling on land at **89 Marine Parade, Avalon Beach**.

This submission considers revised architectural plans dated 28 May 2024 and landscape plans dated 20 May 2024 prepared in response to Council's Request for Further Information prepared in response to the assessment of DA 2023/1780.

The revised information specifically addresses the issues raised in Council's correspondence in the following manner:

1. Extent of Excavation

The site is located within the C4 Environmental Living zone pursuant to Pittwater Local Environmental Plan 2014 (PLEP 2014). The extent of excavation and disturbance of the natural landform for the purposes of the basement should be reduced.

- The basement has been reduced in depth by 4670mm – 27%
- The excavation has been reduced by 242m³
- To achieve a turning circle within the basement garage to allow the cars to exit the garage in a forward direction, a turning space adjacent to the lift is required to comply with Australian Standards Car Turning Paths – AS2890.1 *Parking Facilities*.
- The plant room has been relocated to the basement together with the pool equipment.

2. Development within foreshore area

Clause 7.8 (Limited development on foreshore area) of the PLEP 2014

The proposal involves elements of the development that are inconsistent with the following provisions of Clause 7.8:

(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area.

- The amended rear terrace/deck area is amended to fit within the existing rear terrace/deck footprint
- The amended stair leading down to the northern side boundary has been relocated and now is within the existing stair footprint
- The amended adjustable louvre pergola has been relocated so it fits entirely outside the foreshore area, a reduction of 12m² of louvred pergola area.
- The narrow terrace opening off from the Living Room in the North East Corner has been amended to have a 2.5 metre side boundary setback, is built within the existing building footprint and fits entirely outside the foreshore area, except for a small triangular section on the North-East corner, 0.85 metres x 3.6 metres = 1.53m²

- The amended Home Office to the Lower Ground Floor has been reduced in depth to fit entirely outside the foreshore area
- There are no retaining walls within the Foreshore area
- The conversation pit originally proposed within the foreshore area has been removed
- The submission is accompanied by a Written Request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 in relation to the minor new work extending forward of the foreshore building line, which is restricted to the new eave overhang to the east of the sitting room.

3. Built form non-compliance

Section D1 (Avalon Beach Locality) of Pittwater 21 Development Control Plan (P21 DCP)

The proposed development is inconsistent with the minimum side setbacks, being 2.5m on one side and 1.0m for the other as prescribed by section D1.9 of P21 DCP.

The proposal results in a significant variation to the side boundary envelope on both the northern and southern elevation.

- Side setbacks – the drawings have been amended to comply with the DCP setbacks of 2.5 metres /1m to each side setback.
- Side boundary envelope – the roof level to the southern side boundary has been lowered to allow full compliance with the DCP side boundary envelope
- A small section of the north-west corner of the Media Room does not fully comply with the DCP side boundary envelope, but it does not impact the northern neighbour's amenity and on merit, the small non-compliance which is discussed further within this submission is considered to be reasonable.
- The Garden Terrace to the north west of the Upper Floor – the roof has been set in 1200mm from the west
- The Living Room complies with the side boundary envelope as the northern wall has been amended to present a 2.5 metre side boundary setback

4. View Loss

Section C1.3 (View Sharing) of (P21DCP)

Section C1.3 (View Sharing) of the P21DCP requires development to provide for the reasonable sharing of views. The objectives of the Clause aim to provide for view sharing for both existing and proposed development and existing and future residents.

A view loss assessment at nearby No. 87A Marine Parade, has determined that the proposed development is inconsistent with the objectives of Section 1.3 of the PDCP relating to views and with the Land and Environment Court Planning Principle - Tenacity Consulting V Warringah {2004}.

- The roof width to the Master Bedroom and adjacent Sitting Room, located outside the Foreshore Building Area, has been reduced in depth and length minimising view loss impacts.
- The adjustable louvre pergola has been reduced in size and is now located entirely outside the foreshore area
- The assessed view loss from 87A Marine Parade from their Living Room looking North across their northern side boundary, has been reduced substantially, as indicated in the amended photo montages attached with the amended drawings

and specifically Drawing No 852. The photo montage image shows that the full view of Bangalley Headland is maintained.

- The roof to the Sitting Room off the Master Bedroom is compliant with side setback, rear foreshore building line setback and building height. The building height of the roof ridge is 3.4 metres below the 8.5 metre building height limit and the existing single level has been maintained.

5. Privacy

Section C1.5 (Visual Privacy) of P21DCP

Section C1.5 of the P21DCP requires direct overlooking between adjoining dwellings be offset by building layout, landscaping, screening devices or greater spatial separation.

- The Laundry deck opening from the Laundry on the southern side boundary has been deleted.
- The northern window in the Living Room has been set back 2.5 metres from the northern side boundary, providing a generous separation between the adjoining property to the north, 91 Marine Parade. The amendments provide over 6 metres of separation between the two side property walls.

6. Internal Referral – Biodiversity

Council's Biodiversity Officer provided the following comment in response to the development application:

"The comments in this referral relate to the following applicable controls and provisions:

- *NSW Biodiversity Conservation Act 2016*
- *SEPP (Resilience & Hazards) 2021 - Coastal Environment Area*
- *Pittwater 21 DCP - Clause B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land*

The proposal has been submitted with an Aboricultural Impact Assessment that has assessed the condition of 12 trees as well as a Landscape plan that includes a range of native and exotic species. The application requires all 12 canopy trees to be removed as a result of the proposed development. Objections are raised as follows:

- *The NSW Biodiversity Conservation Act 2016 requires that development applications follow the hierarchy of avoid and minimise in relation to impacts on biodiversity. The application does not appear to have addressed the hierarchy.*
- *Although canopy replacements are proposed in the landscape plan, the development application does not comply with P21DCP B4.5 as all native vegetation within the site will be removed if the application is approved in its current form.*
- *The proposed landscape plan has included a range of native species, however also considers a range of exotic species including a species which has been identified as a weed in the Northern Beaches Local Weed Management Plan (*Raphiolepis indica*). The Landscape Plan should follow the Native Planting Guide available on Council's website to ensure an appropriate selection of species is included with the application".*

- The Landscape Architect, As discussed the project with Council's Biodiversity Officer and amendments have been prepared to the design, to address the issues outlined in Council's Assessment.
- We confirm that the NSW Biodiversity Conservation Act 2016 hierarchy was heavily considered through the design development and application process

- As noted in our amended Landscape Plans, substantial replacement canopy trees have been detailed within the Landscape Plan to offset the loss of existing tree species. P21DCP B4.5 was heavily considered through the design development and while the site has a small amount of native species being removed that we are replacing, there is no threatened species, endangered populations or endangered ecological communities that are effected as part of this proposal. The development generally meets Councils planning controls and the substantial landscape proposal provides flora and fauna habitat by active restoration, regeneration, and creation of a landscape that is sympathetic to the site and beneficial to the biodiversity of the locality.
- The amended Landscape Plan has deleted the use of any *Raphiolepis* spp. and we have increased the percentage of locally endemic plant species as part of the proposal, in addition to this we have increased the amount of canopy trees to a total of 11 proposed. This is reflected in the updated Planting Plan detailing 3 x *Livistona australis* / 6 x *Banksia integrifolia* / 1 x *Angophora costata* and 1 x *Magnolia grandiflora*

7. Internal Referral – Landscape

No landscape calculations are provided in the architectural plans. Landscape Plans are submitted and it is noted that landscape area calculations are identified on these plans as a deficient 55.1% that includes the 6% allowance. This matter shall be determined by the Assessing Planning Officer. Landscape Referral provide comments regarding the landscape area as this impacts upon the overall landscape objective of land zoned C4 Zone Environmental Living. Concerns are raised that identified 'landscape areas' shown on drawing C7 are unable to be defined as landscape area as they are unable to accommodate the definition of landscape area in the PLEP, as landscape area "means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area", and the following areas are identified that Landscape Referral consider are unable to achieve planting:

- permeable driveway as it is a hard paved surface
- landscape steps at rear of the property as no planting is possible for the selections as shown on the materials palette drawing
- stepping stone areas within the front setback near northern boundary that are predominantly paved
- stairs within the front setback near northern boundary
- conservation pit area at rear of property
- The overall theme of the Landscape Plans including hard and soft landscape works is noted. Further to the landscape area concerns as discussed above, it is noted that the presentation to the streetscape consisting of high walling and fencing establishes a prominent visual elements to the streetscape that is unlike many of the properties within proximity which display a landscape setting devoid of structures in the majority. It is noted that the first wall is located away from the front boundary, whilst the second wall that supports fencing on top is narrow in garden width to support adequate planting to soften the visual impact. It is considered that the frontage to Marine Parade is a prominent element that should be further refined to reduce the built form and wider garden width between walling may assist, as will a selection of planting to screen the walling and fencing.

- The Landscape Architect discussed Council's concerns with the Senior Landscape Architect and the plans detail the design response to address Council's concerns. The design response is outlined over:
- The landscaped area has been increased as a result of the increased northern side setback.
- The driveway treatment proposed is permeable as it is a combination of cobbles surrounded by *Zoysia tenifolia* that will allow natural stormwater infiltration without the need to capture the water in drains and intact the stormwater system. Please refer to Landscape Plan C11 for a visual depiction of the proposed detail.
- In regards to the landscape steps to the rear, the Materials Palette image depicts the structure proposed for the steps (hardwood sleepers) The intent of the steps is to have planting on treads and landings to soften the structure and ensure permeability. Additional planting throughout these steps (with native *Dichondra repens*) on the amended Planting Plan provides additional assurance of the Landscape approach to these steps.
- Stepping stones have been deleted and replaced with a trafficable ground cover.
- Stairs within the front setback shall be an open structure that shall allow planting below and therefore ensure permeability. If you would like further detail please advise.
- Conversation Pit to the rear has been deleted
- Front Walling - the tiered walling to the front setback has been amended to allow for a clear 1000mm garden bed between walling, in addition to this additional native planting has been added within this space as reflected in the updated planting plan and Section B. The proposed landscape treatment is in-keeping with the existing streetscape aesthetic (this is the desired outcome of the owners) and the landscaped setting proposed is further enhanced with the deep lawn verge that can be planted with your support as many others in the street have done.
- Landscape Calculations have been added to the Architectural Plans – Drawing #924
- Landscaped Area is calculated at 60.1% of the site area (621.62m²), including a 6% impervious allowance.

The revised architectural plans prepared by Annabelle Chapman Architect are noted as Revision A dated 28 May 2024, comprising DA 000, DA 101 – DA 105, DA 151 – DA 152, DA 200 – DA 204, DA 301 – DA 306, DA 401- 406, DA 601-602, DA 701, DA 901-903, DA 910.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment, it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended*

- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan*

2.0 Property Description

The subject allotment is described as 89 Marine Parade, Avalon Beach, being Lot 122 within Deposited Plan 8394 and is zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The site is identified as being within the Coastal Environment Area and the Coastal Use Area under the provisions of the SEPP (Coastal Management) 2018. This matter will be discussed further within this submission.

The site is identified within the Class 5 Acid Sulfate Soils Area and is affected by the Foreshore Building Line. These matters will be discussed further within this submission.

In addition, the site is identified as Bluff/Cliff Instability. Accordingly, a Report on Geotechnical Site Investigation and Risk Assessment has been prepared by Crozier Geotechnical Consultants, dated November 2023. This issue will be discussed further within this submission.

Additionally, Coastal Engineering Advice has been prepared by Horton Coastal Engineering, dated 28 September 2023, which is discussed further within this submission.

There are no other identified hazards affecting the land.

3.0 Site Description

The property is located on the eastern side of Marine Parade and is generally rectangular in shape. The site has a frontage to Marine Parade of 18.315m and north-eastern and south-western side boundaries of 54.92m and 58.25m respectively. The rear, angled eastern boundary faces the bluff escarpment and measures 18.8m. The total site area is 1034m².

The land rises away from the street to the escarpment line at the eastern extremity of the site. Stormwater from the site will be disbursed to the street gutter in accordance with the Stormwater Management Plan prepared by Peninsula Consulting Engineers, dated 17 November 2023.

The land is currently developed with an existing one and two storey clad dwelling with a metal roof and attached garage. Vehicular access is available via a concrete driveway from Marine Parade.

The details of the existing site levels are indicated within the Survey Plan prepared by C.M.S Surveyors Pty Ltd, Reference No. 19500Bdetail, Issue 2 dated 25 October 2023.

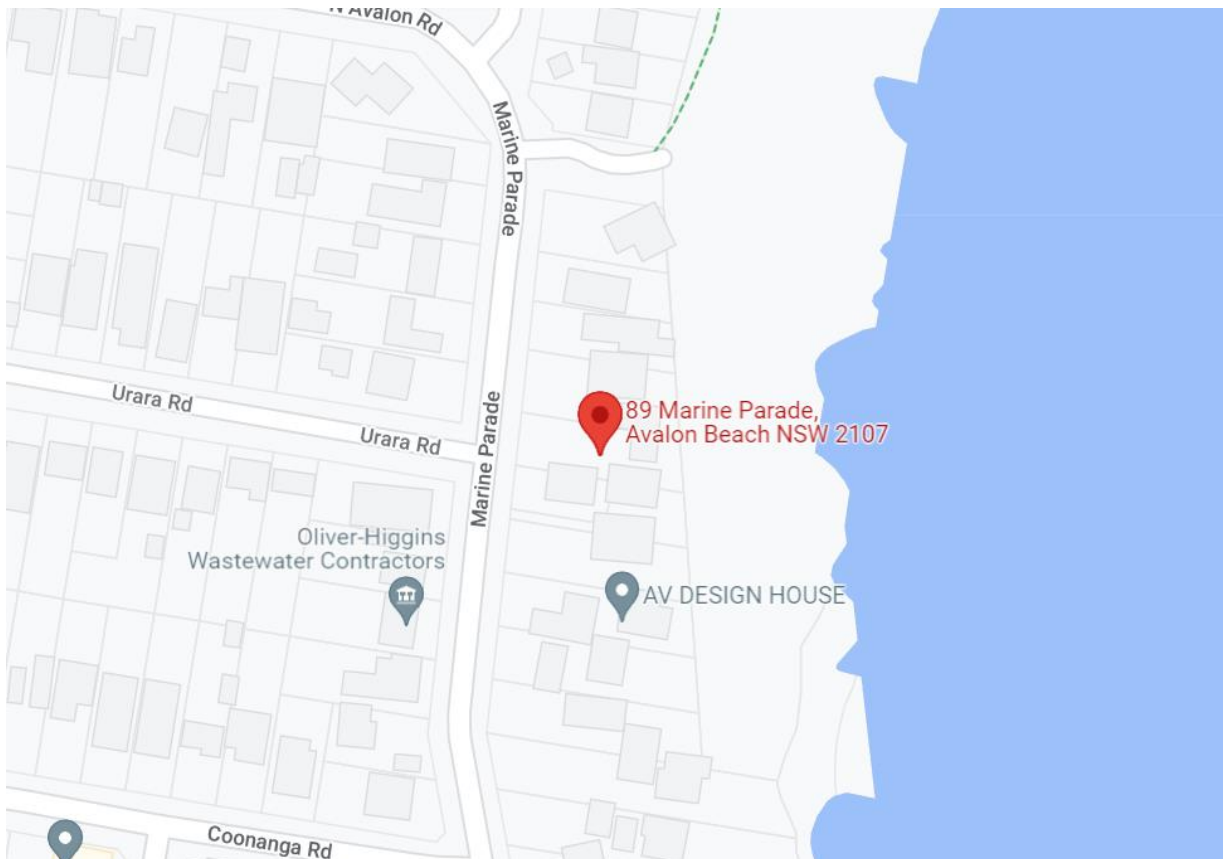


Fig 1: Location of Subject Site
(Source: Google Maps)



Fig 2: View of the subject site, looking east from Marine Parade



Fig 3: View of the streetscape to the north of the site and adjoining site at No 91 Marine Parade, looking north-east



Fig 4: View of the streetscape to the north of the site and adjoining site at No 87 Marine Parade, looking south-east



Fig 5: View of the existing dwelling and current driveway access, looking east



Fig 6: View of the existing driveway access to the street, looking west



Fig 7: View looking north towards the adjoining site at No 91 Marine Parade



Fig 8: View looking north-east along adjacent blank wall of the northern neighbour at No 91 Marine Parade



Fig 9: View of the existing dwelling from rear, bluff boundary, looking north-west



Fig 10: View of the subject site and adjoining development to the north



Fig 11: View looking north along the rear elevation of the existing dwelling



Fig 12: View looking south along the rear elevation of the existing dwelling, towards the neighbouring attached dwelling at No 87A Marine Parade



Fig 13: View of the adjoining attached dwellings to the south at No 87 & 87A Marine Parade, looking south-west

4.0 The Surrounding Environment

The general vicinity of the site is characterised by one and two storey residential developments within landscaped settings. The surrounding dwellings enjoy views to the north towards Bangalley Headland and Reserve and east towards the ocean.

Surrounding the sites are single residences, with a variety of styles and scales of development.



Fig 14: Aerial Photograph
(Source: Google Maps)

5.0 Proposed Development

As detailed within the accompanying revised plans, it is proposed to provide for the demolition of the existing dwelling and the construction of a new dwelling with a basement garage and associated landscaping, and will comprise the following works:

Basement Level

- Excavated level to provide for new garage with turning area, plant room/bin store/bike storage, shower room, surfboard racks, internal stair access to upper levels and internal vertical lift

Lower Ground Floor Level

- New ground floor level to provide for two bedrooms with ensuites, outdoor equipment storage, cellar, comms room, store room, home office and bathroom
- Internal vertical passenger lift & internal stair access

Upper ground Floor Level

- Three bedrooms (main with WIR, ensuite and sitting area), study, media room, guest WC, laundry, pantry, open plan kitchen, dining & living room, north facing courtyard, garden terrace and eastern deck with operable roof over

External Works

- Proposed new driveway to provide access to the basement garage, new small inground swimming pool adjacent to the northern boundary within the western yard of the site. The details of the proposed swimming pool are included within the Landscape Plan prepared by Contour Landscape Architecture dated 20 May 2024. The proposed swimming pool will be fence in accordance with requirements of the Swimming Pools Act.

The proposal provides for a pitched roof form, and is stepped to follow the sloping topography of the site, which assists with minimising the visual impact of the new works.

The external finishes of the new works comprise weatherboard cladding and sandstone cladding with metal roof sheeting. The external finishes utilise earthy external tones, which will complement the landscaped character of the locality and have been detailed on Sheet DA-701.

The proposal to provide for the new dwelling and the new driveway to access the excavated basement garage accordingly, an Arboricultural Impact Assessment Report has been prepared by Margot Blues Consulting Arborist, dated 8 November 2023.

The report notes that the proposal will see the removal of twelve mature native trees as a result of construction impacts and location of the driveway and dwelling.

As identified in the Assessment, two of the 12 trees to be removed are exempt species, the remainder of the trees to be removed of either a low, moderate or high retention value.

A stand of Broad Leaf Paperback adjacent to the southern boundary (Trees 1-7) are noted for removal due to construction impacts resulting from the excavation and placement of the dwelling however this trees have been compromised through lopping from the neighbouring property at 87 & 87A Marine Parade.

A significant Broad Leaf Paperback (T12) is a dominant feature within the front setback however in order to provide for the excavated basement garage and functional driveway access, the tree is to be removed.

The cover photo image from the AIA indicates that the neighbouring properties in the vicinity have been developed and presumably with the removal of trees to facilitate the development in this regard, the development is compatible with the immediate vicinity.



Image 1: The property Courtesy Nearmap accessed 28/03/2023.

Fig 15: Cover Image extract – AIA prepared by Margot Blues

A revised Landscape Plan prepared by Contour Landscape Architecture dated 20 May 2024 notes replacement tree planting with 31 new trees with a mature height of more than 5m to be provided to compensate for the removal of the existing trees.

The Project Landscape Architect has provided the following design summary:

A Landscape Concept Plan has been prepared by Contour Landscape Architecture which provides for the managed replanting of site, includes mixture of taller tree planting, together with lower storey and ground cover. The proposed planting will introduce opportunity for planting to screen the private open space areas and also to assist in screening the new built form.

The landscape treatment for the site has been carefully considered to meet the desired landscape outcomes of Councils development controls and sympathetic to the subject site and locality. The development proposes to remove 12 x tree species as outlined in the Tree Report prepared by Margot Blues Consulting Arborist to accommodate for the proposed Residence and access driveway.

The proposed landscape works have a strong desire to reinstall a dense and diverse tree canopy cover to contribute to the health, diversity and character of the site. The proposed Landscape works includes nearly three times the amount of Tree & Palm canopy species that currently consists on site.

The proposed planting consists of a diverse mix of native and exotic trees and palms totaling 31 additions to the site.

*The proposed species consists of endemic natives such as *Angophora costata*, *Banksia integrifolia*, *Livistona australis*, *Archontophoenix cunninghamiana* and *Xanthorrhoea latifolia*. Other native and exotic species such as *Howea forsteriana*, *Elaeocarpus eumundi*, *Magnolia grandiflora*, *Plumera rubra* & *Draceana draco* shall couple with the proposed endemic natives to provide a substantial, well considered and diverse canopy to the site providing substantially better outcomes than the current situation.*

The proposed landscape design has been as prepared to assist in screening the built form and also to supplement the architectural design, which was resolved with consideration for privacy to the southern neighbours.

The development indices for the proposal are summarised as:

Site Area:	1034m ²
Required soft landscaped area:	60% or 620.4m ²
Proposed soft landscaped area:	60.1% or 621.62m ² (incl. 6% impervious surfaces area allowance – see DCP discussion)

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy (Sustainable Buildings) 2022

The proposal meets water, thermal and energy standards required by BASIX. No A1375065_02 dated 23 April 2024 has been submitted with the revised submission.

6.2 State Environmental Planning Policy (Resilience and Hazards) 2021

SEPP (Resilience and Hazards) 2021 and in particular Clause 4.6(2) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

The subject site has been identified as being within the coastal zone and therefore SEPP (Resilience and Hazards) 2021 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*

- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Resilience and Hazards) 2021, as set out in Clause 3 of the Coastal Management Act 2016.

The matters for consideration under Division 5 of SEPP (Coastal Management) 2018 are:

The matters for consideration under SEPP (Resilience and Hazards) 2021 are addressed as follows:

Division 3 Coastal Environment Area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) coastal environmental values and natural coastal processes,*
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*

- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Comment:

The proposal provides for the construction of a new dwelling, together with a basement garage. The revised plans provide for a reduction in the area of excavation for the basement of approximately one third when compared to the initial design. The proposed works will be carried out in accordance with the recommendations of the consulting Geotechnical and Structural Engineers, which will ensure that appropriate structural integrity for the site will be maintained.

The collected stormwater will be directed to the street gutter in accordance with the existing arrangements. A Stormwater Management Plan and Details has been prepared by Peninsula Consulting Engineers, Job No 23-1008, Sheets H01 – H-04 Issue B dated 17 November 2023. The stormwater management system will comply with Council's requirements. Sediment and erosion control measures will be carried out to minimise the impact of the works on the waterway.

Division 4 Coastal Use Area

Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) Aboriginal cultural heritage, practices and places,*
 - (v) cultural and built environment heritage, and*
- (b) is satisfied that—*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

The proposal provides for the construction of a new dwelling and under building parking together with a swimming pool and associated landscaping which are largely contained within the existing disturbed area of the site. The proposed new dwelling is stepped to follow the sloping topography

of the site, and provides a modest single story scale to the coastal bluff and a two story scale over the excavated garage to the street area, which will not result in any unreasonable adverse impacts within the foreshore area.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment

The proposal provides for the demolition of the existing structures and the construction of a new dwelling and under building parking together with a swimming pool and associated landscaping. The proposed new works will be carried out in accordance with the recommendations of the consulting Geotechnical, Coastal and Structural Engineers, which will ensure that appropriate structural integrity for the site will be maintained. Accordingly, the proposed works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment: No coastal management programs have been identified.

2.14 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

Comment: Noted

2.15 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,*
- (b) the coastal vulnerability area,*
- (c) the coastal environment area,*
- (d) the coastal use area.*

Comment

Noted

6.4 Pittwater Local Environmental Plan 2014

The Subject site is zoned C4 Environmental Living under the provisions of the PLEP 2014, and the proposed new dwelling is permissible with consent within the zone.

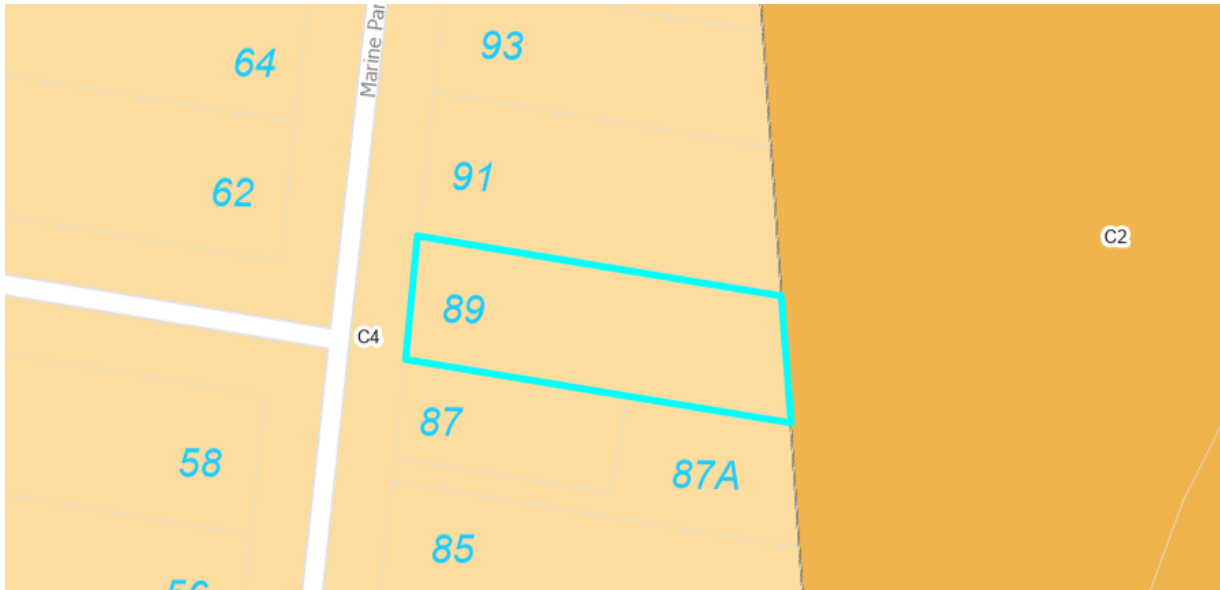


Fig 14: Zoning extract – Pittwater LEP 2014

The development of and use of the land for residential purposes within the C4 Environmental Living and is consistent with the zone objectives, which are noted as:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for residential development of a low density and scale integrated with the landform and landscape.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

It is considered that the proposed demolition works and the construction of the new dwelling will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality.

- The proposal provides for the construction of a new dwelling with associated facilities and landscaping, with a complementary bulk and scale which will not have any substantial impact to the neighbouring properties.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any unreasonable impact on long distance views.

Clause 4.3 – Height of Buildings

The maximum building height in this portion of Avalon is 8.5m. The proposal provides for a maximum height of up to 8.5m and therefore has been designed to ensure compliance with Council's maximum height control.

Clause 7.1 relates to acid sulfate soils. The site has been identified as being within the Class 5 Acid Sulfate Soils Area. The proposed works are not anticipated to lower the water table, and therefore acid sulfate soils will not be encountered.

Clause 7.2 relates to earthworks. The proposal will require some excavation of the site in order to accommodate the proposed lower ground floor level. The proposal is accompanied by a Geotechnical Site Investigation and Risk Assessment prepared by Crozier Geotechnical Consultants, Project No.: 2021-159 dated November 2023.

The report is considered to address the provisions of this clause.

Clause 7.5 relates to coastal risk planning.

The site is identified as Bluff/Cliff Instability on Council's mapping.

(1) The objectives of this clause are as follows:

- (a) to avoid significant adverse impacts from coastal hazards,*
- (b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,*
- (c) to enable the evacuation of land identified as coastal risk in an emergency,*
- (d) to avoid development that increases the severity of coastal hazards.*

The Coastal Engineering Advice prepared by Horton Coastal Engineering and dated 28 September 2023 includes within Part 7 an assessment of the impact of the works on the Coastal Bluff location.

The report concludes:

"An allowance for erosion/weathering of 6mm per year of the cliff seaward of 89 Marine Parade Avalon Beach, with sensitivity testing up to 12mm per year, should be considered and assessed by the geotechnical engineer. The geotechnical engineer should consider these estimated rates in conjunction with an understanding of the particular nature of the cliff materials seaward of the site, their resistance to erosion, and potential failure planes related to geotechnical issues such as the joint spacing. That stated, any future failure of the slope above the top of the cliff, or within the site itself, may be unrelated to coastal processes at the base of the cliff, so other failure mechanisms should be considered by the geotechnical engineer.

Coastal inundation is not a significant risk for the proposed development over a planning period of well over 100 years. Given this, and assuming that the geotechnical engineer will find that the development is at an acceptably low risk of damage from erosion/recession, and other processes, over a 100 year design life, the proposed development satisfies the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 (Clauses 2.10 to 2.13) and Clause 7.5 of Pittwater Local Environmental Plan 2014 for the matters considered herein”.

The report prepared by Horton Coastal Engineering is considered to suitably address the provisions of this clause.

Clause 7.8 – Limited development on foreshore area

The site is noted as being affected by Council’s Foreshore Building Line Map, the foreshore building line identified in the architectural plans.

The design intent is to ensure that the extent of the new work is contained wholly within the existing built footprint of the dwelling and decking (See Figure 14 below) located forward of the foreshore building line, consistent with the provisions of clause 7.8(2)(a) which note:

(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,

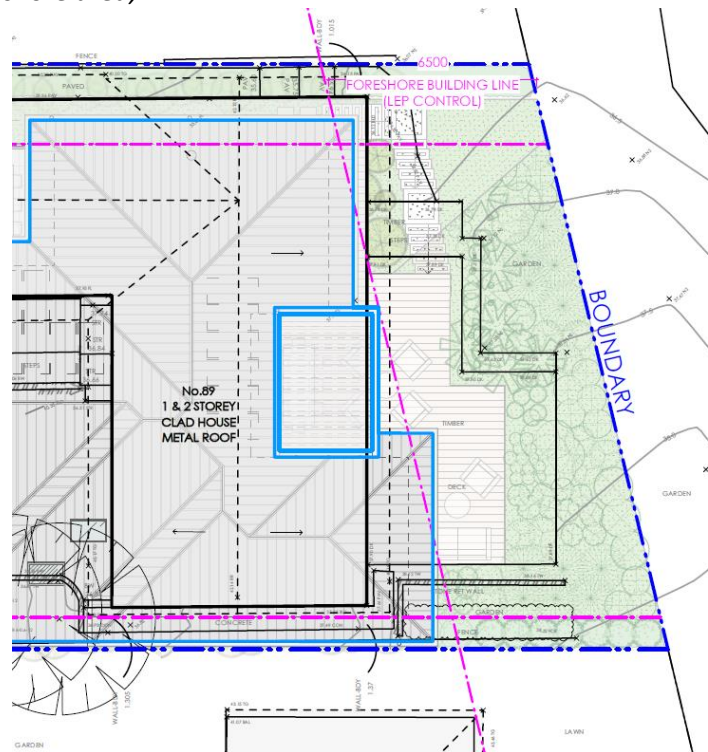


Fig 15: Plan noting amended proposed works in blue and existing dwelling footprint in black outline

The proposal will provide for the rebuilding of the existing building observing the existing extent of work within the foreshore area and maintaining the existing location of the dwelling at its north-eastern corner.

The proposal will see a minor encroachment of an eave which stands over existing decking and presents a new element of the building forward of the foreshore line. This portion of the building provides for solar protection for the dwelling and provides an important environmental benefit to the dwelling and on this basis, a Written Request under clause 4.6 of the Pittwater Local Environment Plan 2014 has been prepared to address the minor non-compliance with the foreshore building line control.

The balance of the proposed new work and decking constitute existing elements which stand currently forward of the foreshore building line and are consistent with the provisions in clause 7.8 (2)(a) and for these aspects of the dwelling, is not considered that they are subject to the requirement for a clause 4.6 submission.

As noted within the architectural submission and the photographic information provided in this submission, the building presents a compatible form and alignment to that of the neighbouring properties, as they present to the coastal escarpment line.

The proposal is therefore in keeping with Clause 7.8.

There are no other provisions of the Pittwater LEP 2014 that are relevant to the proposed works.

6.5 Pittwater 21 Development Control Plan 2014

Council's Pittwater 21 DCP Section B (General Controls), Section C (Development Type Controls) and Section D Avalon Beach Locality Statement provides a range of outcomes and controls which form the primary criteria for the control for development within the subject locality.

6.5.1 Shaping Development – Desired Character

The desired outcomes for the Avalon Beach Locality, in which this site falls, are as follows:

A4.1 Avalon Beach Locality

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

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

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

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

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

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

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

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

It is considered that the proposal is consistent with the desired character of the locality by providing for the demolition of the existing structures and the construction of a new dwelling, swimming pool and landscaping , which is consistent with the scale and style of the newer development in the vicinity.

The proposal will require the removal of a number of smaller trees and shrubs to accommodate the proposed development, however they have been identified in the tree assessment as being of poor vigour or as exempt species and of not being of significance. Additional plantings are to be provided throughout the site to assist with softening the built form of the development.

The building materials and colours will harmonise with the natural environment and will not detract from the existing locality.

6.5.2 Section B General Controls

The General Controls applicable to the proposed demolition of existing structures and the construction of a new single dwelling and associated garage and landscaping are summarised as:

B3.4 Coastline (Bluff) Hazard

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

Protection of private and public infrastructure and assets. (S)

The controls seek to ensure that all development complies with Council's Interim Geotechnical Risk Management Policy for Pittwater. A Coastal Engineering Advice has been prepared for Council's consideration by Horton Coastal Engineering, dated 28 September 2023 which confirms that the works are not at risk from accepted predicted sea level rise and cliff instability.

The advice also provides recommendations to be considered within the Geotechnical Assessment, which are considered in the Geotechnical Site Investigation and Risk Assessment prepared by Crozier Geotechnical Consultants, Project No.: 2021-159 dated November 2023.

The works will be constructed in accordance with the recommendations contained within the Coastal Engineering Advice and Geotechnical Site Investigation and Risk Assessment.

B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land

The controls seek to achieve the outcomes:

The long-term viability and enhancement of locally native flora and fauna and their habitats. (En)

The proposal provides for the demolition all existing structures and construction of a new single dwelling which is contained within a disturbed portion of the site.

The proposal is accompanied by a Arboricultural Impact Assessment prepared by Margot Blues dated 8 November 2023.

As previously discussed, the Assessment addresses the trees directly impacted by the construction works and their existing health and condition.

The revised Landscape Concept Plan prepared by Contour Landscape Architecture dated 20 May 2024 will provide for a comprehensive re-planting of the site and replacement of the trees and plants to be removed with 31 new locally occurring species and a range of native vegetation

Any new boundary fencing will allow the passage of native wildlife.

B5.15 Stormwater

The controls seek to achieve the outcomes:

Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;

Minimise the risk to public health and safety;

Reduce the risk to life and property from any flooding and groundwater damage;

Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.

Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle

Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources

Protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.

The proposal includes a Stormwater Management Plan prepared by Peninsula Consulting Engineers which will allow for the collected water is to be directed to the street gutter via an OSD tank in accordance with Council's DCP controls, in line with the existing conditions and in accordance with Council's requirements.

As the stormwater comprises roofwater only, there is not anticipated to be any adverse impact on the escarpment reserve or the area surrounding the site. The proposal is therefore considered to satisfy the provisions of this clause.

B6.1 Access driveways and works on the Public Road Reserve

The controls seek to achieve the outcomes:

Safe and convenient access. (S)

Adverse visual impact of driveways is reduced. (En)

Pedestrian safety. (S)

An effective road drainage system. (En, S)

Maximise the retention of trees and native vegetation in the road reserve. (En, S)

The site will provide for the construction of a new dwelling, which will include parking within an excavated basement garage to provide for off-street car parking.

The existing crossing and layback will be retained, with a new driveway within the private property to be excavated to provide access to the lowered garage level within the excavated basement. The driveway and garage level will provide for parking and the turning and manoeuvring of vehicles within the site so that vehicles can enter and leave in a forward direction.

The works are considered to satisfy Council's access requirements.

B6.2 Internal Driveways

The controls seek to achieve the outcomes:

- Safe and convenient access. (S)*
- Reduce visual impact of driveways. (S)*
- Pedestrian safety. (S)*
- An effective road drainage system. (En, S)*
- Maximise the retention of trees and native vegetation.*
- Reduce contaminate run-off from driveways.*

The proposal provides for a new driveway within the private property to provide level access to the excavated basement level. As indicated in the Drawing No 903 Cut and Fill Plan, the Drawing 305 Site Section E-E confirms the gentle slope of the driveway to the garage will comply with Council's requirements and provide for safe and functional access to the garage from the street. The existing crossing will be retained.

B6.3 Off-street Vehicle Parking Requirements

The controls seek to achieve the outcomes:

- Safe and convenient parking (En,S)*

The controls require a minimum of 2 parking spaces for a dwelling with 2 bedrooms or more. A new basement garage is to be provided which will provide for the parking needs for the site together with the opportunity to enter and leave the site in a forward direction.

B8.1 Construction & Demolition – Excavation and Landfill

The controls seek to achieve the outcomes:

- Site disturbance is minimised. (En)*
- Excavation and construction not to have an adverse impact. (En)*
- Excavation operations not to cause damage on the development or adjoining property. (S)*

The proposal will require excavation to accommodate the proposed lower ground floor level. Accordingly, the proposal is accompanied by a Geotechnical Site Investigation and Risk Assessment prepared by Crozier Geotechnical Consultants, Project No.: 2021-159 dated November 2023. which is considered to address the provisions of this clause.

In addition, the works will be carried out in accordance with the recommendations of a qualified Structural Engineer.

B8.3 Construction & Demolition – Waste Minimisation

The controls seek to achieve the outcomes:

Reduction management of demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility. (En)

As required, appropriate waste management controls will be implemented throughout construction.

6.5.3 Section C Development Type Controls

The Development Controls applicable to the proposed demolition works and the construction of a new dwelling with basement garage, swimming pool and associated landscaping are summarised as:

C1.1 Landscaping

The controls seek to achieve the outcome:

A built form softened and complemented by landscaping. (En)

Landscaping reflects the scale and form of development. (En)

Retention of canopy trees by encouraging the use of pier and beam footings. (En)

Development results in retention of existing native vegetation. (En)

Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)

Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)

Landscaping enhances habitat and amenity value. (En, S)

Landscaping results in reduced risk of landslip. (End, Ec)

Landscaping results in low watering requirement. (En)

The proposal will see the removal of existing trees and a revised Landscape Plan has been prepared by Contour Landscape Architecture, dated 23 April 2024 for the managed replanting of the site including replacement tree cover including 31 new trees and perimeter screen planting to assist in screening the new built form.

The proposal will retain a suitable area of soft landscaping on site, and the site will maintain its contribution to the landscaped character of the locality and is considered to maintain consistency with the provisions of this clause.

C1.2 Safety and Security

The controls seek to achieve the outcomes:

On-going safety and security of the Pittwater community. (S)

Opportunities for vandalism are minimised. (S, Ec)

Inform applicants of Council's requirements for crime and safety management for new development. (S)

Improve community awareness in relation to Crime Prevention through Environmental Design (CPTED), its principle strategies and legislative requirements (S)

Identify crime and safety priority areas in Pittwater LGA (S, Ec)

Improve community safety and reduce the fear of crime in the Pittwater LGA (S)

Develop and sustain partnerships with key stakeholders in the local area who are involved in community safety. (S)

The site will retain the opportunity to view the driveway and street area with casual surveillance of the immediate area available.

1.3 View Sharing

The controls seek to achieve the outcomes:

A reasonable sharing of views amongst dwellings. (S)

Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)

Canopy trees take priority over views. (En, S)

The proposal provides for the construction of a new dwelling, which steps to follow the sloping topography of the site.

The primary outlook of the surrounding dwellings is to the east & north-east. The proposed rear building line maintains a consistent building line to the existing dwelling on the side and a similar low profile single storey height.

The adjoining dwellings and particularly the southern dwelling at No 87A Marine Parade will continue to retain the significant full views currently available due to the modest nature of the eastern extremity of the proposal and its consistent setback to the current work.

As noted in Drawing No 852, the proposed dwelling will allow the retention of the full view of Bangalley Headland for the neighbouring property to the south.

C1.4 Solar Access

The controls seek to achieve the outcomes:

Residential development is sited and designed to maximise solar access during mid-winter. (En)

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)

Reduce usage and/dependence for artificial lighting. (En)

The required controls to achieve the outcomes are to ensure that private open spaces of the subject and adjoining dwellings maintain a minimum of 3 hours of solar access in mid-winter.

The proposal is accompanied by Shadow Diagrams (Drawing No. 401 – 406) which provide a shadow assessment in both plan and elevational views.

The shadow assessment confirms that whilst additional shadow is cast to the elevation of the two southern dwellings at 9 AM, for the majority of the day the additional shadow is at or below the elevated living areas for the neighbouring properties on their northern elevation and largely affects effects ground floor level, with the elevated primary living spaces and primary living rooms unaffected the majority of the day.

The subject site and neighbouring properties will maintain suitable solar access between 9am and 3pm on 21 June.

C1.5 Visual Privacy

The controls seek to achieve the outcomes:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)

A sense of territory and safety is provided for residents. (S)

The required controls to achieve the outcomes are to ensure that the private open space, recreation areas and living rooms within 9m of a development are suitably protected to limit the effects of direct overlooking.

The amended submission has responded to Council's concerns regarding privacy loss through the deletion of the southern laundry terrace and an increase in the northern setback to a minimum of 2.5m. The southern façade of the northern neighbour at number 91 Marine Parade does not have any window openings facing the proposal and the existing private open space areas of the northern neighbour are enclosed to the southern elevation and are not unreasonably overlooked from the that the existing dwelling or from the proposed new dwelling.

The proposal provides for the construction of several terraces, including above ground. However, these terraces are suitably separated from site boundaries and not substantially elevated above ground level. The southern terrace from the laundry has been deleted.

The proposed terraces are not considered to result in any problematic overlooking to neighbouring properties.

The considered location of habitable room windows will ensure that suitable privacy is maintained.

The new works have been designed to not unreasonably overlook the neighbours, with the existing levels of amenity enjoyed by the neighbours to be suitably maintained.

The proposed boundary fencing and plantings will further assist with maximising privacy for neighbouring properties.

C1.6 Acoustic Privacy

The controls seek to achieve the outcomes:

Noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited. (S)

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or recreation areas (S)

The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources.

The proposed plant room has been relocated from the Ground Floor level to the north-western corner of the basement.

Given the residential nature of the works, there will not be any significant impact on the surrounding locality in terms of acoustic privacy.

C1.7 Private Open Space

The controls seek to achieve the outcomes:

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

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

Private open space receives sufficient solar access and privacy (En, S).

The required controls to achieve the outcomes are to ensure that dwellings are provided suitable private open space with an area and at a grade which will facilitate outdoor private recreation. The northern courtyard is essential for solar access to the living areas and given that the building design limits the extent of new windows facing north to maintain sense of privacy for the neighbours, privacy for the neighbours, the inclusion of the caudate is essential to allow for outdoor space directly related to the primary living spaces and which can provide protection from the harsh north-easterly winds.

The proposal retains a generous area of private open space within both the rear yard facing the escarpment line in accordance with the existing conditions and also within the western yard which will be provided with landscaping for privacy.

The living areas will enjoy good solar access.

C1.12 Waste and Recycling Facilities

The controls seek to achieve the outcomes:

Waste facilities are accessible and convenient and integrate with the development. (En)

Waste facilities are located such that they do not adversely impact upon amenity of the land adjoining development or natural environment. (En, S)

The required controls to achieve the outcomes are to ensure that adequate area remains for the storage of waste and recyclable materials.

A bin storage area for waste and recyclables has been provided within the basement level, with convenient access to the street for bins to be removed by Council contractors via the household garbage service.

6.5.4 Section D Design Criteria

The **D1 Avalon Beach Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

In support of the proposal, it is considered that this proposal is well designed, comprehensive and consistent with the community's vision for development in Pittwater in that it is:

- Proposing a form of development which is compatible with the existing residential character of the area by maintaining an appropriate development scale which is compatible with the vicinity.
- The proposal maintains existing views and amenity to adjoining properties.
- The proposal will not result in additional run-off to adjoining properties or public spaces.
- The development will not place additional demands on local infrastructure or on the sewage disposal system for the site.

A summary of the DCP controls for the **D1 Avalon Beach Locality** is provided below:

D1.1 Character as viewed from a public place

The control seeks to achieve the outcomes:

To achieve the desired future character of the Locality.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)

To enhance the existing streetscapes and promote 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, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)

High quality buildings designed and built for the natural context and any natural hazards. (En, S)

Buildings do not dominate the streetscape and are at 'human scale'.

To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.

The required controls to achieve the outcomes are to ensure that the building maintains a compatibility with the locality through appropriate design relief including roof forms textures, materials, the arrangement of windows, modulation of wall and roof planes, spatial separation, landscaping etc.

The proposal will provide for the demolition of existing structures and the construction of a new two storey dwelling over the basement garage dwelling which will provide a bulk and scale which is in keeping with existing surrounding development.

Views over and to the side of the dwelling will be retained for the neighbouring dwellings.

The setbacks provided reflect the setbacks of the adjoining properties. The driveway will utilise the existing crossing and layback and the centralised location of the driveway is consistent with the driver treatments of the immediate neighbours.

The proposed dwelling is well articulated to provide visual interest and reduce bulk when viewed from the public domain. In addition, the existing and proposed landscaping will ensure that the proposed works will be interspersed with the natural landscape setting.

D1.5 Building Colours, Materials and Construction

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality.

The development enhances the visual quality and identity of the streetscape. (S)
To provide attractive building facades which establish identity and contribute to the streetscape.

To ensure building colours and materials compliments and enhances the visual character and its location with the natural landscapes of Pittwater.

The colours and materials of the development harmonise with the natural environment. (En, S)

The visual prominence of the development is minimised. (S)

Damage to existing native vegetation and habitat is minimised. (En)

An informal beachside appearance of the Avalon Beach Village. (S, Ec)

The required controls to achieve the outcomes are to ensure that the external colours and materials shall be darker and earthy tones as indicated within the DCP, which have been detailed in Sheet DA-701.

It is considered that the development is appropriate as the proposal will utilise finishes and colours which are compatible with the DCP, existing building finish and the surrounding properties.

D1.8 Front Building Line

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality. (S)

The amenity of residential development adjoining a main road is maintained. (S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

Vehicle maneuvering in a forward direction is facilitated. (S)

To encourage attractive street frontages and improve pedestrian amenity.

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

The control to achieve this outcome is to provide a setback of 6.5m, or the established building line to the street frontage.

The new dwelling will stand well in excess of 6.5m from the front boundary (between 20.905m & 21.45m) with the proposed swimming pool approximately 9m from the front boundary. The proposed setbacks are consistent with the established streetscape along Marine Parade.

The proposal provides a bulk and scale, which is in keeping with the character of development in the locality. The articulated front elevation ensures that the development will not be visually dominant within the Marine Parade streetscape.

The proposal will provide for supplementary tree planting to replace the trees being removed together with a comprehensive landscaping proposal for the site, as detailed within the revised Landscape Plan prepared by Contour Landscape Architecture dated 20 May 2024, to soften the built form of the development as it presents to Marine Parade and to the neighbours.

As the development will exceed Council's minimum 6.5m front setback control as it applies to the pool and dwelling, the proposal is in keeping with the desired outcomes of this clause and is considered worthy of support on merit.

D1.9 Side and rear building line

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality. (S)

The bulk and scale of the built form is minimised. (En, S)

Equitable preservation of views and vistas to and/or from public/private places. (S)

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)

Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)

Flexibility in the siting of buildings and access. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

To ensure a landscaped buffer between commercial and residential zones is established. (En, S)

The relevant controls to achieve this outcome are to maintain a minimum side boundary setback of 2.5m for at least one side and a minimum of 1.0m setback for the other side.

The revised architectural plans note the minimum setback to the northern boundary of 2.5m, with a southern setback of 1m in accordance with Council DCP requirements. The development intends to observe the desired outcomes of Council's controls, whilst presenting an articulated and modulated façade to each neighbouring property.

The development intends to reflect the existing setbacks of the current dwelling, with a similar single and part two storey form, in order to respect the existing outlook for the neighbouring properties.

As discussed within the submission, the proposal does not adversely affect the privacy, amenity

and solar access of the neighbouring property, with substantial areas within the site retained for landscaping and enhancement of the existing vegetation within the site.

The proposal is considered to achieve the desired outcomes of the control.

D1.11 Building Envelope

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

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

The bulk and scale of the built form is minimised. (En, S)

Equitable preservation of views and vistas to and/or from public/private places. (S)

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

The required controls to achieve the outcomes are to maintain the development within a height envelope which provides for a height of 3.5m with an angle projected at 45°.

As a result of the sloping topography of the site, a small portion of the north-western corner of the dwelling will encroach on the side boundary envelope control, however this portion of the building is primarily relating to the upper floor level garden terrace and the minor non-compliance with the control does not result in any adverse impacts to the adjacent northern neighbour in terms of loss of solar access or bulk and scale impacts and is set back 2.5m from the boundary.

The roof of the north-western terrace has also been reduced by 1200 mm from the west.

The articulated nature of the side elevations of the building assists in distributing the bulk of the building and with views and reasonable solar access being retained for the neighbours, the objectives of the control are respected.

The majority of the development complies with the building envelope control, and the development readily complies with the statutory height limit.

D1.14 Landscaped Area – Environmentally Sensitive Land

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality. (S)

The bulk and scale of the built form is minimised. (En, S)

A reasonable level of amenity and solar access is provided and maintained. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

Conservation of natural vegetation and biodiversity. (En)

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)

To preserve and enhance the rural and bushland character of the area. (En, S)

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

The required controls to achieve the outcomes are to limit residential development in order to maintain a minimum landscaped area of 60% of the site area.

The proposed dwelling and the associated works will provide for a soft landscaped area of approximately 621.62m² or 60.1%, including the permissible 6% concession for functional landscaped area. The proposed driveways to be provided with a pervious paving treatment.

The proposal is constrained by the extent of the long driveway necessary to access the garage, which is up to 20.9m in length and therefore contributes to the extent of the built form. As indicated in the Proposed Site Plan, Drawing No 101, the extent of the built form compares favourably with each of the neighbouring properties and in particular the attached dwellings at 87 & 87A Marine Parade.

Notwithstanding the extent of the proposed landscaped area, the site will meet Council's outcomes by providing for a soft landscaped appearance to the public area with the dwelling setback from the road and presenting an appropriate bulk and scale which is compatible with the surrounding character.

As the works achieve the objectives of this clause, the proposal is considered acceptable on merit.

D1.20 Scenic Protection Category One Areas

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality.

Achieve the desired future character of the Locality. (En, S)

To preserve and enhance the visual significance of district and local views of Pittwater's natural topographical features such as, ridges, upper slopes and the waterfront. (En, S).

Maintenance and enhancement of the tree canopy. (En, S)

Colours and materials recede into a well vegetated natural environment. (En, S)

To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component (En, S)

To preserve and enhance district and local views which reinforce and protect the Pittwater's bushland landscape and urban form to enhance legibility.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

To ensure sites are designed in scale with Pittwater's bushland setting and encourages visual integration and connectivity to natural environment.

Development shall minimise visual impacts on the natural environment when viewed from any waterway, road or public reserve.

The proposal will maintain the more significant plantings within the site and provides for additional screen planting to surround the proposed additions.

Given the scenic importance identified by the C4 Environmental Living Zone, the design has placed particular emphasis on stepping floor levels to follow the site contour and maintaining low profile roof elements. The proposed landscape plan prepared by Contour Landscape Architecture will provide for new plantings which further soften the built form of the development.

The site will maintain a generous area of soft landscaping.

The bulk and scale of the development is generally in keeping with the extent of development in the immediate locality.

The proposal will not see any unreasonable view loss for surrounding properties, and will maintain suitable privacy, amenity and solar access for neighbouring dwelling. The proposal is therefore considered to be in keeping with the provisions of this clause.

7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979

7.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of the Pittwater Local Environmental Plan 2014 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

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

There are no draft instruments applying to the land.

7.3 Any development control plan

The development has been designed to comply with the requirements of Council's Pittwater 21 Development Control Plan 2014.

The application has been prepared having regard to the requirements of Section B, Section C and Section D of the Pittwater 21 DCP.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on: -

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to

numerical development controls in the DCP as justified in this report. In particular, we consider that the variations to the building envelope control & landscaped area are a reasonable alternative solutions to compliance where the site conditions results in a challenge to designing for new development which fully respects the criteria.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

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

No matters of relevance are raised in regard to the proposed development.

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

No matters of relevance are raised in regard to the proposed development.

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

It is considered that the proposal, which seeks consent for the demolition of the existing dwelling and the construction of a new dwelling with basement garage, swimming pool and associated landscaping which will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 and Council's Codes and Policies, in particular the Pittwater 21 DCP 2014 and the Avalon Beach Locality Statement.

7.7 The suitability of the site for the development

The subject land is currently zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014 and is considered suitable for the proposed development.

7.8 Any submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

7.9 The public interest

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

8.0 Conclusion

The principal objective of this development is to provide for the demolition of the existing dwelling and the construction of a new dwelling with basement garage and swimming pool, together with associated landscaping, which respect and complement the site's location.

The revised proposal is a site-specific design response which takes advantage of the properties superior locational attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining development.

The outcome is a modernised new rear recreational area of exceptional design quality which displays a highly articulated building form which appropriately responds to the sites existing dwelling, geometry and the constraints imposed by the siting and design of adjoining development in relation to privacy, solar access and views.

The proposal is fully compliant with the building height and side boundary setbacks and displays a complementary and compatible building form when compared to other development located along this section of Marine Parade and within the site's visual catchment generally.

The articulated side boundary setbacks maintain the rhythm of development and the setbacks provide appropriately for spatial separation, deep soil landscape opportunity, privacy, solar access and view sharing.

By maintaining our neighbour's amenity and by complementing the scale and form of other development in the immediate locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

VAUGHAN MILLIGAN

Town Planner

Grad. Dip. Urban and Regional Planning (UNE)