

VIEW ASSESSMENT

DA 2024/1612

Construction of a dwelling house at 27 Arnhem Road Allambie Heights 2100

Prepared by Planning Outcomes

0403 814650

0417 467 509

This view assessment is based on the plans and information provided by FOWLER and submitted with DA2024/1612 and is intended to complement the Statement of Environmental Effects prepared by Fowler Homes and submitted with the development application to Northern Beaches Council.

The Statement of Environmental Effects submitted states in the table of compliance against controls in *Warringah Development Control Plan 2011* that *"The development proposal will not obstruct the viewing of adjoining neighbours and will have a reasonable sharing of views"*.

However, an assessment on view sharing is detailed below.

The Objectives in Part D7 Views of *Warringah Development Control Plan 2011* states:

Objectives

- *To allow for the reasonable sharing of views.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure existing canopy trees have priority over views.*

The proposed development at 27 Arnhem Road Allambie Heights is of a high quality, innovative design and complies with the main development controls in *Warringah Local Environmental Plan 2011* and main applicable controls in *Warringah Development Control Plan 2011* and is mindful of canopy trees and vegetation.

The concept of 'view sharing' ensures that proposed development has consideration for the existing views obtained from public domain, and for existing

views enjoyed by neighbours, and does not obstruct these views in their totality for its own enjoyment.

The proposal does not impact views obtained from public places.

The adjoining rear neighbour at 7 Sunlea Place Allambie Heights currently enjoys views over the subject site, from first floor internal and external habitable rear spaces.

To establish if development meets the *Warringah Development Control Plan 2011* objective for view sharing, an assessment is provided below with reference to the Planning Principle established by the Land and Environment Court in *Tenacity Consulting v Warringah Council (2004) NSWLEC 140*.



Location of subject site (red star) and adjoining rear neighbour at 7 Sunlea Place Allambie Heights (red drop) and direction of views - Google Maps

In *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* the Court provided a four step assessment process to guide whether or not view sharing is reasonable. In doing so, the Court also gave some helpful guidance as to what should be considered as part of each assessment step.

The four steps and the guidance provided by the Court in *Tenacity Consulting* is detailed below:

Step One (1) - is the assessment of views to be affected.

“Water views are valued more highly than land views.

Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons.

Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured."

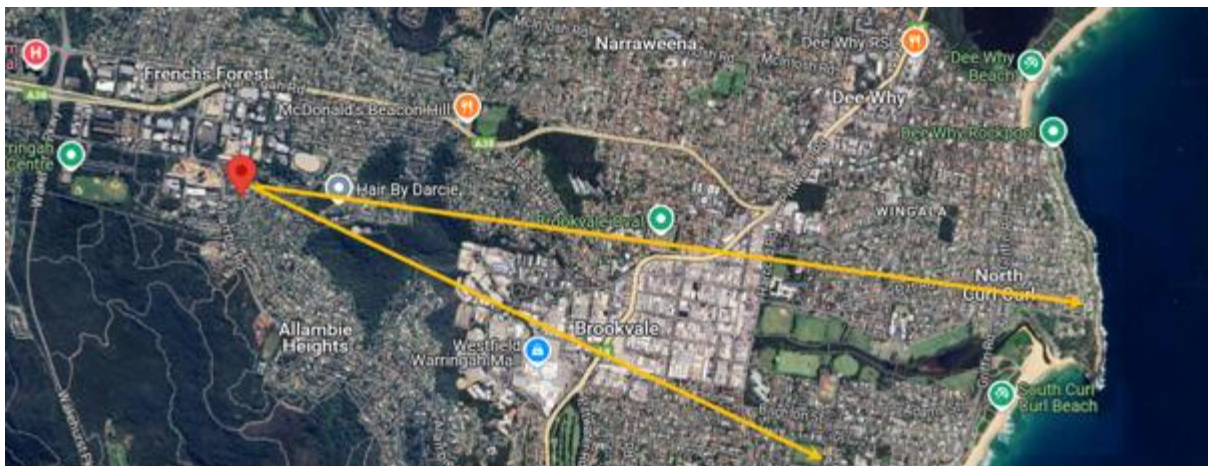
7 Sunlea Place Allambie Heights currently enjoys angled district views with distant ocean glimpses at horizon – south of 29 Arnhem Road Allambie Heights, which is a sufficiently high residential dwelling to block views.

These deep district views are obtained over the subject property at 27 Arnhem Road Allambie Heights, over the tree canopy and over the entire Allambie Heights, Brookvale and North Curl Curl/ North Manly.

No iconic elements are present.

The angled views to horizon are obtained only on good weather/ on clear days.

The properties of these angled views do not qualify as highly valuable (as defined by the Planning Principle), however, while angled and distant, these views are sufficiently pleasant for owners of 7 Sunlea Place Allambie Heights, to make the subject of this current view assessment.



Location in Allambie Heights and direction of views - Google Maps

Step Two (2) - is to consider from what part of the property the views are obtained.

"For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries.

In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic."

The angled district views with distant ocean glimpses at horizon of 7 Sunlea Place Allambie Heights are currently enjoyed from first floor - kitchen, living room and rear balconies. The views to ocean-canopy interface at horizon are obtained while standing. When sitting, the horizon is expected to show only the sky-canopy interface.

Step Three (3) - is to assess the extent of the impact.

"This should be done for the whole of the property, not just for the view that is affected.

The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them).

The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House.

It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."



Impact on the district views obtained from standing 27 Arnhem Road Allambie Heights - first floor kitchen

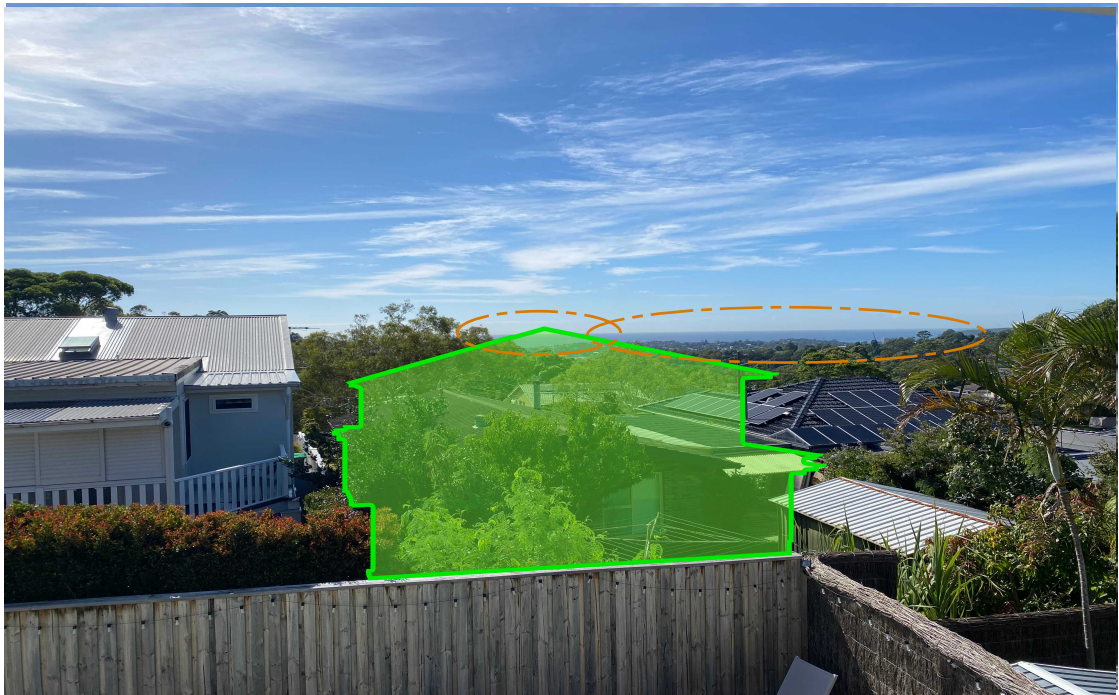


Impact on the district views obtained from standing 27 Arnhem Road Allambie Heights - first floor balcony associated with the kitchen



Impact on views obtained from standing 27 Arnhem Road Allambie Heights - first floor living room -

Photomontages show that the proposed development at 27 Arnhem Road Allambie Heights will impact the district views with distant ocean horizon views differently, depending on the room and on the location within the room and location within the balconies. The majority of the impact is on the district land view (on the tree canopy and dwellings closest to 27 Arnhem Road Allambie Heights). Views to horizon are partially maintained, from locations within rear habitable spaces.



Proportion of impact on the views to the horizon - the interface water-canopy - obtained from balcony associated with the kitchen at 27 Arnhem Road Allambie Heights

The photomontages show that the impact on views to the ocean-canopy interface on the horizon, obtained from first floor kitchen and living balconies, are proportionally significantly greater, and so, the impact is assessed as minor.

As a conclusion, the distant views to the horizon obtained from kitchen are minor-to-moderately impacted, while the views to the horizon obtained from balconies (including kitchen balcony) are minorly impacted and, in their majority, are preserved.

Step Four (4) - is to assess the reasonableness of the proposal that is causing the impact.

"A development that complies with all planning controls would be considered more reasonable than one that breaches them.

Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable.

With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

The proposed development at 27 Arnhem Road Allambie Heights is of a high quality, of a highly modulated and articulated design that complies with the main development controls in *Warringah Local Environmental Plan 2011* and complies with the applicable and relevant controls in *Warringah Development Control Plan 2011*.

Specifically, most relevant for current Tenacity assessment, the proposed new dwelling complies with Clause 4.3 Height of buildings of *Warringah Local Environmental Plan 2011*, with a maximum height of 8.256m, below the maximum height control that applies to the subject site.

The proposal sits lower than the existing dwelling at 29 Arnhem Road Allambie Heights, which obstructs frontal district views of the rear neighbour.

Walls of the proposed development do not exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building.

The proposed design and height sit within the building envelope, as demonstrated by the submitted plans.

When compared with the existing dwelling at 29 Arnhem Road Allambie Heights which obstructs district views from rear neighbour due to the orientation of the ridge of the roof, the main roof of the proposed development on the subject site has a 20 degree pitch, allowing views over the roof, on both sides of the ridge.

The proposal considered the four steps in the view sharing principles in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* and, as proposal is of a reasonable bulk and size that complies with controls, and is of a skilful design, the expectation to retain all the angled district views currently enjoyed by the

adjoining rear properties is unreasonable and unrealistic, if the subject property is to be developed closer to its potential.

There is no doubt that reducing the impact on the district views of neighbours would require severely restricting the development potential and unacceptable decreasing the amenity of the proposal, beyond that which is reasonable and currently allowed by the *Warringah Local Environmental Plan 2011* and *Warringah Development Control Plan 2011*.

A more skilful design could have not been provided.

If design of the proposed development is restricted further, the proposed development *would stop providing an equitable planning outcome* and would preclude the attainment of the objects of Section 1.3 of the *Environmental Planning and Assessment Act*.

Considering the properties of the district views and distant ocean glimpses at the horizon, the way the proposed development impacts these views, together with the compliance of the proposal and skilful design, it is concluded that, in this specific case, the view impacts of the proposed development at 27 Arnhem Road Allambie Heights are acceptable and the view sharing is reasonable.

The above *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* assessment concludes that the new development at 27 Arnhem Road Allambie Heights, in the form proposed, allows for the reasonable sharing of views.

Consequently, the proposal meets the objectives in Part D7 Views of *Warringah Development Control Plan 2011*. As such, the proposed variation should be supported as part of the assessment of development application DA 2024/1612.

