30 July 2025

Y2 Design Vista Pty Ltd
Shop 4 17-20 The Esplanade
ASHFIELD NSW 2131

Dear Sir/Madam,

**Development Application No: DA2025/0707 for Alterations and additions to a dwelling house at 25 Marlborough Avenue FRESHWATER.**

An assessment has been undertaken of your application. The assessment has found that it is unsatisfactory in its current form for the reasons identified below:

- **Insufficient information**

The following information/documentation is required to complete the assessment of the application:

1. **Architectural plans**

   The plans do not reflect the proposed works clearly on the section plans and require greater clarification. The area of the proposed lift and proposed maximum building works should be clearly labelled on multiple section plans.

   The maximum building height under this proposal is currently measured at 9.6m and presents a variation of 12.9% (1.1m). As such, a Clause 4.6 variation request report is required to demonstrate why it is unreasonable and necessary for the proposed works to comply with Clause 4.3 Height of Buildings and that there are sufficient environmental planning grounds. The application will also be subject to the Development Determination Panel due to a variation greater than 10% to the development standard.

   It should be noted that the ground level is to be in accordance with *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*.

   - the existing level of the site at a point beneath the existing building is the level of the land at that point; and
   - the 'ground level (existing)' within the footprint of the existing building is the existing excavated ground level on the site

- **Issues**

The following is a list of the issues and concerns identified in the assessment that cannot be supported:

1. **Council's Referral Responses**

   Development Engineering Officer referral response

   See the referral response linked below:

   https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/Document.aspx?id=!!AWxgu3bK%252bdVfMy9Mdb51XiuVbB2S6neW7VmmMg%253d%253dMiSBQ5CKyTo%253d&t=app

   Landscape Officer referral response

   See the referral response linked below:

   https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/Document.aspx?id=!!XD2hsvwPgWqO44PEONJ5f%252fD6NoIAZrtv6f%252bO2w%253d%253dX9ogeY2xJq0%253d&t=app

   Please review the above referrals and provide amendments to satisfy the requirements.

2. **Clause D8 Privacy Concerns**

   Concerns are raised with the large western facing windows to the ground floor living areas and require privacy mitigation measures. The proposed western elevation includes multiple large windows which should be reduced to manage possible overlooking impacts to the western property at a small setback.

**Options available to the Applicant**

Council is providing you with two (2) options to progress your application:

1. Prepare and submit further supporting information/amendments to address the above issues. Please carefully read the below advice if you choose this option.
2. Request that the current proposal proceed to determination in its current form, which may result in refusal of the application.

Please advise of your selected option by responding **within 7 days of the date of this lette**r by email sent to council@northernbeaches.nsw.gov.au marked to the attention of the assessment officer. Should Council not receive your response by this date, Council will determine the application in its current form.

**Submitting further information/amendments**

Council will offer **one** opportunity to provide feedback on conceptual amendments addressing the issues raised in this letter. We strongly request that you contact the assessment officer directly for a 'without prejudice' discussion on your proposed resolution of the issues and the submission requirements **before** lodging any documentation on the NSW Planning Portal.

Conceptual amendments must be provided to Council for feedback **within 14 days of the date of this letter**. If conceptual amendments are deemed sufficient, we will then provide you with a timeframe upon which an amended application is to be lodged on the NSW Planning Portal (generally 14 days).

Please ensure that the amended/additional information submitted on the NSW Planning Portal is a genuine attempt to resolve the issues as Council will generally not seek any further information/amendments after that point. Council will proceed to assess and determine the application based on the submitted information without further consultation. Whilst we will provide feedback on your conceptual amendments in good faith, this cannot guarantee the approval of the amended application.

As part of any amended application, it may be necessary to update your supporting documentation (e.g., BASIX certificate, bushfire report, geotechnical report, etc.). Failure to do so may affect Council's ability to determine the application favourably.

Please ensure that any amendments are accompanied by a summary/schedule of amendments cover sheet.

Council reserves its right under section 37 of the *Environmental Planning and Assessment Regulations 2021* not to accept any information/amendment if it is not considered to be a genuine attempt to resolve the issues. In which case, Council will inform you that the changes have not been accepted and the application will proceed to be determined.

This process has been established to ensure an efficient and responsible level of service which meets the requirements of the Department of Planning and Environment's *23A Guidelines on withdrawal of Development Applications 2023*, Ministerial Orders *Statement of Expectations 2021* and the *Development Assessment Best Practice Guide 2017*.

As per the requirements of section 36 of the *Environmental Planning and Assessment Regulation 2021,* you are advised that this application was accepted on 17/06/2025 and 43 days in the assessment period have now elapsed.

This letter will be released on Council's webpage as part of the application's documentation.

Should you wish to discuss any issues raised in this letter, please contact Lachlan Rose on 1300 434 434 during business hours Monday to Friday.

Yours faithfully

Lachlan Rose
Planner