

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0733
----------------------------	-------------

Responsible Officer:	Anaiis Sarkissian
Land to be developed (Address):	Lot 6 DP 30521, 35 Prince Alfred Parade NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	John Joseph Marasovic

Application Lodged:	11/06/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/06/2024 to 04/07/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 142,470.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The development application involves the conversion of the existing carport into a new garage with a green roof above, and widening of the existing driveway.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve

Pittwater 21 Development Control Plan - B6.2 Internal Driveways

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 6 DP 30521 , 35 Prince Alfred Parade NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north-eastern side of Prince Alfred Parade.</p> <p>The site is regular in shape with a frontage of 22.92m along Prince Alfred Parade and a depth of up to 28.87m. The site has a surveyed area of 715.6m².</p> <p>The site is located within the C4 Environmental Living zone and accommodates a three storey dwelling house with detached carport.</p> <p>The site is steeply sloping and has a crossfall of approximately 13m from the north-eastern boundary down towards the south-western boundary.</p> <p>The site contains an extensive lawn area and dense trees and vegetation towards the rear of the site.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by predominantly two storey detached dwelling houses, varying in architectural style and design.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

N0315/98

Development Application for timber deck.
Approved 19 January 1999

CC0174/98

Construction Certificate issued for timber deck.
Approved 1 February 1999

N0009/17

Development Application for alterations and additions to dwelling.
Approved 16 February 2017

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested on 5 August 2024 in relation to the proposed driveway works and terrace. Subsequently, the Applicant submitted amended documentation. Upon review of the additional information, Council's Development Engineer did not support the proposal.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. These matters are capable of being addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. These matters are capable of being addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia</p>

Section 4.15 Matters for Consideration	Comments
	(BCA). These matters are capable of being addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 20/06/2024 to 04/07/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><u>Amended Plans Comment 04/09/2024</u> Amended Plans are noted.</p> <p>No additional impacts are proposed on landscape features.</p>

Internal Referral Body	Comments
	<p>No objections subject to conditions.</p> <p><u>Original Comment</u> The application seeks consent for: Alterations and additions to a dwelling house.</p> <p>The plans indicate widening of the driveway toward the dwelling with a new retaining wall.</p> <p>A hedge will be required to be removed to accommodate the works. Removal of hedges is exempt under PDGP.</p> <p>No significant landscape features are indicated to be impacted by the works.</p> <p>No objections are raised with regard to landscape issues subject to conditions.</p>
NECC (Development Engineering)	<p>Comments 26/9/24 The application for a garage and driveway reconstruction as the applicant has not provided sufficient information and is not supported. The driveway long section provided is not acceptable. The driveway long section is to be drawn by a civil engineer detailing proposed/ finished levels and also grades which need to comply with the Australian Standard for off street carparking 2890:2004. The design also needs to incorporate Councils standard high level vehicle crossing profiles which are detailed in Councils Engineering Drawings.</p> <p>Also given the steepness of the driveway access stairs are to be designed and be located fully within the property boundary.</p> <p>Previous comments The proposed alterations and additions including the new driveway works are not supported for the following reasons: 1) The proposed access stairs adjacent to the new driveway should be relocated to within the site possibly to the outside curve of the new driveway alignment, so there is no encroachment on Councils road reserve. 2) A driveway long section drawn at a suitable scale of the reconstructed driveway is to be provided. 3) Clarification is to be provided in relation to the existing concrete stairs located at the left side of the front boundary (viewed from the street) if the stairs are redundant then they are to be demolished.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of

External Referral Body	Comments
	Practice. These recommendations have been included as a condition of consent if the application were to be approved.
Ausgrid - Electricity Supply	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations have been included as a condition of consent if the application were to be approved.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Sustainable Buildings) 2022

The proposal is classified as 'BASIX excluded development' as it is for the purpose of a garage, in accordance with the definition within the Environmental Planning and Assessment Regulation 2021, as extracted below. As such, a BASIX certificate is not required.

BASIX excluded development means the following development—

- (a) development for the purposes of a garage, storeroom, carport, gazebo, verandah or awning,*
- (b) development that involves the alteration of a building listed on the State Heritage Register under the Heritage Act 1977,*
- (c) development that involves the alteration of a building resulting in a space that cannot be fully enclosed, other than a space that can be fully enclosed but for a vent needed for the safe operation of a gas appliance,*

Example—

A verandah that is open or enclosed by a screen, mesh or other material that permits the free and uncontrolled flow of air.

- (d) development that involves the alteration of a building declared by the Planning Secretary, by order published in the Gazette, to be BASIX excluded development.*

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10m (slope >30°)	4.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes

Clause	Compliance with Requirements
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

The proposed works are located on land zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The proposal has been assessed against the objectives of the C4 zone and in this instance, the proposal satisfies the objectives, as detailed below.

- ***To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.***

Comment:

The proposal will continue to provide for low-impact residential development within an area that contains special ecological, scientific or aesthetic values.

- ***To ensure that residential development does not have an adverse effect on those values.***

Comment:

The proposed garage and driveway widening does not significantly alter the existing building footprint. The proposal has also been supported by Council's Landscape Officer. It is therefore satisfied that the proposal will not adversely affect those values.

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

Comment:

The proposal will continue to provide for residential development of a low density and scale that is integrated with the landform and landscape as the works involve only driveway widening and the conversion of the existing carport into a garage with lawn above.

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

Comment:

The proposed works do not result in a net loss of landscaping on the site. The proposed alterations do not negatively impact riparian and foreshore vegetation and wildlife corridors. The proposal has been supported by Council's Landscape Officer.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. The requirement for any fill to be of a suitable quality is a matter that can be addressed via a condition of consent.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions of consent can be imposed to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. The requirement for any fill to be of a suitable quality is a matter that can be addressed via a condition of consent.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Impacts of the development can be minimised via conditions of consent.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the *Environmental Planning and Assessment Act 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on site.

(b) the consent authority is satisfied that:

- (i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
- (iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment:

It is satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, subject to works being undertaken in accordance with the recommendations of the

submitted Geotechnical Report.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	0.5m	92.3% (6m)	No
Rear building line	6.5m	18.1m	N/A	Yes
Side building line	2.5m (SE)	16m	N/A	Yes
	1m (NW)	0.5m	50% (0.5m)	No
Building envelope	3.5m (SE)	Within envelope	N/A	Yes
	3.5m (NW)	Within envelope	N/A	Yes
Landscaped area	60%	48.4% (346.7m ²) +6% impervious = 54.4%	9.3%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	No	No
B6.2 Internal Driveways	No	No
B6.3 Off-Street Vehicle Parking Requirements	No	No
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

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

Description of non-compliance

Council's Development Engineer has reviewed the submitted driveway long section (1844-4, Revision B, dated 16 August 2024, prepared by J.D. Evans and Company Pty Ltd) and concluded that the proposed driveway design is inconsistent with Council's controls and the relevant Australian Standards. It is noted that the Applicant has been afforded two opportunities to provide sufficient information and propose a driveway design that is in accordance with Section B6.1 and Appendix 10 of the Pittwater 21 Development Control Plan, and with the Australian Standards for Off-Street Car Parking.

Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of Clause B6.1 Access driveways and Works on the Public Road Reserve of the Pittwater 21 Development Control Plan.

Merit assessment

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***Safe and convenient access.***

Comment:

The proposed driveway profile fails to demonstrate compliance with the relevant standards. Additionally, being a steep driveway without provision of access stairs, the design fails to provide safe and convenient access for both vehicles and pedestrians. The development therefore does not satisfy this objective.

- ***Adverse visual impact of driveways is reduced.***

Comment:

The proposal does not result in an adverse visual impact as the new driveway and garage are

sited in much the same location as the existing driveway and carport. The development therefore satisfies this objective.

- ***Pedestrian safety.***

Comment:

The proposed driveway profile fails to demonstrate compliance with the relevant standards. Additionally, being a steep driveway without provision of access stairs, the design fails to provide for pedestrian safety. The development therefore does not satisfy this objective.

- ***An effective road drainage system.***

Comment:

The proposal seeks to connect to the existing stormwater drainage system on site and Council's Development Engineer has not raised any concerns in relation to stormwater management. The development therefore satisfies this objective.

- ***Maximise the retention of trees and native vegetation in the road reserve.***

Comment:

The proposal does not seek to remove any significant trees or native vegetation in the road reserve. The development therefore satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of Clause B6.1 Access driveways and Works on the Public Road Reserve of the Pittwater 21 Development Control Plan. As such, the proposal is recommended for refusal based on the proposed driveway design being inconsistent with Council's objectives and controls, and the relevant Australian Standards.

B6.2 Internal Driveways

Description of non-compliance

Council's Development Engineer has reviewed the submitted driveway long section (1844-4, Revision B, dated 16 August 2024, prepared by J.D. Evans and Company Pty Ltd) and concluded that the proposed driveway design is inconsistent with Council's controls and the relevant Australian Standards. It is noted that the Applicant has been afforded two opportunities to provide sufficient information and propose a driveway design that is in accordance with Section B6.2 and Appendix 10 of the Pittwater 21 Development Control Plan, and with the Australian Standards for Off-Street Car Parking.

Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of Clause B6.2 Internal Driveways of the Pittwater 21 Development Control Plan.

Merit assessment

With regard to the consideration for a variation, the development is considered against the underlying

Objectives of the Control as follows:

- ***Safe and convenient access.***

Comment:

The proposed driveway profile fails to demonstrate compliance with the relevant standards. Additionally, being a steep driveway without provision of access stairs, the design fails to provide safe and convenient access for both vehicles and pedestrians. The development therefore does not satisfy this objective.

- ***Reduce visual impact of driveways.***

Comment:

The proposal does not result in an adverse visual impact as the new driveway and garage are sited in much the same location as the existing driveway and carport. The development therefore satisfies this objective.

- ***Pedestrian safety.***

Comment:

The proposed driveway profile fails to demonstrate compliance with the relevant standards. Additionally, being a steep driveway without provision of access stairs, the design fails to provide for pedestrian safety. The development therefore does not satisfy this objective.

- ***An effective road drainage system.***

Comment:

The proposal seeks to connect to the existing stormwater drainage system on site and Council's Development Engineer has not raised any concerns in relation to stormwater management. The development therefore satisfies this objective.

- ***Maximise the retention of trees and native vegetation.***

Comment:

The proposal does not seek to remove any significant trees or native vegetation. The development therefore satisfies this objective.

- ***Reduce contaminate run-off from driveways.***

Comment:

The proposal seeks to connect to the existing stormwater drainage system on site and Council's Development Engineer has not raised any concerns in relation to stormwater runoff. The development therefore satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of Clause B6.2 Internal Driveways of the Pittwater 21 Development Control Plan. As such, the proposal is recommended for refusal based on the proposed driveway design being inconsistent with Council's objectives and controls, and the relevant Australian Standards.

B6.3 Off-Street Vehicle Parking Requirements

Description of non-compliance

Council's Development Engineer has reviewed the submitted driveway long section (1844-4, Revision B, dated 16 August 2024, prepared by J.D. Evans and Company Pty Ltd) and concluded that the proposed driveway design is inconsistent with Council's controls and the relevant Australian Standards. It is noted that the Applicant has been afforded two opportunities to provide sufficient information and propose a driveway design that is in accordance with Section B6.3 of the Pittwater 21 Development Control Plan, and with the Australian Standards for Off-Street Car Parking.

Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of Clause B6.3 Off-Street Vehicle Parking Requirements of the Pittwater 21 Development Control Plan.

Merit assessment

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***An adequate number of parking and service spaces that meets the demands generated by the development.***

Comment:

The proposal provides an adequate number of parking spaces that meets the demands generated by the development, being two (2) spaces within the proposed garage. The development therefore satisfies this objective.

- ***Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.***

Comment:

While the proposed parking structure minimises rainwater runoff and adverse visual or environmental impacts through the provision of a green roof above the garage, the provision of pedestrian and vehicle safety has not been satisfied. The development therefore does not satisfy this objective.

- ***Safe and convenient parking.***

Comment:

The proposed driveway and parking profile fails to demonstrate compliance with the relevant standards, thereby failing to demonstrate the provision of safe and convenient parking. The development therefore does not satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of Clause B6.3 Off-Street Vehicle Parking Requirements of the Pittwater 21 Development Control Plan. As such, the proposal is recommended for refusal based on the proposed driveway and parking design being inconsistent with Council's objectives and controls, and the relevant Australian Standards.

B8.1 Construction and Demolition - Excavation and Landfill

The Geotechnical Report submitted with the application, prepared by White Geotechnical Group and dated 26 April 2024, states that the proposed development requires excavation of approximately 3m through shallow soil over clay, with extremely low strength shale expected at an average depth of approximately 1.7m. The Geotechnical Report concludes that the excavation for the proposed driveway widening presents a possible unacceptable risk of collapsing onto the work site and impacting on the existing house and deck above. The proposed excavation will require some of the existing deck's supporting timber posts to be moved as they will be located within the excavation. Due to the depth of the excavation and its proximity to the subject house, the report recommends ground support be installed along the uphill side of the excavation prior to the commencement of the excavation. The report also concludes that due to the slope and elevation of the block, the water table is expected to be many metres below the base of the proposed works. The proposal has been designed and will be constructed to address the potential for landslip and subsidence as a result of excavation, subject to compliance with the recommendations of the geotechnical report.

B8.6 Construction and Demolition - Traffic Management Plan

The proposed development involves over 100m³ of either excavated materials to be transported from the site or the importation of fill material to the site, and therefore a Construction Traffic Management Plan is required to be prepared. This matter is capable of being addressed via a condition of consent.

D10.7 Front building line (excluding Newport Commercial Centre)

Description of Non-Compliance

Pursuant to Section D10.7 of the Pittwater 21 Development Control Plan, development is required to have a minimum front building line of 6.5m. Built structures, other than driveways, fences and retaining walls are not permitted within the front building setback. Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable.

The proposed garage sits 0.5m from the front boundary, representing a 92.3% (6m) variation to the minimum standard.

It is important to note that the site is very steeply sloping, particularly at the front, and heavily vegetated. As such, the existing carport located where the garage is proposed is barely visible from the street, as evident from the site photos below. Furthermore, the siting of the garage is limited to the proposed location and there is no other suitable location to site the garage, owing to the existing development and steep sloping topography of the site.





Merit Consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- ***Achieve the desired future character of the Locality.***

Comment:

The proposed development is consistent with the desired future character of the Newport locality, being a low-density residential area integrated with the landform and landscape.

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

Comment:

The proposal preserves views and vistas to and from public and private places as it is located below the existing roof ridge level and well below the maximum height of buildings afforded to the site. Views are towards Pittwater to the south, south-west and west, and therefore views for adjoining properties are preserved.

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

Comment:

The site does not adjoin a main road and therefore this objective is not applicable.

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

Comment:

The proposal does not involve the removal of any significant trees and the site accommodates an increased level of landscaped area compared with the existing condition. The proposal has been supported by Council's Landscape Officer, subject to conditions.

- ***Vehicle manoeuvring in a forward direction is facilitated.***

Comment:

The vehicular access and slope gradient on site is such that vehicle manoeuvring in a forward direction cannot be facilitated.

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

Comment:

The proposal does not add to the visual density and scale of the existing development and the proposed garage has been designed to respond to the existing topography and landforms on the site. The streetscape is heavily vegetated and the proposal therefore does not detract from the existing streetscape.

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

Comment:

The proposal does not detract from the existing street frontage and the proposed widening of the driveway provides safe and improved access for occupants and visitors of the dwelling.

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

Comment:

The proposal responds to and sensitively relates to the the spatial characteristics and topography of the existing urban environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

Description of Non-Compliance

Pursuant to Section D10.8 of the Pittwater 21 Development Control Plan, the minimum side building line for built structures including pools and carparks, other than driveways, fences and retaining walls is 2.5m to at least one side and 1m for the other side.

For this site, the 2.5m requirement is taken to be for the south-eastern boundary and the 1m requirement is taken to be for the north-western boundary. The proposed garage has a 0.5m setback

from the north-western boundary.

It is important to note that the setback of the garage ranges from 0.5m to 1.5m as the building line is not parallel with the boundary. Therefore, only the first 4.5m of the garage is non-compliant with the minimum side building line to the north-western boundary. Furthermore, the siting of the proposed garage is limited due to the steep sloping topography of the site and the location of the existing carport and hardstand area.

Merit Consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- ***To achieve the desired future character of the Locality.***

Comment:

The proposed development is consistent with the desired future character of the Newport locality as it maintains a low-density residential character in a landscaped setting.

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

Comment:

The bulk and scale of the built form has been minimised through retention of trees and lawn terrace above the garage. The proposed alterations and additions do not extend higher than the existing roof ridge line, and the development is screened by dense vegetation at the front of the site.

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

Comment:

The proposal preserves views and vistas to and from public and private places as it is located below the existing roof ridge level and well below the maximum height of buildings afforded to the site. Views are towards Pittwater to the south, south-west and west, and therefore views for adjoining properties are preserved.

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

Comment:

The proposed works have been designed to compliment the topography of the lot and therefore encourages view sharing. The site and surrounds include dense vegetation and canopy trees, thereby screening the built form.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.***

Comment:

The proposed green roof above the garage is to be non-trafficable, thereby maintaining privacy to adjoining properties. The proposed garage is a similar height and position as the existing carport and therefore the proposal does not unreasonably reduce solar access within the development site and maintains solar access to residential properties.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

Comment:

The proposal does not involve the removal of any significant trees or vegetation and maintains a very densely vegetated front boundary, thereby maintaining an attractive streetscape.

- ***Flexibility in the siting of buildings and access.***

Comment:

Flexibility has been afforded to the site in the siting of the garage given the location of the existing carport and steeply sloped topography of the site.

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

Comment:

The proposal does not involve the removal of any significant trees or vegetation and maintains a very densely vegetated road reserve. The proposal also includes a green roof above the garage, thereby visually reducing the built form.

- ***To ensure a landscaped buffer between commercial and residential zones is established.***

Comment:

The site is not located adjacent to a commercial zone and therefore this objective is not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

Pursuant to Section D10.13 of the Pittwater 21 Development Control Plan, any alterations or additions to an existing dwelling shall provide a minimum 60% of the site area as landscaped area. Up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only.

The proposed alterations and additions result in 48.4% (346.7m²) of landscaped areas across the site, with 54.4% including impervious areas, which represents a variation of 9.3% to the minimum standard of 60%.

It is important to note that the existing condition provides 52% landscaped areas, and the original proposed design only provided 44.2% landscaped areas. As such, the amended design presents a significant increase in landscaping with the inclusion of the green roof, compared with the existing condition and the original proposal. Furthermore, it is recognised that due to the steep sloping topography of the site, the majority of the front setback area is hard surfaces to accommodate driveway access and suitable parking.

Merit Consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- ***Achieve the desired future character of the Locality.***

Comment:

The proposed development is consistent with the desired future character of the Newport locality, being a low-density residential area integrated with the landform and landscape.

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

Comment:

The bulk and scale of the built form has been minimised through retention of trees and lawn terrace above the garage. The proposed alterations and additions do not extend higher than the existing roof ridge line, and the development is screened by dense vegetation at the front of the site.

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

Comment:

The proposed green roof above the garage is to be non-trafficable, thereby maintaining amenity. The proposed garage is a similar height and position as the existing carport and therefore the proposal provides a reasonable level of solar access within the development site and maintains solar access to residential properties.

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

Comment:

The proposal does not involve the removal of any significant trees or vegetation and maintains a very densely vegetated road reserve. The proposal also includes a green roof above the garage, thereby visually reducing the built form.

- ***Conservation of natural vegetation and biodiversity.***

Comment:

The proposal does not involve the removal of any significant trees or vegetation and maintains a very densely vegetated road reserve. The proposal has been supported by Council's Landscape Officer, subject to conditions.

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

Comment:

The proposal will connect new stormwater lines to the existing system and Council's Development Engineer has not raised any issues in relation to stormwater management.

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

Comment:

The proposal does not involve the removal of any significant trees or vegetation and maintains

a very densely vegetated road reserve. The proposal has been supported by Council's Landscape Officer, subject to conditions.

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

Comment:

The proposed green roof above the garage increases soft surface across the site, assisting with stormwater management by increasing water absorption and minimising runoff.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$ 712 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 142,470.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2024/0733 for the Alterations and additions to a dwelling house on land at Lot 6 DP 30521,35 Prince Alfred Parade, NEWPORT, for the reasons outlined as follows:

1. **Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of Section B6.1 Access Driveways and Works on the Public Road Reserve of the Pittwater 21 Development Control Plan (P21DCP), Section B6.2 Internal Driveways of P21DCP, and B6.3 Off-Street Vehicle Parking Requirements of P21DCP.**

Particulars:

- i. The submitted driveway long section (1844-4, Revision B, dated 16 August 2024, prepared by J.D. Evans and Company Pty Ltd) is inconsistent with and fails to satisfy the requirements of Section B6.1 Access Driveways and Works on the Public Road Reserve, Section B6.2 Internal Driveway, and Section B6.3 Off-Street Vehicle Parking Requirements of P21DCP.
- ii. The driveway long section is to be drawn by a civil engineer, detailing proposed/finished levels and grades, which need to comply with the Australian Standard 2890.1-2004: Parking Facilities - Part 1: Off-Street Car Parking.
- iii. In accordance with Section B6.1 Access Driveway and Works on the Public Road Reserve and Section B6.2 Internal Driveways of P21DCP, the driveway design needs to incorporate Council's standard high-level vehicle crossing profiles, which are detailed in Appendix 10 – Driveway Profiles of P21DCP. The proposed driveway profile fails to do this.
- iv. In addressing particulars ii. and iii. above, it is likely that the floor level of the garage will need to be lowered, along with an increased amount of excavation within the driveway.
- v. Given the steepness of the driveway and potential conflict between pedestrians and vehicles, pedestrian access stairs are necessary and would have to be designed and located to be wholly within the property boundary. To do this will necessitate a modified driveway geometry, that integrates stairs.
- vi. Insufficient information has been provided to demonstrate that the proposed driveway and parking design will comply with Council's controls and with the relevant Australian Standards.

As such, there is a lack of clear detail to demonstrate that the proposed driveway will provide acceptable and safe vehicular and pedestrian access to and from the site.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Anais Sarkissian, Planner

The application is determined on 30/09/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments