

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2020/0023
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Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 4 DP 18667, 205 Riverview Road AVALON BEACH NSW 2107
Proposed Development:	Review of Determination of Application DA2019/1069 for alterations and additions to a dwelling house including a swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	Yes
Owner:	Kristen Rooney
Applicant:	Kristen Rooney

Application Lodged:	15/07/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	22/07/2020 to 05/08/2020
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,186,800.00
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Executive Summary

This report provides an assessment of an application for Review of Determination of a Development Application for alterations and additions to a dwelling house and construction of a swimming pool garage on the subject site. The site is located on the western side of Riverview Road, Avalon and fronts onto the Pittwater Waterway. The site has an area of 762.4sqm and has a steep fall, approximately 30m, from the street down to the Pittwater Waterway.

On 9 June 2020, the Development Determination Panel refused DA2019/1069. The primary reasons for refusal related to issues with the non-compliant first floor element on the southern elevation and the visual impact of the development on Riverview Road and the Pittwater Waterway. Concern was also

raised in relation to the adverse amenity impacts on the southern neighbour from the breached side boundary envelope. It is noted that prior to the determination of the original DA, the DDP requested that the proposal be amended to comply with the envelope on the upper floor level, which would have resulted in a 2.5m to 1.9m setback to the southern boundary. The applicant did not agree with the proposed amendments.

On 15 July 2020, the current Section 8.2 Review of Determination application was lodged and was accompanied by amended plans. The main changes to the proposed development are summarised as follows:

- Privacy issues addressed with the additional screens to the new external stair and screens and obscure glazing to windows and doors.
- The design of the screens to the carport have been modified to be more transparent.
- The west facing deck of the master bedroom has been reduced in size.

Pursuant to Section 8.2 of the Act, the applicant seeks a review of all aspects of the refusal of DA2019/1069.

The assessment of the revised application has concluded that the applicants justification not to reduce the internal floor area on Level 1 is supported as the non-compliant envelope will not result in unreasonable visual or amenity impacts. The amended design has been assessed as satisfactorily addressing the requirements of the relevant provisions and it is recommended that the DDP resolve to support the review application and approve the proposed development for the reasons detailed within this report and subject to the attached conditions of consent.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development involves alterations and additions to the existing dwelling house and detached carport with the inclusion of a swimming pool and associated decking areas.

The proposal, as revised, includes the following works. The changes to the design are detailed in *italics and underlined*:

First Floor (RL 30.48 - 31.33)

- Addition of a pedestrian entry from Riverview street level. *A privacy screen has been added to the southern edge of the stair.*
- New double carport. *The design of the screens to the carport has been modified to a more transparent screen.*
- Addition of a new master bedroom and ensuite with west facing balcony. *The balcony has been reduced in size.*
- Addition of a new study area
- Addition of a new internal lift

Ground Floor (RL 27.410 - 28.260)

- Conversion of existing floor area involving:
 - Reconfiguration of rooms
 - Inclusion of open-plan living, dining, kitchen, laundry and cellar. *Obscure glazing / privacy*

screens to south facing dining room window and north facing living room window.

- Addition of a lounge and bathroom at the east side of the dwelling, connecting to the laundry and cellar
- Addition of an internal lift
- Addition of a new deck area, at the western side of the dwelling

Lower Ground Floor (RL24.35)

- Conversion of existing floor area involving
 - Reconfiguration of rooms
 - Inclusion of a lounge, rumpus/guest bedroom, and bathroom
- Addition of two new bedrooms
- Addition of an internal lift
- Addition of new internal access stairs

Pool Level (RL 20.5 - 21.9)

- Addition of a new outdoor room. The door to the outdoor room will have obscure glazing.
- Addition of a new bathroom and WC
- Addition of new internal access stairs
- Addition of a new swimming pool and spa
- Addition of new deck areas
- **External**
 - New access stairs within the southern side boundary from the first floor carport to the ground floor. The revised plans set the elevated external stair back 1.8m from the southern boundary and include the addition of a privacy screen along the southern edge of the stairs.
 - New courtyard on the ground floor servicing the living and lounge areas
 - New deck area adjoining the swimming pool/spa
 - New access stairs within the northern side boundary to access the rear of the site
 - Associated landscaping throughout the site

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

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3

Pittwater Local Environmental Plan 2014 - Zone E4 Environmental Living

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run

Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D1.4 Scenic protection - General

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

Pittwater 21 Development Control Plan - D1.11 Building envelope

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D1.20 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 4 DP 18667 , 205 Riverview Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site is identified as Lot 4, DP 18667 and is known as 205 Riverview Road, Avalon.</p> <p>The subject site is a single residential allotment located on the western side of Riverview Road, Avalon. The property is located within land zoned for E4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014. The site is also located within the Coastal Zone and is subject to estuarine and geotechnical hazards.</p> <p>The site is regular in shape and has a total area of 762.4m². The property has a street frontage of 15.3m and depths of 51.8m to the north and 50.3m to the south, measured from the front boundary to the Mean High Water Mark (M.H.W.M). The site fronts onto the Pittwater Waterway.</p> <p>The site has a steep fall, approximately 30m, from the street down to Pittwater waterway.</p>

The site has numerous trees throughout that were established prior to the construction of the dwelling house, or have been planted and established since its construction.

At present, the site accommodates a detached double carport on the front boundary, a three (3) storey dwelling house, a boatshed, jetty/pontoon and inclinor to the lower ground floor.

Surrounding developments consist of other similar detached dwelling houses, of varying ages, within a landscaped and bushland setting.

Map:



SITE HISTORY

Pre-lodgement Meeting **PLM2019/0037** was held on the 19 March 2019 for the alterations and additions to the existing dwelling house. The notes concluded that greater consistency with the Pittwater Local Environment Plan 2014, and the Pittwater 21 Development Control Plan controls was required, particularly in regards to the maximum building height and bulk and scale of the proposal.

It was recommended that a redesign of the garage, entryway and first floor level be undertaken to minimise the extent of the building height breach, and reduce the bulk and scale in order to maximise opportunities for view sharing for the surrounding properties. Councils Biodiversity, Landscaping and Waterway and Riparian officers also provided recommendations in regards to addressing specific Pittwater Development Control Plan clauses in order for the application to be considered satisfactory.

Short History of DA2019/1069

The following key dates are noted:

- 26 September 2019, DA2019/1069 was lodged for alterations and additions to the dwelling, including the construction of a swimming pool.
- 8 April 2020, the DA was amended to reduced the height to fully comply with the 8.5m building height control.
- 27 May 2020, the Assessment report for DA2019/1069 recommending approval, was presented to the DDP.
- 28 May 2020, the Assessing Planner was advised that the Panel could not support the application in its current form and proposed a number of amendments.

Panel recommendations prior to determination of DA2019/1069

The amendments sought by the Panel included the following:

The additional upper floor should be reduced in size in order to provide a more suitable fourth level that will minimise amenity impacts to adjoining sites, provide a less visually prominent fourth level, and provide greater integration with the existing landscaped area to reflect the predominant character of residential development in the area.

The Upper Floor Level southern side setback was to be increased so that no floorspace is located south of the lift, the balcony was to be reduced in depth to a maximum 1200mm. Please see below a sketch/mark up of the Panels recommendations. Red is floorspace to be removed, and blue line is the new area of balcony.



Amendments suggested by the DDP to Level 1

It was also recommended that the following amendments to the design be made:

- Reduction in the carport vertical screening to provide a more open feel.
- The removal of the southern side access stairs or redesign that stairs are located on natural ground level.

- Incorporation of more darker/earthy tones to the upper floor to recess and nestle the Upper Floor into the waterfront area.

In the applicants response, it was noted that a reduction in the size of the first floor level would not be supported as it would significantly affect the amenity and viability of the project, while offering negligible benefit to neighbours or the public including negligible benefit to solar access to 203 Riverview Road.

Determination of DA2019/1069

On 9 June 2020, DA2019/1069 for alterations and additions to the dwelling, including construction of a swimming pool was refused by the DDP. The reasons for refusal are:

- 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 Clause A4.1 Avalon Beach Locality of the Pittwater 21 Development Control Plan.*
- 2. 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 C1.3 View Sharing of the Pittwater 21 Development Control Plan.*
- 3. 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 C1.5 Visual Privacy of the Pittwater 21 Development Control Plan.*
- 4. 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 D1.4 Scenic protection - General of the Pittwater 21 Development Control Plan.*
- 5. 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 D1.11 Building envelope of the Pittwater 21 Development Control Plan.*

The minutes of the DDP meeting recorded the proceedings in brief as:

The Panel viewed the site and the surrounds. The Panel were addressed by an objector and the applicant. The scale of the development, particularly the upper level containing the master bedroom, is inconsistent with the desired character and the existing character of the locality, which generally consists of dwellings between 2-3 storeys. The visual impact is not minimised when viewed from the waterway, or road reserve, noting that Riverview Road is listed on Council's Scenic Streets Register.

The proposed development has substantial breaches of the building envelope, particularly at the uppermost level which results in impacts upon views from the street and a scale of the development as viewed from the waterway and neighbouring properties which is inconsistent with the desired future character of the area.

The scale of the development does not minimise the bulk and scale of the built form, and results in a loss of views from the public domain, which does not enhance views and vistas from Riverview Road.

The Panel could not accept the current design or condition changes which would be acceptable.

In regards to privacy, the elevated external boundary stairs on the southern elevation were unacceptable and should be redesigned to follow the natural ground level.

On 26 August 2020, the applicant lodged a Class 1 Appeal (**20/247059**) against the refusal of DA2019/1069. The plans submitted with the appeal are generally consistent with those submitted with the subject Review application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 9 June 2020 and the notice of determination was issued on 12 June 2020. The review was lodged on 15 July 2020 and is to be considered by the DDP on 9 December 2020, which is within 6 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly, it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act

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 development application has been publicly exhibited from 22/07/2020 to 05/08/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
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Name:	Address:
Mr Peter Francis Van Der Kraan	188 Riverview Road AVALON BEACH NSW 2107
Mr John Morton Smythe	207 Riverview Road AVALON BEACH NSW 2107
Vaughan Milligan Development Consulting Pty Ltd	PO Box 49 NEWPORT NSW 2106
Mr Lance Doyle	3A Kendall Road CASTLE COVE NSW 2069

The submissions note that the amendments to the original DA (DA2019/1069) do not address their concerns and the issues raised in response to the original DA therefore generally remain the same with the subject review. Specifically, the following issues have been raised in the submissions:

- **Unacceptable bulk and scale**
- **Breach of the building envelope**
- **Solar impacts**
- **Overlooking**
- **The development results in a sense of enclosure of privacy space**
- **Impacts on outlook / view**
- **Impacts from construction**
- **The development is inappropriate and the refusal by the DDP was the logical correct decision**

The matters raised within the submissions are addressed as follows:

- ***The bulk and scale of the upper floor results in a breach of the side envelope control which results in unreasonable impacts relating to solar access to the living room and a bedroom of No. 203 Riverview Road which is contrary to the objectives of the building envelope.***

Comment:

It is agreed that the proposal breaches the side envelope on the southern elevation. Due to the east west orientation of No. 203 and 205 Riverview Road and the extremely steep topography, solar access to these lots is already compromised. For the reasons detailed in this report, the bulk and scale of the proposal has been assessed as acceptable given that there will be minimal visual impact from the Pittwater Waterway or the street. The existing gable roof to level 3 which is set back 0.7m from the southern boundary, will be removed and the spatial separation of the new addition to No.203 Riverview Road is improved with the majority of the floor being set back 2.5m from the boundary.

The proposal will result in some additional loss of solar access to the north facing bedroom window to No. 203 Riverview Road, however, it will not impact any other windows and it complies with the solar access controls in regards to private open space. The solar access controls allows a variation to sites which are steeply sloping, such as the subject site. Furthermore, additional shadow diagrams have been submitted which demonstrate that the reduced envelope recommended by the DDP, will not result in any additional solar access to the affected bedroom window. As such, the bulk and scale of the upper floor has been assessed as acceptable. Refer to further discussion under clause C1.4.

- ***The proposed privacy screen to the southern stair will result in a loss of solar access and result in a enclosure of the neighbouring property. The issue could be resolved with an amended design to reconfigure the staircase at or near ground level.***

Comment:

The proposed privacy screen to the southern stairs are below the eaves line of the proposed development, therefore they have no impact on solar access.

- ***The privacy measures recommended in condition 7 of the original DA to protect the visual privacy to the property were supported. The condition required the installation of privacy screens to the pool area, the lower ground floor lounge room, the ground floor living room and the first floor master bedroom.***

Comment:

The amended design incorporates a number of privacy measures including privacy screens and obscure glazing. The conditions recommended in the original application are also included in the subject recommendation to ensure privacy is maintained.

- ***The construction methodology statement needs to be submitted clearly describing details of bulk materials to be removed and the impact of physical work on neighbouring properties.***

Comment:

Conditions are included requiring the submission and approval of a waste management plan and for compliance with the final approved waste management plan.

- ***The development is inappropriate and the refusal by the DDP was the logical correct decision.***

Comment:

The proposal as amended has been assessed as acceptable, subject to conditions, for the reasons discussed elsewhere in this report.

- ***One submission has been received which requests that the issues raised in the original submission are considered as part of the subject review.***

Comment

The original submission raised issues with view loss from 188 Riverview Road, as well as the public road which is listed in the Scenic Roads register. The existing carport is a masonry structure with a pitched tiled roof that offers limited views from the street to the Pittwater Waterway. It is considered that the proposed lightweight carport will allow opportunities for improved view sharing along the view corridors either side of the structure from the public street. Issues relating to view impacts from Riverview Road are discussed in detail under clause D1.4

In terms of view loss from 188 Riverview Road, a view loss assessment has been carried out based on an inspection from the street, the western edge of 188 Riverview Road and a review of the site photos taken at the site inspection by the Planner who assessed the original application. It is noted that efforts were made to gain access to 188 Riverview Road for a site inspection, however, at the time of writing this report, no access was achieved. The view loss assessment concludes that the view loss from 188 Riverview Road is

minimal. Refer to Clause C1.3 for further discussion.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for the Review of Determination of DA2019/1069. The Landscape Referral under DA2019/1179 raised no landscape objections. The Review Application is considered by a alternate Landscape Officer.</p> <p>The Arboricultural Impact Assessment remains unchanged and therefor the proposal continues to retain all trees. The Landscape Plans remain unchanged, providing additional understorey planting to the existing canopy trees retained.</p> <p>In view of the above considerations, the landscape outcomes of Pittwater DCP are satisfied, and no additional conditions of consent are imposed over and above those contained in DA2019/1069.</p>
NECC (Bushland and Biodiversity)	<p>Biodiversity Referral 18 September 2020 (REV2020/0023) The plans and documentation submitted with the review application are unchanged from the original DA which was supported by the Biodiversity referral body. The original comments (below) and biodiversity conditions therefore still stand.</p> <p>Biodiversity Referral 2 December 2019 (DA2019/1069) Council's Natural Environment - Biodiversity section raises no objections to the proposed development, subject to conditions. This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.7 Pittwater Spotted Gum EEC. The proposal is for the alterations and additions to the existing dwelling, including demolition and construction of new structures including a swimming pool and landscaping. The submitted Arboricultural Impact Assessment report (NSW Tree Services, 12/09/2019) assesses 9 trees, 8 of which are canopy species from PSG EEC. The report indicates that all trees can be retained using tree sensitive construction measures and specific tree protection measures. The Landscape Plan complies with biodiversity controls.</p>
NECC (Coast and Catchments)	<p>The review application has been assessed in consideration of the</p> <ul style="list-style-type: none"> • Notice of Determination - Refusal dated 12 June 2020 • Application for Review of Determination • Statement of Environmental Effects - Review of Determination, prepared by MHDP Architects dated July 2020 <p>Refusal and issues of review relate to Avalon Beach locality, view</p>

Internal Referral Body	Comments
	<p>sharing, visual privacy, scenic protection and building envelope.</p> <p>The property site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 apply and should meet the requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>The property site has been identified as being on SEPP Coastal Environment Area and Coastal Use Area maps and on Estuarine Hazard Area and foreshores area. These coastal issues have been dealt previously and the application supported.</p> <p>As the present review issues are not related to coastal concerns, hence the application is supported</p>
NECC (Development Engineering)	<p>The revised plans and submitted reports have been reviewed and the original assessment and approval remains unaltered by Development Engineering.</p> <p>No objection to approval, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>This application does not increase impervious area by greater than 50sqm, therefore water quality treatment is not required under the controls. The applicant is encouraged to install a sediment control pit that captures coarse sediments and organic matter on the stormwater drainage prior to discharge from the land, to protect the health of the Pittwater Waterway.</p> <p>Sediment controls must be installed and maintained during construction.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A357306_02 dated 26 September 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A357306_02 dated 26 September 2019).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The site are located within the Coastal Use Area and Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP), and the provisions

of this policy are applicable in relation to the proposal.

Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- the proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- the proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP,
- the proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

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	Complies
Height of Buildings:	8.5m - 10m	2.6m - 8.8m	Yes

*The proposed development is non-compliant with the 8.5m maximum building height prescribed by clause 4.3(2) of PLEP 2014. However, the applicant seeks to rely upon the variation provision prescribed by Clause 4.3(2D) of PLEP 2014, which provides that the building may reach up to 10m in height, subject to meeting certain criteria. That submission is supported based on the characteristics of the site and the proposal. The objectives of the height of buildings development standard, and relevant criteria are assessed within the 4.3 Height of buildings section of the report.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone E4 Environmental Living

The proposed alterations and additions, as amended under this review application, are generally consistent with the objectives of the E4 Environmental Living zone as discussed below.

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

Comment

The development is unlikely to result in unreasonable impacts on ecology as the proposed extension generally sits on the footprint of the existing dwelling and carport. Conditions are recommended to ensure that the significant trees are protected and the development complies with the biodiversity controls. The site is mapped as having scenic value with Riverview Road listed on the Scenic Roads Register. The existing masonry and tiled pitched roof carport that fronts Riverview Road will be replaced with a more lightweight flat roof structure with transparent screens. The proposal will improve the street address and reduce the visual impact to Riverview Road allowing for additional view opportunities for pedestrians along either side of the carport to the Pittwater Waterway. Issues relating to impacts on the scenic quality of the area are discussed in detail under clause D1.4 and D1.20.

Views of the proposed addition from the Pittwater Waterway will be limited as the development is integrated with the existing mature trees on the site. The design rationale for the carport and upper level addition is discussed in more detail below under Clause A4.1 Avalon Locality, clause D1.1 Character as viewed from a public place and D1.20 Scenic Protection Category One Area.

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

Comment

As noted above and discussed elsewhere in this report, the proposal will not result in unreasonable impacts to the ecological, scientific or aesthetic values of the E4 zone.

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

Comment

The site is steeply sloping with a fall of approximately 30m from the street to Pittwater Waterway. The existing and proposed built form follows the natural topography of the site, stepping down the site from street level to the waterfront. The development retains a one storey built form to Riverview Road and the existing mature trees will ensure that the development is integrated into the natural environment to minimise impacts on the scenic quality of the area as viewed from the Pittwater Waterway.

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

Comment

The proposal does not include any work within the foreshore area. Council's Bushland and

Biodiversity Unit raised no objection to the original DA and their comments are relevant to the subject review.

In summary, the development, as amended, will continue to have the appearance of a "low impact" residential dwelling house in a natural landscaped setting, integrated with the scenic landform and aesthetic values.

Overall, the proposal, as amended has been assessed as being consistent with the desired objectives and future character of the E4 Environmental Living zone.

4.3 Height of buildings

The proposed development generally complies with the 8.5m height limit with the exception of two minor areas as follows:

- Maximum overall height of the roof line over the bay window of the Ground Floor 8.00m - 8.8m.
- Maximum overall height of the balcony area adjoining the dining area (including the balustrade being the non-complying element) of the Ground Floor is 6.9m - 9.1m.

Building Height was not listed as a reason for refusal in the determination of the original DA. Despite this, an assessment of building height is provided below:

The building height non-compliance with the 8.5m height is demonstrated in the images below.

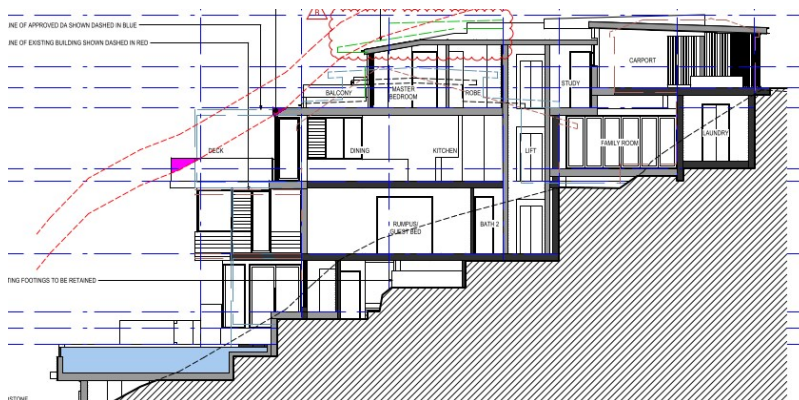


Figure 1 : Building height non-compliance with 8.5m shown in pink

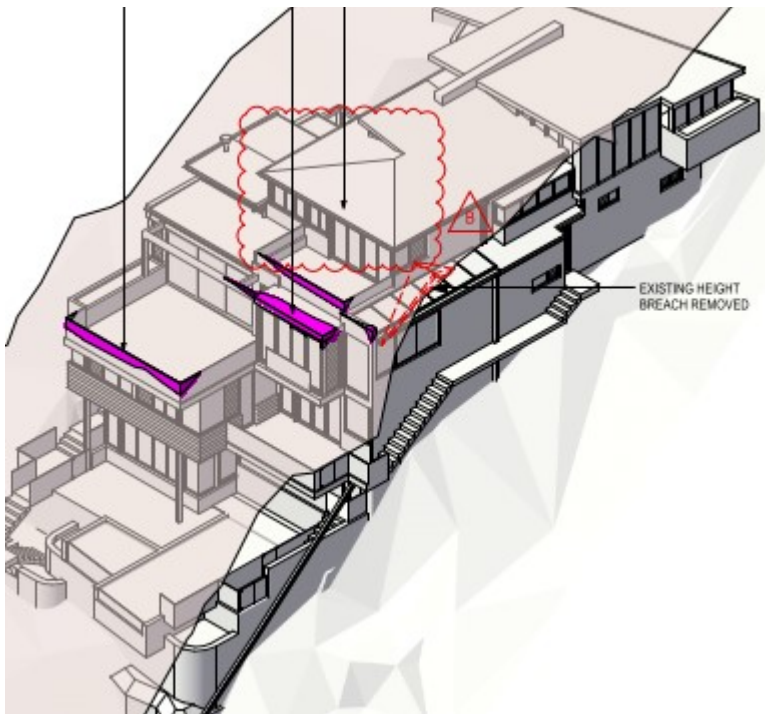


Figure 2 : Building height non-compliance with 8.5m shown in pink. (Note: the deck to the master-bed room is no longer non-compliant)

The applicant seeks to rely upon the special height provisions prescribed in Clause 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10.0m in height, subject to satisfying certain criteria. The applicants justification for the height is supported as the development meets the objectives of the building height development standard as discussed below:

- ***To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.***

Comment:

The proposal reflects the established built form character of the immediate Riverview Road area where multi-level, variably stepped dwelling-houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access. In particular, the height and scale of the development is comparable to other dwellings along Riverview Road; including, No. 129, No. 163, and No. 173-175 Riverview Road. The proposed works have been designed to accommodate the steep slope of the site, while providing the required gradients for safe entry and exit for vehicles to Riverview Road.

While the proposal includes an additional floor, the non-complying elements relate to the amendments to the existing three levels that are proposed to be reconfigured with internal changes, new access and balcony elements and a new roof form. The changes recommended by the Panel do not result in a change to the building height which has been assessed as acceptable.

The design is contemporary and architecturally unique when compared to the more traditional style of surrounding dwelling houses and parking structures. Despite the contemporary design, the residential nature of the development and the non-compliance is considered to be consistent with the objectives of the zone and the urban context of the local area. The non-compliant elements are reasonably small components to the overall scheme and will not in isolation have any negative impact on the ability of the proposal to meet this objective, namely to be consistent with the desired character of the locality. As such, it has been assessed that the development satisfies this objective.

- ***To ensure that buildings are compatible with the height and scale of surrounding and nearby development.***

Comment:

The development is located on the downward side of the Riverview Road escarpment, which is characterised by undulating topography to the Pittwater water high water mark. This results in variable built forms along the road, such that there is an eclectic mix of height and scale in which to be compared with.

Notwithstanding, the overall height of the development is below the 10.0m requirement, and is representative of a four (4) storey development when viewed from properties to the north and south and a one (1) storey development when viewed from Riverview Road.

The non-compliance is located at the western edge of the roofline and along the new terrace areas (demonstrated in the figures above) due to the topography of the site. The non-compliance is considered to be relatively minor and does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed height non-compliance is considered to be compatible.

The development satisfies this objective.

- ***To minimise any overshadowing of neighbouring properties.***

Comment:

The western roof element and terrace balustrade (where the maximum height protrusions occur) do not contribute to any unreasonable overshadowing of adjoining properties.

The development satisfies this objective.

- ***To allow for the reasonable sharing of views.***

Comment:

It is acknowledged that the non-compliance along the western edge of the proposed roof does not impact the viewing angle from the properties to the north No.207 Riverview Road or south No.203 Riverview Road. The sweeping range of views available from the internal areas and balconies of both properties remain intact.

The height non-compliance does not have an unreasonable impact upon the existing views from further up the escarpment to Riverview Road, due to the higher placement/vantage point of these properties. The views from these dwelling houses are likely to be improved and enhanced from some areas as a result of the reduction of the carport roofline that is less than what is currently on the site.

The development satisfies this objective.

- ***To encourage buildings that are designed to respond sensitively to the natural topography.***

Comment:

The proposal is reliant upon a minor volume of excavation under the footprint of the carport on the Ground Floor Level and under the footprint of the Lower Ground Floor Level for the proposed toilet and bathroom for the Pool Level as shown in figure 3. However, the visual impact of the minor excavation will be screened from view, and the proposal presents as a dwelling that has been sited to sympathetically follow the natural slope of the land.

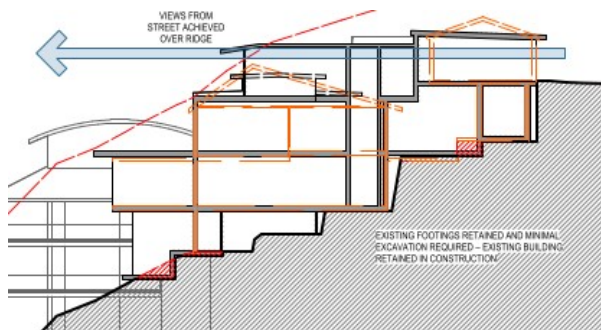


Figure 3. Extent of excavation shown red

The proposals design with the open style rear balcony areas, provides a more "stepped" look when viewed from the rear and the neighbouring properties. The proposal reflects the established built form character of the immediate Riverview Road area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access.

The development satisfies this objective.

- ***To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.***

Comment:

Despite the topographical constraints of the site, the developments design incorporates adequate articulation and visual interest and the additional floor is sufficiently setback from the boundaries, such that the visual impact of the building will be appropriately mitigated.

Existing landscaping has been retained wherever possible and will soften and screen the built form. Therefore, the proposal will be sufficiently integrated into the existing landscaped setting.

The development satisfies this objective.

The remainder of the criteria prescribed by clause 4.3(2D) of PLEP 2014 have been considered, as follows:

- ***The consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.***

Comment:

The portions of the development that exceed the 8.5m building height plane are limited in height and depth, as demonstrated in the figures above. The protrusions are described as being minor.

The development satisfies this objective.

- ***The building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).***

Comment:

The proposed new carport is sited on a slope of approximately 23 degrees. It also noted that the carport replaces an existing structure with similar dimensions.

The development satisfies this objective.

- ***The buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.***

Comment:

The proposal is reliant upon a minor volume of excavation. However, the extent of excavation proposed is not unreasonable in the context of the site, and does not present as excessive built form as seen from the public domain.

The development satisfies this objective.

The proposed development will be consistent with the criteria of clause 4.3(2D) of PLEP 2014, and the application of the 10.0m height provision is supported. As such, the proposed development complies with the maximum building height prescribed for the site.

7.6 Biodiversity protection

A landscaping design statement from Landforms with associated landscape plans dated 18 September 2019, have been submitted with the application, as well as an Arborist Report from NSW Tree Services, dated 12 September 2019. Councils Landscaping and Biodiversity officers have assessed the proposal and consider the impact of the development on the existing biodiversity of the site to be reasonable, subject to the suitable conditions.

7.7 Geotechnical hazards

A Geotechnical Assessment has been prepared by J K Geotechnics, Reference No. 27796Rrpt2, dated 11 September 2019. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts on adjoining properties.

7.8 Limited development on foreshore area

This development application does not propose any changes to the foreshore area of the site.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m	<u>First Floor</u>	up to 96%	No
		0.2m - 0.5m Carport	up to 6%	No
		6.1m - 8.0m First Floor	up to 78%	No
		*The carport generally sits on the footprint of the existing structure	-	Yes
		<u>Ground Floor (New level)</u>	-	Yes
		1.4m - 2.2m Ground Floor Retaining Wall	up to 49%	No
		7.7m - 8.3m Ground Floor Dwelling House (Living Room)		

		3.3m - 4.6m Ground Floor Dwelling House (Lounge) <u>Lower Ground Floor (Existing level)</u> 7.1m - 9.9m Lower Ground Floor Dwelling House 10.7m - 13.8m Pool Level Dwelling House (Existing)	- -	Yes Yes
Side Building Line	2.5m North	<u>First Floor</u> 5.0m Entry 5.1m - 7.3m Dwelling House 7.1m Carport <u>Ground Floor (New level)</u> 1.1m Planter (balcony) 1.2m - 7.2m Dwelling House <u>Lower Ground Floor (Existing level)</u> 1.2m Dwelling <u>Pool Level</u> 2.1m Dwelling House 0.3m Deck 1.3m Access Stairs	- - - - up to 52% 52% 16% 88% 48%	Yes Yes Yes Yes No No No No No
	1m South	<u>First Floor</u> 0.0m Planter 0.5m Access Stairs 2m - 2.5m Dwelling House <u>Ground Floor (New level)</u> 1.5m - 2.6m Dwelling House <u>Lower Ground Floor (Existing level)</u> 1.1m Deck (existing) <u>Pool Level</u> 1.1m Pool Area 3.1m Swimming Pool	100% 50% - - - - -	No No Yes Yes Yes Yes Yes
Building Envelope	3.5m North	Up to 3.3m in height for a length of 5.5m, and 1.6m in height for a length of 4.4m	up to 94% & up to 45%	No
	3.5m South	3 areas - Level 1 - 2.3m - 1.1m in height for a length of 4.9m, and 1.7m to 0.4m in height for a length of 2m. Lower Ground Level existing- 1.1m to 0m in height for a length of 0.8m as a result of the extension of this level to add a bay window.	up to 65.7% & up to 94%	No
Landscaped Area	60%	58% (440.6sqm)	3.3%	No

***Note:** There is no change to the setbacks from the original Development Application DA2019/1069,

although the existing ground level has been annotated on the southern elevation which results in a slightly reduced building envelope breach.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	No	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	No	Yes
C1.5 Visual Privacy	No	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
C1.17 Swimming Pool Safety	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	No
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

Reason for Refusal No. 1 refers to the proposed development being inconsistent with the provisions of Clause A4.1 Avalon Beach Locality of the Pittwater 21 Development Control Plan.

Comment:

The desired character of the Avalon Beach Locality provides that the:

"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.

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'

The proposal seeks consent for an additional level (fourth floor) a pool and alterations to the existing three storey dwelling. Whilst it is noted that the character statement refers to the locality being primarily two storeys in the context of the site, the existing dwelling and surrounding dwellings along Riverview Road present a mixture of two, three and four storey typology as viewed from the Pittwater Waterway and a built form that steps down the site and is integrated with mature canopy trees, refer to photo below.



Site (centre of photo) viewed from the western edge of the jetty looking east

Importantly, the proposed development retains the single storey presentation to the Riverview Road. The proposal replaces the existing brick and tiled pitched roof carport with a light-weight flat roofed carport of a similar dimension. It is also noted that the context of the immediate adjoining area comprises garages and carport structures located directly on the street frontage (west side of Riverview Road) with limited view corridors to the Pittwater Waterway and beyond, positioned primarily in between these structures. A solid garage has been constructed to the neighbouring property to the immediate south and curved roof carport to the north, refer to photos below.



Existing brick and tiled hipped roof carport viewed from the street with garage door open (source Marc Hurcum)

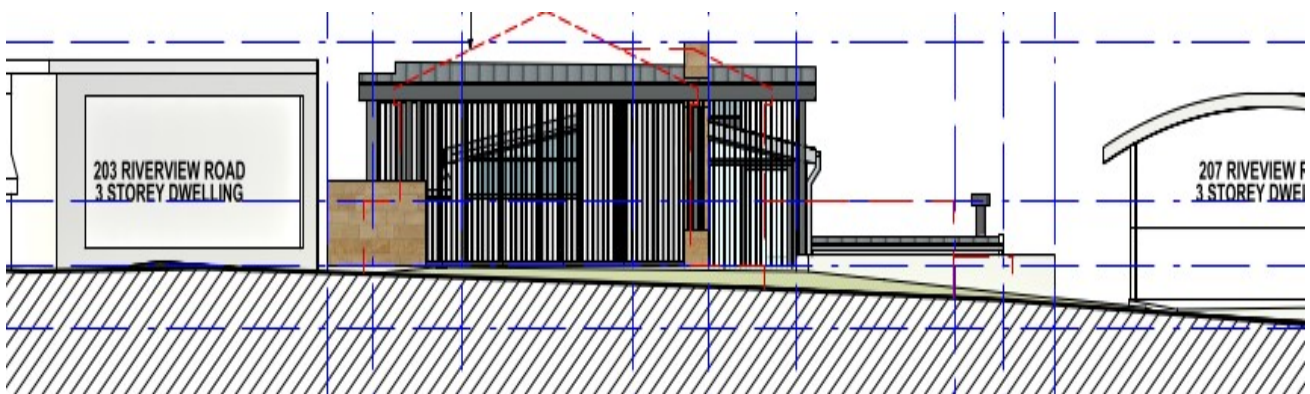


Existing car port with the garage door closed

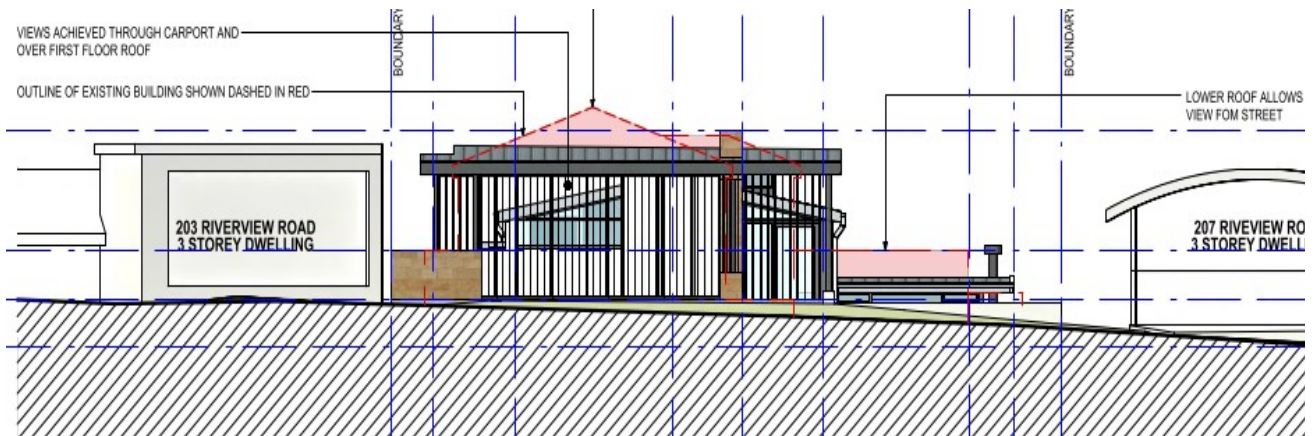


Contextual image of adjoining garage at No. 203 and carport at No. 207 (source : Google Streetview)

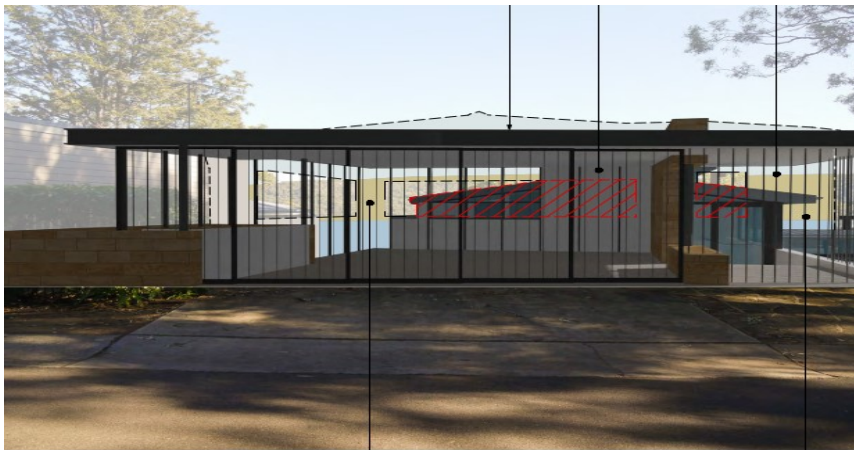
The revised proposal addresses the Panels concerns with a transparent screen to the front and either side of the carport to minimise the visual impact of the structure when viewed from Riverview Road and allow improved partial views to the Pittwater Waterway from the public street. The design of the carport reduces the built form of the existing car port. The pitched tiled roof profile is reduced with a lower height flat roof profile and the brick walls, balustrades and piers are replaced with lightweight steel posts which have been spaced to allow improved views to the Waterway from the public domain, refer to images below.



East elevation of the original (refused) proposal under DA2019/1069



East elevation of proposed carport showing refined transparent screen and lower boundary wall to street



Photomontage of amended car port (source : Marc Hurcum)

In summary, the built form will continue to sit comfortably with the adjoining and surrounding two, three and four storey residential developments when viewed from the Pittwater Waterway. The built form is located downslope on steep topography, with the fourth storey element siting behind the carport, presenting as one storey to Riverview Road. Proposed landscaping, in conjunction with existing landscaping, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Avalon Beach locality.

C1.3 View Sharing

Reason for Refusal No. 2 refers to "the proposed development is inconsistent with the provisions of Clause C1.3 View Sharing of the Pittwater 21 Development Control Plan"

Comment

It is understood that the issues relating to view sharing were associated with views from the public road as opposed from private properties. A detailed assessment of view sharing from the public road is provided under D1.4 (Scenic Protection).

One submission to the review application was received from the owner of 188 Riverview Road who requested that the issues raised in the original submission be included in the assessment of the

current review. The original submission includes concerns regarding view loss and in response an assessment of view loss from 188 Riverview Road has been carried out, in addition to view loss from the street.

The view loss assessment has been carried out based on an inspection from the western boundary of 188 Riverview Road and a review of the site photos taken at the site inspection of the property by the Planner who assessed the original application. These photos show the height poles that were installed prior the amendment of the proposal to reduce the height.

Whilst no formal view loss submission was received from 203 or 205 Riverview Road, the impact to their existing view lines was assessed during the site visits. It was determined that these sites would not incur unreasonable view loss as a result of the proposal.

Clause C1.3 requires:

- *All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.*
- *The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.*
- *Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials.*
- *Views are not to be obtained at the expense of native vegetation.*

The development is considered against the underlying Outcomes of the Control as follows:

- *A reasonable sharing of views amongst dwellings.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. 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, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

No. 188 Riverview Road is situated in an elevated position compared to the subject site. Being located further up the escarpment, the property therefore experiences more limited views of the Waterway to the west over the roofs, carports and garages of the existing houses on the lower side of Riverview Road.

As can be seen in the photographs below, the main view is the Pittwater Water views, Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay.

The view is obstructed by existing dwellings, vegetation and power infrastructure.



Photo 1: Existing views from No.188 Riverview Road to the south-west over the subject site

2. What part of the affected property are the views obtained

“The second step 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”.

Comment to Principle 2:

Views are primarily obtained from the rooms orientated towards the front boundary on the ground floor and first floor of the dwelling house looking in a south-westerly direction. The views to the west and north-west remain unaffected by the proposal.

The oblique views over the subject site are obtained from the ground floor front terrace area, the lounge/dinning room, kitchen and front entry area. The views from the first floor are obtained from a family room, study and bedroom. The views are partially obstructed from both a standing and sitting position by existing dwellings, vegetation and power infrastructure.

It is important to note that the view line and the view impact as a result of the development changes as you move across the width and depth of the property.

3. Extent of impact

“The third step 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”.

Comment to Principle 3:

The affected view is to the south-west and consists of a partial Pittwater water view, while the remainder of views sweep uninterruptedly from the south-west, west and north-west. The affected view lines of the Pittwater Waterway are the same from each room on the ground and first floor and the front terrace area. The Pittwater water views affected are obtained from both a standing and sitting positions, while the views are only partially limited from a sitting position in the front terrace and combined dining/living room on the ground floor, and the family, study and bedroom on the first floor. There is no view impact to the views towards

Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay.

The extent of impact is considered to be **minor**.

4. Reasonableness of the proposal that is causing the impact

“The fourth step 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.”

Comment to Principle 4:

Of relevance to view sharing, the development area that impacts the main view lines complies with the building height standard of 8.5m. The development is predominantly lower than the prescribed height of the existing carport, therefore there is a small portion of water view that is gained via the proposal. However, it is acknowledged that the roof line extends further into the water view line with the increase of the built form towards the west.

The development been found to exhibit non-compliance with the Front Boundary Setback and the Side Boundary Envelopes built form controls. Both elements of non-compliance for the fourth (4) level (area causing the view loss) have been found to be acceptable, achieve consistency with the objectives of the control and have subsequently been supported.

With regards to the building envelope, the non-compliance along the side elevations and are due to the sloping topography, which form constraints to the final built form. The building envelope does not cause additional view impacts to properties No.184 or No.192 Riverview Road due to the location of the non-compliant areas away from the view lines. However, there is a very minor portion of Pittwater water view loss to 188 Riverview Road as a result of the building envelope non-compliance. Due to the small portion of view loss, and the view loss being determined as minor, it is considered reasonable in this instance.

In context to the elevated position of all three (3) dwellings to the subject property and the extensive range of available and retained views, the non-compliances were considered not to be unreasonable. It is concluded that the extent of the breaches of the planning controls is reasonable and a more compliant design would not vastly improve the outcome.

Therefore, the proposed First Floor addition is considered reasonable in the circumstances of this application in that the application does demonstrate a reasonable sharing of views.

- *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.*

Comment:

The design alters the existing dwelling by upgrading it to a more contemporary appearance.

The design does alter the roof profile such that it improves views and visual outlook from

surrounding properties through lowering of the roof line from the existing carport roofline.

The dwelling will also better address the street through the provision of modern open style carport and by soft landscaping within the front setback area.

The development satisfies this objective.

- *Canopy trees take priority over views.*

Comment:

The development retains some canopy trees and proposes additional landscaping.

The development is considered to satisfy this objective.

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.

C1.4 Solar Access

Reason for Refusal No. 5 refers to *"the proposed development is inconsistent with the provisions of Clause D1.11 Building envelope of the Pittwater 21 Development Control Plan"*

The minutes of the DDP meeting for the determination of DA2019/1069 notes that substantial breaches of the building envelope, particularly at the uppermost level, will result in impacts on neighbouring properties. As such, an assessment of impacts in relation to solar access is provided below.

Clause C1.4 requires:

The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.

Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).

Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter.

Developments should maximise sunshine to clothes drying areas of the proposed development or adjoining dwellings.

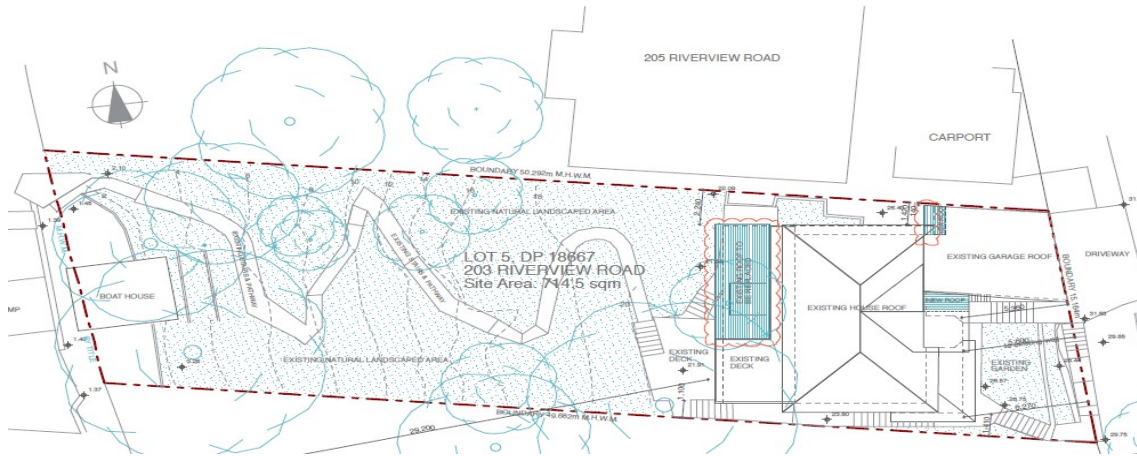
The proposal must demonstrate that appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access.

Comment

The property to the south at 203 Riverview Road is most affected by the proposed development in relation to solar access. The position of the two dwellings (east/west orientation) combined with the steep topography is such that 203 Riverview Road is already significantly constrained in terms of

solar access.

At 203 Riverview Road, the main private open space is located to the western area of the dwelling and comprises an extensive landscaped area from the dwelling to the waterfront. An additional garden area is located within the south-east corner and west facing decks adjoins each level of the dwelling.



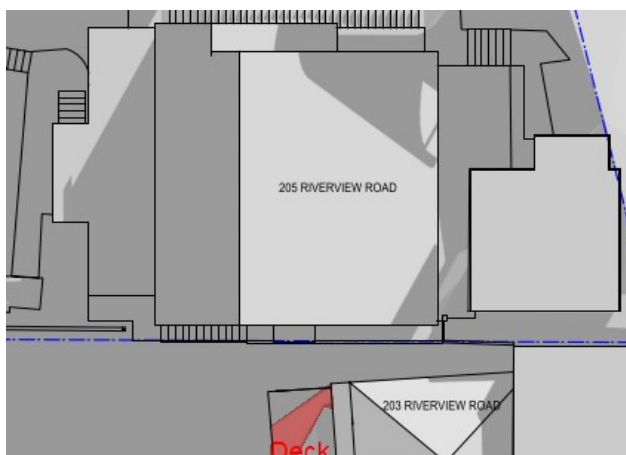
Site Plan of 203 Riverview Road showing the landscaped area and location of decks in context with the subject site (source Jo Willmore Design)

In order to compare and test the solar impacts of the proposed unchanged envelope and a complying envelope, as recommended by DDP, the applicant has been requested to submit shadow diagrams for both envelopes. The diagrams demonstrate that there is limited material benefit in terms of solar gain to No. 203 Riverview Road with the increased side setback of the upper level due to the nature of the design and the sites topography. A detailed assessment of both envelopes against the controls is provided below:

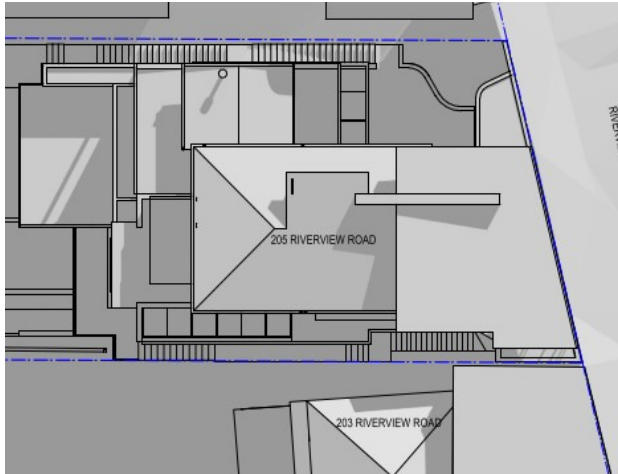
Private Open Space (POS)

The submitted shadow diagrams demonstrate that at No. 203 Riverview Road:

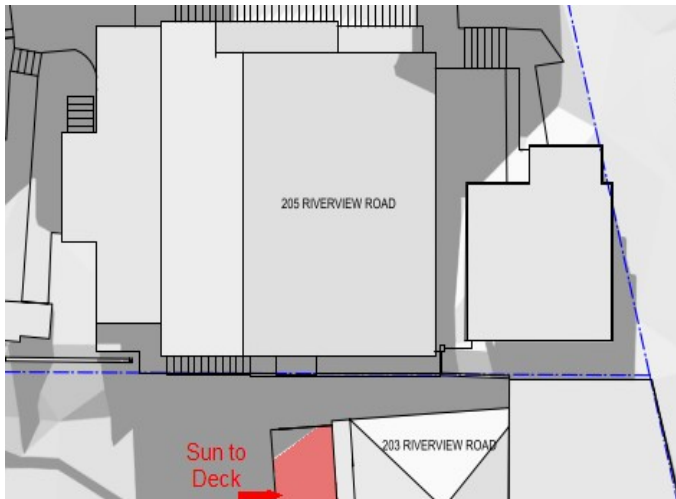
- The private open space area (upper deck area on Level 3 servicing the living room) currently receives filtered sunlight between 9am and 3pm;



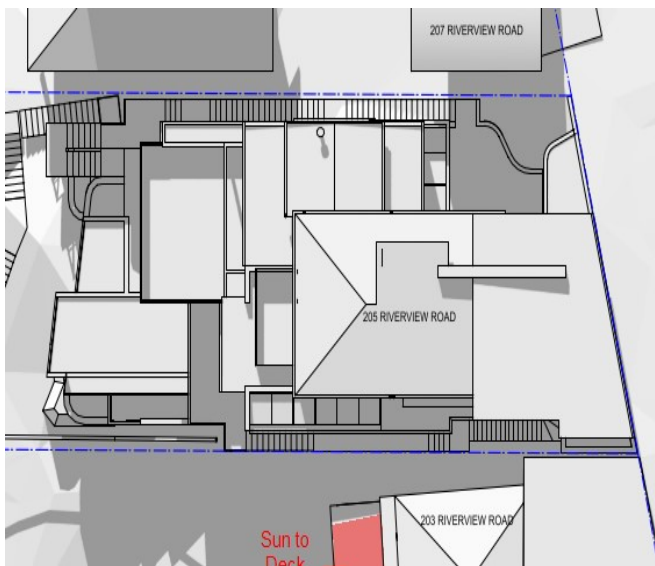
Existing sunlight to deck 9.00am (outlined in red)



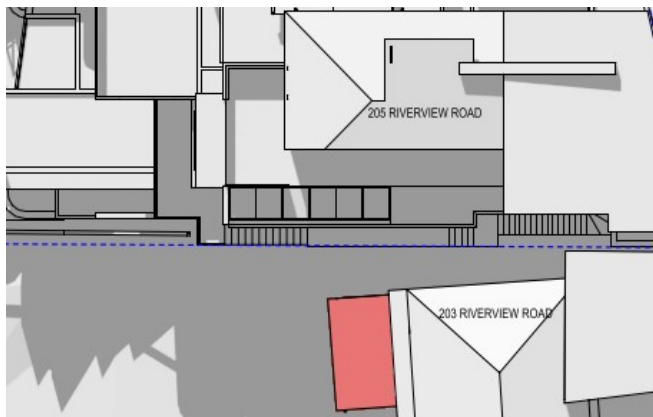
**Proposed 9.00am shadow, the deck is in shadow.
(Note: there is no change to the shadow impact in
the DDP recommended scheme)**



Existing sunlight to deck at 12.00 noon



**Proposed sunlight to deck at 12.00 noon
(Neutral impact to existing development)**



**Proposed sunlight to deck with DDP scheme at 12 noon
(Slight improvement to the existing situation and the proposed
scheme, namely a 5.4sqm (10.7%) increase in proposed and existing solar access)**

There is no change to solar access to the POS in question at 3.00pm between the subject scheme and the envelope suggested by DDP.

The main private open space affected by the development is the west facing deck located on the middle level of No. 203 Riverview Road. The existing building overshadows the northern elevation of the deck which currently has a privacy screen attached to its northern edge. However, it should be noted that this deck receives full sunlight between 12.00 noon and 3.00pm, complying with the control, refer to the plan shadow diagrams above.

The changes requested by the DDP will result in a small (5.4sqm or 10.7%) increase in sunlight to the northern elevation of the deck at 12.00 noon and 1.00pm only. It is noted that the proposal, without the requested setback, will have a neutral impact to the existing solar access to the deck.

In summary, the additional shadow diagrams demonstrate that there is no significant material benefit in terms of solar access to No. 203 by reducing the southern envelope of the upper floor to the west facing deck (POS) at No. 203 Riverview Road. Both the proposal, as presented in the subject review, and the amended DDP envelope allow for 90% - full sunlight between 12.00 noon and 3.00pm in compliance with the control. Furthermore, the other areas of POS, including the garden in the south-east corner will not be affected by the proposal. As such, the proposal has been assessed as having no unreasonable impacts on solar access to the POS to No. 203 Riverview Road.

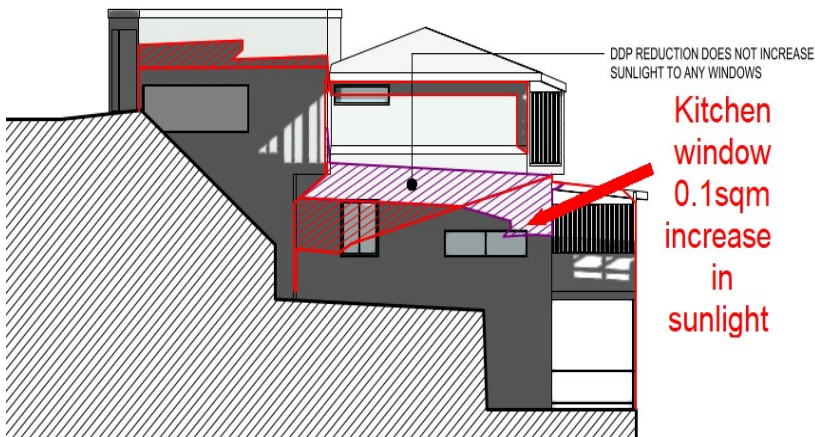
In terms of the windows that will be affected by the proposal these relate to a highlight living room window on Level 3, and bedroom window and kitchen window on Level 2 located on the northern elevation. An assessment of solar access to each window is provided below.

Living room window

The principal living area affected by the development is the living room on the upper level. The only window affected is a high level window on the northern elevation which is partially shaded by the eaves of its own roof. The existing building at 205 Riverview Road overshadows this window at 9.00am and 10.00am, and is unaffected by the existing building from 11am to 3pm. The proposed development results in additional overshadowing of this window only at 11am, and is unaffected by the proposed development from 12 noon to 3.00pm. This fully complies with the control. The changes requested by the DDP do not result in any increase in sunlight to this living room window. Refer to image below.

Kitchen window

The kitchen window is completely overshadowed by the existing building and in the proposed development. The changes requested by the DDP result in a very small (0.1sqm) increase in solar access at 2.00pm only.



Solar Diagram showing increased sunlight from DDP scheme

Bedroom window

The bedroom window currently receives sunlight from 12.00 noon to 3.00pm. The proposed development overshadows this window at all times on June 21. The additional shadow diagrams show that the changes requested by the DDP do not result in any increase in sunlight to this window. Increasing the setback of the first floor will result in an increase in sunlight, however, this sunlight is to the wall above the middle level windows and do not result in an increase in sunlight access to windows.

In summary, the additional shadow diagrams demonstrate that there is no material benefit in terms of solar access to No. 203 in reducing the southern envelope of the forth floor to the windows in the northern elevation of No 203 Riverview Road. Both the proposal, as presented in the subject review, and the amended DDP envelope generally present the same solar access outcomes.

The critical window in question is the bedroom window. A bedroom is defined in the PDCP as a "*habitable room*" however, as a bedroom is used less frequently during sunlight hours than a living room dining room or kitchen an exception to the solar control relating to the window to this room is assessed as acceptable. Furthermore, the P21DCP allows for a variation of the control in the following circumstances:

- *Where the following constraints apply to a site, reasonable solar access to the main private open space and to windows to the principal living area will be assessed on a merit basis:*
- *where the orientation or shape of a lot precludes northerly orientation (20o west to 30o east of north),*
- *where there is adverse slope or topography,*
- *where there is existing vegetation, obstruction, development or fences that overshadow, or*
- *where other controls have priority, e.g. heritage and landscaping considerations.*

Subject to a merit assessment, consent may be granted where a proposal does not comply with the standard.

Merit assessment of solar access to bedroom window

The subject site has an east-west orientation and a 30m variation in levels from east to west. As such, given the site constraints, a variation to the control is possible. Subject to a merit assessment, consent may be granted where a proposal does not comply with the standard.

The proposed development has been assessed below in relation to the relevant outcomes of this clause, as follows:

- ***Residential development is sited and designed to maximise solar access during mid-winter.***

Comment:

The proposed upper floor (First Floor) is closer to the south than the north, due to the existing built form on the site, and the design objective of the upper floor being located behind the carport to assist in screening the proposed built form from the streetscape.

However, the First Floor Level is compliant with the building height standard and the side building lines, and the proposal includes sufficient landscaped open space on site. As such, the proposal is demonstrably an acceptable footprint for the site.

The proposed development is acceptable in relation to the relevant built form controls within the P21DCP, for the reasons detailed throughout this report. In this way, the proposed development is reasonable in its context.

The proposed development, being located on an east-west orientated lot, is designed in order to provide reasonable solar access in consideration of the topography of the site and surrounding areas.

With the exception of the non-compliance in retaining 3 hours of sunlight between 9.00am and 3.00pm to the north facing bedroom at No. 203 Riverview Road, the proposal is compliant in term of solar access to POS in mid winter. The amendment suggested by DDP will have no material increase in the amount of solar access to the southern neighbour.

- ***A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.***

Comment:

The proposal provides a reasonable level of solar access to the subject site and surrounding sites, considering the site's slope and context.

The level of overshadowing resulting from the proposed development is a product of the steep topography of the site and the surrounding land. It is acknowledged that No. 203 Riverview Road is particularly vulnerable to overshadowing.

The bedroom window within No. 203 Riverview Road, is currently overshadowed for most of the day, but benefits from a small section of sunlight around 12.00 noon, which would be lost as a result of the proposed upper floor. This window is a side-facing window set deep into the site, making it difficult to protect. As a bedroom window, it is considered less vital to maintain sunlight to this window given that this is a space used primarily at night. Daylight and natural ventilation will remain to this window. Therefore, strict adherence to the solar access requirements in this case would unreasonably restrict development of the subject site.

The proposed development demonstrates that it is acceptable in relation to all built form controls, for the reasons detailed in this report. As such, given the reasonableness of the proposed dwelling, the overshadowing impact is considered reasonable.

- **Reduce usage and/dependence for artificial lighting.**

Comment:

The subject site achieves adequate solar access in order to reduce its reliance upon artificial lighting. As above, the proposal provides a reasonable level of solar access to the subject site and surrounding sites, given the context of the area's topography and the vulnerability of the site's to the south.

Planning Principle Consideration

The 'Access to sunlight' planning principle from the *Benevolent Society v Waverley Council [2010] NSWLEC 1082* has been considered below. Relevant parts of the planning principle include:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment:

Given the constraints of the site (listed above) this is a case where "*even at low densities there are sites and buildings that are highly vulnerable to being overshadowed*". Even in mid-winter, direct sunlight still reaches the upper terrace areas for several hours between 9.00am and 3.00pm; and the kitchen windows for a small part of the day between 12noon and 3.00pm. Finally, the proposal is not a poor design. As described above, multiple design considerations have been incorporated to maximise the amount of sunlight to No. 203 Riverview Road.

Overall, the proposal, while not strictly complying with the requirements of the control in relation to a bedroom window, meets the criteria for a variation and meets the objectives of the control.

Having regards to the above assessment it is concluded that the proposed development is

consistent with the relevant objectives of 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.

In summary, the additional shadow diagrams demonstrate that the changes requested by the DDP will not have a material benefit in terms of increased solar access to No. 203 Riverview Road.

C1.5 Visual Privacy

Reason for Refusal No. 3 refers to *"the proposed development is inconsistent with the provisions of Clause C1.5 Visual Privacy of the Pittwater 21 Development Control Plan"*

The minutes of the DDP meeting note: *"In regards to privacy, the elevated external boundary stairs on the southern elevation were unacceptable and should be redesigned to follow the natural ground level"*. In addition, the Panel raised issues with the non-complying envelope resulting in amenity impacts to the southern neighbour. A detailed assessment of these issues is provided below.

Clause C1.5 requires:

- *Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*
- *Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

Comment

The subject application has been amended to include the following privacy measures:

- A privacy screen has been added to the southern edge of the new stair that connects the carport at ground level to the new forth floor level.
- The balcony to the forth floor master bedroom has been reduced in size in accordance with the recommendation of the DDP.
- The south facing dining room window to the ground floor has been amended to have either obscure glazing or privacy screen installed.
- The north facing living room window to the ground floor has been amended to have either obscure glazing or privacy screen installed.
- The elevated stair at pool level is setback an additional 1.2m from the northern boundary.
- The north facing glass door to outdoor room at the pool has been amended to have obscure glazing.

Comment

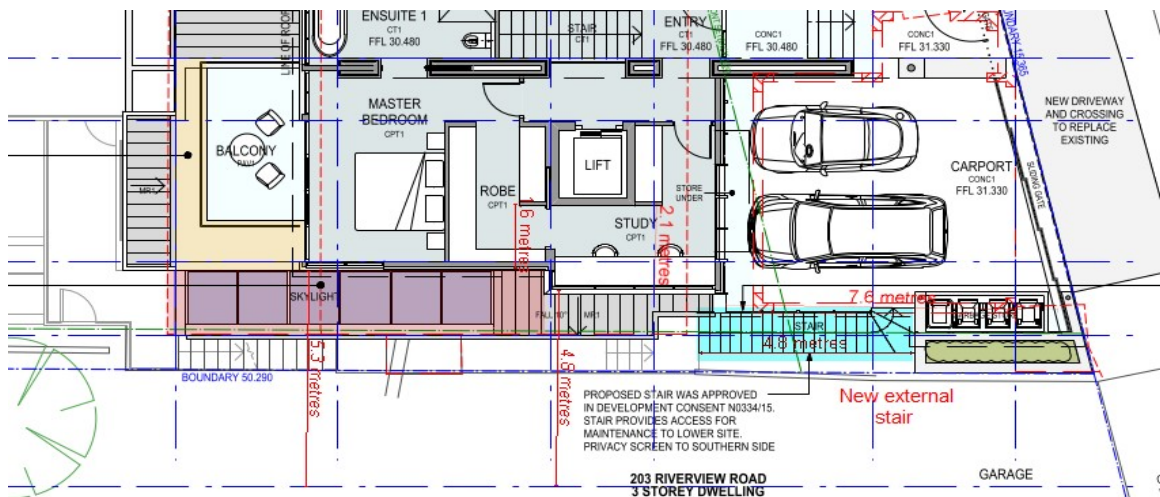
The development, as amended, has been designed to address visual privacy issues. A detailed assessment of privacy for each level of the development is provided below.

Level 1

(a) External stair on the southern boundary

The proposal has been amended to include a 1.6m high privacy screen to the new section of external stair will ensure that privacy is maintained to the bedroom window in the northern elevation of No. 203 Riverview Road. In addition, it is noted that the section of new stair provides a secondary transitional connection between carport at ground level and the existing service stair which provides access to lower external levels of the subject site. The principle pedestrian access is located on the northern side of the dwelling. As such, it is not anticipated that the use of this stair will give rise to excessive use or visual or acoustic amenity impacts to the southern neighbour.

The privacy impacts to the new section of stair have been assessed as **neutral impact** given the existing arrangement, the addition of the privacy screen and the fact that this is a secondary service stair. A site visit has also confirmed that the southern boundary has extensive vegetation which provides a soft screen between the stair and the neighbouring property. In addition, the existing service stair has a 1.6m privacy screen attached to the southern edge. The applicant in justifying the stair notes that the structure was approved under N0334/15. A search of Council records confirm that this is correct.



Level 1 plan - New section of stair highlighted in blue

(b) Deck to master bedroom

The deck to the master bedroom has been reduced in size to be generally comparable to the setback recommended by the DDP. The amended deck is located 3.4m from the southern boundary and 7.3m from the northern boundary. Due to the significantly elevated nature of the First Floor balcony and the spatial distance (i.e. 3.4m to the southern boundary, and 7.2m to the northern boundary), there is still a real potential to overlook the existing windows and open space area of the neighbouring properties. It is recommended that privacy screens are installed on both elevations to prevent overlooking.

(c) South facing bedroom window

In seeking a reduction of the built form of the first floor addition to the southern neighbour the DDP sought to protect existing residential amenity including visual privacy. Given that the internal floor area of the upper level has not been reduced as requested by DDP, as a compromise, a condition requires the south facing window to the master bedroom (located 2.5m from the boundary) to have privacy screens installed up to a height of 1.6m from the FFL to reduce overlooking to the southern neighbour. It is noted that expansive views will still be observed from the large west facing bedroom window and deck to the master bedroom in addition to excellent access to light and ventilation.

(d) South facing window to study

The proposed study is not regarded to be a habitable room pursuant to the definitions in the PDGP. Given that this space will be infrequently occupied the window to this room is assessed as being

acceptable. It is also noted that the room sits 3.57m above the floor level of the bedroom window on the northern elevation of No. 203 Riverview Road and is off set from the proposed window to the study. As such, due to the levels and the skewed window location there will be not be any direct overlooking between the windows resulting in unreasonable amenity impacts.

(e) *North facing window to entry*

The north facing window serving the entry is facing the neighbouring property front setback. As this window adjoining a transitional area, it is not considered privacy treatments are required.

Ground Floor

(a) *New windows (north facing) to the living room*

The north facing windows to the living room are directed towards the front and side setback area of No. 207 Riverview Road. These additional windows are located 1.1m from the northern side boundary, elevated above ground level of the neighbouring front entry area and adjoining neighbouring windows. The amended design references obscure glazing to one window. In order to protect privacy it is recommended that privacy screens are installed to both of the north facing living room windows to prevent unreasonable overlooking.

(b) *New Window (south facing) to the dinning room*

The proposal has been amended to include privacy screens to be installed on the south facing window to the dinning room. This is considered essential given that the window is located 0.9m from the southern side boundary and elevated above ground level thereby enabling direct overlooking to the private open space areas of the southern adjoining site. A condition is recommended to ensure compliance with this requirement to prevent unreasonable overlooking.

(c) *New window (south facing) to the pantry*

The proposal has been amended to require the new door servicing the lounge room to have obscure glazing which will ensure privacy impacts are mitigated.

(d) *New glazed doors (north facing) to lounge room*

The new doors adjoining the new lounge area are located a sufficient distance (7.3m) from the northern side setback, and adjoin a ground level court yard, thereby limiting any unreasonable privacy impacts.

(e) *New deck area (north/south/west facing) to the living room*

While it is appreciated that the locating the planter box on the northern side of the deck area adjoining the living room is to mitigate potential overlooking, this will not be sufficient due to the significant elevation and close location (1.2m) to the northern side setback. It is recommended that privacy screens are installed to the northern elevation to prevent direct and downward viewing onto the neighbouring windows and private open space. It is noted the proposed deck has shares the same 1.2m setback as the existing deck to the northern boundary.

It is also noted that the existing deck is located 0.9m from the southern boundary. The proposed deck will result in enhance privacy to the southern neighbour with the deletion of this substantial deck from this boundary. While the small pop out window to the dining room is located 2.5m from the southern boundary the benefit of the redesigned deck out-weights any minor privacy impacts with relation to the bay window which has the benefit of providing additional articulation to the western elevation.

Lower Ground

(a) *New doors (north facing) to lounge room*

Due to the 1.1m setback to the northern boundary (1.1m) a condition requires the glass door to the

lounge room to be of solid non-transparent material or opaque glazing to ensure privacy impacts are mitigated.

(b) New windows (north facing) to bedroom 1

The corner window servicing bedroom 1 is located 1m to the northern boundary. Given the spatial separation a condition requires a privacy screen to be installed on this corner window.

Pool Level

(a) New elevated stair and deck area (north facing)

The proposal increases the setback of the elevated stair from 0.3m to 1.2m from the north boundary and includes the addition of a privacy screen along the northern edge. The stair and adjoining deck provided access to the waterfront and as the use of the stair / deck will be infrequent these elements, as amended, are considered to be acceptable. A condition is recommended to ensure the privacy screen is installed.

The pool and associated deck are positioned away from the northern boundary to ensure acoustic and visual privacy is maintained.

The new door servicing the lounge room is located 2m from the northern boundary. The design has been amended to require obscure glazing to the glass door which has been assessed as acceptable to ensure privacy impacts are mitigated.

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

Comment:

The conditioned proposed is adequately so does not result in any unreasonable overlooking.

- *A sense of territory and safety is provided for residents.*

Comment:

Given the above, a suitable sense of territory and safety is provided for the subject site and adjacent sites.

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, subject to conditions, in this particular circumstance.

C1.25 Plant, Equipment Boxes and Lift Over-Run

While acoustic privacy was not listed as a reason for refusal to DA2019/1096 in order to ensure that the swimming pool pump does not give rise to any adverse acoustic impacts a condition will be imposed to ensure the swimming pool pump is contained within a sound proof enclosure.

The placement of the proposed lift within the existing dwelling house footprint will ensure there is no adverse amenity impacts to the surrounding sites.

D1.1 Character as viewed from a public place

The proposed carport, with a minimum setback of 0.2m - 0.5m from the front property boundary, is inconsistent with the requirements of this clause, which prescribe that parking structures must not be the dominant site feature when viewed from a public place, and should be located behind the building line, preferably setback further than the primary building.

However, the proposed siting of the carport structure provides a larger front setback than the existing 0.0m - 1.3m, and demonstrates consistency with the permitted variation prescribed by the front building line development control, which allows parking forward of the front building line on steeply sloping sites.

As a result, the modernised presentation of the proposed carport is consistent with other parking structures along this particularly steep stretch of Riverview Road. The siting of the proposed carport is supported on merit, as the proposal is compatible with the character of Riverview Road, and will not detract from consistency with the outcomes of this development control.

The dwelling whilst large, has a proposed design that is well articulated and will present as a one storey dwelling house from the Riverview Road streetview. The visual impact of the proposed works will be lessened over time with the growth of the proposed landscaping, and ultimately, there will be a significant improvement in the presentation to Pittwater.

D1.4 Scenic protection - General

Refusal for Reason No. 3 refers to *the proposed development is inconsistent with the provisions of Clause D1.4 Scenic protection - General of the Pittwater 21 Development Control Plan*

Comment:

Clause D1.4 requires:

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

The minutes of the DDP meeting referenced the following:

The visual impact is not minimised when viewed from the waterway, or road reserve, noting that Riverview Road is listed on Council's Scenic Streets Register.

An assessment of the impact of the proposal on the scenic qualities of the site, including the scenic street register is provided below:

View from Waterway

The existing natural vegetation, including canopy trees, located between the waterway and the dwelling will be retained and the proposed extension will be integrated into the existing mature landscape setting to minimise perceived visual impact from the waterway. As such, the built form remains a secondary component from the visual catchment of the Waterway and the non-complying element will not in itself result in any unreasonable visual impact from the waterway given the steeply sloping land form and existing mature vegetation. The increase in the setback of the proposed upper floor to the southern boundary as suggested by the DDP will have limited material benefit in protecting views from the waterway as the breaching element is not obvious, refer to images below.



**Montage showing the development from the Waterway
(the subject site is in the centre of the image)**



West elevation (area in green represents the envelope requested by DDP to be deleted)

View from Riverview Road/Scenic Road Register

In April 2014, the former Pittwater Council adopted a list of 45 streets that were nominated by the community for their outstanding features based on three categories: vegetation, views or a common theme. The purpose of the Register is

"to allow Council to more effectively manage the preservation of the natural and cultural features of Pittwater's public roads by defining what attributes are to be preserved and how the Council and community are able to achieve this . . . Environmental features include significant scenic views from the road (water or land) over private or public land, significant trees / bushland / landscaping on roads and significant topographical features. Cultural examples include significant buildings /

structures on roads, significant streetscape overall appearance, heritage listed items and Aboriginal sites”

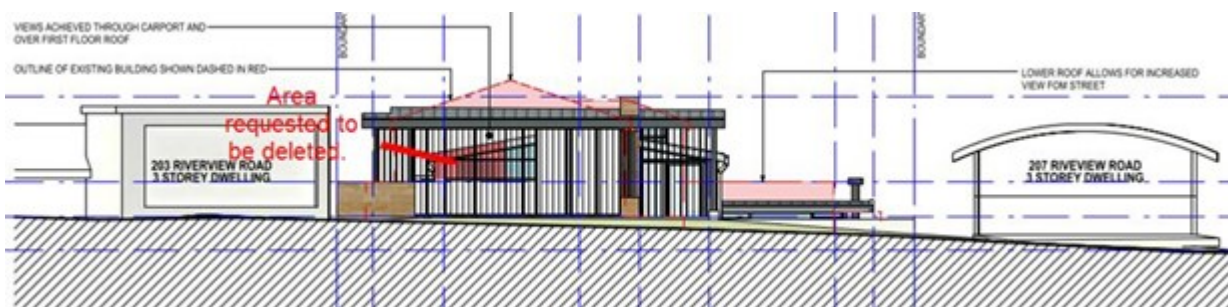
It was intended that the residents of the streets listed respect the qualities of the Register to ensure future developments enhance the qualities of Pittwater’s most scenic streets. The description criteria for Riverview Road in the Register is as follows: *it is graced with verdant vegetation along the length of the street, stunning Eucalypts and water vistas between houses.*

It is also noted the a submission has been received from a neighbour who has raised issues with the development impacting on public views to Pittwater Waterway from the scenic road.

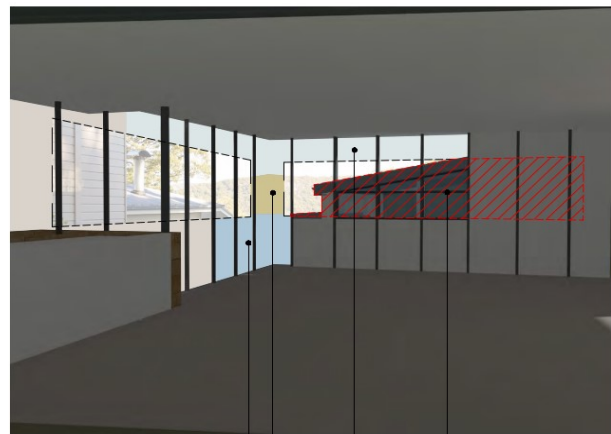
Water views enjoyed by the public from the road are currently limited within the vicinity of the subject site due to the presence of the existing masonry car port and neighbouring structures. The proposal presents an opportunity to enhance the streetscape with a less intrusive lightweight structure with a reduced height which allows for improved access to view corridors to the north and south of the structure for pedestrians walking along Riverview Road. In regards to the request to increase the setback of the upper floor from the southern boundary it is considered that the benefit of this reduction in floor space will be minimal in terms of its benefits on presentation of the proposal to Riverview Road.

The area which the panel requested to be deleted presents limited opportunities for view sharing from the public street as the view is obscured by existing trees. Furthermore, the proposal has the benefit of removing the existing southern gable roof which will enhance the view corridor to the southern side of the dwelling. This combined with open design of the car port allows for any potential view loss of the upper floor to be off set with some view gain.

On balance, the design, the bulk and scale of the fourth floor addition will have limited visual impact on the streetscape being located behind the carport and affecting limited views obscured by mature trees. The screens to the carport have been re-designed to be more open and transparent and the proposal, as amended, has been assessed as being consistent with the desired future character of Avalon and the visual impact of the proposal on Riverview Road will be negligible. Proposed and existing landscaping, in conjunction with conditions relating to colours and materials conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. Refer to images below:



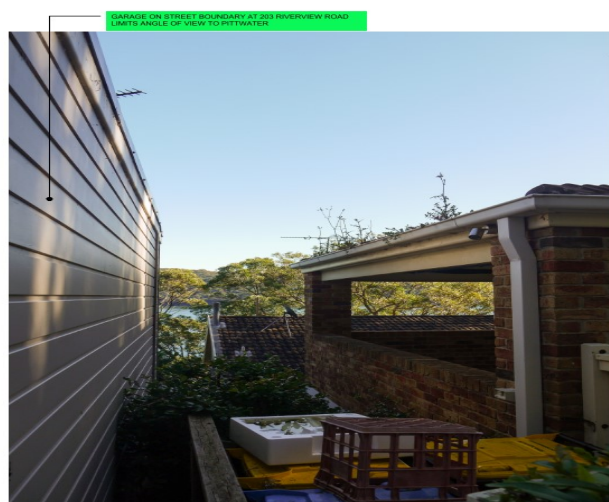
East elevation showing the area requested to be deleted (highlighted in red)



VIEW LOSS IS OFFSET BY VIEW GAIN

HEAVY BRICK PILLARS AND BALUSTRADES REMOVED TO OPEN VIEWS TO PITTPATER

Comparison of existing masonry car port and proposed carport (the brick pillars and balustrades will be replaced with a lightweight frame which has the potential to opens up views to the south-west corner) - view loss area is referenced as the area hatched red



1 EXISTING - DOWN SIDE BOUNDARY



2 PROPOSED - DOWN SIDE BOUNDARY

Views along the southern side of the existing and proposed car port. The removal of the gable roof will help reduce the bulk and scale of the development. The first floor addition will have limited impact on the scenic quality of the street given the existing built form and the context of the site.

In summary, the proposal has been assessed as meeting the objectives of the clause. The requested reduction in envelope will have limited benefit as the proposal has been assessed as complying with the control.

D1.8 Front building line

Clause D1.8 requires a 6.5m front setback.

Comment

The proposed development is inconsistent with the 6.5m minimum front building line prescribed by this development control. The non-compliance with the front setback is as follows:

- Carport 0.2m - 0.5m

- First Floor Dwelling 6.1m - 8.0m
- Lounge area of the Ground Floor 3.3m - 4.6m (sited behind existing built form)

The DDP did not specifically list the non-compliance with the front setback as a reason for refusal. Nevertheless, an assessment of the non-compliance is provided below.

As discussed with respect to clause D1.1 of P21 DCP, the siting of the proposed carport is consistent with a prescribed variation which permits parking structure forward of the building line on steeply sloping sites. However, this variation requires all other structures to be set back in accordance with the 6.5m minimum building line prescribed, and as such, the siting of a small portion of the dwelling house and the new lounge area of the lower Ground Floor are inconsistent in this regard.

Despite non-compliance with the minimum front building line, the siting of the First Floor Dwelling and lounge area of the lower Ground Floor is considered to be an appropriate solution for the site, reducing extent of disturbance on the environmentally sensitive site.

The siting of the dwelling house First Floor and Ground Floor additions as a whole is considered to be acceptable on merit, particularly as the proposal otherwise achieves consistency with the outcomes of the front building line development control, as follows:

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

Comment:

The siting of the carport, minor encroachment of the First Floor and the additional dwelling elements on the Ground Level do not detract from consistency with the desired character prescribed for the Avalon Beach Locality.

The proposal satisfies this requirement.

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

Comment:

Not applicable - the site is not adjoining a main road.

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

Comment:

The site contains a number of existing canopy trees, some of which are proposed for removal to facilitate the development. However, a considerable portion are to be retained, including the more significant species on the site, with enhancement plantings proposed. As such, the proposed development is considered to appropriately retain and enhance vegetation on the site, to reduce the visual impact of the proposed built form as seen from the public domain.

The proposal satisfies this requirement.

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

Comment:

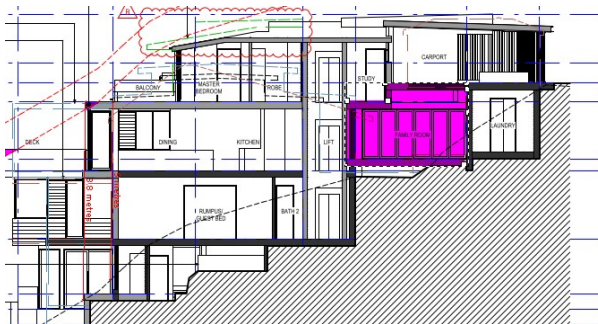
Vehicular movement in a forward direction is not facilitated by the proposal. However, as prescribed by clause B6.2 of P21 DCP, the provision for vehicles to enter and leave in a forward direction is not required for this site, irrespective of the front setback proposed.

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

Comment:

The proposed parking solution has been designed with adequate site lines, to maximise pedestrian safety. Furthermore, the structure itself is of a high quality design, finished in materials that will blend with the natural surrounds, resulting in an attractive improved presentation to the street

The proposed Lounge Room on Ground Level will be situated below street level as demonstrated within Figure 6 and 7 below. Therefore, the character of Riverview Road will remain unaffected by the built form of the Lounge Room.



The location of the lounge room below the Riverview Road street level

The retention of the canopy trees and landscaping within the front boundary will soften the built form and is consistent with the bushland character of Riverview Road and the Locality.

The proposal satisfies this requirement.

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

Comment:

The siting of the carport, First Floor and Ground Level Lounge Room is consistent with other structures along Riverview Road. The proposal will present as a one storey dwelling house from Riverview Road, with the below built form below the Riverview Road level.

When viewing the total streetscape in Riverview Road, it is evident that landscaped areas feature prominently and provide a balance between built form and landscaping. Additionally, the visual impact of adjoining dwellings and associated structures have been further minimised through adequate separation from the Riverview Road boundary. Overall, the proposal ensures new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment and retains sufficient canopy trees and landscaping to soften and screen the built form.

The proposal satisfies this requirement.

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.

D1.9 Side and rear building line

Clause D1.9 requires a 2.5m at least to one side and 1.0m for the other.

The DDP did not specifically list the non-compliance with the front setback as a reason for refusal. Nevertheless, an assessment of the non-compliance is provided below.

Comment

The existing dwelling is located 1.2 metres from the northern side boundary and 0.9 metres from the southern side boundary, which represents a non-compliance with the numerical requirements of this control.

The proposed alterations and additions seek to retain the existing side walls on all three existing levels and to increase these side setbacks on the proposed First Floor, or fourth level.

The side setbacks of the proposed additions are as follows:

First Floor

North

- 5.0m Entry
- 5.1m - 7.3m Dwelling House Additions
- 7.1m Carport

South

- 0.0m Planter
- 0.5m Access Stairs
- 2.0m - 2.5m Dwelling House

Ground Floor

North

- 1.1m Planter (balcony)
- 1.2m - 7.2m Dwelling House

South

- 1.5m - 2.6m Dwelling House

Lower Ground Floor

North

- 1.2m Dwelling

South

- 1.1m Deck (existing)

Pool Level

North

- 2.1m Dwelling House
- 0.3m Deck
- 1.2m Access Stairs

South

- 1.1m Pool Area
- 3.1m Swimming Pool

The control includes a variation provision which allows the maintenance of existing side setbacks where alterations and additions are proposed; given the substantive retention of these existing walls, no concern is raised.

The dwelling itself does not move closer to this boundary than the existing dwelling, however external works are proposed within the northern side setback relating to the rebuilding and repositioning of external staircases and decks, which have amenity impacts to the adjoining properties.

Overall, the proposal (as conditioned) is supportable on merit, as the design is consistent with the outcomes of this control, as follows:

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

Comment:

The proposed development is consistent with the desired character of the Avalon Beach Locality. Refer to discussion under Clause A4.1 above.

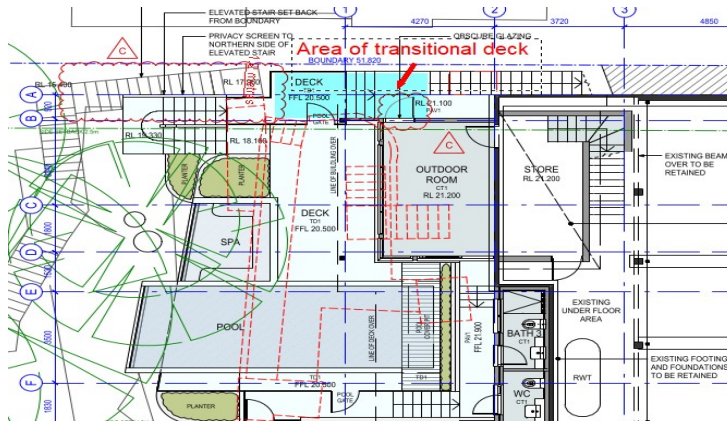
The proposal complies with this outcome.

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

Comment:

The proposed non-compliant additions to the dwelling house are minor in scale, with the new upper level compliant with the side setback requirements.

The lower northern external stair and associated deck at the pool level has been amended to increase the setback to a compliant 1.2m from the side boundary. This will result in an increase setback compared to the existing stairs in this location. A small area of deck, for access, remains to sit within 1m of the northern boundary. This transitional area of deck has been assessed as acceptable as it is necessary to retain access from the pool area to the water front and provides a linking areas to the existing stairs. In order to ensure privacy is maintained a condition requires a 1.6m high privacy screen to the northern side of the deck area.



Pool Level and deck area in breach of side setback (highlighted in blue)

The southern side access stairs are visually identifiable from the Riverview Road street view, and are adjoining the three storey elevation of the southern adjoining site. The stairs are considered a transitional area and have been amended to include a 1.6m privacy screen therefore minimising unreasonable privacy impact. The stairs do not remove an area of landscaping that would be considered reasonable in size in order to incorporate landscaping features to screen and soften the built form. Therefore, the stairs are considered reasonable in this instance.

The proposal (as conditioned) complies with this outcome.

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

Comment:

The proposal will not result in any unreasonable impacts upon views to/from public/private places.

The proposal complies with this outcome.

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

Comment:

As above, the proposed additions are sited such that they will not result in any unreasonable impacts upon views to/from public/private places.

The proposal complies with this outcome.

- ***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 additions within the northern and southern side setback create amenity and privacy impacts to the neighbouring sites. Due to the proximity to the neighbouring windows, and private open space areas, the northern deck area is to be conditioned to require a privacy screen along the northern edge.

Therefore, the proposal (as conditioned) will maintain reasonable privacy and general amenity to neighbouring properties.

The proposal complies with this outcome.

Reasonable levels of solar access is achieved for the southern adjoining site.

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

Comment:

The proposed development provides for substantial landscaping within the foreshore area and within the front setback to Riverview Road.

The proposal complies with this outcome.

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

Comment:

The proposed non-compliant additions demonstrate a flexible design solution that provides for the modernised design for the existing dwelling house.

The proposal complies with this outcome.

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

Comment:

Sufficient areas within the front, rear and side setback are to be retained and enhanced with landscaping to screen the proposed non-compliant elements as seen from the neighbouring sites and the waterway.

The proposal (as conditioned) complies with this outcome.

- ***A landscaped buffer between commercial and residential zones is achieved.***

Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes 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.

D1.11 Building envelope

Reason for Refusal No. 5 refers to "the proposed development is inconsistent with the provisions of Clause D1.11 Building envelope of the Pittwater 21 Development Control Plan"

In the minutes of the DPP meeting it was recorded that the Panel took the view that:

The proposed development has substantial breaches of the building envelope, particularly at the uppermost level which results in impacts upon views from the street and a scale of the development as viewed from the waterway and neighbouring properties which is inconsistent with the desired future character of the area.

It is also note that in order to address this issue and other issues that the Panel suggested

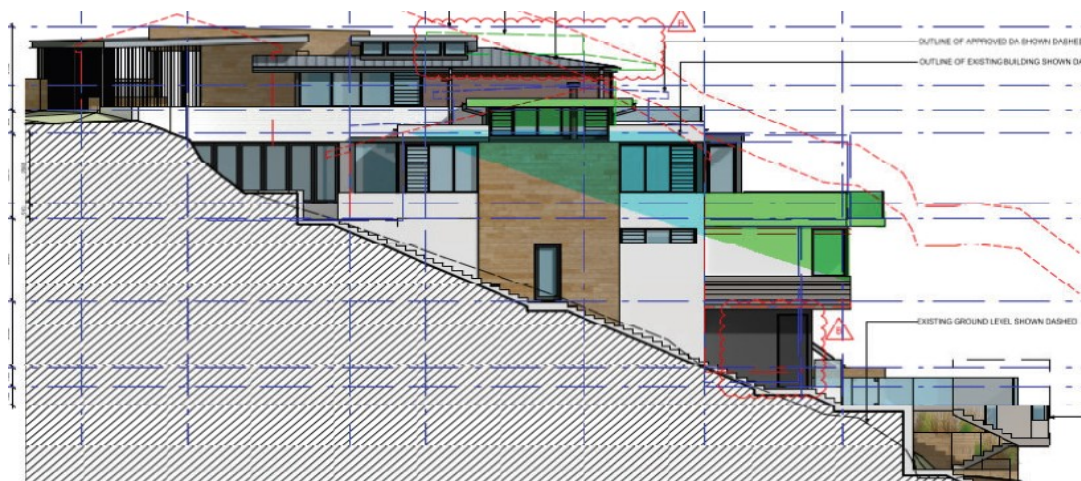
increasing the setback of the top floor between 2.5m - 2.0m from the southern boundary. Below is an assessment of the building envelope breach against the objective of the envelope provision, taking into consideration the issues recorded by DDP. The applicant has confirmed that it is not feasible to reduce the internal floor area and it is argued that the proposal as submitted without the reduced envelope addresses the provisions of the relevant controls, including clause D1.11 (side envelope).

Comment

Clause D1.11 requires the building to be set within an envelope measuring 3.5m above existing ground level from the boundary and 45 degrees.

The existing dwelling exhibits significant non-compliance with the side building envelope requirements from the north to the north western corner and south to the south western of the upper level, caused by the significant slope of the site from front to rear. The proposed development involves additional areas that protrude beyond the existing envelope breach on both side boundaries as detailed below:

Northern Elevation



Northern elevation boundary breach shown in green, existing envelope

The proposal results in the following additional envelope breach to the northern elevation:

Two additional areas measuring up to 3.3m in height and 5.5m in length and 1.6m in height and 4.4m in length. It is noted that the DDP did not raise any specific issues with the breach to the northern elevation.

Southern Elevation

The proposal results in three additional areas of non-compliance as detailed below:

- Level 1 - 2.3m - 1.1 m in height and 4.9m length relating to the master bedroom.
- Level 1 - 1.7m - 0.4m in height by 2.0m length.
- Ground level - 3m - 0m in height by 2.7m in length (existing breach)
- Lower Ground Level - 1.1m to 0m in height and 0.8m in length relating to the 1.4m extension of the floor plate to the west.

Note: The envelope calculation is based in the existing ground floor being the top line of the area annotated in green on the elevation. The result is a slightly reduced envelope non-compliance to

that calculated in the original DA. It is also noted that the applicant has agreed to reduce the size of the west facing deck that adjoins the master bedroom but not the size the master bedroom and study.



Southern elevation boundary breach

The clause allows for a variation to the envelope control where the building footprint is situated on a slope over 16.7 degrees (i.e. 30%). The building footprint of the existing dwelling is situated on a site with a slope that is greater than 16.7 degrees. As such, a variation to this control is considered on a merits basis.

A consideration of the proposed breach against the relevant outcomes of the control is provided below:

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

Comment:

The non-compliance is influenced by the sloping topography of the site. The proposal is well articulated along front and side of the dwelling with a varied roof line. The breaching element, particularly the elements to the southern elevation, will not impact of the desired future character of the area as viewed from the Pittwater Waterway or Riverview Road.

The proposal is predominately located over the footprint of the existing building, as such, it minimise environmental impacts to this sensitive site maintaining the landforms, landscapes and other features of the natural environment. Due the significant tree coverage between the dwelling and the foreshore the breaching element to the southern elevation will integrate with the existing environment and not in itself read as a visually obtrusive bulk. The scale and bulk of the proposal is similar to other developments as viewed from the Pittwater Waterway and the proposal maintains a single storey presentation to the street. The request for reduction in the envelope to the south will not have limited material benefit to compliance with this objectives, refer to discussion under Clause A4.1 (Avalon Locality) of this report.

The proposal complies with this outcome.

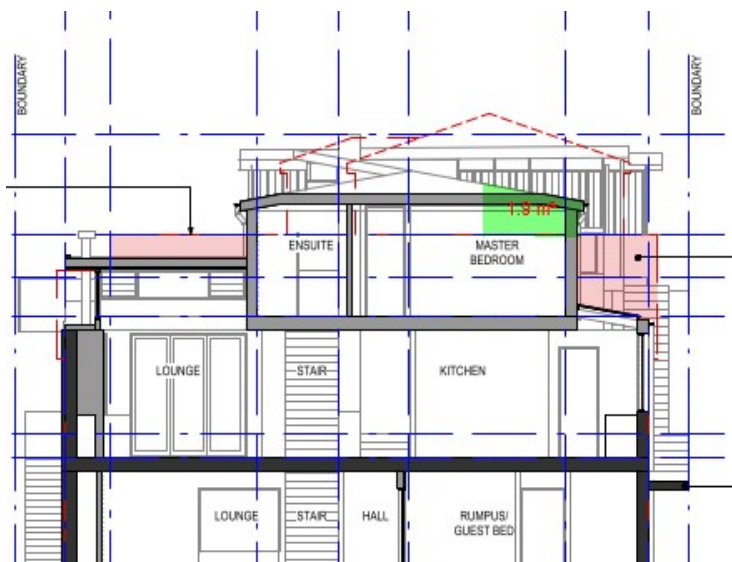
- ***To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.***

Comment:

Due to the steep topography the existing dwelling breaches the envelope. The additional areas of breach primarily relate primarily to the upper floor level with the DDP having issues in particular to the breaching element on the southern elevation. In order to address the visual impact of the breach on the streetscape the Panel requested a 2.5m - 2m setback to this boundary. The offending area relates to the a small section of the study and the majority of the master bedroom on level 1.

Level 1 as proposed has a low pitched sloping roof and is setback 7.0m from Riverview Road directly behind the carport. The existing brick car port and neighbouring garage and car port which fronts the street offers limited visual appeal. The proposal presents an opportunity to enhance the streetscape with a less intrusive lightweight structure which represents a reduced bulk, height and massing to the street.

The non-complying element that breach the southern envelope will not, in itself, result in unacceptable visual impact on the streetscape given it is located a minimum 7.0m behind the street frontage sitting directly behind the new carport. The increased setback of the upper floor to the southern boundary as recommended by the DDP will allow for an area of approximately 1.9sqm reduction in the bulk of level 1 (as viewed from the street), refer to image below. On balance, given the limited visual benefit of this reduction the proposal as designed has been assessed as complying with the objective and the proposal.



Section showing area requested to be deleted in green

The proposed development presents a contemporary design, with the First Floor addition compliant with the maximum building height and set backs. The encroachment is considered satisfactory in regards to the design, scale, bulk and the height of the proposal. Furthermore, the resultant built form will be maintained below the existing tree canopy. The building form and density respond to the natural land form of the site which will be below the height of the trees of the natural environment.

The proposal complies with this outcome.

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

Comment:

The façade of the dwelling on the north and south elevation is sufficiently modulated to

respond appropriately to the site and its steep slope. The resultant development is considered to be a sensitive design response in consideration of the natural characteristics of the site, with the retention of existing canopy trees and the enhancement of landscaping. The elements that breach the envelope have no impact on the ability of the development satisfying this objective as they are positioned above the existing footprint and will not impact on the spatial characteristics of the existing natural environment.

The proposal complies with this outcome.

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

Comment:

While it is agreed that the bulk and scale of the built form could be reduced with an increased setback to the south there is little material benefit to the reduction on the character of the area, the streetscape or neighbouring amenity. The area of the dwelling outside of the envelope is typified by a variation in façade treatments and structures which provide articulation and reduce the bulk and scale of the development. The proposed resultant dwelling is of comparable building bulk and scale to existing and approved developments in the locality. The applicant has provided examples of other developments within the vicinity of the site that have been approved with a similar bulk and scale including No. 129, 163, and 173 Riverview Road. A search of Council records confirm that the bulk and scale of approved recent developments are similar to the subject development.

It is also noted that the development steps with the topography of the land, and the proposed height is generally compliant with the 8.5m building height development standard.

Finally, there is sufficient existing mature planting throughout the site to integrate and reduce the visual impact of the bulk and scale of the development.

In light of the steep topography, the significant articulation along the northern and southern façade and noting that the built form non-compliance is compliant with the building height, attempts to ensure the bulk and scale of this portion of the development has been minimised.

The development complies with this outcome.

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

Comment:

Riverview Road is registered as a scenic street and this listing offers it a special protection. The existing brick car port which fronts the street offers limited opportunity for view sharing to Pittwater Waterway to passing pedestrians. The proposal presents an opportunity to enhance views and vistas from the public street with a less intrusive lightweight structure with a reduced height which allows for improved access to view corridors to the north and south of the carport. A more detailed analysis of view loss is provided elsewhere in this report. In summary, the proposed development will not result in any significant view loss that would warrant refusal of the application.

The development complies with this outcome.

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

Comment:

There will be no adverse amenity impact in regard to privacy or solar access (subject to conditions) as a result of the proposed breach of the Building Envelope, refer to clause C1.4 and C1.5 below.

The development complies with this outcome.

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

Comment:

The proposed dwelling is sited in a manner that will retain existing vegetation and enhance the future viability of the vegetation community that exists on the site.

The development complies with this outcome.

In conclusion, despite the breach of the building envelope control, the development has demonstrated achievement of the Outcomes of the control. Furthermore, the building footprint is situated on a slope greater than 16.7 degrees and the clause allows for a variation of the envelope controls in such cases.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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.

D1.14 Landscaped Area - Environmentally Sensitive Land

Clause D1.14 requires 60% of the site to be a landscape area

The DDP did not raise any issues in the refusal with the non-compliance with landscaping. A brief assessment of the proposal against the landscape requirements is provided below.

Comment

The proposed development results in a 11.9sqm reduction of landscaped area, to provide a landscape area of 394m² or 51.7%, which is a variation of the 60% minimum requirement.

However, the control provides for the inclusions of pathways and certain hard surfaces (up to 6% of the site associated with recreation areas), if the proposal is consistent with the outcomes of the control.

As a result, when taking into account the variations for outdoor recreational area and pathways, the revised landscape area is 58% or 440.6m.

This represents an overall reduction of 1% from the existing provision of 552.5sqm or 59%. The conditioned removal of the elevated deck area from the northern side setback will allow additional areas of landscaping to increase the overall landscape provision.

Due to the inclusion of the pathways and certain hard surfaces, a merit assessment has been undertaken to ensure the proposal is consistent with the outcomes of the control.

The application of the variation is considered to be warranted, as the outcomes of the control are achieved as follows:

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

Comment:

The proposed development is inconsistent with the desired future character of the Avalon Beach Locality, as the proposal provides adequate opportunities to ensure that the visual impact of the development is secondary to landscaping. In addition, it can be said that the proposal has been effectively integrated within the landform, through developing a considerable landscape buffer areas in the front and rear of the site.

The proposal does not comply with this outcome.

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

Comment:

The proposed (as conditioned) will provide sufficient landscape buffers, which will assist in visually breaking down the built form, particularly with the removal northern deck area from the setbacks, reinstatement of landscaping in this area, and retention of the significant canopy trees on the site. Overall, it is considered that the proposal's design reasonably mitigates the visual impact of the built form.

The proposal does not comply with this outcome.

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

Comment:

The proposal (as conditioned) will not result in any unreasonable impact on light, solar access or privacy. This is as a result of the sufficient orientation and separation of windows.

The proposal complies with this outcome.

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

Comment:

The proposal involves a landscaped area of 58% (440.6sqm), whereas the control requires a minimum of 60% (457.4sqm). In proposal (as conditioned) will provide adequate areas for the retention and establishment of more considerable planting, particularly in the side setbacks, front, and rear setback between the waters edge and the proposed swimming pool. In this regard, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

The proposal complies with this outcome.

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

Comment:

The proposed development, which is primarily constructed on piers, is a sensitive solution for the constrained site that preserves the natural features and biodiversity. Native trees and vegetation are retained as part of the proposal. In addition, the development is supported by Council's Natural Environment Biodiversity and Landscaping Team.

The proposal complies with this outcome.

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

channels.

Comment:

The development will provide sufficient areas that are of soil depth for the infiltration of stormwater. It is considered that stormwater runoff will not be reasonably reduced as a result of this proposal. Subject to conditions recommended by Council's Development Engineers, stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

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

Comment:

The subject include two areas capable for the establishment of deep soil planting. The street frontage will include one landscaped area, while the rear setback will include much larger landscaped area between the mean Pittwater waters edge and the proposed swimming pool area.

Overall, the proposal provides reasonable opportunities within the site for the establishment of any trees and landscape features, resulting in the proposal integrating with the landscaping and bushland character of the escarpment and the locality.

The proposal complies with this outcome.

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

Comment:

A considerable proportion of the hard surface areas proposed are elevated above ground and permeable, maximising water infiltration. Furthermore, subject to conditions of consent, Council is satisfied that stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

Based on the above, the proposed landscape area in this instance is supported on merit and considered to satisfy the outcomes of the control.

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.

D1.20 Scenic Protection Category One Areas

Reason for Refusal No. 3 refers to "the proposed development is inconsistent with the provisions of Clause D1.4 Scenic protection - General of the Pittwater 21 Development Control Plan"

For the purpose of a full and complete review, this reason has also been assessed in respect to Clause D1.20 (Scenic Protection Category One Area).

The minutes of the DDP meeting referenced the following:

The visual impact is not minimised when viewed from the waterway, or road reserve, noting that

Riverview Road is listed on Council's Scenic Streets Register.

Clause D1.20 requires:

Screen planting shall be located between structures and boundaries facing waterways.

Comment

The existing mature planting between the waterway and the proposed pool will be retained.

Canopy trees are required between dwellings and boundaries facing waterways and waterfront reserves. Development is to minimise the impact on existing significant vegetation.

Comment

The existing canopy trees between the dwelling and the waterway will be retained. The proposal will not result in unreasonable impacts on the quality of the natural environment and the proposed first floor addition will effectively be screened from the waterway by significant existing vegetation with the development siting below the canopy of the existing trees.

The development is to incorporate measures for planting and maintenance of native vegetation within those areas which are already cleared, and which are not required to be cleared to allow for the development.

Comment

The applicant shall demonstrate the retention and regeneration of existing native vegetation outside of the immediate area required to carry out the development.

The siting, building form, orientation and scale of the development shall not compromise the visual integrity of the site by removal of canopy trees along ridges and upper slopes.

The development must incorporate the use of unobtrusive and non-reflective materials and the colours of exterior surfaces shall help blend structures into the natural environment.

Comment

A condition is included in the recommendation to ensure compliance.

In summary, the proposal has been assessed as meeting the objectives of the clause and an increase in the setback of Level 1 to the southern boundary will have no material benefit as the proposal as presented has been assessed under the subject review as acceptable.

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 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$21,868 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,186,800.

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 2000;
- 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, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

- Consistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent 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

The amendments to the proposal and new documentation purport to demonstrate that, despite the breach of the building envelope, the proposal addresses the objectives of the relevant controls and the non-compliant element will not result in unreasonable impacts on the scenic quality of the area of neighbouring amenity, subject to suitable conditions. Given the constraints of the site, including the steep slope and east west orientation, the variation of the envelope control is supported subject to conditions to address privacy issues the proposal is supported.

Therefore, the reasons for refusal of DA2019/1069 should not be maintained and the review application approved subject to conditions.

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

- Consistent 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 satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to REV2020/0023 for Review of Determination of Application DA2019/1069 for alterations and additions to a dwelling house including a swimming pool on land at Lot 4 DP 18667, 205 Riverview Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Analysis A001 Rev C	July 2020	Mark Hurcum Design Practice
Demolition Plan - Site/Roof A010 Rev B	July 2020	Mark Hurcum Design Practice
Demolition Plan - Pool Level A011 Rev B	July 2020	Mark Hurcum Design Practice
Demolition Plan - Lower Ground Floor A012 Rev B	July 2020	Mark Hurcum Design Practice
Demolition Plan - Ground Floor A013 Rev B	July 2020	Mark Hurcum Design Practice
Demolition Plan - First Floor A014 Rev B	July 2020	Mark Hurcum Design Practice
Pool Level Plan A101 Rev C	July 2020	Mark Hurcum Design Practice
Lower Ground Floor Plan A102 Rev B	July 2020	Mark Hurcum Design Practice
Ground Floor Plan A103 Rev C	July 2020	Mark Hurcum Design Practice
First Floor Plan A104 Rev C	July 2020	Mark Hurcum Design Practice
Roof Plan A105 Rev C	July 2020	Mark Hurcum Design Practice

Northern Elevation A201 Rev C	July 2020	Mark Hurcum Design Practice
South Elevation A202 Rev C	July 2020	Mark Hurcum Design Practice
East Elevation A203 Rev C	July 2020	Mark Hurcum Design Practice
West Elevation A204 Rev C	July 2020	Mark Hurcum Design Practice
Section A-A A301 Rev C	July 2020	Mark Hurcum Design Practice
Section B-B A302 Rev C	July 2020	Mark Hurcum Design Practice

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment	11 September 2019	JK Geotechnics
Arboricultural Impact Assessment	12 September 2019	NSW Tree Services
Landscape Design Statement	18 September 2019	Landforms

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
Front Entry Landscape Plan 1 of 2	22/08/2019	Landforms
Pool Level Landscape Plan 1 of 2	22/08/2019	Landforms

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- A sign must be erected in a prominent position on any site on which building work,

subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$21,868.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,186,800.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 11 September 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

○ **First Floor**

(a) A 1.65 metre privacy screen (measured from finished floor level (FFL)) is to be erected along the northern and southern length of the outermost edge of the balcony located off the Master Bedroom as shown on the approved plans.

(b) A 1.65m privacy screens (measured from FFL) is to be installed on the First Floor southern master bedroom windows.

Ground Floor

(a) 1.65m high privacy screens (measured from FFL) are to be installed on the two Ground Floor northern windows adjoining the Living Room as shown on the approved plans.

(b) 1.65m privacy screens (measured from FFL) are to be installed on the Ground Floor southern window adjoining the Dining Room as shown on the approved plans.

(c) The door on the southern elevation adjoining the lounge room is to be of solid construction, or obscured glazing.

(d) A 0.75 metre privacy screen (measured from the top of the planterbox) is to be erected along the northern length of the outermost northern edge of the planter box/balcony located off the Living Room as shown on the approved plans.

Lower Ground Floor

(a) The door on the northern elevation adjoining the lounge room is to be of solid construction, or obscured glazing.

(b) A 1.6m privacy screen (measures from FFL) shall be installed along the north facing window of bedroom 1

Pool Level

(a) The door on the northern elevation adjoining the outdoor room is to be of solid

construction, or obscured glazing.

(b) A 1.6m high privacy screen shall be installed along the northern edge of the elevated decking, access stairs and deck within the northern boundary (servicing the pool level).

Note: All privacy screens shall be of louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development or the glass to be fitted with obscured glazing.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

8. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

9. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

10. Shoring of Council's Road Reserve (Temporary road anchors)

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction

Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

11. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. Soil and Water Management Program

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

13. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

14. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

15. External Material

The development shall include the use of darker/earthy tones to the upper floor.

Details demonstrating compliance shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To reduce the visual impact from the waterfront area.

16. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

No 203 Riverview Road, Avalon

No 207 Riverview Road, Avalon

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

18. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Mark Hurcum Design Practice Architects prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70

percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

The discharge of sediment-laden waters from the site may result in clean-up orders and/or fines under Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

20. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

21. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

22. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and

Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

23. Vehicle Crossings

The Applicant is to construct one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

24. Protection of rick and sites of significance

a) All rock outcrops outside of the below the area of the approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of the works, those works are to cease and Council, the NSW Office of the Environment (OEI) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

25. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principle Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

26. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

27. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

28. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

29. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Geotechnical Assessment 11 September 2019 JK Geootechnics.
- (b) Arboricultural Impact Assessment 12 September 2019 NSW Tree Services
- (c) Landscape Design Statement 18 September 2019 Landforms

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

30. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

31. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

- (a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and

relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

32. **Geotechnical Risk Management Policy**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

33. **works is to cease if item found**

If Any Aboriginal Engravings or Relics are unearthed all works is to cease immediately and the Aboriginal Heritage Office (AHO) and the Office of the Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage

34. **swimming pool filter and pump**

The swimming pool filter and pump is to be enclosed and remain in a sound proof enclosure and is to not emit noise over 5dba above background noise at the nearest residential boundary.

Reason: to protect the acoustic amenity of neighbouring sites.