

9 July 2025



Mrs Sheralee P Hogan
11 Hill Street
WARRIEWOOD NSW 2102

Dear Sheralee,

Development Application No: DA2025/0449 for Alterations and additions to a dwelling house including a swimming pool at 28 Bassett Street MONA VALE.

An assessment has been undertaken of your application, and I apologise for the delay in response.

The assessment has found that it is an overdevelopment of the subject site and unsatisfactory in its current form for the reasons identified below:

LEC Planning Principle – Demolition

The application has been sought as alterations and additions to an existing dwelling house, however in effect, the works constitute a demolition of this existing dwelling and the replacement with a new dwelling, which results in significant non-compliances with Council's built form controls.

Applying the NSW Land and Environment Court Planning Principle – "Demolition" (Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187) to the application, specifically those relevant qualitative and quantitative issues outlined in the principle, the application will:

- result in a complete change of the appearance of the building when viewed from the public domain;
- remove a substantial area of landscaping from the site, including that which is visible from the street;
- lose the characteristics of the form of the existing structure;
- the estimated site coverage of buildings will increase from 25% in the existing situation, to 52% of the site;
- existing non-compliances with the side setback and building envelope development controls on the west elevation of the dwelling will be substantially increased (refer to discussion further in this correspondence);
- the building's envelope will be increased on all elevations;
- the setbacks on the south and north boundaries will be substantially altered;
- there will be a substantial reduction in landscaped open space;

- there will be a substantial increase in the existing floor space on the site;
- the existing roof form will be completely altered; and
- based on the substantive differentials in floor space, landscaped area, boundary setbacks and roofed areas, the existing building bears no distinct proportion from the proposed development.

Considering these relevant tests, the departure that the proposal represents from the existing building, requires that the proposal should be characterised as being for a new building.

As such, the proposed non-compliances discussed below are considered in the context of a new dwelling house, not alterations and additions to the existing dwelling house.

Building Envelope

The east and west elevations of the proposed works will be outside of the maximum building envelope permitted under Part D9.9 Building envelope of the Pittwater 21 Development Control Plan (P21 DCP).

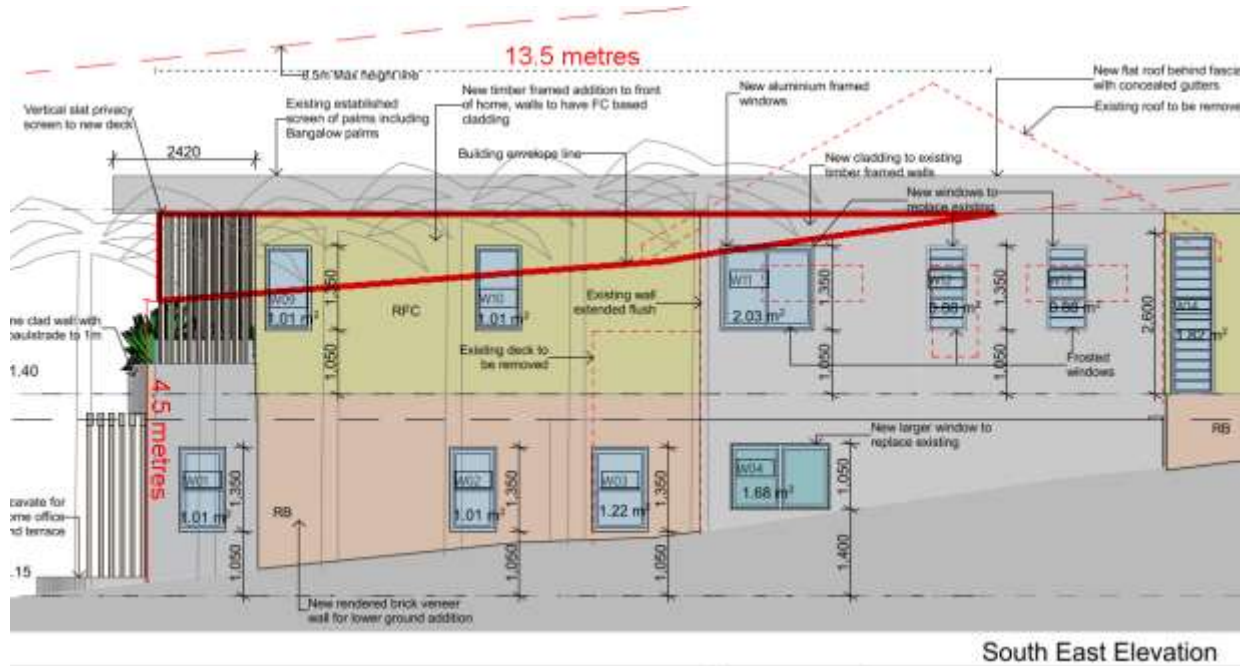
In numerical terms, the breaches are estimated at:

West: 20.3m (length) x 1.5m (height); and

East: 13.5m (length) x 1.5m (height).

A representation of these estimated breaches is provided below:





These non-compliances are significant and under the circumstances are not supported. The proposed design is considered to fail the following Outcomes of the control:

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

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

Refer to the discussion on Solar Access further in this correspondence, on the potential adverse impact to adjoining properties.

Side Building Line (West Elevation)

The side building line of the proposed works will be setback forward of the nominated 2.5m building line from the western boundary of the site, specified under Part D9.7 Side and rear building line of P21 DCP.

The non-compliance is substantial (0.9m or a 64% variation) and will result in a development that is inconsistent with the following Outcomes of the control:

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

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

Again, refer to the discussion on Solar Access further in this correspondence, on the potential adverse impact to adjoining properties.



Landscape Open Space

It is estimated that approximately 374.4m², or 47% of the site is set aside for landscaped open space on the site, short of the minimum 50% of site area required under Part D9.10 Landscaped Area of P21 DCP.

This calculation of course includes the additional 6% of outdoor recreation area (which on this site caps out at 47.4m²) and excludes the gravel fire pit proposed on the north-east corner of the site.

The non-compliance translates to a deficit of approximately 24m², and given the preponderance of structures proposed in the application, is not consistent with the Outcome of the control which seeks to ensure that:

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

Solar Access

An examination of the shadow diagrams provided with the application demonstrate that there is likely to be overshadowing to an existing window on the east elevation of the adjoining dwelling at No.30 Bassett Street. The solar access controls of P21 DCP state that:

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).

The subject window relates to a combined living / dining / kitchen area and under existing circumstances, is unlikely to achieve the control stated above. Therefore, any further loss of their existing solar access, is an adverse impact to this property that is not reasonable.

This impact also coincides with the previously identified non-compliances with the built form controls of the P21 DCP, the objectives of which include the maintenance of reasonable levels of solar access to adjoining properties.

Hence, the application is not consistent with the Outcomes of Part C1.4 Solar Access, particularly those which seek to ensure a reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.

Solid Fuel Heater / "Fire Pit"

The proposed fire pit on the north-eastern corner of the site is not considered an appropriate form of development for a residential area, consistent with the outcomes and controls of Part C1.13 Pollution Control of P21 DCP, specifically that:

Development that does not adversely impact on public health, the environment or other lands. (S, E); and

Residential development must be designed, constructed, maintained and used in a proper and efficient manner to prevent air, water, noise and/or land pollution.



Generally, fire pits or “recreational burning” is permitted through temporary / portable structures governed by the Protection of the Environment Operations (Clean Air) Regulation 2022.

However, in-situ or permanent structures generally considered to be a “solid fuel heater” are governed by other requirements and procedures and the proposed location and form of the proposed structure (ie. close to a boundary and with no regulatory flue) is not supported.

Objector’s concerns

You are encouraged to review the submissions that have been lodged in relation to the application and consider any design solutions that may resolve relevant concerns.

Submissions that are available online in accordance with the Northern Beaches Community Participation Plan can be viewed on Council’s website at the following link, using the application number as a reference:

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Public/XC.Track/SearchApplication.aspx>

Options available to the Applicant

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

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

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

Submitting further information/amendments

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

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

Please ensure that the amended/additional information submitted on the NSW Planning Portal is a genuine attempt to resolve the issues as Council will generally not seek any further information/amendments after that point. Council will proceed to assess and



determine the application based on the submitted information without further consultation. Whilst we will provide feedback on your conceptual amendments in good faith, this cannot guarantee the approval of the amended application.

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

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

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

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

As per the requirements of section 36 of the *Environmental Planning and Assessment Regulation 2021*, you are advised that this application was accepted on 5 May 2025 and 65 days in the assessment period have now elapsed.

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

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

Yours faithfully,



Nic England
Planner