

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0400
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 2 DP 233128, 111 Bynya Road PALM BEACH NSW 2108
Proposed Development:	Alterations and additions to Dwelling House including a carport
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Malcolm Scot Menzies Fiona Kathleen Menzies
Applicant:	Malcolm Scot Menzies

Application Lodged:	04/05/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	11/05/2021 to 25/05/2021
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 793,800.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is for alterations and additions to the existing dwelling. In detail, this includes:

Ground Floor

- Media room.
- Bathroom.
- Three bedrooms.
- Laundry.
- Store.
- Terrace and steps.

Middle Floor

- New foyer.
- WC.
- Dining and Lounge.
- Bedroom.
- Terrace.
- Deck.

Upper Floor

- Master bedroom.
- Ensuite.
- Robe.
- Balcony.

External

- Alterations to garage and addition of attached carport.
- Removal of existing driveway and construction of new driveway.
- New terraces and landscaping.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D12.5 Front building line

Pittwater 21 Development Control Plan - D12.6 Side and rear building line
Pittwater 21 Development Control Plan - D12.8 Building envelope

SITE DESCRIPTION

Property Description:	Lot 2 DP 233128 , 111 Bynya Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of an allotment located on the northern-eastern side of Bynya Road.</p> <p>The site is irregular in shape with a frontage of 14.1m along Bynya Road and has a surveyed area of 762.2m².</p> <p>The site is located within the E4 Environment Living zone and accommodates dwelling house on site.</p> <p>The site has a slope from the front of the property down to the rear, with a crossfall of approximately 10m.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential development.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/05/2021 to 25/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Ms Emma Brown	102 Bynya Road PALM BEACH NSW 2108
Mr Ian Charles Thatcher Mrs Shonagh Margaret Thatcher	6 Northcote Road LINDFIELD NSW 2070
Ms Amanda Jane Ryman	109 Bynya Road PALM BEACH NSW 2108
Mr Ross Nicholas	30 Pacific Road PALM BEACH NSW 2108
Lucy Margaret Gordon Masters	113 Bynya Road PALM BEACH NSW 2108
Mr Bruce Arthur Lincoln	98 Bynya Road PALM BEACH NSW 2108
Monique Catherine Boffa	100 Bynya Road PALM BEACH NSW 2108

The matters raised within the submissions are addressed as follows:

- **View sharing**

Concern is raised impact on view sharing, particularly with regard to the addition of the upper level.

Comment

This issue has been addressed in detail under Clause C1.3 ;View Sharing' Later in this report.

In summary, the assessment concludes that the overall level of view sharing is reasonable and that this issue does not warrant the refusal of the application.

- **Landscaped area**

Concern is raised with regard to the addition of impervious area (i.e. the decrease in pervious area).

Comment

The proposal complies with the numerical requirement for Landscaped area under the Pittwater DCP, with the inclusion of an exception which allows 6% of impervious area used for outdoor recreation purposes to be included in the calculation.

The landscaping to the front and rear of the site is also appropriately considered to ensure an appropriate landscaped outcome for the site.

This issue does not warrant the refusal of the application.

- **Overdevelopment, impact on streetscape and overall character**

Concern is raised with the inappropriate visual impact, non-complying building envelope, size and scale, and lack of compatibility with older buildings and the overall character of the street. It is noted that one submission refers to 'heritage' however, this reference appears to refer to traditional built forms in the area.

Comment

The site is not heritage listed and not within vicinity of a heritage item.

The proposed upper floor addition complies with the development standard for building height and is well stepped in from lower levels. The proposal also generally retains the front setback to the dwelling, and maintains a large rear setback. This ensures that the size and scale of the development is adequate with regard to the desired future character and the context of the area.

This issue does not warrant the refusal of the application.

- **Stormwater**

Assurance is sought that the proposed stormwater system and design is adequate, particularly with regard to the car parking structure.

Comment

Council's Development Engineer has reviewed the application and raises no objection to the proposed management of stormwater on the site, subject to conditions.

This issue does not warrant the refusal of the application.

- **Privacy (Visual and Acoustic)**

Concern is raised with overlooking of side and rear boundaries.

Concern is also raised with regard to noise from the master bedroom due to its proximity to the side boundary.

A request is also made for Windows 16, 17 and 18 to be frosted.

Concern is raised with the inadequacy of the timber screen adjacent to the outdoor terrace, and the overlooking opportunity from the rear media room.

Comment

The proposal has a substantial and compliant rear setback. This physical separation ensures the proposal will not cause any unreasonable opportunity for overlooking to the rear.

The master bedroom is set back 2.4m from the side boundary and does not include any openings that result in unreasonable circumstance for noise. Notwithstanding, a condition is imposed with respect to Window 16 (which services the landing from the stairs into the bedroom) to be fixed which will reduce opportunity for noise impacts from the bedroom.

A condition is also imposed to ensure the timber screen (along the eastern elevation adjacent to the Mid-Floor Terrace and 'outdoor kitchen') extends for the extent of the side elevation and has gaps of no greater than 50mm, to ensure a reasonable outcome for privacy.

The media room window does not directly face the boundary, and the separation from the boundary along with landscaping will ensure an appropriate outcome for privacy.

This issue does not warrant the refusal of the application

- **Noise from pool pump**

Comment

An appropriate condition is imposed to ensure reasonable control on noise from the pool pump.

This issue does not warrant the refusal of the application.

- **Shared garage and associated restrictive covenant**

Concern is raised regarding the garage will conflict with the terms of Restrictive Covenant C22576 which was privately (i.e. not by Council) imposed on the Title around 1933/34. Relevantly, the extract of the Covenant provided by the objector states (in part):

"The transferee hereby for himself and the registered proprietor for the time being of the land hereby transferred covenants with the transferor it's successor and assigns that no privy shall be erected or maintained on the said land in a conspicuous place or position and, if visible from the road or other lots, it shall be screened and that no building or erection shall be built or erected on the said land or any part thereof until the design and location of such a building or erection have been approved in writing by the transferor and the said land or any part thereof shall not be used as a quarry."

Comment:

It is noted that the wording of the Covenant refers specifically to a 'privy' and a 'quarry' and not a carport/garage. Notwithstanding, the following is stated under Clause 1.9A of the Pittwater LEP:

"For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose."

A search of Council records confirms that this is not a covenant imposed by Council.

The retention and upgrade of the garage along with a partially open structure will no have any

unreasonable visual impact on the street. This is due to the structure being partly open in nature, complementing other structures in the area, and being surrounded by landscaping.

This issue does not warrant the refusal of the application.

- **Solar access**

Comment

An assessment has found the proposal complies with the requirements of Clause C1.4 'Solar Access' under the Pittwater DCP.

This issue does not warrant the refusal of the application.

- **Request for 900mm setback to No. 113 Bynya**

Comment

The minimum proposed setback to the boundary at No. 113 Bynya Road is 900mm (i.e. 0.9m). Further the proposed setbacks are considered acceptable, and this is further discussed under the section for setback.

This issue does not warrant the refusal of the application.

- **Inaccuracies of Statement of Environment Effects (SEE) and absence of applicant consultation with neighbours**

Comment

The SEE is sufficient to allow assessment in accordance with the *Environmental Planning and Assessment Act 1979*.

There is no legislative or local policy requirement for applicants to contact neighbors before lodgment of a Development application.

This issue does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Supported subject to conditions.</p> <p>The proposal is indicated to be for alterations and additions to a new dwelling, new carport/garage and landscape works to the rear yard.</p> <p>Council's Landscape Referral section has considered the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation. • C1.1 Landscaping.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • D12.10 Landscaped Area - Environmentally Sensitive Land. <p>The plans indicate that no significant landscape features are affected by the works and no protected trees are to be removed.</p> <p>No objections are raised to approval subject to conditions as recommended.</p>
NECC (Development Engineering)	<p>Supported subject to conditions.</p> <p>Comments at 21/06/2021</p> <p><u>Access</u> Driveway access is available to the site via a concrete driveway with parking provided in an attached weatherboard single garage.</p> <p>The proposal is for:</p> <ul style="list-style-type: none"> • Renewal of existing garage and construction of new attached carport with green roof • Removal of existing driveway and construction of a new driveway <p>There is difference in level between the new crossing and the existing crossing of the adjoining property, a batter is to be provided.</p> <p><u>Excavation</u> The land is noted as being W Hazard H1 on Council's Geotechnical Hazard Map.</p> <p>A Preliminary Landslip Risk Assessment has been prepared by White Geotechnical Consultants, Project No. J2994, dated 17 March 2021.</p> <p>As per Report, no geotechnical hazards will be created by the completion of the proposed development.</p> <p><u>Stormwater</u> Hydraulic design by Birzulis Associates under Project No 8078, dated February 2021, shows no control of flow. Jumbo trenches can not be used as substitute to Onsite Detention System.</p> <p>The proposed development leads to increase in total hardstand area by 116sqm, as per Council's Water Management for Development Policy, an Onsite Stormwater Detention System is required.</p> <p>The applicant to provide an OSD of at least 9000 litres capacity with discharge rate of 4 litres/sec. Level spreader to be 3 m away from any site boundary.</p> <p>Amended Stormwater plans are requested.</p>

Internal Referral Body	Comments
	<p>But before Council consider these drawings applicant is advised as below:</p> <p>a) The Stormwater drainage for the site shall demonstrate compliance with Council's Water Management for Development Policy, particularly Stormwater Drainage from Low Level Properties Technical Specification Section 5.5. As the subject site falls to the rear, an easement to drain water is to be created in favor of the site over the downstream properties. Evidence of owners consent by the property owners (32 Pacific Road, Palm Beach) shall be submitted with the Development Application. The Application shall be supported by a long section of the inter-allotment drainage to the connection with Council's road drainage system.</p> <p>b) Should this method of stormwater disposal not be possible, evidence shall be submitted with the Application.</p> <p>For sample letter refer Appendix 2, Easement Letter of Council's Water Management for Development Policy.</p> <p>Comments at 17/09/2021</p> <p><u>Stormwater</u> Stormwater drainage for the site shall demonstrate compliance with Council's Water Management for Development Policy, particularly Stormwater Drainage from Low Level Properties Technical Specification Section 5.5.</p> <p>The proposal is therefore supported.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	0m (car parking)	100	No (see comments)
Rear building line	6.5m	22m	N/A	Yes
Side building line	2.5m	1m-2.5m	0-60	No (see comments)
	1m	1m	N/A	Yes
Building envelope	3.5m	North-west: Within envelope	N/A	Yes
	3.5m	South-east: Outside envelope	N/A	No (see comments)
Landscaped area	60%	60%	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	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
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.11 Fences - General	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

- **Merit consideration**

In assessing against the outcomes of the clause, an assessment is made as follows:

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.

98 Bynya Road, Palm Beach



Photo 1: View from the front of No. 98 Bynya Road (height poles can be seen to the right of the existing gable ended garage)

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

The dwelling at No. 98 Bynya Road has views over the top of the subject site, These views include ocean views and distant views of land-water interface.

These water views are partly obstructed by vegetation and a dwelling to the south-east of 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

The views are obtained from the front of the property from a kitchen area and living room area. the views can currently be obtained from standing and sitting position, noting that sitting views are more oblique.

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

Views from the kitchen and living area will be maintained over the north western side of the site as the upper level is positioned to the south east. Conversely, water views will be impacted to the south-east. Water views over the south-east of the site are currently impacted by existing vegetation.

As a result of the existing impact along the south-eastern boundary, and the retention of the view corridor to the north-west, the impact across the whole property is considered to be minor at the western side of the site) to moderate (towards the eastern side of the site).

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

The proposal complies with the development standard for building height, and complies with setback and envelope controls along the north-western boundary. The non-compliant envelope at the south-westerns elevation does not lead to any significant loss of water view, partly as a result of the existing vegetation.

Overall, compliance with the majority of relevant planning controls combined with the minor-moderate impact, provides a situation in which view sharing is reasonable.

100 Bynya Road, Palm Beach

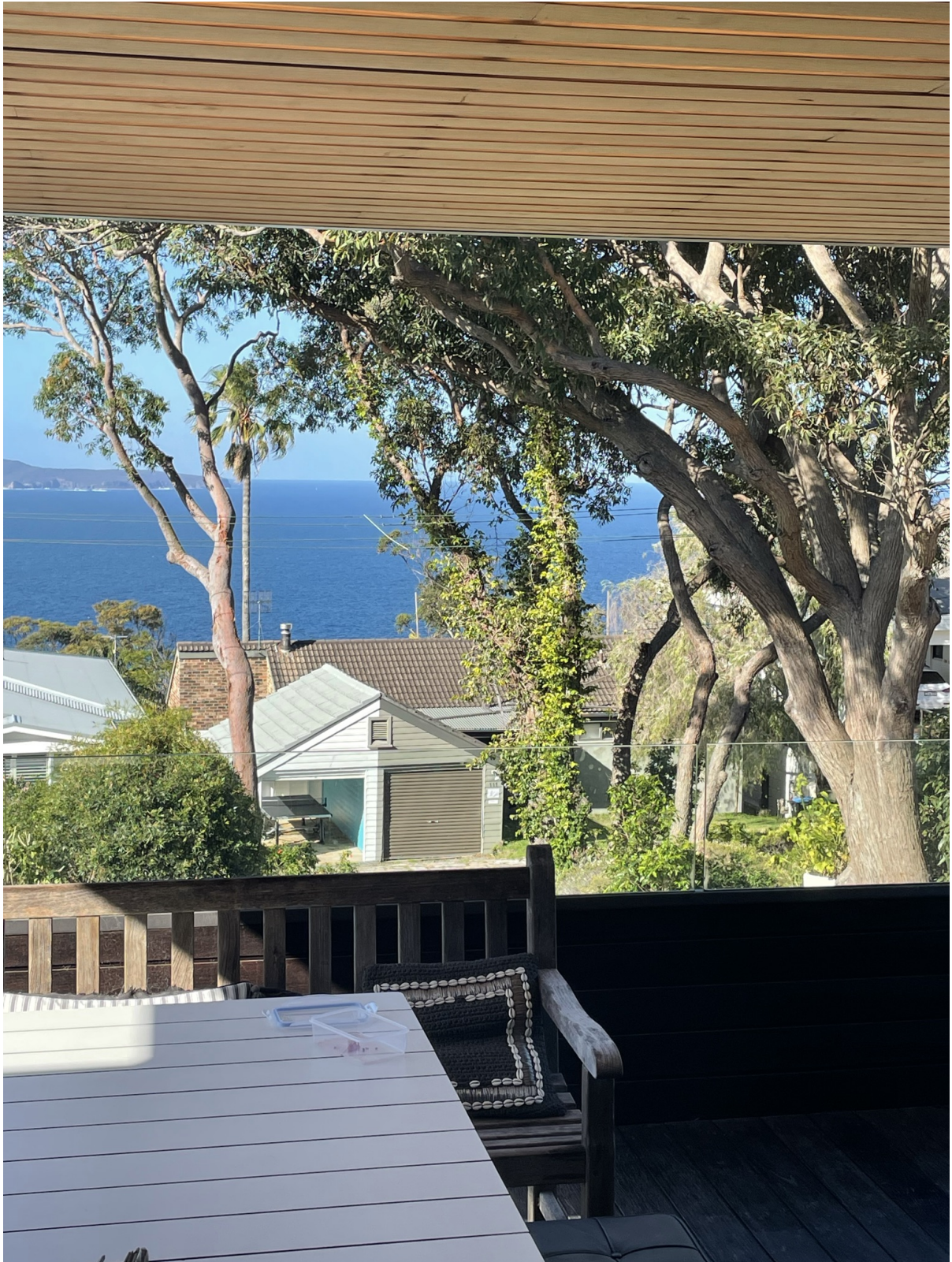


Photo 2: Taken from upper level balcony at 100 Bynya Road.

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

The views to be affected include views of the ocean over the top of 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

The views are obtained from an upper level living area with an adjoining balcony (see Photo 2).

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 maintenance of water views and headland views over the subject site and to the side of the subject site, provides a situation in which view impact is considered to be negligible-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

The proposal complies with the development standard for building height, and complies with setback and envelope controls along the north-western boundary. The non-compliant envelope at the south-western elevation does not lead to any significant loss of water view, partly as a result of the existing vegetation.

Overall, compliance with the majority of relevant planning controls combined with the negligible-minor impact, provides a situation in which view sharing is reasonable.

102 Bynya Road, Palm Beach



Photo 3: Taken from the front of 102 Bynya Road.

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

At ground level from the front of the site, a relatively small section of water view can be maintained.

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 can be obtained at ground level from toward the front 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

Part of the oblique view would be lost as a result of the proposal. However, the relatively small nature of total water view lost results in a negligible to minor impact

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

The proposal complies with the development standard for building height, and complies with setback and envelope controls along the north-western boundary. The non-compliant envelope at the south-westerns elevation does not lead to any significant loss of water view, partly as a result of the existing vegetation.

Overall, compliance with the majority of relevant planning controls combined with the negligible-minor impact, provides a situation in which view sharing is reasonable.

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.

C1.5 Visual Privacy

The proposal has a substantial and compliant rear setback. This physical separation ensures the proposal will not cause any unreasonable opportunity for overlooking to the rear.

The master bedroom is set over 2m from the boundary, and does not have openings that result in unreasonable circumstance for noise. A condition is also imposed to Window 16 to be fixed which will reduce opportunity for noise impacts from the bedroom.

A condition is imposed for W16 to be fixed and frosted/opaque. Other windows (including W17 and W18) are sufficient separated from the boundary to ensure reasonable mitigation for overlooking.

A condition is imposed to ensure the timber screen extends for the extent of the side elevation and has gaps of no greater than 100mm, to ensure a reasonable outcome for privacy. The media room window room does not directly face the boundary, and the separation from the boundary along with landscaping will ensure an appropriate outcome for privacy.

D12.1 Character as viewed from a public place

The proposal involves a garage and carport structure which extends across 52% of the lot frontage, noting that the adjoining garage is on the neighboring lot.

Despite the slight numerical non-compliance, the proposal will achieve outcomes of the clause due to the open nature of the proposed carport, the landscaping and vegetation to surround the structure (including the planter on the structure), and complementary nature of the parking with the streetscape character.

D12.5 Front building line

Description of non-compliance

The proposal involves a nil front setback to the car parking structure. This does not comply with the requirement of 6.5m.

Merit Consideration

Notwithstanding, the proposal is considered to be acceptable, subject to the following merit assessment:

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

The proposal maintains landscaping to the front of the site, and also has a relatively large road reserve area with landscaping. The proposal also retains a relatively open frontage with the dwelling setback from the front boundary and the car parking structure partly open. As such, the proposal meets the desired future character.

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

The proposed car parking structure is single storey, and the dwelling is well setback from the street. This provides a situation in which adequate view corridors are maintained through the front of the site, and over the car structure.

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

The existing dwelling and living spaces remain well separated from the road due to the road reserve, and the compliant front setback to the front of the dwelling (living areas).

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

The application is supported landscaping to surround the garage including a roof planter box to assist in visually reducing the built form, as viewed from adjoining properties and Bynya Road. Further, the proposal complies with the numerical requirement for landscaped area under the Pittwater DCP.

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

Opportunity for vehicle maneuvering is sufficient due to the large road reserve and the relatively wide frontage.

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

The landscaped setting will be maintained through the provision of extensive landscaping, and compliant landscaped area.

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

The existing streetscape will not be unreasonably impacted by the encroachment of the built form into the setback and will ensure an appropriate scale and density is provided for and that is in keeping with the height of the natural environment.

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

The street frontage maintains landscaping and vegetation including a planter box above the a car parking structure. The structure is also partially open so as not to be overly dominant to maintain an attractive street frontage.

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

The proposal responds to the spatial characteristics of the existing environment by providing sufficient building articulation, and landscaped features across the site.

In light of the above, the proposed variation is considered appropriate and supported on merit.

D12.6 Side and rear building line

Description of non-compliance

The proposed development does not comply with the requirement for side building line (2.m and 1m). The proposal involves varied setbacks with a minimum of 1m and 1m to 2.5m at each boundary.

Merit consideration

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

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

The proposal maintains landscaping to the front of the site, and also has a relatively large road reserve area with landscaping. The proposal also an upper level which is setback from lower levels, and articulation across the site.. As such, the proposal meets the desired future character.

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

The proposed height of the development complies with the development standard, and the articulation at all elevations provides a reasonable openness so as to not have any unreasonable impact on amenity or visual presentation to the street. Additionally, the maintenance and provision of vegetation, further screens the presentation of bulk.

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

The proposed development is adequately designed and sited so as to preserve views and vistas to and from the subject site and adjacent sites. This includes corridors to the sides of the development that adequately preserve views and vistas. This is further discussed and assessed in accordance with the Land and environment Court established planning principle under *C1.3 View Sharing*.

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

The proposed development is adequately designed and sites so as to preserve views and vistas to and from the subject site and adjacent sites. This includes an appropriate building height and sufficient side setbacks that allow for reasonable retention of views corridors to the side of the proposed dwelling.

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

The proposed development is sufficiently separated and screened from living areas and private open space of neighbouring properties so as to ensure a reasonable level of privacy, amenity and solar access is provided (subject to conditions). The proposal also complies with the requirements for Solar Access under the Pittwater DCP.

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

The proposed development includes substantial vegetation in the front yards, and maintains street vegetation to provide an appropriate outcome for the streetscape.

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

The proposed development is adequately sited to ensure a reasonable level of amenity and a reasonable visual presentation for the subject site and adjacent sites, while also maintaining vehicular access to the front of the site.

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

The proposed development includes adequate vegetation to the front and rear yards in order to reduce the visual impact of the proposed dwelling and garage.

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

Not applicable. The subject site does not adjoin commercially-zoned land.

In light of the above, the proposed variation is considered appropriate and supported on merit.

D12.8 Building envelope

Description of non-compliance

The proposed development does not comply with the requirement for side boundary envelope. In this regard, the proposal provides a non compliance at the eastern elevation (as demonstrated in plan provided by applicant below).

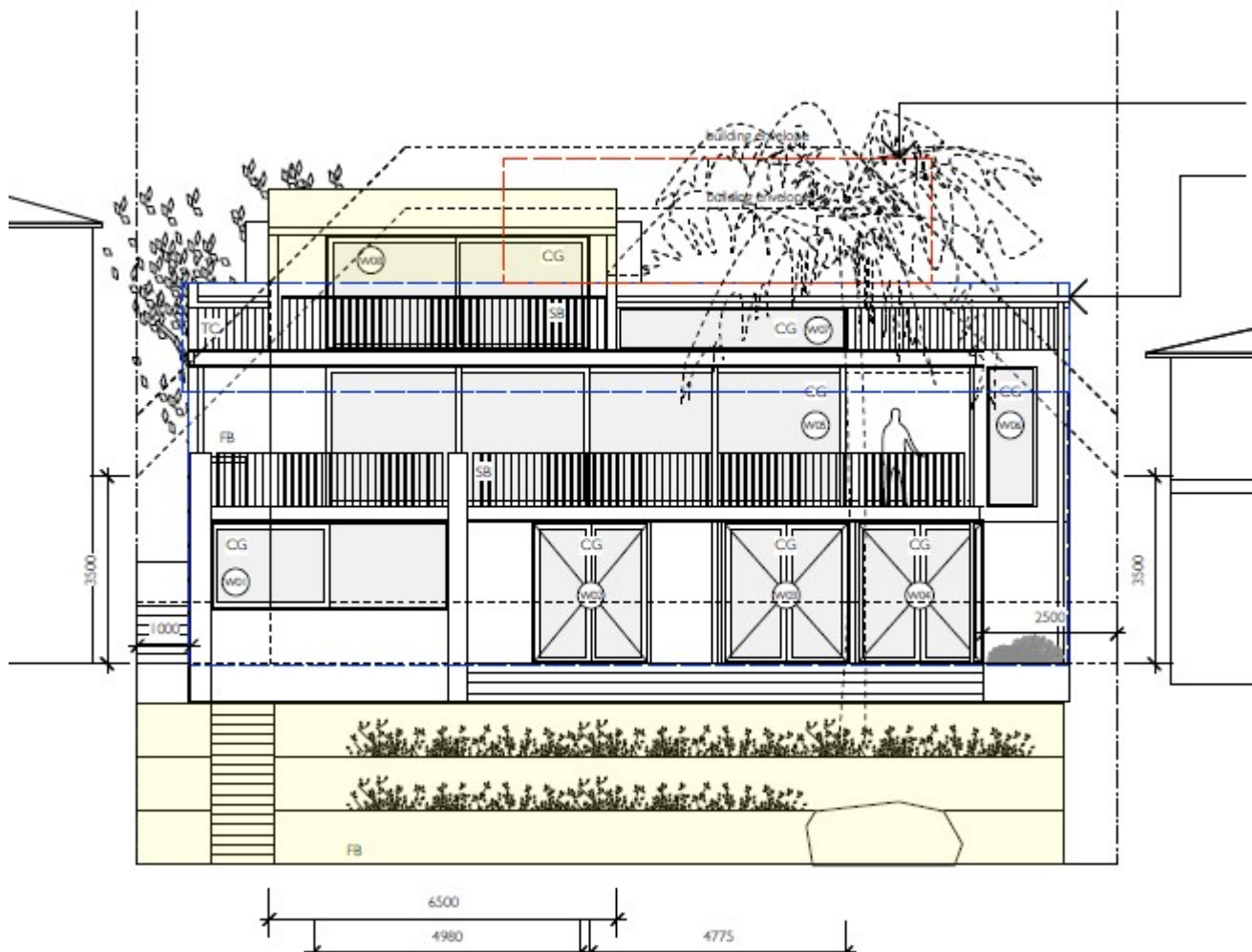


Figure 1: Demonstration of envelope non-compliance.

Merit consideration

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

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

The proposal maintains landscaping at the front of the site, and also has a relatively large landscaped road reserve. Along with the significant setback to the dwelling, and the articulation of the built form, this provides a situation in which the proposal will meet the desired future character.

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

The proposed setbacks and articulation of the development are sufficient to provide a reasonable presentation in the streetscape. The proposal also complies with the development standard for building height and this is at a level that is lower than a number of surrounding trees.

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

The proposed development is adequately designed and sited to respond to the spatial characteristics of the subject site and the surrounding area. The proposal steps with the topography of the land and minimises earthworks.

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

The proposed bulk is well articulated with side elevations providing a reasonable sense of openness so as to not have any unreasonable impact on amenity or visual presentation. Additionally, the maintenance of the landscaping to the front and rear of the site, further screens the presentation of bulk.

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

The proposed development is adequately designed and sited so as to preserve views and vistas to and from the subject site and adjacent sites. This is further discussed under the View Sharing section of this report.

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

The proposed development is sufficiently separated and screened from living areas and private open space of neighbouring properties so as to ensure a reasonable level of privacy, amenity and solar access is provided (subject to conditions).

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

The proposed development includes adequate vegetation within the front and rear yards in order to reduce the visual impact of the proposed dwelling and parking structure.

In light of the above, the proposed variation is considered appropriate and supported on merit.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$7,938 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$793,800.

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
- 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.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0400 for Alterations and additions to Dwelling House including a carport on land at Lot 2 DP 233128, 111 Bynya Road, PALM 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
MH-04-DA - Site Plan	5.03.21	Menzies House
MH-05-DA - Ground Floor Plan	5.03.21	Menzies House

MH-06-DA - Mid Floor Plan	5.03.21	Menzies House
MH-07-DA - Upper Floor Plan	5.03.21	Menzies House
MH-08-DA - Roof Plan	5.03.21	Menzies House
MH-09-DA - North Elevation	5.03.21	Menzies House
MH-10-DA - South Elevation	5.03.21	Menzies House
MH-11-DA - East Elevation	5.03.21	Menzies House
MH-12-DA- West Elevation	5.03.21	Menzies House
MH-13-DA - Section AA	5.03.21	Menzies House
MH-14-DA - Section BB	5.03.21	Menzies House
MH-16-DA - Schedule of External Finishes	5.03.21	Menzies House

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation	17 March 2021	White geotechnical group

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
MH-03-DA Landscape Plan	5.03.21	Menzies House

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
MH-02-DA Sediment / Erosion Control + Waste Management Plan	5.03.21	Menzies House

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

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) 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);
- (c) 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 2018
 - (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 2021

A monetary contribution of \$7,938.00 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 2021. The monetary contribution is based on a development cost of \$793,800.00.

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 2021 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 \$2,000 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. **Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches

Council's Water Management for Development Policy in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management for Development Policy are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

A channel grated drain to be provided on the inside of site boundary along frontage of garage and carport and piped to the proposed drainage system.

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

7. 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 White Geotechnical Consultants, Ref No.. J2994, dated 17 March 2021 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. Amendments to the approved plans

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

- W16 is to be fixed and opaque.
- The timber screen along the eastern elevation, adjacent to the Mid floor Terrace, is to extend along the full extent of the side elevation of the terrace. The screen is also to have gaps of no larger than 50mm.

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.

9. 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.

10. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

11. **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.

12. **Vehicle Crossings Application for Driveway Levels and Reinstatement of Redundant Crossing**

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.
- Reinstatement of redundant crossing 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.

13. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. Protection of Rock and Sites of Significance

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

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

15. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

16. **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.

17. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

18. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 3 NL 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.

There is difference in the level between the proposed crossing and the existing crossing (stone paved) of the adjoining property, a batter is to be provided.

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.

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

19. Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan

Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

20. 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 any interim / final Occupation Certificate.

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

21. Reinstatement of Kerb

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

22. Retaining wall

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

23. 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.

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

24. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

25. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed



Thomas Prosser, Planner

The application is determined on 29/11/2021, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager