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17 June 2022
Our Ref: 20323A.7RP

Chief Executive Officer
Northern Beaches Council
PO Box 82
MANLY NSW 1655

**Attention: Adam Susko - Principal Planner
Steve Findlay - Manager, Development Assessment**

Dear Sir

Development Application No. DA2021/2173 for Alterations and Additions to the Newport Surf Life Saving Club at 394 Barrenjoey Road, Newport

We refer to Development Application No. DA2021/2173 for alterations and additions to the Newport Surf Life Saving Club (Newport SLSC) at 394 Barrenjoey Road, Newport (the Site) which is currently under assessment by the Council. We also refer to Council's letter dated 12 April 2022 which identified a number of issues with the application for the proposed alterations and additions to the Newport SLSC (proposed development) at the site including:

Views

The supporting SEE by DFP provides commentary in relation to views by undertaking an assessment against the view sharing principle under Tenacity Consulting v Warringah Council. While this planning principle considers the acceptability of a proposed development on views enjoyed from private property in the vicinity of the development, it does not consider the acceptability of an impact of development on views from the public domain in the vicinity of the development.

The Applicant is required to have regard to Rose Bay Marina Pty Limited v Woollahra Municipal Council in relation to potential impact on public domain views.

The purpose of this letter is to provide an assessment of the potential impacts on public domain views of the proposed Newport SLSC development having regard to the NSW Land & Environment Court Planning Principle for assessment of public domain views (*Rose Bay Marina Pty Ltd v Woollahra Municipal Council and Anor [2013] NSWLEC 1046*).

To assist with the assessment of the impacts on public domain views of the proposed Newport SLSC development, DFP Planning has undertaken a detailed inspection of the site and the Newport Beach and prepared a photo survey which is shown in the "Photo Location for Public View Assessment of Newport Surf Life Saving Club" (see **Attachment 1** to this letter).

The Court's Planning Principle for the assessment of Public Domain Views states as follows:

"43. The steps for determining the acceptability of the impact of views from the public domain are in two stages – the first factual followed by a second, analytical process.

Identification Stage

44. *The first step of this stage is to identify the nature and scope of the existing views from the public domain. This identification should encompass (but is not limited to):*
- *The nature and extent of any existing obstruction of the views;*
 - *Relevant compositional elements of the view (such as, is it static or dynamic and, if dynamic, the nature and frequency of changes to the view);*
 - *What might not be in the view – such as the absence of human structures in the outlook across the natural area (such as the view from Kanangra Walls);*
 - *Is the change permanent or temporary; or*
 - *What might be the curtilages of important elements within the view.”*

As can be seen from the series of photographs in **Attachment 1** the existing Newport SLSC Club building is currently significantly obstructed from public domain views by a combination of the topography of the Newport Beach locality and dense screening by existing trees and other vegetation, as viewed from the Eric Green Public Reserve situated on the South Bilgola headland, from Barrenjoey Road north of the Newport Village and also from the Newport Beach Public Reserve which, in particular includes a large number of mature Norfolk Island Pine trees.

The clearest view of the Newport SLSC Club building is in a northerly direction from Bert Payne Park and from Newport Beach itself viewing in a westerly direction from the sand and ocean.

The compositional elements of the public domain views towards the Newport SLSC Club building is predominantly static consisting of the surf club building, Newport Beach car parking areas and the public reserves including the existing children’s playground, Youth Space and passive public open space areas with existing mature trees and vegetation, particularly many large Norfolk Island Pine trees.

The local context and visual setting of Newport Beach is a dynamic element of the public domain views within the vicinity of the Newport SLSC building due to the nature and frequency of physical changes to the ocean beach and surf throughout the year and weather conditions. However, the Newport SLSC building and its curtilage are static elements of the views.

It is considered that the proposed alterations and additions to the Newport SLSC Club building will be visually compatible and will complement the existing original heritage listed surf club building in terms of its height, bulk and built form and with a high-quality selection of building materials which will not detract from the heritage significance of the existing building and its local visual setting at Newport Beach.

The proposed alterations and additions to the Newport SLSC building will be a permanent change but it will visually enhance and complement the public domain views of the Newport SLSC building and its public reserve curtilage as viewed within the Newport Beach locality.

The curtilages of the public domain views of the Newport SLSC building and the proposed development will remain essentially unchanged consisting of the Newport Beach public reserve, car parking area, the upgraded Newport SLSC building and Newport Beach itself.

- “45. *The second step is to identify the locations in the public domain from which the potentially interrupted view is enjoyed.”*

Attachment 1 shows the various locations surveyed to assess the public domain views in the Newport Beach locality looking towards the Newport SLSC building.

It is considered that the proposed alterations and additions to the Newport SLSC building will not significantly change the existing public domain views in the Newport Beach locality.

“46. The third step is to identify the extent of the obstruction at each relevant location.

- *Unlike Tenacity (which adopts the proposition that sitting views are more difficult to protect than standing views), the impact on appreciation of a public domain view should not be subject to an eye height constraint. Public domain view is one that is for the enjoyment for the whole population, old or young and whether able-bodied or less mobile. It is not appropriate to adopt some statistically derived normative eye height for the assessment of such views (such as the conventionally adopted 1.6m eye height for the assessment for overlooking privacy impacts). Indeed, some views (such as that from Mrs Macquarie’s Chair towards the Opera House and Harbour Bridge) may well be ones that likely to be enjoyed frequently from a seated position.”*

By reference to **Attachment 1** the following comments are provided:

- From **Locations 1 and 2** at Eric Green Public Reserve (**Figure 1**) on the South Bilgola Headland and along Barrenjoey Road near Bourke Street, there is no clear view of the Newport SLSC building nor will there be of the proposed development due to the existing vegetation and topography;



Figure 1 View from Eric Green Public Reserve with location of Newport SLSC identified in red.

- From **Locations 3, 4 and 5** being within the car parking areas and the children’s playground area of the Newport Beach Public Reserve, there is a partial view of the Newport SLSC building which is screened substantially by the many large Norfolk Island Pine trees within the public reserve. This public domain views will remain substantially unchanged (**Figures 2 and 3**);



Figure 2 Location 3 from Newport Beach Carpark with location of the new extension identified by a red circle



Figure 3 Location 4 from southern end of carpark with location of the new extension identified by a red circle. Removal of the shipping container will improve views of the Newport SLSC. The new addition does not obscure any public domain views towards Newport Beach

- From **Location 6** there is a clear view of the Newport SLSC building viewed from Bert Payne Park to the south (**Figure 4**). The proposed alterations and additions to the Newport SLSC building will not visually impact on the original heritage item surf club building;



Figure 4 Location 6 View from Bert Payne Park with the location of the new extension circled in red

- From **Locations 7, 8 and 9** there is a clear view of the Newport SLSC building as viewed from Newport Beach with the many Norfolk Island Pine trees as a backdrop (**Figure 5**). The proposed development will not visually detract from the public domain views from the Beach.



Figure 5 Location 7 View from Newport Beach opposite Bert Payne Park with the location of the new extension circled in red.

Most importantly, the proposed extension to the existing Newport SLSC building will not obstruct public domain views of the original heritage listed surf club building nor of the Newport Beach area when viewed from the surrounding Newport Beach public reserves, Barrenjoey Road nor from the sand and ocean of Newport Beach itself. The location of the new works forms a small proportion within the overall field of view

“47. The fourth step is to identify the intensity of public use of those locations where that enjoyment will be obscured, in whole or in part, by the proposed private development.”

It is considered that the proposed development will not obscure either in whole or in part, the existing heritage listed Newport SLSC building, the Newport Beach public reserve and beach area to any significant degree. It is noted that the Newport Beach public reserve is intensively used by the public, particularly during the summer beach season.

“48. The final step to be identified is whether or not there is any document that identifies the importance of the view to be assessed.

- This will encompass specific acknowledgement of the importance of a view (e.g. by international, national, state or local heritage recognition) or where the relevant planning regime promotes or specifically requires the retention or protection of public domain views.”*

The original Newport Surf Life Saving Club building at the site is identified as a Local Heritage Item (2270445) in the Pittwater LEP 2014. The draft revised Conservation Management Plan prepared by Heritage 21 (dated June 2022) has identified that the views to Newport Beach, Tasman Sea and Bert Payne Reserve are of exceptional significance. The Statement of Heritage Impact prepared by Heritage 21 notes that proposed development doesn't impact on any significant views to or from Newport Beach, Tasman Sea or Bert Payne Reserve.

Under the Pittwater 21 Development Control Plan (the DCP), Section D10 sets out development controls relating to the Newport Locality. The proposed development is consistent with the desired future character of Newport and maintains the beachside setting of Newport Beach. The new extension adopts a contemporary architectural language that is subservient to the scale and form of the original 1930s building.

It is considered that the proposed alterations and additions to the Newport SLSC building are architecturally designed to be sympathetic and will visually complement the heritage significance of the original surf club building as viewed from public domain viewing vantage points of the Newport Beach locality.

For the reasons outlined above in this letter, it is opinion of DFP Planning that the proposed alterations and additions to the Newport SLSC building will not have any adverse impacts on public domain views of the original heritage listed Newport SLSC building or the surrounding local context of the Newport Beach area.



Please contact Rob Player or Amy Cropley should you have any queries or require further information in respect to this matter.

Yours faithfully

DFP PLANNING PTY LTD

A handwritten signature in black ink that reads 'R. Player' in a cursive style.

**ROBERT PLAYER
MANAGING DIRECTOR**

rplayer@dfpplanning.com.au

Reviewed:  _____

Attachments

1. Photo Locations for public view assessment of Newport Surf Life Saving Club



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ATTACHMENT I



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PHOTO LOCATIONS FOR PUBLIC VIEWING ASSESSMENT OF NEWPORT SURF LIFE SAVING CLUB

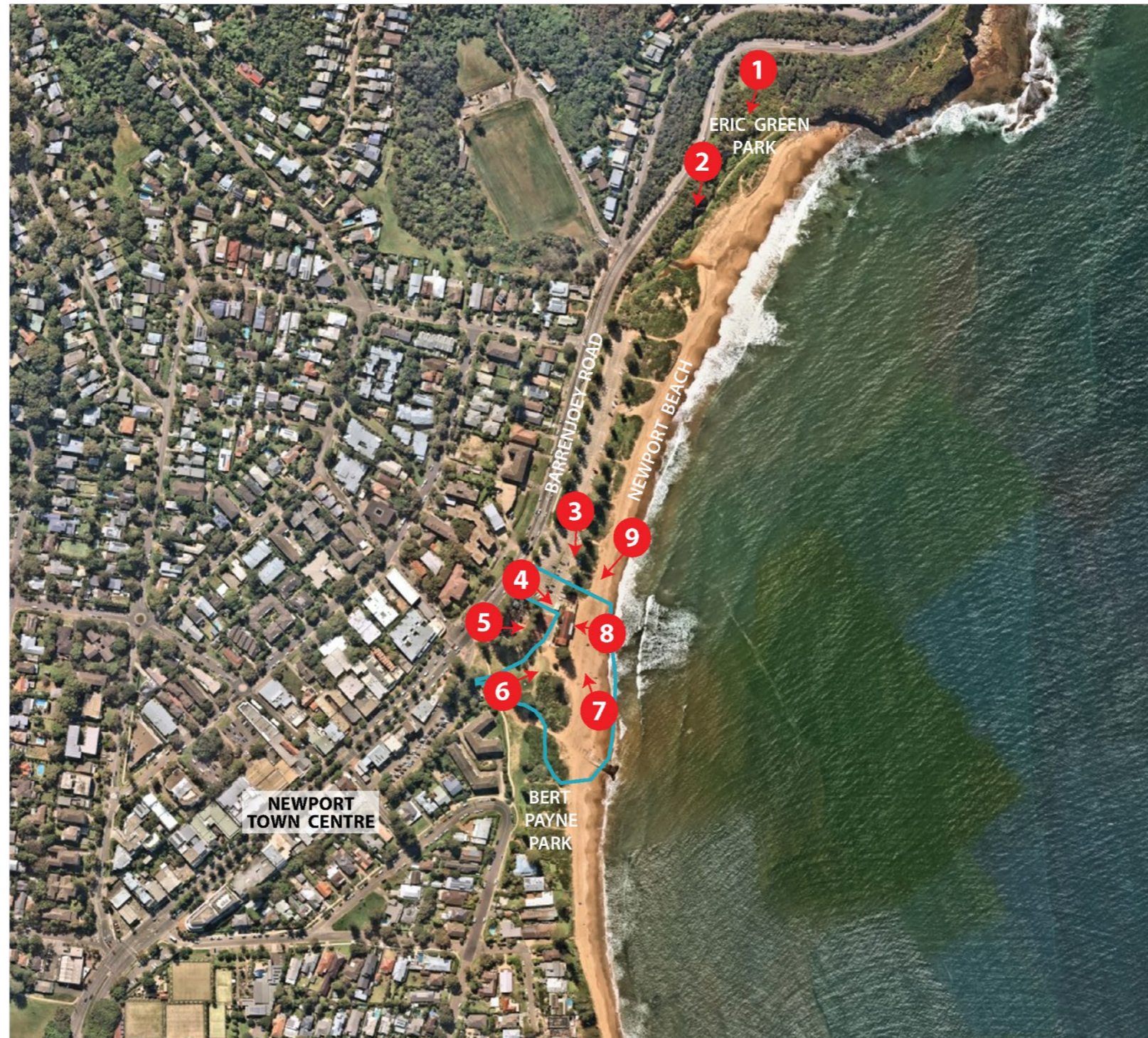




PHOTO LOCATIONS FOR PUBLIC VIEWING ASSESSMENT OF NEWPORT SURF LIFE SAVING CLUB

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1. View looking south from Eric Green Public Reserve.



2. View looking south along Barrenjoey Road near Bourke Street.



3. View from carpark towards SLSC building.



4. View from southern end of carpark.



5. View from existing childrens playground area.



6. View from Bert Payne Park.



7. View from Newport Beach opposite Bert Payne Park.



8. View from beach towards Newport SLSC.



9. View from beach looking south towards Newport SLSC.