

23 June 2025



Mary C Keaveney, Oliver A Keaveney
4/101 Darley Street
MONA VALE NSW 2103

Dear Sir/Madam,

Development Application No: DA2025/0448 for Construction of a dwelling house at 100 Hilltop Road AVALON BEACH.

An assessment has been undertaken of your application. The assessment has found that it is unsatisfactory in its current form for the reasons identified below:

- **Insufficient information**

The following information/documentation is required to complete the assessment of the application:

- 1. Stormwater Management**

Council's Development Engineer has made the following comments in relation to the proposal:

The proposed development is on a Low Level Property. Stormwater discharge from the property is subject to the requirements of Section 5.5 of the Water Management for Development Policy. Please also refer to Appendix 2, 3 & 4 as required by the Policy.

- 2. Section Plans**

Building height is measured from the section plans, not the elevation plans. The highest point of the proposed building above existing ground level appears to be the western-most corner where the land drops lowest. The submitted 'Section Y1' is taken from the purple line drawn at Figure 1 below. However, a section plan is required from the western-most corner of the building, as indicated in blue at Figure 1, to determine the true maximum building height of the proposed dwelling.



Figure 1: North-western elevation



3. View Loss Analysis

No photomontages or diagrams have been provided for existing and proposed views from 102 Hilltop Road, and therefore Council cannot undertake a proper assessment of the potential impact to views enjoyed from the neighbouring property.

The Applicant shall provide photomontages and/or diagrams for the existing and proposed views from 102 Hilltop Road, including any proposed tree planting at mature heights.

4. Solar Access

Section C1.4 of the Pittwater 21 Development Control Plan requires the main private open space of any adjoining dwellings to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.



The submitted solar access diagrams indicate that the neighbouring main private open space area, being the pool area, may not receive at least 3 hours of solar access (refer Figures 2-4).

To make a proper assessment of solar access and satisfy the requirements of Section C1.4, further documentation, including solar diagrams at hourly intervals and elevational solar diagrams, shall be provided to depict the impact of the proposed development on the northern aspect of 102 Hilltop Road. The proposed development shall demonstrate that the neighbouring main private open space area achieves at least 3 hours of solar access between 9am and 3pm on June 21st.

Figure 2: 9am shadow on June 21st

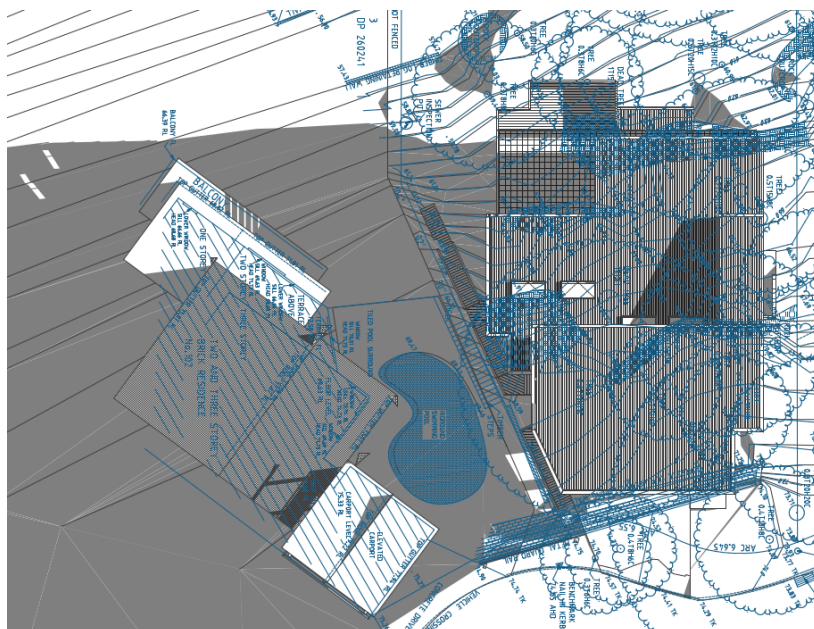
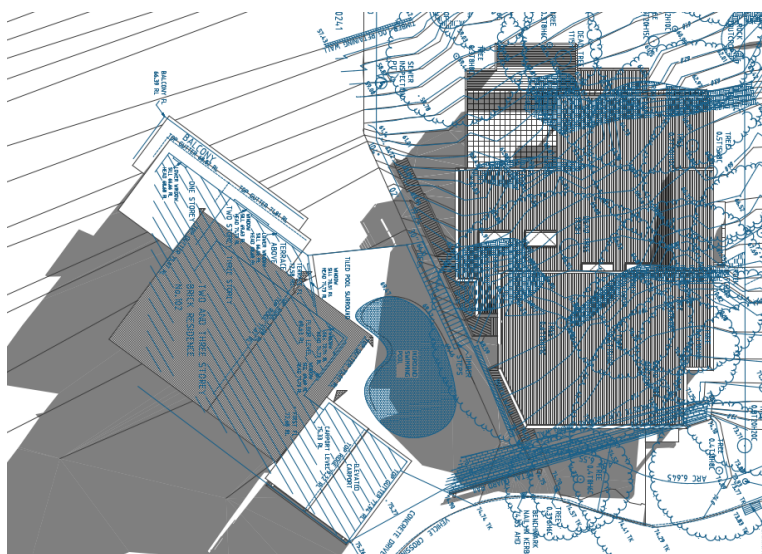
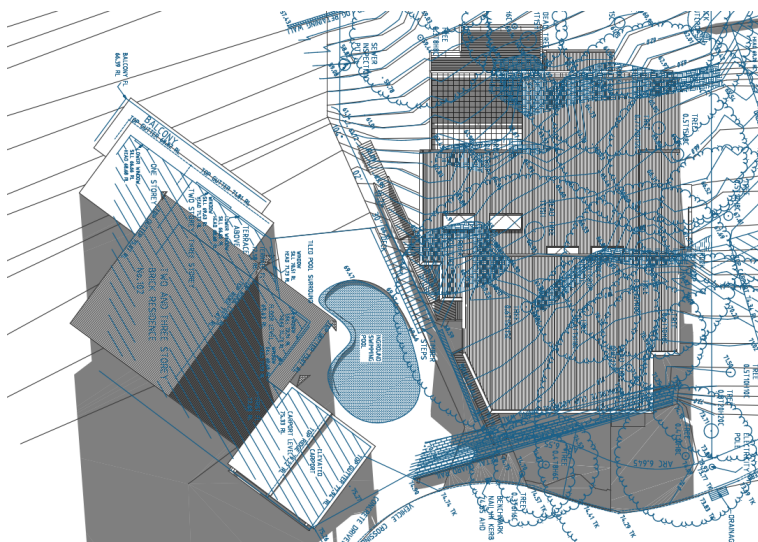


Figure 3: 12pm shadow on June 21st





The following is a list of the issues and concerns identified in the assessment that cannot be supported:

Clause 4.3 of the *Pittwater Local Environmental Plan 2014* (PLEP) stipulates that the height of a building on the site is not to exceed 8.5m measured from the existing ground level. However, the proposed development has a maximum demonstrated building height of 10.7m (measured from the Level 3 roof on Section Y1), representing a 25.9% (2.2m) variation to the maximum standard (refer Figure 5). As indicated at item 2 above, it is anticipated that the true maximum building height would be greater than 10.7m.



Subclause 2D allows steep sloping sites greater than 30% to have a building height up to a maximum of 10m if the portion of the building above 8.5m is minor. While the proposed development sits on a slope with a gradient of 61.3%, the portion of the building above 8.5m is significant and the breach is in excess of 10m. Therefore, the 10m dispensation cannot be utilised.

While a written request to justify the contravention of the development standard under Clause 4.6 of the *Pittwater Local Environmental Plan 2014* has been submitted, Council is not satisfied that the extent of building height variation has been minimised. While the steep slope of the site is acknowledged, and such topography could form justification for a minor breach of the 8.5m development standard, Council cannot support such a degree of variation to the building height standard in the context of excessive floor-to-ceiling heights, building envelope encroachments and potential amenity impacts to the southern neighbour, as discussed further herein.

Furthermore, it is noted the Clause 4.6 variation request states that the height variation is only 13.65%, which is not correct. Additionally, part of the justification included within the written request is that “the height variation above 10m is only a small portion of the proposed dwelling”. However, given the breach is in excess of 10m and therefore the 10m dispensation cannot be utilised, the building height standard reverts to 8.5m, from which the variation is measured. As such, there is capacity to reduce the extent of the building height breach.

The Applicant shall therefore amend their design to reduce the extent of building height variation and ensure that the building height does not exceed 10m above the existing ground level. An amended Clause 4.6 written request shall also be submitted with correct figures.

6. Building Envelope

Section D1.11 of the Pittwater 21 Development Control Plan requires the building envelope to sit within a plane to be projected at 45 degrees from a height of 3.5m above ground level (existing) at the side boundaries to the maximum building height.

The proposed building envelope at the north-eastern elevation presents an encroachment of between nil and 2.2m in height for a length of 10.9m, and a second encroachment of between nil and 1.2m in height for a length of 1m, resulting in a maximum variation of 36.7% (2.2m), as shown shaded red in Figure 6 below.

Figure 6: *North-eastern elevation*

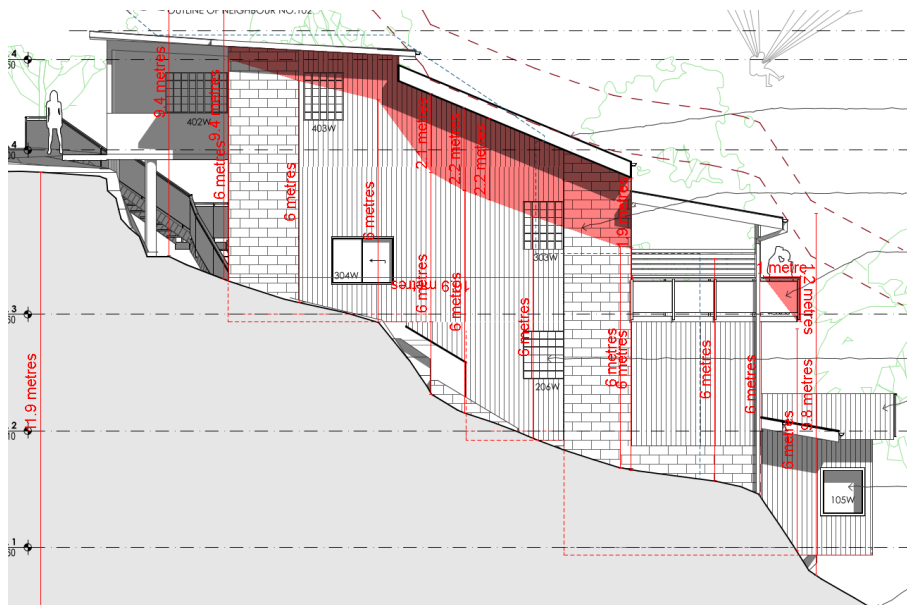
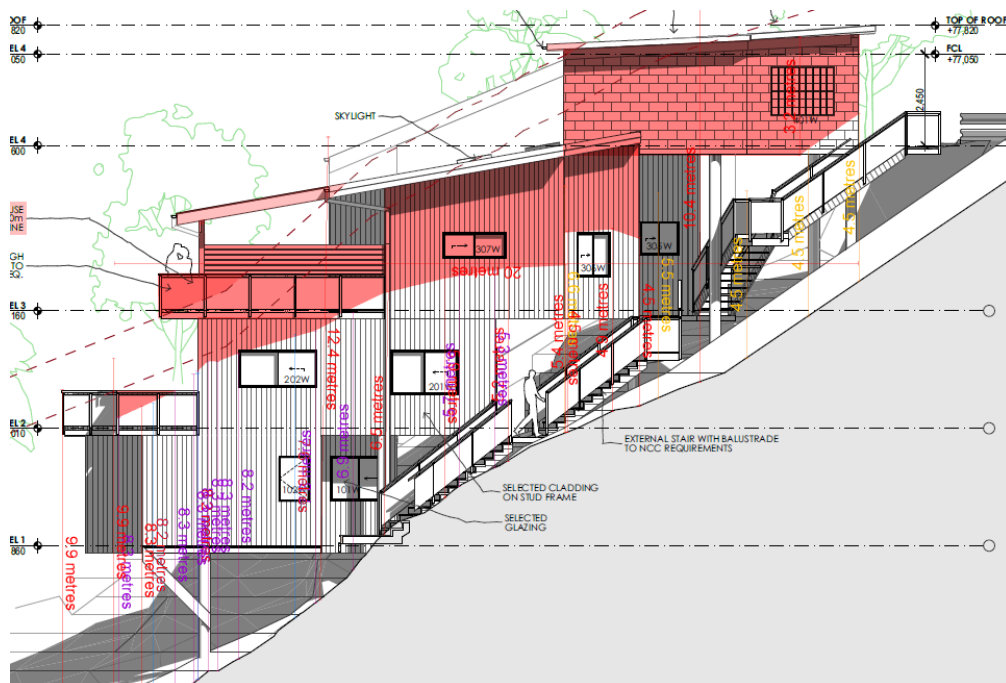


Figure 7: South-western elevation



It is recognised that Section D1.11 allows for variation to this control to be considered on a merits basis where the building footprint is situated on a slope over 30%. While the proposed development sits on land with a slope of 61.3%,



the cumulative effect of these non-compliances, particularly in conjunction with the height variation and potential amenity impacts, is a development that is excessive in bulk and scale and considered to be an overdevelopment of the site. Council therefore cannot support such a degree of variation to the building envelope.

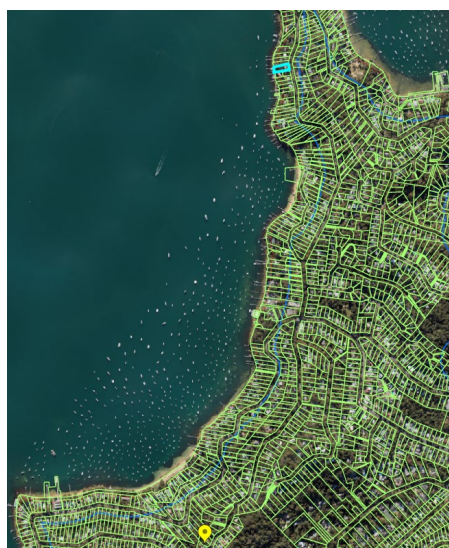
The Applicant shall amend the proposed design to reduce the degree of non-compliance with the building envelope, particularly at the south-western elevation. This may be achieved by increasing the side setbacks to the upper levels and reducing the floor-to-ceiling heights. The proposed dwelling has floor-to-floor heights of over 3m and up to almost 4.5m. These heights could be significantly lowered given the minimum floor-to-ceiling height for a habitable room is 2.4m. Importantly, the extent of envelope breach will also be reduced by flipping the assigned setbacks for the development so that the 2.5m requirement applies to the south-western side and the 1m requirement applies to the north-eastern side. Doing so would also allow greater solar access to the property to the south. Notwithstanding compliance with side setback controls, the built form may need to be brought in further from the side boundaries in order to reduce the extent of building envelope breach.

7. Proposed Garage

The proposed garage setback is generally acceptable given the steep sloping topography of the site and the existing siting of the parking structures at the adjoining properties. However, the garage form presents as a dominant and obtrusive structure that is inconsistent with the character of the existing streetscape.

It is acknowledged that photos were provided to Council as examples of other properties with garages having reduced front setbacks; however, the examples provided are located significant distances from the subject site and on different streetscapes (refer Figure 8) and are therefore not comparable.

Figure 8: Subject site shown in yellow, with example at 159 Riverview Road shown in blue





The lower side of Hilltop Road is characterised by heavy vegetation along the streetscape, with dwelling facades barely visible from the road reserve. The proposed garage is not characteristic of the Hilltop Road streetscape. The only two elevated parking structures within the front setback are two carports; one adjoining the site at 102 Hilltop Road (Figure 9), and one at 64 Hilltop Road (Figure 10). There is also a small garage to 98 Hilltop Road that is unenclosed on the sides, not excessive in size and does not dominate the streetscape (Figure 11).

Figure 9: 102 Hilltop Road



Figure 10: 64 Hilltop Road



Figure 11: 98 Hilltop Road





Additionally, the size of the proposed garage is excessive, measuring 7.5m by 7.5m. Section B6.3 of the Pittwater 21 Development Control Plan prescribes minimum internal dimensions of 5.7m by 6m for a double enclosed garage or carport.

The garage shall be redesigned such that it be an unenclosed carport so that is a more lightweight structure that is more commensurate with the Hilltop Road streetscape. The parking structure shall also be reduced in size with a small area for bin storage to lower the intrusion of the built form on the streetscape and within the front setback area.

8. Visual Privacy

Section C1.5 of the Pittwater 21 Development Control Plan requires any existing adjoining dwellings to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation.

The following privacy mitigation measures are to be incorporated at the south-western elevation:

- 307W – increase sill height to 1.7m
- 306W – increase sill height to 1.7m

The Applicant shall also clarify whether the proposed glass block windows are obscure or clear glazed and annotate the glazing treatment to all windows on the elevation plans.

• Other matters

The following matters should be investigated to determine if an improved outcome can be achieved:

9. Bulk and scale

The Pittwater 21 Development Control Plan indicates that the desired character for dwelling houses in the Avalon Beach locality is for a maximum of two storeys. Flexibility may be applied where buildings step down a slope and storeys overlap. The proposal presents four storeys that step down to follow the sloping topography of the land; however, consideration shall be given to how the built form could be stepped further to reduce the overlap between the levels and lessen the perceived bulk and scale of the development, as well as assisting in overcoming the issues identified in this letter.

• 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 lodged on 5 May 2025 and 49 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 Anaiis Sarkissian on 1300 434 434 during business hours Monday to Friday.

Yours faithfully,

Anaiis Sarkissian
Planner