

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0107
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 2 DP 16692, 103 Narrabeen Park Parade MONA VALE NSW 2103
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Robert Stephen Nichols Selina Gioia Buresti
Applicant:	Selina Nichols

Application Lodged:	10/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	25/02/2020 to 10/03/2020
Advertised:	Not Advertised
Submissions Received:	20
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 415,582.00
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EXECUTIVE SUMMARY

The application seeks approval for alterations and additions to the existing dwelling, involving the construction of a double carport to the front of the site.

An assessment of the proposed carport has found that the location, bulk and scale of the structure is unsuitable for the site and the area.

The proposed carport is to be situated at the top of an escarpment above Warriewood Beach, which has a high scenic value. The introduction of a visually prominent built form element in this location, which is not compatible with the predominant character and design of ancillary parking structures in this area, is not a desirable addition to the streetscape or locality.

The application is referred to the NBLPP due to the significant number of submissions received in response to the public notification.

The proposal involves variations to the planning controls; including, front building line, landscaped area (frontage of the site) and building envelope.

Furthermore, the proposal has been assessed in accordance with the View Loss Planning Principle established by the Land and Environment Court, and it has been determined that it would result in a moderate to severe impact on views. The proposal has not demonstrated that it is a reasonable outcome given the opportunity for an alternative and less impacting style of roofed carparking.

The assessment concludes that the proposed visual bulk and prominence of the pitched roof carport would result in an amenity impact and visual impact that is unreasonable and unsuitable.

Therefore, it is recommended that the application be refused.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is primarily for the construction of a pitched roof double carport with a storage room underneath.

The proposal also involves a new driveway, new access stairs and a lift to provide access to the existing dwelling.

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 - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.3 View Sharing

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

Pittwater 21 Development Control Plan - D14.7 Front building line

Pittwater 21 Development Control Plan - D14.11 Building envelope

SITE DESCRIPTION

Property Description:	Lot 2 DP 16692, 103 Narrabeen Park Parade MONA VALE NSW 2103
Detailed Site Description:	<p>The subject site consists of a single allotment located on the southern-eastern side of Narrabeen Park Parade, which is directly above Warriewood Beach.</p> <p>The site is irregular in shape, with a frontage of 18.29m to Narrabeen Park Parade and approximately 60.0m in depth.</p> <p>The site has a surveyed area of 798.2m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single detached dwelling-house.</p> <p>The site has a slope from front to rear and has a crossfall of approximately 15.0m.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached style housing in landscaped settings.</p> <p>A public pedestrian access-way adjoins the site on its western side.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. The following site history is relevant:

PLM2019/0148

A Prelodgement Meeting was held with Council staff on 1 August 2019, which discussed a proposal for demolition and construction of a new garage, carports and a secondary dwelling at 103 and 105 Narrabeen Park Parade. The following comments were provided in the notes for the meeting:

"The proposal is not acceptable and requires redesign prior to DA submission.

The subject site has significant view corridors through the site and new car parking at this frontage should therefore be carefully designed to minimise view loss. It is noted that a situation in which there would be less view loss involved is if the car parking spaces were to be hardstand spaces.

Any carport structure is likely to have an impact on views and a quantitative analysis of this loss should be made for each design (hard stand space as compared to carport with flat roof and carport with a pitched roof)."

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)(iiia) – 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 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	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater</p>

Section 4.15 Matters for Consideration'	Comments
the natural and built environment and social and economic impacts in the locality	Development Control Plan section in this report. In summary, the environmental impacts in relation to views are excessive. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal. (iii) Economic Impact The proposed development would not have a detrimental economic impact on the locality considering the residential nature of the use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development in its current form.
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. In summary, the submissions are supported in relation to private and public view impacts.
Section 4.15 (1) (e) – the public interest	The proposal is not in the public interest given the extent of impact on public views (see assessment for "Views" under the section addressing the Pittwater 21 DCP).

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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 20 submission/s from:

Name:	Address:
Mr Sammy Graziano	25 Boronia Road INGLESIDE NSW 2101
Ms Dimity Jane Sawyer	56 Narrabeen Park Parade WARRIEWOOD NSW 2102
Simeon Haddad	146 Narrabeen Park Parade MONA VALE NSW 2103
Dr Vijay Solanki	172 Narrabeen Park Parade MONA VALE NSW 2103
Withheld	CHURCH POINT NSW 2105
Jodie Williams Mr Mark James Williams	170 Narrabeen Park Parade MONA VALE NSW 2103
Mrs Simone Vidal Allan	160 Narrabeen Park Parade MONA VALE NSW 2103
Ms Jill Frances Cable	150 Narrabeen Park Parade MONA VALE NSW 2103

Name:	Address:
Mrs Cathy Lou Hall	1 Cooleena Road ELANORA HEIGHTS NSW 2101
Mrs Susanne Beverly Simon Beverly	174 Narrabeen Park Parade MONA VALE NSW 2103
Caroline Davison Mr Paul Davison	23 Careel Bay Crescent AVALON BEACH NSW 2107
Mr Gregory Sidney Hall	1 Cooleena Road ELANORA HEIGHTS NSW 2101
Withheld Mr Richard Jefferson Wilkins	MONA VALE NSW 2103
Withheld Mr Richard Jefferson Wilkins	164 Narrabeen Park Parade MONA VALE NSW 2103
Craig Allen	148 Narrabeen Park Parade MONA VALE NSW 2103
Mr Nicolas Edwin Reynolds	6 / 3 Robertson Street NARRABEEN NSW 2101
Alex Coates	101 Narrabeen Park Parade MONA VALE NSW 2103
Mrs Carole Ann Davis	140 Narrabeen Park Parade MONA VALE NSW 2103
Mr Robert Donald Davis	Po Box 214 MONA VALE NSW 1660
Karen Cutter Mr Aaron Dean Cutter	152 Narrabeen Park Parade MONA VALE NSW 2103
Mr Nigel Richard Sinclair	27 Bakers Road CHURCH POINT NSW 2105
Mr Justin Anthony Hollis Mrs Jenny-Lee Murphy	91 Narrabeen Park Parade MONA VALE NSW 2103

There were 20 submissions received in response to the public exhibition of the application (i.e. 20 individual submissions, authored by separate people and households).

The matters raised within the submissions are addressed as follows:

- **Loss of views from public and private land and loss of views from the public pathway**

Comment:

It is agreed that the proposal will have an unreasonable impact on views. In this report, a detailed assessment of views is made in accordance with the Land and Environment Court's Planning Principle for View Sharing. The concern is concurred with and is included as a reason for refusal.

- **Failure to comply with the planning controls in relation to front setback, scenic protection and landscaped setting**

Comment:

A merit assessment against these provisions of the Pittwater DCP has found the proposal to be unsatisfactory. Concerns in relation to lack of compliance with the planning controls in relation to front setback, scenic protection and landscaped setting are concurred with and are included as reasons for refusal.

- **Request for height poles**

Comment:

In this circumstance, the impact on views could be determined without the need to erect height poles.

- **Notification Sign not being posted onsite and the inappropriate location of the Notification Sign**

Comment:

There has been adequate confirmation that the notification sign was located at the front of the site for the duration of the notification period.

- **Historical policies (LEP and DCP) were put in place to restrict building above the street level and the approval would establish a new and undesirable precedent for similar height structures**

Comment:

The current development standard for building height in this area is 8.0m. This standard is lower than many of the surrounding residential areas, which are generally 8.5m. Although this development complies with the 8.0m maximum building height, it is agreed that the development could set an undesirable precedent, given the high scenic value of the area and character of the street.

- **Unsuitable development for this section of Narrabeen Park Parade, unsuitable streetscape outcome, unreasonable enlargement and impact on natural beauty**

Comment:

It is agreed that the proposal is inappropriate and unsuitable, given its inconsistency with the character of the street, with the desired future character and impact on the scenic values of the area.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Councils Landscape officer provided the following comments:</p> <p><i>"Arboricultural impact Assessment prepared by Tree Consult</i></p> <p><i>6.0 Discussion Tree Impacts by Proposed Works - all other trees not reported due to distance from development works ie. over 5 metres are to be retained, excluding</i></p> <p><i>6.1 Tree 10 Banksia integrifolia located on 105 Narrabeen Park Parade is setback from proposed carport/store wall by 2.4m and corner of lift by 3.2m and is proposed for retention. Following an initial pre-lodgement assessment from Northern Beaches Council, root mapping was undertaken to determine impact from works. In summary trenching some 2.25m from centre of tree (COT) tree 10 revealed the majority of roots present in this area were emanating from tree 11 Norfolk Island Pine proposed for removal. Three roots of 18, 22 & 25mm in diameter originated from tree 10.</i></p> <p><i>The tree 10 has a significant concentration of roots as evidenced surface root plate to northwest of tree which have developed in tension in response to prevailing onshore winds. It is considered the clean cutting of the three roots from T10 is unlikely to de-stabilise or</i></p>

Internal Referral Body	Comments
	<p><i>adversely affect long term health of tree. The proposed works are under the standard AS4970 a major encroachment, however the existing cut currently retained by drystone sandstone flagging and the presence of shallow sandstone bedrock or floater are a natural and existing constraint to root growth much beyond some 2m south of the boundary.</i></p> <p><i>6.2 Tree 11 Araucaria heterophylla (repeatedly lopped/topped) is proposed for removal based on its location within the footprint of the proposed carport.</i></p> <p><i>6.3 Tree 12 Melaleuca quinquenervia is proposed for retention and is setback >8m and is not affected by the proposal.</i></p> <p><i>6.4 Tree 13 Banksia integrifolia is proposed for retention and has a calculated TPZ of 2.4m. The proposed works are a minor encroachment to this specimen with the impact footprint restricted to one pier as part of support for suspended driveway.</i></p> <p><i>6.5 Tree 14 Callistemon citrinus is proposed for retention.</i></p> <p><i>6.6 Trees 15 & 16 Callistemon citrinus & Banksia serrata are proposed for retention.</i></p> <p><i>7.0 Recommendations</i> <i>Specific:</i></p> <ol style="list-style-type: none"> <i>1. Trees 10, 12, 13, 14, 15 and 16 to be retained TPZ fencing and mulch to be installed prior to commencement of any building works as close to calculated TPZ as practicable on site as determined by project arborist.</i> <i>2. Hand excavation to be supervised by project arborist along approved cut for carport adjacent to tree 10 and roots encountered to be cleanly cut.</i> <i>3. Excavation of proposed pier adjacent tree 13 to be supervised by project arborist. Where roots > 25mm in diameter are encountered, footing design to bridge roots so that they are not severed.</i> <i>4. If pruning for clearance from approved works is required for trees 10, 13 or 14 it is to be carried out under supervision of project arborist. Contractor to be insured and AQF Level 3 Arborist and works to be carried out according to AS4373 Pruning amenity trees.</i> <p><i>General:</i> <i>Tree Protection Zone Methodology</i> <i>Tree preservation cannot wait until construction.</i></p> <ul style="list-style-type: none"> <i>• The fencing of tree preservation area should be done before any work is carried out, including clearing and grading. No stockpiling should take place around the root zone of any tree intended for retention.</i> <i>• The inclusion of a mulch layer of composted leaf and woodchip to a depth of 75mm will help retain soil moisture and protect soil from contaminants.</i> <i>• Nothing should occur in the TPZ, so therefore all access to</i>

Internal Referral Body	Comments
	<p><i>personnel and machinery, and storage of fuel, chemicals, cement or site sheds are prohibited.</i></p> <ul style="list-style-type: none"> • <i>Tree health is dependent on root health and the majority of non-woody absorption roots are in the top 300mm of soil. Compaction and contamination of this area is a common cause of tree decline and death on development sites.</i> • <i>The most appropriate fencing for TPZ is 1.8m chainlink with 50mm metal pole supports. Given the small scale of this development bunting attached to star pickets to delineate TPZ is considered adequate. Signage should explain exclusion from TPZ and carry contact for access or advice.</i> • <i>Service trenches should not pass through a fenced area, although if this cannot be avoided, a qualified arborist should be present to supervise excavation, cut torn roots cleanly or redesign around roots.</i> • <i>Regular monitoring of protected trees during development works for unforeseen changes or decline, will help maintain healthy trees.</i> <p>8.0 Conclusions:</p> <ul style="list-style-type: none"> • <i>Six (6) trees are potentially affected by the proposed works. Trees 12, 15 and 16 are considered setback at distance where no impact will occur.</i> • <i>Trees 13 and 14 are subject to a minor encroachment from the proposed works mitigated by existing site conditions and tree sensitive design.</i> • <i>Tree 11 is proposed for removal and is a repeatedly topped specimen of poor form located within the proposed carport footprint.</i> • <i>Tree 10 is proposed for retention and analysis of root mapping undertaken confirms the tree can be successfully retained subject to adherence to recommended tree protection specifications."</i>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following applicable provisions:</p> <ul style="list-style-type: none"> - Pittwater LEP Clause 7.6 (Biodiversity Protection) - Pittwater DCP Clause B4.17 (Littoral Rainforest) - SEPP (Coastal Management) - Littoral Rainforest EEC Proximity Area <p>Compliance with the applicable provisions is dependent upon safe retention of native canopy trees and appropriate sediment/erosion controls to prevent impacts to nearby patches of Littoral Rainforest Endangered Ecological Community (EEC). An arboricultural impact assessment (Tree Consult, December 2019) provides targeted tree protection measures to retain Tree 10 (<i>Banksia integrifolia</i>). Subject to</p>

Internal Referral Body	Comments
	<p>implementation of recommended measures, Council's Biodiversity Section raises no objections. It is noted that further comment/conditions relating to tree protection will be provided by Council's Landscape referral body.</p>
<p>NECC (Coast and Catchments)</p>	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Proximity to Littoral Forest' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 11,14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>However, requirements of the clause 11 will be assessed separately by other branch of the Council</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
<p>NECC (Development Engineering)</p>	<p>The footpath works were upgraded by Council recently. The concrete pathway denied the established access to this property as identified in the SEE report. No Development Engineering objection subject to conditions.</p>

Internal Referral Body	Comments
NECC (Riparian Lands and Creeks)	<p>Officer comments</p> <p>The application has been assessed in consideration of the State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>The subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Environment Area) is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Proximity to Littoral Forest' and 'Coastal Use Area' maps.</p> <p>It is noted that the project is unlikely to impact the Littoral Forest.</p> <p>On internal assessment, the DA satisfies requirements and no water control conditions applies.</p>
Parks, reserves, beaches, foreshore	<p>The subject property abuts Warriewood Beach Reserve on its south eastern boundary. The topography of the site falls to the south east. To minimise potential erosion impacts on the reserve, sedimentation control has been conditioned.</p> <p>No other issues with the proposal.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant

period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A366804).

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018).

From the perspective of Council's Coastal Officer, it has been stated that the proposal meets the requirements of the SEPP. However, additional planning commentary is provided below:

Accordingly, an assessment under the SEPP has been carried out as follows:

14 Development on land within the coastal use area

(1)

- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*

- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal does not satisfy clause 14(1)(a)(iii) above as it does not appropriately minimise impact. As discussed below, the proposal does not satisfy the Land and Environment Court's Planning Principle for View Sharing, from both the public and private realm. Furthermore, the impact can be readily avoided with a design change from a pitched roof to a flat roof, which will not have such a substantial impact on views and scenic amenity.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

There is reasonable separation between the dwelling and the ocean so as to appropriately reduce likelihood of increased risk to coastal hazards or other land.

Therefore, the proposal does not comply with all of the requirements (in particular Clause 14) of the State Environmental Planning Policy (Coastal Management) 2018.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.0m	7.7m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	1.7m	N/A	NO (see comments)
Side building line	2.5m	8.6m	N/A	YES
	1.0m	1.0m	N/A	YES
Building envelope	3.5m	North: Outside envelope (carport structure and lift)	N/A	NO (see comments)
	3.5m	South: Within envelope	N/A	YES
Landscaped area	50%	63%	N/A	YES

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.14 Warriewood Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	No	No
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	No
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
C1.12 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
C1.25 Plant, Equipment Boxes and Lift Over-Run	No	No
D14.1 Character as viewed from a public place	No	No
D14.3 Building colours and materials	Yes	Yes
D14.7 Front building line	No	No
D14.8 Side and rear building line	Yes	Yes
D14.11 Building envelope	No	No
D14.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D14.15 Fences - General	Yes	Yes
D14.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D14.18 Scenic Protection Category One Lands	No	No

Detailed Assessment

C1.1 Landscaping

Description of Non-Compliance

Clause C1.1 specifies the following:

"The front of buildings (between the front boundary and any built structures) shall be landscaped to screen those buildings from the street as follows:

- A planter or landscaped area with minimum dimensions of 4m² for shop top housing developments,*
- **60% for a single dwelling house, secondary dwelling, rural workers' dwellings, or dual occupancy, and***
- 50% for all other forms of residential development."*

The proposal involves a landscaped area of **36%** in the front of the dwelling, which does not comply with the control.

Merit Consideration

The proposal involves the introduction of a new carport structure adjacent to an existing structure in the frontage. This results in structures occupying the majority of the sites frontage.

As such, the built form will be viewed from the road and public walkway and will not be sufficiently softened and screened by landscaping.

As such, the proposal **does not comply** with the numerical control and is not consistent with the outcomes of the clause.

Therefore, this area of non-compliance is included as a reason for refusal.

C1.3 View Sharing

Merit Consideration

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

- A reasonable sharing of views amongst dwellings.***

Comment:

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

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment:

The proposal involves a carport which is located just below street level in the photo below (taken from the front of 158 Narrabeen Park Parade. The view to be affected is a substantial (or "whole") view of Warriewood Beach which includes the interface of the water with the sand. As such this view is highly valuable from both the front of 103 Narrabeen Park Parade and the

public space (in particular the public walkway).



Photo 1: Taken from 158 Narrabeen Park Parade

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:

Views are obtained from the front of the property at 158 Narrabeen Park Parade, Mona Vale. These views can be obtained from a front deck area, both from a sitting and standing position.

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:

The proposed pitched roof carport will substantially obscure the view of Warriewood Beach from No.158. This involves obscuring of the beach (sand-water interface) by the structure as well as obscuring parts of the water and land. Given the intact nature of the existing view, this impact is assessed as being **moderate** to **severe**.

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.”

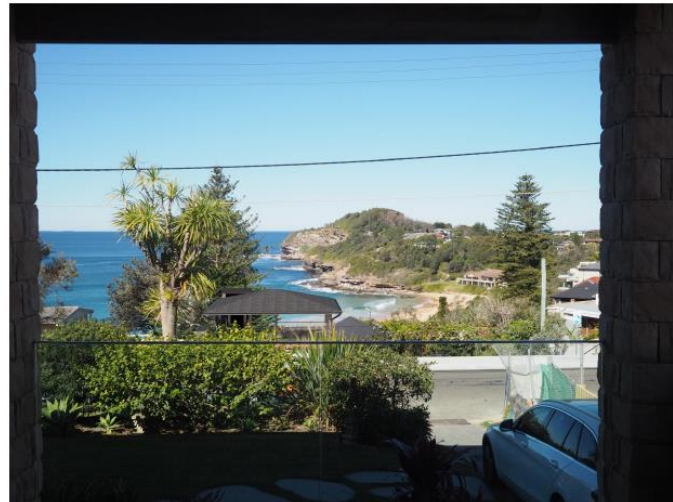
Comment:

The proposal does not comply with the controls for front building line, building envelope or landscaped area (to the frontage) under the Pittwater 21 DCP. Furthermore, there is the opportunity of modifying the design from a pitched roof (which has greater roof bulk) to a flat roof (which has less roof bulk) and result in substantial improvement to the view sharing. As such, the moderate to severe impact on views caused by the taller and bulkier pitched roof structure is unreasonable.

Note: Further information would be required to determine if a flat roof is acceptable



Existing View



Proposed View

Figure 1: Montage provided by applicant showing the impact on views and vistas from one angle.

- ***Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.***

Comment:

In the circumstances, it is possible to protect, maintain and enhance the views from the scenic walkway and from neighbouring properties with an alternative roof design. As such, views and vistas are not protected maintained or enhanced.

- ***Canopy trees take priority over views.***

Comment:

From the street, the existing view corridors over and around the subject site have a character which is substantially defined by pine trees and other vegetation as well as beach views (see photo 2). The proposed carport would result in an inappropriate visual intrusion of built form into the landscaped setting.



Photo 2: Taken from 158 Narrabeen Park Parade (showing the setting).

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 not supported, in this particular circumstance.

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

The proposed lift is part of the overall car parking structure. As stated under Clause C1.3, this structure contributes to the unreasonable impact on views.

As such, the proposal does not meet the outcomes of this clause.

D14.7 Front building line

Description of Non-Compliance:

The proposal involves a new carport which has a front building line setback of 1.7m, which does not comply with the numerical control of 6.5m.

Merit Consideration:

Further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below.

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

Comment:

The proposed development is inconsistent with the desired future character of the Warriewood Locality. The location of the carport above the road does not match the predominant form of carparking accommodation in the street. The location and design would have a detrimental impact on the scenic amenity of the area, including interruption of views and vistas.

The proposal **does not comply** with this outcome.

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

Comment:

The proposal will not equitably preserve views and vistas for the surrounding area. This is as a result of the carport structure being in a location in which there are various view corridors towards Warriewood Beach. This is further assessed under Clause C1.3 of this report.

The proposal **does not comply** with this outcome.

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

Comment:

Not applicable.

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

Comment:

The proposal involves the introduction of a new carport structure adjacent to an existing structure in the frontage. This results in structures being located across the majority of the width of the frontage.

As such, the built form will not be appropriately integrated with landscaping.

The proposal **does not comply** with this outcome.

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

Comment:

The proposed works provide for vehicle manoeuvring given the constraints provided by the slope of the site.

The proposal **complies** with this outcome.

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

Comment:

The proposed frontage involves a small pocket of landscaping to the rear of the shed structure and small strips of landscaping to the sides of the site. This does not comply with the numerical control for landscaping (in the frontage) under C1.1, and does not preserve and enhance the character of the escarpment.

The proposal **does not comply** with this outcome.

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

Comment:

The proposal involves a carport structure that is above the level of the ridge of the road. This does not complement the predominant form in the area and introducing new built form at this level does not allow natural features to take priority over views and vistas.

The proposal **does not comply** with this outcome.

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

Comment:

The proposal involves a carport structure which is above the ridge of the road. This does not match the predominant form or character of the area and would diminish pedestrian amenity by obscuring views over the escarpment and toward the beach.

The proposal **does not comply** with this outcome.

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

Comment:

The surrounding area is characterised by development which responds to the topography of the land by providing built form generally below the ridge of the road and well integrated with vegetation. The height and scale of the proposed parking structure does not sensitively relate to these spatial characteristics.

The proposal **does not comply** with this outcome.

Based on the above, the proposed development is inconsistent with the outcomes of the control and the non-compliance is not supported.

D14.11 Building envelope

Description of Non-Compliance

The proposal does not comply with the building envelope control on the eastern elevation. This involves a section of the carport and the lift for a length of 600mm.

Merit Consideration

The section of the non-compliant envelope is on the eastern side of the proposed structure and this is in a location that would not have a substantial impact on views (as the main water view corridors are through the centre and west of the site). However, the non-complaint envelope further indicates that a structure with this extent of bulk is incompatible within the scenic area and inconsistent with the desired future character.

As such, the proposal does not meet the outcomes of this clause.

D14.18 Scenic Protection Category One Lands

The location of the proposed carport is within an area of high scenic value as a result of the water views and escarpment characterised by natural features. The proposed carport is above the level of the road and would significantly impact upon the scenic value of the area, including views of the natural environment. In particular, the level of the structure above the street is out of character and contributes to an inappropriate visual impact.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

Conclusions on the Assessment of the Application

The proposed carport involves a bulk and scale that is excessive for the streetscape and the context of the area. Furthermore, front setback and height above the road results in a built form that is not complementary and compatible with the established character of the escarpment in the immediate area.

The proposed roof height and roof bulk of the carport would result in an amenity impact and visual impact that is not suitable and appropriate for the area.

On balance, the proposal should be refused as the design is not suitable for the site and locality by virtue of the significant impact on views, vistas and scenic qualities of the area.

Therefore, the application is recommended for refusal.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/0107 for the Alterations and additions to a dwelling house on land at Lot 2 DP 16692, 103 Narrabeen Park Parade, MONA VALE, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.1 Landscaping of the

Pittwater 21 Development Control Plan.

2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.3 View Sharing of the Pittwater 21 Development Control Plan.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D14.11 Building envelope of the Pittwater 21 Development Control Plan.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D14.18 Scenic Protection Category One Lands of the Pittwater 21 Development Control Plan.