

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1196
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Responsible Officer:	Grace Facer
Land to be developed (Address):	Lot 320 DP 16719, 28 Lido Avenue NORTH NARRABEEN NSW 2101
Proposed Development:	Alterations and additions to a dwelling house including secondary dwelling
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lianne Marie Jansen Geoffrey Peter Jansen
Applicant:	Harrison Architecture

Application Lodged:	12/08/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	23/08/2022 to 06/09/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 779,509.20
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Demolition of the existing garage
- Construction of a new one bedroom secondary dwelling in partially the same footprint as the demolished garage
- First floor addition to the existing dwelling including 2 bedrooms and a bathroom
- Alterations to the principal dwelling's existing ground floor including a new kitchen, laundry and stairs
- New rear covered deck and landscaping
- New integrated carport to the eastern side of the principal dwelling

- New front fence and entry path

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 Local Environmental Plan 2014 - 5.21 Flood planning
 Pittwater 21 Development Control Plan - B3.11 Flood Prone Land
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - D11.7 Side and rear building line
 Pittwater 21 Development Control Plan - D11.9 Building envelope
 Pittwater 21 Development Control Plan - D11.10 Landscaped Area - General

SITE DESCRIPTION

Property Description:	Lot 320 DP 16719 , 28 Lido Avenue NORTH NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north-eastern side of Lido Avenue.</p> <p>The site is regular in shape with a frontage of 12.19m along Lido Avenue and a depth of 38.1m. The site has a surveyed area of 464.5m².</p> <p>The site is located within the R2 Low Density Residential zone from PLEP 2014 and accommodates a single storey weatherboard dwelling house and detached single garage.</p> <p>The site contains lawn areas, trees and garden beds consisting of mostly small shrubs. There are no details of</p>

any threatened species on the subject site. The topography of the site is relatively flat.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one and two storey dwelling houses varying in architectural style and design. The rear of the site adjoins a creek that flows through Narrabeen Wetlands to the north-west.

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.

Application History

Following the preliminary assessment of the application and referral to Council's Stormwater and Floodplain Engineering team, the applicant was requested to provide an updated Flood Risk Management Plan to address all controls in the current Section B3.11 of the Pittwater DCP. The applicant was also requested to provide amended plans demonstrating a revised design due to the existing dwelling's height of 2.59m AHD, which is well below the Flood Planning Level of 3.53m AHD. Additionally, the proposed secondary dwelling exhibited a floor level of 3.53m AHD but did not have access to a refuge for sheltering in place above the PMF level of 4.98m AHD.

Subsequently, the applicant provided an updated Flood Management Report and provided a shelter in place refuge at the PMF level in the secondary dwelling. However, Council's Stormwater and Floodplain Engineer was not satisfied that the original foundations of the primary dwelling house are sufficient to support the proposed final structure above them. As the Flood Management Report did not provide certification that the existing foundations are adequate for structural integrity to the PMF, the applicant

was requested to provide amended plans.

Following the second request for further information, the engineers that were engaged by the applicant (Taylor Consulting) sent a letter to the Director of Planning and Place in response to the Council's engineering referral response. The letter was reviewed by Council's Stormwater and Floodplanning Engineering team who advised that they stand by their previous referral comments, being that the ground floor level of the primary dwelling needs to be at, or above the Flood Planning Level. Council's Director of Planning and Place responded to Taylor Consulting accordingly.

The applicant was given the option to withdraw the application, noting that proceeding with the application in its current form will result in refusal of the application.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amendments to the Plans - Master Set and an updated Flood Risk Management Report. Subsequently, the applicant provided the requested information.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building</p>

Section 4.15 Matters for Consideration	Comments
	<p>(including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 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 21 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 not considered suitable for the proposed development as inadequate information has been supplied to demonstrate that an acceptable risk to life can be achieved in the event of flooding.
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 (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 23/08/2022 to 06/09/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for alterations and additions to the existing dwelling, including a secondary dwelling, and associated works, as described and illustrated in the reports and plans.</p> <p>Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D11 North Narrabeen Locality <p>A Landscape Plan has been included in the application which will be assessed as part of the Landscape Referral. The Survey Plan indicates that there are no prescribed trees within the property boundary, and no trees are proposed to be removed. The proposed planting is generally supported and helps to satisfy the Pittwater DCP controls. All plants shall be installed in accordance with the conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development will not impact upon remnant native vegetation or wildlife habitat. New construction is generally within the existing development footprint and the submitted landscape plan will serve to improve environmental values on the site.</p>
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021 (sections 2.8, 2.10 & 2.12); and • Relevant LEP and DCP clauses. <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p> <p>The application is supported subject to conditions:</p> <ul style="list-style-type: none"> • Installation and maintenance of erosion and sediment controls (prior to commencement)
NECC (Development Engineering)	<p>The proposed development does not require OSD. The proposed carport is acceptable subject to conditions for a new crossing.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>The proposed development, which drains to Narrabeen Lagoon, must not</p>

Internal Referral Body	Comments
	<p>significantly impact on the biophysical, hydrological or ecological integrity of these waters, or on the quantity and quality of surface and ground water flows the Lagoon. Therefore , sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover reestablished. The proposal, subject to conditions, is supported as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of Narrabeen Lagoon and its surroundings if conditions are adhered to.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Response dated 13/09/2022</p> <p>The property backs on to an open storm water channel and is very flood affected. Relevant flood information is as follows: 1% AEP level: 3.03m AHD 1% AEP depth (max): 1.22m 1% AEP velocity (max): 0.71m/s Flood Planning Level (FPL): 3.53m AHD Probable Maximum Flood (PMF) level: 4.98m AHD Flood Risk Precinct: High (entire property) Flood life Hazard Category: H5 (entire property) Duration of flooding: Long (more than 6 hours)</p> <p>Relevant flood related development controls are in Section B3.11 of the Pittwater DCP.</p> <p>The amended plans show that the bedroom of the secondary dwelling now has a floor level of 4.98m AHD. This meets the requirements listed in Control E1 for a shelter in place refuge.</p> <p>The proposed development does not comply with Control C6, which states that: "Consideration may be given to the retention of an existing floor level below the Flood Planning Level when undertaking a first floor addition provided that: (a) it is not located within a floodway; and (b) the original foundations are sufficient to support the proposed final structure above them. The Flood Management Report must include photos and the structural certification required as per Control B2 must consider whether the existing foundations are adequate or should be replaced; and (c) none of the structural supports/framing of existing external walls of are to be removed unless the building is to be extended in that location; and (d) the ground floor is floodproofed".</p> <p>The alterations to the ground floor are fairly extensive. The Flood Risk Management Plan from Taylor Consulting (Oct 2022) states that "The dwelling will be undergoing significant structural alterations including new footings and framing support elements to ensure that the dwelling can be certified as being structurally adequate for the expected site conditions during a P.M.F. event. Structural certification</p>

Internal Referral Body	Comments
	<p>has been provided in this report under Appendix H". Clearly the original foundations are not sufficient to support the proposed final structure above them, and Appendix H does not contain certification that the existing foundations are adequate for structural integrity to the PMF.</p> <p>The floor level of the existing main dwelling is 2.59m AHD, which is well below the FPL of 3.53m AHD. The ground floor needs to be at or above the FPL and the plans need to be amended accordingly.</p> <p>Response dated 10/11/2022</p> <p>The amended plans show that the bedroom of the secondary dwelling now has a floor level of 4.98m AHD. This meets the requirements listed in Control E1 for a shelter in place refuge.</p> <p>The proposed development does not comply with Control C6, which states that: "Consideration may be given to the retention of an existing floor level below the Flood Planning Level when undertaking a first floor addition provided that: (a) it is not located within a floodway; and (b) the original foundations are sufficient to support the proposed final structure above them. The Flood Management Report must include photos and the structural certification required as per Control B2 must consider whether the existing foundations are adequate or should be replaced; and (c) none of the structural supports/framing of existing external walls of are to be removed unless the building is to be extended in that location; and (d) the ground floor is floodproofed".</p> <p>The alterations to the ground floor are fairly extensive. The Flood Risk Management Plan from Taylor Consulting (Oct 2022) states that "The dwelling will be undergoing significant structural alterations including new footings and framing support elements to ensure that the dwelling can be certified as being structurally adequate for the expected site conditions during a P.M.F. event. Structural certification has been provided in this report under Appendix H". Clearly the original foundations are not sufficient to support the proposed final structure above them, and Appendix H does not contain certification that the existing foundations are adequate for structural integrity to the PMF.</p> <p>The floor level of the existing main dwelling is 2.59m AHD, which is well below the FPL of 3.53m AHD. The ground floor needs to be at or above the FPL and the plans need to be amended accordingly.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of

External Referral Body	Comments
	Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

BASIX certificates for the principal dwelling (see Certificate No.A461242 dated 11 July 2022) and secondary dwelling (see Certificate No.1310077S_02 dated 27 October 2022) have been submitted with the application.

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

SEPP (Housing) 2021

Part 1 – Secondary Dwellings

Clause 52 – Development may be carried out with consent	
Standard	Compliance/Comment
a) No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land.	The application proposes only the principal dwelling and the secondary dwelling to be located on the subject site.
b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument.	The total floor area of the principal dwelling and the secondary dwelling is compliant with the maximum floor area permitted under the Pittwater LEP 2014.
c) The total floor area of the secondary dwelling is: <ul style="list-style-type: none"> i) no more than 60m², or ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning 	The total floor area of the secondary dwelling is 41m ² , therefore the proposed development complies.

instrument - the greater floor area.

Clause 53 – Non-discretionary development standards	
Standard	Compliance/Comment
a) For a detached secondary dwelling - a minimum site area of 450m ² .	The site has a total area of 464.5m ² and complies with the minimum site area requirements for secondary dwellings.
b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	The proposal retains two parking spaces.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:

- a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
- b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
- c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
- d) any other development

Comment:

This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater and found to be supportable, subject to conditions.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The application was referred to NECC (Riparian Lands and Creeks) who found that the proposal, subject to conditions, is supported as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of Narrabeen Lagoon and its surroundings if conditions are adhered to.

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or
 - ii) other land, and
 - iii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

The proposed development is not anticipated to adversely impact coastal processes or current and future coastal hazards.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The proposal is not likely to detrimentally impact the coastal environment area.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Council's Coast and Catchments Officer is satisfied that the proposal will avoid adverse impacts to coastal processes referred to in subsection (1).

Division 5 General

2.12 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:

The proposed development is not likely to cause increased risk of coastal hazards on the subject site or surrounding land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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:	8.5m	Principal Dwelling: 8.5m Secondary Dwelling: 5.6m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.21 Flood planning	No
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the

development:

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Comment:

The application is accompanied by a Flood Risk Management Report prepared by Taylor Consulting dated October 2022, which does not satisfactorily demonstrate that the original foundations of the dwelling house are sufficient to support the proposed first floor addition nor structurally adequate for the expected site conditions during a P.M.F. event.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,
- (b) the intended design and scale of buildings resulting from the development,
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

Comment:

The proposed development does not adequately minimise flood risk to life as there would also be an increase in flood risk associated with the larger, newer dwelling and potential for extra inhabitants. As the ground floor level is below the FPL then it needs to be raised to the FPL when adding a first floor.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	7.5m	-	Yes
Rear building line	6.5m	4m (secondary dwelling)	38.46% (2.5m)	No
Side building line	2.5m (North-West)	Ground Floor - 1.1m (principal dwelling) First Floor - 2.2m (principal dwelling)	56% (1.4m) Existing 12% (0.3m)	No, as existing No
	1m (South-East)	0.2m (carport) 1m (secondary dwelling)	Carport: 80% (0.8m)	No
Building envelope	3.5m (North-West)	Outside envelope	5.26% - 7.01% (0.3m - 0.4m)	No

	3.5m (South-East)	Within Envelope	-	Yes
Landscaped area	50% (232.25m ²)	47.45% (220.4m ²)	2.55% (11.85m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.11 North Narrabeen Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	No	No
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
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	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
B8.6 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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D11.1 Character as viewed from a public place	Yes	Yes
D11.3 Building colours and materials	Yes	Yes
D11.6 Front building line	Yes	Yes
D11.7 Side and rear building line	No	Yes
D11.9 Building envelope	No	Yes
D11.10 Landscaped Area - General	No	Yes
D11.12 Fences - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D11.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B3.11 Flood Prone Land

Council's Floodplain Management team have reviewed the proposed development and advised they cannot support the application as the ground floor level of the principal dwelling is below the Flood Planning Level. The Flood Risk Management Plan accompanying the application does not contain certification that the original foundations of the principal dwelling house are sufficient to support a first floor addition. Additionally, the alterations to the ground floor are fairly extensive and Council is not satisfied that the dwelling can be certified as being structurally adequate for the expected site conditions during a P.M.F. event.

As such, the proposal is inconsistent with this clause, and this is included as a reason for refusal.

B6.3 Off-Street Vehicle Parking Requirements

Description of non-compliance

Clause B6.3 Off-Street Vehicle Parking Requirements stipulates that when a secondary dwelling is proposed, a minimum of one additional space is required in addition to the existing requirement for the principal dwelling.

The proposal results in a provision of off-street for two vehicles for the 3 bedroom principal dwelling, however the proposed development does not provide additional parking for the secondary dwelling. Therefore a detailed merit assessment has been undertaken against the outcomes of the control.

Merit assessment

The underlying outcomes of the control are addressed as follows.

- ***An adequate number of parking and service spaces that meets the demands generated by the development.***

Comment:

The proposal provides two off street parking spaces onsite for the principal dwelling house in the covered carport area. A site inspection revealed that the site is located within a residential area where on-street parking is available and public transport (bus stops/ bus routes) is within close proximity to the site for the future residents of the secondary dwelling. Overall, adequate off street parking has been provided that will meet the demand generated by the development.

- ***Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.***

Comment:

To facilitate an additional car parking space a substantial increase in impervious area and removal of existing vegetation would also be required. The provision of additional housing, safe

vehicular movement and compliant landscaped area is considered of greater importance than compliant off-street parking in this case, given the availability of on-street parking on surrounding streets.

- ***Safe and convenient parking.***

Comment:

The subject site is supplied with safe and convenient parking.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the P21 DCP 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.

D11.7 Side and rear building line

Clause D11.7 of the Pittwater 21 DCP requires a setback of at least 2.5m from one side boundary and 1.0m from the other side, and 6.5m from the rear boundary. For this assessment, the 2.5m control has been applied to the north-western side boundary and the 1.0m setback has been applied to the south-eastern side boundary.

Description of non-compliance

The secondary dwelling proposes a 4m setback from the rear boundary, presenting a variation of 38.46% (2.5m) to the 6.5m requirement.

There is an existing numerically non-compliant side setback of 1.1m from the existing dwelling to the north-western boundary. The proposal retains this setback on the ground floor level of the proposed dwelling house. The first floor addition is proposed to be setback 2.2m from the north-western boundary, reducing the existing non-compliance and resulting in a variation of 12% (0.3m) to the DCP requirement.

The proposed carport is setback 0.2m from the south-eastern side boundary, which presents a variation of 80% (0.8m) to the control. It should be noted that under Clause D11.7 of the DCP, side and rear setbacks may be varied for multi dwelling housing for light or open structures (including carports) in circumstances where Council is satisfied that the adjoining properties will not be adversely affected and that the outcomes of this clause are achieved.

Merit Consideration

With regards 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.***

Comment:

The proposed dwelling house and secondary dwelling achieve the future desired character of the locality, providing diversity in residential housing that meets the needs of existing and future occupants.

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

Comment:

The principal dwelling and secondary dwelling are sited below the maximum permitted building height. The principal dwelling features stepping of the first floor level and an open balcony at the rear, reducing the bulk and scale of the design. The secondary dwelling will be of a similar scale to the existing garage and is therefore considered to be an appropriate size and scale for the subject site. Furthermore, the open nature of the proposed carport will maintain a sense of openness and reduce the development's visual impact.

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

Comment:

The proposal is not anticipated to result in any significant view loss to and from public and private places.

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

Comment:

As the secondary dwelling will replace an existing garage in generally the same location, view sharing is considered to be maintained in this regard. The design of the principal dwelling with a stepped upper level is complimentary to the existing dwelling's north-western side setback. Furthermore, a Landscape Plan accompanies the proposal which encourages well-positioned landscaping to enhance the natural environment.

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

Comment:

Notwithstanding the numerical non-compliance to the southern side boundary setback, the secondary dwelling in the rear yard is positioned further back from the adjoining dwelling to the south-east, which will ensure a reasonable level of privacy and amenity is maintained. Furthermore, the site adjoins a creek to the rear and is screened by substantial vegetation, preserving the amenity of dwellings to the north-east of the subject site. The application is also accompanied by Shadow Diagrams which demonstrate there will be no additional overshadowing to the adjoining property to the north-west (No.30 Lido Avenue).

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

Comment:

The proposed development retains substantial areas for the retention of existing vegetation and provides opportunities for future planting to contribute to an attractive streetscape.

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

Comment:

Flexibility is provided in this instance for the proposed carport structure to allow for adequate parking facilities to meet the needs of the principal and secondary dwelling. Moreover, the minor rear setback encroachment ensures that the secondary dwelling is not visually dominant when viewed from the street and provides a greater level of privacy for future occupants. Given the existing dwelling house presents an encroachment along the northern boundary, the proposed setbacks to the principal dwelling are considered to be supportable in this instance.

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

Comment:

The proposal does not propose the removal of any significant vegetation.

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

Comment:

The proposed development does not adjoin a commercial zone, therefore this objective is not relevant to this application.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP 2014 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.

D11.9 Building envelope

Description of non-compliance

Under Clause D11.9 of the DCP, buildings are required to be sited within the building envelope which is measured from a height of 3.5m above ground level and projected 45 degrees at the side boundaries to the maximum building height.

The proposal presents a building envelope encroachment on the north-west elevation of 0.3m - 0.4m for a horizontal length of 9.7m, resulting in a variation of 5.26% - 7.0% (see Figure 1 below).

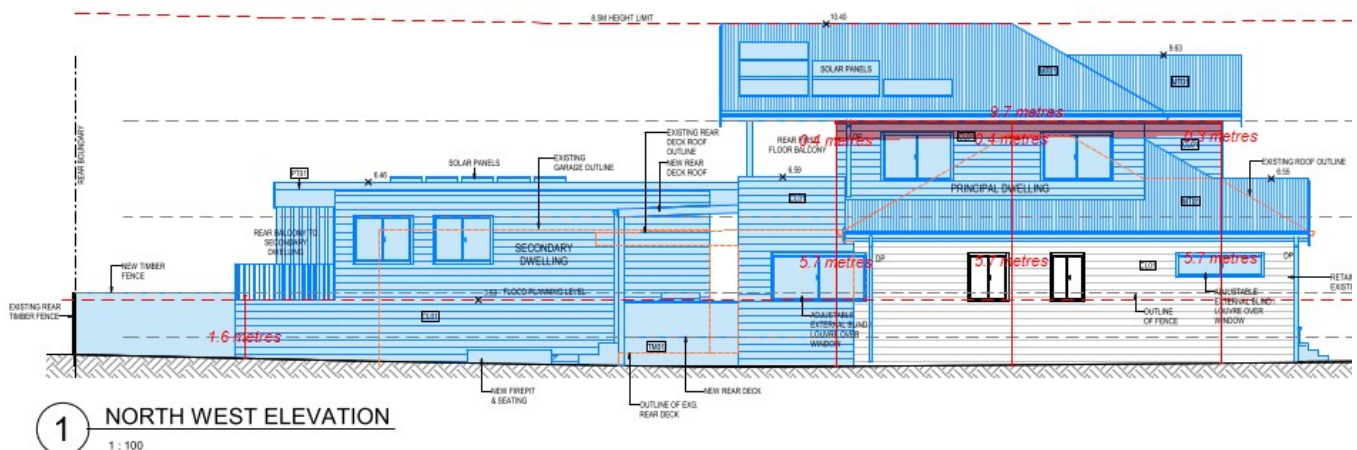


Figure 1 - North-western elevation building envelope breach (indicated in red)

Merit Consideration:

With regard to the request for a variation, the development is considered against the underlying outcomes of the control as follows:

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

Comment:

The proposed development maintains the low density residential nature of the North Narrabeen area and provides a secondary dwelling in conjunction with the main dwelling to encourage

additional opportunities for more compact and affordable housing.

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

Comment:

The subject site, and adjoining lots, contain a number of mature trees that will be preserved to enhance the existing streetscape. The principal and secondary dwellings will be sited well below the height of the trees in the surrounding natural environment.

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

Comment:

Notwithstanding the minor building envelope non-compliance, the proposed development meets the objectives and requirements of the PLEP 2014 and P21 DCP, demonstrating that the proposal responds to, reinforces, and sensitively relates to the spatial characteristics of the existing built and natural environment. Furthermore, the neutral colour palette of the dwelling featuring light grey weatherboard cladding and dark grey roofing is consistent with the design and style of surrounding dwelling houses in the locality.

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

Comment:

The proposed development complies with the building height control of the DCP, and notably the building envelope breach occurs along a minor portion of the north-west elevation on only one side of the principal dwelling. In this regard, the bulk and scale of the built form has been minimised to reduce its visual impact.

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

Comment:

The proposed development will not unreasonably obstruct views from neighbouring properties or the public domain.

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

Comment:

The building envelope non-compliance is relatively minor in nature and is not anticipated to cause any adverse impacts to privacy, overshadowing or loss of amenity to adjoining and surrounding residential properties. The proposal is accompanied by Shadow Diagrams which demonstrate that windows to the principal living areas of the proposed dwellings will receive a minimum of 3 hours of sunlight between 9am and 3pm on winter solstice (June 21st).

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

Comment:

The subject site contains a range of low lying shrubs, medium high shrubs and canopy trees to soften the built form. The front yard contains substantial vegetation to screen both the principal and secondary dwelling from the street and to enhance the visual quality of the streetscape.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P 21 DCP 2014 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.

D11.10 Landscaped Area - General

Description of non-compliance

Under Clause D11.10 Landscaped Area - General, a minimum of 50% (232.25m²) of the site is required to be landscaped area. The proposal presents a numerically non-compliant landscaped area of 47.45% (220.4m²), resulting in a 2.55% (11.85m²) variation to the control.

The Pittwater DCP stipulates that provided the outcomes of the control are achieved, a variation may be permitted which allows pathways (and the like) of 1m width or less to be included in the landscaped area of the site. With the introduction of impervious areas less than 1m in width, the proposed landscaped area increases by 48.9m², resulting in a compliant landscaped area of 57.98% (269.3m²) on the subject site.

Merit consideration

With regard to the consideration for a variation, the development is considered against the outcomes of the control as follows:

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

Comment

The application is accompanied by a Landscape Plan, which proposes the planting of both native and exotic tree and plant varieties. Therefore, the proposal is considered to achieve the desired future character of the locality by preserving and enhancing the natural environment.

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

Comment

The proposed development is compliant with the height control of the DCP. The minor building envelope breach will be softened through the proposed planting of new vegetation on site. As the secondary dwelling will be replacing an existing garage in generally the same location, the bulk and scale of the built form is considered to be appropriate for the subject site.

- ***A reasonable level of amenity and solar access is provided and maintained.***

Comment

The views, privacy and solar access of neighbouring properties will be retained and the proposal is not anticipated to impact on the residential amenity of the immediate surrounding locality.

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

Comment

The development does not propose the removal of any significant vegetation. The principal and secondary dwellings are well setback from the front boundary with sufficient vegetation and landscaping in the front yard to visually reduce the built form when viewed from the public domain.

- ***Conservation of natural vegetation and biodiversity.***

Comment

There are no details of any threatened species or vegetation on the subject site, therefore the proposal is unlikely to have any detrimental effects on biodiversity. Furthermore, the application has been reviewed by Council's Bushland and Biodiversity Officer who has supported the proposal subject to recommended conditions.

- ***Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.***

Comment

The subject site will retain sufficient pervious surface areas which will contribute to the prevention of soil erosion and siltation of natural drainage channels. Furthermore, the application has been reviewed by Council's Development Engineer who has supported the proposal subject to recommended conditions.

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

Comment

The proposed development retains adequate space for the retention of existing vegetation and provides opportunities for future planting, thereby ensuring the bushland character of the area will be maintained.

- ***Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.***

Comment

Sufficient pervious surfacing is provided on-site which will enable the infiltration of water to the water table, whilst minimising run-off and assisting with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP 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.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$7,795 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$779,509.

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 2021;
- 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
- Consistent with the zone objectives of the LEP
- Inconsistent 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 does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2022/1196 for the Alterations and additions to a dwelling house including secondary dwelling on land at Lot 320 DP 16719,28 Lido Avenue, NORTH NARRABEEN, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979 as the site is not considered suitable for the proposed development given the incompatibility of the proposed design with the high flood risk nature of the land.
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 5.21 Flood Planning of the Pittwater Local Environmental Plan 2014 as the proposed first floor addition to the primary dwelling house is incompatible with the flood function and behaviour on the land.
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 B3.11 Flood Prone Land of the Pittwater 21 Development Control Plan as the proposal has not been sited to minimise exposure to flood hazard and would likely result in adverse impacts in the Probable Maximum Flood.

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

Signed



Grace Facer, Planner

The application is determined on 03/01/2023, under the delegated authority of:



Adam Susko, Acting Development Assessment Manager