

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**SECTION 8.2 (1A) REVIEW OF DETERMINATION**

**ALTERATIONS & ADDITIONS  
205 RIVERVIEW ROAD AVALON BEACH**

Submitted to  
NORTHERN BEACHES COUNCIL

On behalf of  
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Prepared by  
MHDP ARCHITECTS

Date  
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## **1.0 INTRODUCTION**

This report has been prepared in support of a Section 8.2( 1A) Review of Determination for Development Application DA2019/1069 which was refused by the Development Determination Panel on 9 June 2020.

This report will describe the development application process and the changes made to the design to address issues raised by the council planning officer up to the preparation of the Assessment Report which recommended approval to the Development Determination Panel. This report will also address the reasons for refusal as described in the minutes of the Development Determination Panel meeting. This report should be read in conjunction with the drawings submitted as part of the Review of Determination application.

## **2.0 SITE DESCRIPTION**

The subject site is identified as Lot 4, DP 18667 and is known as 205 Riverview Road, Avalon Beach. The property is located on the western side of Riverview Road, a regular lot with east-west orientation. The site has a steep fall, approximately 30m, from the street down to Pittwater. It has a frontage to Riverview Road of approximately 15.3m and approximate side boundaries of 51.8m to the north and 50.3m to the south. The total site area is approximately 762.4 sq.m.

The site is currently occupied by a multi-level freestanding dwelling of brick construction with tile roof. This building is located on the upper part of the site with pathways and garden areas down to the foreshore. A timber boatshed sits at the western foreshore boundary along with a timber boat ramp, jetty, pontoon and inclinor up to the lower ground floor level. A carport of brick construction with two car spaces is on the street boundary.

### **3.0 DEVELOPMENT APPLICATION PROCESS**

Two development applications were submitted prior to this current development application. Development application N0389/14 was refused on 2 April 2015, and development application N0334/15 was granted consent on 28 July 2016. Issues with the ability to construct the design of the development consent led required the owner to investigate alternative designs that were capable of being constructed.

MHDP prepared a design that was presented to Steve Findlay and Ashley Warnest at a pre-lodgement meeting on 19 March 2019. The design was altered following recommendations in the meeting.

Development application DA2019/1069 was submitted on 26 September 2019.

On 13 January 2020, council planner Catriona Shirley requested height poles be installed to show the roof of the proposed first floor addition. After the height poles were installed, Catriona Shirley responded outlining issues with the building height, side setback and privacy and suggested amendments to the design. The primary amendment requested was the reduction of the building height.

The original DA was submitted with a maximum building height below 10m. The LEP building height control is 8.5m but allowed for a concessional increase to 10m. While the site and design satisfied the increase to 10m, the additional height caused view loss to neighbours on the higher side of Riverview Road. The view loss caused by the additional height was extremely minor, however, after consultation with Catriona Shirley the design was amended so the proposed design fully complied with the building height control.

The amended design complying with 8.5m building height control (as well as other changes) was resubmitted to council on 8 April 2020.

Assessment Report for the application dated 20 May 2020 recommending approval was presented to the Development Determination Panel.

The Development Determination Panel met on 27 May 2020.

On 28 May 2020, Catriona Shirley advised that the panel would not support the application in its current form and proposed a number of changes. While a number of the changes could be readily incorporated in the design, the request to reduce the size of the first floor would not be supported as it would significantly affect the amenity and viability of the project, while offering negligible benefit to neighbours or the public. A letter in response to these requests was sent to council on 1 June 2020. This letter highlighted, among other things, the negligible benefit to solar access to 203 Riverview Road of the reduced-footprint design proposed by the panel.

The development application was refused by the Development Determination Panel on 9 June 2020. Solar access was not included as a reason for refusal.

## **4.0 CHANGES INCORPORATED IN CURRENT DRAWINGS**

Through the Development Application process, a number of changes have been incorporated in the design. In addition, the design submitted with this review of determination also includes additional changes. The changes address the following issues:

### **Building height**

As noted above, the design of the roof was amended so the building fully complies with the 8.5m building height control. This was achieved primarily by reducing the eave overhang to the western side of the first-floor addition. This eave in the original design provided shading from western sun, however this shading will now be accomplished by external blinds.

### **Views**

The minutes of the Development Determination Panel meeting does not specify the views to Pittwater for the neighbours on the high side of Riverview Road as being an issue, so it is taken that this has been addressed by the reduction in building height to below the 8.5m control.

A primary concern raised by council at the pre-lodgement meeting is providing views to Pittwater for pedestrians on Riverview Road and this was addressed in the original design. The carport is a lightweight structure. The south-western corner of the carport is transparent to allow views through to the water. The Development Determination Panel requested a more transparent screening to the carport and pedestrian gate, which has been incorporated in the current drawings. In addition, the structure supporting the carport roof has been made thinner to increase views.

The first-floor addition is set back from both side boundaries, with a large 5.1m setback to the north allowing views over the ground floor roof. The ridge of this roof is lower than the existing roof, increasing the amount of views available in the proposed design.

### **Visual Privacy**

The current drawings incorporate changes to address concerns about privacy to the neighbours at 203 and 207 Riverview Road. These include the following:

- Increased setback to external stairs at pool level
- Privacy screen to southern stairs and walkway
- Obscure glazing to pool level door
- Obscure glazing to lower ground door
- Obscure glazing to ground floor windows
- Reduction in area of balcony to Master Bedroom

### **Colours and Materials**

The primary external materials are zinc, sandstone, timber and painted masonry. A dark and earthy palette is readily achievable.

## 5.0 REVIEW OF REASONS FOR REFUSAL

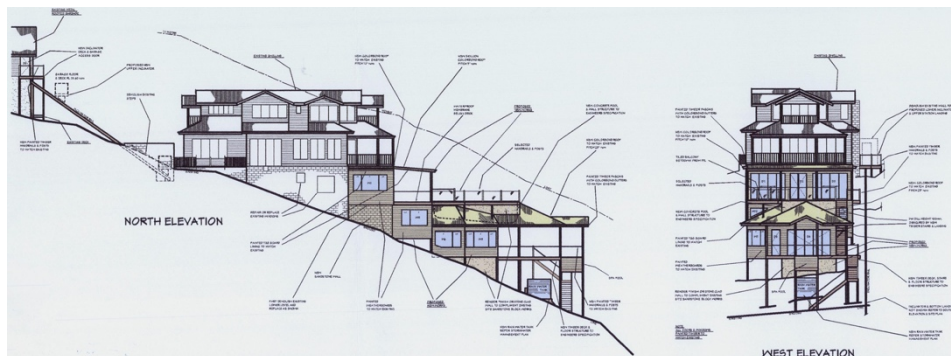
The minutes of the Development Determination Panel meeting briefly describes the planning issues raised by the panel, and the reasons for refusal note the DCP relevant clauses.

### Avalon Beach Locality – Four Storeys

DCP clause A4.1 states, “The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting.” The minutes of the Development Determination Panel meeting notes that the locality generally consists of dwellings between 2-3 storeys. However, the site topography of the area requires building designs to follow the slope making it difficult for a standard 2 storey building.

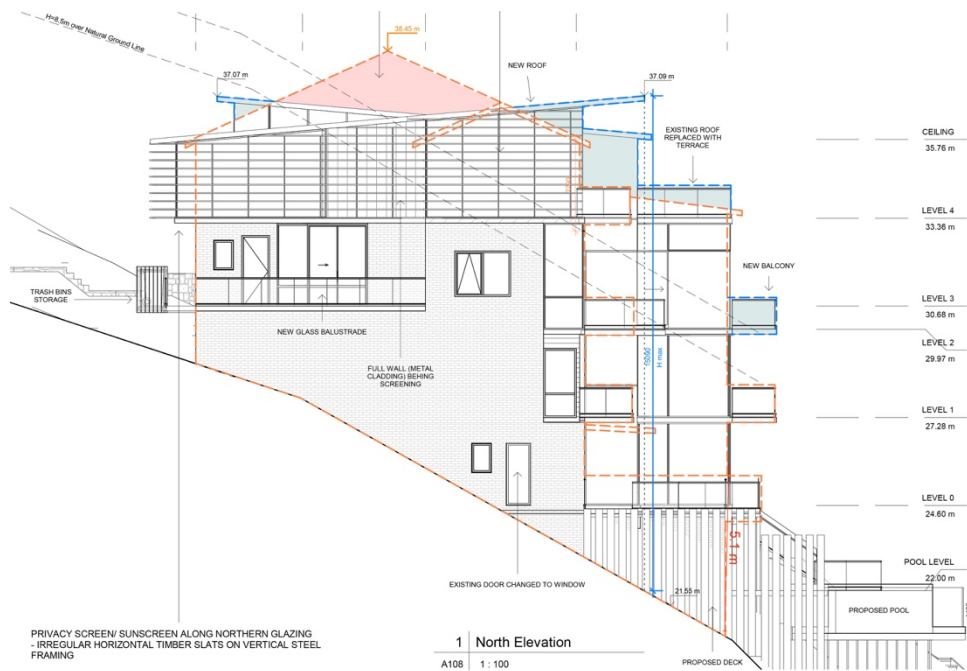
The existing building has two living levels that is elevated above the ground. These existing three storeys are to be retained in the proposal. The first-floor addition is built over the existing building, and is generally located within the bulk of the existing gable roof, and is set back from the rear elevation. This ensures that building is only three storeys in any one location. Additionally, the rear setback of the first floor reduces the appearance of bulk from the water.

While the panel states that the locality is primarily between 2-3 storeys, there are a number of examples of dwellings with four-plus storeys, all located on Riverview Road, shown below:



*129 Riverview Road – elevations from development consent*

129 Riverview Road is an example where incremental additions have created a multi-storey dwelling spread out across the site.



163 Riverview Road – north elevation from development consent

163 Riverview Road is an existing four-storey dwelling with little articulation to the water-facing façade. Northern Beaches Council have approved alterations and additions which extend the building beyond the water-facing façade that will emphasise the four-storey nature of the building.



173-175 Riverview Road – photo from water



173-175 Riverview Road, designed by MHDP Architects, is a recent construction that is five storeys. The design principles of articulation and stepping down the site to follow the topography have been employed in the design of 205 Riverview Road.



*193 Riverview Road – photo from water*

193 Riverview Road is an example of an existing four-storey dwelling with little articulation to the water-facing façade.

The approval of four-plus storey dwellings demonstrates the constraints of designing to accommodate the site topography on the low side of Riverview Road. The proposed development at 205 Riverview Road has four different storeys, but it is only three storeys in any one place and has been carefully designed to suit site constraints and to reduce the appearance of bulk.

### **View Sharing**

The view sharing control is specified in DCP clause C1.3. Despite the statement by the panel to the contrary, the proposal satisfies all outcomes and controls of clause C1.3.

As noted above, the reduction of the building height to the 8.5m control has addressed view sharing issues to the neighbours on the high side of Riverview Road.

The primary issue is public view sharing for pedestrians on Riverview Road. As noted above, council emphasised the importance of this view in the pre-lodgement meeting and the current design incorporates measures to increase views through to Pittwater, including lightweight and transparent construction to the carport, opening up of the south-western corner of the carport, and lowering of the roof ridge over ground floor to the north (refer drawings SK41-45). This should be compared with the existing condition which would be retained and worsened in development consent N0334/15. The existing

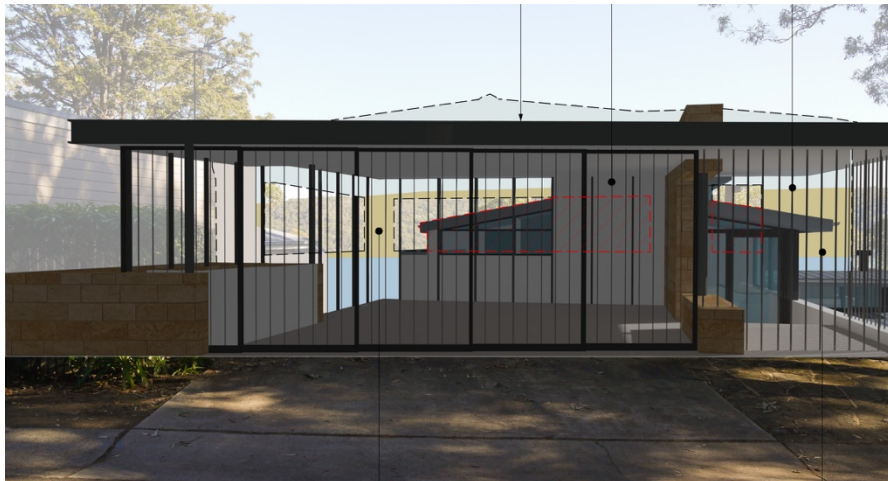


structure has large brick pillars and a brick balustrade. While there is some view through, the existing structure serves to block a large proportion of the view.

While it is technically correct to say the proposed design results in a loss of views, this would discount the view gained as a result of the entirety of the proposed design, and this assessment would go against the principles of view sharing. The panel's statement that the development "does not enhance views and vistas from Riverview Road" is incorrect.

The actual view lost due to the first-floor addition is a portion of horizontal views to the national park opposite, filtered through trees that will be retained. This view is a heavily framed horizontal slot opening in the existing carport (refer drawing SK41).

The view gained by the removal of the heavy brick structure are views either side of the first-floor addition. The design of the carport and the lower pitched roof of the first floor addition increases the vertical height of the views to encompass the water as well as the ridgeline of the national park (where the existing slot view obscures this ridgeline from some locations). The lowering of the first-floor roof below eyeline at street level permits views over the proposed roof. The lowering of the ground floor roof also increases the amount of view gained (refer to drawing SK45). These views are also not filtered through the site trees and are contiguous (refer to drawings SK41-43). Drawing SK41 clearly illustrates that the view lost (the red hatched area) is more than offset by the volume and quality of the view gained.



*Detail of drawing SK41*

### **Visual Privacy**

The visual privacy control is specified in DCP clause C1.5.

As noted above, changes to address visual privacy have been incorporated in the current drawings.

In particular, the panel raises the issue of the southern boundary stairs. It should be noted that the stairs connecting the ground floor with the lower ground are existing, including privacy screen along the boundary, and are to be retained.



*Existing elevated walkway and privacy screen on southern boundary*

A stair similar to the proposed stair connecting the carport to the ground floor was approved in development consent N0334/15. The primary privacy concern of this stair is the ability to look into the lower ground bedroom window of 203 Riverview Road. This stair is required to provide maintenance access to the lower levels of the site and will not be a primary access to the dwelling. This stair will also have a privacy screen to the southern side similar to the existing. The stair is set back from the southern boundary, which will allow for screen planting. This will ensure the privacy of the bedroom window is maintained.

#### **Character as viewed from a public place and Scenic protection**

DCP clause D1.1 addresses character as viewed from a public place, and DCP clause D1.4 addresses scenic protection. These controls can be assessed together, along with the Avalon Beach Locality control for number of storeys and building envelope control (addressed below) in order to discuss the visual character of the proposed design.

A key issue of the streetscape for Riverview Road is views, which has been addressed above.

The carport is a lightweight and transparent structure that does not dominate the street. The redesign of the carport gates has increased transparency. The flat metal roof reduces the appearance of bulk. The carport has a perceived scale that is consistent with many existing carports along Riverview Road.

The panel's suggested reduction of floor area of the first-floor addition suggests their main concern is the appearance of bulk and scale from both Riverview Road and from the water.

The proposed first floor has a compact footprint with large setbacks both side boundaries. The width of first floor is 7.9m, only 53% of the site width of 14.9m. As shown in the eastern elevation, SK41 and SK42, the first-floor addition is at a lower level than the carport and does not fully screen the view, allowing views over the roof to the national park. The fully screened width (where the walls continue to the height of the carport roof) is only 3.4m.

The proposed design is in stark contrast with the neighbour at 203 Riverview Road, with a garage at the street boundary a dwelling house that obscures all views. The proposed development will result in a positive contribution to the views and vistas from Riverview Road.

When viewed from the water, the existing and proposed building will be screened by existing trees on site that will be retained (shown in photomontages SK25 and SK26). SK25 shows the bright terracotta roof of the existing building, with the levels below in shadow and receding within the trees. SK26 shows the proposed building also receding within the trees, with the removal of the terracotta roof serving to hide the development in the landscape. From the angle of photomontage, the first-floor addition is not visible due to the large rear setback. The building appears as the same scale as the neighbouring buildings on both sides and does not appear as four storeys. Views from further out would be similar, with the screening trees and building articulation making the building recede in the landscape.



*Detail of drawing SK26*

The proposed development will not require any removal of significant canopy trees.

The panel's statement that the "visual impact is not minimised when viewed from the waterway, or road reserve" is incorrect. The proposed design recedes into the landscape and appears secondary to the natural environment.

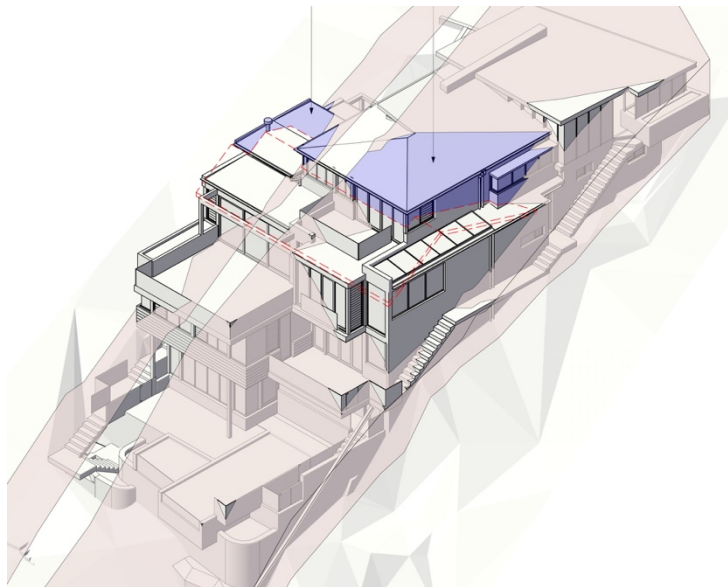
### **Building Envelope**

The building envelope control is specified in DCP clause D1.11. The panel has noted as an issue the southern elevation building envelope.

The existing building is sited on a slope that is greater than 16.7 degrees, which means a variation to the control can be considered on a merits basis. The slope of the site is significant, causing the existing building to breach the building envelope. This portion of the building will be retained, which means the building envelope breach is existing. However, the design proposes the removal of the gable end to the roof, reducing the extent of the existing building envelope breach.

The proposed first floor addition also breaches the building envelope but has been designed to reduce the impact of this breach. The southern and western walls are set back from the existing ground floor wall, and the roof is pitched.

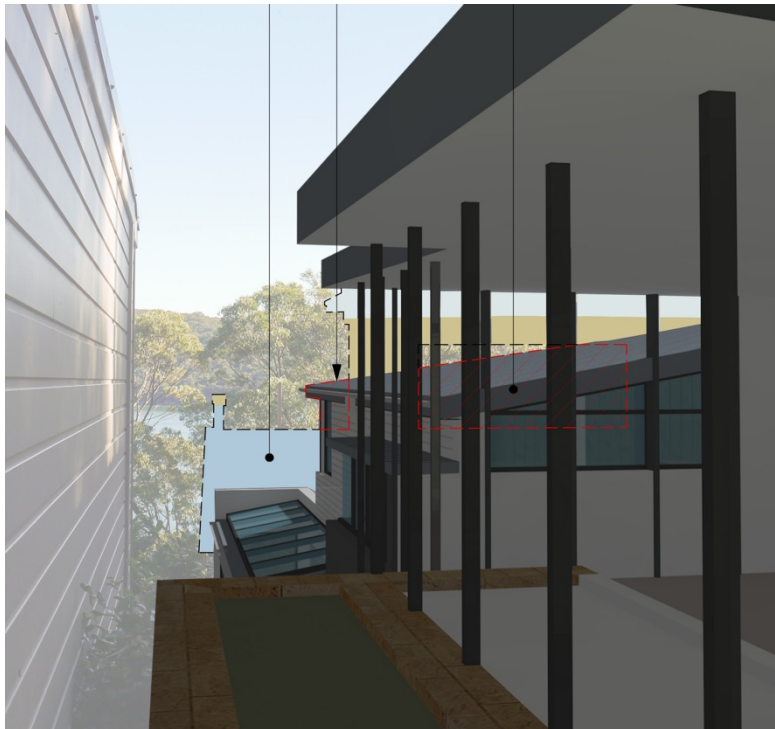
The first-floor addition should be compared with the existing gable roof. If the existing building envelope breach is taken as a given condition, the additional building envelope breach is relatively minor (shown in blue in drawing SK16.1). This additional building envelope breach does not cause any detrimental impact and the proposal achieves all the outcomes of clause D1.11. As noted above, the reasons for refusal do not include solar access – the building envelope breach does not result in unreasonable impact on solar access to the southern neighbour.



*Detail of drawing SK16.1*

As shown in SK42 and SK44, the portion of the building that causes the building envelope breach is generally not visible from street level and achieves the outcomes of the character as viewed from a public place control. The removal of the gable roof actually decreases the appearance of bulk and increases view, shown in SK44. Drawings SK16.1 and SK44 show that the volume of building envelope breach reduction from the removal of the gable roof is balanced by the volume of new breach from the first-floor addition. Finally, the increased side and rear setbacks mean the first floor recedes in the landscape when viewed from the water.

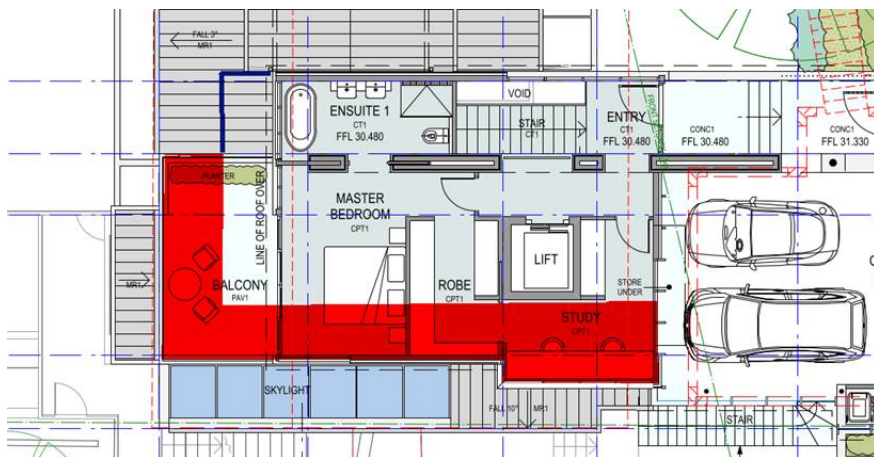




*Detail of drawing SK44*

#### **DDP suggestion to reduce first floor footprint**

The Development Determination Panel provided a mark-up as a suggested reduction in first floor footprint to allow the panel to consider approval. The suggested changes would be increasing the southern setback to the lift wall and changes to the balcony.



*DDP mark-up of first floor footprint reduction shown in red*

The suggested reduction in footprint would leave a first-floor area that could not be redesigned to provide the required amenity of the proposed design, which would significantly affect the viability of the first-floor addition. Additionally, the changes would not result in any benefit to neighbours or the public.

The proposed reduced footprint would not address the panel's perceived concerns about the four-storey development. It would remain as four storeys, even though it has been shown above that the proposed development is designed with setbacks to the west and south, so it does not present as four storeys from the water.

The issue of solar access was not raised as a reason for refusal, meaning the proposed development addresses this issue. This reduction in footprint will not alter this assessment.

The reduction in footprint would reduce the building envelope breach. However, it has been shown above that the proposed design does not result in an excessively bulky building, and that view sharing for pedestrians on Riverview Road is suitably achieved.

## **6.0 DEVELOPMENT CONTROLS**

The following legislation and planning documents are relevant to the assessment of the subject DA:

- Coastal Management Act 2016 and State Environmental Planning Policy (Coastal Management) 2018;
- State Environmental Planning Policy (BASIX) 2004;
- Pittwater Local Environmental Plan 2014;
- Pittwater 21 Development Control Plan.

## **6.1 ENVIRONMENTAL PLANNING INSTRUMENTS**

### **6.1.1 PITTWATER LOCAL ENVIRONMENT PLAN 2014**

The proposed development has been assessed against the clauses of the Pittwater LEP and the relevant clauses have been discussed below.

#### **Zone of land**

The site is zoned E4 Environmental Living under the Pittwater LEP. Alterations and additions to a dwelling house is permitted under this zoning with the consent of the consent authority.

#### **LEP Clause 4.3 – Height of buildings**

Maximum building height for the subject site is 8.5m. The proposed building complies with the 8.5m maximum building height.

## **6.2 PITTWATER DEVELOPMENT CONTROL PLAN**

#### **DCP Clause A4.1 – Avalon Beach Locality**

The proposed development achieves the desired future character of the Avalon Beach Locality in which it is located. The proposed development is designed to step down the slope of the land to integrate with the landform and landscape. The first-floor addition is set back from the existing rear building alignment, following the contours of the site. Similar to the design of development consent N0334/15, the proposed design results in a building that is three storeys in any one place. However, the proposed design has a highly articulated rear elevation compared with the three aligned storeys of the development consent. This serves to reduce the appearance of bulk when viewing the building from the water. Three and four storey developments are prevalent along the western side of



Riverview Road, with many being more prominent than the proposed development which is screened by existing trees.

The works do not extend beyond the Foreshore Building Line.

The use as a single dwelling house does not increase density to the locality.

Alterations and additions to an existing building ensures the building appears to sit among the trees on site. All works are below the tree canopy. The proposed development retains all significant trees, with the removal of only one smaller tree. The proposed materials harmonise with the natural environment, being timber and sandstone, with a neutral grey zinc roof.

The gardens to the rear are to be upgraded and integrated with the development. Significant sandstone outcrops and boulders are to be retained and featured in the proposed garden. The desire to keep these sandstone features is a primary driver of this proposed design, eliminating excavation to the lower level that could have an impact on these rocks. The proposed development also minimises the amount of hard landscape and impervious area, retaining the existing footprint and building over previously paved area. Native plants are proposed to be planted.

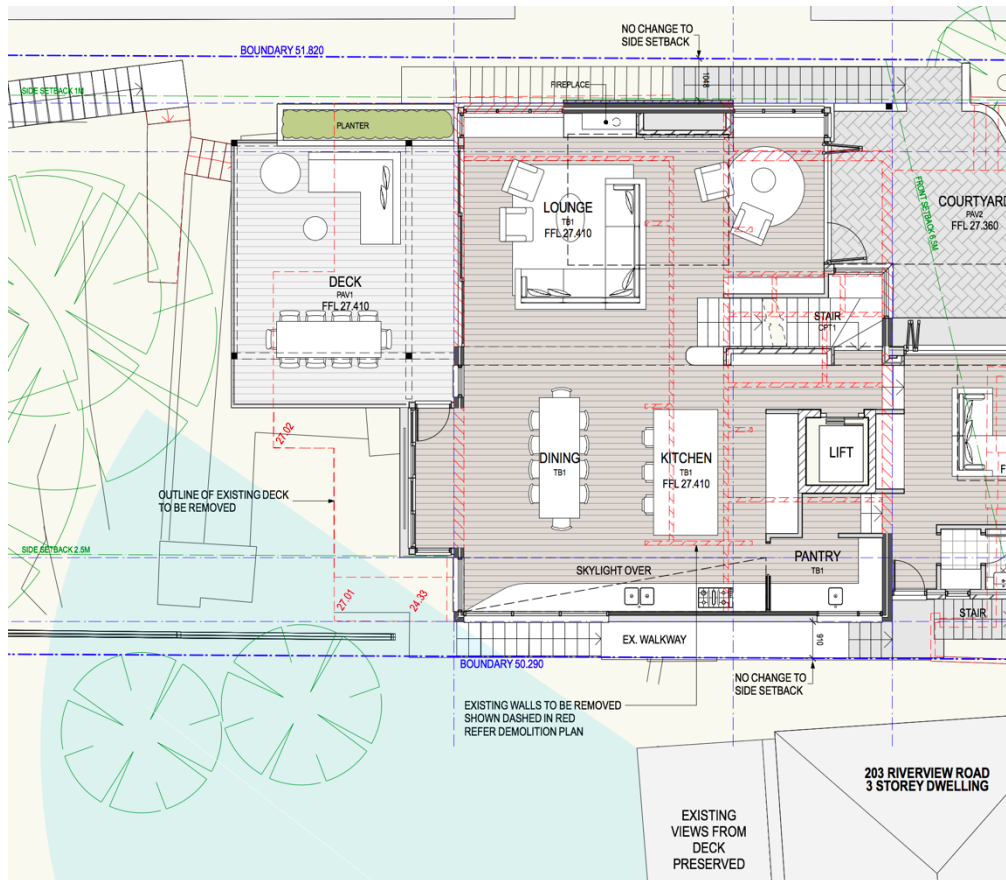
**DCP Clause C1.3 – View Sharing**

The upper storey addition is located entirely behind the footprint of the existing carport when viewed from the street. This ensures public views to Pittwater for pedestrians on Riverview Road is maintained to the north of the carport. A new roof over the existing ground floor level with a lower ridge level means the proposed design allows more public views than the existing condition.

It is noted that council have emphasised public views through the existing glazed panels to the carport doors. The proposed design will eliminate public views directly west due to the proposed master bedroom located behind the carport. However, we believe the proposed design offers a compromise in providing additional public view with the lowering of the roof ridge, and views through the carport are less desirable compared to the unobstructed view over the roof. Additionally, angled views to Pittwater through the carport are maintained with a lighter and more transparent carport structure.

There is minimal impact to views from neighbouring properties on the opposite side of Riverview Road. The houses of the properties opposite are elevated above the subject site and any impact of the development on views are assessed as negligible.

It is noted that there is concern from the neighbour at 203 Riverview Road that the previously approved design would have impact to the horizontal angle of views currently afforded with the existing building. The development consent required a reduction in width to the balcony in light of this. This proposed design aims to have no impact to the horizontal angle of view to the neighbour at 203 Riverview Road. The proposed deck is located to the north and all new development is located outside of the field of view restricted by the south-western corner of the existing building.



*Proposed Ground Floor Deck setback well back from the existing view line from the deck of 203 Riverview Road.*

#### **DCP Clause C1.5 – Visual Privacy**

The proposed development has been designed to minimise overlooking of neighbours. Windows to the side boundary have been minimised and are located primarily for solar access and views to Pittwater.

The elevated decks and balconies have been designed with increased side setbacks. A condition of development consent N0334/15 required amendment to the rear deck on the ground floor, increasing its setback to the southern boundary. The proposed design addresses this condition of consent relocating the rear deck to the northern side of the site and increasing the deck's southern setback to 6.1m, limiting overlooking of 203 Riverview Road. Planters for screening are incorporated in the design of the balcony on the first floor and the deck on the ground floor. There is no change to the deck on the Lower Ground Floor.

Privacy screening is to be installed to the northern side of the elevated external stair providing access to the lower parts of the site.

#### **DCP Clause D1.1 – Character as viewed from a public place**

The site currently has a carport at the street boundary that is forward of the building line, similar to most properties on the lower side of Riverview Road. The carport provides two off-street parking spaces and is a reasonable solution to providing parking on the steep site.

A carport is proposed to be built in the same location with a more transparent structure than the existing, with steel columns and a flat metal roof. This is consistent with the recommendations raised in the Pre-Lodgement Meeting. The carport has width less than 50% of the lot frontage. The carport is a carefully designed structure and does not dominate the street frontage.

**DCP Clause D1.4 – Scenic protection – General**

Similar to the approved design, the proposed development presents as three storeys when viewed from the water. However, the proposed design is more articulated than the approved design with depth variation between the three levels and within each level. The articulation and stepping in the rear façade will ensure the proposed development will not appear bulky. The development will not dominate and will sit among the large trees at the rear of the site.

**DCP Clause D1.11 – Building envelope**

The development controls specify a building envelope to the side boundary 45 degrees extending from 3.5m above existing ground level to the maximum building height. Similar to the building height control, a variation may be considered where the building footprint is situated on a slope greater than 16.7 degrees, which is the circumstance of this development.

The existing building does not comply with the building envelope control. This non-compliance occurs to both boundaries and is up to one storey in height at the south-western corner of the existing building. These portions of the building are to be retained so this non-compliance will remain.

The proposed additions have a minor non-compliance with the building envelope control to the southern elevation and have been designed to reduce the amount of non-compliance, primarily with a side setback to the southern boundary of 1.9m and 2.5m. As noted previously, the additions are located behind the existing carport to reduce impact on views, and the building steps and the roof is pitched to fall to the south to reduce overshadowing and the appearance of bulk. As discussed previously the additional overshadowing to the southern neighbour is minimal.

## **7.0 CONCLUSION**

The development application process for the proposal at 205 Riverview Road Avalon Beach has been a process of communication and consultation with council planners, starting with the pre-lodgement meeting. This resulted in changes to the design along the way that were understood by the owner to be a compromise between providing amenity for them, while ensuring amenity for the neighbours and the public. The recommendation for approval from council planner, Catriona Shirley, was welcomed.

The news that the recommendation for approval was overturned by the Development Determination Panel was surprising given the consultation with council and the changes made. The panel's discussion has been noted in the minutes and the reasons for refusal. However, these reasons have been refuted in the preceding report.

The proposed development is a carefully considered design and addresses the interests of council, neighbours and the public, while providing the amenity for the occupants of the home.