

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1682
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Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot 171 DP 709495, 14 Prince Alfred Parade NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Corri Jane Marshall Stene Marshall
Applicant:	Grant Vallack

Application Lodged:	20/09/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	28/09/2021 to 12/10/2021
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 228,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Construction of and storage area, workshop and cellar;
- Construction of elevated carport above storage area; and
- Alterations and additions of internal driveway.

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 - B6.2 Internal Driveways

Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D10.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D10.4 Building colours and materials

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 171 DP 709495 , 14 Prince Alfred Parade NEWPORT NSW 2106
Detailed Site Description:	The subject site consists of one (1) allotment located on the western side of Prince Alfred Parade. The site is irregular in shape with a frontage of 20.18m along Prince Alfred Parade and a maximum depth of 58.0m. The site has a surveyed area of 1121m². The site is located within the C4 Environmental Living zone from PLEP 2014 and accommodates a dwelling house, swimming pool and concrete slab. The site slopes from the front eastern boundary downwards to the rear western boundary over approximately 16 metres. The site contains existing garden beds, hedges and trees. The site contains Pittwater Spotted Gum trees that are an

Endangered Ecological Community.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential dwelling houses varying in architectural design and style. The subject site provides a right of accessway to No.14A Prince Alfred Parade that is located to the west.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

EPA2020/0021

Investigation of building works comprising of concrete slab, retaining walls, and tree removal.

BC2020/0167

Building Information Certificate for Reconstruction of a concrete slab hard stand and retaining wall to the southern elevation of the property.

Dated 14 December 2020.

Application History

Following the preliminary assessment of the application, Council requested that the applicant submit additional information including an Arboricultural Impact Report, Geotechnical Report, Section Plan, and Certified Shadow Diagrams. It is noted that Council's Landscape Officer confirmed an Arboricultural Impact Report was not required as the proposed works were not impacting upon any existing trees and in this instance a condition was imposed for the requirement of a Project Arborist.

Further requirements were requested from Council's Development Engineering Officer including, a Long Section, Plans detailing the driveway and carport joining the right of way, engineering long

sections for the proposed driveway and Owners consent from all benefitting parties of the right of way. The applicant was provide three opportunities to provide further information to Council's Development Engineering Officer.

Submissions were received with concerns surrounding the proposal, particularly with concerns surrounding the elevated walkway and lift structure. During Council's preliminary assessment the raised concerns surrounding the non-compliance with Clause 4.3 Height of Building under the Pittwater Local Environmental Plan 2014 (PLEP 2014) and non-compliance with the Objectives of the C4 Environmental Living Zone (PLEP 2014) were reviewed. Additionally, the proposal did not comply with the Newport Locality (A4.10) desired future character under the P21 Development Control Plan (P21 DCP) and Incline Passenger Lifts and Stairways (C1.19) of the P21 DCP.

Subsequently, the applicants amended the plans by firstly altering the location of the elevated walkway and lift and finally deleting the elevated walkway and lift structure from the proposal. The amended plans that deleted the elevated walkway and lift structure were provided to the submitters via email correspondence on 8 November 2021. One submitted raised further comments and these will be discussed within the submission section of this report.

As the Amended Plans constituted a reduced environmental impact, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

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 21 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)	<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. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 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.

Section 4.15 Matters for Consideration	Comments
	<u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to an Arboricultural Impact Report, Geotechnical Report, Section Plan, Certified Shadow Diagrams, Driveway Plans, Engineering Long Sections and Owners Consent for Right of Way. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <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. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
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 Matters for Consideration	Comments
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 28/09/2021 to 12/10/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mr Andrew Ranucci	145 Health Road PRETTY BEACH NSW 2257
BBF Town Planners	1 / 9 Narabang Way BELROSE NSW 2085
Bruce Hamer	16 Prince Alfred Parade NEWPORT NSW 2106

The following issues were raised in the submissions and each have been addressed below:

- **Hardstand Car Space**
- **Height of Buildings/Clause 4.6 Request**
- **Privacy/Newport Locality Character**
- **Excavation**
- **Carport**
- **Boundary Identification Survey**
- **Solar Access**
- **Visual Privacy**

The matters raised within the submissions are addressed as follows:

Hardstand Space

Comment: A submission has raised concerns surrounding a hardstand space located along the northern boundary between No.14 Prince Alfred Parade and No.16 Prince Alfred Parade. As the hardstand space is not proposed or identified within the current Development Application a separate investigation is currently underway (Reference: BLD2021/02535).

Height of Buildings/Clause 4.6 Request

Comment: A submission has raised concerns surrounding the height of building and Clause 4.6 request. It is noted under Site History that the Development Application originally included a lift structure and elevated walkway. The applicant subsequently provide amended plans removing the lift

structure and elevated walkway after Council's preliminary assessment. The amended plans were provided to the submitters for further comments. In summary, the amended master plans are compliant with Clause 4.3 Height of Buildings of Pittwater Local Environmental Plan 2014 and a Clause 4.6 request is not required.

Privacy/Newport Locality Character

Comment: A submission raised concerns in relation to the privacy and Newport locality character as a result of the elevated walkway and lift. As these elements of the proposal and have been deleted, these concerns are no longer relevant.

Excavation

Comment: A submission raised concerns in relation to the requirement for a Geotechnical Report. After Council's preliminary assessment, the applicant was requested to provide a Geotechnical Report as the subject site is located in Geotechnical Hazard H1 as identified under Clause 7.7 of Pittwater Local Environmental Plan 2014. The applicant provided a Geotechnical Report and Council's Development Engineering Officer has reviewed the Geotechnical Report and imposed appropriate conditions in accordance with Appendix 5 of the Pittwater 21 DCP.

Carport

Comment: A submission raised concerns surrounding the access to the carport. The applicant provided additional plans and engineering plans as requested by Council's Development Engineer Officer to indicate the access from the existing right of access.

Additional concerns are raised in relation to the storage area, and the proposed bulk and scale. The carport and storage area have been assessed under the Built Form Controls and whilst there is a minor encroachment outside the building envelope, the structure is supportable. Further details surrounding the Building Envelope is discussed under Clause D10.11 of this report.

Additional concern has been raised in relation to the landscape characteristics of the site. Further details surrounding the landscape area is outlined under Clause D10.13 of this report. In summary, the proposed landscape area is supportable and it is noted that the site is heavily constrained due to the right of way that winds through the site providing vehicular access to No.14A Prince Alfred Parade.

Boundary Identification Survey

Comment: A submission has raised concerns surrounding the provided Boundary Identification Survey indicating that the survey is inaccurate. A condition has been imposed for a Boundary Identification Survey to be undertaken prior to the issuance of a Construction Certificate.

Concern has been raised that existing Pittwater Spotted Gum trees have not been indicated on the survey. As discussed by Council's Landscape Officer an Arboricultural Impact Assessment is not required and a condition has been imposed to ensure during works that a Project Arborist is engaged to ensure protection of the existing trees.

Solar Access

Comment: A submission has raised concerns surrounding overshadowing to a bedroom located on the northern façade of NO.12A Prince Alfred Parade. Solar access is discussed in further detail under Clause C1.4 of this report. In summary, the solar access to the window of a bedroom is not a requirement and is inclusive of main private open space and windows to principal living areas.

Visual Privacy

Comment: A submission has raised concern regarding visual privacy from the window in the storage area. Visual privacy is discussed in detail under Clause C1.5 of this report. In summary, a condition has been imposed for the Window S1 to be glazed to mitigate any privacy concerns.

Concern has been raised in relation to the privacy from the carport to the bedroom of No.12A Prince Alfred Parade and this has been discussed in further detail under Clause C1.5 of this report. In summary, as the carport is not a habitable area and will be used for the parking of vehicles, is is not reasonable for privacy screens as it will not be a prolonged area of use.

Additional concern has raised in relation to the privacy from the elevated walkway, however this element has been deleted from the proposal and therefore the concerns are no longer relevant.

Concluding Comments

In summary, the concerns raised have been addressed and do not warrant the refusal of the proposed application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal is for a carport, storage and lift addition to the frontage of an existing dwelling. The proposed carport and storage area occupies an existing hardstand area, built in proximity to a large Spotted Gum. The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the E4 Environmental Living zone. No arboricultural information is provided on the impact to the Spotted Gum from the recently completed hardstand slab works and concern is raised that further works as proposed may impact upon the Spotted Gum. Under Council's DA Lodgement Requirements, a Arboricultural Impact Statement is required when development proposals are within 5 metres of proposed development works. A condition shall be imposed for the engagement of a Project Arborist to provide inspection of the existing Spotted Gum near the proposed works at the commencement of the works and provide any arboricultural advice during construction works, followed by reporting on the condition of the Spotted Gum at the completion of the works.
NECC (Bushland and Biodiversity)	The application seeks approval for alterations and additions to an existing dwelling, including the construction of a covered carport, occupant lift & associated access, lockable storage garaging below carport. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including: Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Coastal Management) 2018

Internal Referral Body	Comments
	- Proximity to Littoral Rainforest - Coastal Environment Area Pittwater Local Environmental Plan (PLEP) 7.6 Biodiversity Protection Pittwater Development Control Plan (PDCP) - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <u>Updated Recommendation - 11/11/2021</u> The proposed retaining wall has been deleted within amended plans, and no works are to be undertaken within 5m of the high-value <i>Corymbia maculata</i> in the east of the property. The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls. <u>Original Recommendation - 12/10/2021</u> The submitted Statement of Environmental Effects notes that no trees will be removed as part of the proposed development, a statement which is supported by the submitted plans. No Arboricultural Impact Assessment has been submitted as a part of the application which is required to assess impacts to all trees within 5m of the proposed development. Of particular concern is the proposed retaining wall located to the north of the concrete slab (garage) which appears to be located within or in proximity to the Structural Root Zone of a high-value <i>Corymbia maculata</i>. Submission of an Arboricultural Impact Assessment is required to quantify impacts to the tree, feasibility of retention during construction and long-term viability. <i>Corymbia maculata</i> are a diagnostic species of <i>Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion – endangered ecological community</i>, and the removal of a large specimen for the purposes of a retaining wall will not be supported by Council's Biodiversity Referral Team in accordance with the controls listed in B4.7 of the PDCP. Should an AQF5 Arborist determine that the retention of the tree with the current design will be infeasible, an alternate design should be sought that allows retention of the tree. On receipt of the Arboricultural Report, the Biodiversity Referral Team can reassess the application.
NECC (Development Engineering)	The proposal is for storage, carport and lift over the footprint of the existing concrete slab.

Internal Referral Body	Comments
	<u>Carport</u> The SEE report states that the carport is located at the first floor with the storage area on the ground floor however, the architectural plans shows parking on the ground floor but states carport on the first floor. As the access to the proposed carport is via the existing right of carriageway it is unclear how the carport can be on the first floor with significant level differences. The plans are to clearly indicate the proposed location of the carport and show the proposed levels. A long section is to be provided for the access to the carport from the right of carriageway. The gradient for the access driveway off the existing right of carriageway are to be in accordance with AS2890.1 <u>Geotechnical</u> The site is located within the H1 hazard area and as such a geotechnical engineers report and Forms 1 & 1A are required to be submitted in accordance with Geotechnical Risk Management Policy for Pittwater – 2009. The proposed application cannot be supported by Development Engineering due to lack of information to address: • <i>Vehicle access for the development</i> • <i>Geotechnical Hazard</i> Additional Information Provided On 8/11/2021 <u>Geotechnical</u> Geotechnical report and Forms have been provided in accordance with Pittwater DCP. <u>Carport</u> Insufficient information has been provided with regard to the proposed access driveway and carport. It is unclear where the access driveway is connecting to the existing Right of Way. The following additional information is required to before assessment: 1. Plan showing the location of the future driveway leading to the carport. Plans are to indicate clearly at which location the proposed access driveway to the carport joins the right of way 2. The plans are to indicate if a separate access off the right of way is proposed for the storage area in the ground floor. 3. Three engineering long sections for the proposed driveway leading to the carport. The long sections are to be provided at both edges and the centerline of the proposed access driveway and demonstrate compliance with AS2890.1. The sections are to include distances as well as the proposed and existing levels. 4. Any alterations to the existing levels of the right of way will require consent from all benefitting parties.

Internal Referral Body	Comments
	Additional Information Provided on 21/12/2021 The long section provided is not satisfactory. Each long section should be taken along the travel path (Wheel Path) of the vehicle from the gutter invert to the proposed parking facility. The applicant also proposed to retain the existing right of way. However, the changing grade between the existing ROW and the new driveway exceed the maximum super elevation of a driveway in accordance with AS 2890. 1. The applicant's consultant must demonstrate the safety of the vehicle when entering and exiting the proposed carport. Furthermore, the turning path of the vehicle must be entirely within the private property. It is recommended turning paths be provided to demonstrate vehicle maneuvers. Additional Information Provided on 28/1/2022 The long sections provided indicates the the crossfall across each wheel path exceeds 20%. In general the crossfall should not be greater than 10%. The 20% and greater crossfall raises safety concerns when the car is turning into the garage. Details are provided to planner via email. The proposed application cannot be supported by Development Engineering due to lack of information to address: • <i>Vehicle access for the development.</i>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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 Practice. These recommendations will be included as a condition of consent.

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.A408695_03 dated 8 September 2021).

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 who provided a response on 10 December 2021 stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 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 clause has been assessed against the subject site and the proposed development.
The proposed development is not located on land identified as "coastal wetlands" or "littoral rainforest".

11 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:

This clause has been assessed against the subject site and the proposed development.
The proposed development is not located on land identified as "proximity area for coastal wetlands".

The proposed development is located on land identified as "proximity area for littoral rainforest".
Notwithstanding, the proposed development will not significantly impact on the biophysical, hydrological, ecological integrity, or surface and ground water flows of the adjacent littoral rainforest.

12 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 other land, and*
 - (ii) *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*
 - (iii) *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:

This clause has been assessed against the subject site and the proposed development.
The proposed development is not located on land identified as “coastal vulnerability area”.

13 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:

This clause has been assessed against the subject site and the proposed development.
No issues were raised in relation to the proposed development and the land being within a "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 subclause (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:

This clause has been assessed against the subject site and the proposed development. No issues were raised in relation to the proposed development and the land being within a "coastal environment area".

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:

This clause has been assessed against the subject site and the proposed development. No issues were raised in relation to the proposed development and the land being within a "coastal use area".

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:

This clause has been assessed against the subject site and it is determined the proposed development will not result in an increased risk to coastal hazards.

As such, it is considered that the application does comply with the requirements 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:	8.5m	6.6m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	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 (East)	5.7m	12.31% (0.8m)	No
Rear building line	6.5m (West)	35.2m	-	Yes
Side building line	2.5m (North)	9.1m	-	Yes
	1m (South)	1.4m	-	Yes
Building envelope	3.5m (North)	Within envelope	-	Yes
	3.5m (South)	Outside envelope	32.65% (1.6m)	No
Landscaped area	60% (672.6m ²)	Landscape: 29.40% (329.6m ²) Impervious Landscape Treatments: 6% (67.2m ²) Total: 35.4% (396.8m ²)	41% (275.8m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
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	No	No
B6.3 Off-Street Vehicle Parking Requirements	Yes	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
B8.5 Construction and Demolition - Works in the Public Domain	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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
D10.1 Character as viewed from a public place	No	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B6.2 Internal Driveways

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 B6.2 Internal Driveways of the Pittwater 21 Development Control Plan.

As outlined by Council's Development Engineer, the long sections provided indicates the the crossfall across each wheel path exceeds 20% (see Figure 1). In general the crossfall should not be greater than 10%. The 20% and greater crossfall raises safety concerns when the car is turning into the garage. The proposed application cannot be supported by Development Engineering due to lack of information to address vehicle access for the development. See further discussion from Council's Development Engineer under Internal Referrals in this report.

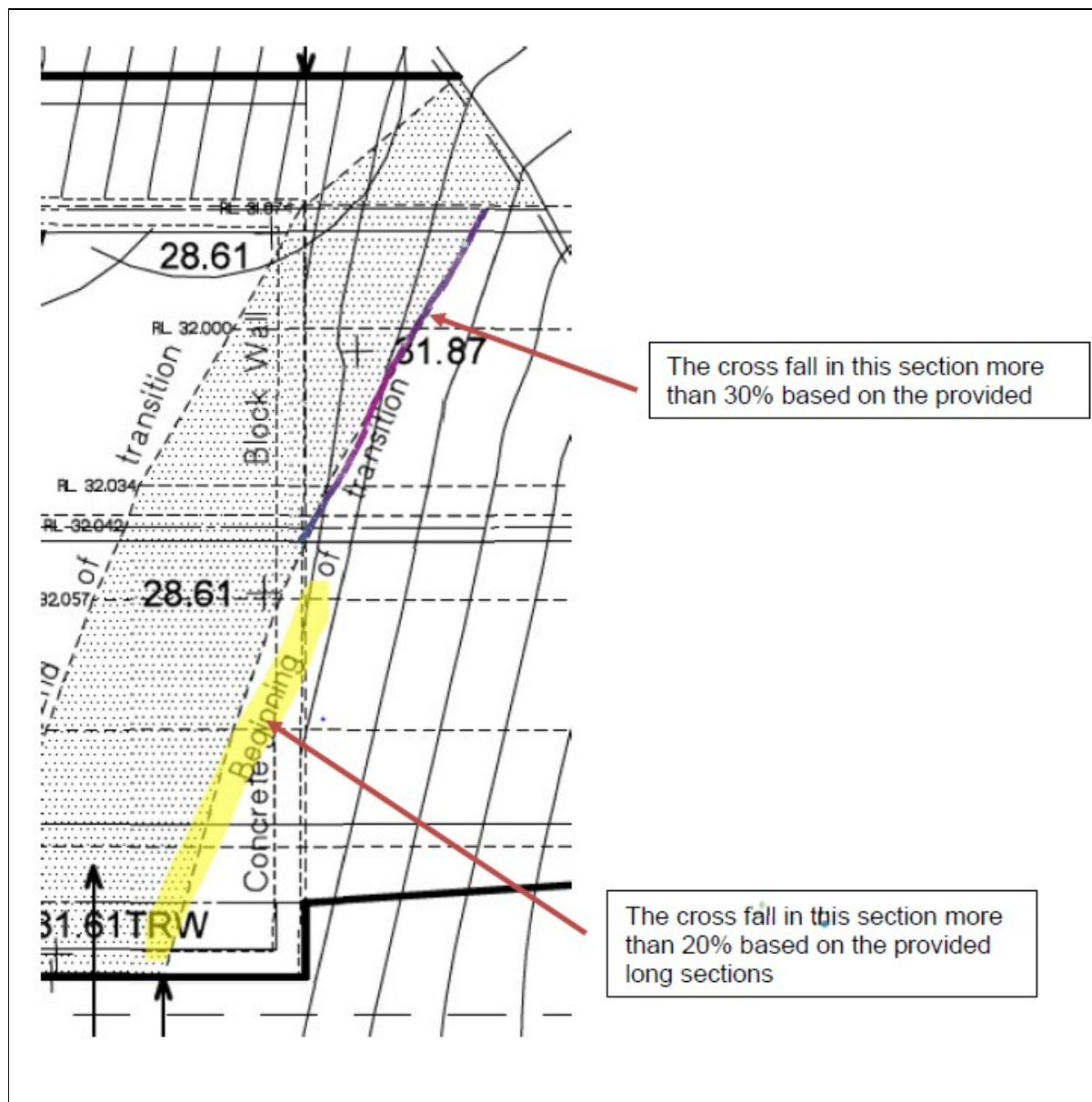


Figure 1. Annotated Engineering Plans

It is important to note, the applicant has been given three opportunities to provide information to demonstrate compliance with Clause B6.2 Internal Driveways of the Pittwater 21 Development Control Plan. Therefore, in this instance the application is not supportable as the requirements of Clause B6.2 Internal Driveways of Pittwater 21 Development Control Plan have not been demonstrated.

C1.4 Solar Access

A submission has raised concerns in relation to overshadowing to a bedroom located along the northern façade of No.12A Prince Alfred Parade.

Under Clause C1.4 of P21 DCP the requirements for solar access is limited to the private open space of each dwelling and the windows of principal living areas. Specifically it is outlined as per the below:

- *The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.*
- *Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).*

Shadow diagrams have been prepared by a suitably qualified person to assist with the assessment of solar access. As the proposal does not impact on the existing private open space or a window of the principal living area of the proposal, the carport structure is compliant with the control. Windows of bedrooms are not addressed in the control and therefore, bedroom windows are not required to comply with solar access requirements outlined under Clause C1.4.

C1.5 Visual Privacy

A submission has raised concerns in relation to the visual privacy from Window S1 located in the proposed storage room to the bedroom window at No.12A Prince Alfred Parade that is approximately 5.7 metres in distance.

In accordance with C1.5 of P 21 DCP, direct views of private open space or any habitable room window within 9m can be restricted by fixed opaque glazing to mitigate privacy concerns. Therefore, a condition has been imposed to require Window S1 to be glazed.

Additional concern has been raised in relation to the visual privacy from the proposed carport to the bedroom window at No.12A Prince Alfred Parade that is approximately 5.6 metres in distance. The use of a carport is for the storage of vehicles and as this is not a habitable room, it is not considered that use of this area would be for extended periods of time. The carport would be used for entering and exiting vehicles and therefore, it is not appropriate to require privacy screening in this instance. The openness of the carport allows for view sharing and reduces the bulk and scale of the carport structure.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

D10.1 Character as viewed from a public place

Description of non-compliance

Clause D10.1 of the Pittwater 21 DCP stipulates that parking structures should be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser. The proposed carport is within the front setback area and measures less than half the width of the site (8.9m of 20.18m), however is greater than the prescribed 7.5 metres.

It is important to note that due to the steep topography of the site, the requirement outlined under Clause D10.1 of the Pittwater 21 DCP states that garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place. Due to the steep topography the carport structure is not considered to be dominant when viewed from the streetscape as outlined in Figure 1.

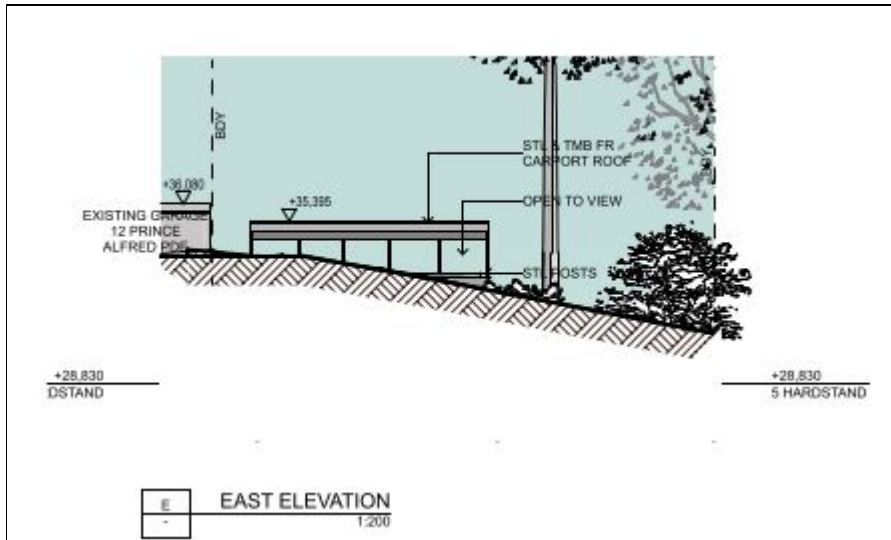


Figure 1. East Elevation

Merit consideration

The proximity of the carport to the front boundary line is assessed in this report under Clause D10.7 and a secondary assessment on this clause (which addresses the same objectives) is not required. In summary, the location of the carport is considered to be consistent with Clause D10.1 and is consistent with the character as viewed from a public place.

D10.4 Building colours and materials

Part D10.4 of the P21 DCP requires external colours and materials to be dark and earthy tones. The development drawings do not depict the specific external colours and materials to be used and there was no schedule of materials and colours provided with the application.

However, it is considered that appropriate conditions could be imposed to ensure the building is an appropriate colour.

D10.7 Front building line (excluding Newport Commercial Centre)

Description of non-compliance

Clause D10.7 of Pittwater 21 Development Control Plan 2014 prescribes a front setback of 6.5m or established building line, whichever is greater. As the building line in the immediate vicinity varies, the 6.5m setback shall apply.

The proposed carport is located 5.7 from the front building line resulting in a 12.31% variation.

In this instance a variation to the front building line is considered to be supportable as the outcomes of the control have been met as outlined below.

Merit consideration

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

Achieve the desired future character of the Locality.

Comment

The proposal is consistent with the desired future character of the Newport Locality.

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

Comment

The proposed carport is an open structure with a flat roof that has preserved views and vistas to and/or from public/private places.

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

Comment

The residential development does not adjoin a main road, therefore this outcome is not relevant.

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

Comment

There is no removal of any significant vegetation with the proposed development as the works are located above an existing hard stand space approved under BC2020/0167.

Vehicle manoeuvring in a forward direction is facilitated.

Comment

Council's Development Engineer has assessed the proposal with respect to vehicular access and raised no objections in relation to vehicle manoeuvring in a backward direct, subject to conditions. Therefore, the proposal is considered acceptable in this regard.

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

Comment

As outlined under Clause D10.1 of this report, the existing streetscape is enhanced and promotes a scale and density consistent with the height of the natural environment. The proposed carport is below the existing natural canopy line and due to the steep topography of the site, the proposal is not dominant when viewed from the streetscape.

To encourage attractive street frontages and improve pedestrian amenity.

Comment

The proposal encourages an attractive street frontage and is sympathetic to the character of the locality. The proposed development retains existing pedestrian amenity.

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

Comment

The proposed development responds to, reinforces, and sensitively relates to the spatial characteristics

of the existing urban environment in that its height, bulk and scale are consistent with surrounding parking facilities within the front setback.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of non-compliance

The building envelope on the southern elevation is outside the building envelope (see Figure 2) with a variation of 32.65% (1.6 metres in height over a horizontal length of 5.7 metres).

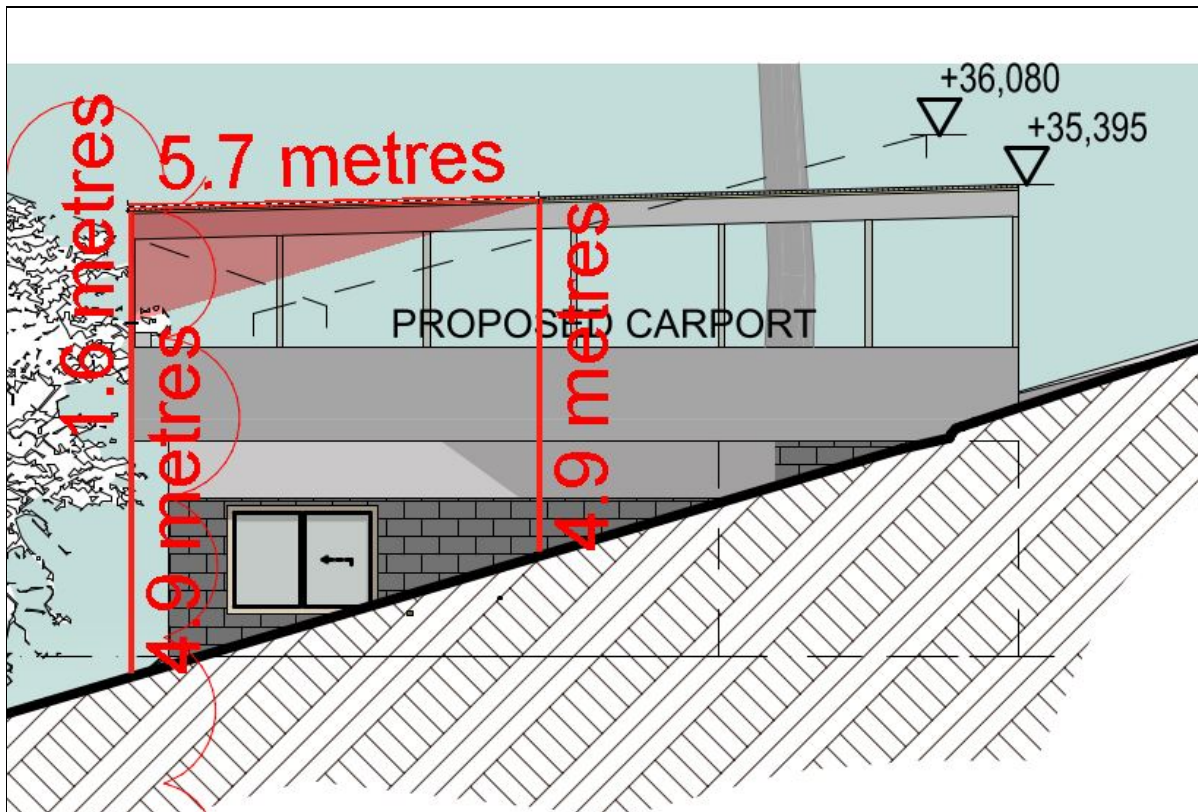


Figure 2. South Elevation

Under Part D10.11 of Pittwater 21 DCP buildings are to be sited within planes projected at 45 degrees from a height of 3.5m above ground level (existing) at the side boundaries to the maximum building height.

However, as the building footprint has a slope of approximately 30.64% which is greater than 16.7 degrees (30%), variation to this control will be considered on a merits basis.

Merit assessment

With regard to the consideration 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 proposal is consistent with the desired future character of the Newport Locality.

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 proposal enhances the existing streetscapes and the height of the carport is below the height of the tree canopy and compliant with the height of buildings development standard.

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

Comment

The proposal responds to, reinforces, and sensitively relates to the spatial characteristics of the natural environment as no significant vegetation is removed with the proposed structure.

The bulk and scale of the built form is minimised.

Comment

The bulk and scale of the built form is minimised as the carport structure is open on all sides. The openness of the carport produces a lightweight structure that reduces any unreasonable scale and bulk.

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

Comment

As the carport structure is open with a flat roof, the preservation of views and vistas to and/or from public/private places have been maintained.

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

Comment

A reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. Privacy concern has been raised in a submission and this has been addressed by the imposition of a condition to require the window to be glazed. Amenity levels have been maintained for both the residents and adjoining properties. As depicted with the provided shadow diagrams the proposed development is compliant with Clause C1.4 of Pittwater 21 DCP.

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

Comment

The proposal does not remove any significant vegetation.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

Clause 10.13 of Pittwater 21 DCP requires a total landscaped area of 60% of the site area.

Provided the outcomes of the control are achieved impervious areas less than 1 metre in width and up to 6% of the total site area may be provided as impervious landscape treatments.

In this instance, the proposed total landscape area comprises of landscaped area and impervious landscape treatments that equates to 35.4% (396.8m²) resulting in a variation of 41% (275.8m²). It is important to note the site has an existing numerical non-compliant landscape area of 37.84% (424.2m²)

with the proposal resulting in decrease of total landscape area of 27.4m². The subject site is heavily constrained by the right of accessway that winds through the subject site providing vehicular access to No.14A Prince Alfred Parade (located directly west to the subject site).

In this circumstance, the proposal is considered to be supportable as the proposal is consistent with the outcomes of the control as outlined below.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Outcomes of the Control as follows:

Achieve the desired future character of the Locality.

Comment

The proposal is consistent with the desired future character of the Newport Locality.

The bulk and scale of the built form is minimised.

Comment

The proposal minimises the bulk and scale of the built form as the carport is below the maximum height of buildings and compliant with the building envelope control as outlined further under Clause D10.11 of this report.

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

Comment

A reasonable level of amenity and solar access is provided and maintained with the proposed development.

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

Comment

There is no significant vegetation removed with the proposed development and existing vegetation assists with the reduction of the visual built form.

Conservation of natural vegetation and biodiversity.

Comment

The natural vegetation and biodiversity of the site is conserved and as outlined by Council's Landscape Officer, a condition has been imposed for a Project Arborist to be engaged for the duration of the works.

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

Comment

It is considered that adequate soft landscaped area is maintained to reduce stormwater runoff, prevent soil erosion and siltation of natural drainage channels.

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

Comment

The subject site is not considered to be rural and of bushland character. Therefore this outcome is not

relevant.

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

Comment

The soft surface has been maximised to provide for infiltration of water to the water table and to minimise run-off to assist with stormwater management.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$2,285 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$228,500.

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:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent 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 DA2021/1682 for the Alterations and additions to a dwelling house on land at Lot 171 DP 709495, 14 Prince Alfred Parade, NEWPORT, for the reasons outlined as follows:

1. The proposed driveway is inconsistent with the provisions of Australian Standard AS/NZS 2890.1-2004: *Parking Facilities - Off-Street Car Parking*, and in turn, is non-compliant with the requirements and outcomes of clause B6.2 (Internal Driveways) of *Pittwater 21 Development Control Plan*.

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

Signed



Stephanie Gelder, Planner

The application is determined on 10/02/2022, under the delegated authority of:



Rebecca Englund, Manager Development Assessments