

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1194
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Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot 13 DP 14017, 618 Barrenjoey Road AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house including a carport
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Cristina Gomes

Application Lodged:	12/09/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	24/09/2024 to 08/10/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 885,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the the demolition of the existing residential dwelling and construction of a new residential dwelling incorporating the following:

Ground Floor

- Double carport;
- New permeable driveway;
- Entry and internal access;
- Bathroom and laundry;
- Bedroom 1 and ensuite;
- Kitchen, pantry, dining room and living room;
- Media room;

- Rear balcony;
- New side access to replace existing access to secondary dwelling;

First Floor

- Internal access;
- Study;
- Bedroom 2 and ensuite;
- Bedroom 3 and ensuite;
- Master Bedroom with walk in robe, ensuite and rear facing balcony; and

Roof

- 3 skylights.

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

Assessment - Concurrence - Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.118

Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality

Pittwater 21 Development Control Plan - B5.15 Stormwater

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.23 Eaves

Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D1.13 Landscaped Area - General
Pittwater 21 Development Control Plan - D1.15 Fences - General

SITE DESCRIPTION

Property Description:	Lot 13 DP 14017 , 618 Barrenjoey Road AVALON BEACH NSW 2107
Detailed Site Description:	The subject site consists of one (1) allotment located on the south-eastern side of Barrenjoey Road. The site is regular in shape with a frontage of 12.19m along Barrenjoey Road and a depth of 40.23m. The site has a surveyed area of 490.4m². The site is located within the R2 Low Density Residential zone from PLEP 2014 and accommodates a dwelling house, and secondary dwelling currently on the site. The site slopes gently from the front north-western boundary downwards to the rear south-eastern boundary over approximately 1 metre. The site contains trees, palms, and grass areas. 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.

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:

CDC2021/0033

Complying Development Certificate for Construction of a secondary dwelling.
Approved on 19 January 2021.

FOC2021/0662

Final Occupation Certificate for Construction of a secondary dwelling.
Approved on 8 June 2021.

BC2022/0134

Building Information Certificate for A 28 sqm pergola on the northern side of an approved secondary dwelling.
Approved on 2 November 2022.

APPLICATION HISTORY

Following the preliminary assessment of the application, additional information was requested on 10 October 2024 in relation to Clause C1.5 Visual Privacy of Pittwater 21 Development Control Plan, Clause D1.8 Front building line of Pittwater 21 Development Control Plan, Clause D1.9 Side and rear building line of Pittwater 21 Development Control Plan, Clause D1.11 Building envelope of Pittwater 21 Development Control Plan, Clause D1.13 Landscaped Area – General of Pittwater 21 Development Control Plan, Clause C1.1 Landscaping of Pittwater 21 Development Control Plan, and Clause D1.5 Building colours and materials of Pittwater 21 Development Control Plan. Further information was requested from Council's Development Engineer in relation to stormwater disposal.

On 11 November 2024, the applicant submitted amended Master Plans, amended Landscape Plans, amended NatHERS Certificate, amended BASIX Certificate, amended Stormwater Plans, Applicant Response Letter to Council's RFI, and Town Planner Response Letter to Council's RFI. The amended documentation was re-referred to Council's Development Engineer for review.

The amended plans constitute a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP). Notwithstanding the provisions of the CPP, the objecting property was informed of the amended plans via written email correspondence.

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	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
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 2021 (EP&A Regulation 2021)	<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 can be addressed via a condition of consent, if the application were to be approved. <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. <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 Clause C1.5 Visual Privacy of Pittwater 21 Development Control Plan, Clause D1.8 Front building line of Pittwater 21 Development Control Plan, Clause D1.9 Side and rear building line of Pittwater 21 Development Control Plan, Clause D1.11 Building envelope of Pittwater 21 Development Control Plan, Clause D1.13 Landscaped Area – General of Pittwater 21 Development Control Plan, Clause C1.1 Landscaping of Pittwater 21 Development Control Plan, and Clause D1.5 Building colours and materials of Pittwater 21 Development Control Plan. Further information was requested from Council's Development Engineer in relation to stormwater disposal. <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 can be addressed via a condition of consent, if the application were to be approved. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent, if the application were to be approved. <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.

Section 4.15 Matters for Consideration	Comments
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 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirements of the side building line control and building envelope control and will result in a development which will create an undesirable precedent such that it would be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be 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 application has been publicly exhibited from 24/09/2024 to 08/10/2024 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Felicity Ann Bonello	12 Elaine Avenue AVALON BEACH NSW 2107

The following issues were raised in the submissions:

- **Visual Privacy**

The submissions raised concerns surrounding visual privacy in relation to the proposed rear balcony and proposed rear windows of the proposed dwelling house.

Comment:

A detailed assessment has been conducted under Clause C1.5 Visual Privacy of Pittwater 21 Development Control Plan contained within this report. In summary, it is considered that due to the significant setback from the proposed rear of the dwelling house and the adjoining site to the south-east, the proposal would not result in any unacceptable privacy impacts.

- **Building Envelope**

The submissions raised concerns surrounding the building envelope, and the proposed second storey sitting outside of the building envelope.

Comment:

A detailed assessment has been conducted under Clause D1.11 Building envelope of Pittwater 21 Development Control Plan contained within this report. The proposed variations to the building envelope control are not supportable, and the non-compliance with this control will form part of the reasons for refusal.

- **Size of Dwelling House/Buildable Area**

The submissions raised concerns that the proposed dwelling house presents a large dwelling house that is beyond the buildable area.

Comment:

Drawing No.DA6.01, Revision B prepared by Cristina Gomes details the allowable buildable area in relation to required setbacks. The proposed dwelling house is inconsistent with Clause D1.9 Side and rear building line of Pittwater 21 Development Control Plan, and Clause D1.13 Landscaped Area - General of Pittwater 21 Development Control Plan that is representative of an overdevelopment of the site. The non-compliances with these controls will form part of the reasons for refusal.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application seeks consent for: Demolition works and construction of a dwelling house including a carport. The provision of a double carport in the front setback, behind a row of existing trees is noted. Retention of the trees at the front of the site is supported as they provide a dense screen to the property. Construction of a carport with direct access off the road would likely require removal of some or all

Internal Referral Body	Comments
	of the trees. The configuration proposed provides for a design that enables retention of the trees, which is supported. No objections are raised regarding landscape issues subject to conditions.
NECC (Development Engineering)	21/11/2024: Amended architectural plans with vehicle swept paths and amended stormwater plans with level information are provided. Concept drainage plans prepared by Mesh Group Pty Ltd, drawing number STW00 to STW04, Issue A dated 10/06/2024 shows an onsite stormwater detention tank underneath carport, no details of orifice plate to control final discharge from this tank is provided, simultaneously an absorption trench (soak away trench) is also proposed, Consultant engineer to explain. - the purpose of this trench - provide concurrence from geotechnical engineer on soil infiltration rate - any absorption system designed to cater granny flat behind needs to be designed as per Appendix 3 of Council's Water Management for Development Policy - details of orifice plate to control flows from OSD tank 10/10/2024: Development Application is for demolition works and construction of a dwelling house including a carport. Access Proposal is to retain existing driveway and construct a double carport at front. Applicant to provide swept paths showing both cars (B85) can maneuver independently. Site adjoins classified Road under care and control of Transport for NSW. A letter by TfNSW is provided TfNSW Reference: SYD24-01641/01, Dated 1st October 2024. Stormwater - Proposal is for a new stormwater pit and pipe within State Road Corridor which will be connected to existing stormwater pit within Barrenjoey Road (along frontage of No. 614 Barrenjoey Road). This pit is an asset of TfNSW. A letter by TfNSW is provided. TfNSW Reference: SYD24-01641/01, Dated 1st October 2024. This letter demands submission of Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system that impact upon Barrenjoey Road are to be submitted to TfNSW for approval, prior to the commencement of any work. This will be conditioned accordingly. - Stormwater plans by Mesh Group Pty Ltd, dated 10/06/2024 also shows internal stormwater setup (on-site detention system is proposed), these plans lacks level information.

Internal Referral Body	Comments
	Consultant hydraulic engineer to provide amended plans with level information and OSD calculations.

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 Practice. These recommendations will be included as a condition of consent, if the application were to be approved.

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.1761168S_03 dated 22 August 2024).

A condition can be included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate, if the application were to be approved.

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 that can be included if the application were to be approved.

Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The proposal was referred to Transport for New South Wales (TfNSW) who raised no objections, subject to conditions that can be included, if the application were to be approved. The proposal has demonstrated that access to the site is only available from Barrenjoey Road. The operation of Barrenjoey Road will not be adversely affected by the development as a result of the design of the vehicular access to the land, the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using the classified road to gain access to the land. The proposed development is appropriately located and designed to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Section 2.120 - Impact of road noise or vibration on non-road development states:

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Comment:

The *Development near rail corridors and busy roads: interim guideline* has been reviewed, and it is considered that the proposal development is generally consistent with the guideline. As the existing site contains a residential dwelling house, it is considered the construction of a new dwelling house will not result in any unacceptable noise levels.

SEPP (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	7.5m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	North-West - 10.0m	2.0m (Carport) 9.0m (Dwelling House)	80% (8.0m) 10% (1.0m)	No No

Rear building line	South-East - 6.5m	3.0m (Existing Secondary Dwelling - unaltered)	-	N/A
Side building line	North-East - 2.5m	1.685m (Ground Floor) 2.3m (First Floor)	32.6% (0.815m) 8.0% (0.2m)	No No
	South-West - 1.0m	1.0m (Ground Floor) 1.685m (First Floor)	- -	Yes Yes
Building envelope	North-East - 3.5m	Outside envelope	25.86% (1.5m)	No
	South-West - 3.5m	Outside envelope	46.24% (2.4m)	No
Landscaped area	50% (245.2m ²)	35.48% (174.0m ²)	29.04% (71.2m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.1 Avalon Beach Locality	No	No
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 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	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	No
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

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	No	No
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	No
D1.11 Building envelope	No	No
D1.13 Landscaped Area - General	No	No
D1.15 Fences - General	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

Clause A4.1 Avalon Beach Locality details the following desired character:

Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.

Comment:

The proposal presents non-compliances to the front building line control, side building line control, building envelope control, and landscaped area control that results in a cumulative impact resulting in an unacceptable bulk and scale. It is considered that the non-compliances present dwelling house that is inconsistent with the desired future character of the Avalon Beach Locality.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes 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 not supported, in this particular circumstance and will form part of the reasons for refusal.

B5.15 Stormwater

Description of non-compliance

Council's Development Engineer has provided referral comments in response to the proposal as detailed within the Internal Referrals section contained within this report.

In summary, the amended Stormwater Plans prepared by Mesh Group Pty Ltd, drawing number STW00 to STW04, Issue A dated 10/06/2024 shows an onsite stormwater detention tank underneath carport. However, no details of orifice plate to control final discharge from this tank is provided,

simultaneously an absorption trench (soak away trench) is also proposed. It is unclear from the stormwater plans the following:

- the purpose of this trench;
- provide concurrence from geotechnical engineer on soil infiltration rate;
- any absorption system designed to cater granny flat behind needs to be designed as per Appendix 3 of Council's Water Management for Development Policy; and
- details of orifice plate to control flows from OSD tank.

Under Clause B5.15 Stormwater of Pittwater 21 Development Control Plan the following requirements apply:

Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.

The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

Merit consideration

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

- ***Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;***
- ***Minimise the risk to public health and safety;***
- ***Reduce the risk to life and property from any flooding and groundwater damage;***
- ***Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.***
- ***Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle***
- ***Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources***
- ***Protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.***

Comment:

As a result of the amended Stormwater Plans it is unclear how the proposal will have a minimal environmental impact on receiving stormwater infrastructure or how the proposed stormwater drainage system is in accordance with Council's Water Management for Development Policy. Furthermore, there is no certainty that the proposal will improve the quality of water discharge, minimise risk to public health and safety, reduce risk to life and property, or mimic natural stormwater flows. As such, the insufficient information submitted will form part of the reasons for refusal.

C1.1 Landscaping

Description of non-compliance

Under Clause C1.1 Landscaping of Pittwater 21 Development Control Plan, the following applies:

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

60% for a single dwelling house

The proposed front of buildings is approximately 108.7m² between the front building line and proposed dwelling house. A total of 60% (65.22m²) is required to be landscaped, however the proposal presents a total of 31.18% (33.9m²) as landscaped area, presenting a variation of 52.20% (34.04m²).

It is considered that the reduced landscaped area in the front building setback area is resultant of the location of the proposed double carport that reduces the area that can be landscaped within the front building area. The applicant has stated that the location of the double carport allows for forward maneuvering, however the car swept paths (DA 6.03, Rev B, prepared by Cristina Gomes dated 11 November 2024) provided do not detail that the vehicles can move in and out in a forward direction.

A detailed assessment has been conducted against the outcomes of the control, and it is considered that the proposal does not meet the requirements or the outcomes of the control.

Merit consideration

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

- ***A built form softened and complemented by landscaping. (En)***
- ***Landscaping reflects the scale and form of development. (En)***
- ***Retention of canopy trees by encouraging the use of pier and beam footings. (En)***
- ***Development results in retention of existing native vegetation. (En)***
- ***Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)***
- ***Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)***
- ***Landscaping enhances habitat and amenity value. (En, S)***
- ***Landscaping results in reduced risk of landslip. (En, Ec)***
- ***Landscaping results in low watering requirement. (En)***

Comment:

The proposed development is not softened and complement by sufficient landscaping within the front setback area as detailed by the non-compliant landscaped area. The lack of landscaping within the front setback affects the presentation of the dwelling when viewed in the streetscape. It is noted that existing trees are retained in the front setback area, however further landscaping is required to soften the built form. The development results in the reduction of landscaped area across the site from existing and this outcome is inconsistent with the desired landscaped outcome of the area covered by the Pittwater DCP. It is considered that the reduced landscaped area is inconsistent with the outcomes of the control, as the development fails to enhance the habitat, amenity value and biodiversity of plant species of the locality.

Overall, the proposal does not satisfy the outcomes of the control.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes 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 not supported, in this particular circumstance and will form part of the reasons for refusal.

C1.5 Visual Privacy

Description of non-compliance

Concerns were raised from the south-eastern rear neighbour at No.12 Elaine Avenue in relation to privacy. The concerns related to the proposed south-eastern first floor rear window and first floor rear balcony. It is noted that the setback from the rear of the proposed dwelling to the rear south-eastern boundary of the subject site is approximately 18.8m.

A site visit was conducted on 19 November 2024 to spatially understand the concerns from No.12 Elaine Avenue. The concerns related to privacy impacts to the ground floor living and rear yard, and the first floor main bedroom and ensuite.

Under Clause C1.5 Visual Privacy of Pittwater 21 Development Control Plan, the following requirements apply:

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

As detailed above the setback from the proposed first floor rear window and balcony is greater than 9 metres, and as such does not require any privacy treatments. Furthermore, the proposed balcony incorporates privacy screening along the outermost side edges, and is located at the rear of the proposed building.

Furthermore, the *Meriton v Sydney City Council [2004] NSWLEC 313* Planning Principle details the following:

- *Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)*
- *The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.*

As the balcony is adjoining the main bedroom it is considered that the use of the balcony would be

infrequent as people spend less waking time in a bedroom. Furthermore, due to the significant setback from the rear of the dwelling house and rear boundary line of the subject site, it is considered that the proposal would not result in any unacceptable privacy impacts as a result of the physical separation.

Merit consideration

- ***Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)***

Comment:

The proposal presents habitable rooms and outdoor living areas that will optimise visual privacy through appropriate design. The proposed outdoor living areas are located on the ground floor, with a balcony adjoining the main bedroom located on the first floor. It is considered that the proposal presents acceptable privacy as a result of the physical separation provided.

The proposal satisfies this outcome.

- ***A sense of territory and safety is provided for residents. (S)***

Comment:

The proposal will present a sense of territory and safety for the residents, and adjoining residents.

The proposal satisfies this outcome.

Having regard to the above assessment, it is considered 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.

C1.23 Eaves

Description of non-compliance

Clause C1.23 Eaves of Pittwater 21 Development Control Plan requires dwellings to incorporate eaves on all elevations with a minimum width of 450mm. The proposed dwelling house does not include eaves on the elevations.

The underlying Outcomes of this clause are as follows:

- ***Housing that reflects the coastal heritage and character of Pittwater. Optimise roof forms.***
- ***Appropriate solar access and shading is achieved.***

Merit consideration

It is considered that the proposed housing may have the ability to reflect a dwelling that is consistent with the coastal heritage and character of Pittwater, however this is subject to overcoming varying built form non-compliances. The proposed roof form is flat is considered suitable, and the accompanying Shadow Diagrams demonstrate that appropriate solar access and shading is achieved to the subject site and adjoining sites.

Having regard to the above assessment, it is considered 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.

D1.1 Character as viewed from a public place

Description of non-compliance

Clause D1.1 Character as viewed from a public place outlines the following:

The bulk and scale of buildings must be minimised.

As a result of the non-compliances to the front building line control, side building line control, building envelope control, and landscaped area control, the cumulative impact results in an unacceptable bulk and scale.

A detailed assessment has been conducted against the outcomes of the control, and it is considered that the proposal is inconsistent with the character as viewed from a public place.

Merit consideration

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

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

Comment:

The desired character statement of Avalon Beach Locality outlines the following: *Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.* Whilst the proposal is below the building height limit, the non-compliant side boundary setback presents an unacceptable bulk and scale.

The proposal does not satisfy this outcome.

- ***To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)***

Comment:

The proposed development does not respond sensitively to the spatial characteristics of the existing built form as a result of the variations to the side building envelope and side building line controls.

The proposal does not satisfy this outcome.

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

Comment:

The proposal presents a height that is in keeping with the natural environment, however presents a scale and density that results in unreasonable bulk and scale that may detract from the streetscape.

The proposal does not satisfy this outcome.

- ***The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)***

Comment:

The visual impact of the built form is primary to landscaping and vegetation, and whilst proposed planter boxes are proposed, it is considered that the proposal will present an unacceptable built form resultant of the variations to the building envelope and side building line controls.

The proposal does not satisfy this outcome.

- ***High quality buildings designed and built for the natural context and any natural hazards. (En, S)***

Comment:

The proposal would have the ability to withstand any natural hazards.

The proposal satisfies this outcome.

- ***Buildings do not dominate the streetscape and are at 'human scale'.***

Comment:

The proposed bulk and scale of the dwelling house will be prominent in the streetscape and present a scale that is contextually greater than human scale.

The proposal does not satisfy this outcome.

- ***To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.***

Comment:

The proposal will not impact upon existing views in Pittwater's natural context.

The proposal satisfies this outcome.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes 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 not supported, in this particular circumstance and will form part of the reasons for refusal.

D1.8 Front building line

Description of non-compliance

The required front building line is 10.0 metres or established building line, whichever is the greater as the land adjoins Barrenjoey Road.

The proposal presents a setback of 2.0m to the proposed carport and 9.0m to the proposed dwelling house.

It is noted that surrounding development includes parking structures and dwelling houses within the 10 metre front setback area. However, the design and configuration of the proposed carport results in a significant area of the front boundary area to be accommodated by impervious areas including the internal driveway and carport. The design of the carport is not consistent with the outcomes of the control, and it is also noted that the internal driveway would not be able to facilitate adequate space for vehicles to enter and exit in a forward direction. It should be noted swept paths were requested to demonstrate the forward entry and exit to the carport, however these were not provided, as it is unlikely that the driveway could accommodate this vehicular maneuvering.

In this circumstance, the variations to the front building line are considered unsupportable as the proposal has not demonstrated compliance with the outcomes of the control as detailed 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:

- ***To achieve the desired future character of the Locality. (S)***

Comment:

The desired character statement of Avalon Beach Locality outlines the following: *Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.* Whilst the proposal is below the building height limit, the non-compliant front building line to the carport and dwelling house presents an unacceptable bulk and scale resultant due to the absence of landscaped area in the front setback area.

The proposal does not satisfy this outcome.

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

Comment:

The amenity of the residential development adjoining Barrenjoey Road is suitably maintained.

The proposal satisfies this outcome.

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

Comment:

Whilst the proposal includes retention of vegetation within the front setback area that is forward of the proposed carport, the remainder of the front setback area is impervious areas that is resultant of the internal driveway. It is considered that the proposal does not provide for sufficient vegetation in the front setback area to visually reduce the built form.

The proposal does not satisfy this outcome.

- ***Vehicle manoeuvring in a forward direction is facilitated. (S)***

Comment:

Council's Development Engineer has reviewed the proposal, and it is noted that vehicular manoeuvring in a forward direction is not possible. As such, it is considered that the internal driveway results in an unacceptable outcome that limits the ability to landscape the front

setback area.

The proposal does not satisfy this outcome.

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

Comment:

The proposed carport and impervious driveway presents built form in the front setback area that may detract from the streetscape due to the limitation of landscaping within the front setback area. The proposal will provide acceptable pedestrian amenity.

The proposal does not satisfy this outcome.

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

Comment:

The proposed development does not responds to, or reinforces the sensitive spatial characteristics of the existing urban environment due to the limited landscaping within the front setback area.

The proposal does not satisfy this outcome.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes 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 not supported, in this particular circumstance and will form part of the reasons for refusal.

D1.9 Side and rear building line

Description of non-compliance

Under Clause D1.9 Side and rear building line of Pittwater 21 Development Control Plan, the following side setbacks are required:

2.5 at least to one side; 1.0 for other side.

In this instance the 2.5 metres side setback is applied to the north-eastern side boundary, and the 1.0m side setback is applied to the south-western side boundary. The proposal is compliant with the 1.0m south-western side building line control.

The proposal presents a variation to the north-eastern side boundary as follows:

- 1.685m (Ground Floor)
- 2.3m (First Floor)

It is considered that the non-compliant side setback to the north-eastern side boundary is unsupportable, as the reduced side boundary setbacks presents unacceptable impacts to the bulk and scale of the development. A detailed assessment has been conducted against the outcomes of the control, and it is considered that the variations are not supportable due to the inconsistency with the outcomes.

Merit consideration

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

- ***To achieve the desired future character of the Locality. (S)***

Comment:

The desired character statement of Avalon Beach Locality outlines the following: *Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.* Whilst the proposal is below the building height limit, the non-compliant side boundary setback presents an unacceptable bulk and scale.

The proposal does not satisfy this outcome.

- ***The bulk and scale of the built form is minimised. (En, S)***

Comment:

The proposal does not minimise the bulk and scale of the built form as a result of the non-compliant side boundary setback to the north-eastern side. It is considered that further articulation is required to reduce the scale and to minimise the bulk of the development.

The proposal does not satisfy this outcome.

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

Comment:

The proposal will provide equitable preservation of views and vistas to and from public and private places.

The proposal satisfies this outcome.

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

Comment:

As detailed above, the proposal will not impact upon views. As such, the proposal will allow for view sharing.

The proposal satisfies this outcome.

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

Comment:

It is considered that a reasonable level of privacy, amenity and solar access can be provided within the development site and maintained to residential properties.

The proposal satisfies this outcome.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)***

Comment:

The proposal includes landscaping and retention of trees within the front setback area that will assist to present an attractive streetscape. However, if the proposal were to demonstrate compliant side setbacks further landscaping and vegetation could be included along the north-eastern side boundary.

- The proposal does not satisfy this outcome.

Flexibility in the siting of buildings and access. (En, S)

Comment:

It is considered that there is flexibility to comply with the north-eastern side boundary as the proposal is for the construction of a new dwelling house. It is considered that the siting of the building could be adjusted to demonstrate compliance.

The proposal does not satisfy this outcome.

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

Comment:

The proposal includes vegetation and planter boxes to assist to reduce the built form. It is considered that whilst the planter boxes have been included, the proposal will still present an unacceptable bulk and scale.

The proposal does not satisfy this outcome.

- ***A landscaped buffer between commercial and residential zones is achieved.(En,S)***

Comment:

The subject site is surrounded by residential zoning.

This outcome is not relevant.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes 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 not supported, in this particular circumstance and will form part of the reasons for refusal.

D1.11 Building envelope

Description of non-compliance

Clause D1.11 Building envelope requires buildings to be sited within the building envelope where planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height.

The proposal presents encroachments within the building envelope along the North-East and South-West Elevations. The proposal along the North-East Elevation presents a maximum variation of 1.5 metres in height for a horizontal length of 12.5 metres (see Figure 1). The proposal along the South-West Elevation presents a maximum variation of 2.4 metres in height for a horizontal length of 12.5 metres (see Figure 2).

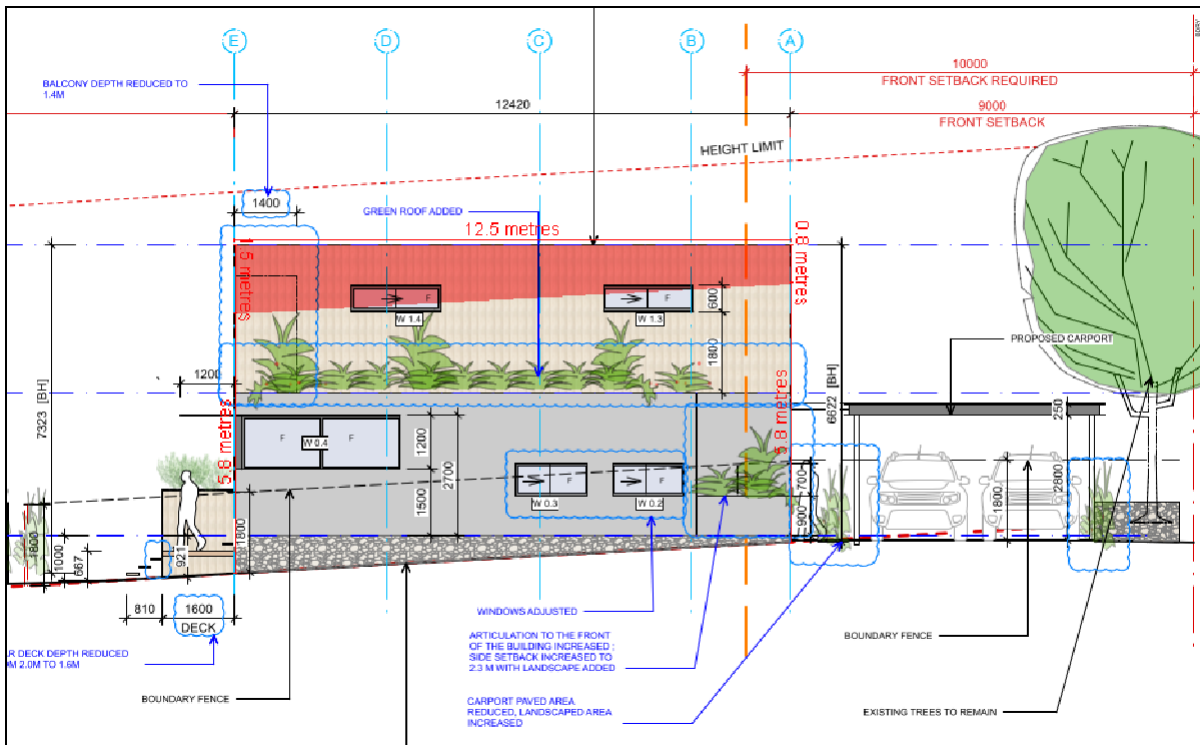


Figure 1. North-East Elevation (red highlighting building envelope variation)

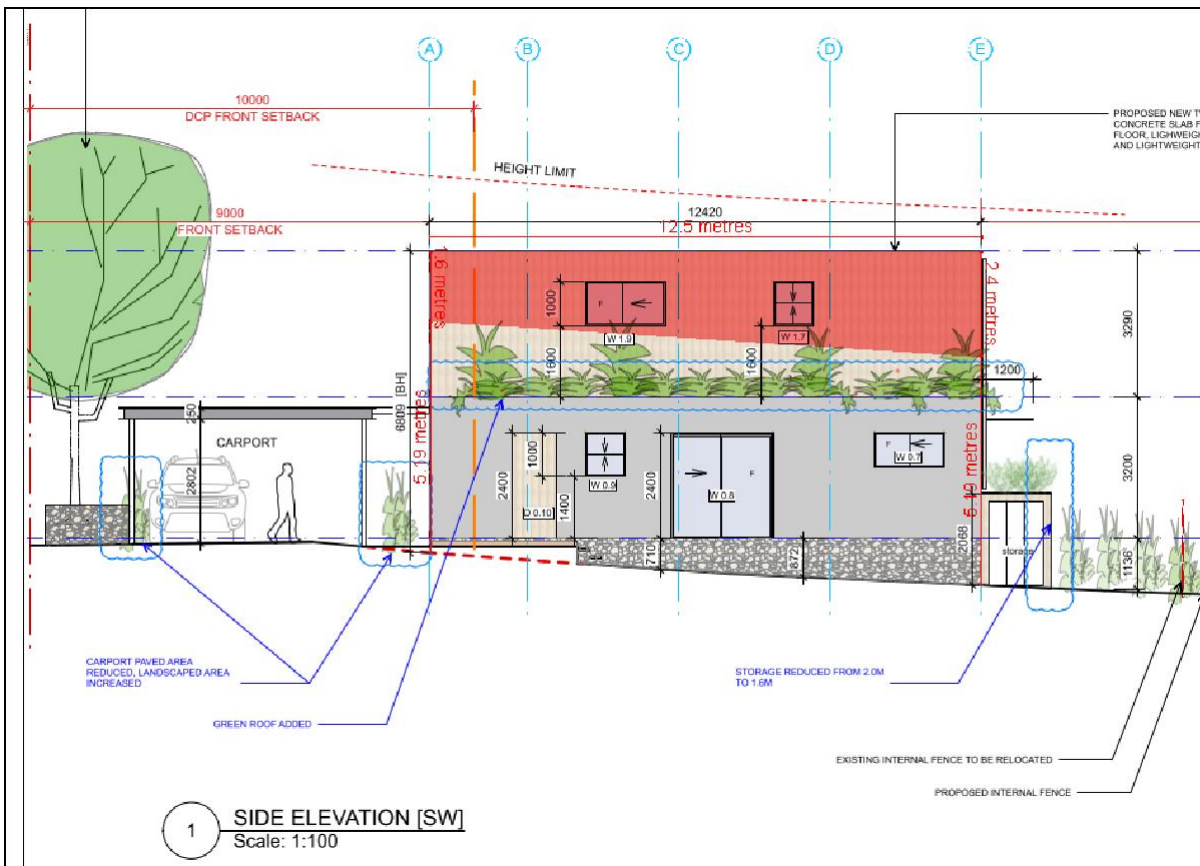


Figure 2. South-West Elevation (red highlighting building envelope variation)

It is considered that the variations to the building envelope control are unacceptable, and present significant breaches along both the North-East Elevation and South-West Elevation. The breach along the North-East Elevation are attributed to the variation to the side building line, and whilst the side

building line is compliant along the south-west elevation, the minimal setback to the first floor accentuates the building envelope variation. It should be noted that the proposed floor to ceiling heights are 2.7 metres for the ground floor, and 2.6m for the first floor. It is considered that the envelope breaches result in an unacceptable bulk and scale, and further articulation is required to reduced the density of the dwelling house.

A detailed assessment has been conducted against the outcomes of the control, and it is considered that the proposal is unsupportable due to the variation to the control and inconsistency with the outcomes of the control.

Merit consideration

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

- ***To achieve the desired future character of the Locality. (S)***

Comment:

The desired character statement of Avalon Beach Locality outlines the following: *Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.* Whilst the proposal is below the building height limit, the non-compliant side boundary envelopes result in an unacceptable bulk and scale that is not consistent with the desired future character of the Avalon Beach Locality.

The proposal does not satisfy this outcome.

- ***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 does not minimise the bulk and scale of the built form as a result of the non-compliant side boundary envelope along both elevations. It is considered that further articulation and or/reduced floor to ceiling heights are required to reduce the scale and to minimise the bulk of the development.

The proposal does not satisfy this outcome.

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

Comment:

The proposed new development does not respond appropriately the the spatial characteristics of the existing natural environment, resultant of the non-compliant landscaped area proposed.

The proposal does not satisfy this outcome.

- ***The bulk and scale of the built form is minimised. (En, S)***

Comment:

The proposal does not minimise the bulk and scale of the built form as representative of the building envelope variations. The proposed bulk and scale of the dwelling house is not acceptable, and it is considered that the built form requires further articulation and increased

side setbacks to comply with the control.

The proposal does not satisfy this outcome.

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

Comment:

The proposal will provide equitable preservation of views and vistas to and from public and private places.

The proposal satisfies this outcome.

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

Comment:

It is considered that a reasonable level of privacy, amenity and solar access can be provided within the development site and maintained to residential properties.

The proposal satisfies this outcome.

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

Comment:

The proposal includes vegetation and planter boxes to assist to reduce the built form, however it is considered that the building envelope variations are too significant, and the planter boxes will not detract from the unacceptable built form.

The proposal does not satisfy this outcome.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes 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 not supported, in this particular circumstance and will form part of the reasons for refusal.

D1.13 Landscaped Area - General

Description of non-compliance

Under Clause D1.13 Landscaped Area - General of Pittwater 21 Control Plan, the required landscaped area must be at least 50% (245.2m²) of the site area.

The proposed landscaped area is 35.48% (174.0m²), presenting a variation of 29.03% (71.2m²). It is important to note that the existing site conditions presents a total of 181m² of landscaped area, and as such the proposal results in a further reduction of landscaped area.

During the assessment of the application, amended plans were submitted to increase the landscaped area on site that was an improvement, however it is considered that the proposed landscaped area is not sufficient.

Under Clause D1.13 Landscaped Area - General of Pittwater 21 Development Control Plan, variations

can be made in the following circumstances:

Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:

- *impervious areas less than 1 metre in width (e.g. pathways and the like);*
- *for single dwellings on land zoned R2 Low Density Residential or R3 Medium Density Residential, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

In this instance it is considered that the proposal is not consistent with the outcomes of the control as detailed below. Therefore, the additional 6% (41.48m²) is not able to be included in the landscaped area. It should be noted, even if this area was able to be included, the proposal would still be non-compliant with a total of 41.48% (203.4m²) of landscaped area.

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. (S)***

Comment:

The desired character statement of Avalon Beach Locality outlines the following: *Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.* Whilst the proposal is below the building height limit, the non-compliant landscaped area results in an unacceptable bulk and scale of the dwelling house that is not consistent with the desired future character of the Avalon Beach Locality.

The proposal does not satisfy this outcome.

- ***The bulk and scale of the built form is minimised. (En, S)***

Comment:

The reduced landscaped area on site presents a dwelling house that is considered to be of an unacceptable bulk and scale. It is considered if the proposal demonstrated a compliant landscaped area that the proposed dwelling house would be required to be reduced in size and therefore assist in providing an improved landscaped outcome.

The proposal does not satisfy this outcome.

- ***A reasonable level of amenity and solar access is provided and maintained. (En, S)***

Comment:

It is considered that a reasonable level of privacy, amenity and solar access can be provided within the development site and maintained to residential properties.

The proposal satisfies this outcome.

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

Comment:

The proposal results in a reduction of vegetation on site that does not assist to reduce the built form on site.

-

The proposal does not satisfy this outcome.

Conservation of natural vegetation and biodiversity. (En)

Comment:

The proposal does not conserve natural vegetation or biodiversity on site as a result of the reduced landscaped area proposed.

The proposal does not satisfy this outcome.

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

Comment:

As outlined by Council's Development Engineer the proposal does not present an acceptable stormwater disposal system. Furthermore, the reduction in landscaped area on site does not assist in reducing stormwater runoff, prevention of soil erosion and siltation of drainage channels.

The proposal does not satisfy this outcome.

- ***To preserve and enhance the rural and bushland character of the area. (En, S)***

Comment:

The proposal will not preserve and enhance the rural and bushland character of the area as a result of the reduced landscape area that presents greater hard surfaces than soft surfaces.

The proposal does not satisfy this outcome.

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

Comment:

The proposal reduces the soft surfaces on site that will not assist with suitable infiltration to the water table, minimisation of run-off and assistance with stormwater management.

The proposal does not satisfy this outcome.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes 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 not supported, in this particular circumstance and will form part of the reasons for refusal.

D1.15 Fences - General

Description of non-compliance

Under Clause D1.15 Fences - General of Pittwater 21 Development Control Plan the following applies for front fencing:

a. Front fences and side fences (within the front building setback).

Front and side fences (within the front building setback) shall:

- *not exceed a maximum height of 1 metre above existing ground level,*
- *shall be compatible with the streetscape character, and*
- *not obstruct views available from the road.*

Front fences and landscaping should allow people in their homes to view street activity.

Fences are to be constructed of open, see-through, dark-coloured materials.

Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians exiting the site.

Original stone fences or stone fence posts shall be conserved.

The proposal includes a new front fence that is 1.3m-1.5m in height and includes an operable front gate that is constructed of open timber fencing. The northern portion of the front fence is solid stone cladding along the location of the existing planting.

It is noted that the site obtains an existing front fence, and the proposed front fence is of a lower height than the existing.

Merit consideration

- ***To achieve the desired future character of the Locality. (S)***

Comment:

The proposed fencing is consistent with the desired future character of the Avalon Beach Locality.

The proposal satisfies this outcome.

- ***To ensure fences compliment and conserve the visual character of the street and neighbourhood***

Comment:

The proposed fencing compliments the character of the area, and is considered suitable for the locality.

The proposal satisfies this outcome.

- ***To define the boundaries and edges between public and private land and between areas of different function.***

Comment:

The proposed fencing clearly distinguishes between public and private land between the subject site, and adjoining road reserve.

The proposal satisfies this outcome.

To contribute positively to the public domain.

Comment:

The proposed fencing will contribute positively to the public domain.

The proposal satisfies this outcome.

- ***An open streetscape that allows casual surveillance of the street. (S)***

Comment:

A portion of the front fence is open timber panels that will allow for casual surveillance of the street.

The proposal satisfies this outcome.

- ***Fences, where provided, are suitably screened from view from a public place. (S)***

Comment:

The proposed fencing is viewable from public spaces, however it is considered that the proposed fencing will present appropriate to public places.

The proposal satisfies this outcome.

- ***Safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians. (S)***

Comment:

Council's Development Engineer has viewed the proposal, and has not raised any concerns with the proposed fencing. As such, it is considered that the proposal presents appropriate sight distances and views of the street for motorists and pedestrians.

The proposal satisfies this outcome.

- ***To ensure heritage significance is protected and enhanced. (S)***

Comment:

The site is not a heritage item or located within a heritage conservation area.

This outcome is not relevant.

- ***To ensure an open view to and from the waterway is maintained. (S)***

Comment:

There is no view of a waterway from the site.

This outcome is not relevant.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$8,855 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$885,500.

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

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 DA2024/1194 for the Demolition works and construction of a dwelling house including a carport on land at Lot 13 DP 14017,618 Barrenjoey Road, AVALON BEACH, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(iii) & Section 4.15(1)(b)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with B5.15 Stormwater of Pittwater 21 Development Control Plan.

Particulars:

- i) The stormwater drainage system has not been designed in accordance with Council's Water Management for Development Policy.
- ii) There is no certainty that the proposed stormwater drainage system will not have any environmental impacts due to the insufficient information provided.

2. Pursuant to Section 4.15(1)(a)(iii) & Section 4.15(1)(b)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause A4.1 Avalon Beach Locality and Clause D1.1 Character as viewed from a public place of Pittwater 21 Development Control Plan.

Particulars:

- i) The proposed dwelling house presents a bulk and scale that is inconsistent with the Avalon Beach Locality as a result of the variations to the front building line control, side building line control, building envelope control, and landscaped area control.
- ii) As a result of the built form non-compliances, the cumulative impact results in an unacceptable bulk and scale that is inconsistent with the Avalon Beach Locality and anticipated character of the area.

3. Pursuant to Section 4.15(1)(a)(iii) & Section 4.15(1)(b)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause C1.1 Landscaping and Clause D1.13 Landscaped Area – General of Pittwater 21 Development Control Plan.

Particulars:

- i) The proposed development presents a non-compliant landscaped area of 35.48% (174.0m²), presenting a variation of 29.03% (71.2m²) to the required 50% (245.2m²).
- ii) The proposed development presents 31.18% (33.9m²) of landscaped area within the front setback area, presenting a variation of 52.20% (34.04m²).
- iii) The proposed deviation from the required landscaped area within the front setback area and overall reduces the vegetation on site and does not maximise the soft surfaces.

4. Pursuant to Section 4.15(1)(a)(iii) & Section 4.15(1)(b)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause D1.8 Front building line, Clause D1.9 Side and rear building line and Clause D1.11 Building envelope of Pittwater 21 Development Control Plan.

Particulars:

- i) The proposed development fails to meet the numerical requirements of the front building

line control, side building line control, building envelope control, and landscaped area control. The multiple numerical non-compliances lead to an unacceptable visual bulk and scale impact. There are no site constraints or impediments which limit the ability of the proposed dwelling to comply with the setback and building envelope controls of the Pittwater 21 Development Control Plan.

ii) The proposed variations do not present built form that has promoted an acceptable building scale and density.

5. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not within the public's interest.

Particulars:

i) The extent of non-compliances of relevant controls within the Pittwater 21 Development Control Plan result in development that is contrary to the expectations of the community. As such, an approval of the proposed development would not be within the public's interest.

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

Signed



Stephanie Gelder, Planner

The application is determined on 26/11/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments