

948 Barrenjoey Road,
Palm Beach. NSW. 2108

22nd January 2025,

Development Assessment Team
Northern Beaches Council
PO Box 82
Manly. NSW. 1655

Dear Team,

Mod 2024/0697 – DA 20128/0563
Lot 27 DP28669 – 950 Barrenjoey Road, Palm Beach

Late last week we received notification of a modification to the above DA. We note that this is the 5th modification to that DA.

The accompanying statement of modification states approval is sought for a rumpus room to the basement level together with a reconfiguration of internal stair and new windows. It states that no excavation is necessary.

The statement fails to mention other elements proposed. For example, the plans incorporate the following additional changes:

1. Storeroom(s);
2. 2 rainwater tanks;
3. Changes to windows W6; W11, W12 and the rear deck; and
4. inconsistencies with what has been already constructed at the lower ground level.

We make the following submissions:

1. Storeroom

The proposed storeroom to the southern side, appears to be located under window W6. See Fig. 1 showing W6 and the creek embankment. We assume this storeroom is contained within the already existing walls. Otherwise, it could not be constructed without excavation.

FIG 1



When it is raining, huge volumes of water travel down this creek and, since the construction of 950, the water flow hits the large rock and dintel wall with force redirecting it in part and causing it to erode part of the southern embankment. It also causes flooding of the south bound lane of Barrenjoey Road in times of heavy rain, preventing the movement of vehicles in that lane.

If the proposed storeroom requires any below ground work to the exterior of the existing building, now, or in the future for remedial repairs, it will adversely affect the creek and its natural environment. Although dincel walls claim to be waterproof, this is often not the case as over time there is usually a migration of moisture through the joints. For this reason, we submit that the storage room on the southern side should be removed, and an internal perimeter drain incorporated ensuring the future preservation of the creek and its natural environment.

2. 2 rainwater tanks

There is already in existence a rainwater tank in this location, installed at the time of initial site excavation. See Fig 2. We are unable to see how an additional tank could be placed here without using the creek as access. If the creek is to be used as access for placing the additional tank, what precautions are to be taken to preserve the natural environment of this area?

FIG 2: Existing rainwater tank in proposed location on plan



In relation to the windows on the south-east side, the initial DA approval dated 14 December 2018 states at 2 on page 4

The following amendments are to be made to the approved plans:

- Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of the construction certificate.*

Reason: To ensure development minimises unreasonable impacts on surrounding land."

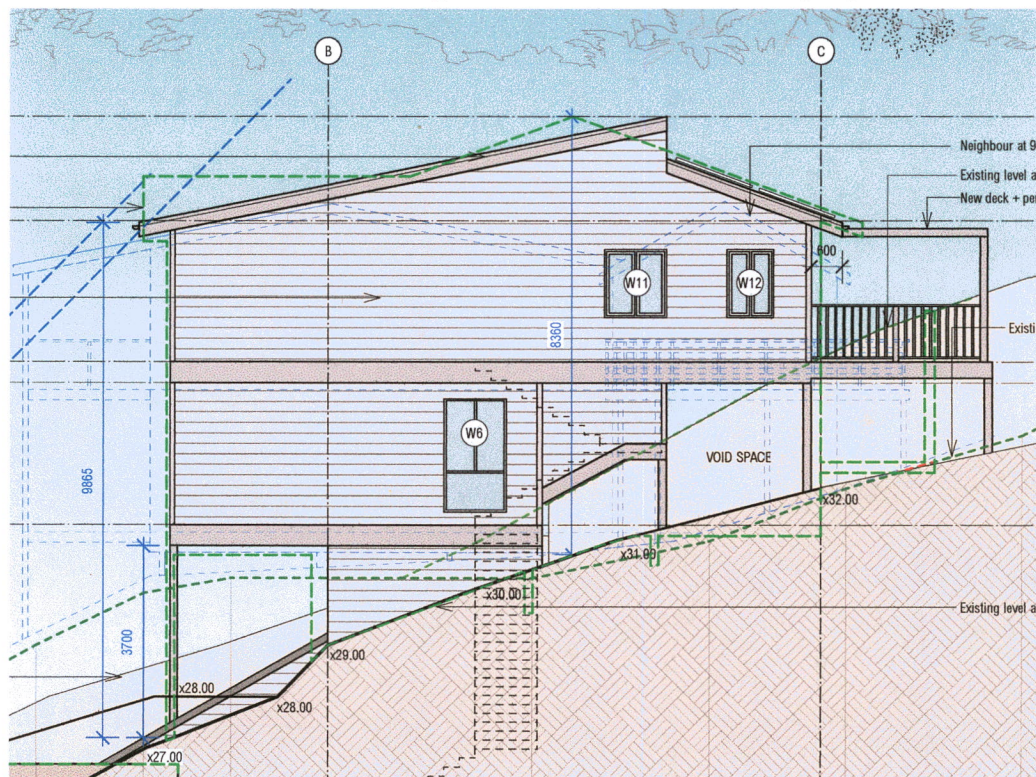
In 2020 the applicant filed a modification, Mod2020/447, which in part reworked the windows on the south-eastern boundary. In the Statement of Modification dated 18 November 2019, page 4, the modification purpose is stated as:

- *Reduced excavation by relocating the stairs;*
- *Less bulk and scale by introducing a skillion roof as opposed to multiple gables;*
- *Increased privacy by reducing the number and size of decks to the front of the house."*

On page 5 under "Part C1: Design Criteria for Residential Development – C1.5 Visual Privacy" the Applicant states:

"The proposed visual privacy will be improved from the original submission due to window locations, room layouts and the removal of and reduction of decks."

FIG 4: shows the reworked design as seen from 948 Barrenjoey Road



In the Statement of support dated 8 September 2020 by Building Certificates 4U page 2 at "(ii) that the modification is intended to have some other effect, as specified in the statement;" states:

The modification is not intended to have any other effects other than reducing excavation, providing less bulk and scale and increasing privacy whilst remaining compliant with all of Council's planning requirements".

Council's Determination of Mod2020/447 dated 22 December 2020, on page 3 lists the following condition:

"C. Modify Condition 2. Amendments to the approved plans to read as follows:

- (a). Windows W6, W11 and W12 on the south-east side elevation are to:
 - (i) comprise frosted glass, or*
 - (ii) have a minimum sill height of 1.7m above the FFL of the associated room, or*
 - (iii) comprise fixed external privacy screens, with a minimum height of 1.7m above the FFL of the associated room, comprised of fixed vertical members that restrict overlooking of the adjoining dwelling at 948 Barrenjoey Road.**
- (b) Fixed privacy screens are to be incorporated on the south-eastern side elevation of the level one rear deck/pergola. The privacy screen is to be 1.7m in height above the FFL of the associated deck and are to be designed to blend with the treatment of the proposed balustrade and restrict overlooking of the adjoining dwelling at 948 Barrenjoey Road."*

On 6th September 2021 we wrote to council expressing concerns that the Council approved plans failed to show the privacy screens on W6; W11 and W12 referred to in the Notice of Determination and asked council to advise "Council's process to ensure this condition is met prior to the issue of a construction certificate".

On 7th September 2021 we received a reply from Adam Croft in response to our concern. We were advised:

"... condition 2 only requires that the amendments be incorporated into the plans prior to the issue of the Construction Certificate (CC), meaning that they are/were not required to be shown on any subsequent modification plans. Regardless, the conditions of consent imposed by Council remain applicable and take precedence over the stamped plans as stated in the Notice of Determination(s).

It is the responsibility of the Certifying Authority to ensure that all relevant conditions are satisfied prior to the CC being issued."

Under the Mod2022/0112 , the applicant in their Statement of Modification requested a change to "Condition 2(b) which states:

(b) fixed privacy screens are to be incorporated on the south-eastern side elevation of both the ground floor and level one front covered timber balconies. Privacy screens are to be 1.7m in height above the FFL of the associated balcony and are to be designed to blend with the treatment of the proposed balustrade and restrict overlooking of the adjoining dwelling at 948 Barrenjoey Road.

Reason: The original DA had balconies to the front of the house however the front balconies were removed in subsequent modifications. The wording of this condition requires revision given there is no front balconies.”

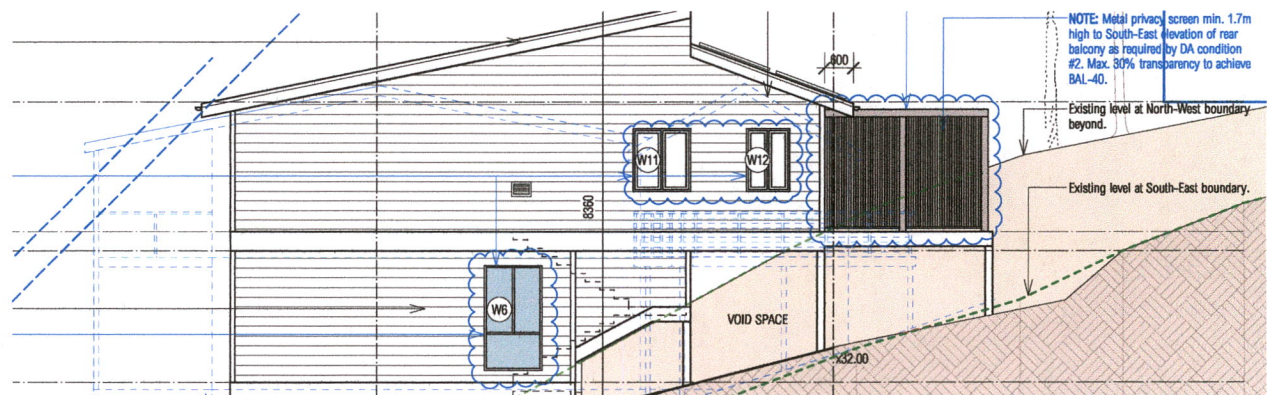
The Application for Modification Assessment Report by Olivia Ramage notes at the top of page 8:

“The submissions raised concerns that if windows W5, 6 11 and 12 are opening and have a sill height of below 1.75m, then there are privacy issues. They also request that the privacy screen be opaque.

Comment

W6, 11 and 12 are to be frosted glass, have a minimum sill height of 1.7m or include privacy screens as per condition 2a already imposed. Condition 2b is to be modified to ensure the privacy screen on the deck is opaque.”

FIG 5 – showing the windows in question and the deck



The notation on the screen reads:

“Note: Metal privacy screen min. 1.7m high to south-east elevation of rear balcony as required by DA Condition #2. Max. 30% transparency to achieve BAL-40”.

NOTE: Windows W6, W11 + W12 to be frosted glass for privacy to comply with DA condition #2.	
NOTE: Metal flyscreens to north-eastern and south-eastern windows to achieve BAL-40.	
Weatherboard style cladding.	
Window W6 reconfigured as per MOD 2020/0447 approval dated 21.12.20.	

The notation on W6; W11 and W12 (as seen above) makes no mention of privacy screens only frosted glass. It is noted that, as per Council’s previous advice, such notations only need to be incorporated at time of issue of CC.

Council's Notice of Determination in relation to Mod2022/0112 dated 25 May 2022 on page 3 under: "B. Modify Condition 2. Amendments to the approved plans to read as follows:

"2(a)(iii) comprise fixed external privacy screens, with a minimum height of 1.7m above the FFL of the associated"

Here there is an obvious typographical error. The words "...room, comprised of fixed vertical members that restrict overlooking of the adjoining dwelling at 948 Barrenjoey Road." are missing from the restatement of 2(a).

It is clearly an error as:

- a) An amendment to Condition 2(a) was not listed in the Statement of Modification as a modification sought by the applicant; and
- b) It does not reflect the condition stated in the Assessment Report; and
- c) It is clearly incomplete - finishing mid-sentence.

Condition 2(b) was amended to read:

"Fixed privacy screening is to be incorporated on the south-eastern side elevation of the level one rear deck/pergola. The privacy screen is to be opaque and 1.7m in height above the FFL of the associated deck and is to be designed to blend with the treatment of the proposed balustrade and restrict overlooking of the adjoining dwelling at 948 Barrenjoey Road."

On 1st March 2023 the Construction Certificate was issued by a private Certifier. As per Council's letter of 7 September 2021 wherein Council stated, "*condition 2 only requires that the amendments be incorporated into the plans prior to the issue of the Construction Certificate (CC)*", it is reasonable to expect all future plans lodged with Council post the issue of the CC will be accurate and incorporate Council's conditions.

The applicant's windows W6, W11 and W12 have been inserted into the building. They are opening sliding windows (see Fig 6) and when open there is no frosted glass nor a sill height of 1.7m in order to comply with condition 2a(i) and (ii) and "*restrict overlooking of the adjoining dwelling at 948 Barrenjoey Road.*" See Figs 7, 8, and 9.

FIG 6: W6 shows the open window which is not compliant with condition 2(a)(i) or (ii). This window is located opposite bedrooms of 948.



FIG 7: W11 and W12 Overlooking into adjoining dwelling 948 dining room.



FIG 8: W11 and W12 overlooking adjoining dwelling 948 kitchen



FIG 9: W11 overlooking adjoining dwelling 948 bedroom.



We understand the cabbage tree palms in Fig 9 have been approved for removal. Even if not removed, they will grow past the windows and not provide any privacy.

Obviously, Privacy Screens are to be fitted, to that part of the windows which do not comply with condition 2a(i) or (ii) when open. As the CC has now issued and these amendments should have been incorporated into the plans (as previously stated by Council), the plans under the current Modification 2024/0697 are incomplete and misleading. They should show:

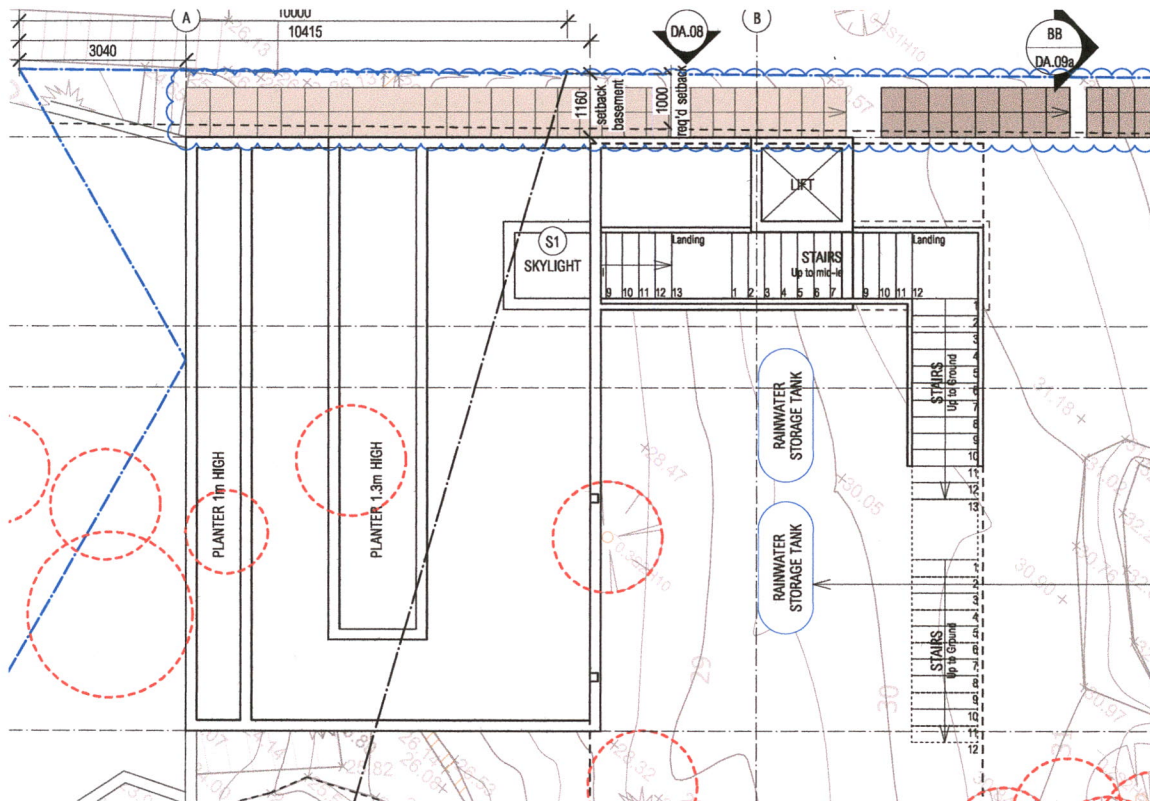
- a) Privacy screens for windows W6, W11 and W12, to that part where there is no frosted glass when open; and
- b) An opaque privacy screen 1.7m high on the rear deck/pergola.

in order to “*restrict overlooking of the adjoining dwelling at 948 Barrenjoey Road*”.

4. Inconsistency between Lower Ground Floor Plan and Construction

The 2022 approved plans show no proposed planter to be incorporated with the skylight – see Fig 10

FIG 10



The Landscape Plan lodged with Mod 2023/0016 shows the removal of a planter not seen on the pre CC plans lodged with Council – See Fig 11

The current plan of the Lower Ground Floor shows no skylight and no planter, however, the current construction shows a planter has been constructed – see Figs 12 and 13.

Is it proposed to demolish the current construction in Figs 12 and 13 so that it is consistent with the Plan DA.02B dated 26.11.24 lodged under Mod2024/0697 – See Fig 14?

Modification: contents of planter under house removed, shown in blue rectangle.

Raised concrete planter box on elevated slab 1m soil depth.

Concrete planter box on elevated slab 1m soil depth.

Crushed sandstone gravel on slab.

Building over shown dashed.

30xCa
5xCc

3 x Sa
100m
3 x Pp
9 x Lp
1 x Xm
5 x Pp
15 x Pp
100m
3xDe
38xCo
3 x Pp
100m
1 x Mc
4 x Aa
1 x Da
1 x Cc
1 x ER

3 x Aa
1 x Da
2 x Da

STONE WALL

LANDSCAPE PLANTING PLAN

Plants

Agave americana AC Smooth Barked Apple
Elaeagnus reticulata ER Blueberry Ash
Livistona australis LA Cabbage Tree Palm

Shrubs

Asplenium australasicum Aa Bird's Nest Fern
Aplasia canaliculata Aca Native Ginger
Clivia miniata Cc Palm Lily
Dioscorea alata Dta Tree Fern
Dioscorea caerulea Dca Blue Star Lily
Livistona australis Lp Livistona
Macaranga indica Ma Burning Bush
Syzygium australe Sa Bush Cherry
Scaevola taccada Sm Grass Tree

Groundcovers

Cuscuta australis Ca Kangaroo Vine
Chorizanthe glauca Cg Coast Fl
Pennisetum purpureum Pp Wonga Wonga Vine

1:1000

DATE: 10/08/07

PROJECT: CONSTRUCTIVE CONCEPT

LANDSCAPE ARCHITECT: L-003

6

A photograph showing a rectangular concrete foundation for a building. The foundation has high, smooth concrete walls and a flat, slightly uneven interior floor. To the right of the foundation, a large, thick tree trunk stands vertically. In the background, a building with a blue roof and a concrete wall is visible. The ground around the foundation appears to be dirt or gravel.

FIG 13



This architectural floor plan shows a building layout with several key areas:

- Planters:** Two large rectangular planters are located on the left side, labeled "PLANTER 1m HIGH" and "PLANTER 1.3m HIGH".
- Rumpus:** A large open area labeled "RUMPUS" is situated in the center-right.
- Stairs:** Multiple staircases are shown, including "STAIRS Up to Lower Ground", "STAIRS Up to Ground", and "STAIRS Down to Lower Ground".
- Shower:** A shower area is located near the center-right, labeled "SHOWER".
- Lift:** A lift shaft is located near the top center, labeled "LIFT".
- Store:** A storage area is located in the top right corner, labeled "STORE".
- Windows:** Two windows are highlighted with red dashed circles and labeled "W18" and "W19".
- Other Features:** The plan includes a "Landing", a "Reception" area, and a "Reception" area. It also shows a "Reception" area and a "Reception" area.

Yours faithfully,

Yours faithfully,

Express Post | Prepaid



Within
Australia



Tracking+



Next business
day^A



Documents only
Max. thickness
20mm

Recipient mobile

Company name

Contact name

Traditional place
name (if known)

Street address or
PO Box number

Suburb or town,
State, Postcode

To: *Development Assessment Team*
NORTHERN BEACHES COUNCIL
P.O. Box 82,
MANNING NSW 1655

Download our app to scan and track your
article or visit auspost.com.au/track

02 01011 00170 40060 50992



POSTAGE CANCELLED

Lift & Peel

Official use

02 01011 00170 40060 50992



Australia Post

Large
Up to
500g

NOT FOR RESALE



This service is not suitable for sending items valued over \$100. If you are sending higher value items you should purchase Extra Cover which provides loss or damage cover from \$100 up to \$5000. Unless required by law, we do not accept liability for any consequential or indirect loss or damage and we limit our liability for late delivery to a refund of your postage or a replacement Express Post envelope. If your envelope is lost or damaged, compensation of up to \$100 and a postage refund may be payable. Notwithstanding our limitation of liability, you may have additional rights under applicable laws, including the Australian Consumer Law.

*Next business day delivery within selected postcodes only. Please see auspost.com.au/sending or ask at a Post Office for Terms and Conditions, and information on our services, including sending options, tracking and other features, transit times, dangerous and prohibited goods, compensation and Extra Cover.

Australia Post is committed to a sustainable future

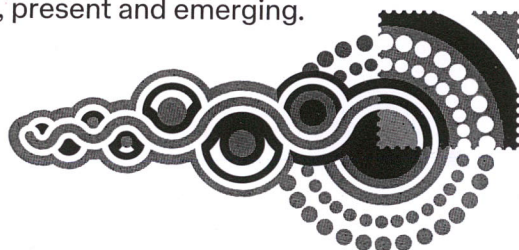


Australia Post is committed to carbon neutral delivery

Australia Post purchases carbon credits to offset the emissions of this delivery.



Australia Post acknowledges the Traditional Custodians of the land on which we operate, live and gather as employees, and recognise their continuing connection to land, water and community. We pay respect to Elders past, present and emerging.



Australia Post

Pack

Don't forget to:

- Choose the right sized envelope. This envelope can only be used for documents with a maximum thickness of 20mm
- Address your envelope - who it's 'To' on the front, and who it's 'From' on the back (including postcodes)

Post

You can post your envelope:

- Over the counter at any Post Office or
- By dropping it in a yellow Street Posting Box

Sender mobile

0411559600

Company name

From: KAREN HACKETT & GRANT REMEDIES

Contact name

948 BARRENTREE ROAD,

Traditional place name (if known)

Palm Beach NSW 2108

Street address or PO Box number

Suburb or town, State, Postcode

This article will be subject to aviation security and clearing procedures. Warning: This envelope must contain documents only. If using for the carriage of valuable documents (such as passports, wills etc) please purchase Extra Cover.

