

Supplementary Report

Development Assessment

To: Adam Susko, Principal Planner

Cc: Steve Findlay, Manager Development Assessment

From: Development Determination Panel

Date: 6 June 2022

Subject: Development Application 2021/1487, 35 Bungan Head Road, Newport 2106

Record Number: 2022/343320

Purpose of This Memo

This Supplementary Memo provides additional explanation and commentary regarding the review of the amended scheme and the results of Council's re-notification of the amended plans, arising out of the Panels deferral of the matter at the meeting on 13 April 2022.

Background

(i) **Assessment Report**

This Development Application 2021/1487 ("DA2021/1487") was reported to the Development Determination Panel ("DDP") on 13 April 2022 for determination, with an officer recommendation of approval.

The recommendation was subject to a number of special conditions, notably including No. 10 which reads:

10. Amendments to the approved plans

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

- a. The two storey cabana/outbuilding located to the southern end of the site is to be deleted in its entirety. No ground works, excavation or vegetation removal on the footprint of this structure is authorised under this consent.*
- b. The inclinor and its associated landings are to be deleted from the plans*
- c. Planter box(es) are to be installed for along the outermost western edge of the deck accessible from the kitchen and living room for the full width of the deck. The planter box(es) are to have a minimum internal dimension of 1.0m and shall be constructed or installed to a minimum height of 1.0m above finished floor level. The planter box(es) are to be planted with native species capable of reaching a height between 1.0m and 1.5m at maturity.*

d. A fence or screen that is non-transparent is to be erected along the outermost western edge of the swimming pool deck to a height of 1.7m measured from finished floor level.

e. The balustrade of the balcony accessible from the 'kids breakout' room is to be either solid or opaque in finish.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

(ii) Decision of the Panel

In the DDP Minutes of 13 April, the Panel noted (extract):

- With respect to the impact on views from No. 60 Bungan Head Road, it was noted by the Panel that the size and scale of the proposed garage will impact upon the views from No. 60 Bungan Head Road. One element of the garage that results in some of the view impact is the southern edge, which exceeds the 8.5m height limit. The Panel queried the applicant on the necessity of the size and scale of the proposed garage, its chosen location and what had been done to minimise its size. The panel was not satisfied that the reasons provided justified the impact. The Panel formed the opinion that the proposed garage could be redesigned to reduce its length and width to ensure better view sharing is achieved.*
- The issue relating to the outbuilding was considered by the Panel, the Panel agrees with the assessment report that the current proposal is capable for habitation considering that bedrooms, living room and bathrooms are all proposed which is contrary to the intent of the control, is not considered a separately accessible structure and better fits the definition of a secondary dwelling.*

In this regard, the panel agrees that the structure should be deleted as stipulated by Condition 10 a, or alternatively the applicant can submit a revised scheme for a single storey structure that meets the requirement of Clauses C1.11 and C1.14 of Pittwater 21 DCP and compliance with the rear setback control is achieved.

- Amended plans are to be received to address view sharing and issue relating to the outbuilding.*

The amended plans are to be submitted to the Council within 21 days from the date of the meeting, otherwise the application will be determined on the information currently provided. Following receipt of this information, the application will be re-notified for a period of 7 calendar days to the neighbouring properties. On conclusion of the re-notification period, and consideration of any further submissions received, the Panel will determine the application electronically, unless the Chair determines that a further public meeting is required.

It is noted that the DDP Minutes were not publicly released until 19 April 2022 and therefore a corresponding extension to the 21 day deadline was granted.

Applicants Amended Scheme

On 5 May 2022, the applicant submitted revised plans (via the NSW Planning Portal) which included the following amendments:

Adjustments include:

- **Garage / view impacts**
 - Southern edge of garage roof lowered 300mm
 - View analysis provided for revised proposal
- **"Separately accessible structure"**
 - Cabana floor plan reduced to <60sqm
 - All setbacks comply
 - Internal arrangement and intended function aligns with C1.14 i.e. office, rumpus, toilet, studio and, critically, no sleeping quarters
 - Studio volume shifted west over floor below such that eastern elevation of studio and ground level of the "separately accessible structure" aligns
 - Perimeter planting added and deck area reduced to mitigate potential for cross-viewing
- **Landscaping**
 - Landscape calculation plan updated to reflect amendments
 - Landscaped calculation plan revised to omit section of soft landscaping under driveway, excluded by council assessment planner
 - Compliance achieved by way of minor amendment across site, including reduced southern edge of deck to pool

We've made these adjustments without the opportunity to clarify the Panel's directions. We ask that if the information supplied is found to be insufficient that we be given the opportunity to adjust accordingly.

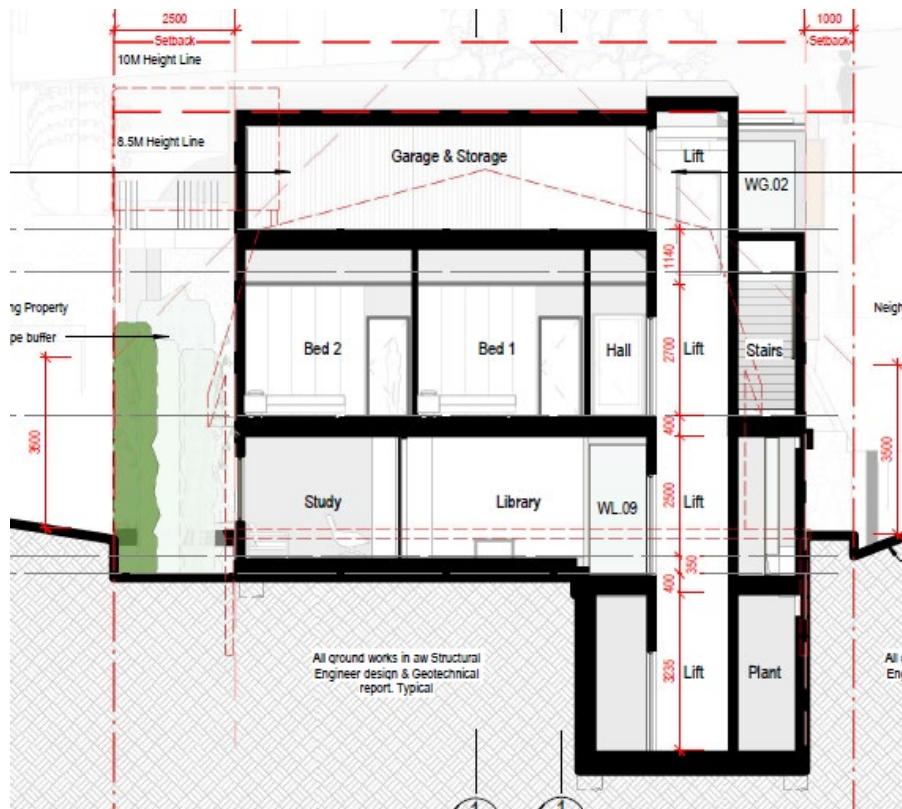
The applicant also provided a letter to the DDP and a View Impact Analysis (see attached).

Review of Amended Scheme

In response to the applicant's submissions to address the DDP's requirements, Council's assessment officer makes the following considerations:

Garage

- The southern (rear) portion of the garage has a reduced roof height from RL54.71 to RL54.41. The below sectional drawing by the project architect shows the reduced roof height and noted that the previous outer roof edge ran at the same level at the top of the lift-shaft.



- The footprint, location and layout of the garage has not changed.
- The applicant contends that no unreasonable view loss occurs consequent of the garage.

The changes to the proposed garage have been made in an attempt to remedy the Panel's concerns regarding view loss from No. 60 Bungan Head Road, which is situated to the north of the subject site.

The changes proposed result in no additional view loss, overshadowing or visual privacy impacts when compared to the original scheme.

The applicant contends that by reducing the height at the southern portion of the garage, this results in the garage being compliant with the 8.5m height plane, and further contends that the 300mm reduction in height corresponds to a 300mm increase in the provision of views retained from the neighbouring property.

The applicant contends, in their submitted **View Analysis**, that the objector's property at No. 60 Bungan Head Road, will gain some beach views (sand) through the removal of the existing garage and thus has a widened view corridor in a westerly direction. This claim cannot be substantiated at this time as the garage remains in existence.

Submissions received in response to the re-notification state that the revised plans have not adequately addressed their concerns as raised in their original submissions to the Development Application.

Outbuilding

- The outbuilding which is the subject of Condition No. 10(a) has been reduced in internal floor area from 65.55sqm to 59.9sqm. The room annotations have

changed from 'living, kitchenette, bath, bed 1 and bed 2' to 'rumpus, bath, home office'. The amended plans have removed the "kitchenette" area.

- The applicant has elected to retain the two-storey form of the outbuilding by retaining the studio on Level 1. The deck area adjacent to the studio has been reduced in depth by the installation of planter boxes inward of the outermost western edge.
- The decreased footprint, combined with some other modifications across the site, result in a minor increase to the calculable Landscaped Area on the site.

The applicant contends that the outbuilding is best described as a '*separately accessible structure*' rather than a '*secondary dwelling*' (see Clause C1.14 - Separately Accessible Structures of the Pittwater 21 Development Control Plan).

Commensurate to the original proposal, the revised outbuilding is not expected to cause any additional overshadowing or view loss impacts. The reduced scale of the terrace and imposition of planter boxes may reduce the extent of overlooking, however the success of such a solution is contingent upon plantings being maintained in perpetuity, which is difficult to police.

Resident Submissions to Re-notification

In response to the re-notification of the amended plans, Council is in receipt of five (5) written objections which, generally, confirm that concerns raised in initial submissions remain valid, and that the amended plans have not gone far enough to address their previously expressed concerns.

Recommendations

- A. That the Panel be advised that the amended scheme has **satisfied** the following matters raised in the Minutes of 13 April:
 - a. Lowering of the Roof Height of the Garage
- B. That the Panel be advised that the amended scheme has **not satisfied** the following matters raised in the Minutes of 13 April:
 - a. Reducing the Width of the Garage
 - b. Removed the Outbuilding from the application
- C. That in lieu of the matters in "B (b)" above, the applicant has elected to carry out the following alternative amendments:
 - a. Reduced the ground floor footprint of the outbuilding
 - b. Amended the room layout to remove any cooking facilities or kitchenette.
- D. That the amended scheme is referred back to the DDP for determination.

Adam Susko

Principal Planner

A handwritten signature in blue ink, appearing to read "Steve Findlay", with a stylized flourish at the end.

Steve Findlay

Development Assessment Manager