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## MEMORANDUM

**DATE:** 23 November 2022  
**TO:** Development Determination Panel  
**CC:** Steven Findlay, Planning Assessments Manager  
**FROM:** Adam Croft, Principal Planner  
**SUBJECT:** DA2022/0666 – 439 Barrenjoey Road NEWPORT

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Dear Panel,

The determination of DA2022/0666 was deferred by the Development Determination Panel (DDP) on 2 November 2022. The Panel's deferral of the application read as follows:

*THAT Council as the consent authority defers the determination of DA2022/0666 for alterations and additions to a dwelling house including a swimming pool on land at Lot 29 DP 6248, 439 Barrenjoey Road NEWPORT, subject to the following:*

- A. *The applicant be invited to prepare and submit amended plans which deletes the additions in the north-eastern corner of the dwelling and leaving that part of the dwelling as is existing. Such an amendment would reduce the size of the study and delete bedroom 4. The Panel recommends to the applicant that a rationalisation of the proposed layout of the altered dwelling may result in a similar or same number of rooms / amenity. The applicant is provided 14 days to provide amended plans and any accompany updated documents / reports (eg. BASIX).*
- B. *That upon the receipt of amended plans or at such time that the applicant declines the Panel's offer to amend the application as it recommends, provide a supplementary assessment report that considers and addresses the relevant provisions of the Coastal Management Act and the Coastal provisions of the Resilience and Hazards SEPP for the Panels final determination.*

In response, the applicant has submitted amended plans removing the portion of the proposed ground and first floor additions encroaching beyond the rear building line. It is noted that the proposed additions at the north-western corner have not been deleted in their entirety, but rather set back to comply with the 6.5m rear building line control. An amended BASIX Certificate was also submitted to reflect the amended design.

An assessment of the amended proposal against the relevant controls of the P21 DCP and the provisions of SEPP (Resilience and Hazards) 2021 is provided as follows.

### P21 DCP

#### Built Form Controls

Built Form Control	Requirement	Proposed (Original)	Proposed (Amended)	Complies
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Front building line	10.0m	20m	Unchanged	Yes
		9.2m (concourse of swimming area)	Unchanged	No (see assessment report comments)
Rear building line	6.5m	3.8m	3.8m (existing dwelling)	No (see assessment report comments)
		-	<b>6.5m (NW corner)</b>	<b>Yes</b>
Side building line	2.5m	1.6m	Unchanged	No (see assessment report comments)
	1.0m	1.0m	Unchanged	Yes
Building envelope	3.5m	North: Outside envelope	Unchanged	No (see assessment report comments)
	3.5m	South: Within envelope	Unchanged	Yes
Landscaped area	50%	50.4% (334sqm)	Unchanged	Yes

#### C1.4 Solar Access

The proposed amendments reduce the building bulk and associated overshadowing of the property to the west, No. 2 Neptune Road) at 9.00am. Based on the location of the amendments adjacent to the northern boundary, there will be no resulting change to the overshadowing impacts to 437 Barrenjoey Road to the south. Accordingly, the amended design does not materially change the position previously provided within the assessment report.

#### C1.5 Visual Privacy

The proposed amendments result in a reduction in the area of the north-facing Bed 4 and Butler's Pantry windows, and increased physical separation to the rear-facing Bed 4 window (which is conditioned to be either highlight or opaque). Given the dimensions and room uses of the first floor windows, the proposal will not adversely impact the privacy of adjoining properties.

#### D10.8 Side and rear building line (excluding Newport Commercial Centre)

The proposed additions in the north-western corner of the dwelling now comply with the 6.5m rear building line control despite not being deleted in their entirety, as suggested by the DDP. Given that the proposed additions are now compliant with the rear setback control and will not adversely impact the amenity of the adjoining properties, the amended proposal is considered to achieve an acceptable outcome.

#### SEPP (Resilience and Hazards) 2021

#### Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:



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## **Division 4 Coastal use area**

### **2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - iv) Aboriginal cultural heritage, practices and places,
    - v) cultural and built environment heritage, and
  - b) is satisfied that:
    - i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
    - iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

#### Comment:

The proposal is for alterations and additions to the existing dwelling. The proposed works are separated from the immediate foreshore area and will not impact existing public access along the foreshore, beach, headland or rock platform areas. The proposal will not result in adverse overshadowing impacts, wind funnelling or loss of views from public places, nor will it adversely impact the visual amenity or scenic qualities of the coast. There are no recorded aboriginal or built environment heritage sites in the immediate vicinity and the proposal is not anticipated to have any adverse impact in this regard. The bulk, scale and size of the proposal is commensurate with that of surrounding development and is appropriate in the context of the site.

## **Division 5 General**

### **2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

#### Comment:

The proposal is unlikely to result in increased risk of coastal hazards on the site or surrounding land.

### **2.13 Development in coastal zone generally—coastal management programs to be considered**



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Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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.

#### **Recommendation**

That the recommendation of approval is maintained based on the above considerations, subject to the amendment of Condition 1. Approved Plans and Supporting Documentation as follows:

#### **1. Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

##### **a) Approved Plans**

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA005 - Materials and Finishes - Issue 05	15 November 2022	Hot House Architects
DA010 - Site Analysis- Issue 05	15 November 2022	Hot House Architects
DA050 - Site, Waste Management, Erosion & Sediment Plan- Issue 05	15 November 2022	Hot House Architects
DA100 - Ground Floor- Issue 05	15 November 2022	Hot House Architects
DA101 - First Floor Plan- Issue 05	15 November 2022	Hot House Architects
DA110 - Roof Plan- Issue 05	15 November 2022	Hot House Architects
DA200 - Elevations- Issue 05	15 November 2022	Hot House Architects
DA201 - Elevations- Issue 05	15 November 2022	Hot House Architects
DA300 - Sections- Issue 05	15 November 2022	Hot House Architects



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<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Flood Management Report	1 April 2022	Hodgson Consulting Engineers
Bushfire Assessment Report	14 December 2021	Sydney Bushfire Consultants

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	02/02/22	Applicant

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.