



northern
beaches
council

MEMORANDUM

DATE: 11 October 2023

TO: Development Determination Panel (DDP)

CC: Adam Richardson, Manager Development Assessment

FROM: Olivia Ramage

SUBJECT: Item No. 3.9, DA2023/0246 – 18 Hillcrest Avenue MONA VALE

Dear Panel Members,

Item 3.9 of the DDP Agenda held on the 13 September 2023 was deferred by the Panel, in order to provide the applicant an opportunity to redesign the development to address the reasons for refusal. The purpose of this memo is to provide an assessment of the plans and documents prepared by the applicant as a response to the DDP minutes and reasons for refusal. During the DDP meeting on the 13 September 2023, the applicant presented an amended set of plans to the panel. Following further amendments, the applicant provided a final amended set of plans and documents which were received on 29 September 2023.

The amendments to the development include the following:

- Reduction in decking and floor space
- Relocation of floor space towards the south-western corner
- Increased northern setback
- Reduction in height
- Increased landscaping and new plantings

The amended plans were also accompanied by amended landscape plan, stormwater plan, BASIX Certificate and Statement of Environmental Effects.

Assessment

Submissions

An additional two submissions were received in response to the amended plans (it is noted however that the amended plans were not formally re-notified at the direction of the Panel) raising the following issues:

- *Inappropriate development – Concern is raised that the development is not for the purpose of a secondary dwelling to help reduce the lack of housing. There is concern that the development will be used as a party house on a very fragile headland with considerable slippage.*

Comment:

The application seeks consent for a secondary dwelling which is permissible within the C4 zoning under the PLEP 2014. If consent is to be granted, it would be for the development of a secondary dwelling and a new use would require separate approval or subject to another scheme such as exempt and complying development. A further discussion on landslip is provided below under Other Matters.

- *Environmental and visual impact – Concern is raised regarding the impact on natural habitat of native animals and also the visual impact on Bungan Headland.*

Comment:

The site is not located within a wildlife corridor and does not require the removal of any trees. The visual impact of the development on Bungan Headland remains a concern as discussed under the C4 zone objectives, A4.9 Mona Vale Locality and D9.2 Scenic Protection.

- *Lack of details – Concern is raised that there are no details for how sewer is pumped up, where the car access is, what impact on security it will have for the headland.*

Comment:

If the application were to be approved, conditions would be imposed requiring sewer to be managed in accordance with Sydney Water requirements. The proposed secondary dwelling will be accessed via the existing driveway to the primary dwelling. The proposal provides a new boundary fence to the southern boundary with No. 16 and there is an existing boundary fence to the western boundary with No. 12 ensuring property security.

- *Local character and scenic protection – Concern is raised regarding the fundamental siting issues that continue to cause major disruption to natural features and typical rear setback pattern. The proposal is contrary to the desired character prescribed by A4.9 Mona Vale Locality in that it does not integrate with the landscape. The proposal does not achieve a balance between the landforms, landscapes and natural environment due to the siting of the built form on the edge of the headland without sufficient rear setback.*

Comment:

As discussed under the C4 zone objectives, A4.9 Mona Vale Locality and D9.2 Scenic Protection, the siting of the development remains a concern, forming reasons for refusal.

- *Zoning – Concern is raised that the proposal remains inconsistent with the objectives of the C4 Zone.*

Comment:

An assessment against the C4 zone objectives is provided below.

- *Landslip – Concern is raised regarding the site being identified as Geotechnical Hazard H1 and Coastal Bluff/Cliff Instability and the history of recent landslides on North Mona Vale headland. The submission notes that B3.4 Coastline (Bluff) Hazard requires that development must not adversely affect geotechnical and coastal processes or increase the level of risk. Concern is raised that the amended plans involve sinking the secondary dwelling further within the headland which will present an unnecessary landslide and coastal erosion risk.*

Comment:

A further discussion on landslip is provided below under Other Matters.

Pittwater Local Environmental Plan 2014

Zone C4 Environmental Living Zone

The underlying objectives of the C4 Environmental Living zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The proposal provides a secondary dwelling located on the edge of Mona Vale Headland in an area with special aesthetic values. The siting and design of the development is not considered to be low-impact and will have an adverse visual impact on the aesthetic values on the Mona Vale Headland to which it is proposed to be located.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The amended design provides an increased northern setback and a reduction in floor space which reduces the extent of visual impact and effects of the development. However, the development remains in close proximity to the eastern cliff edge with the eastern roofed deck just 0.5m from the foreshore building line and cliff edge. It is considered that the proposed development disrupts visual continuity, the natural visual presence and the aesthetic values of Mona Vale Headland.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The size of the proposed secondary dwelling has been reduced along with the extent of decking in an attempt to reduce the density and scale of the development. The height of the building has also been reduced which is a visual improvement. However, this reduction in height has come at the expense of the landform due to increased excavation. The increased excavation required to facilitate a lowered roof height is not considered appropriate for the landform and landscape.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The amended design incorporates increased landscaping and native planting to help establish foreshore vegetation. If the application were to be approved, conditions would need to be recommended by Council's Landscape team to provide suitable native planting to enhance foreshore vegetation.

Pittwater 21 Development Control Plan

A4.9 Mona Vale Locality

The desired character of the Mona Vale Locality includes the following:

Existing residential areas will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations.

Comment:

As per the Assessment Report, the siting of the proposed secondary dwelling on the edge of Mona Vale Headland within a coastal risk area and a geotechnical hazard area is not considered an appropriate location. While the secondary dwelling footprint has been reduced with the extent of decking reduced, the built form still remains dominant over the landscape due to the siting of the development.

C1.3 View Sharing

The amended plans provide a relocation of floor space to the south-western corner of the site and a reduced building height which provides improved view sharing for surrounding properties. A minor portion of the views obtained from the kitchen and dining area of No. 12 towards the east will be obstructed along with from the eastern side decks. The reduced height of the secondary dwelling

allows the reasonable retention of views obtained from No. 14 and 16. Therefore, the view loss of the amended scheme is considered minor.

C1.5 Visual Privacy

The amended plans have deleted the decks along the north-western side of the secondary dwelling which contributed to unreasonable privacy impacts. The amended design provides a deck on the eastern side of the dwelling facing the Pacific Ocean and away from adjoining properties. The amended design therefore resolves the previous privacy issues.

D9.2 Scenic Protection – General

This control stipulates that development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve. The following outcomes are to be achieved:

- *Achieve the desired future character of the Locality.*
- *Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment.*

Comment:

The proposed secondary dwelling is located on the edge of Mona Vale Headland and will be highly visible from Bungan Beach. As per the original Assessment Report, the siting and scope of the development does not allow for the visual impact to be minimised when viewed from the waterway and public reserve. The proposed development becomes the dominant feature when viewed from Bungan Beach and surrounding properties as it will sit within an otherwise landscaped escarpment. The proposal does not allow for a bushland landscape to be the predominant feature of the headland and the development is a visually dominating building contrary to the DCP control.

Other Matters

The application proposes a fence along the southern boundary with No. 16. It is unclear whether this is a common boundary fence or is to be located wholly within the boundaries of No. 18. In the absence of owner's consent from No. 16, there is insufficient information to grant consent to the boundary fence.

The site is located within a geotechnical hazard area and coastline (bluff) hazard area. The original application was supported by a Geotechnical Report and Coastal Engineering Report. The original proposal was reviewed by Council's Development Engineering and Coast and Catchments Teams with regards to geotechnical and coast risks. As per the Assessment Report, the referral comments for the original proposal were supported subject to the recommended conditions.

The amended plans require an increase in the proposed excavation depth for the lower ground floor slab by approximately 0.7 metres. An addendum letter to the Geotechnical Report has been provided by Crozier Geotechnical Consultants stating that the proposed changes do not significantly alter the geotechnical aspects of the original report.

Notwithstanding this, concern is raised that the amended plans provide a substantial change to the original proposal which does significantly alter the potential geotechnical and coastal impacts. Without conducting a full assessment and re-referral to the Development Engineering and Coast and Catchments Team, it is unclear whether the geotechnical assessment remains supported by Council. Similarly, the amended design is also accompanied by amended stormwater plans. Without a full assessment and re-referral to the Development Engineering Team, it is unclear whether the proposed stormwater management is acceptable.

Given the remarkable departure from the original design, there are concerns that the proposal is not substantially the same as the original proposal. It is important to consider whether it would be more efficient for the amended proposal to be the subject of a new development application requiring a full new assessment, as if such amendments were tabled as Part of a Section 8.2 review, the extent of amendment to the development due to the significant scope may not satisfy that test.

Conclusion

The amended proposal, whilst an improvement has not addressed in full all the reasons for refusal.

The reduction in height and footprint provides improved view sharing and visual privacy for the surrounding properties, however at the expense of greater excavation. Of particular concern is the potential landslip impacts given the sensitivity and location of the site within a geotechnical hazard area and coastline (bluff) hazard area.

An overall concern remains regarding the site's suitability given its aesthetic significance. The assessment of the proposed development has found that the development fails to meet the Objectives of the C4 Environmental Living Zone of the Pittwater Local Environmental Plan 2014, A4.9 Mona Vale Locality of the Pittwater 21 Development Control Plan, and D9.2 Scenic Protection - General of the Pittwater 21 Development Control Plan. In summary, the proposed development is not considered to be appropriately designed and sited resulting in unacceptable visual impacts and detracts from the character of the area. Accordingly, the application is referred to the DDP with a recommendation for refusal, per the amended reasons below.

Reasons for Refusal (amended)

1. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979.

Particulars:

- i. Given the adverse visual impact upon adjoining properties and the public domain, the site is not considered to be suitable for the proposed development.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of Clause Zone C4 Environmental Living of the Pittwater Local Environmental Plan 2014.

Particulars:

- i. The proposed development disrupts visual continuity and the aesthetic values of the area. It does not provide for low impact residential development in an area of special aesthetic value.
- ii. The proposed development is not appropriately integrated with the landform and landscape as it dominates and augments the existing landform.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A4.9 Mona Vale Locality of the Pittwater 21 Development Control Plan.

Particulars:

- i. The proposed secondary dwelling is sited in an environmentally sensitive area and is not considered to be an appropriate location, as it is inconsistent with the prevailing low-density, low impact character of the surrounding locality.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9.2 Scenic protection - General of the Pittwater 21 Development Control Plan.

Particulars:

- i. The proposed secondary dwelling is of significant visual impact and does not allow the natural Mona Vale Headland to be the predominant feature when viewed from the waterway and surrounding properties. Rather, it dominates the natural landscape with unsympathetic built form.
5. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars:

- i. There is insufficient information pertaining to the proposed boundary fence with No. 16 and no owner's consent is provided from the adjoining property owner. The approval of the development is therefore not in the public interest.