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**Sent:** 19/06/2021 9:03:42 AM  
**Subject:** DA2021/0088-28 Pacific Road Palm Beach-Further Objection attached  
**Attachments:** Nicholas-Further Objection to DA2021-0088-28 Pacific Road Palm Beach-19.6.21.pdf;

Hello at Northern Beaches Council,

We attach a further objection to the above development application on behalf of our clients.  
Acknowledgement of receipt will be appreciated.

Regards,

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## Colco Consulting Pty Ltd

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19 June 2021

By email to – Northern Beaches Council

The Chief Executive Officer  
Northern Beaches Council  
Administrative Centre  
Pittwater Road  
DEE WHY NSW 2099

Dear Sir,

### **Re: DA No. 2021/0088 – Property No. 28 Pacific Road Palm Beach - Further Objection. Proposed Partial Demolition and Substantial Alterations and Additions to Dwelling.**

#### **1.0. Introduction**

1.1. We act for our clients Ross Nicholas, Sally McCorquodale and Richard Nicholas, owners of the adjoining property to the west known as No. 30 Pacific Road. We lodged a detailed objection on 3 March 2021 to this application. Modified drawings have recently been lodged with Northern Beaches Council. This submission is in response.

1.2. We have examined the latest modified drawings and note the modifications are an improvement, however, our clients remain concerned with other issues raised in our earlier submission. We ask that council as the consent authority, duly consider each of the objections raised by our client in our original submission and in this submission.

1.3. The subject site slopes significantly down the site towards the streetfront and significantly across the site from east to west. Our client's property is located on the western side of the subject property with our client's land being significantly lower than the existing and proposed additions at No. 28 Pacific Road. The proposal adds significant additional floor areas over multiple storeys with the additions on the western side moved 5.015 metres towards the western side boundary – all in a significantly elevated position with multiple breaches of the side boundary envelope.



Above Fig. 1.0-1 – Photo taken from our clients ground level (existing) on 22 February 2021 – tells a story when it is considered the dwelling additions are moved westward by 5.015 metres and breach both height and building envelope controls. The Western Side boundary is located just below the foot of the rock (yellow arrow). The variations along the western side boundary do not appear to be accurately reflected in the limited RLs shown on the survey plan or in the DA drawings.

Our clients remain concerned with the proposed visual bulk when viewed from their property. They are also concerned with the streetscape, proposed garage and pool, privacy screen.

## **2.0. The Modifications and how this modified application responds to planning controls and objectives overall and impact our client's property.**

2.1. The modifications are an improvement and assist in some of their concerns only as we outline below in clause 2.2. However, the proposal remains non-compliant in critical design and amenity areas of the Pittwater Local Environmental Plan and Pittwater 21 Development Control Plan – each of which impact on the amenity of our client's property.

The Statutory land use zone E4 Environmental Living permits dwelling houses and includes residential garaging, carports swimming pools and other structures - with consent – however, they must be low-impact and sympathetic to the ecological, scientific, and aesthetic values of the locality.

Our clients conclude that this proposal is NOT Low Impact or sympathetic to neighbours and the streetscape – primarily due to the planning non-compliances. Compliance is achievable. We address this further in clause 2.3 below.

**2.2. The Modifications now with Council.** We address our assessment in summary form:

1. Proposed Inclinor passenger lift. The inclinor is now deleted. **A positive outcome and is supported.**

2. Western side entrance and landing. This is now deleted. **A positive outcome and is supported.**

3. One window on the western elevation. This is now deleted. **A positive outcome which is supported.**

4. Another window on the western elevation is redesigned to a high level window. **A positive outcome which is supported.**

5. Proposed internal Access Lift and new front entrance to dwelling. **A positive outcome and is supported.**

6. Internal room/wall rearrangements. **No objection.**

7. Increased size of the bedroom on the north-west corner. **Opposed** because it further breaches the building envelope control and increases the oppressive building height and bulk when viewed from our client's property.

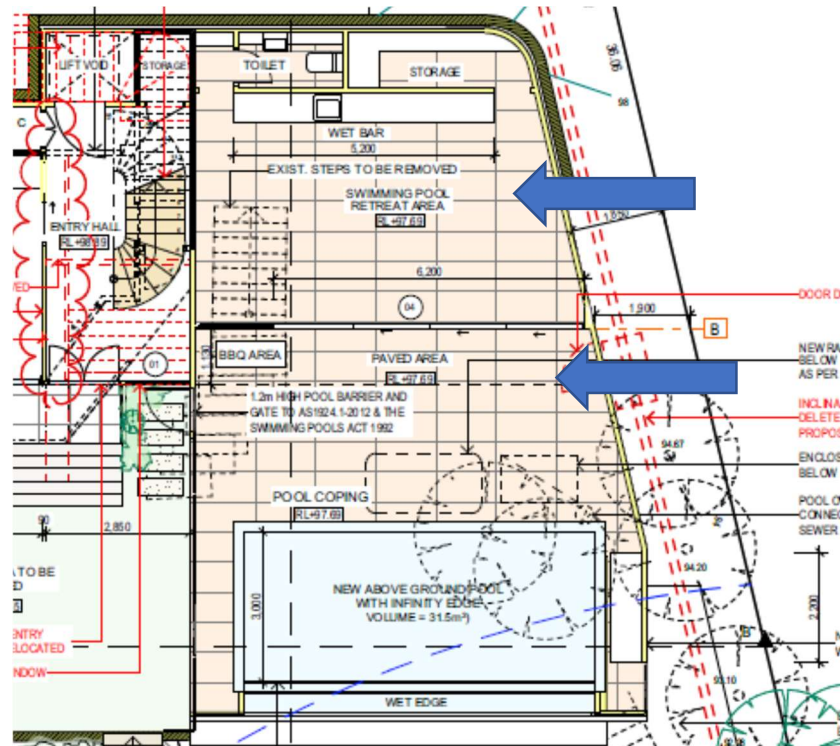
**8. The excessive building bulk and non-compliances have not been addressed by the applicant. Once again our clients concerns and objection to the building bulk and wall heights on the western elevation towering above their property No. 30.** The western elevation as it extends towards our client's property is non-compliant, is excessive in height, and building bulk and negatively impacts the amenity of our clients. **Our clients continue to express opposition to the height and bulk of the building when viewed from their ground level of their existing property.**

**The breaches in planning controls cannot be supported.**

## **2.3. Unchanged Elements in the Development Application of continued concern**

### **2.3.1. Unchanged - Front setback and location of garage and pool above and "Privacy screen".**

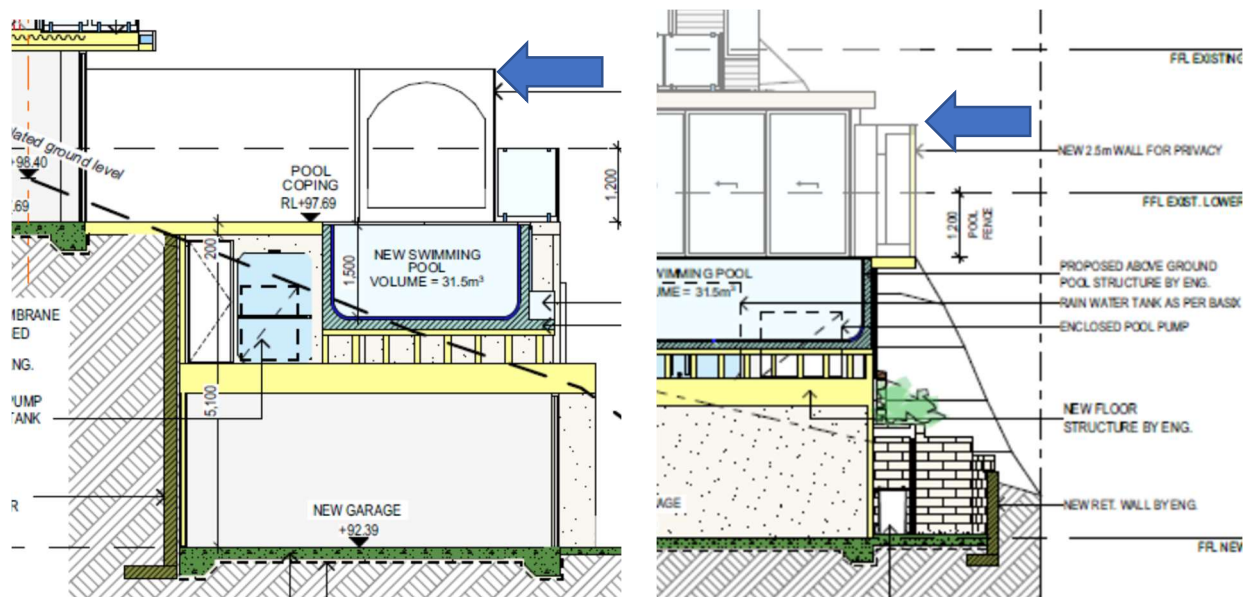
- We remain of the opinion that all these elements are non-compliant with the DCP numerical controls and objectives. Our clients consider these non-compliant elements oppressive, and continue to object.
- We suggest the garage should be set back at least a further 1.5m to 2m and the pool lowered so that it sits directly atop of the garage slab and not elevated above as proposed.
- The open area behind the pool is generous and more particularly, the proposed "swimming pool retreat, wet bar and storage" – with an area of approx. 48m<sup>2</sup> and dimensions of 8000x6000 and could easily be reduced in area and depth to accommodate increased setbacks of the garage and pool – particularly the pool. Refer to diagram below.



Above Fig. 2.0-1 Demonstrates area/dimensions of the Pool terrace and the large “swimming pool retreat, wet bar” room.

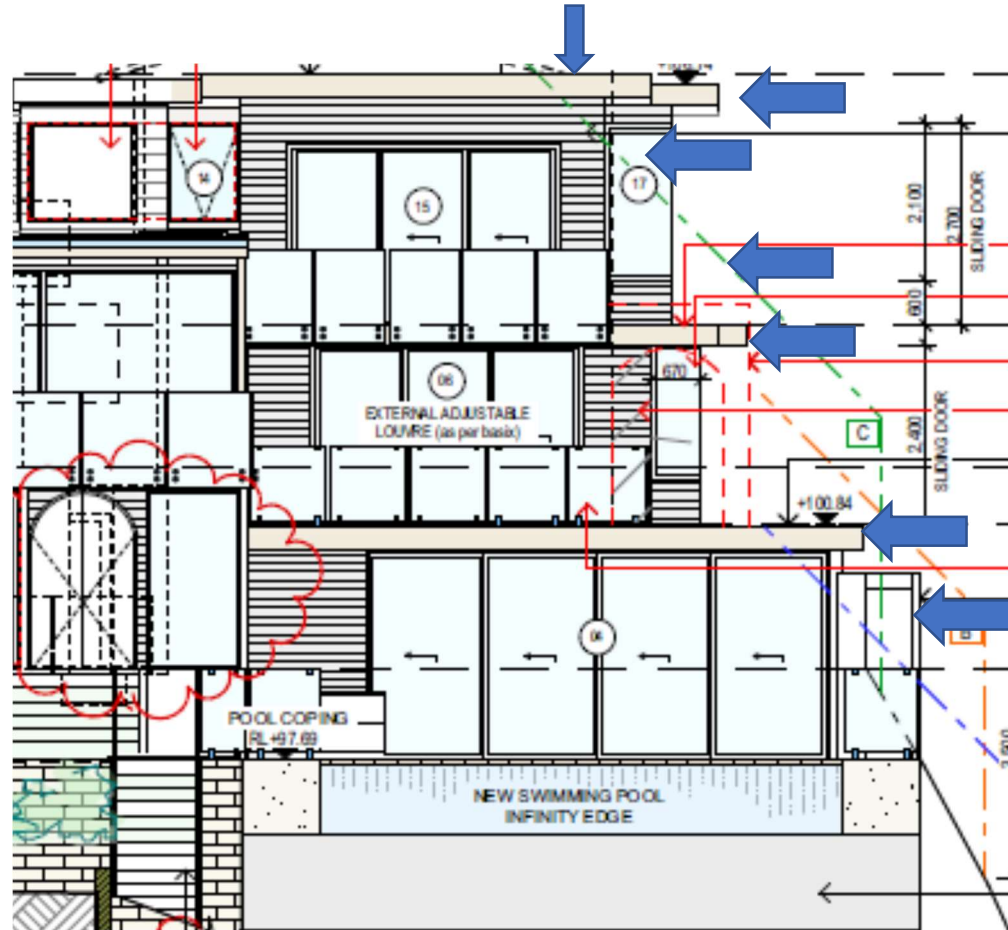
**2.3.2. Unchanged - Privacy screen on top of the pool is at a height of 2.5 metres above pool level and approx. 8 to 9 metres above the level of our client’s boundary at a distance of approx. 3 metres from boundary.**

This wall and other parts of the proposal along the western elevation breach the building envelope control and cannot be justified. Our clients consider it oppressive, and continue to object.



Above –Fig. 2.0-2 Cross Section. Arrow indicates the proposed 2.5 metres privacy screen and amenity facility. It also demonstrates the lifting of the pool above the proposed garage roof slab.

**2.3.3. Unchanged and/or increased - Breaches of the Building Envelope Control.** There remain multiple breaches of the Building Envelope Control along the western elevation which remain genuine concerns to our clients. Refer to extract below – blue arrows indicate breaches according to the DA drawings within side boundary setbacks of approx. 1800. The breaches may be greater:



Above Fig. 2.0-3 – Breaches of Building envelope control represented by the 45degree coloured lines.

2.3.4. Unchanged – Breach of Statutory Pittwater LEP Objectives for Zone E4 Environmental Living Zone – non-compliant with the PLEP Objectives. With the proposed vertical heights, building bulk, breaches of building envelope and non-compliance with minimum front setback to accord with adjoining properties, and failure to step and follow the significant slope of the site from north to south, the development proposal in our opinion, fails to achieve the critical planning objectives of the restrictive land Zone of E4 Environmental Living. **The proposal is not low-impact and not sympathetic to the ecological, scientific, and aesthetic values of the locality and western neighbour – as partly demonstrated in the following DA perspective.**





Above – Fig.2.0-4. This perspective drawing demonstrates the proposed approx. height of the garage, pool, and privacy screen above our client's side boundary – approx. 8.7 metres high and 1.9 to 3 metres from the boundary. All this breaches the minimum front setback. The E4 zoning objectives require residential development to be *"low density and scale integrated with the landform and landscape"*. *This proposal presents from the street as a four storey building.*

**2.3.5. Proposed Materials and External colour scheme.** The proposed external colour scheme does not accord with the Pittwater Development Control requirements – which in particular prohibits the external colour of white and light colours. Being aware of the DCP requirements the owner has recently repainted the dwelling in white. And this is proposed to continue. We restate the PDCP requirements being - **External colours and materials shall be dark and earthy tones – Black, Dark Grey, Dark Green, Dark Brown, Mid Grey, Green, Brown or Dark Blue. Not Permitted - White, . Light Blue, Light Grey or Beiges or red or orange roofs.** Finishes are to be of low reflectivity.

### **3.0. Summary and Conclusion**

1. The design modifications are generally an improvement with the deletion of the inclinator people elevator most beneficial. **However, the application continues to be significantly non-compliant and will result in considerable loss of amenity to our client's adjoining property at No. 30 Pacific Road** as outlined throughout our objection of 1 March 2021 and this further submission.

**Our clients object to consent being granted and consider the application should be refused. Opportunity to modify the application has resulted in only minimal modifications. Compliance is possible.**

#### **2. Our concerns are summarised:**

- **Overdevelopment and excessive building bulk and built form including locations and heights within the front setback area and along the western side elevation.** This is a large, bulky development for this narrow fronted steeply sloping site which has little regard to the streetscape or our client's property to the west, No. 30 Pacific Road. The negative impact of the proposal is especially excessive along the western elevation, and when viewed from our client's property, and also from the streetscape.
- **Invasion of Privacy and amenity to our client's property.**
- **Numerous non-compliances including** - non-compliant front setback and maximum heights, side boundary setbacks, wall heights, and multiple breaches of the building envelope. These, individually, and when compounded cannot be justified. The negative impacts on our client's property including privacy, overlooking and visual impact cannot be justified or given "dispensation".
- **Non-complying front setback and non-complying front soft landscaping.**
- **Excessive height of the elevated pool** above the proposed garage.
- **Excessive height of the masonry "Privacy" wall** located above the pool structure.
- **The proposal does not step across the steeply cross slope of the land as envisaged by the planning controls to follow the slope of the land**, and is inappropriate for a development of this magnitude on a narrow fronted and steeply sloping residential allotment zoned E4 Environmental Living.
- **Inadequate and ineffective landscaping** and inability to establish effective landscaping along the side boundaries.
- **Non-complying and inadequate site open space**, site landscaping and permeable areas across the front portion of the site.
- **Overbearing and negative amenity impacts on our client's property.**
- **Inappropriate and inadequate details of materials, wall finishes and colour scheme (non-compliant).**

**3. The application should be refused, and the applicant advised that a future development application must comply with the applicable planning controls and objectives and satisfactorily address and resolve the negative impacts as outlined throughout this objection on neighbouring properties and streetscape.**

However, should Council consider approving the application, then our clients ask that it be a **Deferred Commencement Consent** subject to modifications being submitted and approved prior to the consent being activated – such as, lowering the height of the pool, deletion of the masonry "Privacy" wall, reduced wall heights and roof heights along the western elevation, increased western side boundary setbacks to minimise privacy impacts, and building bulk and for planting of dense advanced trees between the dwelling and western side

boundary. Also, a condition that any side boundary fence be limited in height of 1800mm above ground levels (existing) as defined in the PLEP Dictionary.

4. Our client previously requested and again asks that council require certified height poles be erected to show the proposed heights, location and outline of the proposed additions. Such certified poles will emphasise our clients' genuine concerns.

5. Our clients are not opposed to sensible compliant redevelopment of the subject site.

6. We request the opportunity to address the determination Panel on behalf of our clients.

Yours faithfully,



Wayne Collins  
Director

**Qualification:** *We rely on the application documents available on the council web site, our interpretation thereof and information provided by our client. We are not lawyers, and we offer no legal advice. Our comments reflect our experience, our understanding of planning controls, processes and relevant court cases and judgements as we understand them. Others may hold a different opinion.*