
Sent: 4/06/2020 8:46:54 PM
Subject: Attention Claire Ryan_Objection Regarding REV2020_0017
Attachments: Objection_REV2020_0017.pdf;

Claire

Attached is our objection regarding REV2020_0017 at 157 Victor Road, Dee Why.

Regards

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4th June 2020

Attention Claire Ryan
Northern Beaches Council

Objection regarding REV2020/0017

Section 8.2(1A) Review of Determination - Review of Determination of Application DA2019/1179 alterations and additions to a dwelling house.
157 Victor Road, Dee Why

We are the owners and occupiers of the property at 154 Victor Road which is located directly opposite 157 Victor Road and we object to the new design submitted with the Review of Determination.

View Loss

We specifically object to the proposed upper floor addition which will block the view to the East from our property across the top of 157 Victor Road. Our view consists of a heavily treed foreground, Dee Why Lagoon (which is a heritage item), Dee Why Foreshore, Dee Why Beach, Land Ocean Interface, Breaking Waves, Ocean and the Horizon Line.

The Applicant's Planner has never visited our property and is not qualified to assess the impact on our view. The view study submitted by the applicant D31(A) is very basic in its representation however it does highlight the significant view loss resulting from the proposed upper floor addition when compared against the actual view.



Existing view from 154 Victor Rd

View loss resulting from Upper Level extension to 157 Victor Rd

Non Compliant with WDCP B3 Side Boundary Envelope

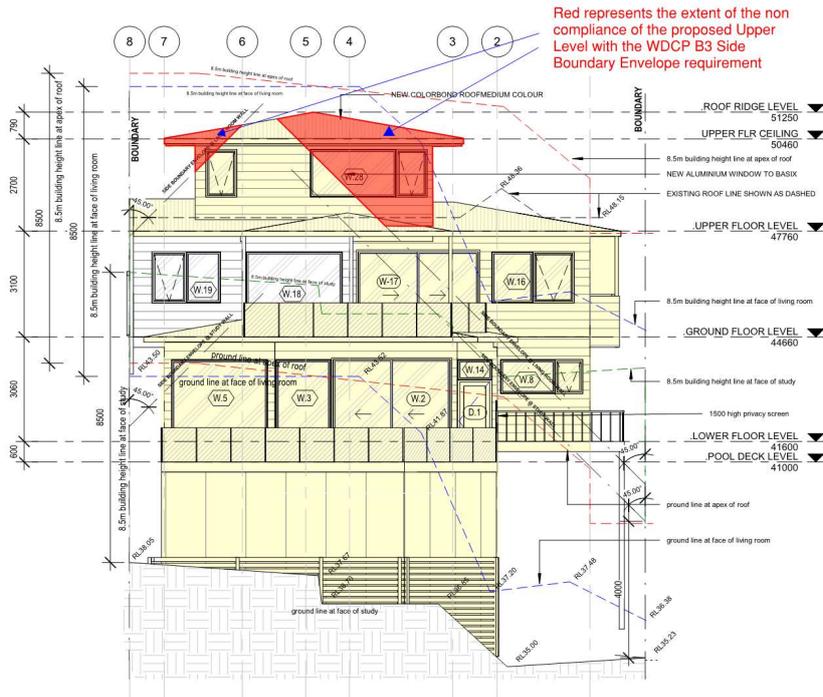
The proposed upper floor addition **does not comply** with the WDCP, Part B Built Form Controls, B3 Side Boundary Envelope, Requirements, Item 1 which states 'Buildings on the land shown coloured on the DCP Map Side Boundary Envelopes **must** be sited within a building envelope determined by projecting planes at 45 from a height above ground level (existing) at the side boundaries of 4 meters'.

Council's WDCP Part B Built Form Controls provides no opportunity for a Merit Assessment in relation to the Side Boundary Envelope and therefore there is no scope to breach the Side Boundary Envelope as this proposal does. The Determination of DA2019/1179 specifically refers to the **breach** of the Side Boundary Envelope in the refusal:

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 B3 Side Boundary Envelope of the Warringah Development Control Plan.

The new design provided in the Review of Determination does not address this issue as the Upper Level significantly breaches the Side Boundary Envelope highlighted on the Eastern Elevation Drawing D21(A), refer to extract below:

[Type here]

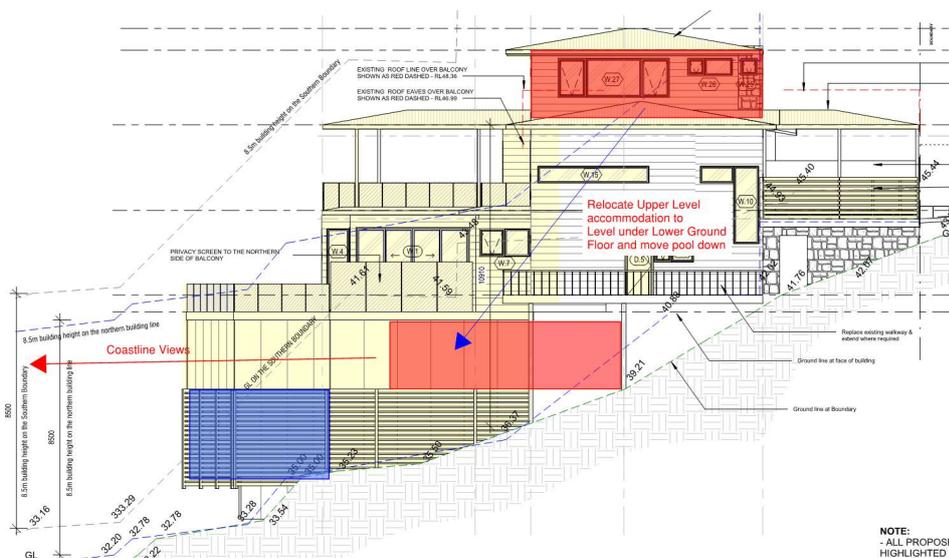


Proposed East Elevation, Extent of Side Boundary Envelope Non Compliance

The result of this breach is an Upper Floor Level that completely blocks our view which has been assessed by an independent expert, Peter Moody, as being significant according to the parameters outlined Tenacity Consulting v Warringah Council. The view is an important aspect that contributes to the enjoyment of our property. It is the main vista from our front deck, primary living area, kitchen and dining room and master bedroom.

157 Victor Road already enjoys an amazing view of the coastline from all levels, uninterrupted by either trees or buildings and never to be built out given the location of the existing house on the ridge. The view needs to be shared, not dominated by 157 Victor Road and Council's Planning rules are there to support equitable outcomes.

The accommodation located in the proposed Upper Floor can be incorporated into the design by relocating these rooms to either the Lower Floor Level or under the Lower Floor Level and moving the pool down a level, while also retaining access to the view. As such a skilful design response will result in providing the accommodation required **without breaching the WDCP Side Boundary Envelope** requirement and an equitable sharing of views between both 157 and 154 Victor Road.



Proposed North Elevation, Relocation of Upper Level Accommodation and Pool (opportunity for full compliance)

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Division 8.2 Reviews

We object to this design being assessed under the Division 8.2 Reviews. The legislation, Division 8.2 Reviews, 8.3 (3), states that in relation to any modifications to the design in response to the refused Development application **'the amended development must be substantially the same development'**. The design submitted for assessment under the Review process cannot possibly be argued as being 'substantially the same development', it is a completely new design and as such a completely new development. The Plans, Elevations and Sections are all completely different to the refused design in DA2019/1179 and an elevated pool has even been added. This development needs to be assessed as a Development Application which is the appropriate assessment process in this instance.

Conclusion

The design submitted in response to the refused DA 2019/1179 for the purpose of a Division 8.2 Review fails to address all of the reasons for its refusal and in particular the significant breach of the WDCP B3 Side Boundary Envelope.

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 B3 Side Boundary Envelope of the Warringah Development Control Plan.

There is no basis for accepting this breach given that the WDCP Part B Built Form Controls do not allow a Merit Assessment of the B3 Side Boundary Envelope and as per the wording of this clause the proposed design **must** comply. The result of the breach is an additional level that blocks the significant view according to Tenacity from 154 Victor Road. It is not necessary for the applicant to breach this Planning Control to develop their property. They can achieve a compliant design that does not impact on the view from 154 Victor Road, while providing all of their accommodation requirements.