

13 December 2023

Mark Milton  
Student Planner  
PO Box 82 Manly  
NSW 1655

Dear Mark,

**Response to Request for Further Information - Mod2023/0455 - 346 Whale Beach Road Palm Beach NSW 2108**

We refer to your letter dated 6 December 2023 concerning the above modification application.

The letter raises the following two issues which we are pleased to respond to on behalf of the applicant.

**1. Chimney and enclosing structure**

The modification application includes a proposal to increase the height of the approved chimney and flue which we have been advised is necessary for the proper functioning of the fireplace. Your letter notes that chimneys are excluded from the calculation of building height but asks whether the structure encasing the chimney can be reduced to minimise its visual impacts.

The project architects have investigated the opportunity to reduce the encasing structure which is illustrated in the detailed design drawings reproduced in Figure 1 below.

As Figure 1 illustrates, the opportunity to reduce the size of the encasing structure is limited. The project architects note that the joining of the chimneys simplifies the silhouette and visually, *"the cojoined chimneys is calmer, more elegant and does not contribute complexity to an environment that needs simplicity."* Finally, the project architect notes that the encasing structure adds stability and is integral to the chimney. Being an integral part of the chimney, it is also excluded from the measurement of building height.

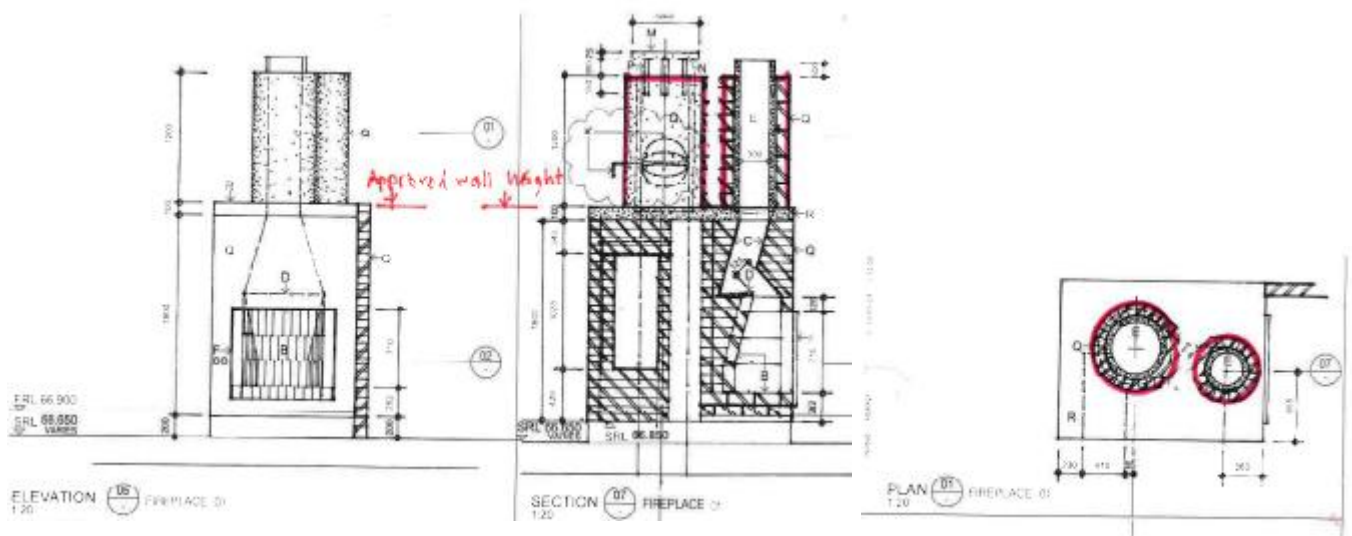


Figure 1 Chimney detail and opportunity to reduce encasing structure.

In terms of visual impacts, we note that the extended chimney sits below the highest part of the building when viewed from surrounding properties and the public domain. Furthermore, it does not interfere with views from surrounding properties or the public domain and is in keeping with the architectural character of the approved building.

In our opinion, the proposed chimney and flue extension does not alter the assessment of the original development application where we note that both the assessing officers and the Northern Beaches Local Planning Panel were satisfied the proposed approved house would have no adverse environmental impacts in terms of view loss or perceived bulk and scale. Refer to Figures 2 and 3 for a comparison of the eastern (Whale Beach Road) elevation of the approved chimney and the proposed modification.

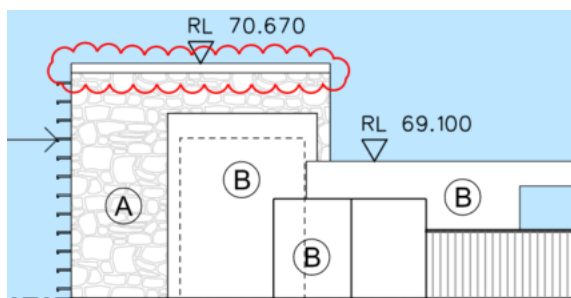


Figure 2 Approved East Elevation – DA050(U)

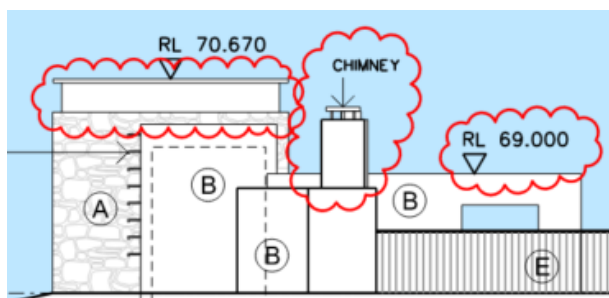


Figure 3 Proposed East Elevation – DA050(V)

## 2. Works already commenced and/or completed

We note your concern that some of the works appear to have already commenced, including but not limited to the kitchen window on level 2 and the conversion of insulated roof panels to glass on the roof level. We also acknowledge that development consent for building work cannot be granted retrospectively as confirmed recently in *Ku-ring-gai council v Buyozo Pty Ltd* [2021] NSWCA 177.

To the extent that the work is not complete, for example, openings have been left for the proposed windows and the glass on the proposed roof level is not complete, we believe that any approval granted will be prospective. Any residual concerns held by Council can be resolved by condition, although we do not believe this will be necessary.

## Conclusion

We trust the above information resolves the issue identified in your request for information.

We note that the modification application was submitted on the planning portal on 16 August 2023 and look forward to the application being finalised without further delay.

If there is any further information or assistance we can provide please do not hesitate to contact Parisa Sheikhi on 02 9071 1851.

Yours sincerely

Mark Schofield  
Director