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**From:** [REDACTED]  
**Sent:** 8/02/2022 2:03:42 PM  
**To:** Council Northernbeaches Mailbox  
**Subject:** Response to Proposed Development  
**Attachments:** Northern Beaches Council Submission.docx;

Please find attached a submission in response to the proposed development at 58 Whale Beach Road, Avalon Beach. NSW 2107.

Application number: DA2021/2582 .

We have provided contact information for council use , but request that our names, phone numbers, address and email addresses are not publicly available.

Regards,

[REDACTED]

Northern Beaches Council,  
P.O. Box 82,  
Manly, NSW, 1655.

5<sup>th</sup> February, 2022.

Re: Development Application DA2021/2582

Address: Lot 106 DP 17189 58 Whale Beach Road, Avalon Beach

Description: Alterations and additions to a dwelling house including a swimming pool and secondary dwelling.

Thank you for notification of the abovementioned development application. Being the neighbour directly west of the application at number 17 Alexander Road, we have several serious concerns about the development application predominantly in relation to the secondary dwelling.

We have some questions we need answers from council on –

**Are DCP's arbitrary?** I thought they were developed as a framework to work within where at all possible and non-compliance was only available in extenuating circumstances. I feel strongly that it is very important that this council does NOT use previous councils' bad decisions as precedence for allowing non-compliant developments such as the secondary dwelling in this application.

**What is the actual height at natural ground level for the secondary dwelling?** There are no ridge heights or dimensions for the secondary dwelling at all mentioned on the plans as submitted.

**Is a Sydney Water detailed stormwater plan required to be submitted with an application of this type?** Council needs to establish that the existing stormwater arrangements are to current building code and actually connected as such.

Some other facts not evident on the submitted plans –

- The rear of the site has been previously filled to a depth of at least 1.2 metres, evidenced by the height of an existing pine log retaining wall on our eastern boundary.
- The boundary fence is only 115cm high between our 2 properties above the retaining wall.
- The 'dense' existing vegetation between the 2 properties is 2 golden cane palms to a height of 2 metres and width of 3 metres – the rear of our property has no consequential plantings and has a lowset garden shed between and will provide almost no privacy from the primary dwelling additions and the secondary dwelling. Growth rates for this type of palm are slow at 30cm per year.
- The existing stormwater drainage does not cope with normal rainfall currently – as reported by us to council on 16/3/17 and which we believe contributed to the uprooting and fall, in our back garden and onto our northerly neighbours' house, of a beautiful ghost gum in February 2017. The tree had a trunk girth of over 2.5 metres and was over 30 metres high and fell due to the destabilisation and waterlogging of our back garden due in no small part to stormwater runoff from 58 Whale Beach

Road. In one day of normal steady rain, stormwater runoff from the rear property cascades over the pine log wall, sending a river down our back garden and floods our front entry porch and also floods through our neighbours' garden at number 19.

- 58 Whale Beach Road has consistently been a venue for loud late night teenage parties to which the police have been called on several occasions. This includes when at least 30 youths scaled our back fence to escape police intervention at the party, trespassing, jumping on and damaging our shed roof and littering ours and the neighbouring number 15 property along the way.

Our concerns in detail –

### **B3.6 Contaminated Land and Potentially Contaminated Land**

We would appreciate notification prior to the removal of any asbestos from the property during construction so we may secure our property and close all our windows to minimise any exposure.

### **B5.15 Stormwater**

We have several concerns for the proposed stormwater arrangements. We note that no detailed Sydney Water plans of existing or proposed stormwater arrangements have been submitted.

Whilst we are aware that it is proposed to use the existing stormwater we have already reported to council and highlighted above that this doesn't currently cope with the stormwater and would appreciate council establishing that the existing stormwater is connected to and being piped to the street as per controls, and not simply running to an inadequate absorption pit, as was often the case when the house was originally built.

There is no detail on the plan for swimming pool overflow drainage and we would appreciate advice that this will in fact be attended to and piped to the street.

We are concerned the swimming pool will be 'hard surface' but has been included in the 'landscaping' area on the plan, and also that this coverage percentage is not taken into the account for the proposed overall site coverage which may give rise the other necessary development controls.

The secondary dwelling plan also notes using existing stormwater – again we are concerned that the existing stormwater is inadequate.

We request that sedimentary controls be placed across the 12.05 metres of the western boundary to minimise further impact to our properties at 15, 17 and 19 Alexander Road.

### **B8.1 Construction and Demolition Excavation and Landfill**

We note in diagram DA11 Sediment Control, Waste Management, Demolition & Stormwater Plan that proposed sedimentary controls will be in place on the road (uphill from the development) but no sedimentary controls are proposed for the western downhill boundary during construction.

Although the pool is predominantly above ground some excavation will be necessary along with some digging for footings for the secondary dwelling and substantial digging and fill for the landscaped areas.

We request that sedimentary controls be placed across the 12.05 metres of the western boundary to minimise further impact to our properties at 15, 17 and 19 Alexander Road.

### **B8.3 Construction & Demolition – Waste Minimisation**

We request notification prior to the removal of any asbestos from the property during construction so we may secure our property and close all our windows to minimise any exposure.

#### **C1.1 Landscaping**

According to plans the swimming pool is considered as landscaping. We are concerned this in fact should be considered a built structure and included in site coverage calculations.

Furthermore, "The proposed design (of the secondary dwelling) also incorporates new planting between the secondary dwelling and the western site boundary". This is not evident on the plans submitted and we would be concerned that new planting be specified as established, mature plant species to provide immediate privacy from the proposed secondary dwelling to our property.

#### **C1.2 Safety and Security**

These controls are focussed on the safety and security of property owners. Safety and security of 58 Whale Beach Road seems to have been addressed however, we have concerns for our safety and security in light of the secondary dwelling being within the 6.5 metre set back control and the height of the existing rear fence based on previous experience with antisocial behaviour from the owners' guests and involvement of police attention. We see the proposed development as effectively moving the party pad from the primary dwelling to the secondary dwelling.

We request that the dividing fence which is currently 115cm be raised to 1.8 metres and that the secondary dwelling be positioned further east outside the 6.5 metre set back.

#### **C1.5 Visual Privacy**

"Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below".

We reject that the secondary dwelling is compliant with this control as submitted.

The proposed secondary dwelling is positioned within the 6.5 metre set back and has west facing windows that account for 70% of the width of the building with a height of 1400mm which will be overlooking 100% of our private open space. In addition, the secondary dwelling although proposed at one storey would effectively be a 2 storey residence given the existing raised ground levels of 1.2 metres at the rear of the property.

A suggestion we would make could be to flip the floorplan of the secondary dwelling to make the aspect of the dwelling to be of the landscaped garden area to the east rather than our property to the west.

Not withholding this, according to the plans as submitted we can see no reason that the building can't be positioned at the 6.5 metre set back and we would request that this be attended to, along with all western facing window sills being positioned 1.7 metres above floor level as per council controls, to preserve our privacy as much as possible.

Additionally, we are concerned the proximity and design of the secondary dwelling could significantly compromise any future development plans we or future owners may have for our property i.e. rebuilding/extending further to the rear of our property.

Allowing this will set an unwarranted precedence and is not in keeping with the area. Previous council bad decisions should not be used to support deviation from this control.

### **C1.6 Acoustic Privacy**

"The outdoor ground floor Deck already exists, although is slightly enlarged. The pool is located in the middle of the block, westwards of the neighbour's homes. The pool equipment is located underneath the decking to contain noise."

As highlighted previously in this submission, 58 Whale Beach Road has consistently been a venue for loud late night parties to which the police have been called on several occasions, and outdoor live bands along with outdoor loud music is not uncommon. Our fear is that this occurrence will continue and will in fact move closer to our property with the proposed secondary dwelling and occupation by an unsupervised teenager of the family, and not an elderly relative.

Our 3 bedrooms are at the rear of our property and our acoustic privacy is already significantly impacted.

We would request assurance from that no outdoor speakers will be allowed to be installed on the proposed deck to the primary dwelling deck or the secondary dwelling.

### **C1.7 Private Open Space**

"Where the secondary dwelling or rural worker's dwelling is separate from the principal dwelling, only one storey will be allowed"

We are concerned that given the existing changes to natural ground levels (at least 1.2 metres filled previously) and the raising of the western floor level of the secondary dwelling to allow for the existing fall of the property, the secondary dwelling will be equivalent in height to a 2 storey dwelling constructed facing onto the rear of our property within the 6.5 metre setback. This structure should be viewed as totally 'non-compliant' and rejected unequivocally.

"The secondary dwelling will be partially obscured from neighbouring properties by existing fencing and additional proposed planting."

Additional planting is not evident on plans as submitted and the fence is only 115cm high and won't provide any privacy at all.

We would request that new planting be specified as established, mature plant species to provide immediate privacy from the proposed additions to the primary dwelling and the erection of the secondary dwelling to our property.

Additionally, we would request that the dividing fence which is currently 115cm be raised to 1.8 metres.

### **D1.9 Side and rear building line**

"The minimum side and rear building line for built structures including pools and parking structures other than driveways, fences and retaining walls for land zoned R2 - Low Density

Residential shall be: 2.5 at least to one side; 1.0 for other side and 6.5 rear. **The same restrictions apply to secondary dwellings."**

The secondary dwelling does not comply with at least 2.5 metre to one side (both sides are 1.0 metres) and 6.5 metres rear set back (secondary dwelling is 4.7 metres) and is therefore non-compliant.

"Despite the closer proximity to the rear boundary, a good level of privacy and solar access is still maintained between No. 58 and No. 17 Alexander Road. Noting that the principal

dwelling at No. 17 is located more than 25 metres from the shared boundary, and screen planting is proposed along the boundary.”

Although the rear of our house is approximately 25 metres away, both of our neighbours houses are built another 17 metres further east. This gives no merit for the distance to our building as if we wanted to develop our property it would likely be in line with the rear of our neighbouring properties or completely rebuilding further back on our block. Our concern is the proximity and design of the secondary dwelling would significantly compromise our planning options into the future.

There is no apparent reason why the secondary dwelling could not be positioned further east 1.8 metres on the property to comply with the 6.5 metre rear building line. Additionally, reducing the overall planned footprint to comply with the 2.5 metres on the northern side would appear achievable.

“We refer to immediate precedence showing many secondary & structures located similarly to the rear setback (see Figure 1 in addendum below).”

References to support precedence are parking structures or garden sheds (including their own garden shed) are **not dwellings** and have no merit to allow precedence as being set for the proposed secondary dwelling. If the structures highlighted were even approved, Councils’ previous bad decisions should have no merit in support of this deviation.

Solar access has already been severely compromised to the rear of our property from the existing structure at 60 Whale Beach Road, which compounds slow recovery for water logging of our property from stormwater runoff from 58 Whale Beach Road. More shading from any proposed development would further compound this problem and prevent survival of plantings to maintain privacy.

**Consideration should not be allowed for the secondary dwelling without considerable alterations to plans as submitted.**

We would request notification for any future alterations to the submitted plans for our comments and review.

We appreciate your attention to our concerns and look forward to hearing more from council. We would also welcome councils’ attendance to our property to view our concerns in person.

Yours sincerely,

