

16 March 2022



Nicola Domazet  
3 Riverview Road  
AVALON BEACH NSW 2107

Dear Sir/Madam,

**Development Application No: DA2021/2208 for Alterations and additions to a dwelling house including a tennis court, outbuilding and associated landscaping works at 3 Riverview Road AVALON BEACH.**

I refer to your Application which is under assessment by Council. We apologise for the delay in response.

The assessment of your application has revealed issues, which prevents Council from supporting the proposal in its current form.

The following is a list of the issues identified:

#### **Heritage**

Council's Strategic Planner - Heritage has reviewed the proposal and has provided detailed comments. The full comments can be viewed on the following link:

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadAppPropDoc.ashx?id=xIBI%252fjRsx0YV0A60ki4OEg%253d%253d>

The key recommendations of these comments are reproduced below:

*"The application is supported by a Statement of Heritage Impact which concludes that the proposal retains the significance of the Item and its setting ; that the existing curtilage and visual setting of the house will not be affected ; that the design intent of the original architect is not diminished, and that the high architectural merit of the proposal will "enhance the understanding of the heritage item by creating a valuable contemporary layer executed in a cohesive manner with the work of the original architect Douglas Snelling". These conclusions are not agreed with.*

*The present site characteristics of the property are not acknowledged in the report, nor helpfully interpreted. There is no front fence because it would appear, quite intentionally, none was built – in keeping with the "ill-defined" but intentional absence of fenced boundaries. The "street frontage foreground" of the property appears to have always been grassed lawns, and remains so.*

*What appears obvious is that the house was intentionally set to the western waterfront side of the property and is effectively set behind a spatially luxurious, landscaped foreground, screening the house from view. There are no fences or gates. As noted, a hint of what is on the site is provided only by the exotically detailed "pagoda" letterbox beside the driveway entrance. The approach driveway crests before sweeping around to*



*enter the vehicle forecourt and carport, from where the house itself is revealed. The absence of development in the eastern area of the site (apparent in successive aerial photos of the site) and an emphasis on spacious open, landscaping, appear intentional. In my opinion, this is consistent with the Californian Modernism with which Snelling was familiar.*

*This perspective suggests that development in the foreground area of the site should be carefully scaled, reticent, and not dominant of the approach and arrival experience of the house. The works will occasion the removal of the present entry drive and roundel, and the relocation of the original letterbox – which obviously should be retained as is proposed. It should not in my understanding, be sited on public land as shown.*

*The proposed palisade front fence and super-scaled entry arbour are not in my opinion, consistent with the significance and characteristics of the property, and will unreasonably change and dominate the presentation of the property to the street and the arrival experience to it. Landscaping could and should conceal the presence of fencing and of the proposed masonry base structure to the court.*

*The overall character – form, materials, and shape of the proposed ground floor of the envisaged tennis pavilion owe little to the house proper, and do not defer to it, which it should. In my opinion it should not have large glazed openings presented to the approach drive.*

*While there will be a planning assessment of the proposal, considering amongst other things the impact of the proposal on the amenity of neighbours to the site, in heritage terms, for the introduction of a tennis court and services to be acceptable it is submitted that it must defer to the strong heritage values of the site and how these can be minimally affected by the facility.*

*A more reticent design which responds to the characteristics of the property and respects its importance would have a greater chance of support. This is not a suggestion that the “style” of the pavilion should be consistent with the house; it is the scale, bulk, materials and character of the pavilion that should avoid diminishing conflict and competition.*

*It is suggested that with regard to the court itself, the treatment of the masonry base which provides a level court surface plane, should be simple and avoid any fenestration to the approach drive. The arbour or pergola frame should be omitted from the proposal, and the court fence should be as simple in materials and construction as possible. Landscaping and particularly vegetation should act to conceal both the base and the court fence.*

*With regard to the pavilion, the upper floor should have a reduced presence, having a thin-edged roof and see-through walls to yield a minimal presence. The building should be seen behind the screening landscaping which is suggested to minimize the presence of the court. It should not make a statement which detracts from the house to which it is auxiliary, for this risks conflict with the significance and design statement which the heritage listed residence makes.*

*The location and treatment of the proposed bin store and of the front fence should also be reconsidered, so as to retain as much as possible, the apparent open-ness of the site. An alternative location for the bin store should not be difficult and avoid more built*



*elements in the property frontage area. If envisaged for site security reasons, a suitable fence should be possible further into the property.*

*In summary, while the concept of a court and pavilion can be supported, the clear potential for conflict with heritage significance means that the design of the current proposal cannot be supported, and should be reconsidered and amended in response to the comments above.*

*In heritage terms, the proposal in its current form cannot be supported, without amendments for a better heritage outcome. These should be readily achievable, and may be assisted by further discussion with Council officers.”*

### **Proposed Pavilion / Permissible Land Uses**

The size and layout of the proposed pavilion is considered to be a prohibited land use within the C4 Environmental Living zone of the Pittwater Local Environmental Plan 2013, in which the land is located. The estimated floor space on both the lower and upper level is estimated to be in excess of 200m<sup>2</sup> and the internal layout includes all the necessary rooms and functions that would exist within a dwelling house.

Whilst “secondary dwellings” (in conjunction with an existing principal dwelling) are permitted in the C4 zone, any building that: exceeds 60m<sup>2</sup> in floor area, and; has a floor layout that would allow it to be used a dwelling, must then be considered as a separate dwelling to the one that already exists on site.

Hence, the land use definition of the development that is proposed is considered to be a “dual occupancy (detached)”. This form of development is prohibited in the subject zone and hence Council cannot support the development in its current form.

### **Landscaped Open Space**

On the subject land, the Pittwater 21 Development Control Plan (P21 DCP) specifies that at least 60% of the site is to be set aside as landscaped open space in any new development. It is estimated that at only 51% of the site is provided.

This represents a significant loss of existing landscaped open space on the site and does meet the primary objective of the control, which is to mitigate the visual impact of new development.

### **Front Setback**

A number of structures in the proposed development have been identified as being forward of the minimum 6.5m front setback specified in the P21 DCP. These include: the tennis court (6.1m at its closest point); the entry feature / gate (5.8m); and the garbage storage area (4.1m).

These structures place unnecessary visual bulk on the adjoining streetscape and diminish future opportunities for landscaped open space on the site. This is not consistent with the objectives of the control, which is to mitigate the visual bulk of new development and create attractive, landscaped streetscapes.



### **Front Fence**

Part D1.16 Fences - Flora and Fauna Conservation Areas of P21 DCP requires that any fence within the front setback not exceed 1m in height. The proposed front fence and vehicular gate is located forward of the front setback and has a maximum estimated height of 1.9m. This fence and gate is considered to have an adverse visual impact and the non-compliance is not supported.

Council is providing you with three options to progress the handling of your application:

1. Prepare and submit further supporting information/amendments to the assessing officer directly addressing the issues by 30 March 2022 (14 days). If the amended information is deemed acceptable and satisfactorily addresses all the issues raised, you must then upload all documentation via the NSW planning portal; or
2. Request that the current proposal proceed to determination in its current form, which may result in refusal of the application; or
3. Withdraw the application from Council, which may include the refund of a portion of the application fees. Please note, that should this be your preferred option, Council will require additional information and will request this under separate cover.

Please advise of your selected option by responding to this letter by 30 March 2022 at [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au) and marked to the attention of the assessment officer. Should Council not receive your response and selected option by this date, Council will assume that you are not withdrawing this application and it will be determined in its current form.

Should you wish to discuss any issues raised in this letter, please contact Nic England on 1300 434 434 during business hours Monday to Friday.

Yours faithfully

Phil Lane  
**Acting Manager, Development Assessment**