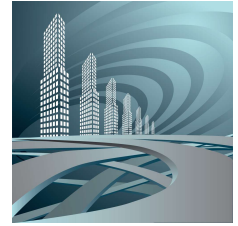


EVOLUTION PLANNING

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3 April 2023

The General Manager
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

Email: council@northernbeaches.nsw.gov.au

Att: Kye Miles, Planner

Dear Kye,

RE: DA2022/2270 – 166 Pittwater Road, Manly - Response to Submissions

We refer to two submissions prepared on behalf of the owner of 168 Pittwater Road, Manly, the adjoining dwelling to the north of the site. The purpose of this letter is to respond to the matters raised in those submissions to assist Council in its assessment of the DA.

Submission dated 21 March 2023, prepared by Collard Maxwell Architects.

1. Sewer

The sewer was upgraded and deemed fit for purpose following the approval of the swimming pool at 166 Pittwater Road, Manly, under DA2020/482.

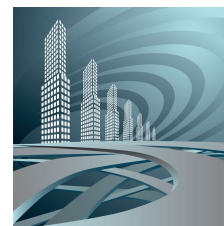
We anticipate that a condition will be imposed to ensure compliance with Sydney Water requirements as follows:

“Sydney Water “Tap In”

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- *“Tap in” details - see <http://www.sydneywater.com.au/tapin>*



- *Guidelines for Building Over/Adjacent to Sydney Water Assets.*

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water”

2. Party Wall

The proposed drawings have been amended to clarify that no works are proposed across the party boundary with 168 Pittwater Road. Part of the first-floor addition will be the subject of an existing easement for support and details (including structural certification) of all the proposed works (including those in proximity to the common boundary with 168 Pittwater Road) will be provided prior to the issue of a Construction Certificate.

We do not consider that the circumstances of this case as so unusual or determinative so as to necessitate the provision of such details before the grant of consent and may, as is usually the case, be provided during construction certification.

3. Gap over easement for services

A light-weight cover may be provided across the gap between 166 and 168 Pittwater Road shown on the survey as “easement for services”. We recommend that an appropriate condition be included.

4. Additional Requirements

- Dilapidation Report – We anticipate an appropriate consent condition will be imposed.

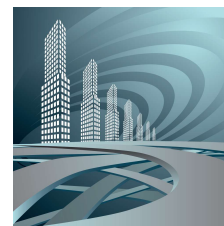
Submission dated 21 March 2023, prepared by Sebastian De Brennan

1. Overshadowing

To clarify, the matter raised regarding potential overshadowing is related to the side elevation of the dwelling to the south and not the dwelling which the submitter has a direct interest in. No objections have been received from the owners of 164 Pittwater Road in any regard.

The extent of additional overshadowing to the side north facing windows of 164 Pittwater Road is minor. On the basis of our understanding that the main living room of 164 Pittwater Road is orientated to the rear, we submit that at least 2 hours direct solar access to the principal living areas will be maintained.

The Case law referred to in the submission, *Archiworks Architects P/L v Marrickville Council 2005*, relates to an entirely different context where the issue of overshadowing was between a pair of semi-detached dwellings where the proposed development sought to increase the length of the building beyond the



established rear building line of the two attached dwellings and cannot, in our view, be used a reliable precedent.

Furthermore, 'Archiworks' is not the established source of case law to assess solar access. The Planning Principles of the Court with respect to solar access are found in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 which focusses on "access to sunlight". The principles contained in 'the Benevolent Society' case are addressed below:

Principle

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The current context is low density but, as acknowledged in the principle, "*there are sites and buildings that are highly vulnerable to being overshadowed*". This is considered to be the case in this instance where:

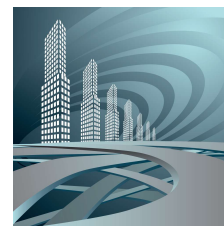
- the affected site is located directly to the south of the development site, and,
 - the sites are narrow in width; and,
 - the existing buildings have limited side setbacks.
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: The additional overshadowing is considered to be minor and does not create additional overshadowing on any open space area or on the principal windows to living areas.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposed development does not create any significant additional overshadowing to windows to the property to the south than would be introduced by an entirely compliant building. The most significant impact is upon a small window to an attic room at 9am. The shadow to the attic room will pass by approximately 10m and it will have full solar access for the rest of the day and thereby comply with the DCP, (although it should be noted the attic window is not one serving a principal living area).

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself.*



Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.

Comment: The windows affected on the northern side elevation of the building to the south of the subject site are relatively small and the angle of incidence is acute.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment: No additional shadow is cast onto neighbouring open space.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: Noted. Fences and vegetation have not been included in the shadow modelling.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

Comment: N/A

The proposed development is considered to satisfy the Objectives of the DCP and the Principles contained in 'The Benevolent Society' in terms of overshadowing.

2. Common Boundary, Wall Height and Safety Considerations

Again, the reference to 'Archiworks' is not reliable in the current context. In that case it was proposed to extend the northern dwelling of a pair of semi-detached dwellings considerably beyond the existing rear building line of the two dwellings. This is not the case in this instance. The proposal is for an addition on top of the existing building footprint and will not introduce any adverse impacts on the occupants of 168 Pittwater Road in terms of bulk, scale or overshadowing.

Refer to our comments above with respect to the common wall.



3. Side-setbacks

The elevation of the wall facing the northern side boundary contains no windows and will not create any overshadowing impact on 168 Pittwater Road since it is located to the north, nor will the addition create any adverse impact related to access to light or ventilation. It is a logical extension of the existing boundary wall below.

The variation to the side setback control has been addressed in the submitted Statement of Environmental Effects where it is concluded that the objectives of the guideline are satisfied.

We trust that this letter is of assistance to your continued assessment of the DA. Please contact the undersigned directly on 0430007725 should you wish to discuss the proposal further.

Yours sincerely,

A handwritten signature in black ink that reads "Tony Robb". The signature is fluid and cursive, with the first name "Tony" and the last name "Robb" clearly distinguishable.

Tony Robb
BA (Hons) UPS, Grad.Dip.TP (Westminster) RPIA
Principal



Planning
Institute
Australia