
Sent: 28/09/2020 11:57:42 AM
Subject: DA 2020/0023 205 RIVERVIEW ROAD AVALON
Attachments: 205 RIVERVIEW RD AVALON SUBMISSION 28 SEP 2020.pdf;

Please forward the attached submission to Councils Development Determination Panel for inclusion in todays meeting.

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Dear Panel members,

I am again writing to you on behalf of the owners of 203 Riverview Road in response to the site visit to consider the assessment report for No. 205 Riverview Road Avalon Beach.

As you are aware from my earlier submission, the issues of solar access and privacy are of paramount importance and the failure of the applicant to satisfactorily respond to the request by an earlier panel results in these concerns being unsatisfied. This request is based on satisfying a fundamental amenity control in the DCP, namely, a building envelope control to achieve, amongst other outcomes, satisfactory solar access.

The reluctance of the applicant to modify the breaching element in any way is disappointing, particularly the claim that the requirement to comply with a fundamental component such as the building envelope control is “unviable”. This claim is without foundation and ignores the Planning Principle set down in *Davies V Penrith City Council [2013 NSWLEC 1141]* wherein the following Principles are required to be addressed-

- *How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*

RESPONSE – Loss of solar access to a habitable room on northern boundary.

- *How reasonable is the proposal causing the impact?*

RESPONSE – The proposal is not reasonable due to the excessive bulk (both building height and building length) along the southern boundary to accommodate copious floorspace to the upper level.

- *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*

RESPONSE – As the habitable room in 203 is located along a northern side boundary to achieve solar access, the room is vulnerable to excessive bulk from development on 205.

- *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*

RESPONSE – Poor design has been highlighted by Councils Panel previously, hence the request by the Panel to reduce/relocate the offending component of the proposed upper level.

- *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?*

RESPONSE – The proposal does NOT comply with the planning controls and the impact is primarily a consequence of the offending component.

Concern is raised that the Assessment report evaluates the solar access impacts however, the shadow diagrams submitted do not indicate the shadows cast, in elevation and therefore fail to follow due process as set out under the following extract from the Development Control Plan applicable to the subject site –

Information to be shown on the Development Drawings-

- *the ground floor plan shall include shadow diagram(s) demonstrating the impact of the proposed development on adjoining properties (at a minimum shadow lines to be cast by the proposal at 9am, 12noon, and 3pm on June 21st, shall be provided).*
- *Drawings should not show magnetic north.*
- ***Show all windows on the affected proportion of the neighbouring property on the elevation shadow diagrams at 9am, 12 noon, and 3pm on June 21st.***

The previous concerns regarding solar access to No. 203 remain unresolved.

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