
Sent: 27/10/2022 8:57:46 AM
Subject: DA2022/0653 - 1 Bellevue Pde, North Curl Curl
Attachments: Bull Second Objection to DA2022 0653.pdf;

Re: DA2022/0653 Proposed Development 1 Bellevue Pde, North Curl Curl

Please find submission 2 attached.

Regards,
Nick & Alex Bull

6 Bellevue Pde,
North Curl Curl NSW 2099

Second objection to DA2022/0653

1 Bellevue Parade, North Curl

Previous objection dated 26/9/2022

Introduction

We are Nicholas and Alexandra Bull, residents of 6 Bellevue Parade, North Curl Curl, and we submit this development objection letter in response to DA2022/0653 for an additional storey at 1 Bellevue Parade, North Curl Curl. We consider the proposed development to not be compliant with the planning controls of the Northern Beaches, for the following reasons:

View Loss

The proposed development fails to satisfy the established view loss principles set out in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 (Tenacity) and applied recently to 5 Loch Street, Freshwater DA2020/1323 and 34 Beach Street, Curl Curl DA2018/0455. Tenacity is a four-step test in assessing views to be affected by a proposed development in accordance with the principle of view sharing. View sharing is set out in Clause 61 of the Warringah Local Environmental Plan 2000 which states that the “development is to allow for the reasonable sharing of views.”

Please note that the Tenacity ruling was in relation to 7 Bellevue Place, which is only 3 houseblocks away from 1 Bellevue Parade, North Curl Curl, making this case extremely relevant to the proposed development.

Step One – Assessment of the views to be affected

The views impacted by the proposed development are whole views of the connection between the sand and ocean at North Curl Curl.

The court found that “Water views are valued more highly than land views.” “Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”

Step Two – Consideration from what part of the property the views are obtained

The views impacted by the proposed development are from the front boundary of the property from both a seated and standing position.

The court found that, “For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views.”

Step Three – Assessment of the extent of the impact

The views impacted by the proposed development are from the living areas, balcony and study of the property. The design of our house with main living, kitchen and dining areas is to take advantage of the ocean views. The impact to the view from our property is severe due to it entirely blocking our view of the connection of sand and ocean.

The court found that, “The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view

loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.”

Step Four – Assessment of the reasonableness of the proposal that is causing the impact

The proposed development at 1 Bellevue Parade North Curl Curl (DA2022/0653) is not reasonable in its current design of 17/10/2022. The most recent amendment has not taken into account the very reasonable proposed ameliorations that would enable the development to meet planning height requirements and reduce the impact to neighbouring properties. The most recent amendment continues to breach the height limit of 8.5m, the ceiling height remains at the unnecessary height of 2600mm (proposed 2400mm) the cavity between the ground floor ceiling and upper floor remains at 700mm (proposed 400mm) and the roof retains a 600mm pitch (proposed flat roof).

The court found that; *“A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours”*



View from living room of 6 Bellevue Parade with height posts. Highlighting shows the severe loss of view of all sand and ocean connectivity, and bulk of proposed development.



Additional Considerations

Number of Storeys

The development breaches the requirement not to exceed two storeys. The existing lower ground level is a furnished living space with a living area, and two bedrooms, or separate study and bedroom that cannot be considered simply as a 'basement' or 'rumpus room'. This development will turn the existing two storey house into a three-storey house.

Properties on the northern side of the street are built on the side of a hill which forces house structures to be built accordingly.

Building Bulk and Scale

The proposed additional storey would result in a property of a bulk and scale not in keeping with the adjacent properties and set an unsuitable precedent for the area. This scale and bulk of the proposed development is exacerbated by the property's dual street frontage onto Bellevue Parade and Bellevue Place.

It is proposed that the design reduces the overall height and size of the development to reduce the bulk and scale of the development.

Knowledge of Tenacity V's Warringah Council

Both ourselves as owners of 6 Bellevue Parade North Curl Curl (purchased 2012) and the applicants and owners of 1 Bellevue Parade (purchased 2011) have purchased their respective properties well after the 2004 ruling in Tenacity Consulting v Warringah Council and the precedent of view sharing had been established and tested. The opportunity to purchase a property with whole views of the sand and ocean at North Curl Curl were a primary driver of the reason for our purchase and to have these taken away by the proposed development are unjust.

Conclusion

The DA2022/0653 proposal in its most recent form (17/10/2022) does not address the fundamental breaches of the planning height requirements, the excessive bulk and scale for the street and suburb, the significant view loss and diminished property values for the properties on the opposite side of the street (2, 4, 6, 8 Bellevue Parade) and the reasonable requests for a more skilful design ameliorations put forward by impacted parties.

Sincerely,

Nicholas & Alexandra Bull