
From: DYPXCPWEB@northernbeaches.nsw.gov.au
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To: DA Submission Mailbox
Subject: TRIMMED: Online Submission

28/03/2025

MRS Catherine Naito
- 229 Whale Beach Road RD
Whale Beach NSW 2107
[REDACTED]

RE: Mod2024/0705 - 231 Whale Beach Road WHALE BEACH NSW 2107

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28 March 2025

The General Manager
Northern Beaches Council
By email: council@northernbeaches.nsw.gov.au
Cc: Anais Sarkissian
Dear Sir/Madam
Re: Section 4.55(2) Application
Lot B DP 316404, 231 Whale Beach Road, Whale Beach NSWDA 2020/0442

I refer to the application for a Section 4.55(2) Modification to amend REV2021/0034 and subsequent modifications for a Shop Top Housing Development at the above address dated 6 December 2024 (the "Modification").

I am writing on behalf of myself and my husband, the owners and occupiers of 229 Whale Beach Road, which property adjoins the entire southern boundary of the site at 231 Whale Beach Road.

This letter is a written submission objecting to the Modification for the reasons set out below and using the same numbering as in the Schedule of Modifications. Where an item is "noted" this does not mean that I accept or agree with it as I am still trying to understand how the changes will affect the amenity and enjoyment of our house.

Before going through the Modification in detail it should be noted that since the development was approved by Council on 6 December 2021, there have been continual incremental changes and modifications that, whilst might be described as "minor" by themselves, have a cumulative effect such that the current plans are very different from those originally approved. It has been extremely difficult for local residents to follow the repeated modifications and technical documents, and I urge Council to consider that this development is now too far from the original proposal and a new DA is appropriate.

Overland flow path. We are concerned that the overland flow path, which runs against our entire boundary, has been reduced from 1m to 60cm. Both properties are on a steep slope so when there is heavy rain, torrents of water flood down the hill and we are concerned that the reduced overland flow path will not be adequate and will result in water pouring over onto our property.

In addition, reducing the width of the overland flow path will negatively impact the health of our mature hibiscus tree that stands on our property but close to the boundary, by cutting into its roots even further than originally contemplated. There has been no mention of this in the current arborist report. Can council please confirm that they are satisfied that the proposed change will not further impact the health of our tree and advise as to the basis on which this conclusion is reached?

Footpath/parking bays. This change forces pedestrians further towards traffic on Surf Road increasing the likelihood of an accident. This road is already hazardous to pedestrians and simply not adequate for the proposed development as the combination of the curve, gradient and camber of Surf Road mean that vehicles often veer into the centre of the road, making it in effect one lane. I have witnessed numerous cases where pedestrians have had to leap out of the way of cars that are rushing to get up or down Surf Road and have been in that situation myself. It seems unfair that convenience of the developer is put above the safety of ordinary beach-goers.

Lift - noted.

Stairs & Lift Lobby - noted.

AC Condensers - moving the three AC condensers to a new aluminium framed ventilation screen will expose us to more noise and nuisance. Equally the re-positioning of other AC condensers to the roof will expose other neighbours to increased noise and disturbance.

Wall to Bike Parking Area - noted.

Store Room - noted.

Lift to Outdoor Seating - Also the whole building has been pushed even closer to our boundary at the eastern side, spoiling our enjoyment of our own property even more. How is the developer allowed to push the building footprint out like this and claim it is a "small change"? This is a significant change and should require a new DA, not simply a modification.

Northern Retailing Wall - noted.

Window G02 - noted.

Window R102 - noted.

Concrete Columns. - noted.

Retail 1 Layout - the Retail 1 space has been given additional space by removing the 2 ground floor parking spaces. It does not make sense, in an area where parking for the public is a genuine problem, that the 17 car parking spaces provided for in the original development have been reduced to only 14. A 17% reduction in parking provided is a significant change and should require a new DA, not simply a modification.

Retail 1 Fire Hose Reel - noted.

Fire Sprinkler Pump Room Access - noted.

Electrical & Comms Room - noted.

Tank Room & Store - although the Modification claims that the additional room is within the existing footprint of the approved building it is nonetheless additional space, making the building bigger. As such it is a significant change and should require a new DA, not simply a modification.

Steel to Glass Balustrade to Driveway - noted.

Store room - as per point 17 this is an additional room increasing the size of the building. It is

a significant change and should require a new DA, not simply a modification.

Excavation - the area that was previously landscaped by a planter bed will now be excavated and made into an occupied area. This is a significant change in use from that envisaged by the original DA and will interfere with our amenity, privacy and enjoyment of our property even more than before. In addition, the excavated area has been pushed closer to our garden. This is a significant change in use and effective footprint of the building and should require a new DA, not simply a modification.

Entry, Bathroom & Bedroom Plan - noted.

WA103,104, 105 and paving - this creates a new area that looks directly into our garden. Rather than an amendment to the existing DA it is an extension of the useable area of the building and a change of use from the original plans. It will have a severely detrimental effect on our privacy, amenity and enjoyment of our own house. This is a significant change and should require a new DA, not simply a modification.

Ventilation Shaft - this is hard against our garden and we are concerned about the noise and nuisance that it will cause.

Drainage Void - noted.

Deletion of BBQ Bench - noted.

Concrete wall - noted.

Planter Bed return wall - noted.

Planter Box & Privacy Screen - noted.

Kitchen, Bar, Bedroom and Bathroom Plan - noted.

Northwestern Wall - noted.

Sprinkler Pump Tank - this is an extension to the approved footprint and as such is a significant change and should require a new DA, not simply a modification.

Laundry, Bathroom, Bedroom, Entry and Ensuite Plan - noted.

WA303 & 304 & Clothesline & Balustrade - the effect of this change is to increase the occupied area of the building and push it closer to our house and garden which will have a detrimental effect on our privacy, amenity and enjoyment of our own house. This is a significant change and should require a new DA, not simply a modification.

Glass Balustrade to Terrace - noted.

Planter Box & Privacy Screen - noted.

Concrete columns - noted.

Level 3 Retail 2 Bathroom - noted.

Level 3 Retail 3 Bathroom - the removal of the bathroom in Retail 3 will limit the potential uses for Retail 3. This in turn reduces the number of local businesses that will have the opportunity to make use of Retail 3, which rather goes against the notion that the development is some kind of community centre for Whale Beach.

Fire Hose Reel Retail 2 & 3 - noted.

Substation Revisions - noted.

Fire Sprinkler Booster Assembly - this is outside the earlier building footprint and should be incorporated within the original planned footprint

Access Ramp and Planter Bed - again this has the effect of increasing the footprint by encroaching on the DCP setback

Glass Balustrade to Terrace - noted.

Spa - noted.

BBQ Bench - noted.

Awning Roof Whale Beach Road - the original awning provided shade for the paved area outside Retail 2, which would increase the utility of that retail space. The reference to providing rainwater for a planter does not seem relevant as in this situation the planter would require regular watering and would not be reliant on rainwater.

Timber Privacy Screens - noted.

Concrete Column - noted.

Services Riser deleted - noted.

Primary Bedroom Wall relocation - noted.

Number of Solar Panels - noted

Air Conditioning Condenser Location - I am very concerned about the additional noise from the relocated air conditioning units and do not think that this has been adequately addressed.

Skylight Revisions - noted

Satellite Dish Location - noted

Roof access - noted

Awning construction - noted

Awning construction and window - noted

Driveway - noted

As mentioned, I am very concerned about the health of our tree (referenced in item 1 above) that is growing between our house and the development. From the start of this whole process I have made it very clear to the owners of 231 Whale Beach Road and to Council that the health of this tree is a very real concern as the proposed development cuts away so much of its root system. The original arboricultural report noted that 37 per cent of "Tree Protection Zone" would be encroached by the development but there has been no further professional assessment of the encroachment on the tree's root system, or the extent to which it will be compromised further - the latest arborist report makes no mention of this. Please can Council confirm that they have looked into this issue and where this is evidenced? The tree is a very healthy specimen that provides privacy, shade, beautiful flowers and is full of lorikeets and other birds when it is in bloom. Council has repeatedly assured us that the tree will be protected and we will expect council to fulfill this commitment and be held accountable should the tree suffer as a result of the development.

As explained above, by a systematic series of changes, the footprint of the building has expanded well beyond that anticipated by the original plans and many other incremental changes have resulted in significant differences.

I would like to meet with Council to try and understand why a new DA should not be submitted so that all the neighbours and the many visitors to Whale Beach can judge this current proposal on its merits.

Yours faithfully

Catherine Naito