

19 May 2025

General Manager  
Northern Beaches Council  
725 Pittwater Rd,  
Dee Why, 2099, NSW

*ATTN: Adriana Bramley (Principal Planner)*

**Re: Request for Information – DA2025/0117 for Demolition works and construction of a dwelling house including a swimming pool and cabana at 12 Molong Street, NORTH CURL CURL**

Dear Adriana,

Reference is made to Council's letter dated 6 May 2025 and the request for additional information in order to undertake a full assessment of the application. It is noted that the following documents are provided as revised documents:

- Revised Architectural Plans
- View Loss Study

A review of the required additional information and a response to each point is provided below:

**1. B9 Rear Setback**

**Comment:** The revised architectural plans have made minor modifications to ensure a minimum 3m setback to the rear boundary. This matter is satisfied.

**2. B5 Eastern Side Boundary Setback**

**Comment:** The proposal complies with the 0.9m side setback allowances. The revised architectural plans have made minor modifications with the eave now setback 0.675m from the side boundary. This matter is satisfied.

**3. For Noting - D7 View Sharing**

**Comment:** Whilst it is my opinion that view sharing analysis is not required as the proposal complies with relevant planning controls, a view sharing assessment has been provided within Appendix 1 of this letter. It is noted that the photo has been provided by the assessment officer. Regardless, the photo allows an adequate assessment under the Tenacity principles.

Having regard to the assessment within Appendix 1, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. When assessed using the Land and Environment Court's planning

principle (*Tenacity Consulting v Warringah Council*) the proposal provides for reasonable view sharing, therefore the proposal should be approved as submitted.

It is our professional opinion that all matters raised have now been adequately justified through design amendments or justification as to how it complies with relevant standards. It is further submitted that the view sharing assessment confirms that reasonable view sharing is provided with no adverse impacts. We trust that the additional information satisfies Council requirements to now finalise the Development Application.

Should you require any further clarification of the above, please do not hesitate to contact me at [mathew@fourtowns.com.au](mailto:mathew@fourtowns.com.au).

Kind Regards  
**Mathew Quattroville**  
Director  
Four Towns Pty Ltd

## **Appendix 1 – View Sharing Assessment**

It is noted that concern has been raised by one neighbouring dwelling (428 Ian Avenue) regarding views across the subject site.

Prior to starting an assessment, it is important to acknowledge that no one “owns” a view or view corridor. It is noted that reasonable view sharing should be analysed but should not limit or impact the development potential of one’s property when a reasonable design outcome is achieved.

The site and surrounding area were inspected on 16 December 2024. No access has been provided to Four Towns Planning by neighbouring properties. It is noted that due to Councils RFI and also an assessment of the submissions received, it was decided that a view sharing assessment of 28 Ian Avenue, North Curl Curl should be undertaken.

Based on the above, an assessment of the proposal under the principles established by the Land and Environment Court (*Tenacity Consulting v Warringah Council* [2004] NSWLEC 140) has been undertaken. The assessment examines whether the proposal provides reasonable view sharing for the residents of the above mentioned dwelling house.

### **47 Upper Clifford Avenue, Fairlight**

\*Note – this assessment was undertaken through photographs provided by Northern Beaches Council.

#### **Step 1: Assess the views to be affected**

*“The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

#### **Comment:**

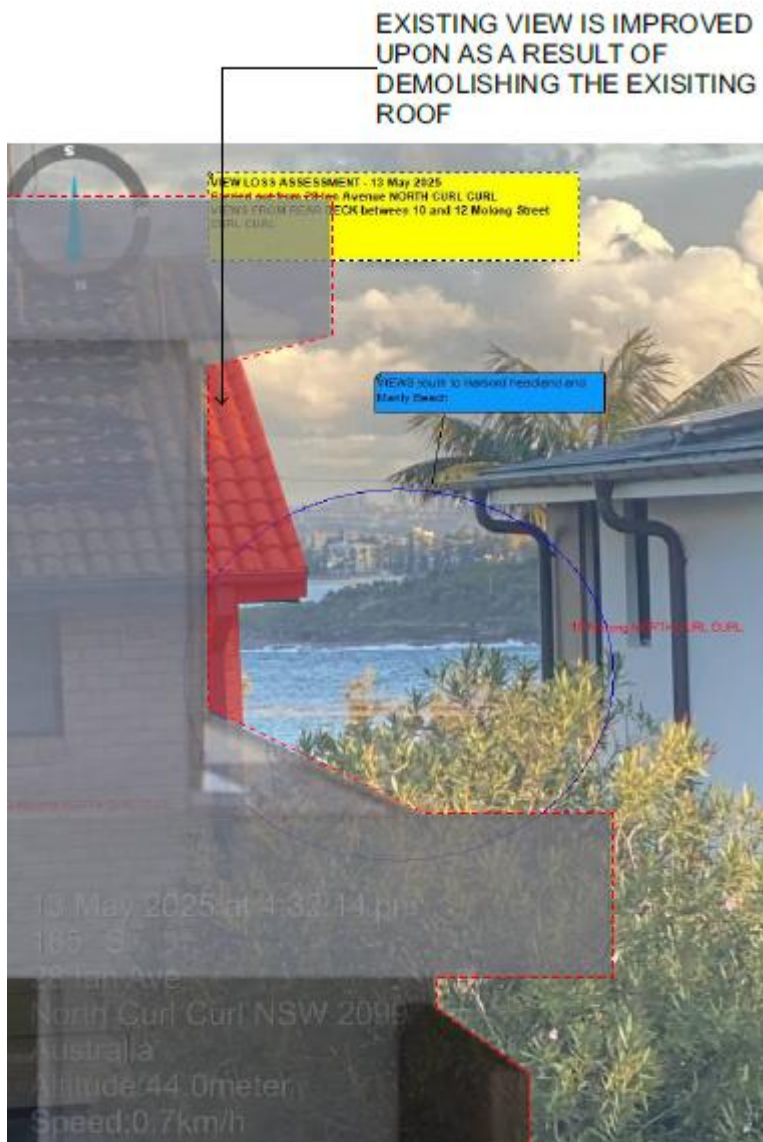
The views to be affected include filtered ocean views of Freshwater Headland towards Manly. It is important to note that the affected views are not considered to be iconic. Images below show existing and proposed views.

Figure 1 - Photograph Standing – Balcony off Bedrooms - Existing



## EXISTING VIEW

Figure 2 - Photograph Standing – Balcony off Bedrooms - Proposed



## RESULTING IMPACT ON VIEW DUE TO PROPOSED DEVELOPMENT

#### Step 2: Consider where the views are obtained

*The second step is to consider from what part of the property the views are obtained. 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. The expectation to retain side views and sitting views is often unrealistic.*

#### **Comment:**

The views are available from the balcony off the bedroom level only from a standing position only. The views are obtained across rear and side boundaries.

#### Step 3: Assess the extent of the impact

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. 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 percent 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.*

#### **Comment:**

The views affected towards the south/south-west from the bedroom balcony are shown in Figures 1 to 2. It is important to note that proposal will actually increase the view corridor, therefore the impact is negligible and retains with no impact the key viewpoints to Freshwater Headland and Manly. It is also noted that in our opinion where the view is achieved that a privacy screen should be in place to prevent overlooking of my client's property. When considering the views that are retained for the whole property, we have formed the considered opinion that the potential view impacts are deemed to be negligible (as the view corridor is improved).

#### Step 4: Assess the reasonableness of the proposal

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. 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. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."*

#### **Comment:**

The proposal complies with all planning controls under Warringal LEP and DCP. Further, a Complying Development design could be achieved with a lesser side setback reducing/blocking the entire view corridor. Noting the proposal will actually increase the view corridor, the design is considered to be reasonable and skilful (noting other compliant designs could reduce/block the corridor).



Under such circumstances there can be no reasonable expectation for these views to be preserved given the compliant building height and setbacks of the development proposed.

As outlined the proposed development complies with the building height, wall height and setback provisions. It is further noted that figures 1-2 also show that the view corridor will actually be increased (not reduced). Given the building is well under the maximum building height and complies with all other relevant planning controls, it is considered to be reasonable and entirely consistent with how the site could reasonably be developed noting the built form of surrounding dwellings.

Having reviewed the detail of the application we have formed the considered opinion that a view sharing scenario is maintained between 28 Ian Avenue, North Curl Curl, and the subject site, in accordance with the principles established in the matter of *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC140 and *Davies v Penrith City Council* [2013] NSWLEC 1141.

## **Conclusion**

This assessment has identified three properties potentially affected by the proposal in terms of views. When assessed using the Land and Environment Court's planning principle (*Tenacity Consulting v Warringah Council*) the proposal provides for reasonable view sharing.

As a result of the assessment, it can be confirmed that the proposal meets the objectives of Control D7 Views - WDCP, as outlined below:

- *To allow for the reasonable sharing of views.*

The proposal allows for reasonable view sharing for both existing and proposed developments. As provided throughout this letter, the proposal increases the existing view corridor to 28 Ian Avenue, North Curl Curl. The view sharing assessment addresses views affected by the proposed development. The assessment confirms that the Tenacity Planning Principles are met, and that reasonable view sharing is provided.

- *To encourage innovative design solutions to improve the urban environment.*

The proposal is an innovative design which improves the urban environmental within the immediate locality.

- *To ensure existing canopy trees have priority over views.*

The proposal does not remove any existing canopy trees considered to be of high retention value. The proposal includes a landscape plan which will rejuvenate and enhance landscaping on the site.

It is our professional opinion that the proposal, as submitted, warrants approval and satisfactorily addresses view sharing with no further modifications or conditions. It is noted that a Complying Development design (under the Codes SEPP) could be prepared for the site and would have a far greater impact than that proposed through this Development Application.