

---

**Sent:** 21/08/2020 10:58:36 AM  
**Subject:** 86 Quirk Street, Dee Why  
**Attachments:** Objection - 86 Quirk St, Dee Why.pdf; 200820 Height pole view loss - 84 Quirk St Dee Why - final.pdf;

**86 Quirk Street, Dee Why**  
**DA2020/0838**

Hi Catriona,

Please find attached an objection to the above mentioned Development Application on behalf of the neighbour at 84 Quirk Road, Dee Why. As always, please get in touch if you have any questions regarding this.

Kind Regards

**Sarah McNeilly**  
Director

**M. 0413341584** P. 89010741  
E. [sarah@watermarkplanning.com.au](mailto:sarah@watermarkplanning.com.au)  
W. [watermarkplanning.com.au](http://watermarkplanning.com.au)





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

21 August 2020

Dear General Manager,

**86 Quirk Street, Dee Why  
DA2020/0838**

**Demolition of existing dwelling and construction of new primary and secondary dwellings  
and a new pool.**

#### **Background**

We have been engaged by the owners of 84 Quirk Street, Dee Why, who have recently been notified of the proposed development at 86 Quirk Street, which is located immediately to the east of their home.

The Development Application involves proposed demolition of the existing dwelling and construction of a new three storey home with a four-car garage, a secondary dwelling with roof top pool and carport facing the secondary street frontage of Bushey Place.

#### **View of Locality**

The general locality can be described as low-density residential set within landscaped grounds. The site is within a close walk to Wingala Reserve and within the proximity of schools, the Pittwater Road precinct and Dee Why Beach.

The opportunity has been taken to view the subject property in the context of surrounding development and to consider documents relating to the development application which were available at on the Northern Beaches Council website.

Quirk Street presents a quiet local residential street which is typical of this area of Dee Why which is characterised by its family oriented suburban character.

### **Zoning and Land use Generally**

We note that the property is zoned R2 Low Density Residential under the provisions of the Warringah Local Environmental Plan 2011 (WLEP2011). Properties located around the site have the same zoning and all have a maximum height of 8.5 metres.

### **Nature of Submission**

Having considered the site, its surrounds, neighbours and the details of the application currently before Council, our clients understand that at some time in the future the subject site would likely undergo further development. However, they need to ensure that this be done in a manner considerate of neighbouring properties' views and amenity and which will maintain the character of the leafy residential location.

This objection is based on various grounds which are detailed in the following paragraphs.

### **Views**

The site and those neighbouring benefit from valuable views to Long Reef Beach and Long Reef Headland. This is not acknowledged in the Statement of Environmental Effects in the section entitled 3.9 Privacy, Views and Outlook, and no Site Analysis plan has been lodged with the application.

Our client's dwelling has substantial, high value, iconic, whole water views which include the land-water interface from their rear living and kitchen area on the ground floor, and master bedroom on the first floor, available from both standing and sitting positions. Additionally, they currently benefit from significant views from their outdoor living area, garden fire pit area and swimming pool. The loss, and in most instances complete obliteration, of these views has not been considered in the Statement of Environmental Effects nor does it appear to have been considered in the current design.

In determining the extent of potential view loss to adjoining properties, the 4 planning principles outlined within Land and Environment Court case of tenacity Consulting Pty Ltd V Warringah Council (2004) NSWLEC 140, are applied to the proposal.

A site inspection from our client's property no.84 Quirk Street has been undertaken. We note that informal height poles, erected to RLs as specified for northern most roof top of first floor, ground floor and the top of the proposed diving fence, had been put up on the boundary line to provide an indication of the scale of view loss. A separate document prepared by the owner is provided which shows the anticipated view loss based on these poles. A surveyed set of height poles would be essential to an adequate and proper complete assessment of the application.

### Comment

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. 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, 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.*

The existing views from 84 Quirk Street which will be affected are highly valuable views, iconic and whole views of the water and land interface and Beach and Long Reef Headland. See the images below taken from the living room, dining room, kitchen, bedroom and outdoor space. Height poles can be seen on the boundary and marked in red by stars.



**Lounge Room**



**Kitchen**





***Living Dining Area***



***Master bedroom – sunrise***



***Master bedroom***



***Outdoor living***

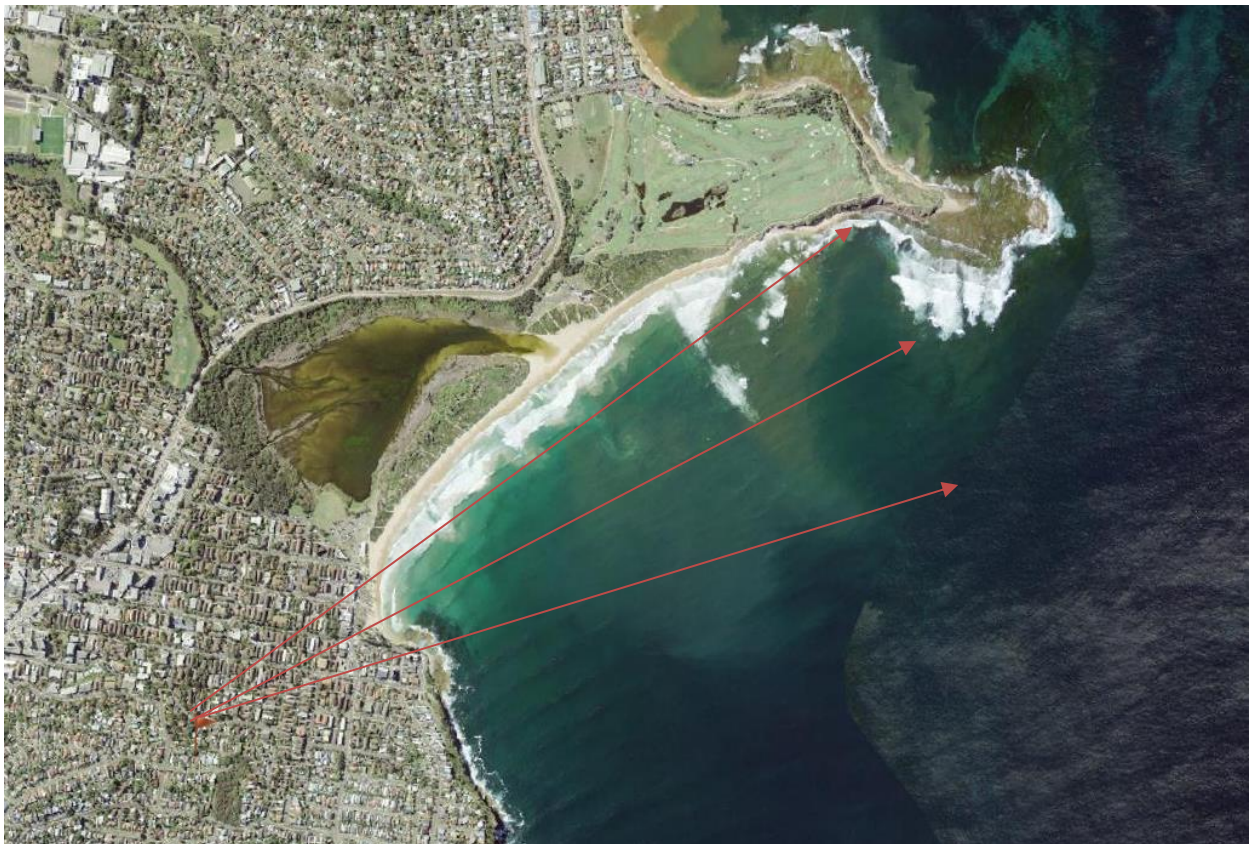


Comment

*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.*

The views are over the existing rear/side yard of 86 Quirk Street. The views would not be considered to be typical side views as they are over the rear portion of the site and at a significant angle. The assumption of retaining these views is reasonable and fair. The views are obtained from the north east facing living, dining and kitchen area windows on the ground floor and the first-floor master bedroom north and east facing windows. Views are also available from the outdoor living area, pool area and fire pit in the rear yard. Views are obtained from both a standing and sitting position over the rear of the subject site from all mentioned locations.

See below the image which shows both the view aspects available to the site over the rear of 86 Quirk Street for no 84 Quirk Street, which is consistent with the views available and retained for most other properties along Quirk Street in immediate vicinity and which is an established precedent for the location.



### Comment

*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% 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.*

The key view loss of greatest concern is from the primary living area, kitchen and master bedroom. This highly valuable whole view of the land/ water interface and iconic Dee Why Headland, in addition to a large area of the ocean and the horizon, will be obliterated from these key spaces and the other outdoor areas of the dwelling. The view to the sunrise over the ocean is a key feature for this dwelling and this would be lost from the key living spaces and bedroom as a result of the neighbouring development. The loss of these views from key living spaces is severe, unreasonable, unnecessary and does not represent the principle of view sharing.

### Comment

*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."*

The overall view loss is extensive and of a level that requires refusal of the development. The design as proposed does not allow for adequate view to be retained over the rear portion of the site and alternate designs relocating the bulk of the structure of the primary dwelling at the rear, reducing fence, lowering the secondary dwelling and/or moving to pool and terrace from the roof and reducing filled areas would reduce the view impact for the neighbouring site.

Given the above assessment we believe that this issue alone warrants refusal of the application. We request that Council visit my client's site and require the applicant to have independently surveyed height poles erected to mark both the ground and first floor of the primary dwelling and the same for the secondary dwelling and the fencing.

## Height

The apparent height of the dwelling when viewed from Quirk Street is 3 storeys. This is out of character with the remainder of Quirk Street which has a 2-storey character. While part of the parking level is basement, the impact of this remains a 3 level dwelling with a greater bulk than the traditional dwelling and the bulk of the building increasing to the rear where the envelope and wall height breaches result in significant view loss.

## Wall height

A maximum wall height of 7.2 metres is permitted. This appears to be breached at the rear of the dwelling in the locations where the building envelope also non-compliant. Detailed RLs of the ground level need to be included on the plans to allow for an accurate assessment of the exact level of the breach. We note that the Development Control Plan specifically states at B1 Wall Height that the objectives include that the wall height *must provide a reasonable sharing of views to and from public and private properties and minimise the impact of development on adjoining or nearby properties*, both of which are not achieved by this proposal.

## Building envelope

Building envelope variations are apparent at the rear of the dwelling. This is in the area where the dwelling has its greatest impact on the views of our client. The breach at the rear north eastern edge of the building appears to be up to 1.6 metres which is particularly significant given the view loss resulting. The pool fence atop the secondary dwelling also exceeds the side building envelope. The objectives of the control fail to be achieved with bulk being excessive, the amenity impacts on neighbours failing and the proposal designed to dramatically alter the topography of the site.

The DCP specifically states at B3 Side Envelope that the objectives of the control are:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*
- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*
- *To ensure that development responds to the topography of the site.*

Each objective fails to be achieved with a large, visually dominant structure proposed, without visual separation and not built to be considerate of the land topography or the amenity of the neighbouring property. The development needs to be relocated away from the western boundary increasing the side setback, and be reduced in scale at the rear of the site, including increasing the rear setback to allow for an equitable solution which also considers view impacts.

## Secondary dwelling

The secondary dwelling has been designed without a usable area of private open space. This dwelling is not connected with the principle dwelling having separate access, with the pool associated with the principle dwelling. Accordingly, the only usable open space is the tiny courtyard located on the eastern side of the site. This small space is of inadequate area and also appears to be in full shadow from 9am to 3pm in mid-winter, resulting in inadequate



amenity. Further it is not clear if the bedrooms and living room will achieve adequate cross-flow of ventilation or sufficient solar access.

The amenity of the secondary dwelling is also flawed due to the location of the swimming pool above it. This will result in excessive noise and disturbance to the residents of the affordable housing and this is to the vast detriment of this habitable space. Furthermore, the subterranean location of the bedrooms will impact their ability to achieve adequate sunlight and natural ventilation. In particular, the bedroom adjacent the western boundary which has only 1 window located behind the carport.

The proposal is of far greater scale when compared to the neighbouring secondary dwelling at 82 Quirk Street which has been raised as precedent. This development 2 doors to the west, is far lower in scale with a lower RL and no above ground pool and terraced area above. It also far less extensive excavation than what has been proposed in this instance. The impact of this excessive bulk and the roof top use is further built area, view loss and visual and acoustic privacy loss for the surrounding properties. Removal of the pool, terrace area and planter beds from the top of the secondary dwelling would allow for the natural form of the land to be better retained and lesser excavation to be required, whilst ensuring that views of the neighbouring sites could be retained.

### **Pool location**

The pool is poorly located above the secondary dwelling due to not only its impact on the secondary dwelling, such as noise, run-off and the like, but also due to the privacy impact on neighbours to the north across Bushey Place and view loss for no.82 Quirk Street. The users of the pool and this terraced space will peer immediately into the yards of the neighbouring dwellings at a location where it could be reasonably anticipated that privacy can be maintained. No means to screen this would be reasonable as views would be further impacted and the already excessive bulk viewed from Bushey Place exacerbated.

The pool location is at odds with the objectives for D3 Noise which aims *to ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors* and D8 Privacy which requires *the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours*.

### **Excavation**

A significant area of excavation is proposed, which is of concern with regard to the stability of the neighbouring dwellings. The excavation is very close to the side boundaries and results in inadequate area for reasonable planting and concerns about drainage. We believe that excavated area can't be supported to this degree and should be excluded from the development. This would also result in the rear of the primary dwelling being lowered in height which would be to the benefit of neighbours, resulting in a development which would better step with the natural fall of the site. The natural topography has been severely altered

with very little of the land being retained at its natural RL which is to the detriment of the site and neighbouring properties.

The required excavation for the driveway, which will slope down to the basement level, is inconsistent with the existing character of driveway access and parking within the streetscape. Driveways and parking facilities along the northern side of Quirk Street are provided at grade which is reflective of the topography of the area. It is considered to be unnecessary excavation which seeks to create a third level to the dwelling while disregarding the natural topography and existing streetscape character. It reflects the overdevelopment of the site and poor design.

The LEP states at 6.2 Earthworks that the consent authority must consider *the effect of the proposed development on the existing and likely amenity of adjoining properties*. In this instance the impact is detrimental, and Council should ensure a lesser amount of disturbance to the natural land form to better ensure stability and amenity of neighbouring dwellings.

### Deck

The rear ground floor deck appears as enclosed component of the dwelling from the neighbouring site no 84 Quirk road with a solid wall and roof presenting to their property. This closes up the valuable view to a large degree and is at complete odds with the principles of view sharing.

The bulk created is also at the vast detriment of the neighbours to the west with an excessively long wall presenting to their site. It is at direct odds with the objectives of the DCP where it states in D9 Building Bulk that development should *minimise the visual impact of development when viewed from adjoining properties*.

### Fencing

Fencing of most properties along Quirk Street in this immediate area is reduced to allow for the preservation of views for each site. The proposed development includes a combination of raised ground levels and full height fencing which is highly problematic with regard to the preservation of views and is a highly unreasonable development option. Further, the subject site is unable to install such fencing under the Diving Fences Act without our client's approval, which is not provided in this instance. Existing fencing is considered reasonable and no justification is seen to alter this, particularly with views being so significantly impacted as a result.

### Fill & Excavation

We note that a very large area of fill, being 119m<sup>2</sup>, is proposed with a height ranging from 0.532m to 1.6m. This creates a huge variation in the natural landform and significantly heightens this central area, further reducing privacy, and impacting on views from 84 Quirk Street. D9 Building Bulk specifically states that *Fill is not to spread beyond the footprint of the building*. The increase in the lawn area on the site is at direct odds with this and should not be approved. Further, D9 Building Bulk states *the amount of fill is not to exceed one metre in depth*

[where it is contained under the building footprint], in this case the level of fill proposed under the footprint of a building is 1.259m which exceeds 1m and is thus not compliant.

Similarly, the DCP and LEP discourage excessive excavation and encourage development which utilises the natural topography of the site. This development results in enormous areas of excavation, in some instances immediate on our client's boundary, in a slip impacted zone and site stability for the subject site and those neighbouring is a concern. Any development would need to ensure dilapidation report for neighbours were provided. However, a far preferable result would be a massive reduction in the disturbance to the slip affected site and compliance with DCP and LEP requirements and reduce the amount of excavation proposed.

### **Landscaped area**

The proposed landscape area calculations are inaccurate, with the above ground pool; areas which don't have a width of 2 metres; and areas with inadequate soil depth included. Additionally, we note that no pedestrian entry paths are provided for either dwelling, which are required to separate pedestrian and vehicular access and should also be excluded from the landscaped areas. A recalculation of the landscape area is required with the resulting actual landscaped area shown to be far smaller than claimed will further demonstrate the overdevelopment of the site and need for the proposed dwellings to be reduced in scale.

The DCP required at D1 Landscaped Open Space and Bushland Setting *that landscaping should enhance privacy between buildings and accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants*. The provision of an inadequate landscaped area for 2 dwellings, with a total of six bedrooms is significantly flawed. The site has ample area and opportunity to achieve these objective and the development cannot be approved without reduction of the built area and increase in the soft landscaped portion of the site in both area and to better suit the existing topography of the site.

### **Impacts on existing tree**

An arborist report should be required with regard to the significant excavation proposed and the impacts on the large fig tree in the rear yard of 84 Quirk Road. This tree has already suffered following development to the west, and it is concerning that further excavation works in its vicinity will result in deterioration in its health.

Additionally, the removal of the existing large, established native tree at southern end of boundary between 84 and 86 Quirk St and established dwarf umbrella tree is objected to. These existing trees provide landscape character which is difficult to replace, especially with the highly pervious proposal with limited deep planting available.

### **Bulk and scale**

The development is considered to be an overdevelopment of the site resulting in a dwelling greater in scale than anything neighbouring which has been approved under the current

planning controls. We refer to the perspectives NW and NE2 provided in DA set as evidence of a highly developed site which presents as greater in scale and out of character from all aspects. The development includes 4 parking spaces, excessive cut and fill, 2 dwellings with 6 bedrooms, a pool and extensive deck and paved areas.

The rear of the dwelling and the elevated secondary dwelling with pool above are much greater in scale than neighbours and we find the proposal inappropriate in its current form to proceed.

The objectives of the R2 Low Density zone for the Warringah Local Environmental Plan 2011 are not achieved through the proposed development which will NOT *ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah*. Instead the result of this development is a bulky development, which is excessive on this site and is to the vast detriment of neighbouring dwellings.

Similarly, the development does not meet many of the key objectives of the Warringah Development Control Plan. In particular, the dwellings proposed do not *ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood*. The building is out of character and results in a highly built site with inadequate green space.

The development does not *ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome*. The development will be excessive large and bulky when viewed from 84 Quirk Street and block significant views from key living spaces.

### **Rear setback**

A review of neighbouring sites in the immediate vicinity demonstrates that a clear line of dwelling siting has been maintained. This has allowed for view sharing and no one dwelling to monopolise the views available. It is noted that there is one dwelling being no 90, which was approved prior to the current controls, which sits further to the north. It is not reasonable to use this as a precedent as it is an historic consent and atypical of the street.

A reasonable solution of the subject site would be to mirror the setbacks of no 84 and 88 Quirk Street. An additional area on the eastern side of the site could develop further to the north as this would allow for the view corridor of no 84 to be maintained. An L-shaped design in this manner would be a fair and reasonable solution when views are considered. See pictorial representation in image below.

### **Cost of works**

The proposed cost of works does not appear reasonable for the scope of the project. Based on the large floor area and extensive excavation, it is believed that the total build cost would be well in excess of \$1 million. We request that this be reviewed and confirmed as a part of the assessment process.



### Conclusion

The proposed development results in a significant overdevelopment of the site with huge view loss impacts on the neighbour to the west. Additionally, the application fails to provide adequate documentation including landscape calculations, view loss analysis and site analysis plans. The amenity impacts for the neighbouring dwellings are vast and the application is unreasonable in its current form.

Considering of all these factors we urge the Council to request the applicant withdraw the application.

If you have any further enquiries on any matters in this regard, please do not hesitate to contact me on 0413341584.

*Yours faithfully,*

Sarah McNeilly  
Director  
**Watermark Planning**



# 86 Quirk St Dee Why - DA2020/0838

## Impact on view from 84 Quirk St Dee Why

Height poles were erected along eastern boundary of 84 Quirk St to RL of relevant structures detailed in 'Master set' of plans prepared by Rapid Plans

Existing view and view remaining following completion of construction are presented in a series of side by side images. The building and boundary fence of the proposed development at 86 Quirk St is coloured yellow.

21 August 2020



Lounge Room





Living Dining Area





Kitchen





Master bedroom





Outdoor living area



## Height pole metrics

