
From: Anthony Ng
Sent: 1/05/2022 5:34:32 PM
To: Council Northernbeaches Mailbox; Maxwell Duncan; BT; Titus Theseira
Subject: DA 2021 2463; 173A Seaforth Cres, DA 2021 2313; 177 Seaforth Cres
Attachments: NBC 280422.docx;

Hi Maxwell,

Thankyou for taking the time to meet Titus and I on site to go through the major issues of the two DAs. We have discussed amongst ourselves and noted them in the attached document more formally. Can you please add them as an "addendum" to the original objection as discussed.

Kind Regards,
Anthony Ng

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Titus & Anthony Ng
173 Seaforth Crescent
Seaforth
NSW 2092

28 April 2022

Maxwell Duncan
Northern Beaches Council
PO Box 82
Manly
NSW 1655

Northern Beaches Council
council@northernbeaches.nsw.gov.au

RE:

DA 2021 2463; 173A Seaforth Crescent Seaforth NSW 2092
DA 2021 2313; 177 Seaforth Crescent Seaforth NSW 2092

Dear Maxwell,

28 April 2022

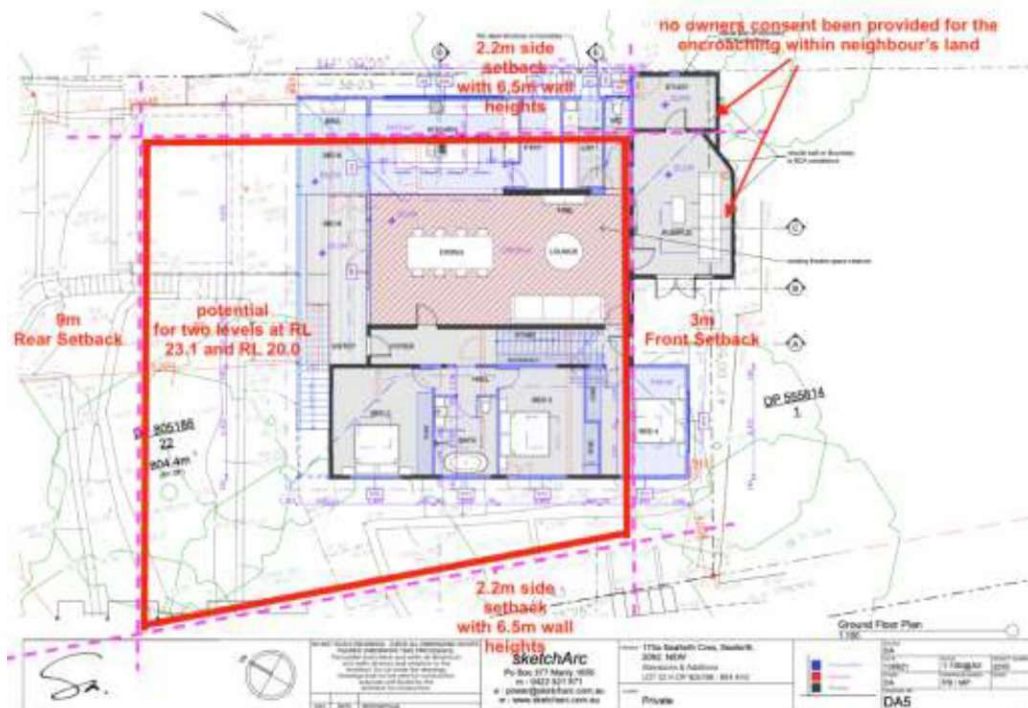
Thank you for meeting us a few weeks ago on our property at 173 Seaforth Crescent.

I thought I would summarise our concerns from our submissions and our discussions on site:

DA 2021 2463; 173A Seaforth Crescent Seaforth NSW 2092

- We submitted our objection 12 January 2022
- The Submission highlighted our concerns regarding the overdevelopment of the site, including FSR, building height, wall height, roof height, and setback non-compliances:
 - Building Height NE 10.67m v 8.5m [51% non-compliance] [Proposed Ridge 31.62- 20.95 survey]
 - FSR 0.43 v 0.40 [8% non-compliance]
 - Wall Height 8.5m v 6.5m [30% non-compliance]
 - Roof Height 5.3m v 2.5m [112% non-compliance]
 - Side Setback East 2.26 v 0.849 [166% non-compliance]
 - Front Setback Zero [>100% non-compliance]
- The Submission also identified the poor amenity outcomes in respect to:
 - View Loss,
 - Privacy,
 - Excessive Bulk

- The Submission raised the serious issue about lack of stat power. "The development application should be refused as the proposal requests construction activity on neighbour's land, and adjoining owners' consent will not be given."
- The Submission raised the serious issue about lack of stat power. "The development application should be refused as the proposal requests construction activity that exceeds *Instrument Setting Out Terms Of Easement And Restrictions As To The User Intended To Be Created Pursuant To Section 88B Of The Conveyancing Act 1919*, dated 26 July 1972, Part 4a, 4b, 4c requiring a 10ft setback to the boundary, and restriction to building height, sloping between RL 110ft and RL 91ft."
- The Submission also identified the heritage issues. The development application should be refused as the Applicant has nominated the house and detailed the significance to Heritage NSW.
- The Submission tried to make some constructive ideas on amendments to the proposals, including the following
 - Remove all built form on our property
 - Delete or relocate the proposed upper level, and reduce building height to maintain existing roofline. Maintain existing roof over existing dwelling
 - Front Setback to be 3.05m facing our property to accord with controls and terms of easement.
 - Compliant 2.2m side setback to 6.5m wall height zones
 - Privacy: privacy screens and obscure glass to all windows facing our property
 - Landscaping: Delete all new trees over 4m in Tenacity viewing corridor



Maximum diagrammatic envelope potential shown in red. Compliant setbacks, with compliant building height and wall height. Theatre Room would be retained, with a potential significant extension at RL 23.1 to the south, and potential of further accommodation at RL 20.0, beyond existing building footprint, with allowances for any retained feature or landscape as required. There are design alternatives to produce a more skilful design to reduce view loss, and to accord with LEP, DCP and all Easements and Restrictions, removing unauthorized built form from neighbour's land, and deletion of the proposed construction works on neighbour's land without adjoining owner's consent.

- We bring to your attention a further recent refusal on view loss grounds: FURLONG V NORTHERN BEACHES COUNCIL [2022] NSWLEC 1208 [NSWLEC Dismissal of Appeal]
- The key issues in FURLONG V NORTHERN BEACHES COUNCIL [2022] NSWLEC 1208 [NSWLEC Dismissal of Appeal] considered that the proposal would bring about a severe view loss impact for a Study/Bedroom when there was a reasonable design alternative which would moderate the impact significantly. The proposal did not pay sufficient regard to cl D7 of WDCP which requires view sharing. At the Appeal, Council added:

"the question to be answered is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact upon views of neighbours." Council referred to the findings of Robson J in Wenli Wang v North Sydney Council [2018] NSWLEC 122 ('Wenli Wang'): *"a similar amount of floor space could be provided by a design which reduces the effect on the view from the surrounding properties. Whilst it is true that a redevelopment similar to that provided would not*

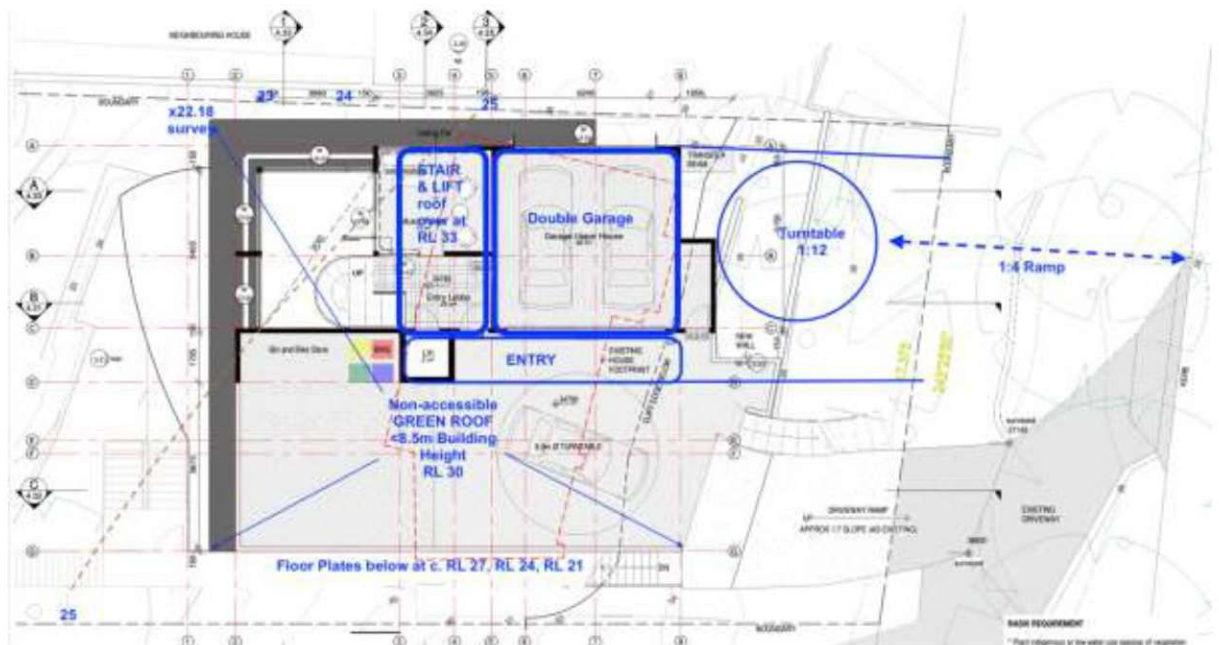
provide the same amenity as the proposed development, it would provide a very high level of amenity and enjoy impressive views."

- We also feel that DER SARKISSIAN V NORTHERN BEACHES COUNCIL [2021] NSWLEC 1041 [NSWLEC Dismissal of Appeal] is relevant
 - The DDP Refusal of DA 2020/1338 - 55 BOWER STREET, MANLY [DDP 2021 Refusal] is relevant
 - The NBLPP Refusal DA 2021/2034 - 30 FAIRLIGHT STREET, FAIRLIGHT [NBLPP 2022 Refusal] is relevant
 - We ask that you consider these refusals in your view loss considerations
 - We contend that there are multiple alternatives to provide the proposed upper level accommodation elsewhere on the subject site, *'to reduce the impact upon views of neighbours.'* The above NSWLEC are extremely relevant
- We agreed in conversation that height poles would be good to assess the view loss impact.
 - We noted that the view loss from the dining room was severe and very devastating from our lower level comprised of living areas and a study that we didn't step into.
 - The view loss concerned is the primary water and land interface of powder hulk bay shoreline seen in photos.
 - We spoke about alternative designs for an additional floor of proposed master bedroom. The view from 173a below us is not blocked by the house below it (175) no matter the placement of an additional master bedroom. It could be split levels to the side of theatre room if they chose to retain the theatre room and 4.19m ceiling height. Other alternatives retaining the existing roofline are possible. We noted that they have a cabana proposed below the main floor.
 - We sent after our meeting a title search showing the release of easement for support for construction over the boundary line.
 - We have since received confirmation from our registered surveyor where the height easement on title as well as 8.5m height control is exceeded by the proposed roofline. It plots where a 10ft easement on title from shared boundary overlaps with 3m front setback.

DA 2021 2313; 177 Seaforth Crescent Seaforth NSW 2092

- We submitted our objection 30 December 2021
- The Submission highlighted our concerns regarding the overdevelopment of the site, including building height, wall height, number of storeys and setback non-compliances
 - Building Height NE 14.28m v 8.5m [68% non-compliance]
 - Wall Height NE 14.28m v 8m [78% non-compliance]
 - Number of Storeys 3 v 2 [50% non-compliance]
 - Wall Height NE 14.28m v 8m [78% non-compliance]
 - Wall Height SW 9.65m v 8m [20% non-compliance]
 - Side Setback North -East 4.78m v 0.9m [530% non-compliance]
 - Side Setback South-West 3.22m v 2.5m [29% non-compliance]

- The Submission also identified the poor amenity outcomes in respect to View Loss, Privacy, Overshadowing, Excessive Bulk, Excavation and Landscaping
 - The Submission tried to make some constructive ideas on amendments to the proposals, including the following
1. Reduce the Building Height to 8.5m, with levels to re-set at RL 33 [roof over lift & stair], and floor slab levels below at c.RL 30, 27, 24, 21
 2. Reduce the upper level to be a double garage and a 6m turning table, and re-positioned to face the street, with a new driveway at maximum grades. Reposition 6m turning table to be within front 6m setback zone, 6m deep garage to have a 6m front setback.
 3. Reposition lift and stair
 4. Non-accessible, Green Roof at RL 30 over floors below
 5. Reduce the Wall Height to DCP controls
 6. Increase Side Setback to DCP controls
 7. Privacy: privacy screens and obscure glass to all windows facing our property
 8. Privacy: full height privacy screens to all decks facing our property, shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
 9. Landscaping: 8m high privacy planting facing our property
 10. Landscaping: Delete all trees over 4m in Tenacity viewing corridor
 11. Landscaping: Retain all trees, other than Tree 5 and Tree 7 and trees that present as high risk of failure as assessed by Council Landscape Officer
 12. Excavation: Delete excavation and fill in the setback zone facing our property
 13. We presented a sketch of how that could work:



- We spoke about the allowance in the design for cars parked alongside our kitchen and dining room aligned to the edge of our balcony and agreed in conversation that the noise and visual impact was far too intrusive. Alternative designs to keep cars going as far as the existing old carport are possible. The sketch above is a solution that would resolve that matter.
- We spoke about the non-accessible green roof concept, as identified in the above sketch.
- We looked at the alignment of the proposed plans and noted their balcony begins where ours ends.
- From the pool area we looked up and saw the allowance for cars next to our kitchen and dining and noted the top level parking and music room exceeded 8.5m above natural ground exacerbated by the alignment being more forward than our timber balcony.

We have been very constructive in offering alternative solutions to the problems on both DA sites.

I do hope amended plans will be submitted, and we are renotified.

Titus & Anthony Ng
173 Seaforth Crescent
Seaforth
NSW 2092