
Sent: 4/06/2020 10:14:22 AM
Subject: DA2020/0442 - written submission
Attachments: 229 WBR written submission - objection.pdf;

FAO Lashta Haidari

Good morning

Please find attached a written submission objecting to the Development Application DA2020/0442 at 231 Whale Beach Road, Whale Beach on behalf of the owners of the neighbouring property at 229 Whale Beach Road.

Regards

Catherine Naito

229 Whale Beach Road
Whale Beach
NSW 2107

4 June 2020

The General Manager
Northern Beaches Council
By email: council@northernbeaches.nsw.gov.au
Cc: Lashta Haidari

Dear Sir/Madam

Re: DA 2020/0442 – Demolition Works and construction of a Mixed Use Development, comprising five residential apartments, three retail premises, basement car parking, associated site and landscaping works and strata subdivision at 231 Whale Beach Road, Whale Beach

Introduction

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 which is the subject of DA 20/0442 (the “*Proposed Development*”). This letter is a written submission objecting to the Proposed Development.

We have previously expressed our major concerns to the owners of the site and the architect (loss of privacy and amenity, view loss, a need to retain our trees to maintain privacy as well as concerns as a result of the impact of construction work on the health of our most important tree) but these concerns have not been addressed and in some respects, the plans in the current DA are actually worse from our perspective than those originally discussed.

We strongly object to the Proposed Development on the grounds that it will result in significant loss of privacy to us, view loss, nuisance both visual and acoustic and also that it is not in keeping with, and will significantly detract from, the character of this lovely area, both in terms of the actual development but also the increased noise, traffic and congestion that will inevitably result.

In addition we object to the bulk and scale of the Proposed Development and the way that it would be right up against our boundary, rather than being set back, and that the plans do not allow for sufficient greenery and landscaping to break up the building.

Our house

229 Whale Beach Road is one of the oldest properties in the neighbourhood, being built, as far as we can establish, in the 1940s. It is on a rectangular block and shares its entire northern boundary with site of the Proposed Development. On the other sides, it adjoins Whale Beach

Road to the west, the Strand to the east and the boundary with the Whale Beach Surf Life Saving Club to the south.

The house is elevated with views over the headland to the north east and the “Wedge” from the garden and the main living areas.

Loss of Privacy and Amenity

The Proposed Development involves extending and changing the use of every floor of the current building, all of which will have materially detrimental effects to our privacy, amenity and enjoyment of the house:

- Level 1 plan (DA05) – at present the ground drops away to the eastern side of the existing building. The Proposed Development anticipates building a large terrace which will extend above the current ground level (see DA10) referred to Apt 1 Terrace. This will overlook our garden, where in particular our children will often relax and play. There is also a new barbeque area planned directly overlooking our garden which will exacerbate the feeling of being overlooked as we will be disturbed by noise and cooking smells.
- Level 2 plan (DA06) – the existing balcony, which is currently angled away from our house towards the ocean, will be significantly extended both outwards and within the existing building footprint. This area (Apt 3 Terrace) would look directly into our own balcony, living room, dining area, kitchen and private outdoor space and will be incredibly intrusive. Again, a barbeque area has been planned to overlook our house.
- Level 3 plan (DA07) – this floor of the existing building currently does not have a balcony but the Proposed Development envisages a substantial balcony (Apt 4 Terrace) which would again look directly into our own balcony, living room, dining area, kitchen, and private outdoor space and again has a barbeque area overlooking our house.
- Level 4 plan (DA08) – the existing building has a roof terrace. The Proposed Development includes a large terrace and a spa and pool looking directly into our master bedroom. A spa and/or pool will be a change of use for this area and potentially be extremely noisy. Although DA08 shows a plant bed, this is actually represented as a pool on DA47 which will result in even more noise and disturbance.

In addition, the southern elevation of the Proposed Development will now have extensive areas of windows and glass doors, as well as associated balconies, that again will look directly into our house.

In summary, Apt 1 Terrace, Apt 3 Terrace, Apt 4 Terrace and Apt 5 Terrace and the windows and doors in the southern elevation would result in a huge invasion of our privacy. The existing balconies are oriented towards the ocean to the east, whereas the Proposed Development would mean people would be looking directly onto us, (see DA10 - South Elevation) making what are now pleasant spaces feel uncomfortable and will detract from our sense of well-being. In addition there will be a change in the way in which the spaces are used – Apt 1 Terrace, Apt 3 Terrace and Apt 4 Terrace envisage large barbeque areas on the southern side, overlooking our house, and Apt 5 has a spa and a pool, all of which would result in increased noise, nuisance and

loss of amenity. The increased density and intensity of occupation caused by the Proposed Development would further exacerbate these negative effects. The positioning of the pool and spa, like the barbeque areas, all encourage maximum traffic in the areas that directly overlook and cause the most nuisance to our house.

Our concerns about privacy cannot be addressed by the use of privacy screens on the balconies, as any such screens would further reduce the views that our house currently enjoys.

View Loss

One of the main attractions of our house is its superb views to the north, over the iconic Whale Beach Wedge, the beach, the headland and where the ocean meets the beach. The layout of the house was designed to maximise the enjoyment found with the views over the ocean, particularly the Wedge and the headland, so we object in the strongest possible terms to the Proposed Development extending beyond the existing footprint of the current building. The current footprint allows both 231 and 229 to share these magnificent views to the north, but the Proposed Development completely compromises 229's views without really adding anything to 231's views, and as such is utterly unreasonable.

The view over the Wedge and headland is enjoyed most from the living room, balcony, dining area and master bedroom and also from the upper floor landing, front bedroom and the kitchen. The Proposed Development would cut across this view substantially, and in some cases in its entirety. There follows photographs showing the existing views that will be ruined by the Proposed Development.





Misleading information

We would point out that DA57 of the 229 WBR View Impact Study dealing with our view loss is extremely misleading and incomplete. DA57 identifies certain viewpoints but does not address the most important views in terms of the way in which the house is used. In particular View 1 and DA50 do not look from the part of the room/ balcony where you would actually enjoy the view, but instead from the corners closet to the site, which are not positions anyone would normally occupy, and are the points which would be least affected by the Proposed Development. (We explained this concern to the owner and architect and demonstrated that their View Impact Analysis incomplete and misleading). We request that view analyses from the centre of the master bedroom, inside the living room and from the indoor and outdoor tables are carried out before the impact on our views can be assessed.

We would also ask if council will do their own independent, onsite view loss investigation with the assistance of height poles for reference to fully understands the impacts of the view loss from the most relevant viewpoints within the interior of our home.

Norfolk Island Hibiscus

We have a lovely Norfolk Island Hibiscus tree on our property, between the northern side of our house and the southern boundary of 231 Whale Beach Road. We are extremely concerned that the Proposed Development will have an extremely negative impact on this tree. The tree is a tall, mature tree and we fear that excavations necessary for the Proposed Development could have an

adverse impact on the structural adequacy of the tree making it hazardous, as the destabilization of the roots could lead to the tree falling down, particularly in storm conditions, resulting in significant property damage and risk to life.

Our tree currently provides excellent, year-round screening from the building at 231 Whale Beach Road, which will be increasingly important in light of the Proposed Development. It also softens and breaks up the scale of the existing buildings and again, this will be even more important upon any redevelopment, which will be even bigger and bulkier than the existing buildings, as well as hard against our border, which is not currently the case. As such, although the species of tree is characterised as having a “low retention value”, this particular tree in relation to our house has major retention value and is indeed essential and will only be more so if the Proposed Development goes ahead.

The Arboricultural Impact Assessment (“AIA”) estimates that 37% of the tree’s Tree Protection Zone will be impacted. Under the Australian Standard 4970-2009 Protection of trees on development sites, this is impact level S, the highest possible level, representing a “significant level of impact”. We would like the plans for the Proposed Development to be revised so that they do not impact our tree.

We note that the tree roots have already been cut (page 7 of the AIA) and as such we are even more concerned about the welfare of the tree.

We ask council to investigate carefully the impact the proposed development will have on the tree with a suitably qualified independent arborist and would expect compliance with the relevant Australian standards in this instance.

We also note that the AIA proposes the removal of three public/street trees (numbered 1, 2 and 3 in the report). We object to the removal of these trees at the eastern side of our property as they currently provide valuable screening from the public area which is used for parking and is particularly busy during the summer months. These trees are native species and typical of this area so we do not see any reason to remove them.

Bulk and Scale

The current buildings at 231 Whale Beach Road are a mixture of heights and do not occupy the whole site. The Proposed Development will be substantially bigger in terms of mass, is not at all in keeping with the rest of Whale Beach and will seriously detract from the locality, especially when viewed from the beach side.

We believe that the bulk, scale and the style of the proposed building are wholly incompatible with the existing low density, single residential character and prevailing scale of development for the Whale Beach locality. Whilst the zoning allows for neighbourhood shops and shop top housing, we feel that the extent of a 5 level development of this scale is excessive and overbearing on our home and indeed the surrounding area generally.

The development will also bring increased traffic congestion and parking problems to an area which is already over-crowded during the busier times of year.

Surf Road

We are extremely concerned about the adequacy of Surf Road for the Proposed Development. The combined curve, gradient and camber of Surf Road currently mean that vehicles often veer into the centre of the road, making it in effect one lane. This causes traffic to back up at the beach side and also at the top on Whale Beach Road. To have a multi-storey parking facility opening up in two places onto this stretch of road will cause even more problems and congestion, not just on Surf Road but backing up along Whale Beach Road.

Equally, to have a large café opening up onto this part of Surf Road will cause problems – there is simply not enough space. The Proposed Development contemplates using council land between Surf Road and the boundary as a seating area for a café – there is simply not enough space for this.

In short, squeezing 2 carpark entrances, either side of an open front café/store where people are encouraged to linger is not practicable and will create a significant risk of traffic accidents.

Misleading Information

DA08 shows a Planting Bed whereas DA47 shows a swimming pool.

DA56 229 WBR View Impact Study does not accurately represent the trees or the spaces between them so does not really show how our views will be affected.

DA14 Cross Section 1 shows the existing building by a dotted line but is misleading as the section is taken at the far eastern face where it is closest to our boundary. This gives the impression that the Proposed Development results in an improved setback from the existing footprint, which is certainly not the case, as the existing building is angled away from our boundary and in addition is not a solid building but steps in, away from our house.

We are concerned that the sheer and “continuous” verticality as well as the impacts of the positioning of stacked apartments which look directly sideways onto our property from the south elevation. We feel that this impact is not adequately counteracted by suitable spatial separation. We believe an inadequate setback prevents and limits the ability to install appropriate landscaping and increased softscape screening between the us and the proposed apartments in this area.

Additionally, We would like council to investigate whether there are any actual encroachments on the side building envelope and we would also request that council ask the owner at 231 Whale Beach Rd to erect height poles in order to more accurately define the true extent of the proposed development in order to fully review the impacts on our view loss and the sensation of the additional bulk and scale.

Conclusion

The Proposed Development will result in significant adverse impacts to our property but also to the local area generally with its sheer bulk and scale. Although this type of building on such a site is not unusual in other areas, it goes far beyond what is appropriate for this site at Whale Beach. The design is an overdevelopment of the site, aiming to cram as much as possible onto the site, without any consideration to the beach location and character of the rest of the area.

At an individual level we will suffer unreasonable loss of privacy and amenity, view loss, nuisance both visual and acoustic, as well as the trees in our garden being jeopardised.

As such we believe that the Council should not approve the development in its current form. We feel that an extensive redesign is necessary to address our particular concerns but also more general concerns about the area generally.

If you require clarification on any of the matters raised in this letter or any further details please do not hesitate to contact us.

Yours faithfully

Catherine Naito