

SUBMISSION: WILTSHIRE
a written submission by way of objection to DA 2020/1726

Dr Catherine Wiltshire
31 Wandeen Road
Clareville
NSW 2107

27 January 2021

Chief Executive Officer
Northern Beaches Council
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Dee Why
NSW 2099

Northern Beaches Council
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Dear Chief Executive Officer,

Re:
29 Wandeen Road Clareville NSW 2107
DA 2020/1726

WRITTEN SUBMISSION: LETTER OF OBJECTION
Submission: Wiltshire

This document is a written submission by way of objection to DA 2020/1726
lodged under Section 4.15 of the EPAA 1979 [the EPA Act]

The DA seeks development consent for the carrying out of certain development, namely:

the construction of alterations and additions to an existing dwelling including new swimming pool and landscaping on land at 29 Wandeen Road, Clareville.

Cost of Work: \$0.6m.

The subject site is zoned Zone E4 Environmental Living under the LEP, and there is no reason, unique or otherwise why a fully compliant solution to LEP and DCP controls cannot be designed on the site.

EXECUTIVE SUMMARY

This Written Submission asks Council to request that the Applicant submits Amended Plans to resolve the matters raised within this Submission, and failing a comprehensive set of amendments undertaken by the Applicant as identified within this Submission, to ask the Applicant to withdraw the DA, or if that is not forthcoming, to **REFUSE** this DA.

We are being assisted by a very senior experienced consultant assisting us in the preparation of this Written Submission.

The bulk and design of the proposed works are not compatible with neighbouring development and will be a negative contribution to the scenic amenity of the area when viewed from surrounding viewpoints, particularly our property.

The proposed development is a clear case of overdevelopment:

- 4.3 Height of Buildings 10m, causing direct devastating view loss
- D1.8 Front Building Line: Non alignment of front wall zones, and decks
- D 1.11 Building Envelope [multiple significant non-compliance]
- Side & Rear Setbacks
- Excessive Pool Height
- Landscape Area

This Written Submission addresses our objection to the above development.

We want to emphasise the fact that we take no pleasure in objecting to our neighbour's DA.

We are objecting because the proposed DA has a very poor impact on the amenity of our property, and the urban design particularly in Clareville, and this is caused by the DA being non-compliant to multiple controls.

If the DA was fully compliant to all controls our amenity loss would be more reasonable.

It does seem unreasonable that the Applicant wishes to remove our amenity to improve his own, and is proposing a catalogue of non-compliant outcomes that would seriously adversely affect our amenity.

We are greatly concerned to the **moderate to severe** view loss to the west from our highly used living, dining, kitchen and entertainment decks. The loss of view is caused by proposed development beyond maximum building heights, and proposed development into the side boundary envelope zones. This view is our only view of water/land interface. All other views are very much filter views through very thick tree canopy to the north. The view that is lost is therefore considered our main water view.

In Tenacity, [Tenacity Consulting v Warringah Council 2004], NSW LEC considered Views. Tenacity suggest that Council should consider:

“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.”

The development breaches multiple planning controls and is unreasonable.

The impact on views arises as a result of non-compliance with one or more planning controls, and the moderate to severe impact is considered unreasonable.

We ask for the front setback alignment at first floor to remain unaltered, with a more compliant 3m side setback.

We are also greatly concerned that the proposed development removes highly valued canopy species that conform to the BC Act 2016 listed EEC Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion.

The site analysis should have clearly identified that the five Spotted Gum *Corymbia maculate* [T1, T2, T3, T4, & T5] are of such high landscape importance, and that a design solution should have been considered the full retention and protection of these specimen trees. These trees are in excellent health. The trees range in height between >13m to >20m. the trees have been assessed by the Arborist as ‘*High Significance*’ and ‘*High Retention Value*’

The concept has simply chosen a path of maximum destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species.

The amount of tree canopy lost will be significant.

We are greatly concerned that the Applicant has not considered the threatened flora that exist on the site including Grey-headed Flying Fox, Bush Stone-Curlew, Tawny Frog Mouthed Owl, Red Tailed Black Cockatoos and other listed flora. We are concerned that the Flora and Fauna Assessment Report has failed to carry out sufficient inspection to identify the species.

Our main concerns are:

- **View Loss**
- Visual privacy
- Acoustic Privacy
- Solar Loss
- Visual Bulk
- Landscaping
- 7.6 Biodiversity - threatened flora that exist on the site including Grey-headed Flying Fox, Bush Stone-Curlew, Tawny Frog Mouthed Owl, Red Tailed Black Cockatoos and other listed flora
- B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community: removal of five T14 Spotted Gum *Corymbia maculate*

Our amenity losses are directly attributable to non-compliance of the main PLEP and PDCP controls:

- 4.3 Height of Buildings 10m, **causing direct moderate to severe view loss**
- D 1.11 Building Envelope [multiple significant non-compliance]
- D1.8 Front Building Line: Non alignment of front wall zones, and decks
- Side & Rear Setbacks
- Excessive Pool Height
- Landscape Area

In this Written Submission we ask Council to request the Applicant to submit Amended Plans to bring the proposed development back into a more generally compliant envelope including:

1. Maintain alignment of existing first floor front setbacks to reduce non-compliant building height at north-west corner and to **reduce moderate to severe view loss**.
2. The proposed development is not to exceed 8.5m maximum building height, particularly at north-west corner,
3. D 1.11 Building Envelope. Second Floor Setbacks of 3m to the boundary must be achieved to accord with the control and objectives.
4. D1.8 Front Building Line. No deck can extend beyond the alignment of neighbour's decks, taking a direct line between the adjacent decks
5. Protect and retain the very highest rated canopy species that conform to the BC Act 2016 listed EEC Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion; five Spotted Gum *Corymbia maculate*, and alter proposed development accordingly
6. All windows in the eastern elevation to have 1.7m high sills, or obscured glass;
7. All privacy screens to all decks must be solid and be 1.7m high, and positioned below the 8.5m maximum building height above the survey levels along the boundary;
8. Landscape to be designed in the eastern setback zone to fully screen 8.5m high proposed development

We are concerned to the non-compliance of the LEP:

PLEP 2014

- 1.2 Aims of Plan
- 2.3 Zone Objectives Zone E4 Environmental Living
- 4.3 Height of Buildings
- 4.6 Exceptions to Development Standards
- 7.2 Biodiversity protection

P21DCP

- A4.1 Avalon Beach Locality
- B3.1 Land Slip Hazard
- B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community
- B4.22 Preservation of Trees and Bushland Vegetation
- B6.1 Access Driveways
- B6.2 Internal Driveways
- B6.3 Off-Street Vehicle Parking Requirements
- B8.1 Construction and Demolition - Excavation and Landfill
- C1.1 Landscaping
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- C1.25 Plant, Equipment Boxes and lift Over-Run
- D Locality Specific Development Controls
- D1 Avalon Beach Locality
- D1.1 Character as viewed from a public place
- D1.8 Front Building Line
- D1.9 Side and Rear Building line
- D 1.11 Building Envelope
- D1.14 Landscaped Area - Environmentally Sensitive Land
- D1.20 Scenic Protection Category One Areas

CHARACTERISTICS OF OUR PROPERTY

Key aspects of our property are as follows:

Our property shares a common boundary with the subject property.

The subject site lies to the west of our property.

We enjoy good levels of view sharing, privacy, and daylight access over the subject site's boundaries.

MATTERS OF CONCERN

We are concerned that these impacts will negatively impact the level of amenity currently enjoyed.

The following aspects of the proposal are of concern:

- The extent of the proposed building envelopes
- The siting and extent of the proposed dwelling without having sufficient consideration for maintaining amenity

We provide further details of these matters below and request Council's close consideration of these in the assessment of the application.

We are concerned that the SEE has failed to properly address our amenity concerns, and is suggesting that the DA accords with LEP & DCP outcomes and controls when it clearly it does not.

The non-compliance to LEP and DCP outcomes and controls forms the basis of our objection.

The subject site is of a large size, and there is no reason, unique or otherwise why a fully complaint solution to all outcomes and controls cannot be designed on the site.

This letter of objection will detail our concerns, and our amenity losses that have arisen as a direct result of the non-compliance to outcomes and controls.

SITE DESCRIPTION

The site is described within the Applicant's SEE.

The subject allotment is described as 29 Wandeen Road, Clareville, being Lot 89 within Deposited Plan 13760 and is zoned E4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The site is noted as being within the W Hazard H1 area on Council's Geotechnical Hazard Map. A Geotechnical Investigation has been prepared by White Geotechnical Group, Reference No. J2597, dated 31 March 2020 as revised 17 December 2020 and will be discussed in further detail within this submission.

The site has been identified as being within a Terrestrial Biodiversity Zone, and this will be discussed in further detail within the report, with a Flora & Fauna Assessment being prepared for the development by Kingfisher Urban Ecology and Wetlands.

The site is also identified as being Class 5 Acid Sulfate Soils Area

The property is located on the southern side of Wandeen Road.

The site has a width of 15.24m to Wandeen Road and a depth of 54.865m. The total existing site area

The rear portion of the site has a gradual slope towards the rear, south-western corner, and the front portion of the site falls to the north-western corner. The site has a total fall of approximately 5.6m over its length. Stormwater from the site is directed to the street gutter in Wandeen Road.

The land is currently developed with an existing multi storey cement rendered dwelling. The site is accessed via an existing concrete driveway from Wandeen Road.

The details of the existing site levels are indicated within the Survey Plan prepared by C-Side Surveyors, Project No. 140802-DET, dated 17 October 2020.

PROPOSED DEVELOPMENT

The site is described within the Applicant's SEE.

The proposal will comprise the following:

Ground Floor Level

➤ Alterations and additions to existing ground floor level to provide for new laundry, store, bathroom, internal access stairs to first floor level and external stairs from deck to rear yard

First Floor Level

➤ Alterations and additions to existing first floor level to provide for new study, media room, kitchen bench, internal wall to dining room/kitchen, new pergola and external stairs to existing rear terrace, internal access stairs to ground floor level and extension of existing balcony

Second Floor Level

➤ Alterations and additions to existing second floor level to provide for four bedrooms including master bed with ensuite, walk-in robe and deck, bedroom 5 with ensuite, internal access stairs and bathroom

External Works

- Proposed landscaping
- New swimming pool and deck ➤ New turning circle

The proposed additions comprise of a low profile pitched roof form that complements the existing built form within the locality and limits any adverse impacts to the neighbouring properties.

It is notable that the proposed additions to the existing second floor level will remove the existing roof, with the new roof form over the existing and proposed new floor area (RL 70.957) to be up to 603mm below the existing ridge level of RL 71.56.

The external finishes of the new works comprise weatherboard cladding and metal roofing, with earthy tones which will effectively integrate into the bushland character of the locality.

The proposal seeks to remove a number of trees to accommodate the new works. Accordingly, an Arborist Construction Impact & Management Statement prepared by Growing My Way Tree Consultancy, dated June 2020.

The tree assessment confirms that five trees will be removed to facilitate the construction of the turning area and the swimming pool. The tree is identified as being mature Spotted Gum species, and in good health. The site and the immediate vicinity also supports a number of other trees of similar form and health which will not be affected by the work.

OUTSTANDING INFORMATION

Height Poles

We ask Council to request that the Applicant position 'Height Poles/Templates' to define the non-compliant building envelope, and to have these poles properly measured by the Applicant's Registered Surveyor.

The Height Poles will need to define:

- All Roof Forms, and all items on the roof
- Extent of all Decks, Balustrades, Privacy Screens

The Applicant will have to identify what heights and dimensions are proposed as many are missing from the submitted DA drawings.

Geotechnical Report

We ask for the Geotechnical Report to be revised to give greater clarity on the items raised in this Submission.

1. The structural design is to be reviewed by a geotechnical engineer prior to the Construction Certificate (Council Policy Section 6.5(g)(ii)), provide conditions for ongoing management as per Section 6.5(g)(iv).
2. Temporary anchors be used in piling and that no permanent anchors are installed as they would then reduce the ability for development within the adjoining property.
3. Until subsurface investigations prove that good quality rock is present, assume that the rock will be of poor quality and shoring should be allowed for the full depth of the excavation.
4. Vibration monitoring should be carried out until it can be demonstrated that the transmitted vibrations to the adjoining properties are within tolerable limits. Vibration levels to reduce to 2.5mm/sec, with a stop work halt at 2.0mm/sec, with full-time monitoring, and daily reports to Certifier and Council
5. The dilapidation survey should comprise a detailed inspection of neighbours property both externally and internally with all defects rigorously described and photographed. The completed dilapidation report should be provided to the neighbour to allow them to confirm that the dilapidation report represents a fair record of actual conditions.

Overshadowing Diagrams

The Applicant is required to submit hourly solar access diagrams on our windows to assess compliance, caused by non-compliant envelope

We object to any additional overshadowing caused by the non-compliant envelope compared with a compliant envelope, particularly in the winter hours.

ENVIRONMENTAL PLANNING INSTRUMENTS LEP & DCP

The following matters are relevant to the development under the LEP 2012:

Provision	Compliance	Consideration
1.2 Aims of Plan	No	The proposal does not comply with the aims of the plan.

2.3 Zone Objectives Zone E4 Environmental Living	No	The proposal is defined as a dwelling house and is permissible with consent in the E4 Environmental Living zone. The proposal does not satisfy the zone objectives.
4.3 Height of Buildings	No	A maximum height of 8.5m is permitted. A height greater than 8.5m is proposed. The proposed roof extends to the north at RL 70.6 to a survey mark to the west at 60.6 [NW] representing a maximum building height of 10.0m .
4.6 Exceptions to development standards	See discussion	The application is accompanied by written requests pursuant to Clause 4.6 to vary the height of building development standards.
7.2 Biodiversity protection	No	Destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely five Spotted Gum <i>Corymbia maculate</i> .

CLAUSE 1.2 AIMS OF PLAN

In these proposals the local amenity and environmental outcomes would be challenged by non-compliance.

We contend that the proposed development does adversely affect the character or amenity of the area or its existing permanent residential population by view loss, and other amenity losses.

We contend that the DA fails the aims of this control as follows:

1.2 Aims of Plan

- (a) to promote development in Pittwater that is economically, environmentally and socially sustainable,
- (b) to ensure development is consistent with the desired character of Pittwater's localities,
- (g) to protect and enhance Pittwater's natural environment and recreation areas,
- (i) to minimise risks to the community in areas subject to environmental hazards including climate change,
- (j) to protect and promote the health and well-being of current and future residents of Pittwater.

The requirements under this clause clearly have not been met.

The proposal exceeds the maximum height in the relevant clauses of the LEP. The proposal therefore is of a larger building envelope than what is provided for by the existing controls and presents excessive bulk and scale onto surrounding properties in a manner which is not consistent with the desired future character of the locality.

Destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely five mature Spotted Gum *Corymbia maculate*.

ZONE E4 ENVIRONMENTAL LIVING

Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The proposed development does not provide for the housing needs of the community within a low density residential environment. The proposed building height is more typically associated with a higher density residential environment, not the low density residential environment.

The proposal does not retain the single dwelling character of this environmentally sensitive residential area of Avalon Beach

The proposal does not maintain a general dominance of landscape over built form, and the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely five Spotted Gum *Corymbia maculate*.

The proposal does not achieve adequate landscaping or landform retention.

The proposed development would result in a built form that would have a number of adverse amenity impacts on surrounding properties.

The proposed development is of a height and scale that is not compatible with the desired future character of the area. The proposed development is excessive in height and scale and is too bulky on the street frontage.

The proposed development does not maintain or enhance local amenity. The proposal results in the loss of private views from an adjoining property.

The proposed bulk and scale of the development has not been minimised.

The proposal has failed to provide adequate side setbacks or side envelope and is not appropriately setback from the street which result in built form dominance, poor streetscape outcome and view loss.

4.3 HEIGHT OF BUILDINGS

(1) The objectives of this clause are as follows:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The objectives of this clause have not been met:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

Comment: The height and scale of the proposed development is not consistent with the desired character of the locality, with both neighbours dwelling maintaining strict compliance with the 8.5m development standard.

- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment: The height and scale of the proposed development is not consistent with the desired character of the locality, with both neighbours dwelling maintaining strict compliance with the 8.5m development standard.

- (c) to minimise any overshadowing of neighbouring properties,*

The excessive additional height casts additional shadow. We refer to that matter later in this Submission.

(d) to allow for the reasonable sharing of views

The excessive height represented by the above envelope description, takes Tenacity Views from neighbours

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

The excessive additional height, and the failure of the building to comply with side boundary envelope controls, and non-compliant street setbacks is a major failure of the proposed development

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The visual impacts of this proposed development on the natural environment of this highly visible area of Avalon Beach creates a jarring effect to the landscape.

On these matters alone the DA must be REFUSED.

4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

Based upon the failure to accord with any of the objectives of Objectives of Heights of Buildings, the Clause 4.6 Application must fail.

(1) The objectives of this clause are as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

(c) to minimise any overshadowing of neighbouring properties,

(d) to allow for the reasonable sharing of views,

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

Clause 4.6(4)(a)(i) assessment:

The written request fails to adequately address the matters contained in Clause 4.6(3)(a) and (b) as follows:

- The height of the building is in excess of 8.5m
- There are insufficient environmental planning grounds to justify contravening the height of buildings development standard nor has it been established as reasonable or unnecessary;
- The assessment does not agree with the applicant's statement that excavation is limited and is an appropriate response to the topography of the site. The assessment finds that the proposal involves excessive cut and fill which is not appropriate for the site or its surrounds;
- The bulk and scale of the proposed development is out of character with the area;
- The proposed development would result in adverse amenity impacts for the surrounding area;
- The proposed development results in a dominance of built form over landscape, and the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculate*, and
- The proposal results in view loss for an adjoining property

Clause 4.6(4)(a)(ii) assessment:

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone in which the development is proposed to be carried out.

The proposed development is considered against the objectives of the height of buildings development standard, as described below:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*
- (i) to share public and private views:*

Consideration:

The proposal does not share private views. Through height departure, front setback, and side envelope the proposal does not achieve satisfactory private view sharing.

The proposed dwelling is poorly designed so as to not minimise its visual impact.

The proposal is excessive in height, and includes a departure from the heights of buildings development standards;

The proposed new dwelling is poorly designed and is not compatible with the desired future character of the area in terms of building height and roof form;

The proposal would have an adverse impact on its surrounds.

The proposed dwelling has not been skilfully designed to minimise adverse bulk and scale impacts;
The proposal has not minimised the adverse effects of bulk and scale;
The proposal does not provide adequate spatial relief to adjoining properties;
The proposal results in a dominance of built form over landscape, and the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculate*

The proposal includes substantial departures from the building envelope development standards which contribute to excessive bulk.

Statement as to satisfaction:

The assessment of any request for variation against the objectives of the development standard finds that the objectives of the development standard are not satisfied.

The proposed development is considered against the objectives of the Zone E4 Environmental Living Zone, as described below:

Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The proposed development does not provide for the housing needs of the community within a low density residential environment. The proposed building height is more typically associated with a higher density residential environment, not the low density residential environment.

The proposal does not retain the single dwelling character of this environmentally sensitive residential area of Avalon Beach

The proposal does not maintain a general dominance of landscape over built form. The landscaped area is below the minimum required landscaped area for the site. The proposed development would result in a built form that would have a number of adverse amenity impacts on surrounding properties.

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculate*

The proposal, however, does not achieve adequate landscaping or landform retention.

The proposed development is of a height and scale that is not compatible with the desired future character of the area. The proposed development is excessive in height and scale and is too bulky on the street frontage.

The proposed development does not maintain or enhance local amenity. The proposal results in the loss of private views from an adjoining property.

The proposed bulk and scale of the development has not been minimised. The proposal has failed to provide adequate side setbacks and is not appropriately setback from the street which result in built form dominance, poor streetscape outcome and view loss.

Statement as to satisfaction:

The assessment of this request for variation against the objectives of the zone finds that the objectives of the zone are not satisfied.

Clause 4.6(4)(b) assessment:

The concurrence of the Secretary has been obtained (Planning Circular PS 18003 dated 21 February 2018).

7.2 BIODIVERSITY PROTECTION

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculata*

The proposed development fails this clause:

7.6 Biodiversity protection

The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by: protecting native fauna and flora, and

protecting the ecological processes necessary for their continued existence, and encouraging the conservation and recovery of native fauna and flora and their habitats.

This clause applies to land identified as "Biodiversity" on the Biodiversity Map.

Before determining a development application for development on land to which this clause applies, the consent authority must consider:

whether the development is likely to have:

any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

any adverse impact on the habitat elements providing connectivity on the land, and any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

if that impact cannot be minimised - the development will be managed to mitigate that impact.



Figure 6. The local occurrence of Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion EEC within the broader area surrounding the Subject Site.

PITTWATER DEVELOPMENT CONTROL PLAN 2014

The following matters are relevant to the development under PDCP 2014:

Provision	Compliance with Control	Compliance with Objectives
A4.1 Avalon Beach Locality	No	No
B3.1 Land Slip Hazard	No	No
B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community	No	No
B4.22 Preservation of Trees and Bushland Vegetation	No	No
B6.1 Access Driveways	No	No
B6.2 Internal Driveways	No	No
B6.3 Off-Street Vehicle Parking Requirements	No	No
B8.1 Construction and Demolition - Excavation and Landfill	No	No
C1.1 Landscaping	No	No
C1.3 View Sharing	No	No
C1.4 Solar Access	No	No
C1.5 Visual Privacy	No	No
C1.6 Acoustic Privacy	No	No
C1.25 Plant, Equipment Boxes and lift Over-Run	No	No
D Locality Specific Development Controls	No	No
D1 Avalon Beach Locality	No	No
D1.1 Character as viewed from a public place	No	No
D1.8 Front Building Line	No	No
D1.9 Side and Rear Building line	No	No
D 1.11 Building Envelope	No	No
D1.14 Landscaped Area - Environmentally Sensitive Land	No	No
D1.20 Scenic Protection Category One Areas	No	No

A4.1 AVALON BEACH LOCALITY

Desired Character

The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.

Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.

The design, scale and treatment of future development within the Avalon Beach Village will reflect the 'seaside-village' character of older buildings within the centre, and reflect principles of good urban design. External materials and finishes shall be natural with smooth shiny surfaces avoided. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy

and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors. The natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

The proposed development fails every paragraph of the Desired Character of Avalon Beach, as described above, namely:

- *primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.*
- *Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.*
- *Existing and new native vegetation, including canopy trees, will be integrated with development.*
- *The objective is that there will be houses amongst the trees and not trees amongst the houses.*
- *Building colours and materials will harmonise with the natural environment.*
- *Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance.*
- *Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines*
- *A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land.*
- *As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculata*.

B3.1 LAND SLIP

The development must not adversely affect or be adversely affected by geotechnical processes nor must it increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical hazards.

We are concerned that excessive vibration will cause our property harm.

B4.7 PITTWATER SPOTTED GUM FOREST – ENDANGERED ECOLOGICAL COMMUNITY

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculate*.

The Outcomes and Controls are not respected:

Outcomes

Conservation of intact Pittwater Spotted Gum Forest EEC. (En)

Regeneration and/or restoration of fragmented and / or degraded Pittwater Spotted Gum Forest EEC. (En)

Reinstatement of Pittwater Spotted Gum Forest to link remnants. (En)

Long-term viability of locally native flora and fauna and their habitats through conservation, enhancement and/or creation of habitats and wildlife corridors. (En)

Controls

Development shall not have an adverse impact on Pittwater Spotted Gum Endangered Ecological Community.

Development shall restore and/or regenerate Pittwater Spotted Gum Endangered Ecological Community and provide links between remnants.

Development shall be in accordance with any Pittwater Spotted Gum Forest Recovery Plan.

Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.

Development shall retain and enhance habitat and wildlife corridors for locally native species, threatened species and endangered populations.

Caretakers of domestic animals shall prevent them from entering wildlife habitat.

Fencing shall allow the safe passage of native wildlife.

Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).

Development shall ensure any landscaping works are outside areas of existing Pittwater Spotted Gum Endangered Ecological Community and do not include Environmental Weeds.



Figure 5. The local occurrence of Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion EEC in the area immediately surrounding the Subject Site.



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B4.22 PRESERVATION OF TREES AND BUSHLAND VEGETATION

Outcomes

- To protect and enhance the urban forest of the Northern Beaches.
- To effectively manage the risks that come with an established urban forest through professional management of trees.
- To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.
- To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.
- To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.
- To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculata*

B6.1 ACCESS DRIVEWAYS

Safe and convenient access.

Adverse visual impact of driveways is reduced.

Pedestrian safety.

An effective road drainage system.

Maximise the retention of trees and native vegetation in the road reserve.

We are concerned that the access driveway will damage the protected Spotted Gum *Corymbia maculata*

We ask Council to ensure that the NBC Highway Officer has a very detailed consideration of how the access driveway meets the street. The road is very steep, with a blind entry and exit, a narrow roadway, and traffic often going faster than they should. This requires additional care and design skill in relation to the highway engineering.

B6.2 INTERNAL DRIVEWAYS

Safe and convenient access.

Reduce visual impact of driveways.

Pedestrian safety.

An effective road drainage system.

Maximise the retention of trees and native vegetation.

Reduce contaminate run-off from driveways.

We are concerned that the access driveway will damage the protected Spotted Gum *Corymbia maculata*

C1.1 LANDSCAPING

A built form softened and complemented by landscaping. (En)

Landscaping reflects the scale and form of development. (En)

Retention of canopy trees by encouraging the use of pier and beam footings. (En)

Development results in retention of existing native vegetation. (En)

Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)

Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)

Landscaping enhances habitat and amenity value. (En, S)

Landscaping results in reduced risk of landslip. (En, Ec)

Landscaping results in low watering requirement. (En)

The proposal does not maintain a general dominance of landscape over built form. The landscaped area is below the minimum required landscaped area for the site. The proposed development would

result in a built form that would have a number of adverse amenity impacts on surrounding properties.

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculate*

C1.3 VIEW SHARING

View Sharing

The proposed development does not satisfy view loss consideration under the controls.

No adequate View Loss Analysis has been prepared by the Applicant.

There is no reasonable sharing of views amongst dwellings.

The new development is not designed to achieve a reasonable sharing of views available from surrounding and nearby properties.

The proposal has not demonstrated that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.

Our comments are as follows.

In Tenacity, [Tenacity Consulting v Warringah Council 2004], NSW LEC considered Views. Tenacity suggest that Council should consider:

“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.”

The development breaches multiple planning controls and is unreasonable.

The impact on views arises as a result of non-compliance with one or more planning controls, and the moderate to severe impact is considered unreasonable.

Application of Tenacity planning principle

We are concerned that no adequate consideration of view impact from our property.

The views lost are views to the harbour

A preliminary analysis and assessment in relation to the planning principle of Roseth SC of the Land and Environment Court of New South Wales in *Tenacity Consulting v Warringah [2004] NSWLEC 140 - Principles of view sharing: the impact on neighbours (Tenacity)* is made, however we have no confidence that the assessment is accurate due to the absence of height poles.

The steps in *Tenacity* are sequential and conditional in some cases, meaning that proceeding to further steps may not be required if the conditions for satisfying the preceding threshold is not met.

Step 1 Views to be affected

The first step quoted from the judgement in *Tenacity* is as follows:

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg 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, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Prior to undertaking Step 1 however, an initial threshold in *Tenacity* is whether a proposed development takes away part of the view and enjoys it for its own benefit and would therefore seek to share the view. In our opinion the threshold test to proceed to Step 1, we provide the following analysis;

An arc of view to the west is available when standing at a central location on the elevated decks, living spaces, and other highly used zones on our property.

The composition of the arc is constrained to the west either side of the subject site, by built forms and landscape.

The central part of the composition includes the subject site.

Views include scenic and valued features as defined in *Tenacity*.

The proposed development will take away views for its own benefit.

The view from our living zones and decks towards the water view, and the land-water interface.

The existing view is a 'moving landscape', rather than just a 'scenic outlook', given the activity on the water. The extent of view loss is moderate to severe, and the features lost are considered to be valued as identified in Step 1 of *Tenacity*.

Step 2: From where are views available?

This step considers from where the affected views are available in relation to the orientation of the building to its land and to the view in question. The second step, quoted, is as follows:

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 in all cases are available across the harbour boundary of the subject site at angles to the south and south-east, from standing [1.4m] and seated [1.2m] positions.

An arc of view to the west is available when standing at a central location on the elevated decks, living spaces, and other highly used zones on our property. Our combined living area, dining area, kitchen and outdoor living room is on the first floor, contrary to the applicant's statements. In this respect we make two points:

- We have no readily obtainable mechanism to reinstate the impacted views from our living zones if the development as proposed proceeds; and
- All of the properties in the locality rely on views over adjacent buildings for their outlook, aspect and views towards the water view

We attach a series of photographs from our highly used Living Room and Entertainment Decks.













We contend that the proposed development must be reduced in massing so as to maintain our view of the harbour.

Step 3: Extent of impact

The next step in the principle is to assess the extent of impact, considering the whole of the property and the locations from which the view loss occurs.

Step 3 as quoted is:

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.

Step 3 also contains a threshold test. If the extent of impact is negligible or minor for example, there may be no justification for proceeding to Step 4, because the threshold for proceeding to considering the reasonableness of the proposed development may not be met. In that case the reasonableness question in Step 4 does not need to be asked and the planning principle has no more work to do.

We consider the extent of view loss in relation to our living room zones to be **moderate to severe** using the qualitative scale adopted in *Tenacity*.

The view lost includes water views and land-water interface. As we rate the extent of view loss as moderate to severe in our opinion the threshold to proceed to Step 4 of *Tenacity* is met.

Step 4: Reasonableness

The planning principle states that consideration should be given to the causes of the visual impact and whether they are reasonable in the circumstances.

Step 4 is quoted below:

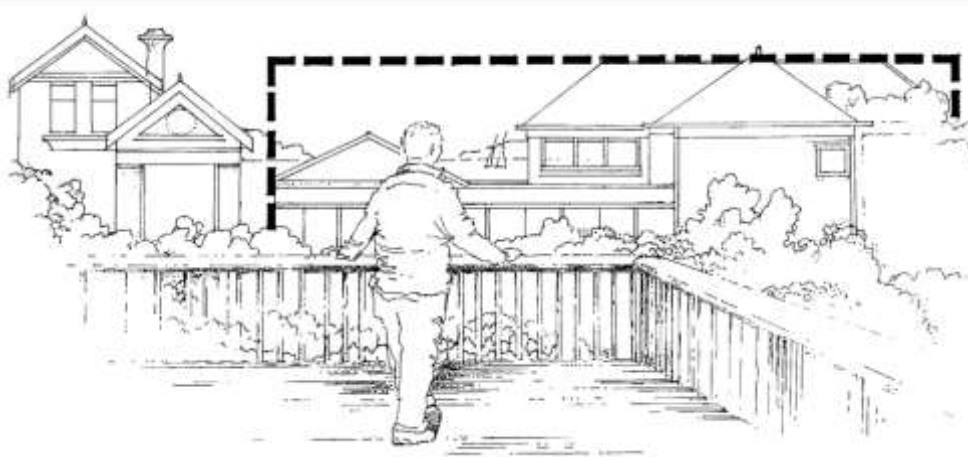
The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, 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.

As the proposed development does not comply with outcomes and controls, that are the most relevant to visual impacts, greater weight would be attributed to the effects caused.

In our opinion the extent of view loss considered to be **moderate to severe**, in relation to the views from our living rooms and living room deck of our dwelling, particularly to the south and south-east. The view is from a location from which it would be reasonable to expect that the existing view, particularly of the water could be retained especially in the context of a development that does not comply with outcomes and controls.

Once Templates are erected, we can provide additional commentary.



Where there is a potential view loss, Council could require a maximum building height of less than 8m for part of the building.

The private domain visual catchment is an arc to the south to south-east from which views will be affected as a result of the construction of the proposed development.

The proposed development will create view loss in relation to our property.

The views most affected are from living areas and associated terraces and include very high scenic and highly valued features as defined in Tenacity.

Having applied the tests in the Tenacity planning principle and without height poles erected, we conclude that we would be exposed to a moderate to severe view loss.

The non-compliance with planning outcomes and controls of the proposed development cause this loss.

- Building Height

- Building Envelope
- Front Setback

Having considered the visual effects of the proposed development envelope, the extent of view loss caused would be unreasonable and unacceptable.

As noted by his Honour, Justice Moore of the Court in *Rebel MH Neutral Bay Pty Ltd v North Sydney Council* [2018] NSWLEC 191 (*Rebel*), “the concept of sharing of views does not mean, for the reasons earlier explained, the creation of expansive and attractive views for a new development at the expense of removal of portion of a pleasant outlook from an existing development. This cannot be regarded as “sharing” for the purposes of justifying the permitting of a non-compliant development when the impact of a compliant development would significantly moderate the impact on a potentially affected view”. The same unreasonable scenario in *Rebel* applies to the current DA. The proposed breaching dwelling will take away views from our property (and possibly other adjoining properties) to the considerable benefit of the future occupants of the proposed dwelling. This scenario is not consistent with the principle of View Sharing enunciated by his Honour, Justice Moore in *Rebel*. The adverse View Loss from our property is one of the negative environmental consequences of the proposed development

The proposed development cannot be supported on visual impacts grounds.

There is no reason why our view of the harbour cannot be maintained in full.

We ask for three main amendment to occur:

1. Maintain alignment of existing front setbacks to reduce non-compliant building height at north-west corner and to reduce moderate to severe view loss.
2. The proposed development is not to exceed 8.5m maximum building height, particularly at north-west corner
3. D 1.11 Building Envelope. Second Floor Setbacks of 3m to the boundary must be achieved to accord with the control and objectives.

Height Poles/ Templates

We ask Council to request that the Applicant position ‘Height Poles/Templates’ to define the non-compliant building envelope, and to have these poles properly measured by the Applicant’s Registered Surveyor.

The Height Poles will need to define:

- All Roof Forms, and all items on the roof
- Extent of all Decks
- Extent of Privacy Screens
- All proposed Trees & Landscape

C1.4 SOLAR ACCESS

Outcomes

Residential development is sited and designed to maximise solar access during mid-winter. (En)

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)

Reduce usage and/dependence for artificial lighting. (En)

Controls

The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.

Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).

Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter.

Developments should maximise sunshine to clothes drying areas of the proposed development or adjoining dwellings.

The proposal must demonstrate that appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access.

In *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 the LEC consolidated and revised planning principle on solar access is now in the following terms:

“Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal’s design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.”

We contend that the overshadowing arises out of poor design. The design does not respect building height, and side envelope controls, and must be considered ‘poor design’.

The Applicant has not submitted hourly solar diagrams to fully assess the solar loss. We ask Council to obtain these diagrams.

The loss of sunlight is directly attributable to the non-compliant envelope.

The planning principle *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 is used to assess overshadowing for development application. An assessment against the planning principle is provided as followed:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

The density of the area is low density, E4 Environmental Living

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

The solar diagrams are not complete, but what has been provided shows that the proposed development will overshadow the adjoining dwellings. The amount of sunlight that will be lost will only be able to be fully considered once solar elevational drawings are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

The proposed development has been designed without considering the amenity of the neighbouring properties. It is considered that a more skilful design, with a compliant building height, could have been adopted that would have reduced the impact on the neighbouring properties. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5o or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.*

This can only be fully assessed once elevational solar drawings at hourly intervals are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

There is minor overshadowing as a result of vegetation

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

The area is not currently undergoing change.

The assessment of the development against the planning principle results in the development not complying with the solar access controls and therefore amended plans should be requested to reduce the overshadowing impact on the adjoining neighbour. It is suggested that a more skilful design of the development, with a compliant building height and complaint side boundary envelope would result in less impact in regard to solar access.

The windows in question are our west facing windows, that provide winter sunshine and daylight into our dwelling, into our highly used rooms. What has been submitted gives the very clear indication that the outcome is not in accordance with controls.

C1.5 VISUAL PRIVACY

Outcomes

*Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)
A sense of territory and safety is provided for residents. (S)*

Controls

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The dwelling's design does not adequately preserve the privacy of the neighbouring properties located to the rear and side of the site.

The terraces and floor plates above the envelope controls do not assist with achieving the privacy objectives

There are a number of windows and decks that have a direct sight line to windows and decks on our property.

We are concerned to the glazed surfaces facing our property. We ask for these to be completely removed and replaced by windows with 1.7m high sills used in other locations of the proposed development, with privacy screens added.

An assessment of the privacy impact against the planning principle *Meriton v Sydney City Council* [2004] NSWLEC 313 follows:

Principle 1: The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.

Response: The development is located in a low-density area.

Principle 2: Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)

Response: The proposed development result in a privacy impact with the proposed windows facing neighbours without any screening devices being provided.

Principle 3: The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.

Response: The windows in question are windows of the main circulation zones and living areas, it is considered that the living areas will result in an unacceptable privacy breach. The proposed windows facing the rear private open spaces for the neighbouring dwelling and will result in an unacceptable level of privacy impact.

Principle 4: Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.

Response: The proposed development is a major alteration and addition development and the proposed windows have been designed without any consideration to the privacy of the neighbouring property.

Principle 5: Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.

Response: It is considered that the private open space of the neighbouring dwellings could be protected through the provision of highlight windows and the provision of privacy screens.

Principle 6: Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.

Response: As mentioned above, the use of highlight windows and privacy screens would reduce the impact of the dwelling.

Principle 7: Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.

Response: The landscaping is the only method offered by the Applicant

Principle 8: In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.

Response: The area is not undergoing change that would warrant privacy impact such as the one presented.

Comment: As the development is considered to result in an unacceptable privacy impact due to the design, it is requested that the proposed development be redesigned to reduce amenity impact on the neighbouring properties.

C1.6 ACOUSTIC PRIVACY

Outcomes

Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited. (S)

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas (S)

Controls

Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and communal and private open space areas and the like.

Noise generating plants including pool/spa motors, air conditioning units and the like shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Developments must comply in all respects with the Protection of the Environment Operations Act 1997, and other relevant legislation.

We are concerned regarding noise from AC plant, heating/cooling plant, and any pool plant

C1.25 PLANT, EQUIPMENT BOXES AND LIFT OVER-RUN

Outcomes

To achieve the desired future character of the Locality.

The bulk and scale of the built form is minimised. (En, S)

Equitable preservation of views and vistas to and/or from public/private places. (S)

To achieve reduction in visual clutter. (En, S)

The appropriate location and design of noise generating equipment.

Controls

Where provided, plant and equipment boxes, air conditioning units and lift over-runs are to be integrated internally into the design fabric of the built form of the building. Council does not encourage air conditioning units on the roof of residential flat buildings and multi dwelling housing. The location of air conditioning units shall be indicated on development assessment plans for approval at the time of Development Application lodgement.

Locate and design all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours.

We are concerned regarding the location of AC plant, heating/cooling plant, and any future pool plant. This plant cannot be in the southern setback zone.

D LOCALITY SPECIFIC DEVELOPMENT CONTROLS

D1 AVALON BEACH LOCALITY

D1.1 CHARACTER AS VIEWED FROM A PUBLIC PLACE

Outcomes

To achieve the desired future character of the Locality.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)

To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.

The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)

High quality buildings designed and built for the natural context and any natural hazards. (En, S)

Buildings do not dominate the streetscape and are at 'human scale'.

To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.

Controls

Buildings which front the street must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality. Blank street frontage facades without windows shall not be permitted.

Walls without articulation shall not have a length greater than 8 metres to any street frontage.

Any building facade to a public place must incorporate at least two of the following design features:

- i. entry feature or portico;*
- ii. awnings or other features over windows;*
- iii. verandahs, balconies or window box treatment to any first floor element;*
- iv. recessing or projecting architectural elements;*
- v. open, deep verandahs; or*
- vi. verandahs, pergolas or similar features above garage doors.*

The bulk and scale of buildings must be minimised.

Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place. Parking structures should be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.

Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.

Television antennas, satellite dishes and other telecommunications equipment must be minimised and screened as far as possible from public view.

General service facilities must be located underground.

Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.

Our particular concerns are:

- To achieve the desired future character of the Locality.
- To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)
- To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.
- The visual impact of the built form is secondary to landscaping and vegetation (En, S, Ec)
- High quality buildings designed and built for the natural context and any natural hazards. (En, S)
- Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum. (S)
- To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.
- To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures, being a secondary component.
- To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)
- The bulk and scale of buildings must be minimised.
- Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculata*

D1.8 FRONT BUILDING LINE

Outcomes

To achieve the desired future character of the Locality. (S)

The amenity of residential development adjoining a main road is maintained. (S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

Vehicle manoeuvring in a forward direction is facilitated. (S)

To encourage attractive street frontages and improve pedestrian amenity.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Controls

The minimum front building line shall be in accordance with the following table:

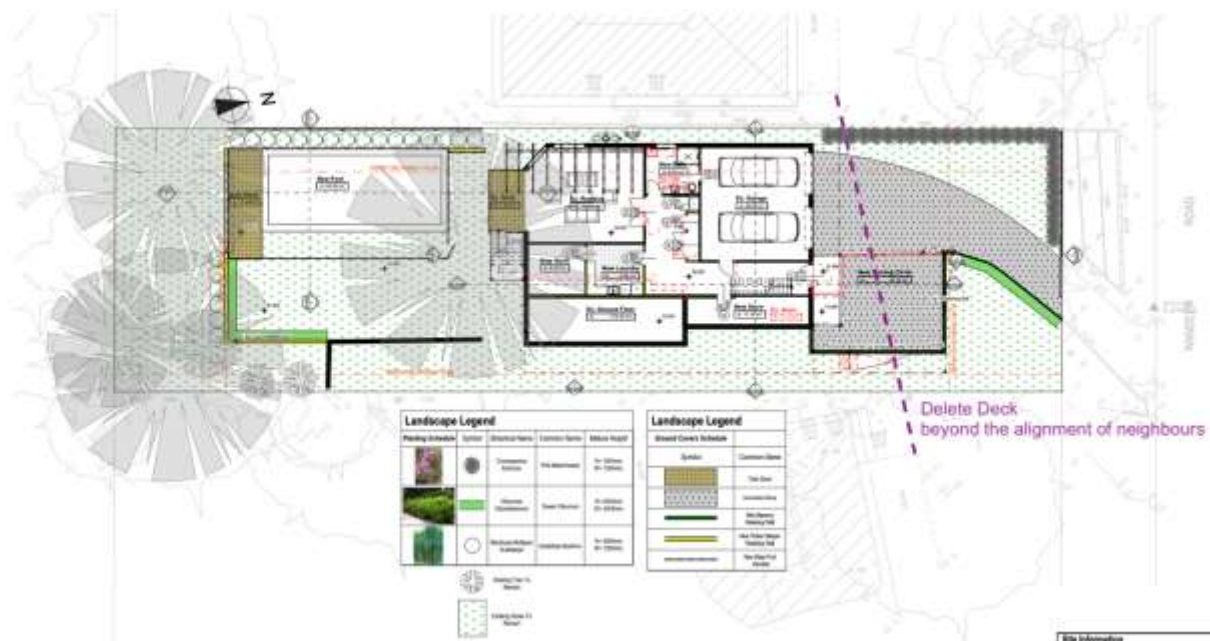
6.5 or established building line, whichever is the greater

Our particular concerns are:

- Achieve the desired future character of the Locality.
- Equitable preservation of views and vistas to and/or from public/private places. (S)
- Vegetation is retained and enhanced to visually reduce the built form. (En)
- Vehicle manoeuvring in a forward direction is facilitated. (S)
- To preserve and enhance the rural and bushland character of the locality. (En, S)
- To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.
- To encourage attractive street frontages and improve pedestrian amenity.
- To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.
- The minimum front building line shall be in accordance with 6.5m or established building line, whichever is the greater

We are particularly concerned over the non-compliant building alignment that does not accord with neighbour's front setback

We ask that **no deck can extend beyond the alignment of neighbour's decks, taking a direct line between the adjacent decks.**



SKETCH: Delete Decks beyond the alignment of neighbour's decks

D12.6 SIDE AND REAR BUILDING LINE

Outcomes

To achieve the desired future character of the Locality. (S)

The bulk and scale of the built form is minimised. (En, S)

Equitable preservation of views and vistas to and/or from public/private places. (S)

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)

Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)

Flexibility in the siting of buildings and access. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

A landscaped buffer between commercial and residential zones is achieved.(En,S)

Controls

The minimum side and rear building line for built structures including pools and parking structures, other than driveways, fences and retaining walls, shall be in accordance with the following table; 2.5 to at least one side; 1.0 for other side

We are concerned to the non-compliance

D 1.11 BUILDING ENVELOPE

Outcomes

To achieve the desired future character of the Locality. (S)

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

The bulk and scale of the built form is minimised. (En, S)

Equitable preservation of views and vistas to and/or from public/private places. (S)

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

Controls

Buildings are to be sited within the following envelope:

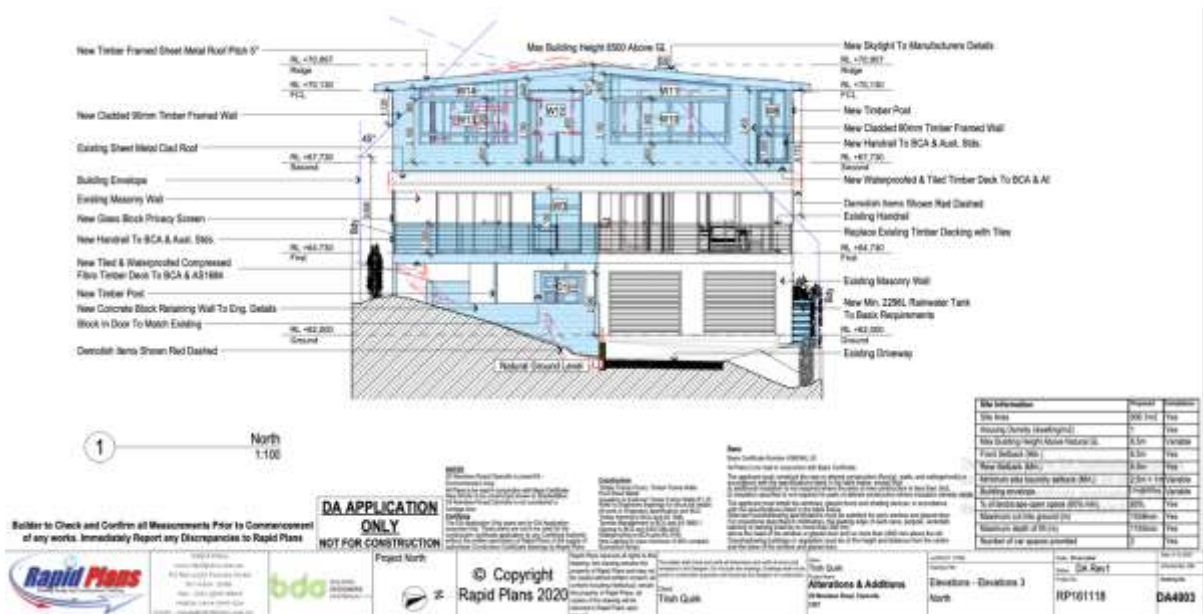
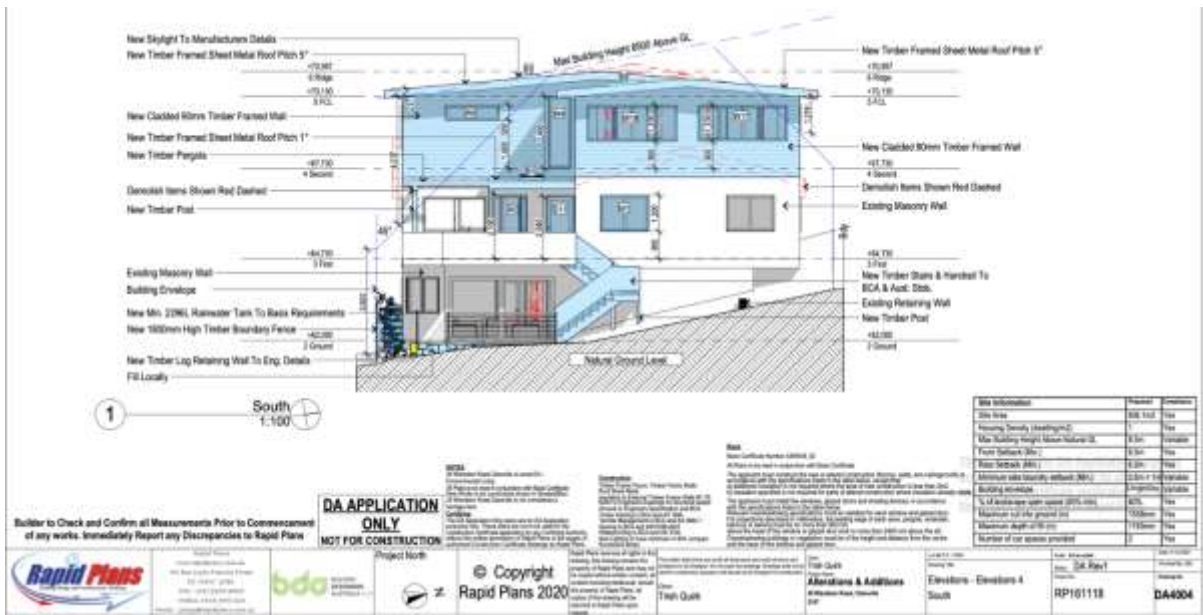
Planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height

Our particular concerns are:

- To achieve the desired future character of the Locality. (S)
- To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.
- To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.
- The bulk and scale of the built form is minimised. (En, S)
- Equitable preservation of views and vistas to and/or from public/private places. (S)
- To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S)
- Vegetation is retained and enhanced to visually reduce the built form. (En)
- Buildings are to be sited within the following envelope: Planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height

The non-compliance to the Building Envelope is a major concern,

We ask that a **Second Floor Setbacks of 3m to the boundary** must be achieved to accord with the control and objectives.



D1.14 LANDSCAPED AREA - ENVIRONMENTALLY SENSITIVE LAND

- Outcomes
- Achieve the desired future character of the Locality. (S)
- The bulk and scale of the built form is minimised. (En, S)
- A reasonable level of amenity and solar access is provided and maintained. (En, S)
- Vegetation is retained and enhanced to visually reduce the built form. (En)
- Conservation of natural vegetation and biodiversity. (En)
- Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)
- To preserve and enhance the rural and bushland character of the area. (En, S)

Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.(En, S)

Controls

The total landscaped area on land zoned R2 Low Density Residential, R3 Medium Density Residential or E4 Environmental Living shall be 60% of the site area.

The use of porous materials and finishes is encouraged where appropriate.

We have particular concerns with:

- Achieve the desired future character of the Locality. (S)
- The bulk and scale of the built form is minimised. (En, S)
- A reasonable level of amenity and solar access is provided and maintained. (En, S)
- Vegetation is retained and enhanced to visually reduce the built form. (En)
- Conservation of natural vegetation and biodiversity. (En)

The proposal calls for the destruction of the most important EEC Pittwater and Wagstaffe Spotted Gum Forest species, namely the five Spotted Gum *Corymbia maculata*

D1.20 SCENIC PROTECTION CATEGORY ONE AREAS

Outcomes

To achieve the desired future character of the Locality.

Achieve the desired future character of the Locality. (En,S)

To preserve and enhance the visual significance of district and local views of Pittwater's natural topographical features such as, ridges, upper slopes and the waterfront.(En,S).

Maintenance and enhancement of the tree canopy.(En,S)

Colours and materials recede into a well vegetated natural environment.(En,S)

To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component (En, S)

To preserve and enhance district and local views which reinforce and protect the Pittwater's bushland landscape and urban form to enhance legibility.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

To ensure sites are designed in scale with Pittwater's bushland setting and encourages visual integration and connectivity to natural environment.

Development shall minimise visual impacts on the natural environment when viewed from any waterway, road or public reserve.

Controls

Screen planting shall be located between structures and boundaries facing waterways.

Canopy trees are required between dwellings and boundaries facing waterways and waterfront reserves. Development is to minimise the impact on existing significant vegetation.

The applicant shall demonstrate the retention and regeneration of existing native vegetation outside of the immediate area required to carry out the development.

The development is to incorporate measures for planting and maintenance of native vegetation within those areas which are already cleared, and which are not required to be cleared to allow for the development.

The siting, building form, orientation and scale of the development shall not compromise the visual integrity of the site by removal of canopy trees along ridges and upper slopes.

The development must incorporate the use of unobtrusive and non-reflective materials and the colours of exterior surfaces shall help blend structures into the natural environment.

Applicants are to demonstrate that proposed colours and materials will be dark and earthy.

Comment: The proposed development has not been designed to minimise visual impacts in the scenic protection area. The landscaped provision results in an unacceptable dominance of built form. The proposed development is excessive in bulk and scale resulting in adverse impact on the streetscape and on the visual amenity of the surrounding environment.

NSW LEC PLANNING PRINCIPLES

We bring to the attention of Council numerous NSW LEC Planning Principles that have relevance to this DA.

In *Tenacity*, [*Tenacity Consulting v Warringah Council 2004*], NSW LEC considered Views. *Tenacity* suggest that Council should consider:

“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.”

Commentary:

The development breaches multiple planning controls and is unreasonable.

The impact on views arises as a result of non-compliance with one or more planning controls, and the impact is considered unreasonable.

In Veloshin, [Veloshin v Randwick Council 2007], NSW LEC considered Height, Bulk & Scale. Veloshin suggest that Council should consider:

“Are the impacts consistent with impacts that may be reasonably expected under the controls? For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.”

Commentary:

The impacts are not consistent with the impacts that would be reasonably expected under the controls.

In Davies, [Davies v Penrith City Council 2013], NSW LEC considered General Impact. Davies suggest that Council should consider:

“Would it require the loss of reasonable development potential to avoid the impact?”

Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?

Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?”

Commentary:

The proposals do not comply with planning controls, and the impact is due to the non-complying element of the proposal.

In Veloshin, [Veloshin v Randwick Council 2007], NSW LEC considered Height, Bulk & Scale. Veloshin suggest that Council should consider:

“Are the impacts consistent with impacts that may be reasonably expected under the controls? For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.”

Commentary:

The impacts are not consistent with the impacts that would be reasonably expected under the controls.

In Project Venture Developments v Pittwater Council (2005) NSW LEC 191, NSW LEC considered character:

“whether most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site’s visual catchment”

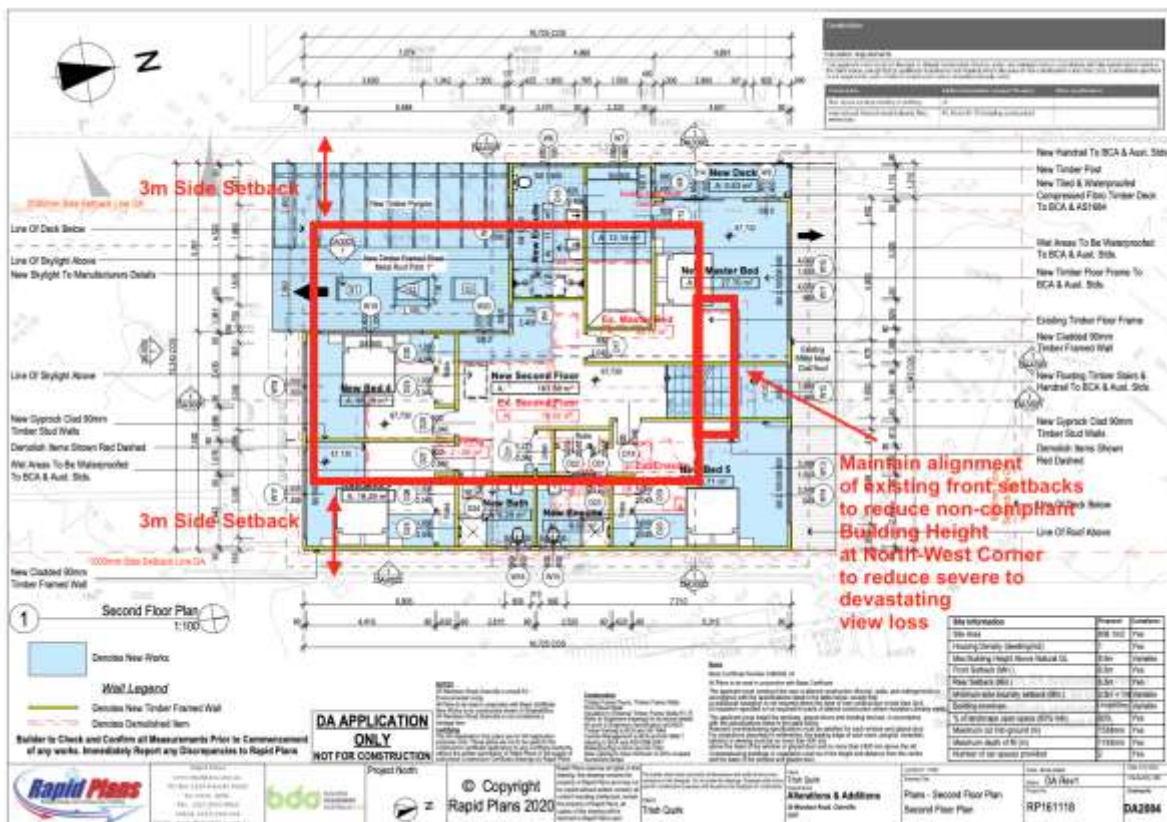
Commentary:

The non-compliant elements of the proposed development, particularly caused from the non-compliant front setbacks, the excess height, would have most observers finding *‘the proposed development offensive, jarring or unsympathetic in a streetscape context’*

RESUBMISSION OF PLANS

These conditions would preferably all be dealt with by a submission of Amended Plans. We present them for Council’s consideration. In this Written Submission we ask Council to request the Applicant to submit Amended Plans to bring the proposed development back into a more generally compliant envelope including:

1. Maintain alignment of existing first floor front setbacks to reduce non-compliant building height at north-west corner and to **reduce moderate to severe view loss**.
2. The proposed development is not to exceed 8.5m maximum building height, particularly at north-west corner
3. D 1.11 Building Envelope. Second Floor Setbacks of 3m to the boundary must be achieved to accord with the control and objectives.
4. D1.8 Front Building Line. No deck can extend beyond the alignment of neighbour’s decks, taking a direct line between the adjacent decks
5. Protect and retain the very highest rated canopy species that conform to the BC Act 2016 listed EEC Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion; five Spotted Gum *Corymbia maculata*, and alter proposed development accordingly
6. All windows in the eastern elevation to have 1.7m high sills, or obscured glass;
7. All privacy screens to all decks must be solid and be 1.7m high, and positioned below the 8.5m maximum building height above the survey levels along the boundary;
8. Landscape to be designed in the eastern setback zone to fully screen 8.5m high proposed development



ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

Applicable regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia and *Home Building Act 1989*, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection may be addressed by appropriate consent conditions in the event of an approval.

LIKELY IMPACTS OF THE DEVELOPMENT

This assessment has found that the proposal will have a detrimental impact on the natural and built environments pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.

SUITABILITY OF THE SITE

The site is not suitable for the proposal pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

PUBLIC INTEREST

The proposal is not in the public interest because it results in a development of excessive bulk and scale which has adverse amenity impacts on adjoining properties and the broader locality.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Council's LEP & DCP and other relevant policies.

The applicant's written requests pursuant to clause 4.6 of Council's LEP does not adequately address the matters required to be demonstrated in subclause 4.6(3). The assessment of the written requests has found that the proposed development will not be in the public interest as defined by clause 4.6 of the LEP because it is not consistent with the objectives of the particular standards and the objectives for development within the zone in which the development is proposed to be carried out.

The application must be recommended for refusal.

The proposed development does not satisfy the relevant objectives of the LEP and the relevant outcomes and controls contained in the DCP as they are reasonably applied to an application proposing a new dwelling.

If the Applicant does not give Council immediate confirmation that the above matters will be rectified by resubmission of Amended Plans based upon our consideration of a more skilful design, and corrects all incorrect information on the DA drawings, then Council has no other option than to REFUSE this DA for the reasons stated in this Written Submission

The outcome is a building that causes poor amenity outcomes and other amenity loss concerns due to non-compliance to multiple residential outcomes and controls.

The development does not satisfy the objectives of the standard and will present poor residential amenity consequences.

The identified non-compliances have not been appropriately justified having regard to the associated objectives, outcomes and controls.

The subject site is of a large size, and there is no reason, unique or otherwise, why a fully compliant solution cannot be designed on the site, to avoid amenity loss.

Having given due consideration to the relevant considerations pursuant to 4.15 of the Environmental Planning & Assessment Act 1979 (as amended) it has not been demonstrated that the proposed development is appropriate for approval.

This application results in unreasonable impacts on surrounding, adjoining, adjacent and nearby properties.

In consideration of the proposal and the merit consideration of the development, the proposal is not considered to be consistent with the objectives, outcomes and controls of the DCP and objectives, aims, outcomes and controls of the LEP.

The resultant development is not considered to be an appropriate outcome for the site as it fails the balance between the development of the site and the retention of significant natural features and the maintenance of a reasonable level of amenity for adjoining properties.

The processes and assessments have not been satisfactorily addressed.

We expect that the final determination will be carried out by the LPP, due to the numerous excessive non-compliances to outcomes and controls, if not refused earlier for the reasons stated within this Submission.

We request these matters be closely considered in the assessment of the proposed development.

We expect that on such a sensitive site, the Applicant should be charged by Council to deliver a totally compliant scheme to LEP and DCP outcomes and controls.

There is no excuse that neighbours amenity must suffer due to non-compliance to the controls.

We contend that the Development Application is not in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, LEP and DCP and other relevant policies.

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, LEP & DCP and other relevant policies.

The Development Application should be REFUSED by Council.

Yours faithfully,

Dr Catherine Wiltshire
31 Wandeen Road
Clareville
NSW 2107

Appendix A Conditions of Consent

Compliance with other Departments, Authority or Service Requirement

Prescribed Conditions

General Requirements

Approved Land Use

Nothing in this consent shall authorise the use of the site as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house, as defined within the LEP. Any variation to the approved land use and/occupancy beyond the scope of the above definition will require the submission to Council of a new DA.

Conditions to be satisfied prior to the issue of the CC

Amendments to the approved plans [**see attached list above in main body of Submission*]

1. Maintain alignment of existing first floor front setbacks to reduce non-compliant building height at north-west corner and to **reduce moderate to severe view loss**.
2. The proposed development is not to exceed 8.5m maximum building height, particularly at north-west corner
3. D 1.11 Building Envelope. Second Floor Setbacks of 3m to the boundary must be achieved to accord with the control and objectives.
4. D1.8 Front Building Line. No deck can extend beyond the alignment of neighbour's decks, taking a direct line between the adjacent decks
5. Protect and retain the very highest rated canopy species that conform to the BC Act 2016 listed EEC Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion; five Spotted Gum *Corymbia maculate*, and alter proposed development accordingly
6. All windows in the eastern elevation to have 1.7m high sills, or obscured glass;
7. All privacy screens to all decks must be solid and be 1.7m high, and positioned below the 8.5m maximum building height above the survey levels along the boundary;
8. Landscape to be designed in the eastern setback zone to fully screen 8.5m high proposed development

All windows facing neighbours to have obscured glazing

All privacy screens shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development, or the glass is to be fitted with obscured glazing.

Pre-commencement Dilapidation Report

Compliance with standards [demolition]

Compliance with standards

Boundary Identification Survey

Structural Adequacy & Excavation Work

Geotechnical Report Recommendations to be incorporated into designs and structural plans

Engineering Assessment

Engineers Certification of Plans, including all retaining walls

Compliance with Ecologists Recommendations pre construction

Tanking of Basement Level

Installation & Maintenance of Sediment & Erosion Control

Demolition Traffic Management Plan

Construction Traffic Management Plan

Waste Management Plan

Waste & Recycling Requirements

Public Domain Plan

Soil and Water Management Program

Shoring of Council's Road Reserve

Vehicle Crossing Application

Pedestrian sight distance at property boundary

Location of security gate and intercom system

Minimum driveway width

Access driveway

Allocation of parking spaces

On-site Stormwater Detention Details

Stormwater Disposal

Sydney Water

Water Quality Management

External finishes to Roof

Colours & Materials

New Landscaping Plan

Project Arborist

Tree Protection

Tree Trunk, Root and Branch Protection

Root Mapping

Tree Removal within the Road Reserve

On slab landscape planting and associated works

Mechanical plant location

AC Condenser Units

Design Impact on processes and public/private amenity

No excavation within 1m of boundary

Protection of Neighbours assets

Pool fencing shall be located entirely within the subject site and be set back a minimum of 2.0m from the boundary

Plant room and equipment for operational conditions - Noise and vibrations

Noise from all plant rooms including roof top mechanical plant room, mechanical ventilation for car parks, extraction units and exhaust fans, air condition units and any motors of other equipment associated with the building must not generate noise above 5dBA at the property boundary and not be audible within habitable rooms of units within complex and surrounding premises including when doors and windows to those rooms are open.

Above equipment must not create vibrations that can be detected within habitable rooms of units within complex and surrounding premises.

Conditions that must be addressed prior to any commencement

Pre-Construction Dilapidation Report

Installation and maintenance of sediment and erosion control

Pedestrian Sight Distance at Property Boundary

Demolition and Construction Traffic Management Plan

On Street Work Zones and Permits

Kerbside Parking Restrictions

Project Arborist

Tree Removal

Tree Removal in the road reserve

Tree Trunk, Branch, and Root Protection

Tree protection

Tree and vegetation removal from property

Conditions to be complied with during demolition and building works

Road Reserve
Removing, handling and disposing of asbestos
Demolition works – Asbestos

Property Boundary levels
Survey Certificate

Implementation of Demolition Traffic Management Plan
Implementation of Construction Traffic Management Plan
Traffic Control during Road Works
Vehicle Crossings
Footpath Construction

Geotechnical issues
Detailed Site Investigation, Remedial Action Plan & Validation
Installation and maintenance of sediment controls
Building materials
Rock Breaking
Protection of adjoining property
Vibration at 2.5mm/sec with a halt at 2.0mm/sec
No excavation within 3m of boundary

Ecologists Recommendations during construction
Waste Management during development
Waste/Recycling Requirements

Tree Protection – Arborist Supervision of Works
Tree and vegetation protection
Tree Condition
Native vegetation protection
Protection of rock and sites of significance
Aboriginal heritage

Protection of Sites of Significance
Notification of Inspections

Conditions which must be complied with prior to the issue of the OC

Post Construction Dilapidation Report

Certification of Structures
Geotechnical Certificate

Environmental Reports Certification
Landscape Completion Certification
Certification of Civil Works & Works as executed data on council land
Fire Safety Matters
Retaining Wall

Required Planting

Positive Covenant and Restriction as to User for On-site stormwater disposal structures
Positive Covenant for the maintenance of stormwater pump out facilities

Contamination Remediation, Validation and Site Audit Statement
Reinstating the damaged road reserve during construction

Condition of retained vegetation
Stormwater disposal
Works as executed drawings - stormwater

Installation of solid fuel burning heaters:

Certification of solid fuel burning heaters

Required Tree Planting
Required Planting

Acoustic treatment of pool filter
Noise Nuisance from plant

Lighting Nuisance

Swimming pool requirements
Garbage and Recycling Facilities
House number Building Number
Waste Management Confirmation
Waste and Recycling Facilities Certificate of Compliance
Waste/Recycling Compliance Documentation
Positive Covenant for Waste Services
Authorisation of legal documentation required for waste services
Privacy Screens
Reinstatement of Kerbs

Control of noise, odour and vibrations from equipment within plant rooms and ventilation systems connected with the building to ensure noise and vibration from this equipment does not impact on the health and well-being of persons living within the complex and other surrounding premises.

Noise and vibrations. Noise from all plant must not generate noise above 5dBA at the property boundary and not be audible within habitable rooms of units within complex and surrounding premises including when doors and windows to those rooms are open. Above equipment must not create vibrations that can be detected within habitable rooms of units within complex and surrounding premises.

Mechanical Ventilation certification: Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668: the use of mechanical ventilation.

Ongoing Conditions that must be complied with at all times

Approved Land Use

Maintenance of solid fuel heater

Operation of solid fuel heaters

Landscape maintenance

Landscaping adjoining vehicular access

Maintenance of stormwater treatment measures

Retention of Natural Features

No additional trees or scrub planting in viewing or solar access corridors of neighbours

Environmental and Priority Weed Control

Control of weeds

No planting environmental weeds

Maintain fauna access and landscaping provisions

Compliance with ecologists recommendation

Works to cease if heritage item found

Dead or injured wildlife

Noise

Noise Nuisance from plant

Swimming pool filter, pump and AC units [noise]

Outdoor lighting

Lighting Nuisance

Plant room and equipment for operational conditions - Noise and vibrations

Loading and Unloading vehicles