

29 March 2023



Steve Findlay  
Northern Beaches Council  
725 Pittwater Road  
DEE WHY NSW 2099

Via email: [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Dear Steve,

**Re: Request for additional information – 26 Ralston Road, Palm Beach – Mod2022/0518**

Thank you for the opportunity to address Council's concerns in relation to the proposed development, as expressed in your letter dated 5 December 2022.

In response to the expressed concerns, we proffer the following response:

**1. View Sharing**

Concern has been raised in relation to the impact upon views associated with the proposed modifications, specifically the increase to the overall height of the building. Whilst it is asserted that conditions of consent were specifically imposed to avoid impacts to views, it is noted that any potential impact to views was never qualified by Council throughout the assessment process, with no height poles or montages demonstrating the likely impact of the development.

The applicant has since undertaken this exercise and can confirm that the proposed modified development does not result in any unreasonable impacts upon views and that the proposed development is substantially the same as that originally approved with respect such impacts.

A full assessment of the impact upon views is not able to be undertaken, as access to the adjoining dwellings was not provided during the assessment process and the internal floor plans of these adjoining dwellings are not publicly available. Nonetheless, based on the photos provided by Council, the following comments can be made with respect to the potential impacts upon views from each adjoining property:

- **24 Ralston Road**

24 Ralston Road is located to the east and uphill of the subject site. The photos provided by Council indicate distant water views are obtained in a westerly direction from the upper floor side balcony over the common side boundary. The views are heavily filtered by vegetation and are highly vulnerable to future vegetation growth,

including the extensive landscaping approved at the subject site in the original development consent.

It is unknown if any other views are available in a northerly direction from the dwelling at 24 Ralston Road.

Based on the height poles erected on site (**Annexure One**), it appears that these distant and heavily vegetated views will not be affected by the increased height proposed in the subject modification application, with no additional adverse impact associated with the modifications proposed.

However, even if these views were to be removed as a consequence of the development, such an impact cannot be said to be unreasonable in consideration of the vulnerability of the views, the obtainment of the views over a side boundary, and noting that the impact is not associated with a dwelling that is located centrally on the site that is maintained well below the maximum height limit.

- **28 Ralston Road**

28 Ralston Road is located to the west and downslope of the subject site. The photos provided to Council do not demonstrate the obtainment of any views available over the subject site, and as such, the proposed modified development does not result in any adverse view impacts in relation to 28 Ralston Road.

- **8 Ebor Road**

8 Ebor Road is located to the south and uphill of the subject site. The photos provided by Council indicate distant water views are obtained in a northerly direction from the second storey living area, the third floor study and the third floor bedroom. The views are obtained across the side boundary of 8 Ebor Road, are heavily filtered by vegetation and are highly vulnerable to future vegetation growth, including the extensive landscaping approved at the subject site in the original development consent.

It is unknown if any other views are available in a westerly direction from the dwelling at 8 Ebor Road.

Based on the height poles erected on site (**Annexure Two**), it appears that the proposed development will impact upon views from the second storey living room. However, as demonstrated, the view from this area was also lost as a consequence of the approved development, and in this respect, the impact remains the same as that originally approved.

The height poles also confirm that the views from the third floor will be wholly retained, with no additional impact arising as a consequence of the proposed modifications.

The landscaping approved under DA2020/0096 is also relevant for the discussion of view loss. 10 Cheese Trees, with a maturity height of 8m, and 27 Cabbage Tree Palms, with a maturity height of 20m, are to be planted across the site in accordance with the Approved Landscape

Plan referenced in DA2020/0096. The approved trees are predominately to be located in a linear arrangement around the perimeter of the development and will ultimately grow to obscure any views through or across the site. The subject modification does not seek to alter this approved landscaped outcome.

Overall, the proposed modified development will not result in any new or intensified impacts upon views and view sharing between properties is achieved.

## **2. Solar Access**

The application is supported by solar access diagrams which confirm that the proposed modifications do not result in any new or intensified areas of non-compliance with regard to the provisions of clause C1.4 (Solar Access) of P21 DCP, as follows:

- In excess of 3 hours of direct sunlight is maintained to the primary area of private open space of the adjacent dwelling at 28 Ralston Road, being the areas to the front of the dwelling adjacent to the swimming pool. No additional overshadowing to this area arises as a consequence of the proposed modifications.
- In excess of 3 hours of direct sunlight is maintained to the north facing windows of the front family and living rooms of the adjacent dwelling at 28 Ralston Road. No additional overshadowing to this area arises as a consequence of the proposed modifications.
- In excess of 3 hours of direct sunlight is maintained to the primary area of private open space of the adjacent dwelling at 24 Ralston Road, being the upper floor front balcony adjacent to the primary living areas. No additional overshadowing to this area arises as a consequence of the proposed modifications.
- In excess of 3 hours of direct sunlight is maintained to the north facing windows of the front upper floor living rooms of the adjacent dwelling at 24 Ralston Road. No additional overshadowing to this area arises as a consequence of the proposed modifications.

Additional overshadowing associated with the proposed modifications is nominal, with the difference unlikely to be perceived by adjoining properties in consideration of existing and proposed canopy cover along the side boundaries.

## **3. Building Envelope**

The proposed intensification of the building envelope non-compliance is acknowledged and has been addressed in the Statement of Modification provided to support the application. The application is now also accompanied by Solar Access Diagrams and further consideration of the impacts to views, and Council can be reasonably satisfied that the modified development will not result in any new or intensified adverse impacts upon the amenity of adjoining properties.

The correspondence raises specific concern in relation to the visual impact and inconsistency with the desired future character of the locality. In consideration of the generous front and side setbacks and the quantum of existing and proposed landscaping, we are of the opinion that the proposed modifications will not be readily perceived from adjoining properties or the

public domain. Furthermore, such a variation to the building envelope is not uncommon within the locality, with both the dwelling at 24 Ralston Road and 28 Ralston Road protruding beyond the prescribed building envelope, as confirmed in the assessment reports viewable on Council's website.

Each dwelling is maintained well below the 8.5m maximum building height, with generous setbacks and extensive landscaping, consistent with the desired future character of the Palm Beach Locality.

#### **4. Section 4.55(1A)**

We maintain that the proposed modifications will result in development of minimal environmental impact, as follows:

- The modifications to the height of the development do not give rise to any new or intensified impacts upon views, as qualified by the erection of height poles and as detailed in Part 1, above,
- The increased height of the development does not result in any adverse impacts or new areas of non-compliance with regard to solar access, as detailed in Part 2, above.
- The height of the development remains below the height of existing and proposed canopy trees and well below the maximum height limit prescribed for the site.
- The visual impact of the resultant development will continue to be screened by existing and proposed canopy trees, inclusive of the 37 additional canopy trees approved across the site.
- The increased height avoids additional excavation, avoiding the removal of existing significant canopy trees.

Whilst the proposal will result in an increase to the extent of non-compliance with the building envelope control, the development remains of minimal environmental impact.

Further, we maintain that the modified development is substantially the same as that originally approved, as follows:

- The description of the development remains unchanged.
- The layout, form and setbacks of the two dwelling houses remain unchanged.
- The location and use of individual rooms remain unchanged.
- The driveway location remains unchanged.
- The height of the development is not radically altered,
- The perceived bulk and scale of the development is essentially and materially the same, with two storeys presenting to neighbouring properties and two-three storeys presenting to Ralston Road. No additional storeys or levels are proposed.
- The landscaped area calculation and quantum of proposed landscaping remains unaltered.
- No additional tree loss is proposed. Rather the proposed modifications have been specifically designed to ensure the safe retention of existing trees.
- The modifications do not result in additional site disturbance.

- Overshadowing associated with the modified development is not radically altered by the proposal, and compliance with the provisions of clause C1.4 of P21 DCP is still achieved.
- Impacts to views associated with the modified development is not altered by the proposal, and compliance with the provisions of clause C1.3 of P21 DCP is maintained.

The intensified building envelope non-compliance does not result in a radically different development, and as now qualified by the Solar Access Diagrams and the View Loss Analysis provided, the non-compliance does not result in any new or intensified adverse impacts to the amenity of adjoining properties.

The amended plans and documents will be uploaded to the NSW Planning Portal.

If you would like to discuss any aspect of this response in further detail, please do not hesitate to contact me on 0472 65 74 74 or email.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'REnglund'.

Rebecca Englund  
**Director | Northern Beaches Planning**





Figure 1 - View from standing position of second floor living area at 24 Ralston Road (as described/identified by Council), with red lines indicating the development as approved and the black lines indicating the modified proposal.





Figure 2 - View from sitting position at western windows of second floor living area at 8 Ebor Road (as described/identified by Council) with red lines indicating the development as approved and the black lines indicating the modified proposal.





**Figure 3 - View from sitting position at eastern windows of second floor living area at 8 Ebor Road (as described/identified by Council) with red lines indicating the development as approved and the black lines indicating the modified proposal.**