
Dear Brittany,

We write again in reference to DA2025/0167 and refer to our previous correspondence in this matter.

We have received no reply to our concerns in our email of Tuesday 17th June 2025.

Setback Issues

The submission has been lodged on the basis that the north and west boundaries are side boundaries. The setbacks on both these boundaries are shown on the plans as 1 metre. The north boundary is not a side boundary, but rather a rear boundary. As such a rear boundary should be set back 6.5 metres.

If the proposal is to allow the proposed garage to be built on the north boundary with a 1 metre set back, then the new residential secondary dwelling should not commence within 6.5 metres of the northern boundary.

To do so would impact on our privacy and not adhere to the principals of minimising both bulk and scale to neighbours.

You have stated that under the Northern Beaches Community Participation plan, formal notification of these plans is not required, as the plans result in a lesser environmental impact than the plans originally notified.

This does not take into consideration our setback and privacy concerns and we ask that these concerns be addressed.

Regards,

Gerry Lenihan & Felicity Benbrook

10 Capua Place, Avalon Beach, NSW, 2107

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Dear Brittany,

We write in response to your email of 11th June 2025 which included a link to amended plans for

the proposed development DA 2025/0167 at 45A Riviera Avenue, Avalon Beach, NSW, 2107.

We do not believe our concerns raised in our submission of 17th March 2025 have been fully addressed.

As communicated in our original submission of 17th March 2025, we are the most affected neighbour of the proposal DA2025/0167 at 45A Riviera Ave, Avalon Beach. However, our dwelling is not shown or documented on any plan, survey, or document lodged for this DA.

The property at 14 Capua Place, Avalon Beach, is shown on the plans even though this property is much further by distance from the subject property, and even further from the proposed development. We believe not showing our property on the plans is a deliberate omission to lessen the significant impacts this development will have on us.

Given 45A Riviera Road, Avalon Beach, is on an elevated site any new build close to our shared boundary with 45A Riviera Road, Avalon Beach will be looking down on to our property raising significant issues with regards to privacy concerns.

Setback Issues:

- Given that the north-west boundary is 28.975 metres and is nominated as a side boundary, then our understanding is that any side boundary over 24 metres requires a minimum setback of 2.5 metres. The amended plans indicate the setback is only 1 metre not the required 2.5 metres.
- The amended plans nominate Capua Place as the front of the property. Given Capua Place is nominated as the front, then the north-east boundary must be the back. Therefore, the setback on this north-east boundary must be a minimum of 3 metres, not the 1 metre shown on the amended plans.
- The windows on the west elevation amended plan are on the side of the property. Our understanding is that windows on a side elevation are not permitted when they look directly into a neighbour's property. These windows look directly into our property from a distance of just 1 metre on the amended plans. These windows have a sight line into our main bathroom.

Excavation and Retaining:

- Excavation and retaining on the north-east and north-west boundaries will undoubtedly impact and disturb the existing area's trees and gardens. The geotechnical report states that the excavation is limited to strip footings only. However, this is not what is shown on section AA of drawing DA.07 and the north elevation of DA.05.

Geotechnical Assessment:

- We question the ascertain that there is no geotechnical hazards to the proposed site. The geotechnical report fails to show or mention our property which sits very close, below and to the side of the subject building works. Of course you are unable to see this on the amended plans as our property has been omitted from the plans.

Both our property and the subject property are in a slip area and as such present significant geotechnical risks which we believe have not been fully accounted for.

Five (5) metre Hedge

- The five (5) metre hedge marked on the north-western side of the subject property is not a hedge. It's a tree on our property. Our tree cannot be considered as some form of permanent privacy barrier by the applicant. This tree is likely to be severely comprised by the proposed

construction. Without our tree this development proposal with the windows as drawn, would significantly compromise our privacy.

The issues raised above may not contain the full extent of planning controls for this proposed development. We are engaging a Town Planner /Statutory Planner to review these plans and comment accordingly.

We expect that no approval will be granted for this proposed development until our concerns are fully addressed.

We ask that any further progress with regard to DA 2025/0167 be communicated to us.

Yours faithfully,

Gerry Lenihan & Felicity Benbrook
10 Capua Place, Avalon Beach, NSW, 2107