
Sent: 3/10/2022 6:17:45 PM

Subject: Development Application DA2022/0653 1 Bellevue Parade, North Curl Curl

Attachments: DA Objection3.docx;

Third objection to DA2022/0653
1 Bellevue Parade, North Curl
Previous objections dated 30/5/2022 and 21/9/2022

Introduction

We are Brian and Patricia Machon, the residents of 4 Bellevue Parade, North Curl Curl, and we have prepared this development objection letter in response to DA2022/0653 for an additional storey at 1 Bellevue Parade, North Curl Curl. We consider the proposed development to not be in compliance with the planning controls of the Northern Beaches, for the following reasons:

Views

The proposed development fails to satisfy the established view loss principles set out in *Tenacity Consulting v Warringah [2004] NSWLEC 140* (Tenacity) and applied recently to *5 Loch Street, Freshwater DA2020/1323* and *34 Beach Street, Curl Curl DA2018/0455*. Tenacity is a four-step test in assessing views to be affected by a proposed development in accordance with the principle of view sharing. View sharing is set out in Clause 61 of the *Warringah Local Environmental Plan 2000* which states that the “development is to allow for the reasonable sharing of views.”

Please note that the Tenacity ruling was in relation to 7 Bellevue Place, which is only 3 houseblocks away from 1 Bellevue Parade, North Curl Curl, making this case extremely relevant to the proposed development.

- a) Assessment of views to be affected: The views being affected by the proposed development are whole views of North Head, Shelly Beach and the ocean. The court found that “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.”

Tenacity considered these views of North Head and the ocean as “whole” “water views” that are “iconic”, “magnificent” and therefore “highly valuable.” The proposal would obliterate these views from the first floor from both a sitting and standing position. Thus, we consider the impact as ‘severe’.

- b) From what part of the property are the views obtained: Our views of the ocean and North Head are obtained to the South-east over the roof of the subject site from the front boundary of our dwelling. These views are currently enjoyed on the first floor in both sitting and standing positions in the living, kitchen and study areas, as well as the first floor balcony.

The proposed development results in almost complete loss of prime water-views and of the “iconic” North Head from the aforementioned areas.

The design of our house with main living, kitchen and dining areas is to take advantage of the ocean views.

While we are fortunate enough to have district views to the south from the front of our property, the proposed development will severely impact views of the ocean and North Head. The Court stated that water views are more highly valued than land views and the current development will almost completely block the existing ocean views from our kitchen and living areas.



View of 1 Bellevue Pde with height posts, from lounge room of 4 Bellevue Pde at a standing height highlighting the severe loss of ocean and North Head views.

- c) The extend of the impact: The proposed development will severely impact the views enjoyed by the occupants of properties 2, 4, 6 & 8 Bellevue Parade, North Curl Curl. This impact is significant and is not merely minor or narrow glimpses, and will result in a severe visual impact and loss of amenity for neighbouring properties.
- d) The reasonableness of the proposal that is causing the impact: The DA is unreasonable as it is not in compliance with the planning controls.

Number of Storeys

The development breaches the requirement not to exceed two storeys. The ground level is a furnished living space that cannot be considered as a 'basement'. The owners are attempting to fit a third story to their dwelling by mislabelling their furnished ground floor as a basement.

- Non-compliance with the restriction to not exceed two storey, similar to adjacent properties.
- Properties on the northern side of the street are built on the side of a hill which forces buildings to be built accordingly.

Building Bulk

- The bulk and scale of the building in both front and rear aspects results in almost complete loss of prime ocean views for our property and neighbouring properties.
- We request a redesign to reduce the bulk and scale of the development and to provide a more sympathetic roof form that reduces the visual impact of the development, reducing the impact on views for neighbours.

Design

The proposed development is, from the street, a bulky development. It is considered a poor design due to non-compliances and the resultant lack of view sharing. A better design would utilise a flat roof to provide view sharing for our property and surrounding properties. The existing house already has a flat roof in place at the rear. The owners have already accepted building with a flat roof for their property.

- For the same dwelling area, a footprint that complies with planning controls could easily be achieved that would also have less impact on neighbours on the high side of Bellevue Parade. The insistence on having a pitched roof, 700mm floor cavity and oversized ceiling height of 2600mm is creating a devastating, permanent and severe loss of ocean views for our property.
- Amending the design from a pitched roof to a flat roof will significantly minimise the impact of the development on the views of neighbouring properties and help rectify the lack of view sharing (Tenacity vs Warringah Council).

As mentioned previously, we believe many of the goals of the development of 1 Bellevue Parade can be achieved with smart design changes and correct the concept of "ocean view sharing". These could include:

- A flat roof design to reduce the impact of ocean view loss for our property and neighbouring properties and be a less impactful development
- A standard ceiling height of 2400mm on the third floor to reduce the overall height of the building

- By reducing the excessive floor cavity (700mm) to a more reasonable 400mm, thus further reducing the overall height of the building
- We do not consider that the plans are in accordance with the defined principles or the spirit of *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC 140.
- We request a redesign of the building to reduce the impact on our ocean views. The site provides more than sufficient space for compliance and we believe the goals of the development of 1 Bellevue Parade can be achieved with smart design changes.

Conclusion

We note that no attempt has been made to apply a more skilful design to provide the applicant with the same development and amenity and reduce the impact of the view-loss on our property (ocean view sharing). We do not consider the proposal to be reasonable or to consider view-loss of neighbouring properties.

- The development application is not in the spirit of *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC 140 due to the severe loss of ocean views by building a third floor.
- The design of the building with a pitched roof rather than a flat roof will contribute to severe ocean view loss. The bulk of the development is unnecessarily excessive due to the 700mm floor cavity between the second and third floor and the non-standard height ceiling of 2600mm.

We believe the current design would set a dangerous precedence not just for Bellevue Parade but for the northern beaches. This includes:

- 1) Interpretation of planning rules with respect to the two-story limit by referencing it to be a basement room but occupying the first floor.
- 2) Expansion of the footprint in non-complaint setbacks and envelope leading to a dominant and bulky design that results in significant view loss for many houses on Bellevue Parade including 4 Bellevue Parade.
- 3) Adding unprecedented bulk and scale to the street with the building height creating a dominant feature from the street front and contributing to substantial view loss for 4 Bellevue Parade and neighbours.
- 4) No regard for any neighbours impacted by view loss and bulk with no consideration of smart design to include ocean view sharing.