
From: [REDACTED]
Sent: 2/06/2024 5:32:30 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: Submission regarding DA2023 / 1395
Attachments: Letter of Objection dated 2 June 2024.docx;

Dear Northern Beaches Council

Please find attached my letter of objection concerning the re-notification of DA2023/1395

Could I please request that certain personal information (including Given name, Family Name, Phone number, email address) be redacted

Please let me know if you have any questions

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

Dear Adam Croft,

Re. DA2023/1395 (1010 – 1014 Pittwater Road, Collaroy NSW 2097) Re-Notification

1. Opening comments

- 1.1 Thank you for the opportunity to make a submission in relation to the above re-notification. I refer to my original submission dated 4 December 2023, concerning [REDACTED] Collaroy, and to the applicant's Amended Plan submitted on 29 April 2024 (hereby referred to as the "Amended Plan").
- 1.2 I wish to make this submission as the Amended Plan does not satisfy or address any of my concerns around amenity erosion should the above proposed development proceed, in its current form. As outlined in the reasons below, with regards to the impact upon the amenity of my property, the proposal is non-compliant with the provisions contained in the:
- 1.2.1 *Warringah Local Environmental Plan 2011* ('WLEP 2011');
1.2.2 *Development Control Plan* ('DCP'); and
1.2.3 The planning and design standards as set out in the *Apartment Design Guide* ('ADG')

2. Visual impact and Outlook

- 2.1 I refer to the applicant's representation of the view from the courtyard of my property contained in the Amended Plan (hereby referred to as the "applicant's 3D drawings") and produce a copy in sections 2.1.1 and 2.1.2 below.

2.1.1 Applicant's 3D drawing (Image 1)



2.1.2 Applicant's 3D drawing (Image 2)



- 2.2 In section 2.2.1 below, I produce a photograph of the current view from my courtyard and living room, to demonstrate a visual description of my current outlook.

2.2.1 Current view from Courtyard (Image 3)



- 2.3 The applicant's 3D drawings do not represent the true scale, height, and depth the proposed structure would impose upon my outlook, for reasons outlined in Sections 2.4 – 2.6 below.
- 2.4 The photograph produced in Section 2.2.1 above illustrates that the apartment complex 'Reef Apartments' (located at '1000-1008 Pittwater Road, Collaroy NSW 2097'), which is positioned approximately **33 metres** away from to the boundary of my courtyard apartment, can be seen in the distance of my current view.
- 2.5 This photograph illustrates that my current outlook allows for the sky to be seen, given that the Reef Apartment complex is 33 metres away in the distance. The applicant's 3D drawings however show that the **sky will still be visible, above the proposed development, from my courtyard/living**

room view. This visual assertion cannot hold true given that the development is 11 metres high and situated not just closer than the Reef Apartments - but at the actual boundary of my property (with inadequate setbacks). The subject site would therefore decidedly eliminate the prospect of the natural sky being a part of the front outlook of my property. It is for this reason that the applicant's 3D drawings do not accurately depict the true visual impact that the scale and height of this proposed development would have on my outlook.

- 2.6 Furthermore, the proposed development also extends, and impairs the outlook, for the neighbouring Unit 1 of 26 Ocean Grove. I produce a copy of the 3D drawing submitted by the applicant, with regards to the claimed potential view from the courtyard of Unit 1, in Section 2.6.1 below.

2.6.1 Applicant's 3D drawing (Image 4)



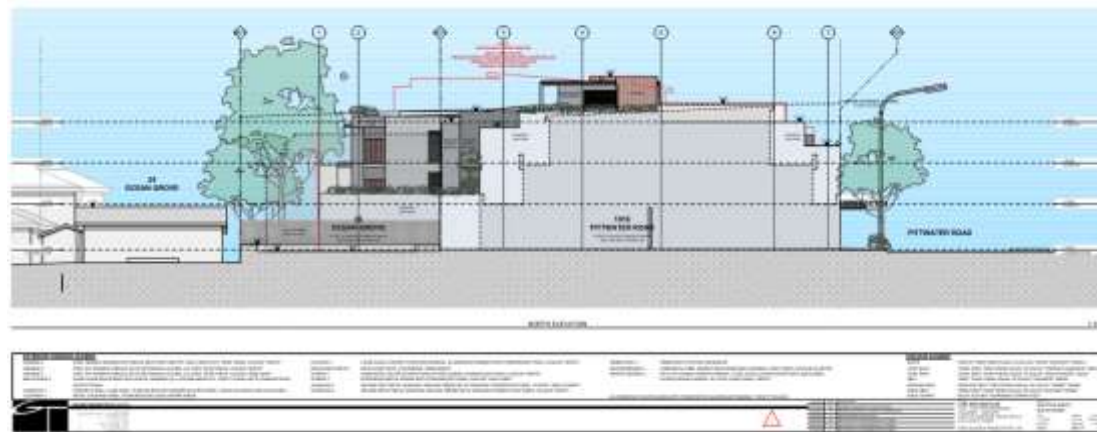
- 2.6.2 In the context of the development continuing towards the left of my courtyard, adjacent to Unit 1, I wish to highlight the fact that my outlook as presented in the applicant's 3D drawing in Section 2.1.1 above is inaccurate. The applicant's 3D drawing presents a view that my **outlook towards the Southeast corner will be dominated by blue sky**. However, as can be seen from the photograph shown in Section 2.2.1 above, my current direct frontal view from my living room door illustrates that I am not able to see the sky in the Southeast. To observe the sky in the Southeast, should the development proceed, one would have to stand at the living room door in an extreme right corner and remain there. This is unreasonable. The applicant appears to acknowledge this would be the 'spot for outlook' as is sighted by the 'blue outlook arrow' drawn on page four of the Amended Plan.

- 2.7 The implications around visual impact that arise from these both points are significant and are outlined below:

2.7.1 Overshadowing

- 2.7.1.1 The proposed development borders both sides of my property and, combined with inadequate side setbacks at all levels of the subject site, presents a serious overshadowing concern. As outlined above, the likely impact upon my outlook arising from the scale, setback, height, and depth of the development is significantly more adverse than shown in the applicant's 3D drawings. The proposed development would enclose and overshadow my property along both sides; resulting in myself not being able to observe the natural sky, from both the frontal views of my courtyard and my living room. I refer to page 17 ('North Elevation') of the Amended Plan to illustrate the magnitude of this towering site upon my property, which the applicant's 3D drawings of my claimed outlook do not adequately capture.

2.7.1.2 Copy of page 17 of the Amended Plan (Image 5)



2.7.1.3 The importance of sky visibility is key to the outlook of my apartment. The applicant seems to acknowledge this on page two of their 'Schedule of Amendments' letter dated 19 March 2024 (hereby referred to as "applicant's letter dated 19 March").

2.7.2 Visual impact

2.7.2.1 Having both inadequate setbacks against the boundary line and inadequate landscape screening, this development has a causal effect of a significant visual domination and imposition upon my small courtyard apartment. This scenario can be imagined simply by sighting my current views shown in 'Image 3' in Section 2.2.1 above; and envisioning a complete and full enclosure by this development on both sides.

2.7.2.2 Clause B5 of the DCP requires that the development does not visually dominate and maintains a reasonable level of amenity to adjoining properties. The prospect of being able to only catch a glimpse of a natural sky outlook from an obscure tiny corner of my living room, does not maintain any reasonable level of amenity.

2.8 The 'stepped "setback"' the applicant has proposed in the Amended Plan therefore does not provide for or maintain amenity, with regards to Outlook, for my adjoining apartment for the reasons listed below:

2.8.1 The applicant's 3D drawings have been relied upon to support their assertion that the stepped 'setback' will provide amenity to my apartment. However, as demonstrated in Sections 2.1 to 2.7 above, this stepped 'setback' will erode amenity through elimination of my frontal outlook to the sky and will have the effect of turning my apartment into an 'unliveable dark box.'

2.8.2 As outlined in Section 2.7.2.2 above, the proposed stepped subject site will direct me to seek the last remaining outlook towards the South-East, from a small right hand side corner of my courtyard door. This is an unreasonable attainment and is not in adherence to F1 (4) of the DCP which provides that "*development that adjoins residential land is not to reduce amenity enjoyed by adjoining residents.*"

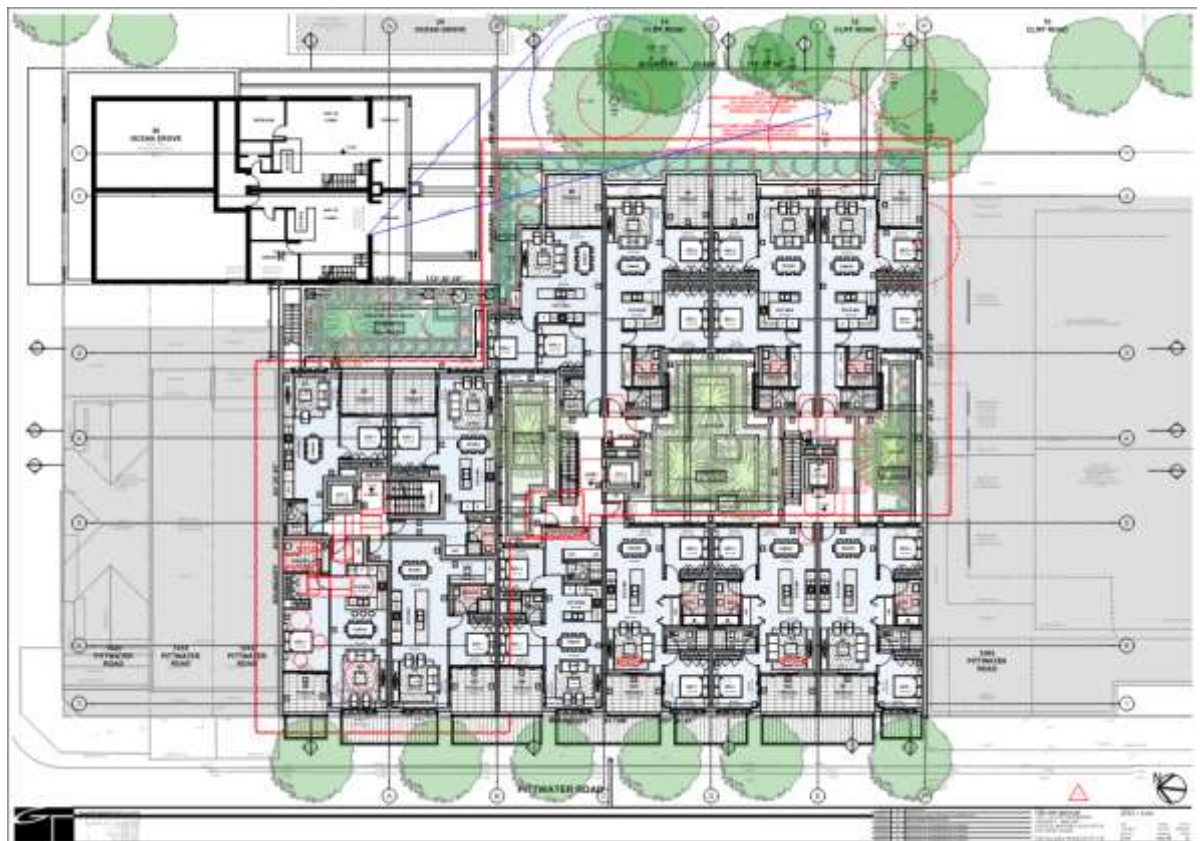
2.8.3 The proposed stepped 'setback' is not a setback at all. The critical impediment here is that there is not a setback against the boundary at all levels of the subject site. The impact of the applicant's Ground Floor Plan having a zero setback, along both sides of my property, is a leading contributor to the overshadowing effect, impairment of outlook and visual domination that this development would produce upon my property's amenity.

3. Loss of Privacy

3.1 The 'stepped "setback"' the applicant has proposed in the Amended Plan does not provide for or maintain amenity, with regards to visual privacy, for my adjoining apartment for the reasons listed below:

- 3.1.1 Given that the Ground Floor Plan of the proposed subject site has a zero setback to the boundary of my property, there is non-compliance with Section 3F of the ADG which provides for a **minimum of a three-metre separation** between 'non habitable rooms' and the side boundary. The proposed stepped 'setback' therefore does not achieve adequate building separation from my property.
- 3.1.2 The impact of this inadequate setback to the side boundary sets the context for my visual privacy objections. Specifically, the proposed stepped 'setback' equips prospective residents living in Units 9 and 18 of the subject site with a better geometric angle to overlook into my private courtyard space, and similarly into Unit 1 of 26 Ocean Grove's private courtyard and living room space, from their respective terraces.
- 3.1.3 The planter boxes which the applicant has included in the Amended Plan, which surround Unit nine and its interface with 26 Ocean Grove, are too shallow to foster the growth of any adequately sized tree plantings. Therefore, the planter boxes seen in the applicant's 3D drawings does not produce any meaningful response to my privacy concerns. This argument is strengthened by the applicant's own drawings as seen on page five ('Level one Plan') of the Amended Plan (copy produced in Section 3.1.4 below), whereby it is illustrated that Unit 5 of 26 Ocean Grove will be able to benefit from Outlook that extends through the terrace of Unit nine and beyond and reaching the tree line adjacent to 12 Cliff Road (*please refer to the 'blue Outlook arrow' in Image 6 below*). If the planters adequately provided screening towards 26 Ocean Grove, such an Outlook would not be possible.

3.1.4 Copy of page five of the Amended Plan (Image 6)



3.1.5 Concerns about overlooking into my courtyard space are also raised from the window aspect of the 'Media / Bed 3' of prospective unit 16, and from the proposed communal open space. The latter will not be adequately screened with a reasonable plant height, given that the planter boxes ('Planter (N)') are shallow at a soil depth of 400mm.

3.1.6 It is for these reasons that both the proposed stepped approach and the non-compliant Ground Floor 'zero side setback' does not meet the visual privacy objectives of Section 3F of the ADG, nor does it meet the loss of privacy objective set out in s.4.3 (1)(b) of the WLEP.

3.2 A suitable resolution to address these privacy concerns would involve **both**:

3.2.1 Implementation of a full side setback, at least three metres in distance (*or greater, as requested in Section 4.1.7 below*), at all levels of the subject site against the common boundaries of my property; and

3.2.2 Establishment of tall screening trees being planted at the Ground floor level of the subject site and reaching a desired height of 11 metres. This benefits both sets of residents at 26 Ocean Grove and prospective residents at the subject site; by embedding a landscaping solution which minimises privacy impacts to be had on both sides.

4. Loss of Solar Access

4.1 The 'stepped "setback"' the applicant has proposed in the Amended Plan does not provide for or maintain amenity, with regards to solar access, for my adjoining apartment for the reasons listed below:

4.1.1 The lack of the side boundary setback at the critical ground floor level of the subject site inhibits my apartments' access to light, air, and outlook, which is required by Section 2H of the ADG. The significant adverse impacts of this zero-setback scenario upon my property include:

4.1.1.1 Given this development borders both sides of my property, which I rely upon for solar access, there would be a material reduction in the levels of daylight and air access, currently received from the south and west orientations, into my living room space and courtyard;

4.1.1.2 The elimination of direct sunlight which my property currently receives from the Western orientation. The height of the subject site combined with the proposed zero side setback at ground level, will effectively close off my courtyard and completely eliminate a critical source of sunlight from the West;

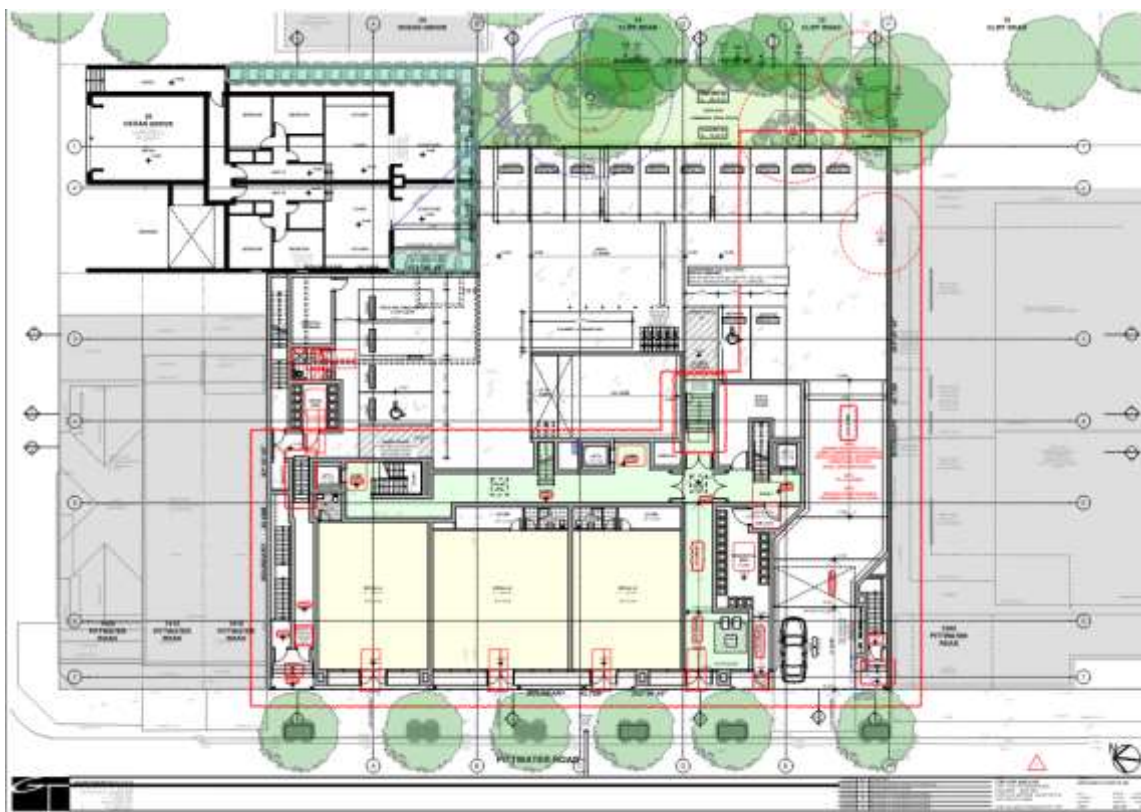
4.1.1.3 The small-scale plants and shrubs that currently live in the 'border planters' of my courtyard would not receive adequate solar access, particularly during Winter, as it would only have scope for Eastern morning light. Its survivability is therefore threatened. The adverse liveability impact of myself not being able to enjoy these low-lying healthy green plants from my living room, against a backdrop of a large 11 metre subject site sitting at the border of my property with inadequate setbacks, cannot be understated.

4.1.2 The stepped element to the proposed development is unlikely to offer any meaningful provision of natural light being received from the Southern orientation of my apartment. This is simply due to the size and scale of an 11-metre development with zero setback at the ground level, being imposed on my small courtyard. Some natural light can only be achieved if the entire subject site at the common boundary line was adequately set back, at all levels, which would provide for more appropriate angles for sunlight to penetrate and reach my ground floor courtyard.

4.1.3 I refer to page four ('Ground Floor Plan') of the Amended Plan, copy produced in Section 4.1.4 below, where the applicant has proposed the complete blocking of my window located in the bedroom of my property. This is completely unacceptable. The applicant's plan will permanently close off my bedroom window, which is critically important for solar access to the interiors of my apartment. Furthermore, this bedroom is being utilised throughout the

entire day as a home office. The Amended Plan will therefore destroy my amenity, in the pursuit of placing a 'Storage room' on the other side. Being one of only two windows in my apartment, this proposal presents an extreme severing of 50% of light from the windows in my apartment.

4.1.4 Copy of page four of the Amended Plan (Image 7)



4.1.5 Furthermore, the source of light received from my property's second bedroom relies heavily upon solar access received from the Western orientation. If the proposal does not comply with at least a three-metre side setback at all levels, as it does not in its current form, then this window would see a substantial drop in sunlight level received.

4.1.6 The adverse solar access impact, arising from both the inadequate setback at the ground floor level and the elimination / reduction of solar light from the windows, is substantial and significant. The outcome is that this proposal is non-compliant with Section 3B-2 of the ADG, which requires that *"the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%."* This Section has demonstrated that the overall impact upon the solar amenity of my property is far greater than the minimum standard of 20%.

4.1.7 In considering the substantial solar impact this proposal would have, Section 3B-2 of the ADG provides that *"if the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy."* I would therefore urge Council to consider setting an increased side setback requirement, **beyond the minimum three-metre requirement** in Section 3F of the ADG. This would help in addressing the solar impairment issues discussed in this Section.

4.2 A suitable resolution to address these solar access concerns would involve **both**:

4.2.1 Implementation of a full side setback at all levels of the subject site against the common boundaries of my property, in line with Section 2H of the ADG. This should at least be a three-metre setback at the ground level; however, an increased separation distance pursuant to section 3B-2 of the ADG is also sought; and

- 4.2.2 Establishment of tall screening trees being planted at the Ground floor level of the subject site, along both 'fence sides' of my property (but avoiding my property's bedroom windows) and reaching a desired height of 11 metres. This would allow natural light to filter through both the southern and western aspects of my property.

5. Building height

- 5.1 I refer to the Applicant's 'Clause 4.6 variation request' letter dated 26 March 2024 (hereby referred to as "the Applicant's letter dated 26 March") and outline my objections below to the proposed breach of building height, particularly where it relates to the proposed communal open space:
- 5.1.1 The proposed communal open space, which exceeds the 11-metre standard, will be clearly visible and dominant when looking out west from my courtyard. This adversely impacts upon the amenity of my property through greater visible mass and bulk. The breached height of this space has a negative visual impact on my property, and upon those of other residents at 26 Ocean Grove.
- 5.1.2 There is a significant privacy concern to be raised given that prospective residents will have a direct line of sight into my courtyard. Concern was also raised in Section 3.1.5 above, where it relates to the shallow planters ('Planter (N)') being ineffective in increasing any privacy towards my property. Furthermore, the three Kentia Palms proposed by the applicant to be installed on Level one of the site is not in itself a screening plant; such that the four-metre clear trunk will afford prospective residents with the ability to see through and into my courtyard. Such a scenario would impede on my ability to enjoy the reasonable use of my courtyard.
- 5.1.3 On page 11 of the Applicant's letter dated 26 March, the applicant has indicated that "recessive upper-level setbacks adopted" address privacy impacts. However, this would not address any privacy impacts upon my property, where it relates to the western view from my courtyard, given that the upper 'setbacks' are not part of the development below the communal open space.
- 5.1.4 The non-compliant height of the communal open space does not constitute a harmonious or complementary built form, with respect to height, bulk, and scale, of surrounding properties; specifically, 26 Ocean Grove. This is best illustrated on Page 21 of the Amended Plan, where it is clear that the breached height of this communal space is markedly taller and visually discernible in the context of surrounding properties on Ocean Grove, Cliff Road, and Pittwater Road. The increased height is not complementary, by nature of height and scale, in relationship to the adjacent property at 26 Ocean Grove; and given its impact upon amenity of residents neither would it be harmonious.
- 5.2 Given these objections, it is not considered unreasonable or unnecessary for the Applicant to adhere to the height restrictions as specified in Regulation 4.3 of WLEP 2011. Furthermore, where it concerns amenity towards my property, the proposed open communal space does not observe the visual impact and loss of privacy objectives as set out in s.4.3(1)(b) of the WLEP 2011.

6. Concluding remarks

- 6.1 The Development Application in its current form is non-compliant with the various planning standards, with respect to impact upon my property, as outlined in this submission.
- 6.2 The proposed Amended Plan will have an acute adverse impact upon the amenity of my property, and neighbouring apartments to the rear of 26 Ocean Grove, whereby privacy, solar and light access, air access and outlook is severely diminished, beyond any reasonable level. The arguments discussed in this submission challenge the assertion made that "*under the circumstances, the proposed design is considered reasonable and acceptable*" in the applicant's letter dated 19 March.

- 6.3 In order to minimise the adverse impact upon my property, and to ensure a fair and equitable outcome for both current and prospective residents, I would like to request that Council enforce both the solutions discussed in this submission, being:
- 6.3.1 **A full side setback**, at all levels of the subject site (including the Ground floor), against both common boundaries with my property. Given the significant negative impact upon solar and sunlight access against my property, as such I would like to request that the setback enforced goes further than the three-metre minimum, as provided for in section 3B-2 of the ADG; and
- 6.3.2 The planting of **large and tall screening trees at ground level**, reaching a height of 11-metres, along the two 'fence-sides' of my property. The choice of the screening trees should be of a species that provides density in a screening barrier whilst minimising any gaps. It is noted that this measure will involve a significant compromise on my part against my current Outlook; but one which will ensure a reasonable level of amenity for both current residents at 26 Ocean Grove and prospective residents at the subject site. Furthermore, enforcement of this requirement is in line with Requirement 2 of Section B5 ('Side Boundary Setbacks') of the DCP, which provides that "*Side boundary setback areas are to be landscaped and free of any above or below ground structures.*"
- 6.4 I would again like to thank Council for the opportunity to make this submission and for considering my objections and resolutions.