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**From:** Greg Boston  
**Sent:** 29/11/2023 1:34:30 PM  
**To:** Brittany Harrison  
**Cc:** Council Northernbeache Mailbo ; Narelle Stock  
**Subject:** TRIMMED: Further Notification Response - Development Application DA2023/0342 - 12-14 Rock Bath Road, Palm Beach  
**Attachments:** Supplementary Objection - DA2023 0342 - 12-14 Rockbath Road, Palm Beach pdf;

Good afternoon Brittany,  
Please find attached a supplementary objection in relation to the above application  
For your consideration.  
Don't hesitate to contact me should you have any questions

Regards

Greg Boston

B Urb & Reg Plan (UNE) MPIA

B Env Hlth (UWS)

Director



BOSTON BLYTH FLEMING PTY LIMITED

Town Planners



29<sup>th</sup> November 2023

The CEO  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

Attention: Brittany Harrison – Planner

Dear Ms Harrison,

**Further Notification Response**  
**Development Application DA2023/0342**  
**Demolition works and construction of a dwelling house and swimming pool**  
**12-14 Rock Bath Road, Palm Beach**

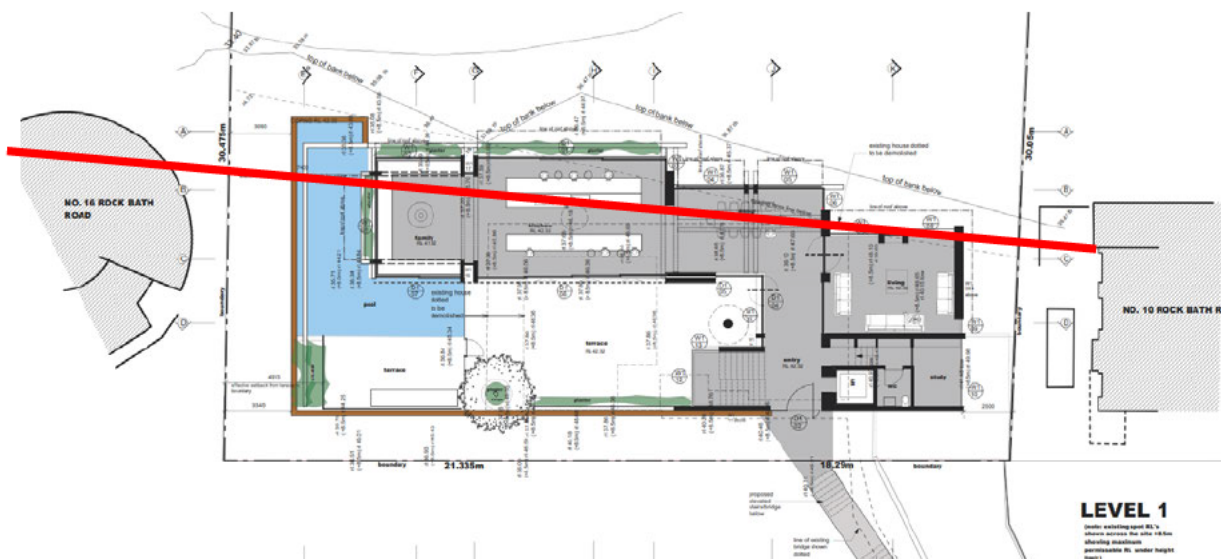
Reference is made to our original notification response of 20 April 2023 prepared on behalf of the owners of No. 10 Rock Bath Road, Palm Beach in which the following issues were raised:

- The proposal fails to achieve a view sharing outcome,
- The proposed setbacks and dwelling design result in unacceptable privacy and amenity impacts,
- The proposal is inconsistent with the desired future character of the Palm Beach Locality,
- The proposal is inconsistent with the objectives of the C4 Environmental Living zone,
- The clause 4.6 variation request in support of the building height variation is not well founded,
- The proposal is inconsistent with the Chapter 2 – Coastal Management considerations of State Environmental Planning Policy (Resilience and Hazards) 2021, and
- Insufficient information has been provided to demonstrate that the development will not compromise the stability of the coastal bluff area and adjoining land.

Having reviewed the amended plans and documentation submitted to Council on 3 November 2023 we note the proponent's failure to clearly identify the amendments on the Architectural plans and by way of a written schedule of amendments.

We also note that section FF identifies a building height non-compliance and that no updated clause 4.6 variation request has been prepared in support of the amended plans. In any event, we confirm that the amended plans do not address the previous concerns raised in relation to the proposal in particular the failure to achieve a view sharing outcome amongst properties.

The proposed design creates a south-western courtyard which pushes the building massing closer to the cliff line escarpment and forward of the building line established by the existing dwelling. Such design results in significant view impacts from each level of our client's property as outlined in our submission of 20 April 2023. We are of the firm opinion that the Ground Floor and Level 1 building elements should be pulled back away from the cliff line to maintain the established building line and the views currently available in a north westerly direction from our client's property towards Palm Beach and its surf zone. The images below and over page show the setback alignment which must be enforced to maintain a view sharing outcome.



**Figure 1** - Level 1 floor plan with red line showing required façade alignment to maintain a view sharing outcome.

We note that the amendments required to maintain a view sharing outcome would not be at the expense of amenity or views from the proposed development and to that extent would represent the more skilful design sought by Step Four of the view sharing principle established by the land and Environment Court in the matter of *Tenacity Consulting v Warringah Council*.



**Figure 2** – Ground Floor plan with red line showing required façade alignment to maintain a view sharing outcome.

Whilst Council’s coastal referral response forms a view that the proposal complies with the relevant provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 we note the absence of any consideration in relation to the clause (a)(iii), (b) and (c) at 2.11 of Division 4 Coastal Use Area namely that development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
  - .....
  - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (b) *is satisfied that:*
  - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
  - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Have regard to these considerations the consent authority cannot be satisfied that the height, bulk and scale of the proposed development will not cause an adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands and that the development has been designed, sited and will be managed to avoid or minimise such adverse impacts. Under such circumstances the application must fail.

Again, we are of the opinion that an accurate assessment of the application is unable to be made in the absence of surveyor certified profiles depicting the height and north-eastern projection of the proposed dwelling relative to our client's property and the adjacent cliff line. Accordingly, we continue to object to the proposal on the basis of all issues raised in the original submission of 20 April 2023 as supplemented by this submission.

Please do not hesitate to contact me to arrange site access or should you wish to discuss any aspect of this submission.

Yours sincerely  
Boston Blyth Fleming Pty Ltd

A handwritten signature in black ink, appearing to read 'Greg Boston', written in a cursive style.

**Greg Boston**  
B Urb & Reg Plan (UNE) MPIA  
B Env Hlth (UWS)  
**Director**