
From: karen Buckingham
Sent: 28/02/2025 11:17:37 AM
To: Council Northernbeaches Mailbox; Olivia Ramage
Cc: Michael Goodwin
Subject: TRIMMED: Objection letter - DA2025/0115 - 75 Bungan Head Road, Newport - prepared for Michael and Sharyn Goodwin of 75 Bungan Head Road
Attachments: Objection letter - 77 Bungan Head Road - DA20250115.pdf;

Hi Olivia,

I hope that you are well.

Please find attached an objection letter prepared on behalf of Michael and Sharyn Goodwin of 75 Bungan Head Road detailing their concerns regarding the proposed development under DA2025/0115 at 77 Bungan Head Road. All details in the objection attached.

Please can it be recorded on the online file and your assessment report that the objection is prepared on behalf of Michael and Sharyn Goodwin and their address registered (rather than my PO Box no., which has little relevance to the DA).

The objection letter does include a request for you to view the site from my client's property due to the view impacts detailed. We look forward to hear from you in due course.

Please don't hesitate to contact me should you have any queries.

Kind regards,

Karen Buckingham
BA(Hons) Planning; MSc Spatial Planning

Planning Progress

 - I use whatsapp

PO Box 213, Avalon Beach, NSW 2107

28 February 2025

The Chief Executive Officer
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

By e-mail: council@northernbeaches.nsw.gov.au

FAO: Olivia Ramage

Dear Olivia

**Submission re: Objection to Development Application DA2025/0115
Alterations and additions to a dwelling house
77 Bungan Head Road, Newport, NSW**

I write regarding the above Development Application DA2025/0115 (DA) to make a submission on behalf of Michael and Sharyn Goodwin (my clients), objecting to the impact of the proposed development on their property at 75 Bungan Head Road, Newport.

This submission is prepared further to the assessment of the plans, reports and Statement of Environmental Effects (SEE) submitted as part of the subject DA against the relevant EPIs and Planning Controls to assess the impact of the proposed development on my clients.

The subject DA seeks consent for Alterations and Additions to a dwelling house at 77 Bungan Head Road, Newport (subject site). My client's property sits immediately to the south of the subject site. The entire southern boundary of the site abuts my client's northern boundary by 62.58 metres.

I have reviewed the submitted plans and reports and considered the impacts on my clients to arise by virtue of the proposed development against the relevant planning controls.

The following additional information is required to fully assess the proposed development as detailed in this submission.

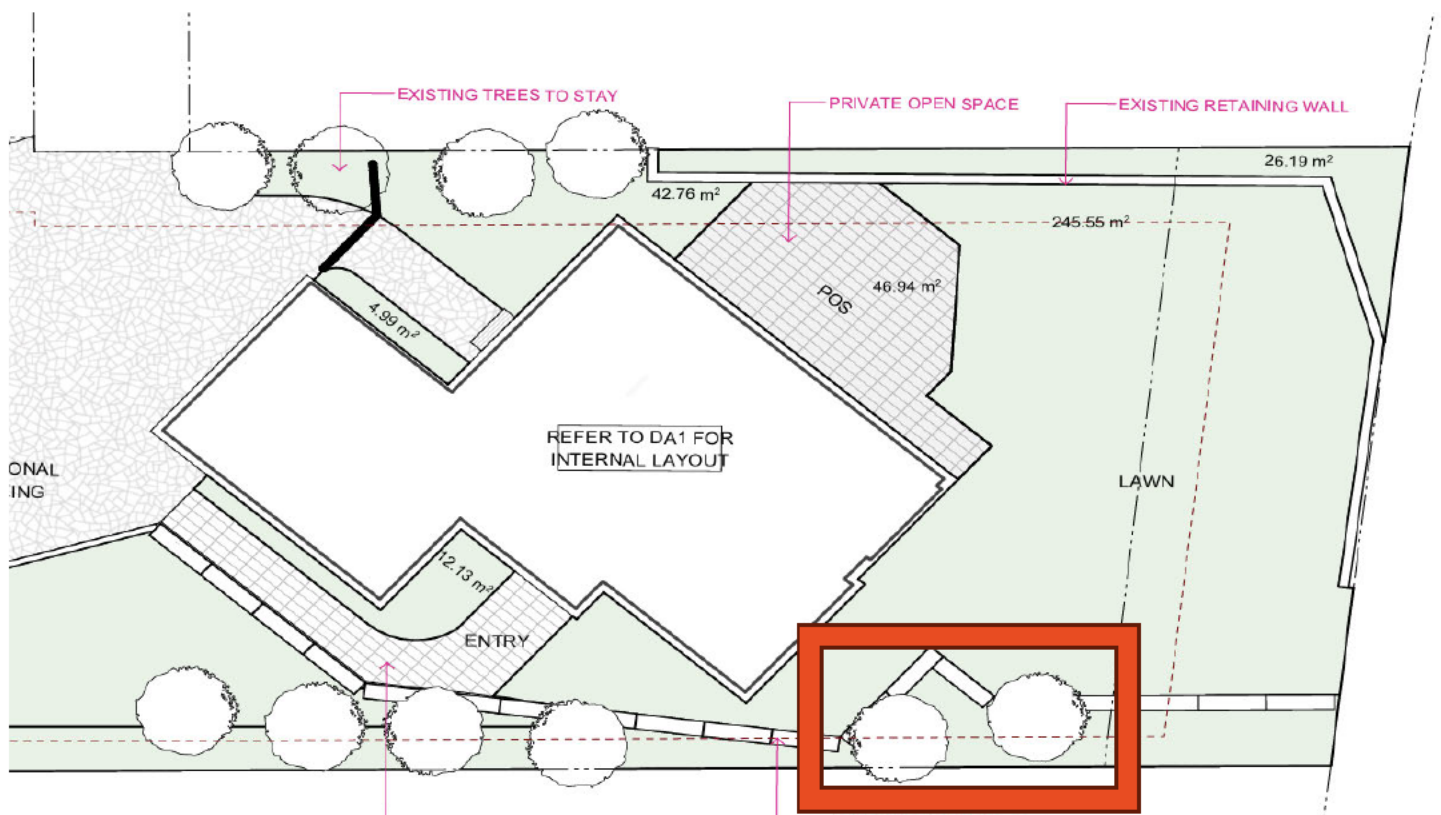
Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

- Visual Impact Assessment (VIA) prepared by a suitably qualified professional.
- Erected surveyed height poles including the balcony structure at first floor and eaves above, to ground proof submitted plans and assist with the VIA.
- Certified elevational shadow diagrams to confirm solar impacts on the fenestration and balcony at 75 Bungan Head Road.
- Amended site analysis plan showing corrected north point.
- Amended plans – the two trees shown to the east of the southern boundary are not on the site or shown in the Arborist Report, as shown in Figure 1 below.
- Amended SEE where it references Mona Vale Locality DCP Controls rather than Newport Locality

Figure 1 – The two trees in the rectangular area are not on site or recorded in the Arborist Report



Source: Extract from Master set plans – with own annotation

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

It is requested that Council view the cited impacts from my client's property, particularly the view loss impacts, given the bulk and scale of development beyond the established rear building line, as shown in figure 2 of this letter.

A summary of the impacts and non-compliance of the subject DA as determined from the information submitted is set out overleaf.

Summary of submission

- Proposed development is non-compliant development contrary to SEPP (Hazard & Resilience) 2021; Pittwater LEP C4 Environmental Living and Pittwater DCP 2014 Controls, A4.10 Newport Locality; C1.3 View Sharing; C1.4 Solar Access; C1.5 Visual Privacy; C1.6 Acoustic Privacy; D10.8 Side and Rear line.
- Severe loss of iconic views as assessed against the Established Planning Principle, *Tenacity v Warringah*, which a more skilful design could overcome.
- The proposal does not comply with the design intent and outcomes of adjacent built form which respects view corridors by limiting to only single storey within 8m of the eastern setback (as shown on figure 2). Historically this has been Council's advice to ensure reasonable view sharing principles.
- Loss of visual privacy at a proximity of less than 9 metres by virtue of the proposed windows on the southern elevation, unless conditioned obscure glazed and fixed shut.
- Overbearing impact of the elongated southern elevational built form projecting into the view corridor of 75 Bungan Head Road. The two storey built form projects beyond the established rear building line.
- Potential overshadowing impacts, particularly to the principal living spaces on the southern elevation and principal outdoor areas serving 75 Bungan Head Road.
- Loss of vegetation on the site and green outlook provided by the existing tree canopy.
- Impact on amenity of neighbouring occupiers – cumulative impact of the above.

A site visit is requested to enable Council to fully assess the view loss, privacy, overbearing and potential solar impacts from my client's property.

On the information submitted, it is recommended that the subject DA be refused for the reasons summarised above and provided in greater detail in this submission.

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Should Council consider supporting the proposed development, contrary to the concerns set out in this submission, it is requested that recommended amendments and conditions are applied as set out on page 21. Should additional information or amended plans be submitted, my clients request the opportunity to provide further comments.

Site details and character of the area

The subject site is located within the C4 Zone Environmental Living and to the east side of Bungan Head Road, Newport (Newport Locality). The site is accessed off a shared drive. The boundary identification survey shows the site area as 1336 sqm. The southern boundary of the subject site abutting my client's property at 75 Bungan Head Road is recorded as 62.58 metres.

The site is situated adjacent to the foreshore building line abutting a steep cliff. The site is also entirely included within the Pittwater Geotechnical Hazard Map as Geotech Hazard H1 and Coastal Risk Planning Map identified as Bluff/Cliff instability.

Surrounding development is predominantly made up of detached dwellings which generally complement the low density and well landscaped environment of the area. An important aspect of the surrounding environment is the open aspect and views of Newport Headland and Bilgola Beach and the ocean. Accordingly, the site is located within the Scenic protection Area (Category One) and the Coastal Environment and Coastal use Areas under Section 2.10 and 2.11 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

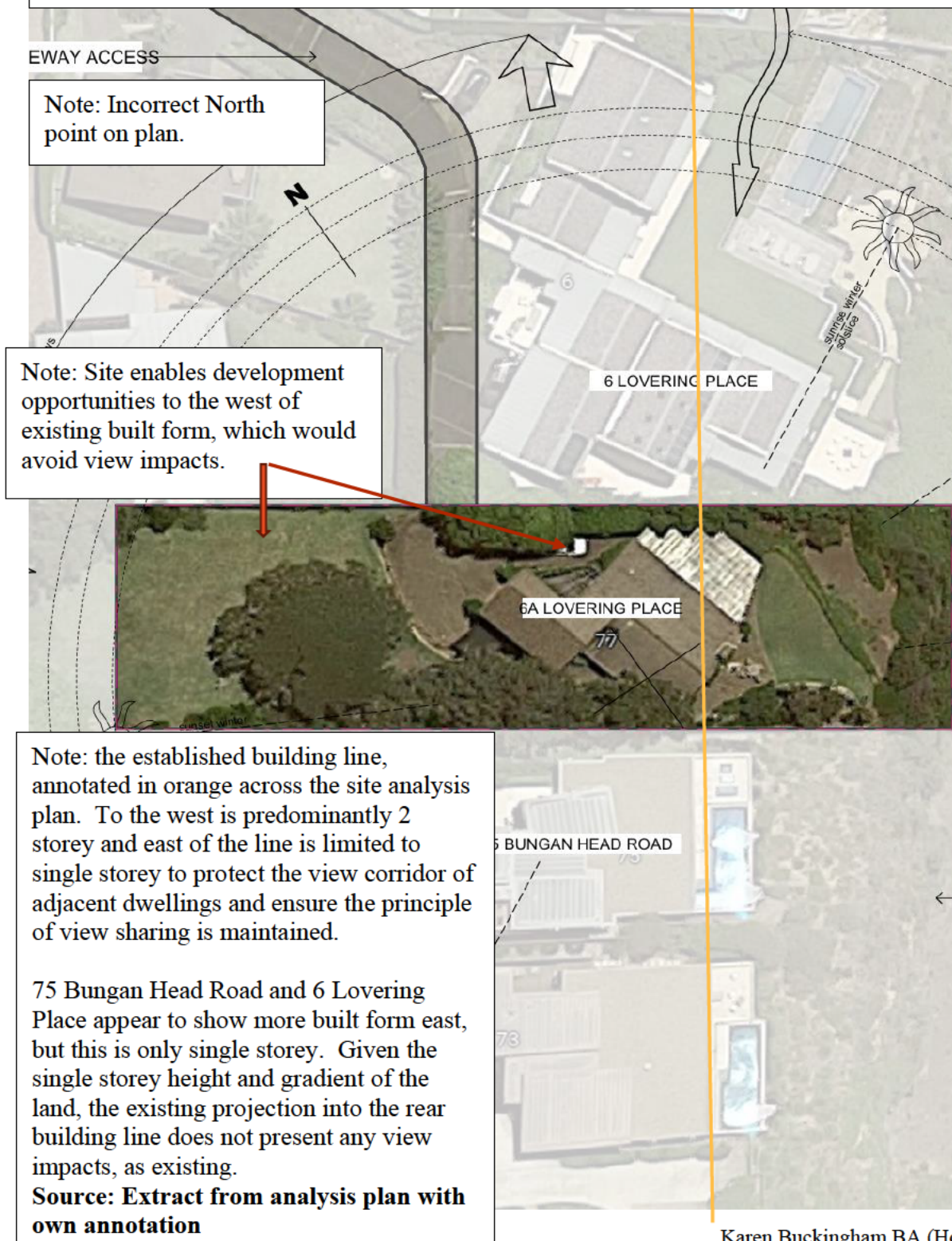
My client's property is in very close proximity to the subject site, off the side, southern boundary. As can be seen in figure 2, overleaf, my client's property and adjacent built form demonstrate a consistent building line where architectural designed homes include only single storey built form, pools or decks further forward than the line shown in figure 2. Built form has been designed as single storey beyond this point to avoid amenity impacts and enable view sharing. This is an important characteristic of the site and surrounding environment, both for retaining view corridors and respecting the scenic values of the environment

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Figure 2: Area Analysis plan with own annotation showing established building line



Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Proposed development

This Development Application DA2025/0115 seeks consent for Alterations and Additions to a Dwelling House which includes the following:

- Alterations and additions to the existing predominantly single storey dwelling
- Extensive first floor additions across the entire exiting ground floor area to create 4 bedrooms, 2 bathrooms, a study and storage area. Accommodation includes a large master suite with sauna, ensuite and walk in robe.
- Large deck area with pergola over
- New balcony accessed off the entire first floor northern elevation
- Widening of existing garage
- Lift
- Pitched roof over first floor addition
- Removal of 3 trees
- New retaining walls.

Impacts and non-compliance of proposed development under REV2024/0023

Relevant legislation and Planning Controls

In preparing this submission, I have carefully considered the following legislation and planning controls:

Environmental Planning & Assessment Act 1979, as amended

State Environmental Planning Policy (Hazard & Resilience) 2021 (SEEP (Hazard & Resilience))

Environmental Planning & Assessment Act 1979 (The Act)

Environmental Planning and Assessment Regulation 2000 (The Regulations)

Coastal Management Act 2016 (CM Act)

Pittwater Local Environmental Plan 2014 (LEP)

Pittwater Development Control Plan 2014 (DCP)

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Local Environmental Plan (LEP)

Land use zone: The subject site is zoned C4 Environmental Living under the LEP. The extensive first floor additions over the entire existing ground floor area, with pitched roof challenges the scale of development in this sensitive environment and with the projection past the established rear building line result in two storey built form that would appear incongruous in its setting and create impacts on neighbouring amenity, contrary to the objectives of the zone.

Clause 7.5 Coastal Risk Planning

The subject site is located within the Pittwater Coastal Risk Planning Map as Bluff/Cliff Instability. A Coastal Engineering Report and Geotechnical Report have been submitted with the subject application.

This is not my area of expertise; It is requested that Council fully consider and assess the risks identified in the accompanying report to protect against risk to life or property, including my client's property by virtue of the proposed demolition and construction works.

Clause 7.7 Geotechnical hazards

The subject site is entirely located within Area H1 on the Landslip Risk Map. A Geotechnical Report has been submitted with the DA and risks to neighbouring property should be fully assessed as part of this application. As outlined above, this submission raises concerns with the risks identified and requests that Council undertake a thorough review of the accompanying reports. It is also requested, that should the subject DA be approved, that a condition be attached requiring a full independent dilapidation report of my client's property at 75 Bungan Head Road.

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Development Control Plan (DCP) - Non-compliant development and amenity impacts

DCP Control C1.3 View Sharing

Comment: The elongated southern elevation and pitched roof built form providing accommodation at first floor include a Master bed suite with Walk in Robe, and large ensuite with sauna would result in a bulky addition which would project into my client's view corridor, eroding the northern view of the ocean, Bilgola Beach and the Headland between Newport Beach and Bilgola Beach. The proposed development would severely obstruct iconic views currently enjoyed. The views impacted are currently enjoyed from the kitchen, living room, and balcony, with lesser views across the side boundary from the bedroom and courtyard.

A VIA has not been submitted with the DA. For this reason it is requested that a VIA be submitted, that the case officer view the proposal from my client's property and consider this submission in the absence of a VIA.

In assessing the VIA, the following is relevant:

In assessing the principles of view sharing applied, *Tenacity consulting v Warringah [2004]* NSWLEC 140 adopted a four-step assessment process. This approach is the view loss assessment established by the Land & Environmental Court. The following assessment is relevant in the absence of modelling or site photos to assess view loss as part of the subject REV.

First step: Assessment of views to be affected.

‘Water views are valued more highly than land views... Whole views are valued more highly than partial views, e.g., a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.’

View 1 – Views to be affected from the balcony - Ocean, Newport Headland and Bilgola Beach–Unobscured interface between land and water. See view 6 for extent of impact on this view. Hatched line shows outline of view loss.



Source: Site photo

The views to be affected are of water ocean views, headland views and beach views of Bilgola Beach. The area of anticipated affected view is shown hatched orange lines (with reference to the height comparison plan, as submitted). The extent of view loss is shown at View 6. The views to be affected by the proposed development are assessed as **iconic**.

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Second step: From what part of the property the view are obtained

[T]he protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views.

The views to be affected are across a side, rear boundary, but the built form proposed extends beyond the established rear building line. The views from the living room, kitchen and principal balcony off the living area are to be affected. Views from a standing and sitting position to the north, of the ocean and land interface would be obscured by the proposed development.

View 2 – View across principal balcony and outdoor entertaining area – anticipated view loss area outlined in hatched orange. See view 5 for extent of impact comparison.



Source: Site photo

Third step: Assess the extent of the impact.

The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them) ... It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

View 3 –Existing view from the kitchen and living room. Extent of view loss anticipated at view 4 - noting that the tree which has grown to partial obscure the view from this location will be removed, replacing ocean and tree views with built form



Source: Site photo of existing view and outlook from kitchen and living room

View 4 – Anticipated extent of impact from the kitchen and living room - noting that the tree which has grown to partial obscure the view from this location will be removed, replacing ocean and tree views with built form



Source: Site photo of potential and anticipated view loss and outlook to built form from kitchen and living room

View 5 – Anticipated extent of impact across principal balcony and outdoor entertaining area – see view 2 for comparison



Source: Site photo

View 6 – Anticipated extent of impact from principal balcony – see view 1 for comparison



Source: Site photo

Views affected are from the **kitchen, living room and principal outdoor living areas** (indoors and external) and of the **water and land interface, including headland and beach** which is **iconic**.

Views are from a **standing and sitting position**.

View loss of the water and land interface is considered **severe** as the proposed development would almost completely obstruct the ocean to land interface views to the north.

Fourth step: Assess the reasonableness of the proposal that is causing the impact

The proposal also fails to comply with Pittwater LEP C4 Environmental Living and Pittwater DCP 2014 Controls, C1.3 View Sharing; potentially C1.4 Solar Access; C1.5 Visual Privacy; D10.8 Side and rear building line and fails to follow the established rear building line of adjacent built form.

However, if we take the scenario that the built form is numerically compliant, as largely set out in the SEE, the following consideration should be assessed.

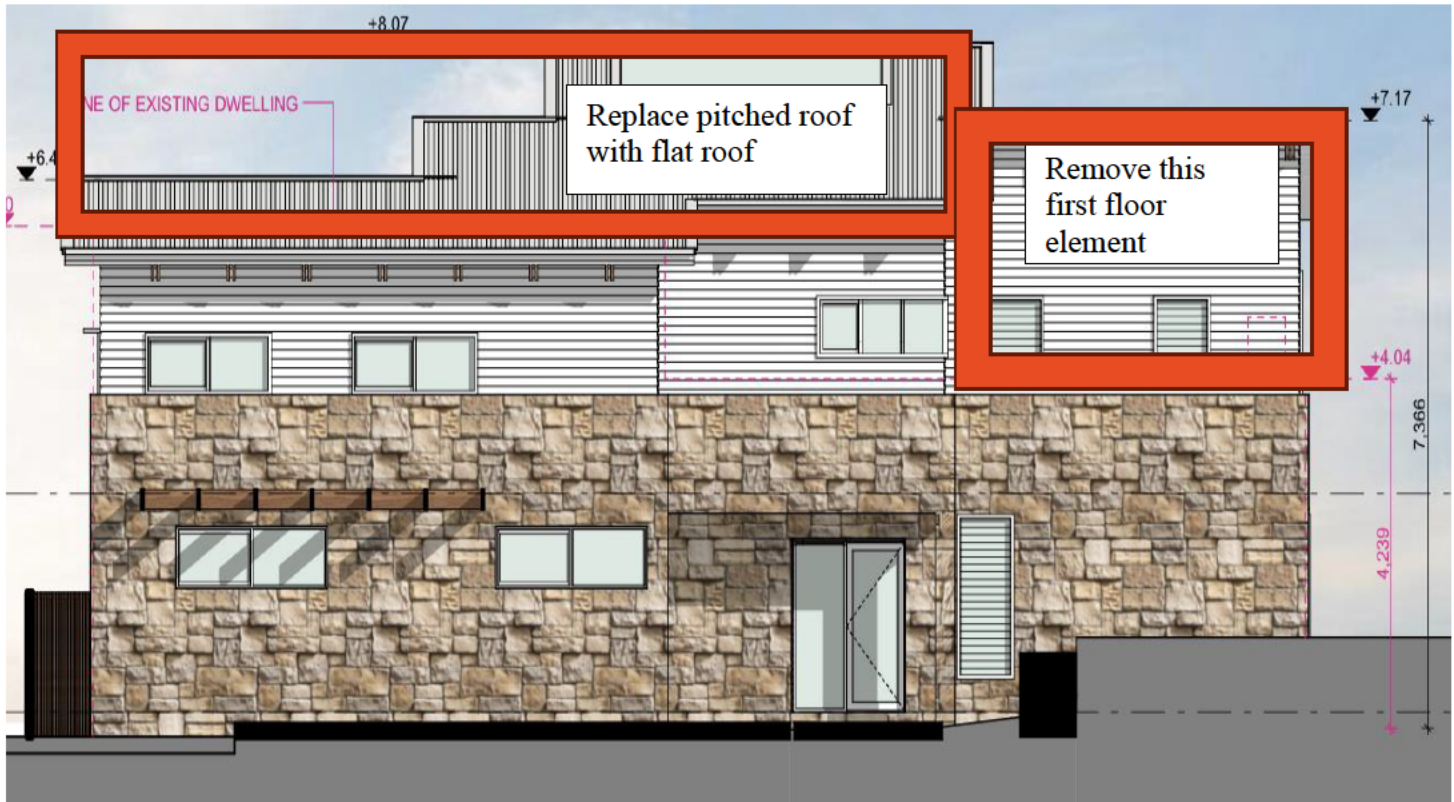
‘With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbour. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.’

This is an important part of the fourth step. As shown in figure 6 of this submission, if the first floor accommodation serving the large Master bedroom, ensuite, sauna and walk in robe were removed and relocated further to the north/west of the site, a single storey element in this location would be a more skilful design and provide the applicant with the same development potential whilst reducing the impact on neighbouring amenity.

It should be noted that the level of accommodation as proposed is vast. It cannot be deemed as reasonable to impact on view sharing whilst providing for excessive floor space, particularly given that it could be in a less sensitive location on site. The same development potential and amenity could be achieved with the design approach shown in figure 5 and 6.

The remain two storey built form should incorporate a flat roof to mitigate remaining further view loss impacts.

Figure 5 – Recommended design approach

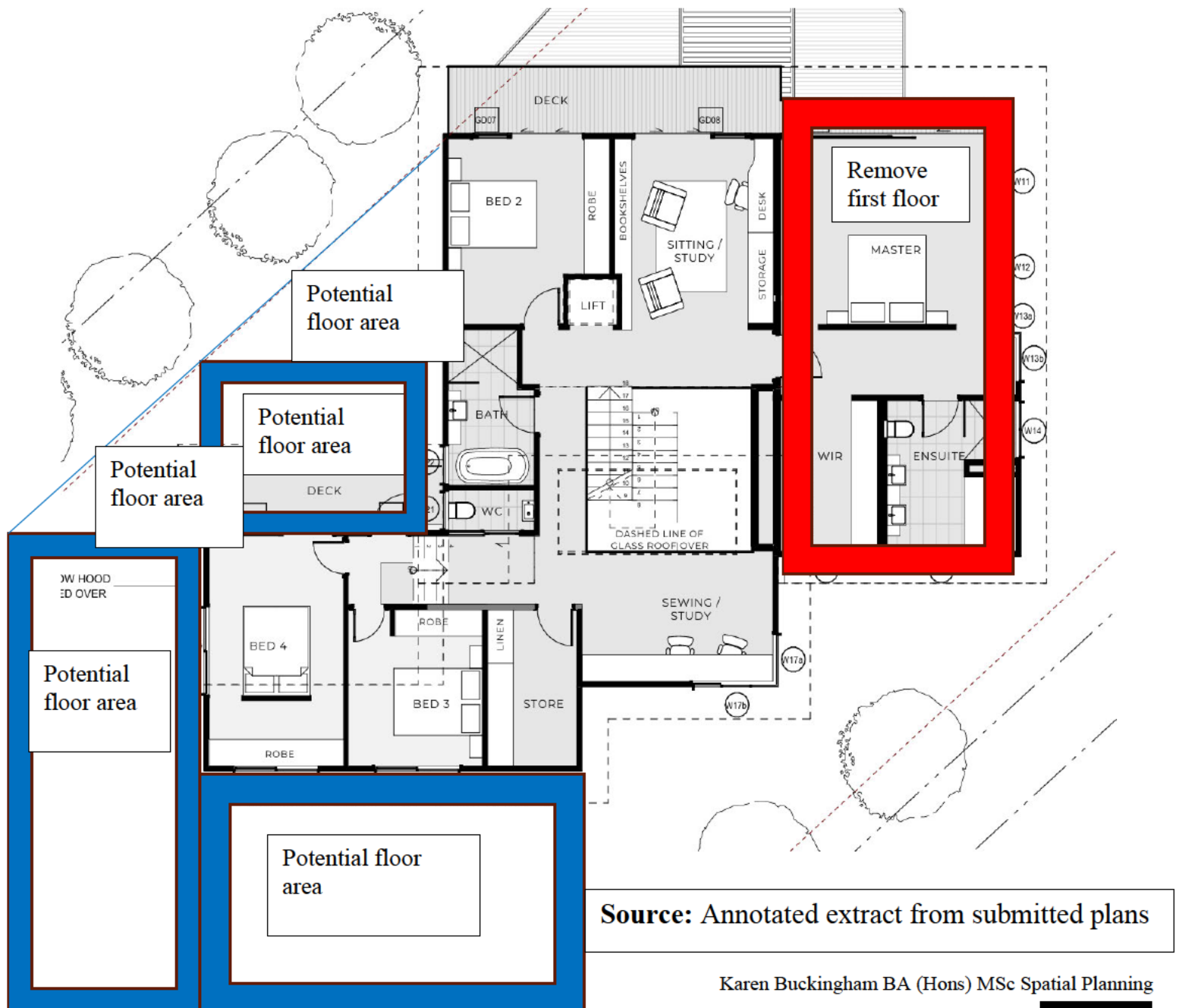


It is requested that amended plans be submitted to remove the first-floor addition from the southern elevation. Reconfigure the first-floor layout to relocate the master bed suite as shown in figure 6, overleaf.

It is noted that in addition to the lounge area on the ground floor, the first-floor accommodation also includes a sitting room, study/sewing room, storeroom and 3 further bedrooms with bathroom and wc. The first-floor accommodation is extensive and provides ample opportunity for an amended layout. The remaining first floor accommodation should include a flat roof design to mitigate remaining impacts.

There is ample space on the 1336 sqm lot to place further development to the west of the site, or closer to the northern boundary where view loss and shade impacts would not occur due to the gradient and orientation. See site analysis plan and figure 2 of this submission.

Figure 6 – Suggested opportunities to relocate Master suite and reconfigure layout



Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

As proposed, the development would severely impact on iconic views caused by an unreasonable proposal that could be more skilfully designed to overcome impacts. View loss is my client's key concern, and should this be overcome by a more skilful design; all other concerns would be accepted.

The impact on the views currently enjoyed by my clients should warrant the refusal of the proposed development unless amended plans overcome the impacts identified.

DCP Control C1.4 Solar Access

Outcomes

Residential development is sited and designed to maximise solar access during mid-winter. (En)

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)

Reduce usage and/dependence for artificial lighting. (En)

Controls

The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.

Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).

Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter.

Developments should maximise sunshine to clothes drying areas of the proposed development or adjoining dwellings.

The proposal must demonstrate that appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access.

Comment: The shadow diagrams to be assessed as part of this subject DA do not include any of the windows or skylights serving 75 Bungan Head Road. Additional hourly shadow diagrams and elevational hourly shadow diagrams at June 21 should be submitted to show this level of detail to enable the full assessment of solar impacts to be determined.

However, it is clear from the shadow diagrams submitted that my client will not receive any solar gain during the hours of 12 noon – 3pm mid-winter in their principle living area or principle outdoor living space (balcony). The impact on solar access is contrary to DCP Control C1.4. My clients want to provide further commentary on this impact once additional solar diagrams are received.

The proposed amendments to overcome view loss, would similar overcome any solar impacts.

DCP Control C1.5 - Visual Privacy

Controls

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

Comment: DCP Control C1.5 seeks to optimise visual privacy through good design and create a sense of territory and safety. The stated controls seek to ensure that neighbouring dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices.

The window on the southern elevation serving the proposed master bedroom suite directly overlook my client's living space.

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Should the first-floor addition serving the master suite be relocated, as requested, this would also address visual privacy issues and potential solar impacts.

Should the proposal be approved, despite the clear objection to the built form as outlined in this letter, it is requested that all windows on the southern elevation be obscure glazed and fixed shut in perpetuity.

Outlook and loss of tree canopy

My clients are concerned with loss of what appears to be healthy trees on the southern boundary. My clients enjoy the tree canopy and asks Council to consider whether these trees need to be removed. Replacing tree canopy with two storey built form is not a positive outcome.

Impact on amenity of neighbouring occupiers

The proposed development would clearly have a materially significant impact on neighbouring amenity. The proposed fails to comply with the DCP controls referred to in this submission. The impact on neighbouring amenity by virtue of the bulk and scale of the proposed development at the southern elevation would create an unacceptable loss of iconic views, overbearing impact, loss of privacy, and potential overshadowing impact.

It is recommended that the proposed development be refused given the objections raised, unless amended plans as requested are submitted to overcome the identified view loss impacts. The amendments proposed would also address visual privacy, overbearing and solar impacts discussed.

Should Council be minded approving the proposed development, contrary to the concerns set out in this objection, then amendments and conditions are requested to mitigate against the harm discussed.

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Recommendations

- Refuse the proposed development given the objections raised in this submission unless significant amendments are submitted in line with the design approach at figure 5 and 6 of this submission.
- Remove the southern first floor elevation and relocate the master suite as part of a reconfiguration of the first-floor layout. From an assessment of the submitted plans, there is ample scope within the building design to accommodate these amendments and achieve an improved outcome and more sensitive design approach. There is ample room on the site, site area to the west of the site or closer to the northern boundary.
- Replace the proposed pitched roof with a flat roof over the remaining first-floor accommodation.

It is requested that Council provide my clients with the opportunity to provide a submission on additional and / or amended plans.

Should Council be minded approving the submitted or amended plans, it is recommended that the following conditions be attached-

- A dilapidation report of 75 Bungan Head Road should be conditioned and prepared prior to any works commencing. My client requests the opportunity have the dilapidation report independently verified.
- All windows on the southern elevation be obscure glazed and fixed shut.

Conclusion

This submission sets out my client's concerns regarding the proposed development under DA2025/0115 and sets out recommendations / requests.

The proposed development would have a materially detrimental impact on the amenity of neighbouring occupiers (my clients).

Karen Buckingham BA (Hons) MSc Spatial Planning

www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

Proposed development is non-compliant development contrary to SEPP (Hazard & Resilience) 2021; Pittwater LEP C4 Environmental Living and Pittwater DCP 2014 Controls, A4.10 Newport Locality; C1.3 View Sharing; C1.4 Solar Access; C1.5 Visual Privacy; C1.6 Acoustic Privacy; D10.8 Side and Rear line.

It is respectfully requested that the proposed development be refused to address the concerns outlined in this submission or amended accordingly to mitigate against the harm identified.

Should additional and or amended plans be submitted to address concerns expressed, my clients request that they be given an opportunity to comment accordingly and that the recommended conditions be attached to any consent.


My clients request that the case officer make a site visit to 75 Bungan Head Road to consider the impacts as discussed.

I thank you in advance for your consideration of the concerns raised in this submission.

Kind regards,

Karen Buckingham *on behalf of Michael and Sharyn Goodwin*
BA(Hons) Planning; MSc Spatial Planning
Planning Progress

Karen Buckingham BA (Hons) MSc Spatial Planning


www.planningprogress.com.au
PO Box 213, Avalon Beach, NSW 2107