

26 June 2023



Northern Beaches Council
725 Pittwater Road
DEE WHY NSW 2099

Dear Development Determination Panel,

Re: 26 Ralston Road, Palm Beach – Mod2022/0518 – Agenda Item 3.6

I write in response to the Assessment Report prepared in relation to Mod2022/0518 at 26 Ralston Road, Palm Beach, being item 3.6 on the agenda for meeting of the Development Determination Panel (**the Panel**) to be held on Wednesday 28 June 2023. The application is before the panel with a recommendation of refusal. However, this recommendation is based on an Assessment Report that is fundamentally flawed and includes a series of inaccuracies, inconsistencies and misrepresentations that unfavourably skew the outcome of the assessment. These are best addressed in response to the Draft Reasons for Refusal, as follows:

1. Adverse View Loss

The Assessment Report asserts that the increase to the height of the dwelling on Lot 4 will result in unreasonable impacts upon views from 8 Ebor Road. The Assessment Report relies upon the height pole that is visible in Figure 10 on page 391 to confirm that the increased height of the dwelling on Lot 4 will result in the obstruction of water views from 8 Ebor Road that would otherwise be retained by the current approval.

However, as demonstrated in **Annexure One** and as confirmed in the Minutes for the DDP meeting at which the original application was approved, it is the dwelling on Lot 5 that results in impacts to views from 8 Ebor Place and not the dwelling on Lot 4, as suggested in the Assessment Report. As confirmed in Figure 9 on Page 390, the height pole visible in Figure 10 represents the north-eastern corner of the dwelling on Lot 4, with the dwelling on Lot 4 to be located to the left of the pole, and not the right, as indicated in red by the Assessing Officer.

The height pole visible in Figure 10 has a certified height of RL107.14m AHD. The dwelling on Lot 5 was approved with a parapet height of RL 107.85m AHD, with a roof top planter and a balustrade at RL 108.4m AHD within the view corridor in question. As such, Council can be reasonably satisfied that the view from Level 2 of 8 Ebor Road was already lost as a consequence of the approved development, with any further impacts to the Level 2 views associated with the proposed modification limited to views of the sky.

As such, I maintain that the impact upon views enjoyed from 8 Ebor Road associated with the increased height of the development is minimal and reasonable and does not warrant the refusal of the subject application.

2. Excessive Bulk and Scale

The proposal seeks to increase the height of the roof of the dwelling on Lot 4 by 450mm (from RL 106.25m AHD to 106.70m AHD). As the western parapet of the dwelling on Lot 4 was deleted via condition, and as this is reintroduced in the modification application, the height of the western façade is proposed to be increased by 950mm.

The proposed increase to the height of the dwelling on Lot 4 will not result in a breach of the building envelope of 1.8m, as suggested on page 392 of the Assessment Report. Furthermore, it is not 1.77m higher than the existing dwelling in this location, as indicated at Figure 11 of the Assessment Report.

With a maximum height of 7.7m along the western elevation, the proposed dwelling on Lot 4 is only 620mm higher than the existing dwelling, and with a 3m (minimum) setback from the western side boundary, the western elevation protrudes the prescribed building envelope by a maximum of 1.2m at the rear south-western corner, reducing to 0.2m at the front north-western corner of the dwelling.

The non-compliance is partially attributed to the proposed parapet roof (that cannot simply be deleted as suggested in the existing conditions), which was chosen to maximise views over the subject site and to minimise bulk and scale that is otherwise attributed to a pitched roof and deep-set eaves. In fact, it is relevant to note that if the proposal was designed with a pitched roof, the western elevation would largely comply, noting that projecting eaves are permitted to encroach beyond the envelope prescribed.

The non-compliance is also attributed to the cross fall of the land (approximately 25%), with the floor levels of the dwelling designed to minimise site disturbance, particularly in the vicinity of existing trees. In this respect, it should be noted that this was relied upon by Council to justify departures of the building envelope along the western elevations of the dwellings at both 24 Ralston Road and 28 Ralston Road, which breach the prescribed building envelope by 1.3m and 2m, respectively.

The Assessment Report states that the visual impact of the proposed breach is unacceptable when seen from the sunken rear yard at 28 Ralston Road. Ironically, the dwelling on Lot 4 was specifically sited in the general location of the existing dwelling in an attempt to minimise impacts upon the amenity of this adjoining property, with only a minimal increase to the height of the proposed dwelling compared to that which currently exists (offset by the increased side and rear setbacks proposed) and the retention of the deep front setback, to maintain high levels of amenity to the primary area of private open space and living areas located at the front of 28 Ralston Road.

The Assessment Report states that the increased building envelope breach warrants refusal as it cannot be screened from view by vegetation from 28 Ralston Road due to bushfire conditions that limit tree plantings from within 2m of the dwelling. However, this is also incorrect, noting that a minimum 3m setback is provided along the entire western boundary, with sufficient space to accommodate landscaping to screen or soften the development.

Inconsistency with Outcomes 1, 2 and 3 of the building envelope control are also said to warrant refusal of the application, although rather unhelpfully, they have not been addressed

in the Assessment Report. I maintain that the minor non-compliances with the prescribed building envelope do not detract from consistency with these outcomes and highlight that none of them relate to visual impact from neighbouring properties, which is said to be the primary reason as to why the proposed modifications are unacceptable.

I also disagree that any breach of the prescribed envelope along western elevation of the dwelling on Lot 5 results in unacceptable impacts upon the dwelling on Lot 4, noting that the dwellings are in the same alignment, with 5m (minimum) spatial separation between the two dwellings. I also object to the continued reference throughout the Assessment Report to non-compliance with the “building height plane”, noting that the development is maintained well below the maximum building height prescribed by PLEP 2014 (as confirmed at page 380 of the Assessment Report).

In light of the matters outlined above, it is my opinion that the minor intensification of the building envelope non-compliance does not warrant the refusal of the subject application.

3. Insufficient Information

The Assessment Report states that the application should be refused as the photomontages provided by the Applicant are inadequate. To refuse the application on such grounds would be completely unreasonable in light of the following:

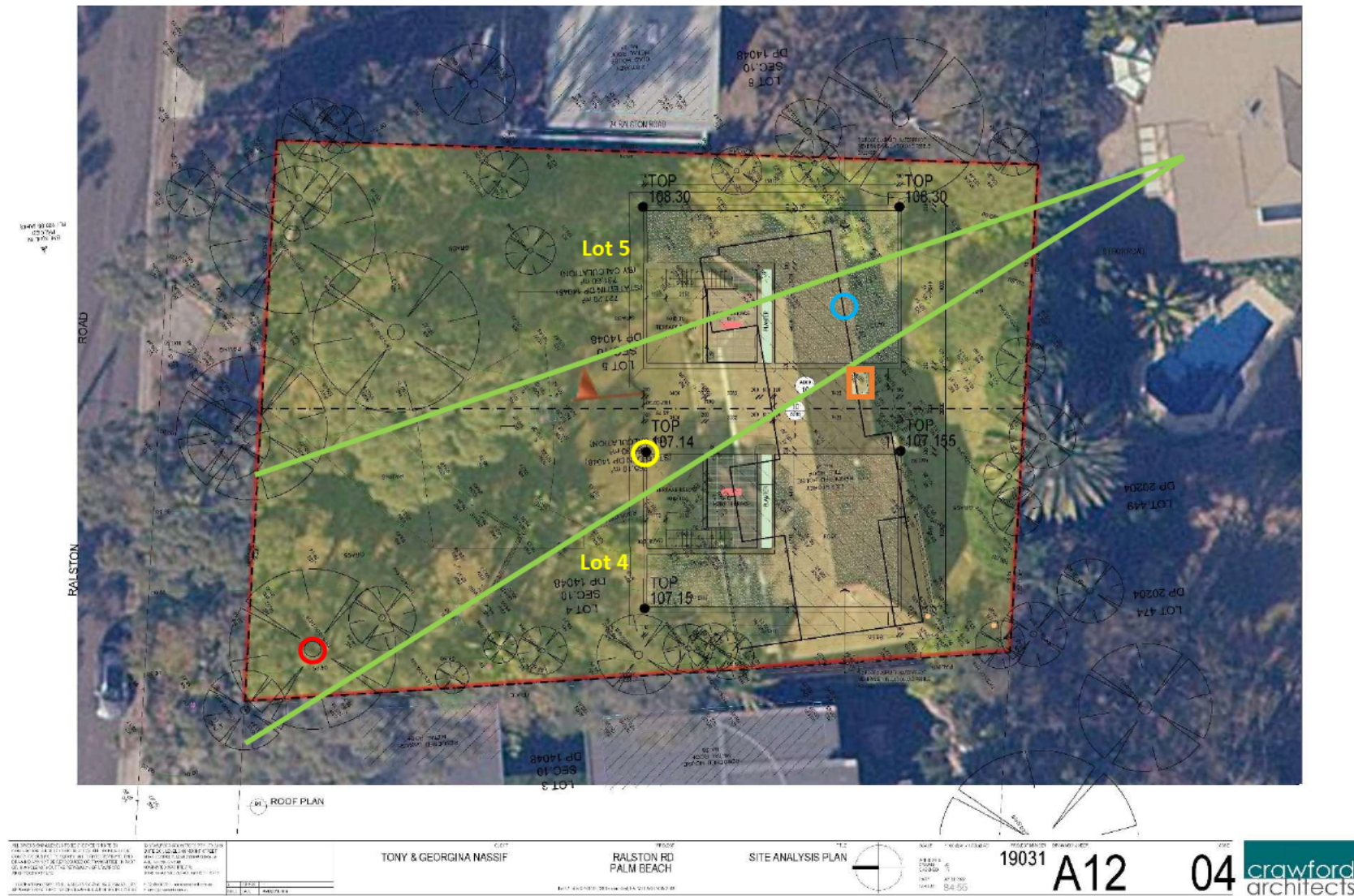
- a. Multiple requests to visit the objector’s property to undertake a comprehensive view loss analysis were made during the assessment process, all of which were denied.
- b. The view loss assessment prepared in response to Council’s request acknowledges its shortcomings, noting the lack of access to the neighbours’ properties and that the images relied upon were taken by Council.
- c. The photomontages were prepared to assist Council in its view loss assessment and were to be considered in conjunction with the certified height poles erected on site.
- d. The locations of the height poles were dictated by Council.
- e. Typically, photomontages of the standard identified in the Assessment Report are only required in lieu of certified height poles.

If you would like to discuss any aspect of this response in further detail, please do not hesitate to contact me on [REDACTED] or via email. I will also be registering to speak at the meeting on behalf of the Applicant, requesting that the proposed recommendation be overturned in light of the commentary above.

Yours sincerely,



Rebecca Englund
Director | Northern Beaches Planning



The view corridor nominated in green has been assumed based on Figure 10 in the Assessment Report (reproduced below), and the following key markers:

- The certified location of the height pole (circled in yellow)
- The sewer vent stack of the existing dwelling (circled in blue).
- Tree 8, the Sydney Blue Gum at the north-east corner of Lot 4 (circled in red).
- The end of the ridgeline of the existing dwelling (where the hip of the roof begins), just visible to the right of the sewer vent stack.
- The existing chimney stack (outlined in orange), which is not visible in Figure 10.



Figure 10: Photograph from standing position of second floor living area at 8 Ebor Street, Palm Beach and the blue height pole for Lot 4 in the background

Source: CPS March 2023