
Sent: 5/05/2021 2:24:36 PM
Subject: DA2021/0398
Attachments: Objection Letter DA20210398.docx; Objection Report DA20210398.docx;

**General Manager
Northern Beaches Council**

RE: Development Application - DA2021/0398

90 Lawrence Street Freshwater

Objections to Proposed Development – Secondary Dwelling

Please accept this submission re the above DA.

Attached are:

Objection Letter and Objection Report.

Regards

Richard Wray.

26 Palomar Parade, Freshwater. 2096

4th May 2021

General Manager
Northern Beaches Council

RE: Development Application - DA2021/0398
90 Lawrence Street Freshwater
Objections to Proposed Development – Secondary Dwelling

Richard Wray –

26 Palomar Pde Freshwater 2096

Ph 0416 071925

Director Northern Beaches Consulting Engineers.

I object strongly to the above application.

My property (26 Palomar parade) is located directly behind the rear of 90 Lawrence Street.

I refer to the submission by Arcouture Pty Ltd. Attached.

From a technical viewpoint the submission pretty much details the reasons for my objections.

It appears that the development application has paid zero attention to the amenity of the neighbouring properties.

I have been a resident at this address for over 30 years and have enjoyed the privacy of the rear yard, over the years there have been many social and family gatherings to the rear of my property.

The main entertaining area is to the rear of the house that opens onto the rear yard, the above development will have an unobstructed view into the rear yard and in the rear entertaining area and into the bedroom and study area upstairs.

THIS IS UNACCEPTABLE.

I have been personally involved in many development and construction applications over the last 30 years, being a director of a local structural, civil and hydraulic engineering firm (Northern Beaches Consulting Engineers) and it is quite rare that I see an application that is so obviously deceitful

As I see it the only solution to the issues raised is to re-orientate the secondary dwelling so the living areas and balcony face North and the rear located 6m from the boundary. This will resolve the major issue of overlooking the rear of my property. This will also alleviate the need to remove the 3 trees at the rear. Overshadowing, which has not been considered in the Application, will be reduced for my property. (However it may still pose a problem for number 24 Palomar Parade, shadow diagrams will confirm this.). Access to the secondary dwelling will be improved.

I suggest the Council attend the site so they can see for themselves how ridiculous this submission is.

1st May 2021

General Manager
Northern Beaches Council

RE: Development Application - DA2021/0398
90 Lawrence Street Freshwater
Objections to Proposed Development – Secondary Dwelling

On behalf of:

Richard Wray – Rear Adjoining Neighbour
26 Palomar Pde Freshwater.

I am writing this letter on behalf of my Father - Richard Wray and the rest of my family who currently reside at No. 26 Palomar Pde, Freshwater. I understand the property well, having lived there for more than 20 years. The subject site/development to which this letter refers to is at No.90 Lawrence Street, which adjoins the rear boundary with No.26 Palomar.

The primary concerns we have relating to the proposed development are as follows; these will be extrapolated upon further in this letter under the relevant Warringah Development Control Plan Objectives (WDGP2011).

1. Major Departure from Warringah DCP2011 Rear Boundary Setback causing major amenity loss to No.26 (overlooking, privacy, solar access). Adequate detailing of the Site setbacks has not been demonstrated on the supplied plans.
2. The Non-Compliant Stormwater Management Plan, no easement has been sought for the proposal and the overflow is currently proposed to flow directly into the rear yard of No.26 Palomar Pde.
3. The absence of a Sediment Control Plan – as construction is likely to cause run-off and contamination to the rear yard of No. 26.
4. The orientation of the Private Open Space and the area available to the proposed secondary dwelling (Note that the proposed Alfresco directly overlooks Rear Private Space of No.26 Palomar)
5. Solar Access to the rear Yard @ No. 26, No shadow diagrams have been supplied, shadowing is likely to be substantial and should not be supported.
6. Privacy, the proposal @ No. 90 has not considered the major amenity impacts to not only No.26 Palomar Pde Rear yard, but other neighbouring rear yards to Palomar Pde (No 28 and 30). The proposal at No. 90 should be re-oriented.
7. Rear Fence – No consideration has been given to including a new rear fence, or for site security during construction.
8. The proposal at No.90 proposes to remove 3 substantial trees at the rear boundary which currently provide visual separation and privacy to No.26. These also form part of the natural dominant landscape of rock formations and native trees with smaller native vegetation under.
9. The proposed open space for the secondary dwelling is actually contains a steep rock face and retaining wall which renders the area un-usable. The rear of the proposed secondary dwelling roof is over 7m above the existing ground level at the boundary.

B9 – Rear Boundary Setbacks

Objectives

- To ensure opportunities for deep soil landscape areas are maintained.
- To create a sense of openness in rear yards.
- To preserve the amenity of adjacent land, particularly relating to privacy between buildings.
- To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.
- To provide opportunities to maintain privacy between dwellings.

Requirements

1. Development is to maintain a minimum setback to rear boundaries.
2. The rear setback area is to be landscaped and free of any above or below ground structures.

We would like to raise a number of major concerns, which will be listed on the following diagram provided. Note this is based on the supplied Site Plan by RK designs and google earth satellite imagery.

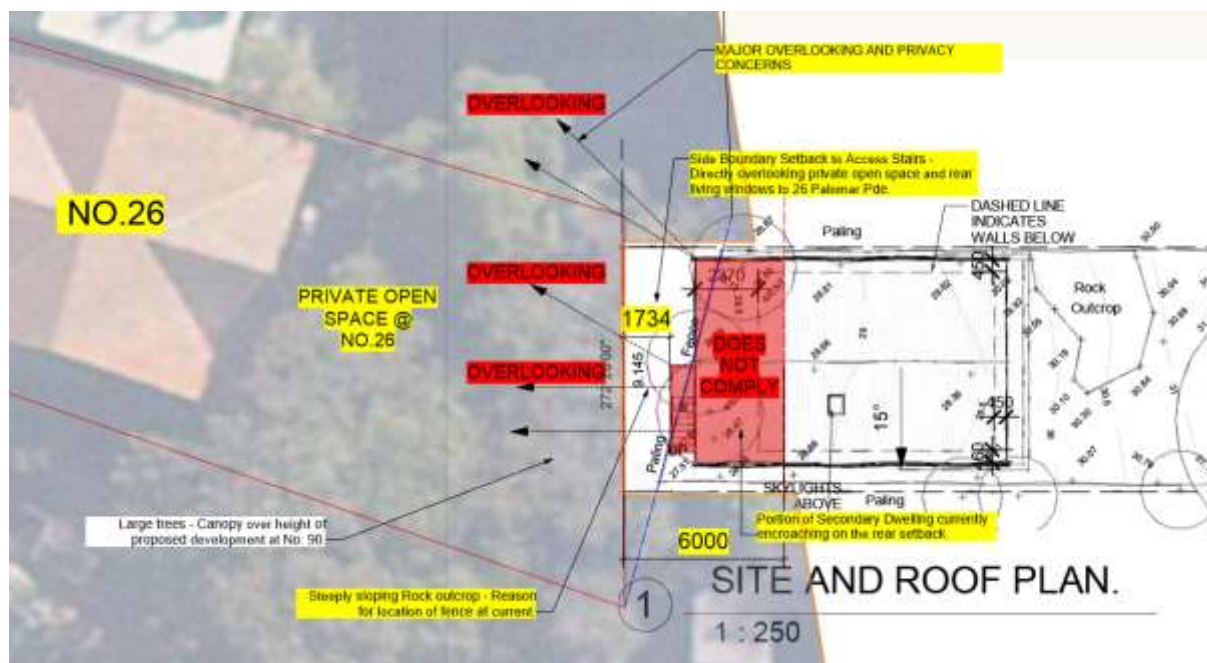


Figure 1: Site Plan Diagram - Rear Setback Non-Compliance

1. As shown in the diagram above, the proposal encroaches the rear setback with the access stair, landing, entertaining deck and from coming as close as 1.75m to the rear boundary. This will cause major overlooking, and major overshadowing to the Private Open Space @ No.26 and also directly look into the living, dining and kitchen areas facing the rear of No. 26.
2. The Access stair and landing – where the new occupants will enter and leave the property will have direct views into the living areas and private open space @ No. 26. This will be a source of noise, and generally affect the amenity of No.26. Also considering the ground levels the base of the stairs will be virtually inaccessible.
3. The Private open space of the Secondary dwelling is not directly accessible from the living area which does not meet the Warringah DCP controls, further to this, with the current proposal, the deck would become the main “useable” area and greatly affect the amenity for private use of all adjacent rear properties to 26 Palomar Pde.
4. There are a number of native trees - proposed to be removed - very close to the proposed development, these 3 trees are all shown as greater than 7m in height according to the supplied survey. This will both impact on the privacy to No. 26, but also the current bushland scenic value and character of the area. We suggest these should be maintained as per the Objectives set out in the WDCP -B9.
5. The slope of the land at the rear is characterised by outcrops of rock, has a Geotechnical report been supplied to ensure that No.26 is going to be unaffected by the proposed building foundations.
6. As the existing fence will be removed, How will a new boundary fence be constructed – due to the lay of the land, it will likely require a retaining wall. Especially considering that the neighbours are building a secondary

dwelling, this needs to be addressed for privacy and obvious security reasons. (This could have been discussed if No. 26 was approached)

7. It was noted that a variation to the 6m setback was proposed in the Statement by RK Design to 5m and it was stated that *“There are no effects of shadowing, bulk or scale or adverse effects on the local environment.”* This is grossly incorrect and shows a lack of understanding for the site conditions and neighbouring properties. As we have already outlined in the above points and diagrams.
8. The survey provided notes that the area beyond the existing fence and site boundary is “not surveyed”, while the proposed secondary dwelling is to be located in this area – the height therefore in the section is wrong and actually slopes down greatly from the fence line towards No. 26. Exacerbating the loss of private amenity, and creating major overshadowing to the rear yard @ No. 26.

See Below photos for further detail relating to the points above.



Figure 2 View from Rear lawn @ No. 26



Figure 3 Corresponding View from rear lawn back to No. 26



Figure 4 Supplied Image from SoEE by RK Designs - showing current view over existing fence of Gable end glazing to No. 26

Additional Section From onsite calculations:

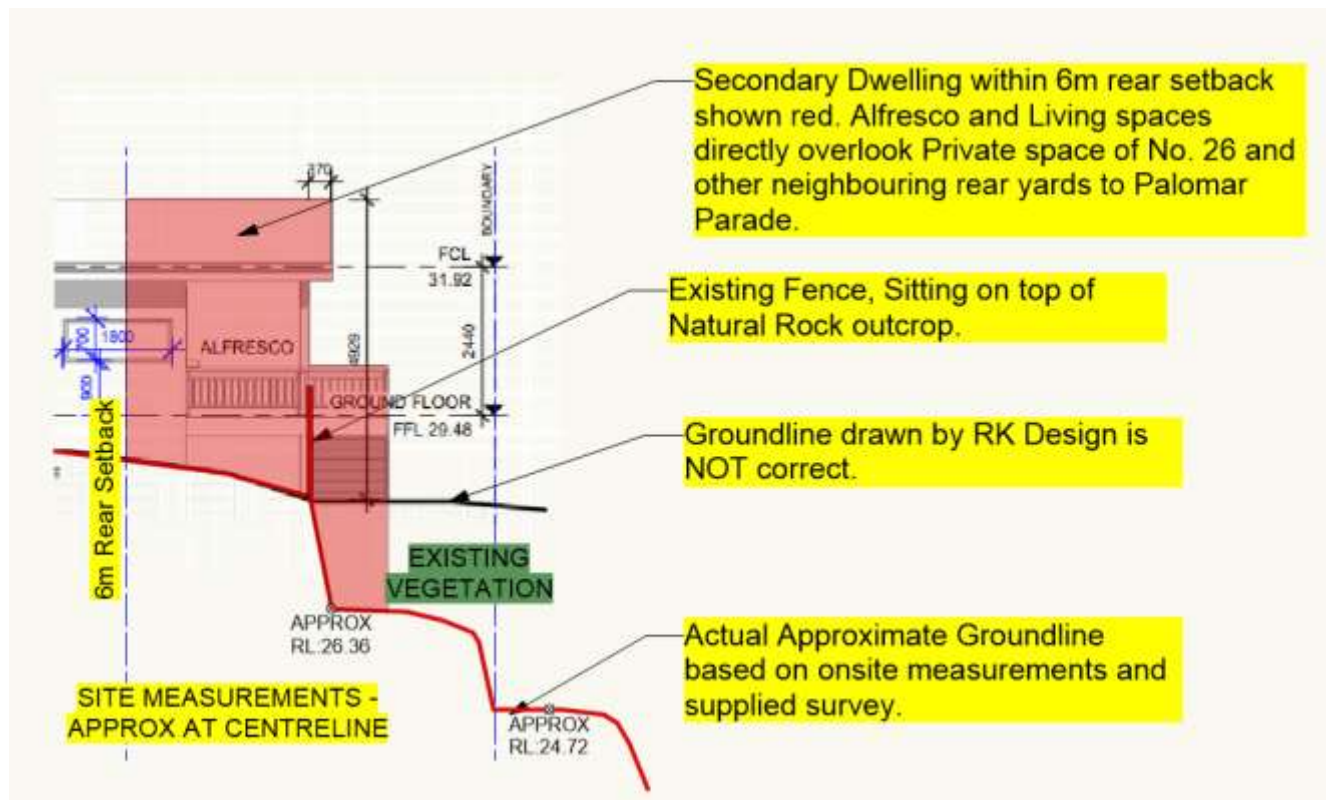


Figure 5. Section Overlay to supplied by RK Design - showing actual Natural Ground line & Encroachment to Rear Setback.

2. C4 – Stormwater

Objectives

Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;

To minimise the risk to public health and safety;

To reduce the risk to life and property from any flooding and groundwater damage;

Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.

Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle

Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources

To protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.

Requirements

Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.

The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

In response to C4 we raise major concerns;

- The proposed Stormwater Plan does **NOT** comply with Northern Beaches Councils low level property policy, The policy requires that the applicant approach the downslope neighbour in the first instance for a drainage easement, to date the applicant has not contacted No. 26 to request an easement.
- Notwithstanding this, the proposed OSD to dispersion system also does **NOT** comply with the relevant parts of the council policy. The policy requires that run-off from the entire site area in the 100 year event be reduced back to the 5 year event, whereas the provided Stormwater Plan considers the proposed roof area only and none of the ancillary or adjacent areas/ rest of the site.

C8 – Demolition & Construction

Objectives

- To manage demolition and construction sites so that there is no unreasonable impact on the surrounding amenity, pedestrian or road safety, or the natural environment.
- To promote improved project management by minimising demolition and construction waste and encouraging source separation, reuse and recycling of materials.
- To assist industry, commercial operators and site managers in planning their necessary waste management procedures through the preparation and lodgement of a Waste Management Plan
- To discourage illegal dumping.

Requirements

1. All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines

Concern is raised regarding the construction of the proposed Granny flat for a number of reasons;

- How will site security be achieved if/when the existing fence is removed.
- What are the Sediment Control measures, as if any excavation or earth works are completed, and in the likely event it rains, No.26 will have major construction debris contamination/ run-off. There is likely to be erosion, it should be noted that: (excerpt from C8)

Initiatives to ensure that site impact is minimised include:

Restricting vehicles to one entry/ exit which is appropriately stabilised with aggregate or the like;

- *Provision of a sediment control device at the access point to prevent sediment depositing on roads;*
- *Managing the number and frequency of vehicular movements to minimise impact on the neighbourhood;*
- *Minimising air pollution by watering, limiting site disturbance and landscaping at the end of the project;*
- *Locating drainage in close proximity to the built area to avoid excavation;*
- *Implementing methods to control stormwater and erosion during construction;*
- *Implement rehabilitation techniques to restore the site for future use; and*
- *Regularly check and maintain devices.*

D2 – Private Open Space

D2 requires that private Open space is to be directly accessible from a living area of a dwelling, this is **NOT** achieved through the proposed plan for the secondary dwelling at No. 90.

- The proposed does NOT satisfy the objectives and controls under D2.
- It does not meet the objectives;
 - *To ensure that all residential development is provided with functional, well located areas of private open space.*
 - *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*
 - *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*
 - *To ensure that private open space receives sufficient solar access and privacy.*
- It does not meet the requirements No. 3 & 4.
- 3. *Private open space is to be directly accessible from a living area of a dwelling and be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play.*
- 4. *Private open space is to be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development.*

Note the statement by RK designs that within the supplied SoEE;

“There is a shared open space between primary and secondary dwelling where they could enjoy outdoor activities between two families”

Is in direct conflict with the preceeding statement that;

“An alfresco area/ entry had been created towards rear to give a sense of privacy to the secondary dwelling”

Yet this area is not directly accessible from the secondary dwelling. Further to this, the underlying intention of a Granny Flat is to create additional affordable accommodation, which this architect is in full support of, however, not having direct access to Private space does not provide quality of living for a proposed tenant and is also in direct contrast to the SEPP (State Environmental Planning Policy- Granny Flats) that requires 24m² to be directly accessible from a habitable room and with the need to be separated from the private open space of the primary dwelling (by use of fencing or the like).

D6 – Access To Sunlight

The following objectives and requirements are **NOT** met by the proposed secondary dwelling at No. 90, being that;

- *The proposal should ensure that reasonable access to sunlight is maintained.*
- *At least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

Due to the close proximity of the proposal to the rear boundary, the proposed extended roof form over the alfresco and the elevated alfresco landing and access stairs coming within 1.75m of the rear boundary.

Note that no shadow diagrams have been provided to demonstrate the impacts of the proposed secondary dwelling. However, having certified numerous shadow diagram studies; that due to the lay of the land, proximity to the rear boundary, and orientation of the site – the proposal would likely have significant and detrimental overshadowing affects to No. 26. (and other neighbouring properties to the rear) Private Open Space during the winter solstice.

It should be noted that the rear of No. 26 faces North, however due to the existing slope the rear yard maintains minimal sunlight access through the existing trees. As shown in figure 1 above, the distance between the proposed secondary dwelling and the rear of No. 26 which is only approximately 15m would thus block out a major portion of the remaining sun at the winter solstice.

D8 – Privacy

As already outlined above, WDCP-D8 has **NOT** been met.

The proposed secondary dwelling causes major Privacy issues, the proposed building layout is in direct opposition with the requirements to:

“Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.”

The entire secondary dwelling has been oriented towards the private space of No. 26, within the rear setback and without thought for the detrimental impact this would have on overlooking and to the impact of sunlight.

It should be noted that the owners at No. 26 do not support privacy screening being erected to the end of the alfresco/ access landing and stair as this would increase the overshadowing and bulk of the development as it stands.

D15 – Side and Rear Fences

It has been noted that the existing fence in on the land of No. 90 Lawrence, this was done as an amicable solution between neighbours due to the natural slope of the land and existing rock outcrops.

The proposal has not addressed the installation of a new fence – or the fact that a new 1.8m high fence at the boundary would have little to no impact of the privacy between the proposed alfresco/ entry stair.

E1 – Preservation of Trees or Bushland Vegetation

As shown on the survey the proposed trees to be removed are 4/0.5/7, thus at 7m high, they require a permit to remove and should be assessed separately to the proposed secondary dwelling.

These 3 trees all form part of a natural corridor of trees, natural rock outcrops and native vegetation that provides both a break between the rear of the properties from Lawrence St to Palomar Parade but create a natural beautiful privacy barrier. They are vital to the current low-lying shrubs that require shading to prosper and they help maintain the elevated grassed rear yard to No. 90 and minimise soil erosion onto No. 26.

The owners @ No.26 do not support the removal of these trees.

We do not believe that the objectives and requirements of E1 have been met.

Warringah LEP2011

6.2 Earthworks

Under the WLEP2011, before granting development, the following matters must be considered, however, based on the supplied information, the following has **NOT** been considered.

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

The Stormwater Plan has not met the WDCP, and the owners of No.90 have not approached the owners at No.26 for an easement for the proposed stormwater overflow.

- (c) the quality of the fill or the soil to be excavated, or both,

The steeply sloping nature at the site of the development has not considered any retaining or how the property will excavate for footings, deal with the existing site conditions at the very rear.

- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

The Proposed secondary dwelling has not considered Overlooking, Privacy, Private Open Space, Existing Trees, Overshadowing, or provided a Geotechnical report.

In conclusion, it would appear the owners at No.90 are proposing that their own primary residence is benefitted with privacy from their proposed secondary dwelling, with complete disregard to how the orientation of the secondary dwelling will burden their neighbouring properties to the rear with major impacts to Privacy, Over-looking, Over-shadowing, Removal of trees and no consideration for the slope of the land and how this will be addressed.

It would also appear that the secondary dwelling itself will be burdened by having no easily accessible Private open space and will have to share this with the Principal dwelling – which is not in keeping with the objectives and guidelines for a “Granny-Flat”.

It is suggested that any future proposed secondary dwelling should be located wholly outside of the rear boundary setback, and re-oriented towards the primary dwelling – it would then benefit from Northerly light, and a privacy fence could be built, splitting the private open space up between the principal and secondary dwelling. It should not be the neighbours responsibility to bear the burden of the major loss in amenity so that No. 90 can build a secondary dwelling without having to consider compliance with the WDCP2011.

Thus, as has been detailed in this letter, the non-compliances outlined remain substantial and result in detrimental impacts to No. 26 Palomar Pde and it is considered that the proposed secondary dwelling, in its current location and with its current orientation should be refused.

Yours Faithfully,

Jessica Gabrielle Wray

On behalf of

Richard Wray – Owner @ 26 Palomar Pde, Freshwater.

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Architect (Reg. No. 9511)

Director @ Arcouture Pty. Ltd

Master of Architecture (Honours) – University of Sydney

Bachelor of Design in Architecture (Digital Architecture/Urban Design and Planning) - University of Sydney

Deans Honour List - Ethel M Chettle Prize in Architecture