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18 JAN 2017

This DA Submission Form must be completed and attached to your submission.

The General Manager
Pittwater Council
PO Box 882
MONA VALE NSW 1660

(Fax No: 9970 7150)

DA No: N0565/16
Name: INGHAM PLANNING P/L
Address: SUITE 19 NR 303 PACIFIC
HIGHWAY LINDFIELD
Phone: (02) 9416 9111
Date: 18 JAN 2016

Proposed Development:

(CONTACT NICK JURADOWITEN)

At:

I have inspected the DA plans, I have considered them in the context of the relevant Locality Plans and Development Control Plans.

Yes No

I am willing to provide expert reports to supplement my comments should a conflict in opinion arise.

Yes No

I am willing to provide evidence to the Land and Environment Court if the application is appealed.

Yes No

In the interests of public transparency please note that your submission in its entirety will be available to the applicant or other interested persons on request and will also be made available on Council's Internet site through Council's transparent Development Application tracking process. You are encouraged, as is the applicant, to discuss with each other any matters that may be of concern.

COMMENTS: (You may use the space provided or attach a separate document).

PLEASE SEE ATTACHED SUBMISSION DATED 18/01/17
UNDER INGHAM PLANNING P/L LETTERHEAD.

YOU MUST COMPLETE THE INFORMATION BELOW AND SIGN THIS FORM FOR YOUR SUBMISSION TO BE CONSIDERED IN THE ASSESSMENT OF THIS APPLICATION.

Political Donations and Gifts Disclosure Statement (sec 147 EP&A Act 1979):

Please read the information enclosed concerning political donations and gifts disclosure and tick the appropriate box below:

I have made a political gift or donation

(Please complete details of your political donations or gifts on the form enclosed)

I have NOT made a political gift or donation

Name: NICK JURADOWITEN Signature: [Signature] Date: 18/01/17

Note: For more information see www.planning.nsw.gov.au/planning_reforms/donations.asp



Our Ref: 16290

18th January 2017

The General Manager
Northern Beaches Council
PO Box 882
MONA VALE NSW 1660

Attention Chris Nguyen

Dear Sir/Madam

Re: Submission to DA N0565/16 Alterations and Additions to an Existing Dwelling at 7 Pacific Road, Palm Beach

This submission in relation to development application DA N0565/16 proposing alterations and additions at the rear of an existing dwelling at 7 Pacific Road, Palm Beach, is lodged on behalf of our client, Mr Peter McCallum, who is the owner of the residential property to the south at No. 5 Pacific Road, Palm Beach.

Our client's property has a north easterly aspect with water and district views over the rear portion to No. 7 Pacific Road, Palm Beach. A substantial portion of these views are across the rear portion of the development site, towards Barrenjoey Headland northeast to Third Point. The Applicant is seeking approval for an extension of the existing unroofed rear terrace and provision of a tall steep pitched roof over the extended terrace.

We have inspected the site and the locality, reviewed the relevant planning controls, the proponent's development application and supporting documentation and plans. Our assessment of the proposal indicates that the proposed roof extension over the rear terrace significantly breaches the 8.5m maximum building height limit as prescribed in Pittwater LEP 2014 (PLEP 2014). The exceedance of this height limit, in combination with the steep roof pitch proposed and encroachment into the established rear setback pattern, results in unnecessary building bulk and adverse view impact, inconsistent with view sharing principles. Further, the proposal will have an adverse visual and privacy impact on our client's rear private open space and northeast facing living room and deck.

The 8.5m maximum building height control prescribed in PLEP 2014 is a development standard that is designed to ensure that buildings are consistent with the height and scale of the desired character of the locality, are compatible with the height and scale of surrounding and nearby development, respond sensitively to the natural topography and allow for reasonable sharing of views.

Urban and Regional Planning, Environmental Planning and Statutory Planning
Registered Office: Lyndhurst, Suite 19, 303 Pacific Highway, Lindfield N.S.W 2070
Telephone: (02) 9416 9111 Facsimile: (02) 9416 9799
email: admin@inghamplanning.com.au
A.C.N. 106 713 768

www.inghamplanning.com.au



We contend that the proposed roof extension over the enlarged rear terrace not only exceeds the applicable height control, but also is in conflict with the objectives of the height control. Further, we contend that Council does not have the power to approve the proposal in its current form as the development application is not accompanied by a submission under clause 4.6 of PLEP 2014 that justifies a variation of the height standard.

Pittwater 21 Development Control Plan 2014 (the DCP) with respect to the Palm Beach locality, requires that development respond to the natural environment and minimise the bulk and scale of buildings. The tall bulk roof extension over the rear terrace is inconsistent with these requirements. The height of the rear portion should step down with the slope of the land and the height and bulk of the proposed roof extension should be reduced by adopting a lower less bulky roof form, by either significantly reducing the pitch of the roof and height of the roof ridge, or adopting an alternative low roof design such as currently exists over the western verandah of the existing dwelling.

While the extended rear terrace and roof extension may comply with numeric controls in relation to rear setback, the extension will protrude beyond the established pattern of rear setbacks. This is clearly evident from the applicant's site plan and an aerial view of the site and neighbouring properties. The existing dwelling already protrudes beyond the established rear building line along this section of Pacific Road. Allowing an additional protrusion into this established rear building line would adversely impact on the visual qualities and outlook of the locality and create an undesirable precedent for extension of neighbouring dwellings much closer to the rear boundary.

While our client's would not raise significant concerns with respect to extension of the existing rear terrace, subject to privacy screening on the southern side of the terrace, there should be no approval for such a tall and bulky roof extension over the terrace. There is no reason why a retractable awning couldn't be provided to achieve adequate weather protection. The subject terrace is protected from winter winds and afternoon summer sun. If this is not acceptable to Council, the roof pitch should be significantly lowered and the overall height of the proposed roof extension reduced. A roof form similar to the low pitched roof section on the ground floor western side of the existing dwelling would be more appropriate.

Part C1.3 of the DCP relates to view sharing and requires that development be designed to achieve a reasonable sharing of views available from surrounding and nearby properties. The Land and Environment Court, in *proceedings 10996 of 2003 – Tenacity Consulting v Warringah [2004] NSW LEC 140* provides a generally accepted guideline for assessing view impact and view sharing. These guidelines relate to assessment of views affected, the part of the property from which the views are obtained, the extent of impact and the reasonableness of the proposal.

The subject view is a north easterly view directly towards Barrenjoey Headland and lighthouse, extending northeast across Box Head and Tallow and Putty Beaches to Third Point. This view includes water, water and land interface and beaches and could only be described as being a high quality and iconic view. The existing steeply pitched roof over the rear eastern portion of the existing dwelling already intrudes into this view, but at least maintains the integrity of most of the existing view. The quality and integrity of this existing view will be materially undermined by the proposed bulky non-compliant roof extension.



It is evident from the photograph of the existing view, as shown below, that the upper portion of the proposed roof extension at the rear will introduce a large expanse of roof into the central portion of the view, in close proximity to the land water interface of the beach and headland.

Existing North Easterly Palm Beach/Barrenjoey Head Views From Rear of No. 5 Pacific Road



The photograph below illustrates the devastating effect on the overall quality of the view, arising from incursion of the roof extension into the extent of water view close to the land-water interface. A roof of complying height or lower would have a more limited view impact.

Impact on Views from Proposed Rear Roof Extension on Existing Views from No. 5 Pacific Road





It is acknowledged that our client's views are across a side boundary. However, it should be noted that there is a reasonable expectation that established generous rear setbacks along this portion of Pacific Road would be maintained and built form would comply with height controls. Our concerns are not with the rear setback of the roof extension per se, but rather the significant breach of the height control. It is this height control breach that is the primary cause of the view obstruction. A roof of more modest height and bulk would have a limited and more acceptable view impact.

The fourth view sharing principle is to assess the reasonableness of the proposal causing the impact. The Court notes that a development that complies with all planning controls would be considered more reasonable than one that breaches them. It is an accepted town planning principle that breaches of a development control should result in minimal if any reduction in the amenity of neighbouring properties. The Court also indicates that consideration should be given to whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.

As noted previously the proposed roof extension at the rear breaches the height control by some 2m and is of a design that could be readily modified to comply with the height control and at the same time serve the Applicant's desired purpose of weather protection, without materially impacting on neighbour views. The design should be revised to provide a low pitched roof that is limited to a maximum height of 8m above existing ground level, as measured from the existing ground level at the southeast corner of the building and an overall height not exceeding 8.5m above existing ground level.

Part C1.5 of the DCP relates to visual privacy and requires that visual privacy to habitable and outdoor living areas be optimised. Currently the privacy impacts from the existing L shaped elevated rear terrace are limited due to the modest size of the terrace, its narrow width in the southern elevation and the generous side setback provided. This elevated rear terrace off the living room will be more than doubled in size and extended to within 2m of the common side boundary with our client's residence. The extended terrace, with a total area of at least 40m², will be capable of accommodating large groups of people.

Persons using the extended elevated rear terrace will directly overlook our client's private open space in the rear yard and views will be available back to our client's rear deck off the living room. Provision of screen planting along the side boundary would adversely impact on views from our client's property. Reasonable neighbour privacy could be achieved by requiring a minimum side setback of 3m, together with provision of an 1800mm high privacy screen along the full length of the southern side of the proposed extended terrace.

We note that the subject land is identified as being within Geotechnical Hazard Area W – Geotechnical Hazard H1 in the PLEP 2014 Geotechnical Hazard Map and clause 7.7 of the LEP therefore applies. This clause requires consideration of matters such as site layout and access, design and construction methods, geotechnical constraints/conditions, water management and potential impacts on adjoining land. While the geotechnical report submitted with the DA indicates that the proposed additions can be constructed in a manner that will not impact on the stability of the subject land and our client's land, we would request that Council seek expert opinion to confirm this.



We have been unable to find any information in the geotechnical report or the construction management plan about how construction materials and any necessary plant and equipment will be transferred from the road frontage of the site, to the rear of the site, where construction is to take place. It is our understanding that this should have been addressed in the geotechnical report and the construction management plan. Council should require such information to be submitted, as our client is concerned that construction materials, plant and equipment may be transported through his property, resulting in trespass and possible property damage.

Conclusions

Our client does not object "in principle" to the proponent seeking to enlarge the existing rear terrace off the living room. However, a more sensitive design should be adopted, which reduces visual and view impact. This can be readily achieved by either removing the proposed extended roof and instead include a retractable awning, or lower roof height in full compliance with the 8.5m maximum building height control, with a maximum height of 8m at the southern elevation.

The design of the rear terrace extension should be modified to maintain our client's privacy, by providing a minimum 3m southern side setback and installing an 1800mm high privacy screen along the full length of the southern elevation of the proposed extended terrace.

Further information needs to be submitted on how it is proposed to transfer construction materials, plant and equipment to the rear of the site, where construction is to take place. It should be demonstrated that this can be safely achieved, without relying on access across our client's property, or giving rise to the potential for damage to our client's property.

We trust that Council will support our submission and direct the proponent to modify the plans, as outlined above. Should you wish to inspect the development site from our client's property, please contact Mr Peter McCallum on 0419 245722. Please contact the undersigned should you require any further information.

Yours faithfully

Nick Juradowitch
Director
Ingham Planning Pty Ltd