

30 June 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 with regard to Amended Plans -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 to Amended Plans on behalf of Michael and Sharyn Goodwin (my clients), with regard to their property at 75 Bungan Head Road, Newport.

This submission is prepared further to the submission of amended plans received on 23 June 2025. The submission dated 28 February 2025 should continue to be included within the assessment of the subject DA, where not superseded by the comments made in this letter.

The amended plans include a token reduction to the RLs, and the amendments clearly fail to overcome the key impacts on my client's amenity. The reason for this is that the bulk of the development is sited in an inappropriate part of the site, and although this is on balance acceptable at single storey, the additional bulk of a two-storey addition and pitched roof results in an extremely poor design outcome, resulting in significant amenity impacts.

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A more reasonable and considerate design solution needs to be proposed which meets with the outcomes and requirements of the DCP controls and addresses the significant harm on neighbouring amenity with regard to view sharing, loss of sunlight/overshadowing, overbearing impacts, loss of privacy, etc (as specified). The design is an inadequate response to the site characteristic and takes no account of the amenity impacts and view loss from neighbouring properties, which is wholly at odds with the view sharing principles of the Land and Environment Court.

It is noted that a Visual Impact Assessment (VIA) has now been submitted. However, the VIA is in draft form and perhaps this is in reference to the lack of view aspects recorded and assessed. The VIA is limited to two viewpoint aspects only. My client has informed me that the two view aspects in the VIA are so far east and in an irrelevant location on the rear balcony to provide any useful or practical comment on view loss, in an attempt to support the application. I note from the appendix to the VIA that viewpoint 2 appears to have been taken from an aspect beyond the balcony or at least beyond the outdoor seating area. Viewpoint one is taken further forward but much further to the east than the principal outdoor balcony space. Having said this, viewpoint 1 does show that the proposed development will completely remove the entire view of Bilgola Beach from this aspect.

For these reasons, the findings of the VIA are strongly rebutted as detailed further in this letter. As discussed, the VIA has taken a very limited assessment from only two view aspects, none of which include the view loss impacts from the kitchen, dining and living area (principle living area). Further to this, the VIA has not been conducted with the benefit of erected surveyed height poles to ground proof the findings or a site visit. As per the objection letter dated 28 February 2025, it is requested that surveyed height poles be erected and the VIA amended to reference the height poles and include view aspects from the kitchen, dining room and living room.

Shadow diagrams submitted confirm the impacts on solar impacts considered in the previous submission and additional commentary is provided with regard to this.

My clients continue to have significant concerns which are detailed herewith. Unless significant amendments are made to the proposed development to overcome my client's concerns, it is requested that the proposed development be refused, or the DA withdrawn.

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Recommended amendments are detailed in the letter dated 28 February 2025 at figure 5 and 6. As detailed, amendments should include the part removal of the first-floor elevation and include the reconfiguration of the first-floor layout. In addition to the clear amendments recommended to overcome my client's concerns, it should be noted that there is ample opportunity on site to relocate the bulk of the development. As previously detailed, these opportunities include utilising the site area to the west of the site or closer to the northern boundary. These amendments would retain the development potential and amenity for the applicants.

At a very minimum, the proposed pitched roof structure could simply be replaced with a flat roof over the first-floor accommodation. However, my clients would still be impacted by this more limited amendment due to the bulk and siting remaining in such close proximity to their boundary.

For this reason, should additional amended plans be prepared, my clients request that they have the opportunity to comment. My clients would also welcome the opportunity to discuss any proposed amendments with the applicants and their architects. They are open to permitting access to their home so that the VIA consultants can take images from their principle living space. This should only commence once certified height poles are erected and my clients should have the opportunity to be consulted on where the internal view reference points are taken from.

Summary of outstanding objection

- Proposed development continues to be non-compliant development with 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 Visual Impact Assessment prepared by Urbaine group appears to be in draft form, was not informed by certified height poles or a site visit, is limited to only two poorly selected view aspects, takes no account of the view loss from inside the dwelling and reports that the entire view loss of Bilgola Beach is moderate, contrary to their assessment

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table recommendations. As detailed in this letter, the findings of the VIA are strongly rebutted.

- 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 of submission 28 February 2025 and figure 1 of this submission). Historically this has been Council's advice to ensure reasonable view sharing principles.
- Confirmed overshadowing impacts. This has now been confirmed by shadow diagrams that clearly demonstrate the overshadowing impacts from at least 10am mid-winter, allowing less than 3 hours of sunlight into the only window that serves the principle living space on the northern elevation of my client's property at 75 Bungan Head Road. A merit assessment should be discounted given the topography of the site and opportunities for a more skilful design.
- 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.
- 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.

The following additional information is still required:

- Certified height poles at all corner points of the proposed to fully assess the height and view loss impacts on my clients and amended VIA informed by certified height poles and including view aspects from the principle living space.
- Elevational shadow diagram showing the solar impacts on the only window serving the principle living space on the northern elevation of 75 Bungan Head Road.

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Siting of existing built form and proposed additions – site considerations

Figure 1 of the objection letter dated 28 February 2025 cleared showed the breach to the established rear building line. The additional image in figure 1 overleaf, again demonstrates that existing built form at 77 Bungan Head Road is contrary to established built form, where it projects further to the east than adjacent built form. Given the site topography and scale of existing development, as existing this is acceptable, on balance. However, the additional bulk and scale of the proposed over existing built form, sited further forward than the established building line would undoubtedly obstruct view corridors, is contrary to the reasonable view.

sharing principles, would result in solar impacts and form an overbearing, bulky structure.

Figure 1 – Established rear building line and line of adjacent built form



- Additional built form should not project past the established rear building line (red line) to protect against view loss, solar impacts and overbearing built form.

Source: Northern Beaches Council – DA2025/0115 online file

Severe loss of highly valued views – VIA rebutted

Figure 2 – Additional image taken from principle living area of 75 Bungan Head Road, using the existing chimney as a visual guide to demonstrate how the proposed development will result in view loss of the Bilgola Headland.



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Source: Site photo

Figure 3 – Proposed development would result in the entire view loss of Bilgola Beach from the principle living area.



Source: Site photo

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The site photos at figures 2 and 3 of this submission and the photos included in the 28 February submission, clearly demonstrate a severe loss of iconic views. An iconic view includes entire beach views and loss of headland views. As per the established planning principle, views from a kitchen and principle living area are highly valued because people spend so much time in these areas.

However, the VIA submitted does not include any view aspects from the principle living area, including the kitchen at 75 Bungan Head Road, and doesn't even make reference to view corridors from these highly valued areas. A VIA that does not include an assessment or report on the view loss from the principle living area should be discounted. As already discussed in this letter, the viewpoints selected for the VIA are limited to only two view aspects inappropriately located on the eastern part and lesser used section of the balcony, rather than the area adjacent to the principal living space.

Further to this, the VIA has assessed the entire view loss of Bilgola Beach as moderate. This assessment is strongly rebutted. It is entirely unreasonable to propose and accept an entire view loss of the Bilgola Beach view as moderate. This assessment is contrary to the Urbaine Group Assessment Table at Figure 8 of the draft VIA which notes that a moderate visual impact is, *'one where there is a medium negative impact on the pre-existing visual quality of the view'*. Clearly, an entire view loss of Bilgola Beach cannot be considered as a medium negative impact.

The VIA submitted should be superseded (it is noted that it remains in draft form), and a revised VIA prepared to reference off certified height poles and include view assessments from the kitchen, principle living area and additional areas of the principal balcony adjacent to the living area. The VIA should also demonstrate how an entire view loss of Bilgola Beach is deemed moderate and assess the view loss of the Bilgola Headland.

Notwithstanding these cited concerns with regard to the submitted VIA, it should be noted that as per the Established Planning Principle, even a moderate view loss should not be considered acceptable where a more skilful design could be proposed to ensure reasonable view sharing. A more skilful design could provide the applicants with the same development potential given the site opportunities and design recommendations provided in the objection letter dated 28 February 2025.

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As per the amended plans, the view loss remains a severe loss of iconic views, contrary to Pittwater DCP Control C1.3 View Sharing and the Established Planning Principle, *Tenacity v Warringah*.

Solar impact and demonstrated by solar diagrams submitted

The shadow diagrams submitted clearly identify solar impacts to the only window serving the principle living area which is located on the northern elevation of 75 Bungan Head Road. It is unclear from the shadow diagrams whether the window on the northern elevation would be in shadow from 9am to 3 pm or 10am to 3pm as elevational shadow diagrams have not been submitted and the fenestration at 75 Bungan Head Road is not indicated on the diagrams.

Notwithstanding this, the degree of shadow exceeds the requirements of Pittwater DCP Control C1.4, which state that:

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).

The window on the northern elevation of 75 Bungan Head Road, serving the principal living area is currently the only window that receives any sunlight during the hours of 9am and 3 pm on June 21st, as the remaining windows are located on the eastern elevation and receive no direct sunlight mid-winter between the specified times. Currently the window on the northern elevation receives sunlight from 9am and 3pm on June 21st, as shown on the shadow diagrams.

The proposed development clearly fails to meet the requirements of DCP Control C1.4. A merit assessment based on the topography of the land should be discounted as the subject site is located at a lower gradient, which highlights the extent of bulk proposed in an inappropriate location. A merit assessment based on the orientation of the lot should also be discounted, given that there is ample scope on site to mitigate the solar impacts. The solar impacts are a direct result of the applicant's objectives to obtain maximum solar benefits and view corridors to the detriment of my clients.

Conclusion

This submission sets out my client's continued significant concerns regarding the proposed development under Development Application DA2025/0115 and recommendations/requests. The amended plans clearly fail to overcome my client's concerns and demonstrate the harm that would occur as a result of the proposed development.

This Development Application continues to be non-compliant 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.

As per the objection letter dated 28 February 2015, should Council be minded approving the submitted or amended plans, contrary to the clear reasons for refusal detailed in their submissions, 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.

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*

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