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**Sent:** 2/05/2021 11:10:53 AM  
**Subject:** DA2021/0317 141 Riverview Rd Avalon  
**Attachments:** LETTER TO COUNCIL 2- GREG & BERNADETTE O'NEILL.docx;

Dear Sir/Madam

Attached is our submission in regard to the above development application. This is a re-submission of the submission be issued to you on Friday 30 April to correct the date of our submission which was incorrectly given as 30 May 2021.

Thank you  
Gre & Bernadette O'Neill

1 May 2021

The General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

Attention:  
Gareth David  
Senior Planner, Development Assessment

Dear Sir.

**RE: DA 2021/0317 - 141 RIVERVIEW ROAD, AVALON BEACH  
SUBMISSION ON BEHALF OF NEIGHBOURS - 137 RIVERVIEW ROAD**

My wife and I am the owners of 137 Riverview Road, Avalon and together with input from a friend/architect we have reviewed drawings DA01 - DA17 and 3D artists impression all dated 22 March 2021 prepared by Fyffe Design, Statement of Environmental Effects (S.O.E.E.) dated 22 March 2021 prepared by Key Urban Planning together with the other supporting documents submitted to Council.

We now forward the following comments and observations for Council's consideration in its assessment of the application.

Generally, we feel the bulk and scale of the proposed development is out of character with the area and will be a negative contribution to our neighbourhood. The design of the proposal completely ignores the sites topography and flora and is inconsistent with the desired character of the E4 zoning in the 2014 Pittwater LEP. On such a steep site as 141 Riverview Road with its abundant mature trees a more fragmented/pavilion style solution would be more appropriate than the current design.

Specifically, and for clarity, we have followed the order of Clauses set out in the S.O.E.E. to outline the areas of non-compliance and inaccuracies in the applicant's documentation.

**Pittwater Local Environmental Plan 2014**

- **Part 4 Principal development standards**

**4.3 Height of buildings**

The L.E.P. states that the maximum building height is prescribed under the LEP as 8.5 metres. The application states that the height

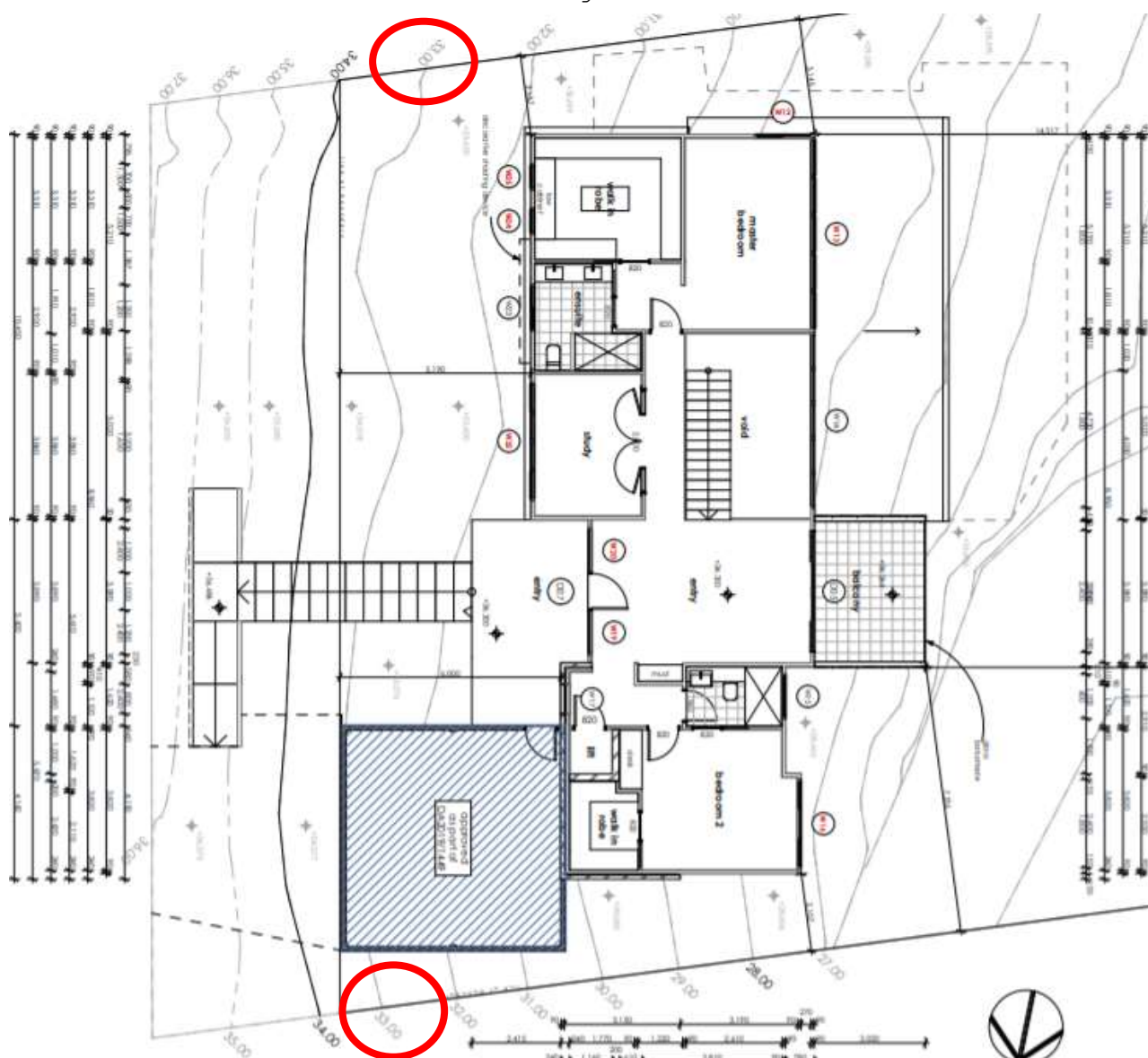
Greg & Bernadette O'Neill

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137 Riverview Road, Avalon

of the development is generally less than the maximum height prescribed for the site under the LEP and goes on to state *".....For reasons stated above, the minor non-compliance with the 8.5 metre height standard is permissible under the relevant provisions of the LEP and therefore is compliant. The height of the building is less than the 10m maximum standard."*

Having reviewed the architectural drawings against the survey drawing prepared by D P Surveying dated 20 June 2017 & 16 October 2020, we have grave concerns about the developments *"minor non-compliance"* in relation to permissible height for the following reason.

Architectural drawings DA04 - DA06 all show that the eastern most contour line within the site as being RL 33.00.



The survey prepared by D P Surveying appears to show that the eastern most contour line within the site is RL 34.00. (hand



biodiversity values of the locality. A limited amount of tree removal is required on the site for the proposed building."

The arborist report that accompanies the development application in part concludes that: *"Retained trees have the potential for future growth and therefore the canopy and root plate have the potential for future growth. All measures have been taken to minimise damage to the proposed buildings and hardstand areas however future growth has the potential to cause damage to the proposed buildings and/or hardstand areas. Further tree removal may be required to comply with the RFS 10:50 Code."*

Contrary to the statement on P34 of the arborist report an online search of this address revealed that applicants property is not subject to a RFS 10:50 zoning.

The development application has requested the removal of 24 trees from a total of 37 listed in the arborists report. This appears to exclude the 2 trees and 6 shrubs approved for removal under the previous carport DA (DA2019/1449).

Of the 37 trees listed in the report, 4 are located on neighbouring properties and 6 are located within Council's road easement. This results in 27 trees within the available development site. Council's referral response has approved the removal of a total of 22 trees, 20 of which are located within the development site. It results in only 7 trees remaining within this site. **A staggering 74% of trees are approved for removal.**

As noted in the following table, there are some differences between the trees requested and those recommended. Requested tree numbers 11 & 12 (located in Council's road easement) have not been recommended for removal, and tree 31 is noted as an exempt species, not requiring consent for removal. If tree 31, a *Pittosporum undulatum* is exempt, why are trees of the same species numbered 17 & 18 approved for removal?

Now included in the recommended consent approvals for removal are trees 26 and 33, which were not requested. Why are trees requested for retention now being recommended for removal?

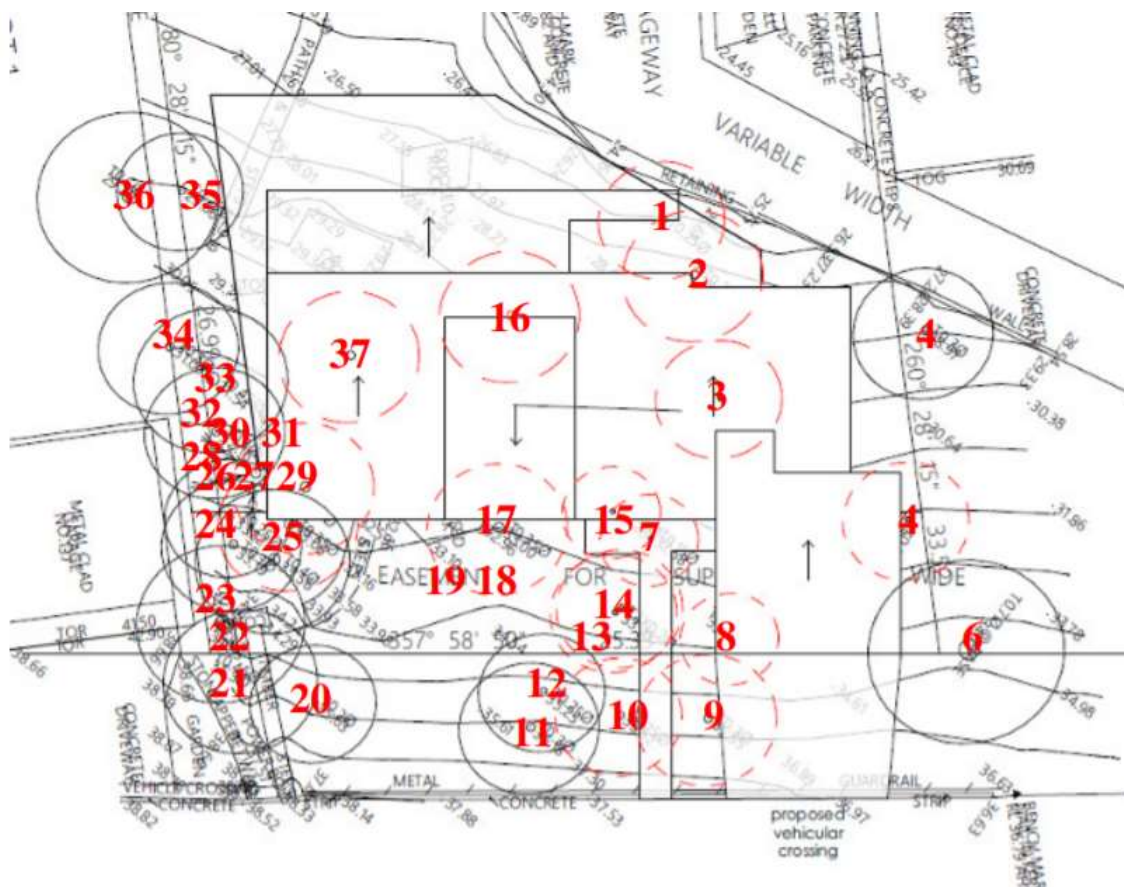
The Arborist report (P34) also states *"In order for the development to proceed in its current format including all hardstand areas and decks will require the removal of Trees 1 - 3, 5, 7 - 10, 13 - 17, 25, 27, 29 - 31 & 37 (19 in total). This is the minimum amount of trees that require removal to construct all building and allow the*

excavation works associated with the development to proceed in its current format." In addition to these they have recommended on P36 that trees 11,12,18,19 & 35 also be removed.

The Council's Landscape Referral Response states "This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

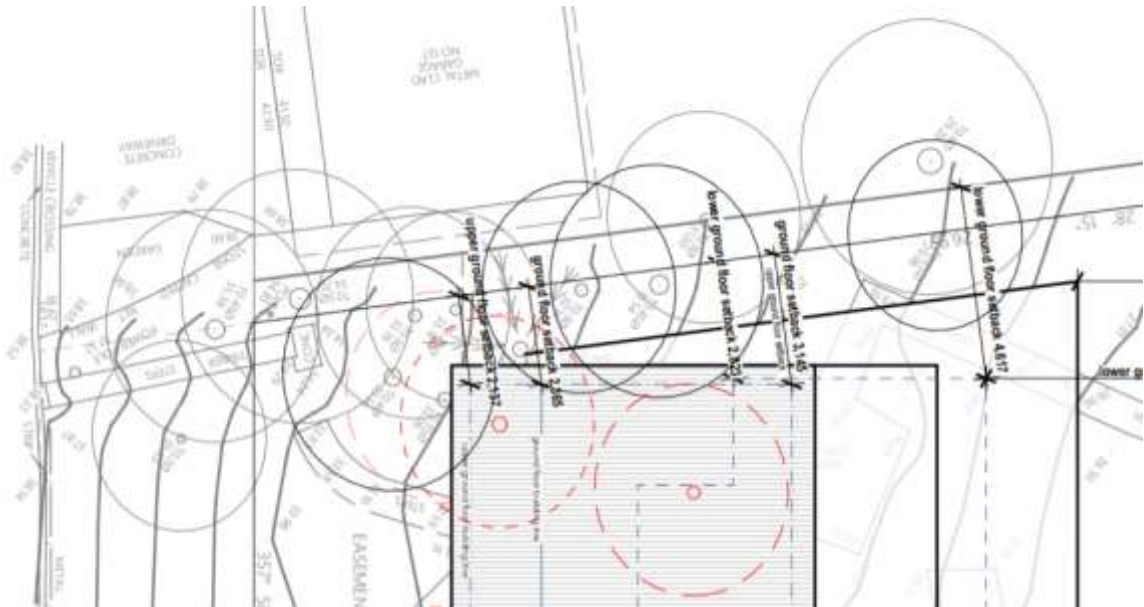
i) T1, T2, T3, T5, T7, T13, T14, T15, T16, T17, T18, T19, T25, T26, T27, T29, T30, T33, T35 and T37"

Difference in tree numbers	
Arborist	1 2 3 5 7 8 9 10 11 12 13 14 15 16 17 18 19 25 X 27 29 30 31 X 35 37
Council	1 2 3 5 7 8 X X X X 13 14 15 16 17 18 19 25 26 27 29 30 31 33 35 37



Page 40 - Arborist Report.

The difference in tree numbers stated above, together with drawing DA03 (below) show eight trees being retained to the south of the development yet omitting to show the Ground Floor southern balcony and access stairs depicted on drawing DA05 leads us to question exactly which trees are proposed to be removed. The statement in the S.O.E.E. "Further tree removal may be required to comply with the RFS 10:50 Code" also causes concern that this maybe used for additional tree removal.



Drawing DA03



Drawing DA05

It is requested that the applicant resubmit documentation to fully and accurately identify all trees proposed for removal.

### C1.2 Safety and Security

Page 22 of the S.O.E.E. contains a statement that *"... fencing is proposed to re-enforce the boundaries of the site and individual open space"*. Currently no neighbouring properties are fenced and from our viewpoint it is something that is most undesirable. Any such fencing is likely to inhibit the free movement of the abundant

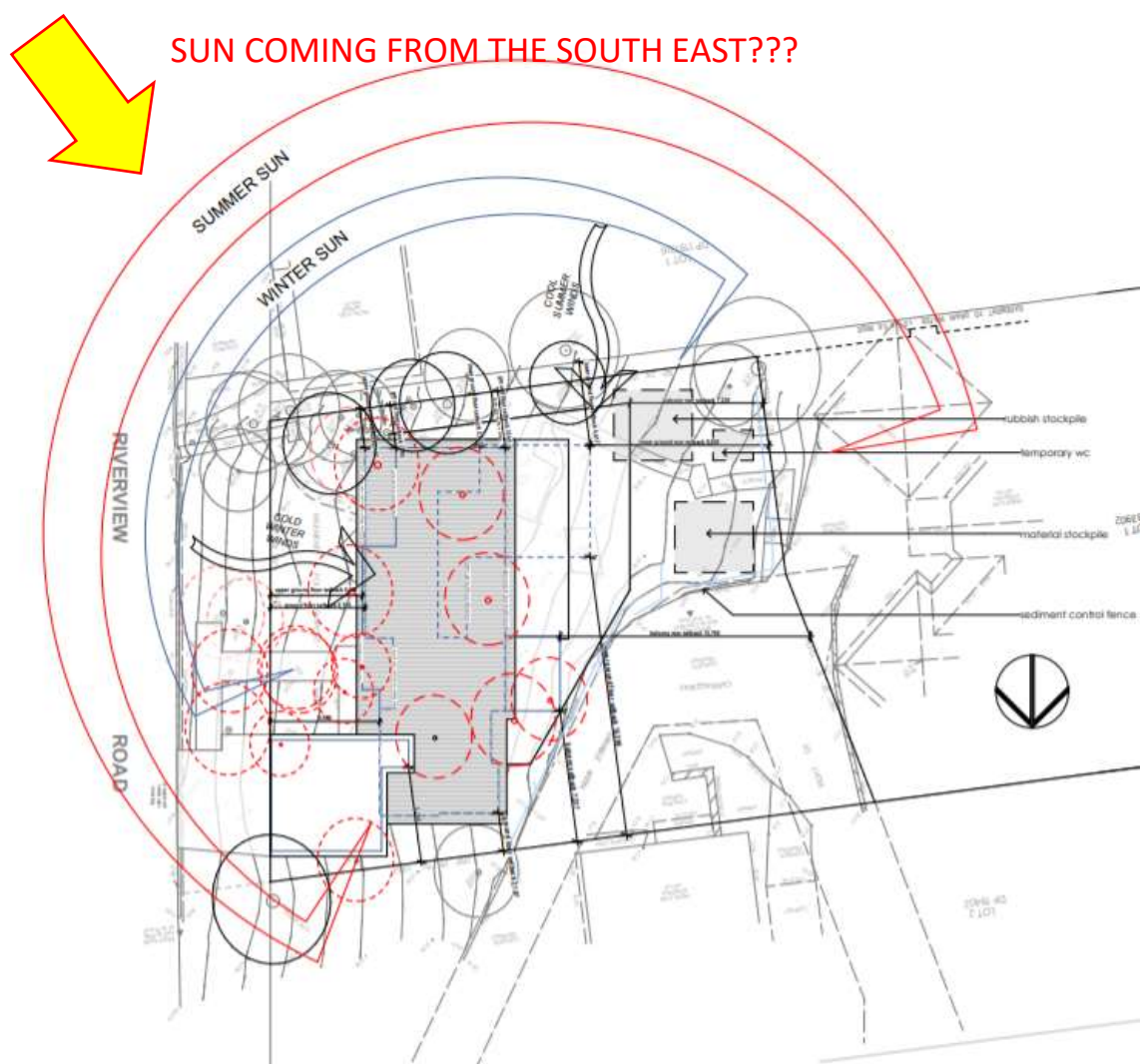
wildlife in the area. If fencing is to form part of the development, the applicant should be requested to provide further details.

#### C1.4 Solar Access

The application states that *"detailed shadow diagrams have been prepared as part of the documentation forming the development application. The proposal complies fully with the requirements of the DCP in regard to overshadowing on adjoining properties and solar access to the proposed dwelling house."*

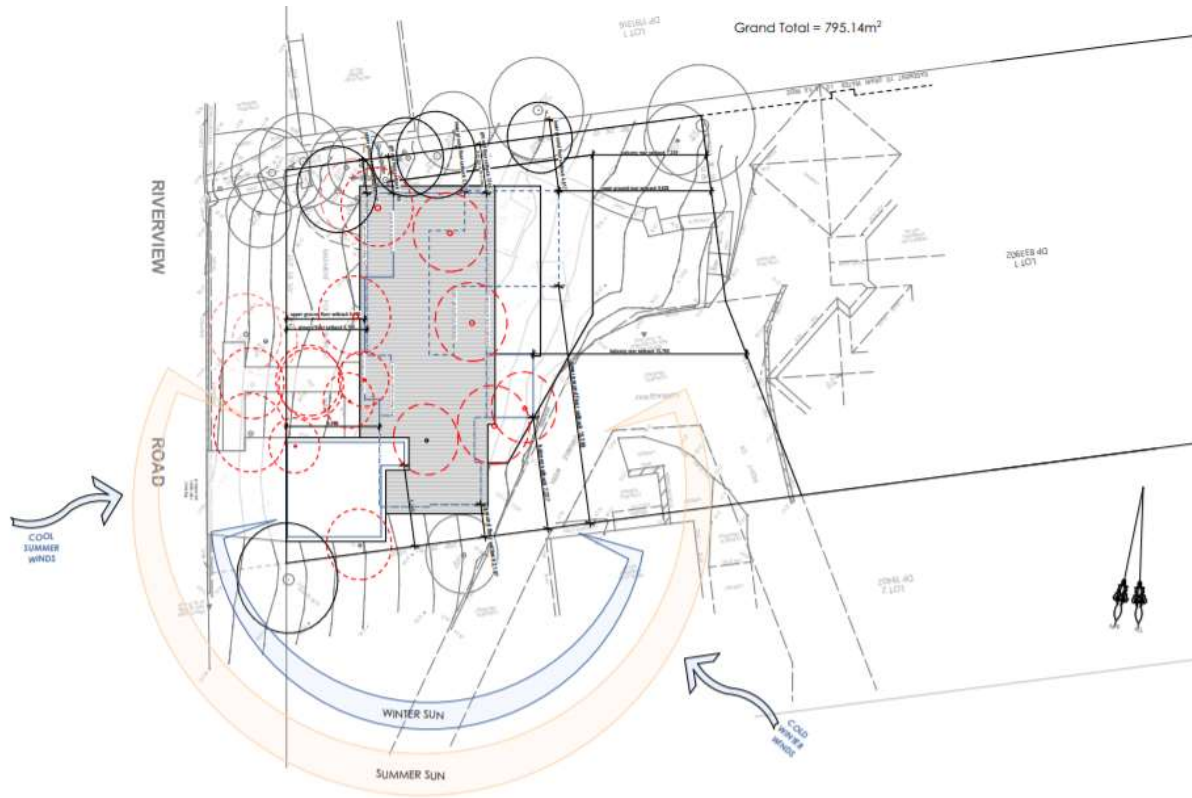
Considering the survey discrepancy noted earlier in relation to the Height of Buildings, it is assumed there may also be inaccuracies in the solar diagrams shown on drawings DA12 & DA13.

The validity of solar access documentation contained in the application is further put in doubt with drawing DA02 showing the Sun coming from the South East as opposed to drawing DA03 correctly showing the Sun coming from the North.



Drawing DA02





Drawing DA03

The accuracy of the 21<sup>st</sup> of June Shadow Diagram is of paramount importance to us as it appears all our morning light will be eliminated by the proposed development. Our residence has expansive full height eastern glazing that appears will be in full morning shade.

We can provide full as built drawing of our residence to the applicant's consultants to allow it to be accurately shown on the drawing DA12 to prove or otherwise, the extent of overshadowing.

The following diagram indicates the approximate position of our residence.

**Disclaimer**  
The shadows shown are of the proposed building only. The study includes natural ground line/levels and takes into consideration height above AHD. The study omits trees, natural geographical features and other nearby natural features that will cause overshadowing.



Architectural Drawing DA12

### **C1.5 Visual Privacy**

Whilst our residence is not located within 9m of the proposed new dwelling, there is the possibility of direct line of sight from the master bedroom, kitchen, and level 2 balcony into our living areas. This is possible as we have glass doors and windows with a total height of 3.7m to the east and north-east corner of our house. It is expected that this will be a particular issue at night with internal lighting.

Whilst our dwelling is not within the prescribed 9m of the proposed dwelling, our inclinor, which traverses between our garage and the house, is within approximately 4.5 - 5.0m of the southern face of the proposed dwelling. Our inclinor is used frequently and a person travelling in it will be approximately 2.5m above natural ground level. It rises steeply to our top landing level of RL35.00. As it passes the main living area of the proposed dwelling located at RL 31.48 it is anticipated this could result in some privacy issues for those in the new dwelling. This is exacerbated by the number of trees being removed in this vicinity.

### **D1.14 Landscaped Area - Environmentally Sensitive Land**

The application includes the following area calculations:



The area calculations that should be considered are as follows:

Site area (from survey)	740.40 sqm
Built upon area (drawing above)	350 sqm (approx.)
Carriageway (DA submission)	133.55 sqm
Total non-landscaped area	483 sqm (approx.)
Total landscaped area is therefore	257 sqm (approx.)
Percentage of site landscaped	35% (approx.)

Based on the above figures, the development only provides for **slightly more than half of the required landscaped area.**

The above has outlined several serious non-compliances with the planning rules and guidelines applicable to this site and we request Council have the applicant resubmit a revised design that is compliant.

Should any additional information be required, please contact the undersigned.

Yours sincerely

**GREG & BERNADETTE O'NEILL**