
Sent: 16/03/2020 8:51:13 AM
Subject: Further submission to DA 26 Ralston Road, Palm Beach 2020/0096
Attachments: Letter of Objection 26 Ralston FINAL.pdf;

Please find attached a detailed letter in addition to the online submission which was made last Friday.

Please refer this email and letter to the relevant officer. Our client will contact the assessing officer in the next few days to organise a suitable day for the inspection of their site.

Kind Regards,

Leonie Derwent
Senior Consultant
Ingham Planning
0405750875



Our Ref: 20044

13 March 2020

The General Manager
Northern Beaches Council

Dear Sir/Madam

RE: DA 2020/0096- Proposed dwellings on land at 26 Ralston Road, Palm Beach.

Ingham Planning has been retained by the owners of the neighbouring site at No. 28 Ralston Road Palm Beach to review the above development application (DA) which proposes the removal of significant trees and the erection of two (2) new dwellings on a site which currently accommodates one single dwelling. The subject site is known as 26 Ralston Road, Palm Beach. Our clients' property lies directly to the west of the subject site and the living areas, upstairs bedrooms and rear outdoor entertaining area of their home look directly onto the area of the site which is proposed to be developed with the proposed dwelling on Lot 4. Our clients' home is at a lower level than the subject site.

The subject site comprises a large single storey brick and tiled roof dwelling which sits at the rear of the block. Due to the changes in levels between our clients' site and the subject site, the current single storey dwelling is dominant in the view to the east. The subject site contains substantial vegetation including significant trees, some of which are proposed to be removed without arboricultural justification (in other words, the trees are simply too close or in the way of the proposed development and their structural stability will be compromised if the development went ahead).

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Figure 1 – aerial view showing the location of our clients' site (bottom of shot) and the approximate boundary line with No. 28. Key areas of our clients' site have been identified.

While our clients respect the rights of their neighbour to develop their property in a reasonable manner and in keeping with the character of the area, they wish to raise strong objections to the proposal because, in its current form, the proposal would affect the ongoing amenity and enjoyment of their family home and the proposed development is not in character with the surrounding locality envisaged by the Council or the community.

There have been no courtesies extended to our clients or other surrounding neighbours in terms of any Pre DA discussions. This is not in the spirit of producing a good planning outcome. As outlined in this submission, a good site analysis should identify the layout and use of areas on the adjoining sites (living zones, quiet zones, private outdoor areas, areas where views are obtained etc) in the early stages of design to overcome potential loss of amenity to established residents. Some discussion with immediate neighbours would have aided this process.

Ingham Planning undertaken a review of the development application documentation with reference to the architectural plans prepared by Dr Stephen Lesiuk, the Statement of Environmental Effects (SEE) prepared by Dr Stephen Lesiuk and the accompanying documentation.

We are of the view that the proposal is unsatisfactory in its current form and should not be supported by Council for the following reasons:



Inadequate Documentation

- The level of documentation is inadequate.
- The DA form is incomplete.
- The questions regarding the requirement/submission of a clause 4.6 variation and critical habitat are unchecked.
- No clause 4.6 variation to the height exceeding the statutory control has been submitted.
- The survey does not show all surrounding properties and provides no ground levels on the adjoining sites making it extremely difficult to make an assessment of the height of the proposed dwellings from our clients site (and all other surrounding sites).
- The elevations are not clearly marked with levels making it extremely difficult to interpret the height, it being noted that our clients' site is at a lower level than the subject site.
- The landscape plan is not detailed enough to give any clarity to what is proposed.
- There has not been assessment made against the relevant State Planning Policies which apply to the site.
- The outline of surrounding dwellings is misleading and the dwelling to the south is absent from drawings.
- Elevations should have some outline of the neighbouring dwellings to assist in a comparison between the height of buildings. These details are absent. This is a large development within an E4 zone, the lack of such details are contrary to the public interest and must be provided in any future application.



Figure 2 showing the height from the ground floor windows towards the existing dwelling. The placement of new higher walls in the vicinity of this boundary will create a canyon like effect within the rear open space.

Inadequate Site Analysis

- As detailed above, the site analysis is inadequate as it does not show a true representation of our clients' dwelling. Both the site analysis and the plans represent our clients' site containing two (2) small structures which misrepresents the layout of the site. Figure 1 above shows a true representation of our clients dwelling in relation to the boundary.
- The constraints of the site such as the location of significant trees and the location of surrounding private open spaces and view corridors is not evident.

E4 Zone Objectives

Zone E4 Environmental Living

1 Objectives of zone



- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

For the reasons as outlined in this submission we are of the opinion that the documentation has not presented accurate information to enable Council to have any certainty that the above objectives have been satisfied. The development in its current form does not address these objectives and cannot be supported by Council.

Height of the proposed development exceeds the maximum height limit

The height of the building exceeds the height control under the Pittwater LEP. The SEE states that the proposal is largely complying and states that that eaves and soffits are permitted outside the height limit however the following definition does not exclude these elements:

building height (or height of building) means—

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The proposed development in its current form cannot be approved as no variation is sought. The DA form was incomplete with respect to the requirement for a clause 4.6 variation. If a clause 4.6 variation were to be submitted the application must be renotified.

The height of the proposal in its current form is unacceptable. The top of the dwelling on Lot 4 is at RL108.650. The top of the roof awning of our clients' home is 102.81. The height difference between the two buildings is therefore nearly six (6) metres. In other comparisons, the window sills along our clients eastern elevation have been surveyed at RL100.66 and RL.100.85. The elevated pool terrace the front of the site is RL101.850, one metre higher than the first floor window sill of the bedroom windows of our clients home. Anyone standing on the pool terrace will be able to look over the fence and be at a higher level than these first floor windows. The proposed dwelling and all structures such as the elevated pool terrace areas are too high and will be extremely imposing within this



residential area. No amount of screening will soften the appearance of walls to adjoining properties.



Figure 3 The photo above shows the awning on the top floor which is surveyed at 102.81. The elevated pool deck is RL101.850 which gives an indication of the disparity in levels between the sites and consequences for overlooking into our clients site.

Shadow Impact

The absence of any boundaries or the outline of surrounding structures on the submitted shadow diagrams renders them useless in the assessment of the private open spaces of our clients' site. In particular we note that the private open space of our clients' property is located in the south eastern corner, immediately adjacent to the subject site. The shadow diagrams indicate shadows will be thrown into this corner of their garden. This is a highly used area of our clients' property for outdoor dining, relaxation and entertaining.

The site analysis did not make comment (either diagrammatically or in written explanation) on the layout or use of any of the adjoining sites. The SEE states that "*The proposed shadows do not adversely impact on neighbouring dwellings or the private outdoor spaces of adjacent dwellings.*". Given the absence of the surrounding dwellings on the shadow diagrams we challenge this statement which



has been made as it appears that the private open space and parts of the dwelling are heavily overshadowed even in the equinox. This would indicate that the development of lot 4 is an overdevelopment of the site.

Further to the above, our clients site sits at a much lower level than the subject site and without surveyed ground levels we would question the accuracy of the submitted shadow diagrams. Our clients request that shadow diagrams be certified.

We do not believe that in its present form, that the Council could accurately make an assessment of the following outcomes and controls:

Outcomes

Residential development is sited and designed to maximise solar access during mid-winter. (En)

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)

Reduce usage and/dependence for artificial lighting. (En)

Controls

The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.

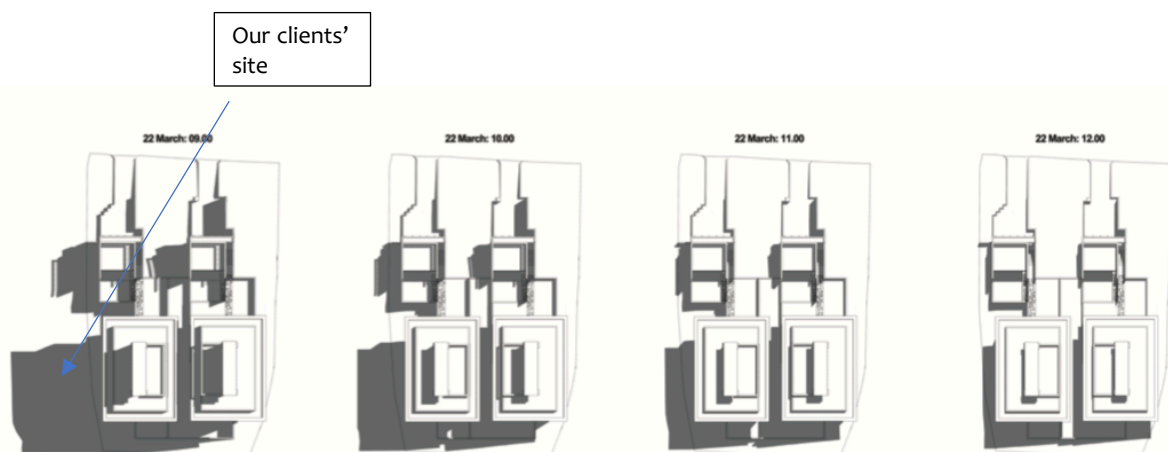


Figure 4 Extract of the shadow diagrams in March/September at 9am, 10am, 11am and 12pm at which time overshadowing is improved when compared to June, showing shadow onto our clients' site until midday.



The photo below shows the private open space at the rear of our clients home which will be in shadow in the mornings and windows along the side elevation which could also be impacted:



Figure 5,6,7 – photos of the private open space and relationship between our clients site and the subject site

Loss of Trees from the Site

Several large and significant trees including Sydney Blue Gums and a Cheese Tree are proposed to be removed. These trees are in good health (apart from recent storm damage in some canopies) and have only been recommended for removal by the applicant's arborist simply because they are either too close or within the footprint of the proposed development. There is no justification for their removal based upon poor health or structural stability in the current environment.

The loss of these trees will have a significant impact on the streetscape of Ralston Road and these trees contribute to local habitat for fauna. We note that the documentation states that replacements will be planted however the landscape plan does not indicate the location of trees on the site and the plant list is incomplete in regard to the proposed numbers of trees. This is incomplete and unsatisfactory for the immediate and wider community as there is no security where or when or how many trees would be re planted on this site. The loss of several mature trees which serve as habitat should not be approved. The site analysis drawings have simply ignored these significant trees as constraints to the redevelopment of this site.

We also note that the removal of these trees has not been clearly notated on the plans which is not in the public interest.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 has not been addressed within the application. Given the loss of significant trees without cause and with others solutions available, the proposal cannot comply the



underlying aims and objectives of this Policy which include (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Deficient Landscaping and unsatisfactory Landscaping Plan

The specific outcomes which have been identified for this locality are:

D12.10 Landscaped Area Environmentally Sensitive Land

The stated outcomes are:

Achieve the desired future character of the Locality. (S)

The bulk and scale of the built form is minimised. (En, S)

A reasonable level of amenity and solar access is provided and maintained. (En, S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

Conservation of natural vegetation and biodiversity. (En)

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)

To preserve and enhance the rural and bushland character of the area. (En, S)

Soft surface is maximised to provide for infiltration of water to the water table, minimise runoff and assist with stormwater management. (En, S)

The controls are:

The total landscaped area on land zoned R2 Low Density Residential or E4 Environmental Living shall be 60% of the site area.

The proposal fails to meet the landscaped area requirements. A significant departure of approximately 20% (60% required, approximately 40% proposed). This is unacceptable on the two (3) new development and across two (2) sites. There is no major constraint to the provision of the required landscaped areas. In addition, significant trees are proposed for removal. There is inadequate justification provided within the SEE.

In this instance where there is no FSR control, the bulk and scale of the development relies heavily on the compliance with landscape control to demonstrate a satisfactory bulk and scale. A variation to the degree sought is unacceptable for a new development.

The application does not include a plan which shows how landscaped area is calculated and we request that if any future plans are submitted that such calculation be presented.



The landscape plan is unsatisfactory for the reasons highlighted below. The elevated structures such as the pool terraces cannot be satisfactorily screened at the height proposed to either soften the built form forward of the dwellings or to provide visual screening for neighbours.

In addition to the non compliance noted above:

- the landscaping plan does not clearly indicate the trees to be removed (this is only referenced by blue circles which relate to a notation on one other plan in the set.)
- there is an absence of finished and proposed RLs on the plans. References to natural ground levels being maintained and natural grades to street must be confirmed by RLs on the plans.
- as shown below, the landscape plan is schematic and relies on mark ups such as "*indicates areas of screening landscape*", immediately adjacent to our clients' boundary and private area of open space. Such mark ups clearly overlap the boundaries. Our clients have no certainty as to what is proposed beside their boundary in terms of landscape.

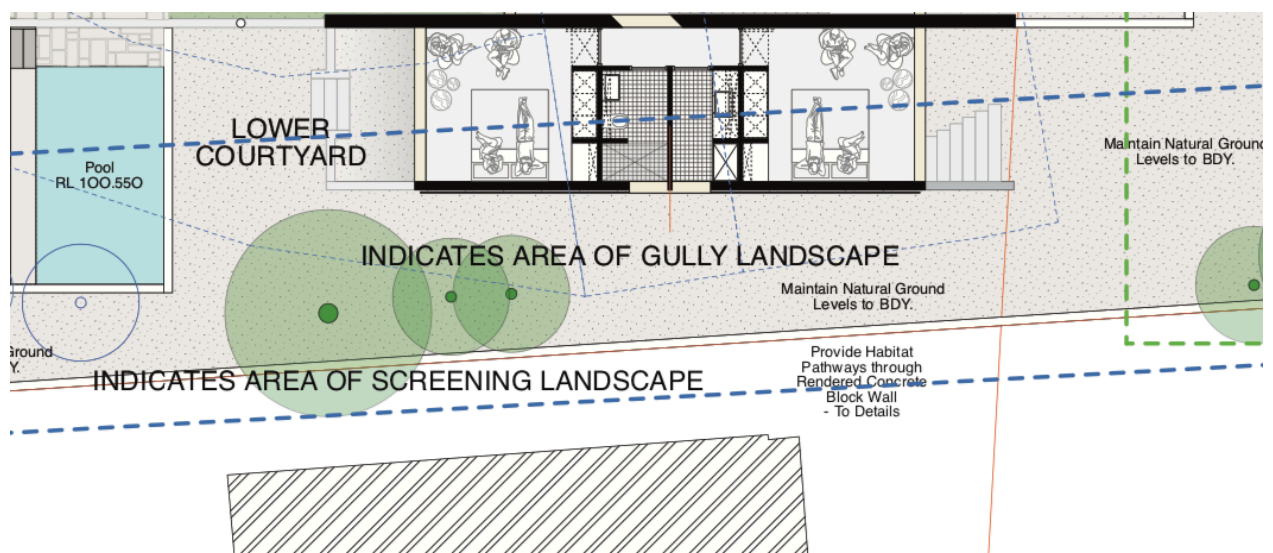


Figure 8 showing extract of landscape plan beside our clients' site with areas of proposed landscaping over the common boundary.

Photos of another site

The submission includes photos of another site within the documentation. This is misleading particularly given that the proposed pool terraces within the submission are raised above garages (metres above ground) whereas the photos



show pools without elevated structures. This part of the documentation should be withdrawn.

Visual Privacy

The stated outcomes are:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)

A sense of territory and safety is provided for residents. (S)

The proposal has not demonstrated that this can be achieved. The elevated levels of the outdoor terrace areas will enable views over fences. No privacy diagrams have been presented. Our clients currently enjoy good levels of privacy between the subject site and their home and do not wish this to be compromised. We provide photos below taken from our clients' home looking towards the subject site:

Aural Privacy

The stated outcomes are:

Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited. (S)

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas (S)

The proposed Moon Viewing Terraces are at a level which towers over our clients' dwelling and will result in unacceptable noise within a low density (E4) residential area. As stated earlier, the finished levels of the pool terraces are significantly higher than our clients first floor windows and are unacceptable for both visual and aural privacy. There is no guarantee to any surrounding neighbour when roof terraces will be used and what type of covering or lighting would be installed at a later date. The approval of any upper level terrace would be contrary to the public interest.



Figure 9 and 10

The current view looking out of the 2nd floor right hand bedroom from the side and front windows.

Façade Design

The stated outcome is:

Improved visual aesthetics for building facades.

In order to enclose the proposed dwellings from the surrounding dwellings, the proposal would result in stark facades without fenestration adjoining residential boundaries. As discussed, the height differences between our clients' site and the subject site would result in huge walls being visible from the rear of their property in that area of their site which is used as private open space.



Figure 10 Area of private open space (in between the dwelling and the garage) which will also be overwhelmed by the neighbouring development and overshadowing.

CONCLUSION

We trust that Council will carefully consider the concerns we have raised on behalf of our clients.

There are deficiencies in the DA, which include but are not limited to:

- Non compliance with the zone objectives for the E4 Environmental Living Zone;
- Non compliance with height;
- Lack of a clause 4.6 variation to the height standard;
- Significant non compliance with minimum landscaped areas for both sites without justification;
- Non compliance with objective and controls of the Pittwater 21 DCP;
- The loss of trees, many of which are considered of high scenic value within the neighbourhood;
- Loss of screening trees immediately adjacent to the boundary which would normally be retained. These trees are proposed to be removed due to the vehicle access and garage;



- Loss of aural and visual privacy to neighbours;
- Inadequate spatial separation between the built forms resulting in high walls and overshadowing;
- The inability of our clients to screen plant from their side due to the sheer height of the buildings and structures proposed.

The above deficiencies suggest that the proposal in its current form for two new dwellings is not suitable for the subject site. In its current form the application should be refused. There is insufficient information within the application to enable a full assessment of the proposal.

Due to the change in levels between our clients' site and the subject site and the number of rooms and private outdoor areas which would be affected by the proposal it is absolutely necessary that the assessment officer visit our clients' site. Our clients will make themselves available at any mutually agreeable time and will provide their contact numbers to the assessment officer in due course.

We would be pleased to be advised when Council has completed its assessment of the development application. Please contact the undersigned should you require any further information.

Yours faithfully

Leonie Derwent
Senior Planner
INGHAM PLANNING PTY LTD