

2nd December 2021

The General Manager
Northern Beaches Council
725 Pittwater Road
DEE WHY NSW 2099

Attention: Mr Nick England – Town Planner

Dear Mr England,

Notification Response – Development Application DA2021/2075
Alterations and additions to the existing dwelling
No. 22 Ocean Road, Palm Beach

We have been engaged by the owners of No. 66 Florida Road, Palm Beach, the property immediately to the west (rear) of the subject development site, to review the plans and documentation prepared in support of the above development application and to provide advice in relation to policy compliance and in particular, the acceptability of resultant privacy and view impacts. The relationship of our client's property to the development site is depicted in Figure 1 below.



Figure 1 – Aerial photograph depicting the juxtaposition of the development site (yellow shading) to our client's property (red star)

Having reviewed the documentation prepared in support of the application and inspected our client's properties to determine the juxtaposition of adjoining properties and available view lines, we are compelled to object to the application in its current form on the basis of unacceptable view impacts associated with the height of the proposed roof form and potential privacy impacts associated with the west facing high level windows. Our objection to the proposed is detailed as follows.

View loss

As the long section submitted in support of the development application demonstrates, views are currently obtained from our client's property in an easterly direction over the subject property towards Palm Beach, the Pacific Ocean and its immediate environs an extract of which is at Figure 2 below.

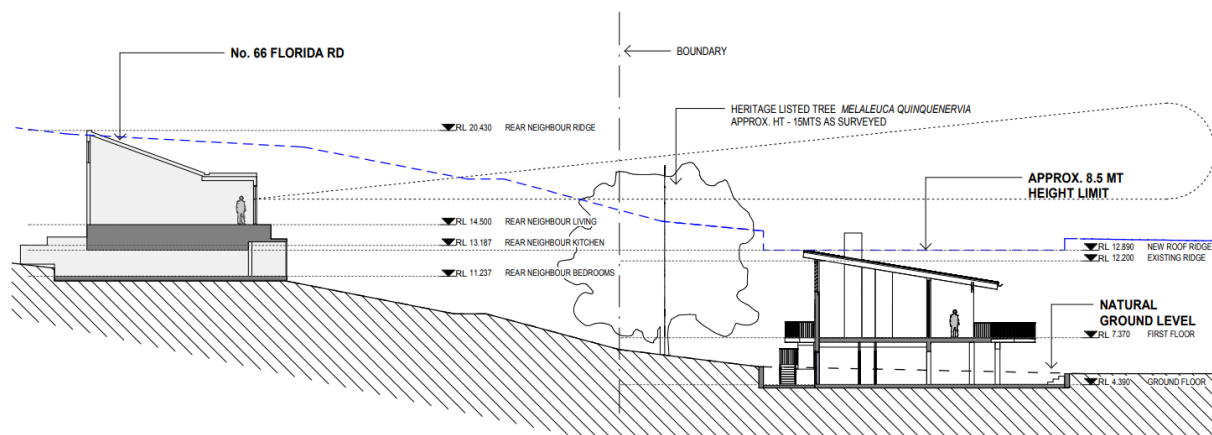


Figure 2 – Plan extract showing view lines available over the subject property from our client's property

Whilst the proposal has a maximum ridge height of 8.5 metres measured above ground level (existing) and therefore compliant with the 8.5 metre height of buildings standard, we consider that the proposal does not achieve a view sharing outcome in accordance with the view sharing provisions contained at clause C1.3 of Pittwater 21 Development Control Plan (PDCP).

We note that these PDCP provisions adopt the planning principle established by the Land and Environment Court of NSW in the matter of *Tenacity Consulting v Warringah [2004] NSWLEC 140*. The 4th step in *Tenacity* states that where a development is compliant with the 8.5 metre height standard, the question should be asked 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.

In this regard, we note that the proposed living room has a ceiling height at its western edge of 4.83 metres which is significant in the context of the minimum 2.4 metre ceiling height required pursuant to the Building Code of Australia. We also note that the proposed ridge height of RL 12.89 is 690mm above the ridge height of the existing dwelling house over which views are currently obtained from our client's property.

Under such circumstances, we are of the opinion that the ceiling height at the western edge of the proposed living room should be reduced by 690mm such that the proposed roof form has a maximum RL of 12.2 being the ridge height established by the existing dwelling house on the subject property. Such amendment would represent the more skilful design sought by the 4th Step in *Tenacity* in that it would reduce the impact on views from our client's property without compromising the development potential and amenity of the subject property. Such outcome would achieve a view sharing outcome consistent with the view sharing provisions at clause C1.3 of PDCP.

Potential privacy impacts associated with the west facing high level windows

Our clients are concerned in relation to the potential direct line of sight from the internal living areas of the proposed development and their elevated living and private open spaces. Whilst the plans nominate fixed timber louvres which appear to point in a downward direction, we request that a condition be imposed on any consent requiring the fixed timber louvres to be angled at 45° in either an upward or downward direction to prevent direct line of sight between adjoining properties.

In this regard, no further objection would be raised to the proposal subject to the following amendments:

- The proposed western ridge height being reduced to RL 12.2, and
- The imposition of a condition requiring the fixed timber louvres nominated on the west facing high level living room windows to be angled at 45° in either an upward or downward direction to prevent direct line of sight between adjoining properties.

We trust that Council will carefully consider this submission. Please do not hesitate to contact me to arrange site access or should you wish to discuss any aspect of this submission.

Yours sincerely
Boston Blyth Fleming Pty Ltd

A handwritten signature in black ink, appearing to read 'Greg Boston', with a stylized flourish at the end.

Greg Boston
B Urb & Reg Plan (UNE) MPIA
B Env Hlth (UWS)
Director