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**Sent:** 10/10/2017 9:09:01 AM

**Subject:** Re: 13A Ocean road, Palm Beach - DA N0373/17

**Attachments:** DA N037317 - Architects Objecton Reply - 13A Ocean Rd, Palm Beach.pdf; DA N037317 - Response to Submission 13A Ocean Rd, Palm Beach 280917.pdf;

d\plainHi Nick,

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d\plainIn response to the neighbours submissions regarding the proposed development, please find our response for your information.

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d\plainIf you require anything further to assist your assessment, please do not hesitate to contact me.

d\plain

d\plainRegards,

d\plain

d\plainVaughan

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d\plain

**d\plain**

**d\plainVaughan Milligan Development Consulting Pty Ltd**

d\plainCommercial | Residential Town Planning Consultants

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28 September 2017

Attn:  
Development Assessment Planner  
Northern Beaches Council

Dear Nick Armstrong,

RE: 13a Ocean Road, Palm Beach  
Subject: **Development Application**

We have reviewed the objections prepared by the neighbours at 9,11, 14 and 18 Sunrise Road Palm Beach. We make the following comments in reply to the statements made by the objectors.

### Objections from 14 Sunrise Road

#### Site suitability

The geotechnical engineer is professionally cautious about the site but no more so than a geotechnical engineer should be with a steeply sloping site. The fact that there are already 20 plus houses on the same escarpment (including the neighbouring sites) which have not had geotechnical failures is testimony to the ability of geotechnical engineers and builders to design and build for such a site. There is no suggestion from the experienced geotechnical engineer that the works are not possible on the site and council can be satisfied that, with the recommended precautions the proposal is suitable for the site.

The proposed floor level was in response to maintaining compliance with the maximum 3.5m undercroft height.

#### Privacy and over looking

There consultant representing the southern neighbour has misunderstood the proposal.

There is no window in the master bedroom that faces south as stated in the objection. There is a highlight window in the living room with a sill at 2.65m above floor level. There are privacy blades on some of these highlight windows which are for the subject site's privacy from a site-line when standing on the neighbour's driveway.

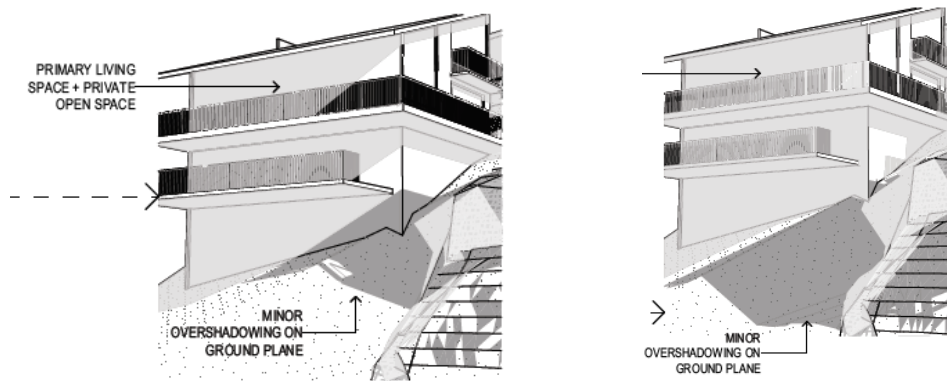
The window in the bathroom that faces south will be frosted for mutual privacy and in any case, there is 3m in which to landscape between the bathroom window and the boundary line and a further 3m+ to the window line on the adjacent property.

Accordingly, the concern regarding privacy impact to the southern neighbour is ill-founded and we contend that the privacy impact to the southern neighbour is negligible.

## Solar access

The over-shadowing to the southern neighbour does not represent an unacceptable increase. It is minor and not in an area that is primary open space but rather a steep section of the garden already landscaped with shrubs and weed plant material. The images below (from DA06.04\_A) show the small and only change in overshadowing to the southern property at 10am and 11am June 21. The photo below shows the actual area that is affected.

We note that this small shadow increase is the result of the lower roof over the bedroom which is set back 2.5m to the southern boundary, and not the highlight window over the living space. We note that the positioning of the dwelling has been well considered for the benefit of the southern neighbour to the detriment of the proposal. (A smaller setback to the subject site's southern side and a larger setback to the subject site's northern side would have meant less over shadowing to the proposed dwelling from 18 sunrise road.)



*Site photo of the subfloor area and garden affected by the proposal*

## Trees and landscape

The siting of the dwelling has been carefully considered to limit the impact on the existing landscape. Of the 28 trees identified by the arborist for consideration, 17 trees are retained and 11 removed. Of the trees to be removed 9 of the trees are only value-3 trees (low landscape significance or short life expectancy) and

there is only 1 retention-value tree proposed for removal. (Another tree outside of the building footprint is recommended for removal as it is in decline, however, council may condition its retention). Importantly, the sole tree identified as a priority for retention is retained and will be protected. The stairs to the road are not cut into the ground plane and avoid all trees, and in fact celebrate the tree'ed nature of the site as they weave between the trees on the upper levels of the site and council verge.

The proposed planting will provide sufficient privacy screening as they can grow up to 3-4m.

Accordingly, it is contended that the dwelling has been sensitively sited to retain the trees of the greatest value as well as the natural rock faces and outcrops.

The proposed development will be within an existing lightly vegetated zone and will not unreasonably impact upon any existing wildlife corridor. The site will still maintain over 70% landscape cover, being 18% more than the required minimum. New plants proposed for the site include 65% indigenous and 29% native plant species as well as 8 new canopy trees. The change to the landscape is considered to be comfortably in accordance with council controls and policy objectives.

### Existing house configuration

The existing house is not being used as 2 dwellings. The dwelling has an internal connection between both levels and is being used as single family residence. The existing house is not set up to allow the house to be broken into 2 separate self-contained dwellings. There is one front door only. Accordingly, there is no existing secondary dwelling on the site and council can be assured that there will only be 2 dwellings on the site should the approval be granted.

The kitchenette down stairs is not suitable for use as a kitchen to cook in. It is more like 'bar'.

### Objections from 18 Sunrise Road

#### Secondary dwelling

The neighbour contends that the proposal is not in conjunction with the principal dwelling and therefore is a dual occupancy and not a secondary dwelling. It is worth remembering that the same neighbour objected to the previous proposal which was directly connected with the house and in the neighbour's opinion this made that proposal too bulky. In response to the previous objections and council's recommendation, the two dwellings were separated in this proposal in order to breakdown the massing on the site. The Owners have a right to develop the land but it appears that the neighbours feel that no development on the land is reasonable as they have grown accustomed to having a landscaped site next door.

#### Development of a low-density area

The objection that the proposal is an over development is not evidenced by the density, scale and height of the proposal, particularly in comparison to the adjoining neighbours. The proposal comfortably complies with the 8.5m building height control and the additional 10m discretionary height control for steep sites. It has greater landscape and open area than the minimum required for the site by more than 18% or approximately 110m<sup>2</sup>. The proposal has been separated from the dwelling below so that the building mass on the site is more spread out.

The proposal is undoubtedly modest given the scale of the dwellings on either side. The diminutive size of the proposal is readily understood with reference to the eastern elevation drawing which shows how the adjoining dwellings, particularly 18 Sunrise road, are much higher than the proposal,

### **Scenic quality**

It appears that the neighbour has grown accustomed to having a landscaped site next door and consequently believes that no development on the land is reasonable. Whilst the neighbour will be affected to some degree by the modest proposal, it is important to recognise that the Owners have a right to develop the land with a modest secondary dwelling as proposed. Refer above for further comments on the changes to the trees on the site.

### **Car parking sunrise road**

Refer above for comments on car parking.

### **Height control compliance**

The DCP height plane control on the northern side of the property is the only non-compliance with the proposal. The non-compliance is considered negligible as it does not affect solar access, views from private or public spaces and its contribution to bulk is minor. The balcony to 18 sunrise road is 6.4m above the proposed roof and the sill to the lower level windows is 3.4m above the proposed roof.

Notably, the highlight window is designed to afford solar access from the northern side because the building bulk of number 18 casts long shadows.

Furthermore, as noted above, the primary height control of 8.5m and the discretionary height control of 10m for such steep sites are both easily complied with by the proposal.

### **Privacy**

There is no anticipated overlooking to the northern neighbour's site. The northern neighbour is highly elevated in relation to the site.

The shortest distance between the proposed staircase and a wall of 18 Sunrise is over 9.4m and separated by existing dense landscape on both sides of the boundary. The change in privacy to the northern neighbour is considered negligible.

### **Structural impact**

We have no objection to council requiring dilapidation reports on the neighbouring dwellings or council conditioning the recommendations of the geotechnical engineer's report.

## Objections from 9 Sunrise Road

### Existing house configuration

Refer to comment above.

### Location of the site and connection to existing

As noted previously, the location of the site was determined in response to previous objections regarding the combined building bulk of the house and the granny flat near each other and Council's advice that a proposal separated from the house and accessed from Sunrise road will be a preferable option to address the building bulk.

Whilst it is understood that the neighbours do not want to see development on the site, the Owners are within their rights and within the council policies to add a secondary dwelling to the site. As noted above, the proposal is modest and well sited on the site to avoid disturbance to trees of importance and the natural rock faces and to break down the massing on the site.

### Access to the flat and parking

The response to car parking concerned has been addressed above.

### View lines and height

The proposal comfortably complies with the building height requirement. The overall height is reflective of the very steep nature of the site greater than 30 degrees - it is not reflective of a building that is excessive in height nor is it reflective of the general height of the proposal, it is a maximum height. The site falls 3.9m over the very modest 6.5m depth of the proposal. A maximum height of 8.08m does not mean that there is space for 2 storeys. The maximum height of the proposal above existing ground on the highest side of the site is only 3.2m. The height of the living space is 4.3m. This is clearly not enough space to accommodate 2 floors. As noted above, the clerestory is however, designed to afford the best solar access to a space that is overshadowed by the neighbouring property which towers above it.

We note also that the height is in part a consequence of avoiding excessive excavation. The proposed dwelling also complies with the maximum 3.5m undercroft area as required by DCP clause "D12.13 Construction, retaining walls, terracing and undercroft areas".

There is no possibility of a loss of view from 9 Sunrise road. The road surface is 8.4m above the roof of the proposal and in addition to this, the lowest window at 9 Sunrise Road is estimated to be over 6m above the street level opposite the site. Accordingly, there is no anticipation of any view loss to number 9 Sunrise road.



### Objections from 11 Sunrise Road

The objections from this neighbour are addressed above.



Michael MacCormick

Nominated Architects:  
M. MacCormick 6702

28 September 2017

Mr Nick Armstrong  
Northern Beaches Council  
PO Box 882  
MONA VALE NSW 1660

Attn: Mr Nick Armstrong

Dear Mr Armstrong,

**REFERENCE: DEVELOPMENT APPLICATION NO. NO373/17**  
**ADDRESS: 13A OCEAN ROAD, PALM BEACH**  
**PROPOSAL: CONSTRUCTION OF A SECONDARY DWELLING**

On behalf of my clients, Michele & Trevor Matthews of No. 13A Ocean Road, Palm Beach, I have prepared the following response to address the planning concerns raised in the submissions received during the notification period for the subject Development Application.

This submission has been prepared in conjunction with the submission in reply prepared by the Project Architects – MacCormick & Associates Architects, dated 28 September 2017, issued under separate cover.

The concerns raised in the submissions are addressed as follows:

**Proposed Use**

- Concern was raised regarding the use of the proposed secondary dwelling. The proposed dwelling is intended to be secondary to the existing primary dwelling on site and in accordance with Council's requirements.

The use of the proposed secondary dwelling is to be in accordance with the definition for secondary dwellings stipulated within Pittwater Local Environmental Plan 2014, which reads as follows:

*secondary dwelling means a self-contained dwelling that:*

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.*

....1/4



The proposed secondary dwelling will support the existing dwelling and is an appropriate supplementary residential use for the land and respects Council's E4 Environmental Living Zone objectives and Pittwater21 DCP Desired Future Character Statement.

### **Privacy**

- Concern was raised with regard to the potential for overlooking to No. 14 Sunrise Road to the south. No windows are provided within the southern elevation adjoining the proposed bedroom which would directly overlook the neighboring property. A narrow bathroom window in the southern elevation is to be provided with obscure glazing and as such, and no unreasonable or adverse overlooking to the southern neighbouring dwelling will therefore occur.

With regard to the potential for overlooking from the proposed bedroom to the rear yard of No. 14 Sunrise Road, the bedroom is not a high use room and is not considered to result in any problematic overlooking. In addition, the elevation of the proposed bedroom above the rear yard of the southern neighbour further reduces any potential overlooking.

- Concern was raised with regard to the potential for overlooking from the proposed pedestrian walkway to No. 18 Sunrise Road to the north. Perimeter plantings are provided along the northern side boundary as detailed in the submitted landscape plan. The proposed plantings are considered to suitably mitigate overlooking from the walkway to the northern neighbour.

### **Solar Access**

- Concern was raised with regard to the solar access impacts of the proposed secondary dwelling to No. 14 Sunrise Road to the south. The proposal is accompanied by shadow diagrams which demonstrate the overshadowing impacts of the proposed works. The subject and neighbouring properties will continue to receive excellent solar access between at 9am and midday on 21 June, and the proposed secondary dwelling will not have an unreasonable impact on the solar access received by the southern neighbour.

As demonstrated within the submitted shadow diagrams, the elevation of Sunrise Road and the Sunrise Hill area to the west result in the site and its neighbours being largely within the afternoon shadow of the nearby natural features.

### **Trees and Landscaping**

- A number of submissions raised concern with regard to the visual impact of the proposed development on the vegetated locality. The proposed secondary dwelling has been designed and sited in order to minimise the impact on significant trees.

The submission is accompanied by an Arboricultural Impact Report prepared by Landscape Matrix, dated 17 August 2017. Of the 28 trees identified by the arborist for consideration, 17 trees are retained and 11 removed. Of the trees to be removed 9 of the trees are only value-3 trees (low landscape significance or short life expectancy) and there is only 1 retention-value tree proposed for removal.

The landscape plan prepared for the development by Volker Klemm Landscape Design will see the managed re-planting of the site and the re-introduction of screen planting to contribute to the landscaped character of the locality. The proposed secondary dwelling is a permissible in the zone, and given the large size of the lot and modest extent of the proposed development, the proposed secondary dwelling is considered to be reasonable.

### **Car Parking**

- Concern was raised with regard to the availability of car parking for the proposed secondary dwelling. Council's DCP suggests an additional off street car space should be provided for a secondary dwelling and is generally applied where site conditions facilitate the provision of further off street parking.

In this instance, the challenging topography (long and steep climb/descent) and limited opportunity for level car parking space within the site restricts the ability to provide for additional off street parking.

As additional parking is available within Sunrise Road and will suitably cater for the parking requirements of the proposed single bedroom secondary dwelling, the existing parking is considered acceptable in this instance.

### **Building Height and Envelope**

- Concern was raised with regard to the proposed height of 8.08m. As the proposed height complies with the statutory height limit of 8.5m, the height of the proposed structure is considered reasonable, particularly in the context of the height and form of the adjoining dwellings.
- As detailed in the submitted Statement of Environmental Effects, the proposal will present a variation to the building envelope as a result of the site's sloping topography. As the proposal is not considered to have any impact on the southern neighbour in terms of solar access, and the proposal readily complies with the statutory height limit, the proposed building envelope is considered worthy of support.

### **Future Development**

- A submission raised concern with regard to the potential for future additions to the proposed secondary dwelling. The proposed secondary dwelling provides a floor area of 59.76m<sup>2</sup>, and therefore no additional gross floor area can be provided under the current planning instrument due to the 60m<sup>2</sup> maximum floor area for secondary dwellings.

### **Geotechnical Considerations**

- Concern was raised with regard to the suitability of the development for the site given the geotechnical hazard which applies to the site. A Geotechnical Investigation has been prepared by qualified Geotechnical Engineers (Douglas Partners, dated 2 August 2017).

The report provides the following comment (over):

*“When compared to the requirements of the Pittwater Council and the AGS, it is considered that the existing site and the proposed development meet ‘Acceptable Risk Management’ criteria with respect to property and life under current and foreseeable conditions.*

*“Provided construction is undertaken in accordance with the recommendations contained in this report, construction of the proposed new residence, garage and retaining walls is not expected to affect the overall stability of the site or negatively influence the geotechnical hazards identified in Tables 1 and 2.”*

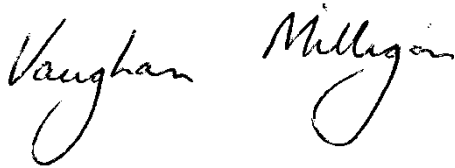
The proposal is therefore considered to suitably address Council’s requirements and will manage the Geotechnical character of the site and its vicinity.

### **Stormwater**

- The proposal is accompanied by Stormwater Management Plans prepared by a qualified Hydraulic Engineer (ITM Design Pty Ltd, dated 10 August 2017) and therefore suitably addresses the stormwater drainage requirements for the proposal.

Should you require any further information with regard to the above, please do not hesitate to contact me on 0412 448 088.

Yours Sincerely,

A handwritten signature in black ink, consisting of the first name 'Vaughan' and the last name 'Milligan' written in a cursive style.

**VAUGHAN MILLIGAN**

*Town Planner*