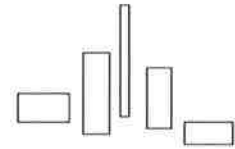


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PIKES & VEREKERS
LAWYERS

12 May 2020

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



BY EMAIL council@northernbeaches.nsw.gov.au

Dear Sir

MODIFICATION APPLICATION 2020/0146 IN RELATION TO DA 2019/0619
13A OCEAN ROAD, PALM BEACH
Our ref RMC:BMJ:190409
Your ref Jordan Davies

We act on behalf of Mrs Shirley Walsh who is the owner and resident of 18 Sunrise Road, Palm Beach and have been instructed by her to make a submission on her behalf in relation to the above modification application.

The approved development in DA2019/0619 comprised a swimming pool, spa, terrace, stairs, inclinator and associated paved area and landscaping located between an existing two storey residence at the Ocean Road frontage of the allotment and a secondary dwelling toward the Sunrise Road frontage of the allotment.

The site at 13A Ocean Road Palm Beach has some development history which is relevant to this application. In 2016 DA No. 328/16 was lodged for alterations and additions to an existing dwelling house and the construction of a detached secondary dwelling. That dwelling, which included a pool and rumpus room, was in the approximate location of the currently proposed swimming pool and ancillary development. The 2016 development application was ultimately withdrawn following widespread objection, including from our client.

In 2017 development application No373/17 was lodged for the construction of a secondary dwelling. Despite widespread local objection, including from our client, that development application was approved and permits a single bedroom dwelling with a floor area of 59.76m² with pedestrian access only to Sunrise Road.

On 10 October 2019 consent was granted to DA2019/0619 again in the face of objections from surrounding neighbours. It provided the secondary dwelling with inclinator access to the pool level.

~~This application seeks to exacerbate the impacts of DA2019/0619. The proposed modification will add to the significant aural privacy and visual impacts of the approved development and will extend the inclinator access from the secondary dwelling to a location close to the street level of Ocean Road.~~

The development history described above is a clear demonstration of development by stealth, with incremental changes exacerbating the impacts of previously approved development.

Raised pool terrace and relocated spa

The proposal seeks to raise the expansive pool terrace area by 550mm and to relocate the spa to a location 1 metre from the northern boundary.

The relocation of the spa will have the effect of replacing what was a soft landscaped, passive recreation element unlikely to be use outside of daylight hours with a permanent structure likely to be a source of noise at all hours of the day and night.

The raised pool terrace will unnecessarily elevate the outdoor entertainment area, increasing noise and light spill into neighbouring properties and requiring higher and more unsightly retaining walls within 1m of the boundary which adjoins our client's property. As a result of the raised terrace level most of the pool will be located above existing ground level.

No justification for the raised pool and terrace is provided in the Statement of Environmental Effects (SEE) which accompanied the modification application.

Extension of the inclinitor

The clear objective of the proposed extension of the inclinitor is to provide the approved "secondary dwelling" with a convenient means of access to the beach front. Inclinitor station 4 is independent of the principal dwelling and would permit access along the southern side of the principal dwelling to Ocean Road.

This proposal confirms our client's fear that the secondary dwelling would be used independently of and not in conjunction with the principal dwelling as required by the definition of "secondary dwelling" under Pittwater Local Environmental Plan 2014.

The extension of the inclinitor will also remove approved landscaping which would have softened the appearance of the pool terrace from the adjoining property to the south.

Prejudgment

We are concerned by the following comment in the SEE:

"Council have confirmed that they do not have a fundamental concern with proposed changes to the pool terrace area."

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We trust the comment is not an indication of prejudgement of this application and that proper consideration will be given to this and any other submission received by Council.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Roslyn McCulloch'.

Roslyn McCulloch
Partner
Accredited Specialist Local Government and Planning Law