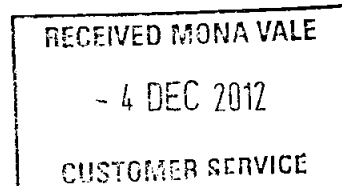


SHIRLEY J WALSH

**18 SUNRISE ROAD
PALM BEACH NSW 2108**

3 December 2012

The General Manager
Pittwater Council
Village Park, 1 Park Street
MONA VALE NSW 1660



BY HAND

Dear Sir

OBJECTION S96 No: N0567/10/S96/1 Request to Modify the Development Consent for alterations and additions to an existing dwelling Lot 1 DP 121833 13A OCEAN ROAD PALM BEACH NSW 2108 (the "Application")

I am the owner and resident of 18 Sunrise Road Palm Beach, which adjoins Lot 1 DP 121833 along its entire northern boundary. I have previously objected to this Application by submissions made in March this year, which are posted on the Council website.

I maintain my objection to the Application for the reasons which I previously stated. Since that time the 1.5 metres encroaching built works referred to in Item 4. of my 22 March 2012 DA Submission have been removed.

For avoidance of doubt, may I clarify that my objection is to the construction work apparently performed contrary to Council approval. This work is not only the first floor spa identified in the Ballenden survey plan posted on the Council website on 21 November 2012, but also the substantive dwelling itself.

A. Two storey house fails to comply with minimum setback from boundary

I attach a copy of the CMS Surveyors' survey dated 7 June 2012¹. The CMS survey identifies that the two storey house structure the subject of the Application is between 1.88 to 2.11 metres from the boundary along its entire two storey northern wall.

The built works for 13A Ocean Road are located 1.0 metre from its the southern boundary. Consequently, the Pittwater 21 DCP 2009 regarding side and rear building line within the Palm Beach Locality requires that the built works adjacent to my property i.e. on the Applicant's northern side boundary are required to be setback at least 2.5 metres from that boundary.

From the CMS Survey, the main structure at 13A Ocean Road is built in breach of the Council 2.5 metre boundary setback planning controls per DCP21. This setback requirement was recognised as applicable by the Smith & Tzannes drawings scanned 13 March 2012 which included a "Proposed Upper Floor Plan" dated 3 March 2012 which shows a setback of 2.5 metres.

¹ Since the date of the CMS survey the "Thatched Roof Cabana" has been removed by the Applicant

To focus on the first floor spa built contrary to setback requirements alone – see for example the Ballenden survey dated 15 September 2012, posted 21 November 2012 – misses the equally significant breach of Pittwater Council regulations for setbacks from side boundaries by the house itself.

Yet the Application remains silent on this more egregious breach of side boundary setback requirements.

B. Impact upon amenity of the natural cultural and recreational coastal environment

It is not apparent that proper consideration has been given by the Applicant to relevant considerations under the EP&A Act as to the State Environmental Planning Policy No 71 - Coastal Protection in regard to the location of the 13A Ocean Road proximate to Palm Beach. The site's location compels consideration of the duty to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales' coast. In short, there is a need to consider the protection and preservation the beach environment and the beach amenity abutting this development from the perspective of the public use of this recreational area.

The spa extends to the edge of the boundary and is located as an extension of the first floor, and in direct view to and from the street and the beach. For much of its extent the spa is much more than 1 metre above ground level.

The Application acknowledges a requirement for a 2.5 metre set back from the northern boundary under DCP21 Item D12.6 Side and Rear building line. Unfortunately the house structure itself is within that setback zone, in addition to the proposed spa.

A necessary consideration is to ensure that the type, bulk, scale and size of development the subject of the Application is appropriate for the location to protect and improve the natural scenic quality of the surrounding area. The Applicant asserts that the proposed design is sympathetic to the beachside context, however the reasons for this assertion are not provided nor readily apparent in regard to the design or appearance of the spa.

It is not clear how the interests of beach users and pedestrians enjoying the amenity of beachside walking on Ocean Road are taken into account or given proper weight.

The Application speaks of 13 & 13A Ocean Road having iconic views to Barrenjoey Lighthouse. However, no proper consideration seems to have been given to the detriment to the amenity of beach and street use by the location of a first storey spa eliminating the 2.5 metre setback from the boundary, in close and apparent proximity to Ocean Road and the beach.

The proposition advanced in the Application that the adjacent property on the northern boundary does not currently have a dwelling located on its Ocean Road frontage identifies a relevant consideration ie the effect that such a structure will have in the future to curtail development currently available to the property owner.

I refer to the content of my earlier submission on this Application dated 22 March 2012 as to this issue and impacts from the development.

Finally, the application sets a dangerous precedent for the loss of separation between built structures in highly visible public locations in Pittwater. A logical conclusion of excusing departure from Council policy will be the absence of any green strips leading to an increase in the bulk and volume of built structures without inter-dwelling boundary separation to create a solid wall of beachfront development.

C. Impact upon my economic interest for future development of my property

The proposed relocation of the spa appears to rely upon the boundary rock-face for partial structural support. Also the void below appears to invite usage for further structures in the future.

This proposed change to the original Development Consent will limit my opportunity for future development on my own land. If I wish to build a second dwelling or subdivide my land in the future, the proposed location of the spa would restrict my options. As an example, I would not be able to excavate freely on my own property without potentially compromising the structural integrity of the proposed relocation of the spa which rests on top of the excavated rock wall on its northern boundary.

As a result the value of my property would be devalued by the proposed modification to relocate the spa on my boundary by limiting the flexibility and the adaptability of my property.

The proposed relocation of the spa significantly restricts the potential for future development on my adjoining property at 18 Sunrise Road Palm Beach.

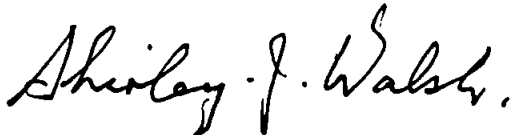
D. Unnecessary nature of the proposed modification

This Section 96A Request to relocate the spa dramatically exceeds the Pittwater Council Regulations for the Palm Beach Locality. I believe it to be unnecessary for the Council to compromise its regulations for the relocation of an ancillary amenity.

It can be no answer for an Applicant to seek an indulgence from Council by relying upon its own actions in erecting building works without proper approval, as a basis for seeking exemption from proper compliance with Council planning controls.

Finally I refer to my earlier correspondence with Council as to my concerns that proper boundary planning controls be enforced over the past years. I sincerely discourage Pittwater Council from approving this Section 96 No: N0567/10/S96/1. The proposed modification to the design is simply unnecessary and contrary to the interest of the public use of our magnificent beach, now and in the future.

Yours faithfully



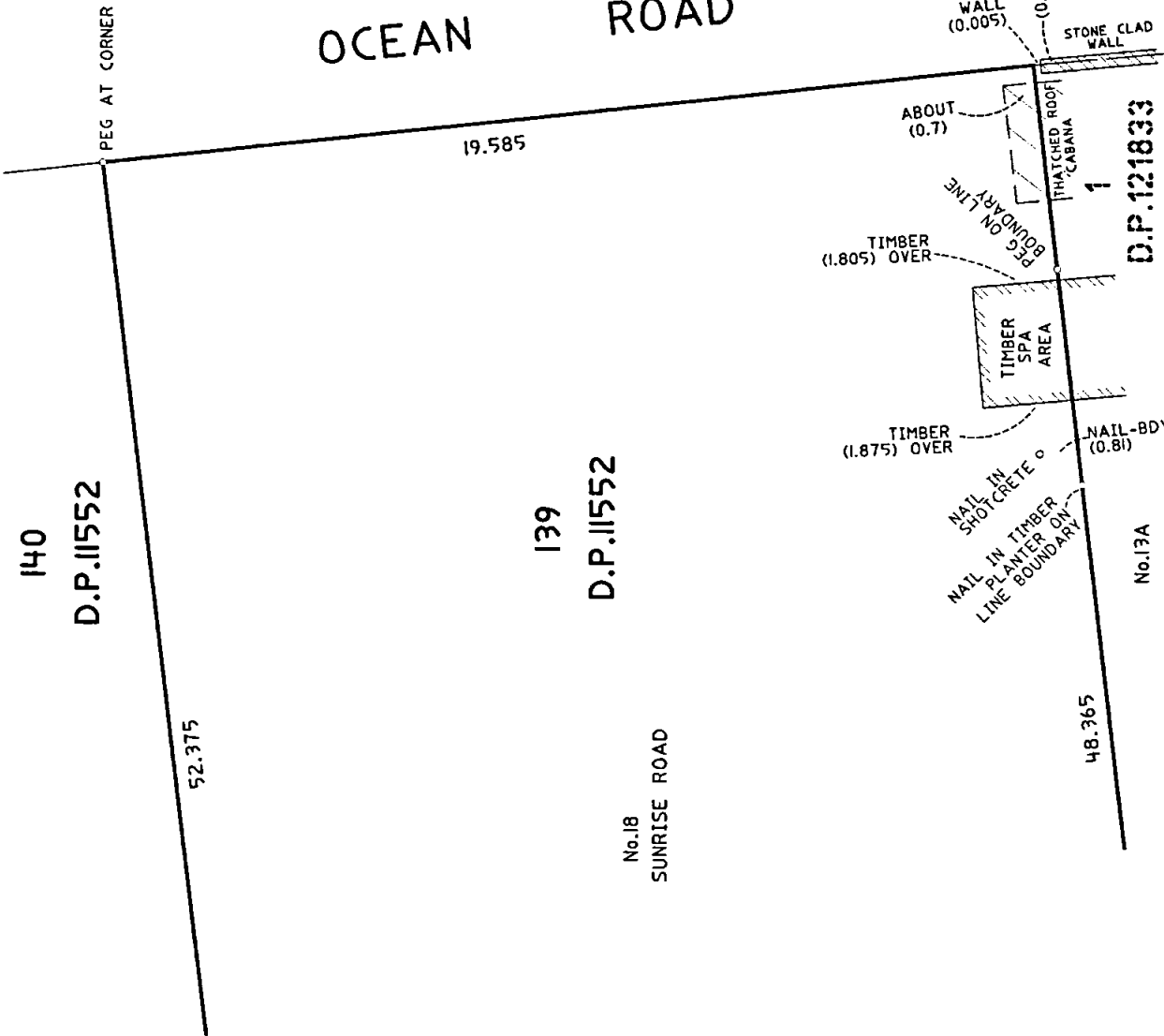
Shirley Walsh

Encl

A3



Magnetic North



SURVEYED SE	DRAWN SE	CHECKED SE	APPROVED SE
SURVEY INSTRUCTION 9463A	SCALE 1:100	DATE OF SURVEY 21/03/12	ISSUE 2
DRAWING NAME 9463A88801		CAD FILE 9463A88801 REV 2.dwg	

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 C.M.S. A.C.N 096 240 201
 PO. Box 453 Dee Why NSW 2099
 1/32 Campbell Avenue, Dee Why NSW 2099
 Phone: (02) 9971 4802 Fax: (02) 9971 4822
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PLAN SHOWING SURVEY MARKS AND LOCATION OF STRUCTURES IN RELATION TO BOUNDARIES No.18 SUNRISE ROAD, PALM BEACH BEING LOT 139 IN D.P.11552

No.18	22/03/12
No.13A	21/03/12
2	CABANA ADDED
1	FIRST ISSUE

REGISTERED SURVEYOR