
Sent: 15/06/2022 8:59:22 AM
Subject: Modification No. Mod 2022/0065-N0369/17 - 222 Whale Beach Road, Whale Beach (Our Ref:18-043C)
Attachments: Attachment - L-NBC-England-Final.pdf; L-NBC-England-Final.pdf;

Hello Nick,

Please see attached submission with regards to Modification No. Mod 2022/0065-N0369/17 - 222 Whale Beach Road, Whale Beach.

Kindly acknowledge receipt of the same.

Regards

Bob



4 April 2022

RJC:18-043C

The General Manager
Northern Beaches Council
P O Box 82
Manly NSW 1655

Attention: Nick England

email: council@northernbeaches.nsw.gov.au

Dear Nick,

**Re: Modification No. Mod 2022/0065-N0369/17;
Lot 2, DP 421104, 222 Whale Beach Road, Whale Beach;
Modification of Development Consent N0369/17.**

We write on behalf of the owners and occupiers ("our clients") of No. 39 Morella Road, Whale Beach ("our clients' property"). Our clients' property directly adjoins and shares a common boundary with No. 222 Whale Beach Road, Whale Beach ("the site").

The site is the subject of development consent N0369/17 ("the consent") which is for demolition of the existing dwelling and erection of a new three storey dwelling over a double garage and attached secondary dwelling with associated pool, fencing, driveways and other related works ("the approved development"). The consent has been implemented and the approved development has been constructed.

The Applicant, Keith Pike Associates Pty Ltd, has now submitted a modification application seeking approval for an extension of the swimming pool at its western end. We note that the work for which approval is sought has already been constructed. Whilst our clients raise no issue with the requested modification of the consent, we wish to bring a matter to your attention and request that this matter be addressed as part of the current modification application.

Provided overleaf is a photographic extract from Drawing No. A00 which forms part of the modification application (Relevantly, for the purpose of interpreting the comments which follow, the pool is on Level 2 and the level above Level 2 is Level 3A).



You will see on the photo above that there are two windows on Level 3A in the northern elevation of the new dwelling which face directly towards our clients' property into a private courtyard and bedroom.

We respectfully submit that neither of these two windows is approved. Therefore, along with the extension of the swimming pool for which approval is now sought, these two windows should also be included in and should form part of the modification application. In this regard, our clients would not object to these two windows being approved provided that they are screened to prevent overlooking of our clients' property.

In relation to these two windows, we make the following observations: -

- i. in the set of DA plans which preceded the granting of the deferred commencement consent what is now Level 3A was referred to as Level 4;

- ii. in the approximate location which is now occupied by the two windows in the above photo there was a balcony (off a bedroom) which extended across the full width of the Level 4 eastern elevation;
- iii. Condition AA d) of the development consent required the balcony located off the Level 4 bedroom of the principal dwelling to be deleted;
- iv. Condition AA f) required privacy measures to be provided to various windows and it would certainly have been the case that if the two windows which now exist had been shown on the DA plans they would have had to have been screened: however, there were no such windows in this location;
- v. Council's attention is drawn to Drawing A09a, dated March 2018, which shows no windows where the two windows now exist: this drawing is referred to on page 1 of the consent; a copy of this drawing is attached for convenience;
- vi. reference to the north elevation in the set of plans submitted to Council by the Applicant in March 2018 to address the deferred commencement conditions (by which point Level 4 had become Level 3) shows no window where the two windows now exist;
- vii. even if the plan referred to in (vi) above did show the two windows, Council could not have approved them in the absence of a Section 4.55 application as their inclusion in the development did not arise from or as a result of the deferred commencement conditions;
- viii. accordingly, having regard to all of the above, the two windows in the north elevation on what was Level 4 in the original DA, what then became Level 3 in the set of plans submitted by the Applicant to address a deferred commencement condition, and what is now Level 3A on the current set of Section 4.55 modification drawings, have been installed without development consent.

It would be greatly appreciated if you could let us know, as soon as possible, whether you intend to request the Applicant to amend the application by adding the two windows on Level 3A (with associated effective privacy screening) as part of the current Section 4.55 modification application. We look forward to hearing from you in this regard.

Thank you for the opportunity to make this submission.



Yours faithfully
BBC Consulting Planners

A handwritten signature in blue ink, appearing to read 'Robert Chambers', with a long, sweeping horizontal line extending to the right.

Robert Chambers
Director
Email bob.chambers@bbcplanners.com.au



15 June 2022

RJC:18-043C

The General Manager
Northern Beaches Council
P O Box 82
Manly NSW 1655

Attention: Nick England

email: council@northernbeaches.nsw.gov.au

Dear Nick,

**Re: Modification No. Mod 2022/0065-N0369/17;
Lot 2, DP 421104, 222 Whale Beach Road, Whale Beach;
Modification of Development Consent N0369/17.**

I refer to our recent discussions in relation to the submission I made on behalf of the owners and occupiers of No. 39 Morella Road, Whale Beach (i.e. the adjoining residential property to the north of No. 222 Whale Beach Road, Whale Beach). For convenience, my submission is attached hereto.

As discussed, a Section 4.55 application was submitted last Wednesday via the NSW Planning Portal for design amendments to the development approved on my client's property pursuant to the consent to DA 2019/1210 (Council's reference number for the Section 4.55 application is Mod2022/0318). The proposed design amendments comprise the following changes to the ground floor: -

- deletion of the approved masonry wall on the southern side boundary;
- construction of a new masonry wall 1.0m from the southern side boundary;
- construction of a glazed "butterfly" roof over the existing timber pergola; and
- installation of a new laundry door on the southern side elevation.

The purpose of the proposed new masonry wall which forms part of the Section 4.55 application is to deal with the adverse privacy impacts on my clients' property arising from the completed dwelling on No. 222. However, the privacy of the residents at No. 222 will also be enhanced. The proposed new wall is therefore beneficial to both parties.



My clients' position is that if their Section 4.55 application is approved then they will no longer maintain an objection to the Section 4.55 application relating to No. 222 which you are currently in the process of assessing. The reasons why my clients take this position is because the proposed new masonry wall will prevent overlooking from the two windows in No. 222 referred to in my submission as well as preventing a direct line of sight from the upper balcony and windows in the new dwelling and new secondary dwelling on No. 222, into the private courtyard, bathrooms and living spaces of my clients' property.

If any further details of my client's position is required, please do not hesitate to contact me on 0418 971 591.

Yours faithfully
BBC Consulting Planners

A handwritten signature in blue ink, appearing to read 'Robert Chambers', with a long, sweeping horizontal line extending to the right.

Robert Chambers
Director
Email bob.chambers@bbcplanners.com.au