

1. Response to Paragraph #1 -Acoustic Privacy

The comments are noted.

In response:

- A. **Image #1**(below) illustrates that both floor and window levels of the dwelling proposed for 34 Coasters Retreat sit substantially **below** those of the existing dwelling located on 37 Coasters Retreat.
- B. The design of **the proposed dwelling has been altered to expand features providing acoustic protection and privacy.** Westerly facing screening has been extended, together with both the supplementary roof and side panelling covering the westerly facing “popout” feature of Bedroom 3. It is also noted that the differentially lower floor and window heights of the proposed dwelling **preclude** overlooking internal living areas of 37 Coasters Retreat.
- C. Comments made about the apparent proximity of the proposed dwelling, and that projects “even closer” to “...*the most constantly and heavily used living and entertaining areas and decks (north facing) at no. 37 [sic]*”, are noted. The comments **cannot be sustained when examined against actual measurements for the proposed dwelling and proposed separation points.** Please refer to measurements **Images #1 and #2** (below and overleaf) as well as detailed site location plans included in this submission.
- D. References to “*no.34 bedrooms*” are noted. Existing design features referred to earlier address the considerations referred to. These are detailed in this and earlier submissions. **The rear (southern) bedroom pavilion of the proposed dwelling is in a position that strikes the best possible balance between several significant site challenges.**
- E. The proposed dwelling has been carefully located to respond simultaneously to:
- the impact of steep and irregular slopes on the permissible building envelope,
 - fire protection requirements,
 - the need to preserve existing trees and vegetation to the maximum extent possible, and;
 - the very real constraints imposed by the fact No. 37 is located and constructed in a manner no longer permissible under the contemporary planning regime.

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- F. References to *Pittwater 21 DCP - Clause C1.6 - Acoustic Privacy* are noted and have been taken into account where relevant (although there are no main roads or parking areas at Coasters Retreat).

Image 1. Northern Profile indicating comparative window and floor levels.

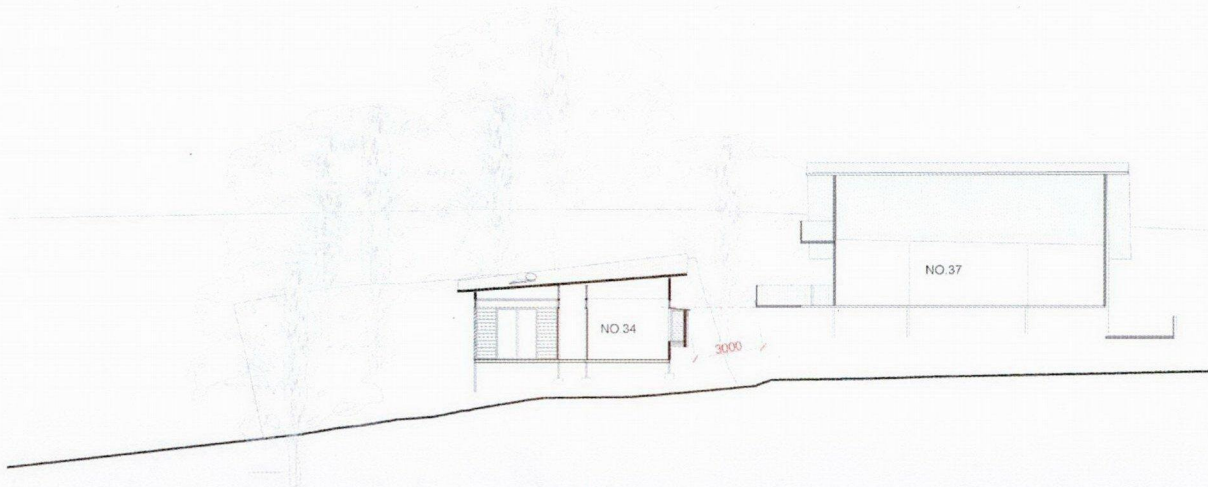
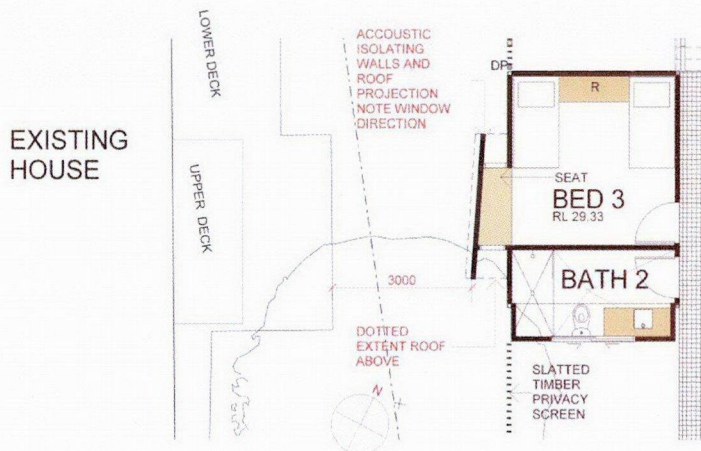


Image 2. Overlay Profile indicating actual separation of proposed dwelling from existing dwelling on 37 Coasters Retreat and acoustic isolation factors.



2. Response to Paragraph #2 -Visual Privacy

- A. Comments made about the requirements and preferences outlined in *Pittwater 21 DCP- C1.5 - Visual Privacy* are noted. The design of the proposed dwelling is intended to comply with the *Pittwater 21 DCP* and all relevant requirements. Assertions to the contrary are not accepted and do not appear to be supported by evidence.
- B. In addition, it is noted that some comments rely on incorrect measurements of proposed dimensions and separation points (i.e. references to "...the proposed dwelling being located approximately 2.5 metres from principal living and entertaining rooms and private open space..."). Again, please refer to **Image #1.** and **Image #2.** preceding.
- C. The wider submission and site location plan accompanying this document deal specifically with Council requests and requirements for screening, privacy and sight lines. Changes requested by Council have been made, and requests for clarifications or additional information responded to.
- D. It is also noted with concern that certain assertions were made about "**territory and safety**". These could be inferred to impute improper, careless or reckless behaviour, or a real apprehension of it, in relation to the applicant. Such comments are neither proper or supported. Therefore, they should be disregarded in the DA assessment process. Remedy will be sought in response to any material, or publication of material, that has the effect of damaging the reputation of the applicant or causing related harm.
- E. The request for opaque glass on a specific westerly window is not accepted, given:
- privacy is already afforded to No. 37 by fixed screening on the window, and;
 - the window faces on to an outlook dominated by waterways, public open space, and the Kuringai National Park, which is shared by multiple existing dwellings currently.

The applicant is also mindful that the *Pittwater 21 DCP* stipulates that views are to be maintained and/or enhanced to "*water, headland, beach and/or bush views*". Acceding to this request would limit the ability of the applicant to benefit from this principle.

3. Response to Paragraph #3 - Australian Red Cedar Tree

These comments are noted.

In response:

- A. It is incorrect to claim that no consideration has been to location of the tree or to avoiding it, just as **it is incorrect to suggest that 40% of the tree will be pruned**, including "...a major fork in the main trunk [sic]...".
- B. **To avoid any requirement for pruning, the roof area of the Southern pavilion has been reduced to increase separation distance from both the tree and the boundary of No. 37**, as has the angle of the westerly roof edge (see location site plan and related accompanying documents).
- C. **There is no intention to excavate footings in the structural root zone (SRZ) of the Australian Red Cedar** referred to (please see accompanying site location plan, arboreal report and environmental documents). **Footing F26 has been moved to be outside of the SRZ.**
- D. It is also noted Australian Red Cedar (*Toona ciliata*) is a fast growing deciduous rainforest tree, easily grown on moist soils of eastern Australia. **Detailed independent references are pro-**

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vided at **Appendix A**, together with photographs of three Australian Red Cedar saplings the applicant has propagated with the intention of planting on the site of the proposed dwelling.

- E. **It is a common misapprehension that *Toona ciliata* is difficult to cultivate**, when the issue is the risks involved in plantation-scale forestry aimed at producing long lengths of timber. This is because, in common with other members of the *Meliaceae* family, the Australian Red Cedar has a tendency to attract Tipmoth attacks that cause it to produce responsive shoots, resulting in a tree that is multi-branched and of little commercial value. In fact, **seedlings and tube-stock are readily available through commercial nurseries**, and *Toona ciliata* can be grown from seed with minimal difficulty.

4. Response to Paragraph #4 - Survey

The comments are noted.

- A. The applicant is not aware of any further survey material being submitted by other parties as of the date of writing.
- B. The illustration provided at *Attachment A of the Blackwell Submission of 18 July* contains no scale, transposes indications of boundary lines to bisect representations of existing dwellings and does not appear to have been prepared by a surveyor or certified professionally. Consequently, it cannot be relied upon as a basis for planning assessment.

5. Response to Paragraph #5 - View Sharing

- A. The initial comments are noted. The applicant has made several changes in roof pitch, shape and area in all submissions made to date in order to better comply with the intent of planning principles.
- B. These are in response to several representations made by the owner of No. 37, discussions with owners of other neighbouring properties and Council requests or feedback.
- C. These changes have, among other things, afforded greater assurance of visual amenity to No. 37. Assertions otherwise are disputed strongly and accompanying documents illustrate why, particularly the site location plan and diagrams of sight lines.

6. Response to Paragraph #6 - Solar Access

Comments on solar access are noted, as are selective references to the *Pittwater 21 DCP C1.4 - Solar Access*.

Strict regard has been paid to all relevant requirements and plans for the proposed dwelling are fully compliant with them.

Further, the applicant notes that *Pittwater 21 DCP C1.4 - Solar Access* states, among other things, the following:

"The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.

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"Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows)".

"Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter".

Also:

"Where the following constraints apply to a site, reasonable solar access to the main private open space and to windows to the principal living area will be assessed on a merit basis:

where the orientation or shape of a lot precludes northerly orientation (20o west to 30o east of north), where there is adverse slope or topography,

where there is existing vegetation, obstruction, development or fences that over-shadow, or

where other controls have priority, e.g. heritage and landscaping considerations.

Subject to a merit assessment, consent may be granted where a proposal does not comply with the standard, provided the resulting development is consistent with the general principles of the development control, the desired future character of the locality and any relevant State Environmental Planning Policy".

Shadow diagrams show only a small amount of shadow between 9 and 10am on upper east facing deck of No. 37.

As noted in our earlier **Submission of 17 June 2016**, the applicant has always attempted to minimise over-shading to No. 37, although constrained in capacity to minimise impacts on the western side by the fact that No. 37 is located in a position that would not conform to current planning overlays (because it is so close to the boundary).

7. Response to Paragraph #7 - Siting, Orientation and Front Setbacks

All comments are noted.

In response:

- A. The Upper Western Foreshore Locality Guide, Clause D13.5, clearly refers to **the principle of a preferred minimum set back, not a maximum or designated spot for setbacks.**
- B. As explained on earlier occasions, and demonstrated in accompanying site plans and expert reports, plans for the proposed dwelling are intended to balance the multiple environmental and planning challenges of the site (as Council clearly requires, and as acknowledged in previous submissions). This is why the location proposed is sited where it is.
- C. To reiterate, the accompanying site location plans provide the best overall response to the following factors:
 - impact of steep and irregular slopes on the permissible building envelope,
 - fire protection requirements,
 - the need to preserve existing trees and vegetation to the maximum extent possible,
 - constraints imposed by the fact No. 37 is located and constructed in a manner no longer permissible under the contemporary planning regime.
- D. Attachment A of the Blackwell Submission of 18 July 2016 cannot be relied upon to make planning submissions or form judgements because it contains significant errors, no scale and incorrect plotting of boundaries (for instance, lot boundaries are depicted as bisecting the floor plans of existing dwellings).

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- E. The reference to consistent setbacks and a prevailing "standard" 8 metre setback is based on selective examples and takes no account of boundaries influenced the curving shoreline or hilly nature of local topography.
- F. Accordingly, comments critical of the applicant's previous description of a "midway", "consistent" setback is misrepresentative are unfounded. *Appendix 1C* of the applicant's **Submission of 17 June 2016** clearly refers to providing an equitable balance of outcomes for neighbours at No. 33 and No. 37. Comments made about much earlier decisions made about the relative locations numbers 33, 37 and 38 Coasters Retreat cannot be verified and do not appear relevant to the current Development Application for 34 Coasters Retreat.
- G. The request in the *Blackwell Submission* to move the proposed dwelling 6-8 meters north cannot be accommodated without:
 - significant destruction of existing trees and vegetation (providing no benefit other than opening a new vista for #37),
 - major reductions in views, privacy and amenity for #33,
 - and, most likely, increased risk of breaching the building envelope.

8. Response to Paragraph #8 - Side and Rear Setbacks

- A. Comments on setbacks, surveys and vegetation are noted. As commented on earlier and addressed in accompanying material, as well as earlier submissions, confirmation of the accuracy survey material has been provided by the applicant's surveyor. This was also acknowledged in Paragraph #4 of the *Blackwell Submission of 18 July 2016*.
- B. The applicant is not aware of any other survey material submitted to Council by others as evidence to the contrary.
- C. Comments made in the *Blackwell Submission of 18 July 2016* about pre-existing plantings, not forming part of the current Development Application, have been addressed most recently in the applicant's **Submission of 17 June 2016**. Further, the applicant has fulfilled an earlier undertaking to remove an Illawarra Flame Tree and a Jacaranda Tree, as well continuing efforts to control certain weeds and noxious plants. These include the spread of Crofton weed, thistles, and nettles from adjacent properties.

9. Response to Paragraph #9 - Character as Viewed From a Public Place

- A. The comments in Paragraph #9 of the *Blackwell Submission of 18 July 2016* are noted and must be viewed as lay opinion.
- B. The applicant remains fully committed to building a dwelling in keeping with *Clause D13.6 of the Upper Western Foreshores Locality Guide*. The applicant also notes that no other submissions have been received from owners of neighbouring properties arguing this is not the case.
- C. Council officers are referred to accompanying documents in this submission in order to make an independent assessment.

10. Responses to Paragraph #10 of the *Blackwell Submission of 18 July 2016*.

- A. Further clarifications of plans and detailed responses to Council requests for additional information are set out in accompanying documents.

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- B. The reference to “misrepresentation” is neither proper or supported and, therefore, should be disregarded in the DA assessment process. Remedy will be sought in response to any material, or publication of material, that has the effect of damaging the reputation of the applicant or causing related harm.

Australian Red Cedar (*Toona ciliata*) is a fast growing deciduous rainforest tree, easily grown on moist soils of eastern Australia.

Excerpts from:

Growing Australian Red Cedar and other Meliaceae species in plantation

A report published by the RIRDC/Land & Water Australia/FWPRDC/MDBC Joint Venture Agroforestry Program RIRDC publication number 04/135 .

"Australian red cedar is one of many species world-wide within the commercially valuable tree family Meliaceae..."

...Many have tried to grow this tree in woodlots, often unsuccessfully, and it has been concluded, somewhat wistfully, that the species cannot be grown into a straight timber tree.

....**We know that in the appropriate climate they are fast growing. Mahogany and cedar trees can grow in height almost several metres a year and so by 25-30 years will have reached considerable height and diameter. Moreover, cedar seedlings, saplings and mature trees maintain the ability to survive damage from drought, fire and frost; they readily sprout from any affected parts.**

...So what is the impediment to regenerating these trees?

The underlying factor affecting regeneration is that the Meliaceae are attacked by an insect, a tipmoth or shootborer, that eats out the (apical) growing tip of the young tree. The female insect lays its eggs on the tree and the larvae that emerge burrow into the succulent sapwood, especially that of the dominant growing tip, thus rapidly destroying many centimetres of new growth. **The tree compensates by pushing out shoots below this point of attack, resulting in a tree that is multi-branched and of little commercial value.**

...Such attack has long been the major source of frustration to those who have endeavoured to grow and establish cedar and mahogany **plantations** world-wide".

Excerpts from:

[http://keys.lucidcentral.org/keys/v3/eafrinet/weeds/key/weeds/Media/Html/Toona_ciliata \(Toon Tree\).htm](http://keys.lucidcentral.org/keys/v3/eafrinet/weeds/key/weeds/Media/Html/Toona_ciliata_(Toon_Tree).htm)

"Description

Toona ciliata **is a fast growing deciduous tree** with large branches that create a spreading crown. It grows to between 10 m - 30 m in height. The rough bark is grey-brown and cracks into squares. The tree has long compound leaves up to 90 cm with 10-14 pairs of leaflets. Each leaflet is between 4.5 - 16 cm long. The leaflets are narrow and taper towards the tip. The inflorescence has masses of white flowers. The individual flowers are very small, white and tubular in shape. The fruits are green capsules, that turn brown with age and split open into star shape, to release seeds. The seeds are small and winged. Introduced, naturalised or invasive in East Africa".

"Reproduction and dispersal

Toona ciliata reproduces by seed. **It is a prolific seed producer and establishes readily"**.

Australian Red Cedar plants under propagation for 34 Coasters Retreat

