
Sent: 9/10/2019 3:52:36 PM
Subject: DA 2019/0722 - 296 Whale Beach Road, Palm Beach

Hi Ashley,

Thank you for your time yesterday on the telephone to discuss DA 2019/0722 with us.

We have considered your proposed solution that the owner of 296 Whale Beach Road install opaque glass of a height of 1.5m and length of 2.85m instead of the proposed privacy screen submitted in DA0722. After much consideration and with a desire to be as fair and reasonable as possible to the owner of 296 Whale Beach Road, but also maintain our Iconic Views of Palm Beach and the Barrenjoey Lighthouse and the headlands, we raise the following concerns/objections:

- We are very concerned that agreeing to the neighbour installing opaque glass in a portion of the balcony will set a precedent in the future for the owner to simply lodge another DA to install further sections of opaque glass and/or privacy screening to the balcony. This would result in an even greater unreasonable loss of views and put us in a position yet again where we have to defend our views at a significant cost to us. We also note that the previous owner of our home (Mrs Bickle) was also subjected (by Mr Schmidt) to years of defending her views at a significant time and financial cost. At what point does this become a nuisance?
- We have great concerns agreeing to the Council's proposed alternative solution with the owner as in the past Mr Schmidt has entered in to agreements with neighbours (via council/mediation) and never adhered to the agreement and shown complete disregard for Council's directions. As you are aware, the owner of 296 Whale Beach Road has a long history with Council. Mr Schmidt previously demolished his house without council approval, rebuilt his house without council approval (later seeking retrospective approval from Council for what was already "Majority built" – even though the house is clearly built forward of the required building line/envelope and does not adhere to Council's setback/control plans), installed a fixed awning and post on his balcony without the appropriate council approval and the owner (Mr Schmidt) has stated to me that he can and will "simply drop large blinds at the side of his balcony to impede my view" again, without Council approval. I would also like to point out that Mr Schmidt only lodged a DA to erect this privacy screen when I reported to Council that he advised me that he was erecting a privacy screen 2.2 meters high and 5 meters wide on his balcony without Council consent (my email to council 3rd April 2019).
- Mr Schmidt chose to build the existing home at 296 Whale Beach Road (without council approval). Had he built the home to comply with the council site controls he would have retained the full iconic views 294 Whale Beach Road once enjoyed as well as ensuring his own privacy. He chose not to do so. He instead chose to demolish his house without consent and rebuild without approval and in doing so diminished the views of 294 Whale Beach Road and compromised his own privacy. Mr Schmidt now apparently wants to gain back his privacy AGAIN at the expense of 294 Whale Beach Road's views. This seems completely unreasonable. As Per Dr Pollard *"it was possible to design a dwelling of equivalent proportions on the subject site, that enjoyed the same ocean and Pittwater views to the same extent as the current design, while complying with the site's controls and retaining a more equitable share of iconic views with its neighbour. That is, a more skilful design would have obviated any need at all for privacy screening"*.
It is unreasonable for Council to now allow our views to be further diminished for the small benefit to Mr Schmidt's property. If privacy is of concern, the neighbour has the ability to move the outdoor dining table to the other side of their very large terrace. This would have the same interaction with their living space, remain undercover and would resolve any issue regarding privacy.
- It is our opinion that Mr Schmidt ultimately wants to enclose this section of his balcony to extend his kitchen (as per his previous DA in 2010 which was not approved by Council due to the view loss it would cause to 294 Whale Beach Road). We believe he is trying to diminish our views to the extent that they

become insignificant and he will therefore subsequently lodge another DA in the future to enclose this section of his balcony to ultimately allow his kitchen to be extended out to the post. We do not believe it is privacy he is seeking (if it were he would simply move his table – or not have built such a design in the first place). We believe he is seeking the ability to enclose the balcony and extend his kitchen.

- Council have previously determined in many DA applications that the balcony of 296 Whale Beach Road *“must retain and maximise visual access through the structure - **by the provision of an open structure or transparent building materials**”*. To now allow Mr Schmidt to opaque the glass is in contradiction of these instructions.
- To allow the balcony to have opaque glass will negatively impact our property greatly for a very small privacy gain to 296 Whale Beach Road (small area of privacy whilst seated). If the neighbour moved their table they would gain far more privacy at no cost to them and no loss of view to 294 Whale Beach Road.

Based on our above concerns we have no choice but to object in full to the proposed solution to allow opaque glass to a height of 1.5m and 2.85 in length. This proposed solution diminishes our water and sand view of Palm Beach (iconic geographical views) from both an internal and external sitting and standing position. We would hope in light of the history of 296 Whale Beach Road (including previous Council determinations) and the future implications for granting such a solution that Council will not allow the proposed solution to proceed. We would respectfully request that council refuse the original DA 2019/0722 and the proposed solution of opaque glass. We request that Council uphold their determination that the views of 294 Whale Beach Road cannot be diminished any further and must be retained and maximised **by the provision of an open structure or transparent building materials**

We thank you again Ashley for considering all our concerns/objections.

Kind regards,

Gerard Duane
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