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4/2/2019

Attn Mr David Auster
Ms Catriona Shirley

Northern Beaches Council
Planning and Development

By email to the above recipients

RE DA2018/1102 58A Lagoon St Narrabeen
Mod 2019/003 –DA 2018/1264 58 Lagoon St Narrabeen

Dear Mr Auster and Ms Shirley

I refer to the above two applications which really need to be looked in conjunction and may I suggest that only one Council Planner be appointed.

58 Lagoon St

The latest correspondence is from Ms Shirley was that Mr Sinfield has lodged a modification to elevate the pitch of the roof on the proposed addition from 2% to 15%.. To do so further restricts my view of the Lagoon.

The history on this is documented in previous correspondence but can be summed up in that Mr Sinfield obtained a complying development certification to erect an addition on the end of his drive. The Private Certifier notified the surrounding residents. Mrs Leighton in 58A Lagoon contacted me as a conveyancer who had done transfers over these two properties, as to the effect the addition would make to her property. The only view she has was down the common driveway to the Lagoon. I undertook to help her, given the development had some impact on my views. We wrote to Minister Rob Stokes, the Council et al about the inequity that a Private Certifier could approve an addition taking away the only Lagoon view..

The whole argument was that a Certifier can approve such without consultation. Subsequently from memory Mr Sinfield reported to Council that Mrs Leighton had grown shrubs on the nature strip blocking exiting views. I also found him wandering past my units taking photos, presumably to see if he could find a breach. He and some woman made phone calls to me which were strange to say the least
You will find attached a letter from him to me which I discovered in my letterbox 24/7/2018 after returning from Europe.

Look at his statement

"I am making changes via a DA. The overall roof height will be lower than that approved." He then gets the DA approved and lodges a modification as per diagram attached.

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The very important parts of this submission are twofold

1) From Justin Sinfield's letter to me he had obviously had discussion with the Barolsky family. His approved addition would completely block their view of the Lagoon which was the original premise of Mrs Leighton. I think he was trying to assure them that his addition would not impact as they were going to alter 58A to allow a balcony giving views.

He makes wild statements as to the effect "a third story would have miniscule effect on the expansiveness". He has never been in my unit so how can he make such a statement?

His further statements I find astonishing as a Dentist would have some recognisance of objective analysis. He states I was aggressive and threatening. .

"I believe you were a bit aggressive and threatening to the new neighbours when you thought they might be renovating and supplied them a photo of your huge expansive views." This is defamatory and as this will be on Public Record, perhaps Mr Sinfield might like to substantiate his claim that I was aggressive and threatening ,especially as he was not present. Did I actually have a confrontation? I met Mr Barolosky in the presence of some workman , one of who had climbed on the roof to take photos. When they came down, I said to him "do not attempt to go up as I will fight it" . I then went back to my unit and took photos from my unit, printed them, took them back over the road and gave them a workman to give to Mr Barolsky who was on the phone.

We now come to 58 A Lagoon St Narrabeen

DA2018/1102 58A Lagoon St Narrabeen

When the Barolsky's were purchasing this property it was pointed out by Geoff Harris, a director of Doyle and Spillane Real Estate that there were plans for 58 and has confirmed by email and verbally to me that when he marketed 58A , Mr Sinfield had erected banners and bunting across his drive showing his extensions under a Complying Development Certificate

In the submission for the upwards alteration of 58A the environmental consultant claims there would be generous views down the drive.

The Real Estate Agent pointed out the probability of that view would be blocked via existing Complying Development Certificate or other. Mr Sinfield had erected bunting showing the height.

I take this to be deceptive conduct on behalf of the owner of 58A and should this go to Court he will be asked to swear he had no knowledge to justify the Environment statement accompanying the submission. I can provide any number of Statutory Declarations to the effect that there was bunting erected but the Applicant makes a declaration via their consultant that "A generous uninterrupted view corridor of approximately 7.19 m is retained for the neighbours to the east on the opposite side of Lagoon Street by virtue of the common access driveway"

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I now ask what rights of appeal do I and neighbours have should the Council approve the additions to the two premises. In the case of 58A the Tenacity precedent ticks all the boxes to go to the Land and Environment Court.

Could you please advise the time constraints that once Council approves a DA, for an objection against the decision must be lodged in L & E Court. As you are aware I am capable of running the case. The normal appeal is by developers or applicants being those affected can appeal. There is a different schedule in those affected by a Council approved application can appeal in the L& E .

This is a situation of appeal against Council approving DA especially with the guidelines established in the Tenacity precedent. It will be the Council justifying the approvals

The first step in going to the L & E Court is mediation. I would suggest this is pointless as the proposed additions to both premises are to such a major extent that no modification would be acceptable

May I ask that no further Development approvals be granted nor building applications until Council looks at at e two applications as one in context.

I ask that when and if the Council makes a decision , it is done simultaneously and also advise the time frame in which one can lodge an Application to L& E Court against a Council Decision. These two matters can not be separated

Many thanks
Gavin Williamson JP

Commented [gw1]: