
Sent: 10/12/2020 2:50:20 PM
Subject: DA2020/1376 - 38 Carrington Pde, Curl Curl - Letter of Objection
Attachments: Letter of Objection re DA2020 1376 for 38 Carrington Pde, Curl Curl.pdf;

Mr Adam Croft,

I am writing on behalf of my mother Belinda Zoeller, the owner of 35/2-4 Beach St, Curl Curl. I am writing in relation to DA2020/1376 and wish to respectfully outline the impact that the Proposal will have on our home if it is approved. Please view the attached document.

Regards,

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NEWS - Double Win at 2020 AIA NSW Architecture Award

John Choi 8706, Tai Ropiha 6568, Steven Fighera 6609

Mr Adam Croft
Northern Beaches Council

By email: council@northernbeaches.nsw.gov.au

Dear Mr Croft

Development application no DA2020/1376 (**the DA**)
38 Carrington Parade, Curl Curl (**the Site**)
Construction of a dwelling house (**the Proposal**)

I am writing on behalf of my mother Belinda Zoeller, the owner of 35/2-4 Beach St, Curl Curl.

I am writing in relation to the above DA and wish to respectfully outline the impact that the Proposal will have on our home if it is approved.

1. **Our home**

Our home is located to the south of the Site across Beach St. There is around an approx. 8m height difference between the Site and our home as our home and other similar townhouses are sited on an escarpment.

Currently, we enjoy a high quality view of the South Curl Curl beach between the existing buildings on the Site and 36 Carrington Pde.

("Our Existing View") (see figure 1, **Annexure 1**).

Our home is a split level design and Our Existing View can be seen from the living space, dining room, kitchen and master bedroom, as well as our balcony (i.e. private open space).

We note that our master bedroom is located on the upper level.

2. **Reasons for Objection**

Below is an outline of our concerns as to the impact that the Proposal will have on our home.

2.1 **View Loss**

(a) **Significant view loss**

The Proposal will result in significant view loss due to the construction of built form located, in a non-compliant way, within the eastern side boundary envelope setback.

Our Existing View is:



Figure 1: current view from our balcony at standing height.

The view resulting from the Proposal is:



Figure 2: view as a result of the Proposal

(b) Case law requirements for view impact assessment

There is a considerable body of case law on the requirement for assessing the impact of a development proposal on views and privacy. We have summarised below some of the key points:

Tenacity Consulting v Warringah Council [2004] NSWLEC 140

- "impact from living areas is more significant (though **views from kitchens are highly valued** because people spend so much time on them)".
- "with a complying proposal, the question should be asked **whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours**. If the answer is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable". Conversely, if the answer is "yes", then a redesign should be required, in our view.
- "**where an impact on views arises as a result of non compliance with one more planning controls, even a moderate impact may be considered unreasonable**".

Pafburn v North Sydney Council [2005] NSWLEC 444

- "the skill with which a proposal has been designed is relevant to the assessments of its impacts. Even a small impact should be avoided if a more skilful design can reduce or eliminate it".
- "an impact that arises from a proposal that fails to comply with planning controls is much harder to justify than one that arises from a complying proposal".
- "People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime".

2.2 Breach of Side Boundary Envelope

We understand that the Proposal breaches the Warringah DCP side boundary envelope which is measured 5m above natural ground with 45 degree projecting planes. This encroachment is the main cause of the view loss we would experience if this development were approved.

This non-compliance underscores the unreasonableness of the impacts of the Proposal.

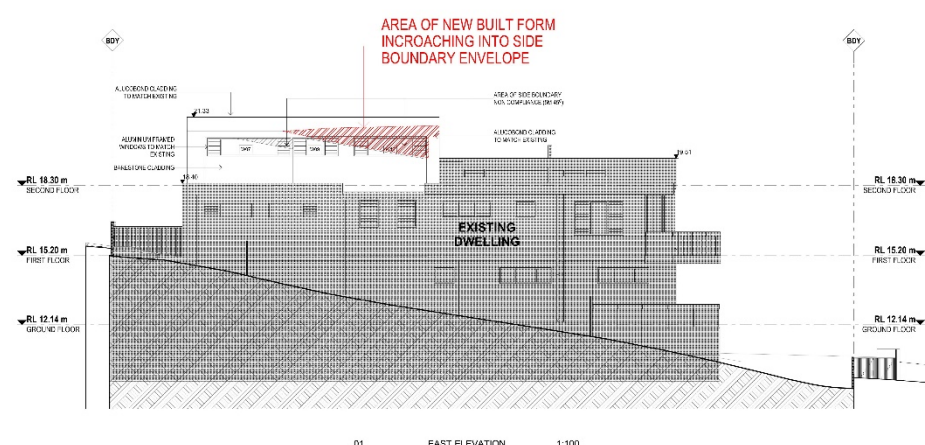


Figure 3: Eastern elevation as shown in the DA. Area on non-compliant built form shown in red.

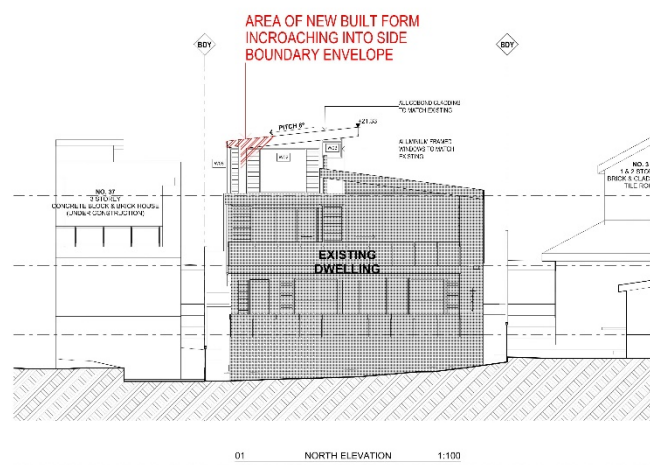


Figure 4: Northern elevation as shown in the DA. Area on non-compliant built form shown in red.

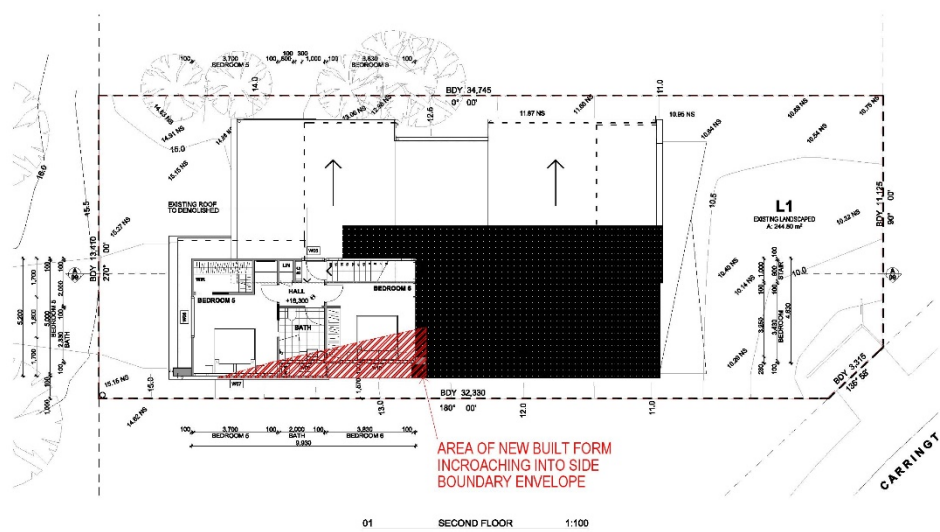


Figure 5: Upper Floor plan as shown in the DA. Area on non-compliant built form shown in red.

Conclusion

We would welcome any opportunity to discuss with Council and the Applicants any modifications to the Proposal that seek to limit the impact on our home.

We thank you for the opportunity to outline our concerns as to the impact that the Proposal will have on our home.

We trust that Council will take on board our concerns seriously, and act on them accordingly.

Yours sincerely

Joshua Zoeller (on behalf of Belinda Zoeller, Owner 35/2-4 Beach St, Curl Curl)