

## **TOWARDS A BETTER ENVIRONMENTAL OUTCOME FOR THE COMMUNITY**

The following notes are from an address Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA RAlA gave to a few Pittwater community members recently. They are succinct and make some very good suggestions of what changes should be made to the new LEP/DCP and worth considering.

### **'THE SECRET SEVEN'**

#### **ACTION ONE: STRENGTHEN LEP & DCP**

**NBC are current writing the 'next history' of your LEP & DCP: Make a noise now!**

#### **LEP**

##### 1.1 DETAILED REVIEW & EXTENSION OF:

- C2 ENVIRONMENTAL CONSERVATION
- C3 ENVIRONMENTAL MANAGEMENT
- C4 ENVIRONMENTAL LIVING ZONE

*(Editor note - Zones C1 to C4 are the old E1 to E4 [Environmental] zones which are critical to Pittwater)*

Mosman are creating an enormous C4 zone, taking R2 along the harbour into C4  
Should there be a further review of NBC to increase the C4, say within water view locations

##### 1.2 B1 NEIGHBOURHOOD CENTRES

Complete detailed envelope controls on all B1 zones, to better control planning outcomes

##### 1.3 LEP PART 4 PRINCIPAL DEVELOPMENT STANDARDS: Increase LEP Clauses

1. 4.3 HEIGHT OF BUILDINGS 8.5m
2. 4.3 2D 10m >30%: 'minor,' but there is no definition to 'minor'. Insert a definition of 'minor'. Perhaps no greater than 5% of the upper floor plate. Only acceptable if no loss of water view, and no loss of solar.
3. Clarity required on the consideration on sites with cross falls. Insert clause: 'were sites have a cross fall the height control must respect the levels at the centre line of the subject site, or an average of the levels across the site'. Outcomes are being approved with 8.5m on one side and 12.5m on the other, causing severe amenity loss to neighbours on the downslope.
4. ADDITIONAL HEIGHT: WALL HEIGHT 7.2m [Mosman have it within the LEP 4.3a, and are strengthening the objectives to match HOB]
5. ADDITIONAL HEIGHT: TWO STOREY, no overlapping third storey [Mosman have it within the LEP 4.3a]
6. BUILDABLE AREA/FLOOR PLATE/FSR [There needs to be some control to avoid excessive GFA, to avoid poor outcomes such as 189 Riverview. See NBLPP 'dissenter' below]

7. DEEP SOIL excluding any landscape on slab
8. MAXIMUM EXCAVATION, no excavation in side setback zones, no excavation in TPZ, limit the site to a percentage, perhaps like Woollahra

#### EGL [Existing Ground Level]

- 'Fudging' of EGL is occurring on multiple DA.
- Every DA must have a detailed analysis of EGL, following the NSWLEC decisions within
- of *Bettar, Stamford, Legge, Stebora, Geio, Nicola, Merman*, and any other decisions that are relevant at the time of the submission of the DA.
- Those EGL levels must be shown on all elevations, sections, and superimposed of the roof plan, with all roof heights clearly shown, with a table to show the non-compliance.
- Registered Surveyors Drawings can only be altered by the Registered Surveyor. Da drawings must show the complete survey overlaid on the roof plan.
- Each DA must include a 3D Envelope Model to define full compliance, based upon the EGL detailed analysis, and all envelope controls.

#### DCP

Clear statement must be made within the DCP:

"Proposed development must keep within defined envelope controls, of HOB, Wall Height, Setbacks"

Issues:

- SETBACK SIDE. Current Side Boundary Envelope is regularly abandoned in assessments. Why have it, if no one respects it, and it is not enforced by refusals. Mosman use 'fixed dimensions': seems to work reasonably well. 1.5m up to 7.2m Wall Height; 3.0m over 7.2m Wall Height; 4.0m over 11m Wall Height. Woollahra's mathematical formula also perhaps another option. Side setback should be equal both sides.
- SETBACK FRONT: align with immediate neighbours [average of three of the four] - Woollahra
- SETBACK REAR: align with immediate neighbours [average of three of the four] - Woollahra
- SIDE BOUNDARY ENVELOPE SBE [if there is to a SBE control, Woollahra's concept on the 45 degree taken from the from the side setback perhaps works better]

#### AMENITY OUTCOMES

##### VIEW LOSS

Improve the DCP, by referencing Tenacity, but also adding additional examples of where view loss has been shown as being unreasonable.

Give examples of what would not be acceptable, based upon recent refusals:

- FURLONG V NORTHERN BEACHES COUNCIL [2022] NSWLEC 1208 [NSWLEC Dismissal of Appeal]
- DER SARKISSIAN V NORTHERN BEACHES COUNCIL [2021] NSWLEC 1041 [NSWLEC Dismissal of Appeal]
- DA 2020/1338 - 55 BOWER STREET, MANLY [DDP 2021 Refusal]
- DA 2021/2034 - 30 FAIRLIGHT STREET, FAIRLIGHT [NBLPP 2022 Refusal]

Define what a Moderate View Loss is?..Give examples

Any view loss from non-compliant development, outside of the defined envelope controls will be unacceptable and will be refused

No new trees in water viewing corridors

### **OVERSHADOWING**

Any solar loss from non-compliant development, outside of the defined envelope controls will be unacceptable and will be refused

Half Hourly 'View from the Sun' Diagrams must be included, with any non-compliant envelope clearly shown, and the loss that it creates.

A detailed schedule produced window by window of the loss.

### **PRIVACY**

Windows facing neighbours – give clear direction on privacy devices and window sill heights

Decks facing neighbours – give clear direction on privacy devices

### **TREE PRESERVATION**

Give examples of what would not be acceptable: eg. Pittwater Spotted Gum Forest

**PRE-CONSULTATION WITH SENIOR NBC OFFICERS A PRE-REQUISITE** in C4 Zone, and Minutes must be included within SEE

### **ACTION TWO: ASSESSMENT OFFICERS**

- DA in Zone C: the most senior NBC Council Planners on each DA
- Encourage senior officers to seek ongoing amendments to reduce overdevelopment – be more proactive in identifying the reductions that are necessary.

### **ACTION THREE: DESIGN & SUSTAINABILITY PANEL**

- DA in Zone C: DA over \$1m in value. Submissions by neighbours to be considered by DSP: view loss, solar loss, privacy loss, landscape in the deliberations.

### **ACTION FOUR: DDP**

- DA in Zone C to have the most senior NBC Officers, including Senior Landscape Officer, assessing the DA

### **ACTION FIVE: NBLPP**

- DA in Zone C: Request Urban Designers/Architect [eg. Kara Krason,] and senior Environmental Horticulturist/Landscape Planner [eg. Susan Hopley/MC LLP] on LPP
- Request that Council appoint NBC Zone C Resident as the Community Member [4<sup>th</sup> member] of NBLPP on all C4 Zone DA – Resident Groups should nominate; or should the 4<sup>th</sup> Member be another Urban Designers/Architect, so that three expert 'designers' and the legal based 'Chair' are assessing each Zone C DA?

### **ACTION SIX: NSWLEC**

- Appoint specialist Urban Designers/Architect Consultant Expert Witness on each Zone C Appeal, supported by NBC Planning & Landscape Case Officers
- Make all NSWLEC Appeal decisions more transparent by providing on NBC data base website link to all decisions, with a brief summary of the outcome, and the concessions made if agreement reached at Section 34 stage

### **ACTION SEVEN: NBC DATA BASE**

- All Zone C DA that have CI 4.6 Request must be entered on a NBC separate data base website list at Notification Stage [HOB: 329 PB, 425 PB, 498 MV, 469 PB, 625 N, 666 N, 742 A – 11.7m]
- All Zone C DA Decisions to be separately entered on NBC Website data base web site link, to aid transparency of all decisions, split between Refusals and Approvals
- All NBC Refusals to be separately entered on NBC data base website link, so that Applicant can assess what has been unacceptable to NBC
- Make all NSWLEC Appeal decisions more transparent by providing on NBC data base website link to all decisions, with a brief summary of the outcome

### **Appendix:**

#### **189 RIVERVIEW**

**Vote: 3/1**

The dissenter does not support the proposal in its current form due to: [Kara Krason?]

1. Concerns over potential impacts of the building, external stairs and inclinator on Tree 27 and insufficient arboricultural assessment and tree root mapping to confirm that design amendments would not be required to ensure retention of this significant tree.

2. Some aspects of the proposed design, including but not limited to the lowest living level (level 5), result in visual and physical impacts on the natural environment. Accordingly, some aspects of the proposed design do not satisfy the objectives of the zone or contribute to a scale that is consistent with the desired character of the locality and the scale of surrounding development.