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**From:** William Fleming  
**Sent:** 1/03/2024 1:38:12 PM  
**To:** Council Northernbeaches Mailbox  
**Subject:** TRIMMED Submission re 12a & 12b John Street, Avalon (DA2023/1818 & DA2023/1819)  
**Attachments:** John Street, Avalon - Submission.pdf;

Please find a submission attached with regard to the 2 DA's lodged for 12a & 12B John Street, Avalon.

Kind regards,  
Will

**William Fleming**

Planner



**Town Planners**

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15 February 2024

The General Manager  
Northern Beaches Council

**Attention: Stephanie Gelder**

**DEVELOPMENT APPLICATION DA (DA2023/1818 & DA2023/1819)  
NEW DWELLINGS WITH SECONDARY DWELLINGS  
12 A & 12 B JOHN STREET, AVALON**

I write on behalf of the owners of 12 John Street which is the site in front of the 2 subdivided lots at the rear. This submission is in response to both DA2023/1818 and DA2023/1819 which have been lodged concurrently and proposed similar schemes.

I have reviewed the submitted documentation and we are of the opinion that the proposals will have an unreasonable impact on my client's property.

**FRONT SETBACK**

With regard to 12a John Street, the garage with secondary dwelling above is proposed to be 1m from the front boundary. While it is acknowledged that it is compliant with the front setback control as it is a battle-axe lot, it is unreasonable for a 2 storey building with a habitable space on the first floor to be 1m from the boundary.

This structure raises significant acoustic and visual privacy concerns which are coupled with a similar two storey structure proposed to 12b. The main private open space area for my client's is in the rear yard which will now be overlooked via windows and balconies from the first floor secondary dwelling. It will severely diminish the amenity of the private open space area of No. 12.

The visual impact of the 2 storey garage structure is unreasonable and it is not something that is anticipated or encouraged in the DCP control which will be addressed further in this statement.

## **BUILDING HEIGHT**

Clause 4.3(2FA) states that:

*Despite subclause (2), the maximum height for a secondary dwelling or a rural worker's dwelling in Zone C4 Environmental Living or Zone RU2 Rural Landscape is **5.5 metres** if the secondary dwelling or rural worker's dwelling is separate from the principal dwelling.*

The proposal is zoned C4 environmental living and proposes a secondary dwellings that exceed the 5.5m development standard. No clause 4.6 request has been provided to support this variation.

Notwithstanding, we strongly oppose any variation to this control. Both the LEP and DCP controls seek to limit the height of outbuildings and also to restrict habitable spaces being located above detached garages. These unreasonable non-compliances will have a detrimental impact on the amenity of my clients private open space area and result in unreasonable visual impacts due to the bulk and scale garages with secondary dwellings above.

The proposals are for new development and can be designed to respect both the LEP and DCP controls.

## **SECONDARY DWELLINGS AND RURAL WORKER'S DWELLINGS**

Clause C1.11 explicitly states that:

*A secondary dwelling above a detached garage is not supported.*

The visual and amenity impacts as a result of this non-compliance is unreasonable and Council should be strictly applying this clause for what is new development. We reject the justifications within the SEE which claims privacy impacts are reasonable as the dwelling at 12 John Street is distanced from the secondary dwellings. This may be true but it does not take into consideration the privacy impacts on the rear garden of No 12 which is the main private open space. Both secondary dwellings will have large windows facing towards No. 12 as well as a balcony which present significant overlooking opportunities.

The landscaping proposed in front of the secondary dwelling along the common boundary will afford no additional softening and screening of these structures. The hedges proposed in front of 12a reaches a maturity of 900mm. Virtually all existing trees towards the front of the subject sites will be removed. The proposed landscape plan will not soften and screen these structures nor can it be relied upon for privacy attenuation.

The SEE also claims that it is modest in bulk and scale which cannot be possible with it being non-compliant with the 5.5m development standard for detached secondary dwellings. These visual impacts are made worse due to there being 2 x 2 storey garage with secondary dwellings that will sit close to the rear boundary of No. 12.

This clause also states that:

*A landscaping strip of 1.5m minimum width shall be provided along the side boundary where any driveway is located adjacent to an existing dwelling.*

The driveway and secondary dwelling is only 1m from the boundary for lot 12a and inconsistent with this control. Another non-compliance with this control speaking to its unreasonableness.

### **PARKING & SAFETY**

No additional parking spaces are provided for the secondary dwellings which is inconsistent with clause B6.3 which states that:

*For a Secondary Dwelling a minimum of 1 space is required in addition to existing requirement for the principal dwelling (based on number of bedrooms in principal dwelling).*

Another non-compliance regarding the secondary dwelling speaking to its unreasonableness.

The new dwellings are accessed via a right of carriageway and will increase privacy and security concerns for No. 12 with residents and visitors walking up to the dwellings. My clients have already experienced visitors utilising their driveway as a turning circle which is not allowed under the terms of the easement.

The increased number of cars utilising the driveway for both the primary and secondary dwelling raises safety concerns. The area is frequented with elderly residents with Avalon House in close proximity to the subject site. Residents are regularly walking in the area. The lack of off-street parking will create more demand for on-street parking and risk of conflict with pedestrians with a lack of footpath infrastructure in the area. Having non-compliant off-street parking is unreasonable in this instance. As mentioned earlier, my clients have experienced visitors using their driveway as a turning circle and creates concern for their young children who do use the driveway to ride bikes/skateboard and do not want to see this use continue should the application be approved. The lack of compliant off-street parking raises concerns for misuse of the right-of-way for parking and increases the risk of conflict between vehicles entering and exiting the site.

### **VISUAL PRIVACY**

As mentioned previously, the first floor secondary dwellings present an unreasonable risk to visual privacy. The secondary dwelling windows and balcony will overlook into the private open space area of No. 12. The minimal setback from the common boundary, in particular for 12a, are contributing to the privacy concerns and is considered unreasonable to only a 1m setback, notwithstanding the several non-compliances that are attributable to the secondary dwellings.

### **AVALON BEACH LOCALITY**

The proposal is inconsistent with the desired future character of Avalon Beach. The proposed 2 storey garage with secondary dwelling is out of character in this location and inconsistent with clauses within the LEP and DCP. It reflects the unreasonable of the proposal and will have a detrimental impact on the amenity of No. 12. These non-compliances result in an unreasonable bulk and scale where the desired future character aims to minimise bulk and scale.

The works will further reduce trees and vegetation on site which is inconsistent with the objectives of the C4 zone and the Avalon Locality. The proposal is seeking to remove T22 which was to be replanted as per the subdivision conditions to retain a suitable tree canopy. The proposed removal will be to the detriment of the locality and the conservation zone. The built form does not integrate with the landscape.

### **REMEDIATION OF LAND**

It is understood that soil from the sewerage treatment plant was dumped at the rear of this property and do not agree that it is unlikely that contamination is present due to the residential nature of the use. The works proposed present a risk to exposing contaminants and request that soil contamination testing be conducted prior to construction.

### **BIODIVERISTY AND RIPARIAN LANDS**

The proposal is inconsistent with the conditions of the subdivision development application. No evidence has been provided to satisfy the conditions of the subdivision DA with regard to the biodiversity offset payments. Furthermore, the landscape plan does not provide like for like tree replacements nor does it show the retention and transplantation of T22 which were conditions of consent with the subdivision DA.

The proposal will have a significant impact on the biodiversity value of the area and the riparian zone.

Yours sincerely



**William Fleming**  
**BOSTON BLYTH FLEMING**  
BS, MPLAN