

Development Application DA 2024-1835

10-12 Clifford Ave and 33-35 Fairlight Street, Fairlight

We, the owners of 2/11 Clifford Ave Fairlight wish to raise our strong objection to this proposed development because it is gross overdevelopment, does not comply with the LEP FSR and height controls of MLEP.

Our objections can be summarised under these headings:

1) Streetscape, Bulk & Scale

The proposal incorporates demolition of the existing structures and construction of a large 5 storey residential flat building with two levels of basement comprising 15 residential units. The bulk of the development is located on the southern portion of the site fronting Clifford Ave. The proposal results in the following development indices:

Maximum height – 13.87m (a 63.1% variation to Council controls)

Floor space ratio – 1.12:1 (a 86.1% variation to Council controls)

It is noted that the southern most properties of the development site, No. 10-12 Clifford Avenue) are not identified in the map relating to the NSW Governments Stage 2 Low & Mid Rise Housing Policy. Therefore, this portion of the property will not benefit from any additional height or floor space controls.

These significant non-compliances with the development standards of the Manly Local Environmental Plan indicate that the proposal is a significant and unjustified over development of the subject site. It is noted that the Manly LEP provides for only two development standards, height and floor space, and the proposal has had total disregard for both of these controls.

HEIGHT:

The Manly LEP stipulates a maximum height of 8.5m of the subject. The proposal provides for a maximum proposed height 13.87m, a non-compliance of 5.37m. This is a significant non-compliance of 63.1%.

The drawings submitted with the application do not clearly indicate the height as measured above '*existing ground level*' and therefore does not provide a clear representation of the non-compliance.

The main areas of non-compliance to the building height development standard are the façade fronting Fairlight Ave. The non-compliance with height controls results in unreasonable impacts and is not consistent with the objectives of the height control for these reasons:

- The proposal does not provide for a building height that is consistent with the prevailing building height and desired future streetscape of the locality. The existing streetscape in this portion of Clifford Ave is predominantly characterised by 2 to 3 storey buildings with the levels recessed as heights increase. However, the proposal provides for 6 levels (5 residential and 1 parking/lobby) without sufficient recessing

to the Clifford Ave frontage. This is further exacerbated by the northern portion of the development providing for a further four levels.

- The proposal results in unreasonable bulk and scale (in conjunction with the non-compliance with the FSR development standard). The bulk of the development is located on the southern portion of the development site with 4 levels presenting to Clifford Ave. This is further compounded by the significant reduction of landscaping within the front setback and the substantial excavation proposed.
- The lack of deep soil landscaping within the front setback and adjacent to the boundaries of the site (particularly to the southern half of the site) results in a development where the built form dominates the streetscape and does not permit the provision of canopy trees that would be more commensurate with the building height. A building proposed with such height should ensure large setbacks to all boundaries to accommodate large canopy trees that could achieve a height more compatible with the built form.
- The site is located on the high side of Clifford Ave further exacerbating the non-compliance with the height controls. The proposed development is imposing and is not consistent with the streetscape which is clearly depicted in the applicant's own photomontage.

Whilst it is noted that some other properties within the vicinity exceed the height control, the extent to which the proposal exceeds the height control is far greater, is easily viewed from the Clifford Ave frontage and cannot be softened by landscaping given the inadequate landscaped area and setbacks to the Clifford Ave frontage and side setbacks, as noted above.

FLOOR SPACE RATIO:

The Manly LEP stipulates a maximum floor space ratio (FSR) of 0.6:1. The proposal provides for a FSR of 1.12:1 or a 86.1% variation. This is a variation of 1,215.27m² of floor area.

The extent of non-compliance is in itself demonstrating an overdevelopment of the site. It is considered that the excessive non-compliance is unreasonable and does not meet the objectives of the clause for these reasons:

- As detailed above (in discussion of height) the proposal does not result in a development that is in keeping with the existing and desired future streetscape. The applicant refers to some residential flat buildings, well separated from the site, which would exceed the current development standards. These buildings were approved under a previous LEP and are not considered to be consistent with the desired character of the area. Further they are the exception to the existing streetscape. The predominant built form in this portion of is 2-3 storey dwellings, and the proposal in its current form is not consistent nor compatible with this.
- The proposal does not provide for an appropriate relationship in terms of landscaping. The proposal does not provide for useable or appropriate areas of landscaping, particularly within the side setbacks and within the setback to Clifford Avenue. The landscaped areas are insufficient to provide sufficient landscaping that would be commensurate with the proposed built form.
- The blatant disregard for the Council floor space ratio combined with the non-compliance with the height, setbacks and number of storeys clearly indicates that the proposal in its current form is an over development of the site.

The proposal provides for substantial non-compliance with the height and floor space ratio controls of the Manly LEP. These are the only development standards specified in the LEP. The extent of these non-compliances (63.1% and 86.1%) results in an unreasonably bulky development particularly when viewed from Clifford Avenue and the properties on the southern side of Clifford Avenue. The excessive non-compliances clearly indicate that the proposal is an overdevelopment of the site.

A more appropriate development, which could reduce the number of units and more appropriately respond to the topography, would result in a more appropriate outcome that would be more compatible with the Clifford Avenue streetscape.

Streetscape

Clause 3.1.1 states that:

Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials and colours and vegetation which contributes to the character of the local area.

Further guidance is provided in Clause 3.1.1.1 Complementary Design & Visual Improvement which in part states:

a) Development in the [streetscape](#) (including buildings, fences and landscaping) should be designed to:

i) complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;

ii) ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;

iii) *maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys;*

The proposed development has had no regard to these principles resulting in an overly bulky dominant built form. The non-compliance with the height and floor space ratio controls significantly contribute to significant impact on the streetscape.

The existing streetscape in this portion of Clifford Avenue is predominantly characterised by 2 to 3 storey buildings with the levels recessed as heights increase. However, the proposal provides for 5 levels of residential development fronting Clifford Avenue located over a basement level. This is further exacerbated by the northern portion of the development providing for a further four levels.

The further excavation proposed within the setback to Clifford Avenue is also uncharacteristic of this locality, further adding to the unreasonable bulk. With the limited setbacks and need for retaining walls, there is no opportunity for good landscaped areas. Ideally, residential flat buildings should be complemented by good setbacks to all boundaries that can support landscaping including canopy trees that are commensurate in height to the building proposed.

When viewed from the properties on the southern side of Clifford Avenue (No. 5, 7 and 9) the development will be of unreasonable height and scale.

Scale & Density

The site is located within the D3 Density Area (Manly DCP) which specifies a maximum density of 1 dwelling per 250m². With a development site area of 2,352m² a maximum of 9 dwelling would be permissible on site. The proposal provides for a total of 15 residential apartments well exceeding this control.

As noted above, the impacts resulting from the non-compliance with this control of the DCP relate to an overdevelopment of the site including:

1. Loss of privacy.
2. Unreasonable bulk and scale.
3. Non-complying height and floor area.
4. Drainage issues
5. Insufficient landscaping to support the dwelling.
6. Traffic.

2) Privacy

The proposed development will cause a loss of privacy to the properties on the southern side of Clifford Ave. Proposed units 1 through to 8 are orientated towards Clifford Ave. these units have all their living areas and only outdoor open space on the front façade. These units are elevated above Clifford Ave causing privacy issues for the residents on the southern side of the street. The inability for landscaping within the front setback, due to minimal useful deep

soil landscaped areas, in conjunction with the non-compliance with the floor space and height of building controls, results in a development that could otherwise provide for an appropriate level of privacy.

3) Drainage

The proposal provides for all collected stormwater to ultimately be discharged to the street gutter in Clifford Ave.

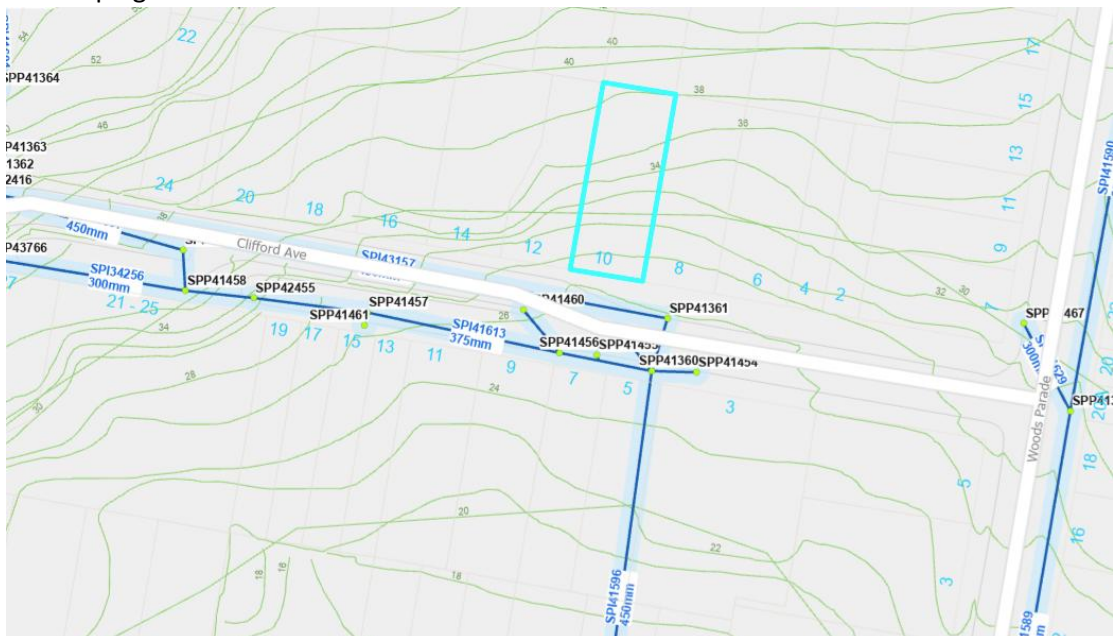
The Council's Stormwater Infrastructure Map depicts that stormwater from Clifford Ave is conveyed downstream via a stormwater pipe that extends beneath No 5 Clifford Ave.

The concentration of all stormwater from the properties on the northern side of Clifford Ave as well as the road drainage results in localised flooding which affects properties on the southern side of Clifford Ave. this flooding is identified on the Council's flood hazard map.

Localised flooding has been witnessed by current Clifford Ave residents with access to some properties restricted due to levels of even moderate rain.

There is concern that the proposed development will further add to the flooding. It has not been demonstrated that the existing drainage infrastructure can support the proposed development and associated runoff.

The proposed development results in a significant reduction of the existing landscaped area. The areas of landscaping provided are segregated and inappropriately placed, in such that they will not assist in reducing runoff. The large basement levels limit the ability for good 'deep soil' landscaping.





Extract of Council Flood Hazard Map

4) Traffic

The proposal provides for 15 residential flats and includes 35 parking spaces on site. The only vehicular access to the site is via Clifford Ave. Clifford Ave is a congested street with a high demand for on-site parking, restricted width (due in part to the divided road). Introducing such a large non-compliant development with all access from Clifford Ave will result in a significant increase in the number of vehicles using Clifford Ave.

The location of the site on Clifford Avenue is such that vehicles will be entering and exiting the site in the most difficult portion of the site – where the road splits into two.

As noted above the significant non-compliance with the height and floor space controls results in an unreasonable number of units and contributes to unreasonable traffic.

A more appropriate development would incorporate vehicular access from both Fairlight Street and Clifford Ave to reduce impacts on the local area.

5) Traffic Management

There is no apparent plan from the applicant indicating how the excessive increase in traffic and heavy vehicles will be managed and the ramifications of this on residents in Clifford Ave during construction. Clifford Ave is a dead-end street and the potential disruption during construction with trucks, cranes, excavators using Clifford Ave will be significant. Traffic will be impeded and often blocked.

Fairlight Street is a busy local thoroughfare and the above will be true for this street as well. The impact of large trucks for excavation, deliveries and removal of excavated material will also adversely affect weekly waste collection services for residents.

Similarly parking for current residents and visitors will be severely affected.

6) Excavation

This large non-compliant development includes a 34-space carpark underground. This will require significant excavation to a depth of 15 metres across the Clifford Ave blocks. No deep drill bore holes have been done to assess the ground quality and there is no Geotechnical report that appropriately assesses the risk associated with such deep level excavation.

The excavation process could involve severe vibration exposures for adjoining properties, dust which have significant health implications for neighbouring properties, noise issues, water, sewerage and drainage issues as well as subsidence(sinking) issues.

Insufficient plans mitigate these potential risks which will be largely unknown until after the development is approved. This is clearly unacceptable and the risk outcome for current residents is high given the development is significantly outside the current planning LEP and DCP requirements.

Detailed excavation management plans are necessary that assess vibration exposures, dust management issues, noise issues, water, sewerage and drainage issues and large subsidence issues. Given this proposal is so vastly non-compliant (in FSR, height, number of units) these plans should not be left to the applicant to self-assess. Council should have a detailed, auditable and independent management plan for the issues raised above so that current residents' rights are protected and no undue risks are borne by current residents.

Summary

The current proposal provides for significant non-compliance with the building height and floor space development standards which will result in unreasonable impacts, and does not achieve the objectives of the LEP and is considered an overdevelopment. A more considered design including a reduction in height and floor space and more in keeping with the current streetscape on Clifford Ave, is required.

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