

To: The General Manager
Northern Beaches Council
PO Box 82
MANLY NSW 1655
Att: Claire Ryan

From: George Opadchy
7 Clifford Ave Fairlight NSW 2094.

Regarding DA number 2024/1835

ADDRESS: 10-12 CLIFFORD AVENUE, 33-35 FAIRLIGHT STREET, FAIRLIGHT
PROPOSED DEMOLITION & CONSTRUCTION OF NEW RESIDENTIAL
FLAT BUILDING

Hi Claire,

I would like to strongly object to **DA number 2024/1835...** and it's not surprise that so many of the residents surrounding this monstrous attempt at over-development are equally upset by it and object this DA.

Clifford ave is a community of people in dwellings which have been constructed within the requirements of council regulations. These council regulations have been upheld and adhered to by the residents of Clifford Avenue – and we reasonably expect the same should be demanded of the proposers of DA number 2024/1835.

I have recently renovated my home of 20 years with a design that was **1m under the permissible height limit** and **under the permissible FSR**. These reduced dimensions, (in particular the height reductions), were settled largely in response to numerous objections and demands made by those same property owners who now seek to ignore the same development controls, which they demanded of their neighbours, for their own gains.

For the Clifford Avenue Residents, this amounts to an act of selfishness: expecting everyone else in the street comply, whilst they themselves demand exemption. For us, this amounts to the sort of hypocrisy which erodes our community and, if permitted, will erode everyone's trust in the council.

Further, the entire proposed development falls **OUTSIDE the 800m radius from both the nearest transport hubs – Manly Wharf and Balgowlah Shops - and therefore they are not entitled to any special density considerations from the State's Low and Mid-rise Housing Policy. (see link Below).**

It should be noted that both **10 and 12 Clifford Avenue are SPECIFICALLY EXCLUDED** from the potential "Low and Mid-Rise Housing Policy Indicative map".

https://spatialportal.dpie.nsw.gov.au/portal/apps/experiencebuilder/experience/?id=c53d5767b677454c8a26d6790a296bc2&_gl=1*x3sxb*_ga*MTc2Mjc2NDQ3Ny4xNjk3NDE3Nzc5*_ga_EM0GYT3QMX*MTc0MDk1Njk3Ny4xLjAuMTc0MDk1Njk4My41NC4wLjA.

Further I would like to point out some of our key concerns:

1. Streetscape, Bulk & Scale

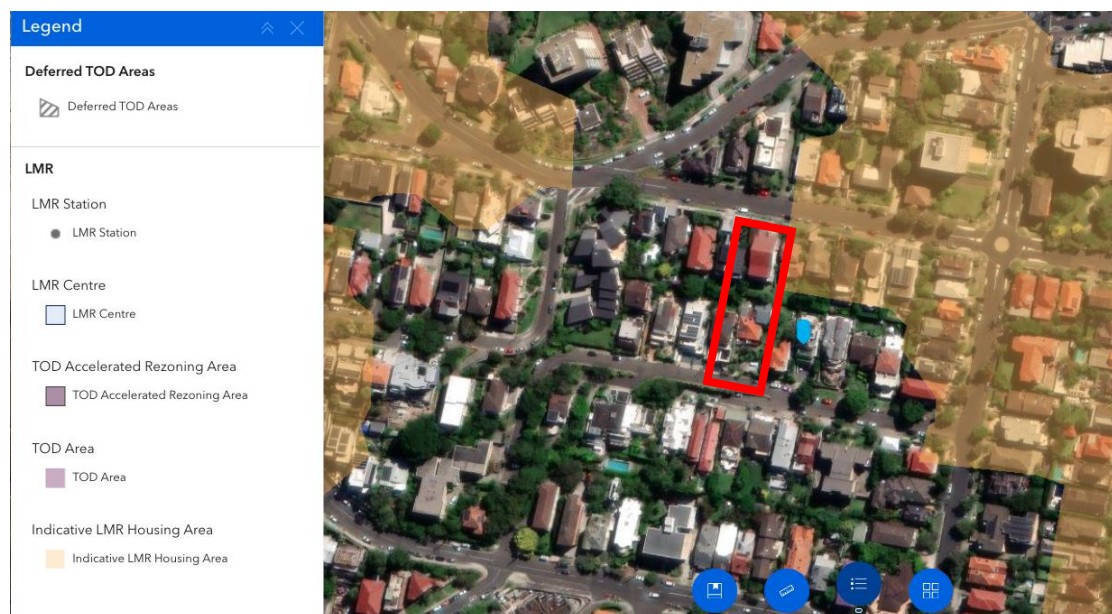
The proposal incorporates demolition of the existing structures and construction of a large 5 storey residential flat building with two levels of basement parking comprising 15 residential units. The bulk of the development is located on southern portion of the site fronting Clifford Avenue. The proposal 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 specifically NOT included 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. Further, the two properties on Fairlight Street (33 & 35) are actually outside the 800m radius from Manly Wharf.



Extract of Low & Mid-Rise Housing Policy Indicative Map

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.

These controls have been applied consistently in the immediate locality. In particularly, significant amendments were required through the assessment process of No. 7 Clifford Avenue (DA2019/0276) to ensure compliance with both the height and floor space controls of the LEP.

It would be an unreasonable precedent to permit such a large variation of the height and floor space development standards of the Manly LEP.

Height

The Manly LEP stipulates a maximum height of 8.5m for the subject. The proposal provides for a maximum height of 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 Avenue. The non-compliance with height controls results in unreasonable impacts and is not consistent with the objectives of the height control for the following 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 Avenue 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 Avenue 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 Avenue. 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 Avenue 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 Avenue frontage and cannot be softened by landscaping given the inadequate landscaped area and setbacks to the Clifford Avenue frontage and side setbacks, as noted above.

- A better design could easily comply with the building height control and there are not considered any particular circumstances of the site that could justify the significant non-compliance.

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 the following reasons:

- As detailed above (in discussion of height) the proposal does not result in a development that is consistent 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 best 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.

As noted previously, 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. In conjunction 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:

- Loss of privacy.
- Unreasonable bulk and scale.
- Non-complying height and floor area.
- Drainage issues
- Insufficient landscaping to support the dwelling.
- Traffic.

Privacy

The proposed development will result in a loss of visual and acoustic privacy to the properties on the southern side of Clifford Avenue, namely, No. 5, 7 and 9. Proposed Units 1 through to 8 are all orientated towards Clifford Avenue. These units have all their living areas and only outdoor open space on the front façade. The units are elevated above Clifford Avenue and will permit views into internal habitable areas of No. 5, 7 and 9 Clifford Avenue.

No. 7 Clifford Avenue comprises bedrooms on the upper level with large window/doors on the street elevation. The proposed units will permit views into these bedrooms.

Similarly, No. 5 Clifford Avenue comprises the main bedroom on the upper level and orientated towards Clifford Avenue. The proposal will result in a number of units having direct views into the bedroom of No. 5.

With all high use living areas and the only private open space (terraces) for Units 1 through to 8 being on the front elevation and all elevated will also create acoustic issues to the surrounding properties. Any outdoor entertaining will be undertaken on these elevated decks resulting in a reduction of acoustic privacy to the surrounding properties. Again, a more considered design approach, including a comply height, FSR and dwelling density would provide for more opportunities for better placed outdoor living areas.

The inability for landscaping within the front setback, due to the 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.

Noise

The number of units with **balconies all facing Clifford Avenue** pose an unacceptable amount of noise pollution and privacy degradation for neighbours and residents throughout Clifford Avenue.

3. Drainage

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

Having recently renovated our house, and having see the easement at #5 Clifford Ave (with my own eyes) – I can strongly warn council that the idea of collecting all stormwater run off from this DA site and discharging it into the street will certainly lead to more flooding. Unfortunately, the drainage in Clifford avenue was simply NEVER designed to carry the volume of water it currently receives.

The run off from this proposed development – and the addition of 15 more households will result in drainage that simply not cope with the demands put upon it.

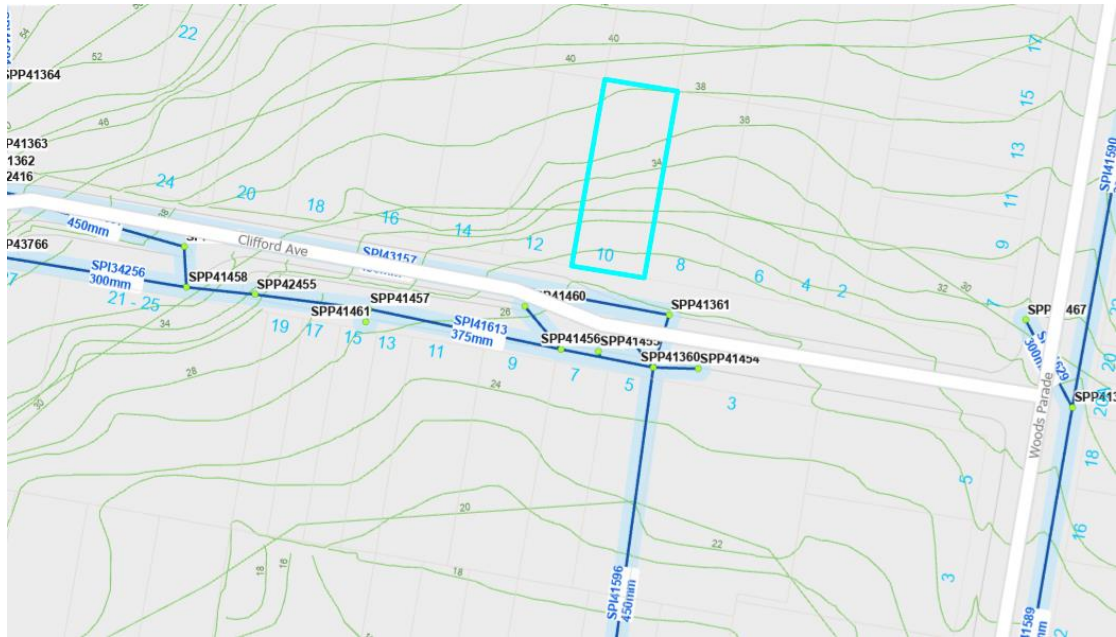
The Council's Stormwater Infrastructure Map depicts that stormwater from Clifford Avenue is conveyed downstream via a stormwater pipe that extends beneath No. 5 Clifford Road.

The concentration of all stormwater from the properties on the northern side of Clifford Avenue as well as the road drainage results in localized flooding, which affects No. 5, 7 and 9 Clifford Avenue. This flooding is identified on Council's flood hazard map.

The owners of No. 5, 7 and 9 have all witnessed this localized flooding with access to their properties restricted due 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 Stormwater Map



Extract of Council Flood Hazard Map

Geotechnical issues

Outside of the overdevelopment mentioned above – the entire project poses a danger to all neighbours due to the vast **excavation** proposed by this DA.

Given the proposed plans to significantly exceeds current LEP 2013 FSR and Height requirements to maximise their number of apartments the developer is seeking to build a 34-space care park underground. This requires excavation to the level of 15 metres underground across the Clifford Avenue blocks.

Given there has been no ability to drill bore holes to assess ground quality there is no Geotechnical report that appropriately assesses the risk that this excavation may encounter.

This could include severe vibration exposures for adjoining sites, dust management issues, noise issues, water and drainage issues and large subsidence issues.

At present there are no plans to mitigate these potential risks other than the developer “will assess when they drill bore holes as see what they are dealing with”.

Therefore, all of the downside risk will be imposed on the residents in the area.

We believe this is an unacceptable process and risk outcome for residents given the developer is seeking to build a development that is significantly outside current planning LEP and DCP requirements.

Accordingly, we believe an application which posses so much risk to neighbouring property, and with so little detailed geotechnical information should be rejected outright.

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Given the excessive expansion of planning controls that the developer is seeking then we believe this must not be left to developer to self-assess. Therefore, council should have a detailed, auditable and independent, mitigation/management process/plan in place so that residents rights are protected and these significant risks are no to be borne/transferred to the residents.

Linking approval to existing approval for 33 and 35 Fairlight Street

The character of Clifford Ave is very different to Fairlight Street. Therefore, it is hard to understand how reference to previously approvals on Fairlight Street are acceptable as a precedent for Clifford Ave. The application demonstrates that the proposal will give rise to unacceptable streetscape, surrounding residential amenity outcomes with the development increasing are poor.

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 Avenue. Clifford Avenue is a congested street with a high demand for on site parking, restricted width (due in part to the divided road) and limited

site views. The introduction of such a large development with all access from Clifford Avenue will result a significant increase in the number of vehicles using Clifford Avenue.

The location of the site on Clifford Avenue is such that vehicles will be entering and existing 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 result in an unreasonable number of units, and contributes to unreasonable traffic. A more appropriate development would also incorporate vehicular access from both Fairlight Street and Clifford Avenue to reduce impacts on the local area.

Diverting traffic away from Fairlight street (which is a major thoroughfare), and forcing 34 additional resident's cars into a dead end street (Clifford Ave) is madness -and surely the opposite of a what a good traffic management plan should be.

Summary

As a resident of Clifford Avenue, I understand the desire of the applicants to redevelop the site. However, the current proposal which provides for a significant non-compliance with the building height and floor space development standards will result in unreasonable impacts, does not achieve the objectives of the LEP and is considered to be an overdevelopment. A more considered design including a reduction in height and floor space could assist in alleviating their concerns and providing a development that more appropriately meets the objectives and requirements of the Council's Local Environmental and Development Control Plan.

Should you have any further queries please do not hesitate to contact me on 0414 234 441.

Many thanks
George Opadchy
7 Clifford ave Fairlight 2094