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**From:** Sebastian Schultes  
**Sent:** 5/12/2022 5:35:21 PM  
**To:** Council Northernbeaches Mailbox  
**Cc:** Nat; Cameron Nixon  
**Subject:** TRIMMED: DA2022/1710 Submission  
**Attachments:** 24 Oliver Street Freshwater - Submisson.docx;

To whom it may concern,

Please find attached an objection to DA2022/1710 at 24 Oliver Street, Freshwater.

If you could please confirm receipt, that would be greatly appreciated.

Kind regards,  
Sebastian Schultes



Glebe Gardens  
72/11 Wigram Lane  
Glebe NSW 2037

04 December 2022

The General Manager  
Northern Beaches Council  
725 Pittwater Road  
Dee Why NSW 2099

Dear Sir/Madam,

## **OBJECTION TO DA2022/1710 - 24 OLIVER STREET, FRESHWATER**

Thank you for the opportunity to provide a submission in relation to the abovementioned application. CJN Planning has been engaged by the landowners of 22 Oliver Street to assess the proposals with a view to any impacts it may have on the existing dwelling.

On behalf of our client we object to the proposal in its current form. This objection is based as the applicant has failed to demonstrate the suitability of the site for the development or that the development is in keeping with the public interest in doing so failing essential matters for consideration under the Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposed replacement of the existing single dwelling with two new dwellings is only possible through a reliance of the historic subdivision of the site, a plan which is ultimately unapprovable under the current *Warringah Local Environmental Plan 2011*. The inadequacy of the lot size subsequently generates non compliances against the Warringah Development Control Plan (WDCP) with regards to the building envelope. In addition to this construction of two dwellings on the site which necessitates the need for two driveways will result in the unneeded removal of on street parking and the unneeded removal of mature council owned landscaping to facilitate private redevelopment of a site which is not suitable for the scale of development proposed. This objections are detailed as follows.

### **Building Envelope**

As detailed in the Statement of Environmental Effects the application seeks development consent for two dwellings with one dwelling on each of the existing allotments. Whilst the construction of a dwelling house forms a permitted land use within the zone this does not remove the need for the project to comply with the requirements of the WDCP. A scheme that can not demonstrate full compliance with the requirements of the Warringah DCP is tacit admission by the applicant that the site itself is too small to accommodate two stand alone dwellings, and therefore not a suitable site for the development. This is freely admitted in the Statement of Environmental Effects which acknowledges the following

*“Each lot is narrow in nature with an approximate lot width of 6m which makes it difficult to facilitate two full sized dwellings that fully comply with the relevant prescriptive measures”*

When viewed in the context of two allotments which fall well below the minimum subdivision size it is clear that the application represents a development which is unsuitable for the

proposed site. It is perhaps for this reason that the applicant has orientated the development to have the non compliance be on land owned and then justified that the intent of the controls, contextual appropriateness and the Building Code of Australia are appropriate justification for the project, they are not.

The applicant has suggested the following in regards to the intent of the controls:

*The intent of setbacks is to ensure that the amenity of adjoining dwellings in terms of privacy, acoustic protection and overshadowing is not compromised*

This statement is fundamentally incorrect, the intent of the side setback controls is detailed in the objectives themselves which are detailed by the DCP as follows:

- To provide opportunities for deep soil landscape areas.
- To ensure that development does not become visually dominant.
- To ensure that the scale and bulk of buildings is minimised.
- To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.
- To provide reasonable sharing of views to and from public and private properties.

It is essential to note that the objectives of the control is to ensure that the bulk and scale of the proposal is minimised. The development of two dwellings on two allotments admitted by the applicant as being undersized. The side setback controls objective is clear, it exists to reduce visual domination and ensure a reasonable level of privacy, amenity and solar access is maintained. The proposal is visually dominate and provides no certainty for the privacy of neighbours demonstrating that as presently proposed it does not meet the objectives and that the site is not suitable for the proposed development.

The notion of “contextual appropriateness” as detailed by the applicant is further sustainably challenged. The built form of 26 and 28 Oliver Street is not the predominate built form of Oliver Street and its surrounds by rather an exception to the Oliver Street streetscape which has substantial properties built over two allotments with compliant setbacks to adjacent properties. The existence of a single development with a narrow setback is not justification to allow the setback proposed by the application.

The Building Code of Australia is minimum standards required for buildings and is not a matter for consideration under the Environmental Planning and Assessment Act. The provisions of the Building Code of Australia do not speak to streetscape, amenity or any planning considerations and is not a justification for the non compliance.

## **ON STREET PARKING AND DRIVEWAYS**

24 Oliver Street currently benefits from a single driveway with direct access to Oliver Street through an approximately 12m landscaped council owned nature strip. To facilitate the extra dwelling the applicant has proposed an additional driveway which would warrant the removal of mature planting in this area and a new access point onto Oliver Street.

Whilst on paper this represents a typical development it will have substantial impacts on the street. The western side of Oliver Street is dominated by the mature landscaping of the nature strip providing a unique and pleasant screen from for residents. This screen benefits both visual and acoustic privacy. The removal of this landscaping has not been proposed to be offset by the applicant and the area will be poorer for this with a greater level of exposure to Oliver Street and the negative amenity aspects associated with this. This impact will be further amplified through the loss approximately two on street parking spaces which given the sites location within walking distance to Freshwater Town

Centre and Freshwater Beach will impact the community as a whole during the typically busy summer period.

These two aspects again raise the question of the public interest and if the applicant has appropriately considered if the site is suitable for the proposed development and if the project is in keeping with the public interest. It is submitted that locating two dwellings on two vastly undersized allotments is not an appropriate response for the site, compliance with the land use table of the WLEP does not exclude the need to provide a design and proposal which is considerate of these matters.

## **PRIVACY**

It is noted that the architectural plans submitted by the proponent does not provide plans which shows the windows of adjacent properties. It is therefore impossible to undertake a complete and full assessment of the project with regards to the privacy impacts it will have on adjacent land holders. It is requested that Northern Beaches Council require the applicant to submit these plans so that a full assessment of the application can be undertaken and the impacts properly assessed should the application move forward in its current form. Further it is noted that 22 Oliver Street is a two storey dwelling, not a one storey dwelling as indicated on the submitted architectural plans.

## **CONCLUSION AND RECCOMENDATIONS**

Having considered the above holistically the overall suitability of the site to accommodate the proposed development must be questioned. Failure to demonstrate the overall suitability of the site is a direct failure of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and is grounds for the refusal of the application unless the application is substantially amended.

The application must be amended to demonstrate compliance with the concerns highlighted in this letter with regards to residential amenity for of 22 Oliver Street, Freshwater. Both myself and the owners will happily meet to discuss the contents of this submission with Council to further highlight the concerns held by our client. Should you have any questions regarding this submission, please do not hesitate to contact the undersigned on [REDACTED]

Yours sincerely,



Cameron Nixon

Principal – CJNI Planning

Bachelor of Planning (Honours) The University of New South Wales

Masters of Business Administration The Royal Melbourne Institute of Technology