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**RE: DA2019/0081 - 12 Boyle Street BALGOWLAH NSW 2093**

Submission for consideration of:

DA2019/0081  
New - Demolition Works and Construction of Residential Accommodation  
(Redevelopment of Lot D in DP335027 and Lot 1 in DP115705)  
12 Boyle Street and 307 Sydney Road, BALGOWLAH, NSW, 2093

Mrs. Wendy Duffy as PoA for,  
Mrs Joan Altwasser  
15 / 299 Sydney Rd  
Balgowlah, NSW, 2093

I wish to register my strong objection to the subject development application. Reasons for my taking exception to this development proposal are discussed below. Further, it is very disappointing to note that this DA is submitted as a second pass following the substantially overwhelming rejection of DA2018/0355 over the same property, without addressing many of the serious concerns raised at that time.

#### Arboreal Aspects

1. Nowhere in the Arboricultural Impact Assessment, or addendum letter, did it provide guarantee that the trees assessed for retention would not be damaged or killed by the impact of the construction, despite their being recommendation of a supervising arborist being appointed to certify the proposed protection measures (Art 4.1.6 of original document). Further, there was no guarantee given within the report on the survivability of the trees designated for transplant (Retention Value B).

2. Concern is held that many of the trees identified for retention will be adversely affected, if not die during construction of this development and if they do, there will be no impact or onus for remediation / compensation placed upon the developers. In fact it is difficult to define any remediation measure that could compensate for accidental or wilful neglect in this matter. Developer will still be permitted to complete the construction and enjoy the outcome benefits even to the detriment of the loss to the environment and community of the greenery.

Surrounding community will suffer for the gain of the DA applicant.

3. One might also question what rights the developer has to allow the arborist to interfere with trees outside the DA footprint (trees T5 - T11). This seems incredibly presumptuous and again demonstrates that this development is planned for the sole benefit of the applicant with no concern for the rights of adjacent landholders.

4. The Canary Island Date Palm (T16) identified for transplant is a significant specimen that is home to many and varied animal and bird species, as is the tree marked for destruction, the River Peppermint Gum (T15). Wildlife relying on these trees includes Kookaburras, Galahs, Cockatoos, Magpies, Butcher Birds, Possums, Tawny Frogmouth, Owls and Lorikeets. These are just those seen to the casual observer. These trees are very highly populated with the native fauna all day and night and removal / destruction of these wildlife havens will prove to be a significant detriment to the whole community.

#### Building Code Aspects

5. It is noted that many of the non-compliant aspects to the Building Code Of Australia relevant to the previous submission have been addressed in order to appease the concerns to Council of the construction and safety requirements. However it is also noted in this current submission that the DA remains non-compliant in several aspects of fire safety. Aspects of concern are:

a. Paragraph 5.4 of the NCC Access Assessment, addressing Clause C3.2 to Part C of the Building Code Of Australia is of major concern. While I am not a specialist in this field, my reading of the assessment leads me to assume that non-compliance to protection of openings in external walls may restrict the ability of fire service personnel to properly fight, control and extinguish a dwelling fire. This could lead to any fire in this development raging out of control, thereby drastically endangering surrounding properties, of which mine is one.

b. Paragraph 5.5 of the same report, addressing Clause C3.3 to Part C of the Code likewise proves to be non-compliant and endangers life and property as described at sub-para a. above.

c. Paragraph 5.6 of the Assessment, addressing Clause D1.4 of the Code introduces endangerment to life with non-compliance to fire escape provisions and regulation.

6. Any 'relaxation' or waiver of such regulations should be severely viewed upon, especially when there is potential for loss of property and / or life.

#### Geotechnical Aspects

7. It is viewed with some concern the comments at Paragraph 4.1 of the Geotechnical Report that proper investigation of the sub-surface over most of the block containing #307 Sydney Rd can only be conducted after the house at #12 Boyle St has been demolished. This gives no certainty that no untoward outcomes from that investigation will arise that will further affect surrounding properties. That effectively gives licence to the developer to proceed with the project despite there being a full appreciation of the situation or the impact there may be on other stakeholders. One should always be suspicious when presented with a 'fait accompli' scenario.

8. Paragraph 4.3 of the Geotechnical Investigation indicates that excavation of the site to a depth of 2.0 metres will require the use of hydraulic rock hammers, which will induce significant vibration across adjacent areas for a substantial period during construction. This will, in all

likelihood, cause major damage to foundations and building structure of 299 Sydney Rd. Very high concern is held for the integrity of this building, my home, and for the safety of all current residents.

## Heritage Aspects

9. I understand that the applicant remunerates the consultants drafting the reports on behalf of the applicant for those reports and so from a commercial viability position the consultants would be very unwise to present adverse findings in their reports. To do so would mean they would probably never be engaged to complete such work again. Hence, there is already some significant bias towards the report being 'favourable' to the client, the party submitting the DA. Notwithstanding this, one might assume that a consultant would desire to maintain some credibility and be noted for professionalism through their works. In this case however, in my opinion, the Statement Of Heritage Impact supporting this DA fails to present a balanced and reasonable argument. This is not the forum for seeking a better mechanism for presenting impartial assessments, and indeed I have some issue with comments and justifications made in some of the other reports but I believe it would be of benefit for Council to review the method of obtaining supporting documentation for DAs so a fair and balanced assessment can be presented and a value judgment be finally made.

10. The construction of contemporary (modern) style apartments / townhouses either side of #307 Sydney Rd, to the front and rear of that Heritage building, will completely impede the sightline of the Heritage building from all angles and therefore significantly detract from the current heritage value. To claim otherwise as they do is a complete fabrication. #307 will be completely built upon, and around, and will thereby totally diminish its Heritage significance. This is especially so when the new-build will not be in the similar style and design. That the report's authors claim otherwise is an insult to the readers' intelligence.

11. Despite the unsubstantiated claims by the author of this report, it is my opinion that the relationship of the Heritage Triad between #303 / #305 / #307 of this whole heritage precinct will be destroyed. #307 does not stand alone in this analysis; the full heritage aspect should be assessed in conjunction with #303 and #305 Sydney Rd as well. They are part and parcel jointly of this Heritage Register significance. Destroying the aspect of one dramatically impacts upon and destroys the value of them all collectively.

12. The design of the first storey extension to the Heritage Building is in no manner in keeping with the principals of the original building. To alter this by approving such a DA will prove the meaningful listing of such Heritage properties to be a mockery and injustice to the value of keeping such icons. It will be a shameful shortfall in the policy and meaning of Heritage protection. One might well ask what would be the point of listing any property as a heritage icon if developers could wantonly alter them with impunity?

13. It is interesting to note that no relevant descriptive photos of #307 Sydney Rd were included at Paragraph 3.2 to the Statement Of Heritage Impact where discussion of the Streetscape was detailed, as was produced for #303 and #305. To do so would clearly have demonstrated the architectural relationship between the buildings so one must wonder if this was deliberately deficient in order to obfuscate the situation. If one attends that location and observes a photo angle along the driveway towards #307, and without a tradesman's van parked in front, they would have sightline of that property from the street and hence note the relationship between the three properties in question. The assumed deliberate shielding of this 'sightline' within the report does not make the claim of the developer true, that it does not pose

an adverse impact; this could be quite a deceiving claim.

14. I take specific issue with the following comments made in this report, Article 6.2.2, Table 4:

a. Clause 3.3:

i) Para 1) - Comments at this item would suggest that the building additions do not comply as the current heritage item will be built over and on all visible sides, thereby completely enshrouding the original building and losing that 'visible link'. The claim that it will comply is pure fabrication without substance.

ii) Para 2) - The proposed design surrounding and altering the Heritage item does not comply as the concept is completely at odds with the current style and context. Again, the claim that it is sympathetic to the original, to my mind, is fictitious. I believe the statement here attempts to bamboozle people with jargonized drivel.

iii) Para 3) - This item does not comply as per the statements directly above. Any alteration to #307 will of course have significant impact upon the relationship with #303 and #305; to claim otherwise is fiction and denial of reality.

iv) Para 5) - More jargon designed to confuse the status. There is barely any retention of the heritage aspects.

b. Clause 3.2.1.1:

i) Para b) - I read the comments here as an absolute professional sell-out. To say that this proposal will not impinge upon or dilute the Heritage value is complete denial of the author's duties in my opinion. More architectural nonsense is written to claim such is woven into the compromised statements. Shameful!

ii) Para c) - Same comments as per sub-para 14.b.i. above.

c. Clause 3.2.2.1: Paras a) and b) - These modifications are major and significant. The falsely stated opinion of H21 to the contrary distorts the actual facts that:

i) It is not commensurate with the scale of the current building; this proposal far exceeds it,

ii) The amendments are out of character with current heritage design, and

iii) The new works dramatically swamp and extinguish the present building character.

All this is in contradiction to the H21 claims and intent of MDCP2013.

d. Clause 3.2.4 a): While the garage and carport for the front building will not be constructed forward of the current #307, a whole set of apartments will be erected in the stead. This will effectively banish the current building #307 from sight and extinguish the relationship status with the other heritage buildings alongside. The top floor additions will act to visually dominate the current structure and therefore the heritage form and visual link to the other buildings will be totally lost.

15. The claims and assertions made by H21 on behalf of the applicant at paragraph 7.0 are completely rejected. To my mind H21 has compromised their professional ethics by fabricating comments contrary to the actual state and fact in order to benefit the developer alone. Their comments are largely inconsistent with the intent of MDCP2013. They have used 'mumbo-jumbo' and contrived language to try and justify and extol their claims. This needs to be called out for what it is. There are some blatantly incorrect statements and assertions and it makes one wonder what induced the author to write such falsehoods. It does not bode well for the credibility of the company from my point of view.

## Environmental Aspects

16. The comments made at paragraph 9 above regarding the compromised balance and judgement displayed by consultants working directly for the applicant are germane here for the Statement of Environmental Effects. Specific contestation to the claims made in this document are:

- a. Paragraph 4.1.2: I would not call a breach of height restriction by 13.8% 'minor' as this document states. Furthermore, that height does seem to quite significantly restrict views from the rear of #10 Boyle St and the solar access to the rear of #305 Sydney rd. It is all well and good for MDCP2013 Clause 4.6 to allow for flexibility in applying standards to the developer but that should not be at the expense to amenity of affected stakeholders. I would propose that a viable solution in this instance could be for the developer to reduce the height of the rear block by one complete storey, then they will be fully compliant; an easy fix.
- b. Paragraph 4.1.3 d): Floor space ratio standards and objectives - While the development may not have adverse impact upon any public domain, it certainly does so on the surrounding private "adjoining land". This is part of the MDCP2013 Clause 4.4 consideration along with the public domain that must be considered under this clause, and it has not been treated as such. In fact the document completely ignores that aspect, perhaps hoping no one will notice and the requirement will go away? Very convenient for the authors of this document to leave that aspect out. But, again I would suggest, that by reducing the rear building by one complete storey the developer should well and truly fall into compliance in this respect. Simple solution.
- c. There are comments throughout this document regarding the overshadowing for the Boyle St adjoining properties, however not one word said regarding the same for the Sydney St properties, which in fact may be more so affected. This to me suggests a design to avoid complete disclosure and therefore be fraudulent in its openness.
- d. The developer is also non-compliant with the 'View Impact'. I believe the view impact should be assessed as 'moderate - high' under these regulations, and not "minor" as claimed in the document. This is particularly so for the impact upon #10 Boyle St, where it also falls into the 'unreasonable' category by definition, again a fact refused acknowledgement by the developer. As such their "considered opinion" as stated throughout this report should be called into major question. But, yet again, compliance would be easily achieved by reducing the rear block by one complete storey - a trend is developing here.
- e. Paragraph 4.1.4: Their comments regarding the strong retention of the heritage value at this paragraph are completely refuted, as stated at paragraphs 9 - 15 above. Sloppy.
- f. Paragraph 4.2.1.1: The statement made here is grossly incorrect. This proposal does not appropriately respond to MDCP 3.1.1 wrt appropriate sunlight and view sharing and privacy. To claim so is outrageous.
- g. Paragraph 4.2.2.1: This development is non-compliant as to density. This size block allows for seven units, not eight as have been designed. By reducing the rear building by one complete storey this DA would then fall compliant in this respect. This development exceeds the building density by 14%, a not insignificant amount. They cannot claim to be have exemption in this regard as the proposal is UNREASONABLE and UNNECESSARY, both aspects that need to be satisfied before such relaxation can be approved.

## Plans - External

17. The graphics in this document depicts alteration to #307 Sydney Rd that completely overcomes the current heritage appearance of that protected structure. Furthermore, it will be completely hidden from view by the Building #1 being placed directly in front of it at the northern aspect. The meaningfulness of that heritage link between #303, #305 and #307 will be comprehensively ruined, making a mockery of the heritage values expressed by Council. If this plan is allowed to go ahead these protections may well not exist.

## Conclusion

18. There are many aspects of the DA process that I have disagreement with but understand this is the responsibility of Council to remedy for a fairer and balanced assessment of applications for the benefit of all parties. This may also lead to a much less acrimonious discussion between parties when future DAs are submitted. The current process does, however, lead to the consultants acting in the interests and instruction from the applicant always painting a very rosy picture of the actual state and in some measure perhaps trying to 'gloss over' the true outcome of what will be delivered under the development. This is a misleading and, some might contend, fraudulent manner of misrepresentation designed to cover up the true results of such developments.

19. There are many serious issues of concern surrounding this DA from our perspective, specifically in respect to Arboreal, Building Code, Geotechnical, Heritage and Environment / Town Planning aspects. It is my opinion that there are significant flaws in the argument for agreeing to this DA in the specific documents mentioned above and it is requested and recommended that this DA be rejected on its current merits. Approval of this DA will not be in the interest of the environment, heritage, safety or security of any of the surrounding community. It will purely advantage the applicant without concern to anyone else.

Wendy Duffy for, Joan Altwasser.