
Sent: 5/05/2021 4:08:48 PM
Subject: DA/2021/0383 - 53B Amourin Street, North Manly - Objection Letter Submission
Attachments: Objection Letter - 53B Amourin Street, North Manly.pdf;

Dear Sir/Madam,

Please accept the attached letter as a formal objection submission for DA/2021/0383 concerning 53B Amourin Street, North Manly on behalf of the owners of 51 Amourin Street, North Manly.

Please do not hesitate to be in touch if you had any further questions.

Kind regards,

Eleni Emvalomas
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Town Planner & Project Manager
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05 May 2021

The General Manager
Northern Beaches Council
725 Pittwater Road
DEE WHY NSW 2099

Dear Sir/Madam,

**Submission in regards to DA/2021/0383 Development Application
53B Amourin Street, North Manly**

“Alterations and additions to a dwelling house including garage.”

Corona Projects has been engaged by the property owner of 51 Amourin Street, North Manly to undertake an assessment of DA/2021/0383 and provide a submission to Council on their behalf. 51 Amourin Street adjoins the development site, 53B Amourin Street to its east. This assessment is based on a review of the development application plans and documents available for inspection on Northern Beaches Council’s website and a site visit.

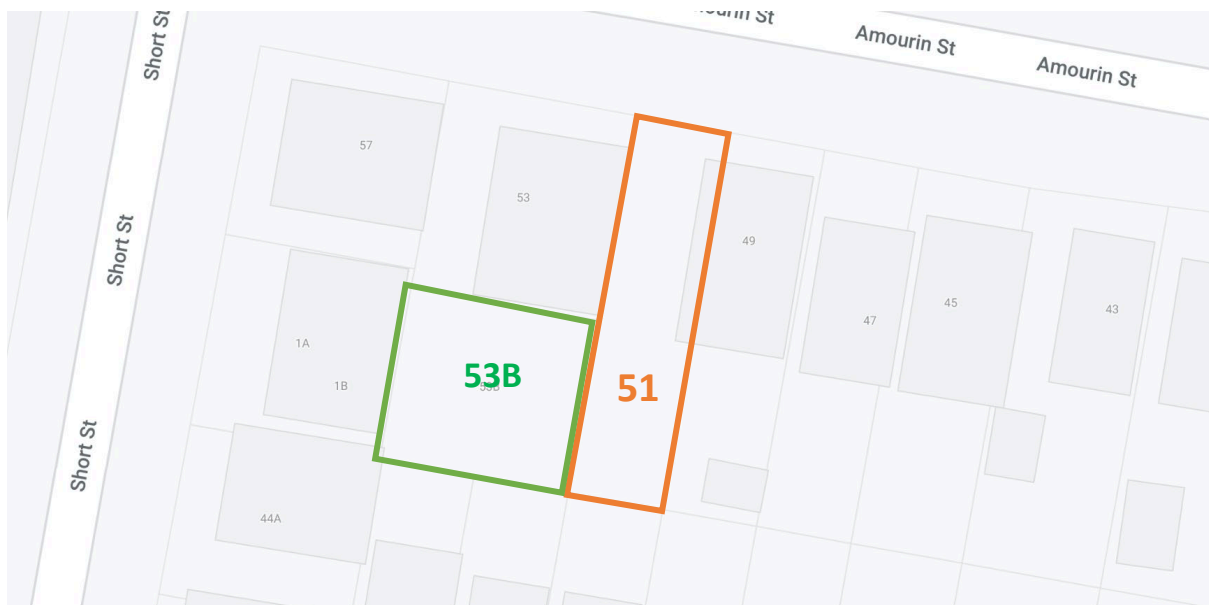


Figure 1 – Site Locality Map (Google Maps, 2020)



Figure 2 – Development site viewed from Amourin Street (Google Maps, 2020)

1. Introduction

The dwelling house alterations and additions proposed at 53B Amourin Street raises considerable concerns regarding overshadowing and visual bulk. Consequently, it will pose an unacceptable impact on the residential amenity of 51 Amourin Street and the surrounding locality.

2. Solar Access and Overshadowing

At present the principal private open space of 51 Amourin Street, North Manly receives pleasant sunlight throughout the day on the Winter Solstice. Whilst already subject to an extent of overshadowing by existing boundary fencing and surrounding development, the rear garden currently has adequate solar amenity to facilitate comfortable passive recreation activities throughout the colder Winter months.



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Figure 3 – Principal private open space of 51 Amourin Street (Corona Projects, 2021)

The works proposed under the subject DA will substantially decrease the amount of sunlight received by this space, particularly during the afternoon as per figure 4 where a large amount of the garden and decking is already shadowed.

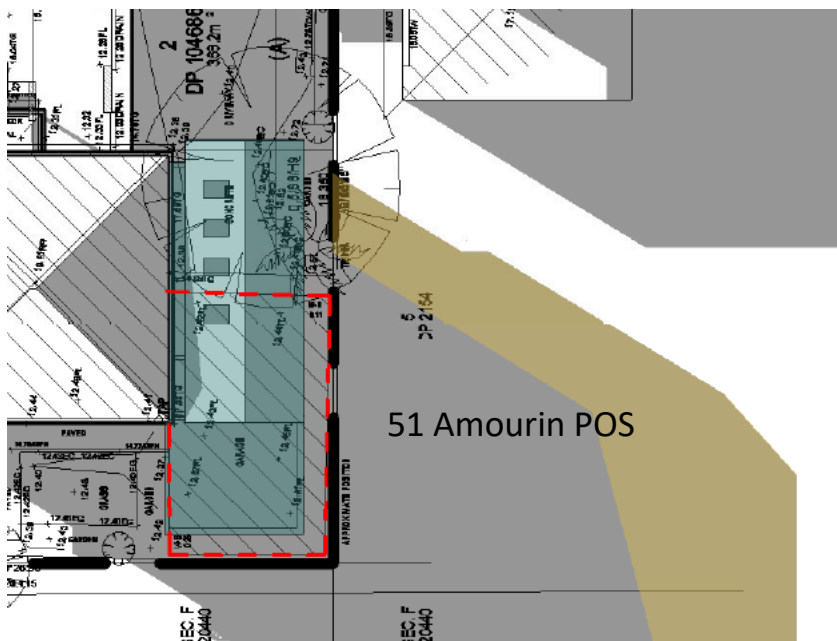


Figure 4– 3pm shadow diagram with additional shadow in **mustard** (Bewoner Studio 2021)



Whilst the reduction in sunlight imposed on 51 Amourin Street may meet *Warringah Development Control Plan 2011* solar access controls numerically, “reasonable sunlight” should be subject to consideration against planning principles established in *The Benevolent Society v Waverley Council (2010) NSWLEC 1082* and *Parsonage v Ku-ring-gai (2004) NSWLEC 347*.

Senior Commissioner Moore established the planning principles to properly assess the impact of solar access to open space in *The Benevolent Society v Waverley Council (2010) NSWLEC 1082* as it is concluded that

“overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guideline” and,

“for private open space to be assessed as receiving adequate sunlight, regard should be had to the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space.”

The overshadowing by the subject DA is a direct result of “poor design” given the ability for a development that increases the number of bedrooms on site and for a garage upgrade to occur within a complying building envelope in accordance with the WDCP 2011. Furthermore, the rear garden space of 51 Amourin Street which is being overshadowed is the only private open space area for the site, and its located directly accessible from the primary living areas of the dwelling, rendering the area frequently used and important for the current and future residents.

In addition, Senior Commissioner Roseth concludes in *Parsonage v Ku-ring-gai (2004) NSWLEC 347* that numerical guidelines should be applied with a great deal of judgement with the following example provided:

“Consider a dwelling that now receives sunlight all day. Taking away that sunlight from 9am till noon would satisfy most guidelines; and yet the occupants of such a dwelling are likely to perceive it as a devastating impact on their dwelling’s amenity”

The above example is identical to the circumstances imposed by the DA on the rear garden of 51 Amourin Street. As highlighted within figure 4, the proposal will block a significant amount of sunlight during the afternoon. This will have a detrimental impact on the current and future residents, and cannot be supported given that it is a direct result of a side setback non-compliance.

This overshadowing is in direct conflict with the following Warringah Local Environmental Plan 2011 applicable development standard objective:

- Height of Building objective (1)(b) “to minimise visual impact, disruption of views, loss of privacy and loss of solar access”.

It can therefore be reasonably concluded that the DA will impose an unjustified overshadowing impact on the rear garden of 51 Amourin Street that cannot be supported, in accordance with an



assessment against both the WLEP 2006, and the findings under *The Benevolent Society v Waverley Council (2010) NSWLEC 1082* and *Parsonage v Ku-ring-gai (2004) NSWLEC 347*. A reconfigured design, as detailed in Part 7 of this letter will assist to protect the solar access for 51 Amourin Street, whilst still allowing 53B Amourin Street to increase their residential amenity.

3. Visual Bulk and ‘Sense of Enclosure

DA/2021/0383 will appear bulky and obtrusive from the primary living spaces of 51 Amourin Street. As shown in figures 5, 6 and 7, the non-compliant extent of above-garage extrusion will provide the current and future residents of 51 Amourin Street with a feeling of enclosure from their primary living/dining/kitchen space and rear garden principal private open space.

The removal of all substantial trees and landscaping along the shared boundary between 53B and 51 Amourin Street will allow any first-floor garage addition to visually dominate.



Figure 5 – Proposed visual bulk impact (Corona Projects, 2021)



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Figure 6 – Proposed visual bulk impact (Corona Projects, 2021)



Figure 7 – Proposed visual bulk impact (Corona Projects, 2021)

The design under DA/2021/0383 will produce an enclosing effect which will disrupt the amenity and overall pleasant outlook of 51 Amourin Street.

4. WDCP 2011 Non-compliances

DA/2021/0383 exhibits major non-compliance with the objectives and controls of the *Warringah Development Control Plan 2011*, as per the below table. In its current form, the proposal can therefore not be supported as it does not contain planning merit.

Control	Comment
B1. Wall Heights Walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).	The unusual nature of the site being located in a battle-axe formation, where its easterly neighbours display a contrasting established building siting and rear setback pattern renders typical numerical controls difficult to apply.
B3. Side Boundary Envelope Buildings must be sited within a building envelope determined by projecting planes at 45 degrees from a height above ground level (existing) at the side boundaries of 5 metres.	The underlying objectives should therefore be considered.
B5. Side Boundary Setbacks Development is to maintain a minimum setback from side boundaries of 0.9m on this site.	The objectives of B1, B3 and B5 controls are to reduce visual bulk and impact on neighbours. Given the close proximity of the building bulk to the outlook of the living space and POS of 51 Amourin Street, a reduced building form than that allowed under these current controls should be enforced as to protect the visual outlook and solar access of its neighbours. The objectives of these controls are not met.
B6. Merit Assessment of Side Setbacks Side boundary setbacks will be determined on a merit basis and will have regard to: <ul style="list-style-type: none"> • streetscape; • amenity of surrounding properties; and • setbacks of neighbouring development 	
B9. Rear Boundary Setbacks Development is to maintain a minimum setback from rear boundaries of 6m on this site.	The proposal has a rear setback 0.9m, which is more than 6 x times less than the required figure of 6m. This non-compliance has a direct impact on the overshadowing and visual bulk imposed on 51 Amourin Street and can therefore not be supported. An exception could be granted for the ground floor works, but any upper floor works must comply.
D9. Building Bulk: <ul style="list-style-type: none"> • Large areas of continuous wall planes are to be avoided by varying building setbacks 	The proposal results in an obtrusive structure, without landscape screenings to soften the bulk and without articulation.



and using appropriate techniques to provide visual relief. <ul style="list-style-type: none">• Landscape plantings are to be provided to reduce the visual bulk of new building and works.• Articulate walls to reduce building mass.	<p>A 6m rear setback and 2m side setback for any first floor addition, or overall upper floor above-garage addition removal would assist to achieve the objectives of this control.</p> <p>Landscaped screening within the proposed 0.9m side setback is also requested.</p>
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5. Overdevelopment

Detached dwelling houses in North Manly typically house families with children or couples whose children have moved out. In accordance with the 2016 ABS Census, the average number of children per family is 2, with an average number of 3.2 persons per household.

Considering these statistics, the construction of a 5-bedroom (including study) dwelling of this scale and bulk is considered an unnecessary overdevelopment for an area where the average number of inhabitants is 3.2 and the existing 3-bedroom two-storey dwelling is considered to be spacious and of a high quality.

The recommendations provided in Part 7 of this letter are considered to result in a substantially better outcome, as every single issue outlined in this letter is overcome and the site can still provide for a high quality, functional family dwelling.

6. Aerial Imagery Inconsistencies

The Arborist Report submitted alongside the application prepared by Elke Landscape Architect dated March 2022 features outdated aerial imagery which may result in an incorrect assessment. Specifically, figures 1 and 2 on page 4 of the Arborist Report shows an empty site where 51 Amourin Street currently sits.



Figure 2. The approximate site shown in yellow with red box outline. Note: site is a battle axe block with shared access driveway to Amourin St (north of site). Source: Six Maps, NSW Government. Date accessed: 11.03.21.

Figure 8 – Outdated image used in Arborist Report



This is likely due to outdated aerial imagery being available on the SIX Maps site, which Council assessing officers should be mindful of when undertaking their own assessment and using any imagery themselves.

7. Recommendations

A more skilful design by way of reconfiguration and minor scale reduction can allow both 51 and 53B Amourin Street to retain and/or improve their amenity. Actions a and c provide a suitable scheme which solves all concerns raised within this letter and allow for alterations and additions at 53B Amourin Street.

- a) **Action:** Remove the upper floor above the garage, or implement a 2m upper floor side setback and 6m rear setback for any addition above the garage.
Outcome: This will achieve compliance with WDCP 2011 built form objectives, and reduce overshadowing and any visual bulk impact for 51 Amourin Street.
- b) **Action:** Extend the upper floor to the west above the existing ground floor deck space.
Outcome: This results in a larger upper floor without negative amenity impacts for No. 51.
- c) **Action:** Provide landscape screening of any built form within the eastern side setback, ensuring that it is as high as the highest point of any addition.
Outcome: This will soften the visual appearance of any additions from 51 Amourin Street.

Conclusion

We have strong concerns about the proposed development and believe it cannot be supported in its current form. The development will have an adverse impact on the residential amenity of 51 Amourin Street. A development of this form cannot be supported on this site. It is therefore requested that the proposed development in its current form be refused. Any future development on the site should ensure compatibility with the local area and address the issues raised in this submission.

The owner of 51 Amourin Street, North Manly invite Council to conduct a site inspection on their property to best understand the perspective of the discussed concerns. Please contact Mr Shay King on 0405 743 625 to arrange a visit.

Kind regards,

Emma Rogerson
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Bachelor of Architecture and Environments (USYD)
Town Planner