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**Sent:** 1/02/2021 10:35:21 AM  
**Subject:** Submission - DA for 11 Lewis Street Balgowlah Heights (DA 1758/2020)  
**Attachments:** Submission DA 11 Lewis St Balgowlah Heights January 2021.pdf;

Attention: Mr Kent Bull

Dear Mr Bull

Please find attached a submission on behalf of my clients, the owners of 26 Lewis Street, directly opposite the site of the proposed development.

Please advise us when the matter is to be determined by a Local Planning Panel.

Thank you.

Regards

Jason Perica

0448 413 558



**Date: 31 January 2021**

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Mr. Kent Bull  
Planner  
Northern Beaches Council  
P O Box 82  
Manly NSW 1655

**Re: 11 Lewis Street, Balgowlah Heights (DA 1758/2020)**

Dear Mr. Bull

I write in response to the notification of the above Development Application (DA) and raise **strong objection**, on behalf of my clients, Jaxon and Clare Rudduck, owners of No. 26 Lewis Street, immediately opposite the site, to the east.

This submission is structured as follows:

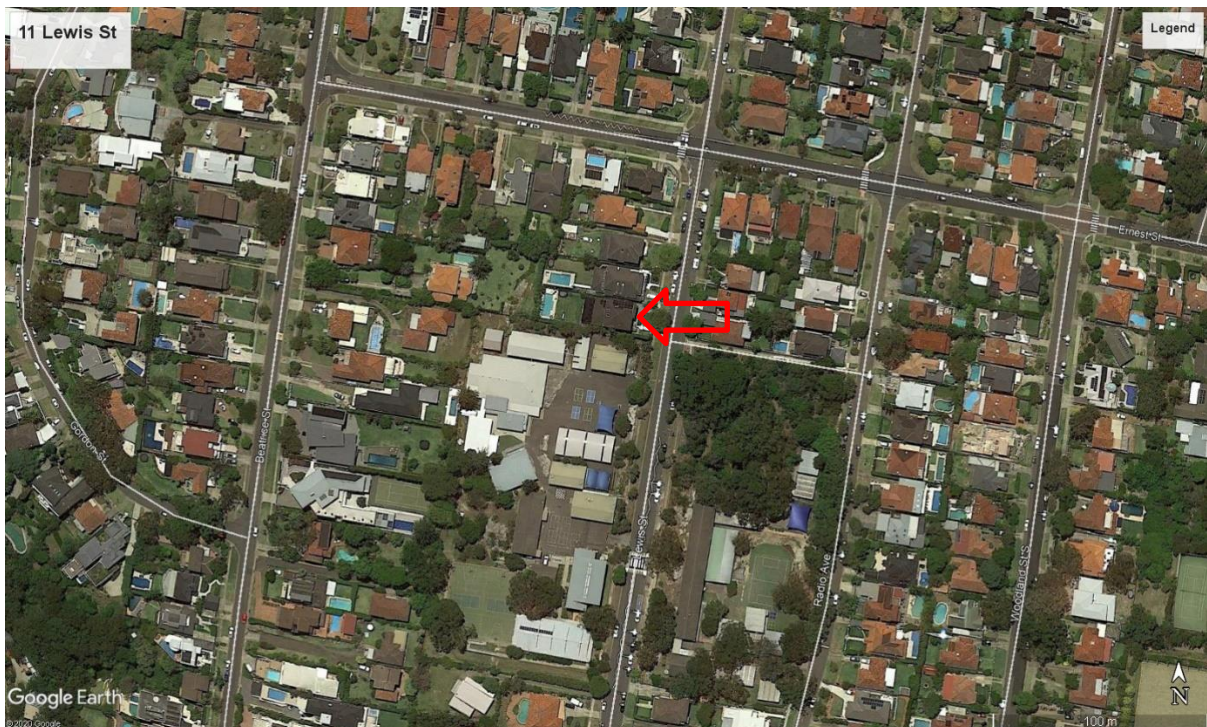
- (a) Outline of the Nature and Context of the site;
- (b) Key Statutory Concerns;
- (c) Key Issues of Concern related to Impact; and
- (d) Conclusion.

Based on a review of the site, surrounding development, applicable planning controls, the proposal/design and associated impacts, it is concluded the application as submitted should be refused. It is simply too big, inconsistent with key planning objectives and controls and inconsistent with the character of the area. The proposal appears to have been designed to meet numbers and yield, rather than be tailored for the site, resulting in a proposal which is not suited to the site or wider area.

**A. Nature and Context of the Site**

The following observations are made about the site and surrounds:

- The site is on the western side of Lewis Street, immediately to the north of Balgowlah Heights Public School;
- The site slopes down from the west to the east, being near the top of hill which separates catchments which drain to the west (Middle Harbour) and the east (North Harbour), and constituting the peninsula of Balgowlah Heights;



**Figure 1-2:** Subject site and surrounds (source: Google maps)



- The topography means that the buildings on the western side of Lewis Street are more visually dominant, being on the high side of Lewis Street;
- The predominant land use is low density housing, with a primary school, local pocket parks and a small local centre further north creating a community hub and attraction to the area (as well as views afforded by the elevation);





**Photos 1-3** - Dwellings on the western, eastern side of Lewis St and view north along Lewis St

- Because of the slope of the land, it is not uncommon for dwellings on the high side of the street to be 2-3 storeys in height, while dwellings on the low side appear 1-2 storeys to the street. These dwellings typically step down in height and form to the rear;
- Gabled and pitched roof forms on the western side of the street help to modulate building bulk. Flat roofs are uncommon;
- Within the street block, there is a relatively consistent rear building alignment for dwellings on the western side of Lewis Street, as shown below:





- The consistent rear setback in the block provides rear open space for the dwellings, on relatively deep block, important for dwelling amenity and enjoyment;
- Front setbacks on the western (and eastern) side of the street are also consistent;
- Front setback areas are augmented by front landscaping to "soften" the appearance and massing of dwellings/buildings to the street;
- The front facades of buildings are generally modulated and "address the street", with activation, balconies, pitched roofs and earthy materials helping to mediate and reduce the visual appearance of 2-3 storey forms on the western side of the street;
- The scale and form transitions from 2-3 storeys down to one storey at the school site. The subject site is at a transition point between higher building forms to the north and the lower forms of the school to the immediate south. The school buildings are also set within a landscaped setting to further reduce its massing and scale. Where front garages exist, they do not dominate the frontage appearance;
- In terms of traffic, Lewis Street provides parking to both sides (generally unconstrained, although with "kiss and ride" areas adjoining and opposite the school site);
- The width of Lewis Street is such that modern SUV/4WD cars cannot easily pass, meaning cars pull over as other cars pass;
- There is a lack of parking for staff on the school site and heavy use of street parking outside school hours for other related teaching purposes, meaning street parking is highly utilised throughout the year;
- Many cars park in Radio Avenue due to the lack of parking on Lewis Street, particularly at peak times;
- There is a pedestrian path immediately adjoining No. 26 Lewis Street, linking Lewis and Radio Avenue, which is a key pedestrian link to the school and in front of the subject site;
- There is only one footpath on Lewis Street, on its' western side;
- The western footpath is heavily used by school children, often unaccompanied.



- There are many rock forms protruding through the surface in and around the site, with bedrock appearing close to the surface.

The site and context outlined above has a number of implications and considerations which should be important aspects of a well-considered proposal for the site:

1. The massing and rear building line for development on the site should be consistent with neighbouring dwellings in the street block (also a control in Council's DCP);
2. The scale should mediate between higher and lower forms to the immediate north and south of the site;
3. Front landscaping is important to soften the scale of buildings and street trees should be preserved;
4. Modulation and activation of the street is important;
5. The southern side setback and scale needs to have due regard to overshadowing impacts;
6. Minimising traffic and parking impacts is desirable, given the situation;
7. Excavation should be reasonably minimised.

## B. Key Statutory Concerns

The following outlines a number of concerns with the proposal having regard to the statutory instruments and controls applying to the Site:

### 1. State Planning Controls

The key State Environmental Planning Policy ("SEPP") of relevance to the proposal is *SEPP (Educational Establishments and Child Care Facilities) 2017*.

This SEPP contains a number of numerical controls, which the application and Statement of Environmental Effects ("SEE") claims the proposal is compliant with. This should be independently checked by Council, due to the important matter related to State concurrence if such controls are not met.

It is apparent that the proposal is just within key metrics of child/space and open space ratios for children. This leads to the conclusion that the proposal is driven by such numerical ratios, rather than being tailored to the site.

The SEPP requires Child Care Centres (CCCs) to be assessed against the Child Care Planning Guideline (2017). Parts 2, 3 and 4 of that Guideline are relevant.

The proposal is inconsistent with the following principles in part 2 of the Guideline:

- Principle 1 – Context: *"Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined...Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood"*

- Principle 2 – Built Form: “Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area...Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements...Appropriate built form defines the public domain, contributes to the character of streetscapes... Contemporary facility design can be distinctive and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.
- Principle 4 – Sustainability: Sustainable design combines positive environmental, social and economic outcomes. This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation. Well-designed facilities are durable and embed resource efficiency into building and site design, resulting in less energy and water consumption, less generation of waste and air emissions and reduced operational costs
- Principle 5 – Landscape: Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood...Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks;
- Principle 7 – Safety: Good child care facility design balances safety and security with the need to create a welcoming and accessible environment. It provides for quality public and private spaces that are inviting, clearly defined and allow controlled access for members of the community. Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED)

Contrary to the above key principles, the proposal:

- Does not respect the streetscape or adjoining built context, at all;
- Has an excessive scale, neither consistent with the existing or desired future character of the area;
- Does not respect building alignments;
- Does not appropriately define the public domain;
- Has open space and landscaping which does not enhance the streetscape or public domain;

- Results in excessive excavation in hard rock, and thereby significant wastage of materials, with complete demolition and isolation of the single street tree;
- Has an inappropriate landscape presentation to the street;
- Does not provide appropriate definition, surveillance or territorial reinforcement of the public domain and streetscape, thereby being inconsistent with the principles of CPTED.

In terms of Part 3 of the 2017 Guideline, the proposal is inconsistent with:

- Consideration C1 related to residential context, particularly setbacks and siting, with a large building providing an aberrant large building form deep into the rear of the site;
- Consideration C2 related to the size of street frontage, lot configuration, dimensions and overall size, particularly given the narrow and deep frontage and the impact the proposed large number of children has on the resulting built form and dominance of parking to the streetscape. This limited site width limits mitigation of the parking and bulk and landscaping treatment to the street and also results in the building form being pushed up and deep into the site. The road and traffic context also warrants a sensitive approach due to safety, parking and traffic reasons;
- All of the considerations related to Local Character, Streetscape and Public Domain interface in C5 and C6 (below), with a building that is wholly inconsistent with the surrounding form, and a building that neither engages with nor activates the public domain:

*The proposed development should:*

- *contribute to the local area by being designed in character with the locality and existing streetscape*
- *reflect the predominant form of surrounding land uses, particularly in low density residential areas*
- *recognise predominant streetscape qualities, such as building form, scale, materials and colours*
- *include design and architectural treatments that respond to and integrate with the existing streetscape*
- *use landscaping to positively contribute to the streetscape and neighbouring amenity*
- *integrate car parking into the building and site landscaping design in residential areas...*

*Create a threshold with a clear transition between public and private realms, including:*

- *fencing to ensure safety for children entering and leaving the facility*
- *windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community*
- *integrating existing and proposed landscaping with fencing...*

- Matters in Part C3.3 related to Building Orientation, as the building orients to its sides and rear rather than the street, while the minimal side setbacks and excessive and dominant form to the rear is inappropriate, given the context:

*Orientation refers to the position of a building and its internal spaces in relation to its site, the street, the subdivision and neighbouring buildings, vistas and weather factors such as sun and wind. Building orientation influences the urban form of the street and building address. In residential areas, orientation of the facility may directly affect residential amenity including solar access and visual and acoustic privacy*



- Consideration C11 relating to minimising cut and fill, with extensive excavation, lack of frontage to define the street and open space areas under the building likely to have adverse wind tunnelling impacts;
- Consideration C12: *"building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility"*
- The Objective of C13 which is to *ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context*
- The Objective of C14 to *"ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character"*
- Objectives and controls related to landscaping contribution to the streetscape and privacy considerations in Parts 3.4 and 3.5 which result in a lack of landscaping to the street, domination of parking and undercroft spaces and mass screening to all elevations, in turn adding to visual and bulk impacts, inconsistent with the character of the area and prevailing surrounding form
- Traffic parking and safety considerations in Part 3.8, given the nature of the site outlined earlier, the carpark design, street width limitations and high proposed usage of the site, with a narrow frontage.

Part 4 of the Guideline relates to National and licensing guidelines, which are expected to be checked by Council.

In summary, while the proposal responds to key numerical ratios, it is clearly not tailored to the site and context. This is contrary to the Guidelines which are given statutory effect through the SEPP, whose content places considerable weight and explanation to considering a site's context. The result is a building which is much larger than all the surrounding buildings, with excessive scale, visual impacts, poor relationship with the public domain, poor streetscape interface and presentation and minimal setbacks. It is simply too large for the context of the site and this is a direct result of seeking to design by numbers to maximise the yield, rather than designing with reference to the context, as is required.

## **2. Manly Local Environmental Plan 2013 ("MLEP 2013")**

A number of provisions within MLEP 2013 are relevant to which the proposal is inconsistent, as outlined below.

### General Aims

The proposal is inconsistent with the following general aims as outlined in part 1.2 of MLEP 2013:

- (i) to promote a high standard of urban design that responds to the existing or desired future character of areas, and*
- (ii) to foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit, and*
- (iv) to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population,*
- (ii) to ensure high quality landscaped areas in the residential environment.*

### Zone Objectives

The site is within a Low Density R2 zone. There are only two zone objectives, which is comparatively few. For this reason they should be given particular attention. The second relates to providing services to meet needs of the area, which the proposal is consistent with. However, the first objective is:

*To provide for the housing needs of the community within a low density residential environment.*

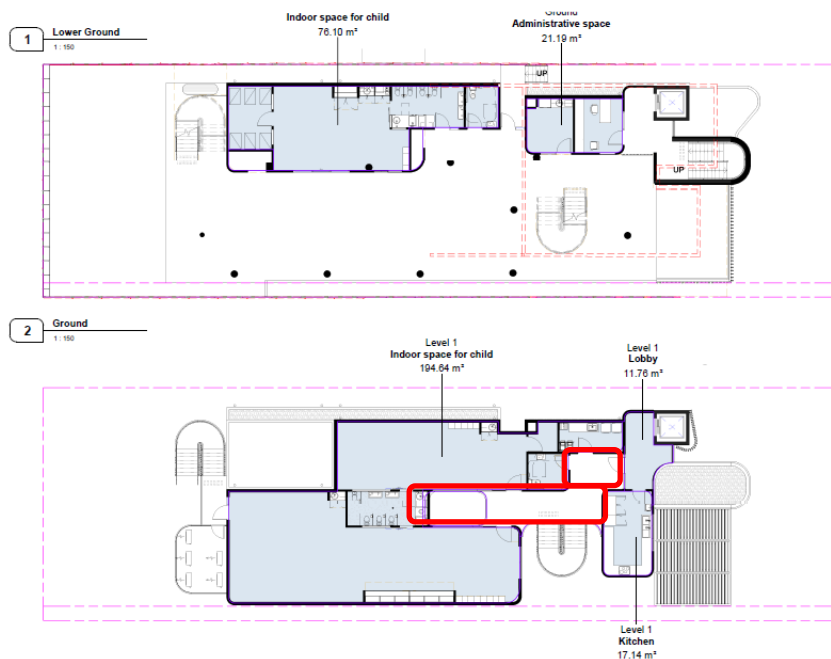
The key words and consideration are a "low density" residential environment. While the proposal (arguably) complies with the FSR standard, the scale and intensity of the proposal is inconsistent with the surrounding low density area. The bulk is excessive, exacerbated by areas not included in GFA calculations. The number of children is high and the parking and excavation is also not consistent with a low density residential area.

### Floor Space Ratio

This is a maximum standard, not a guaranteed minimum. The proposal is stated to be just below the maximum FSR, by an area of 11sqm (again designing to maximum numbers).

However, it appears in the Gross Floor Area diagram (extract below, circled red) internal areas not forming part of allowable excluded GFA have been excluded. This would seem to be an error and may result in the proposal being above the maximum FSR (with no variation request to enable the proposal to be legally determined).

This should be carefully checked and verified by Council.



Apart from this, very large areas which contribute to bulk, being the parking area to the street, the undercroft area at ground level and circulation areas are excluded from Gross Floor Area ("GFA") calculations. While this may be legitimate, it is clear these areas considerably add to the overall bulk and scale of the proposal (let alone a poor street level presentation). This means the apparent bulk and scale is far larger than the GFA number. This is relevant as the FSR standard is a key regulator of building bulk. The other key determinant or factor with FSR is density, and the proposed centre with 57 children and 16 car spaces is dense, particularly in a low density residential area.

Whether compliant or not with a maximum FSR, the objectives of the FSR standard in MLEP 2013 are relevant, being:

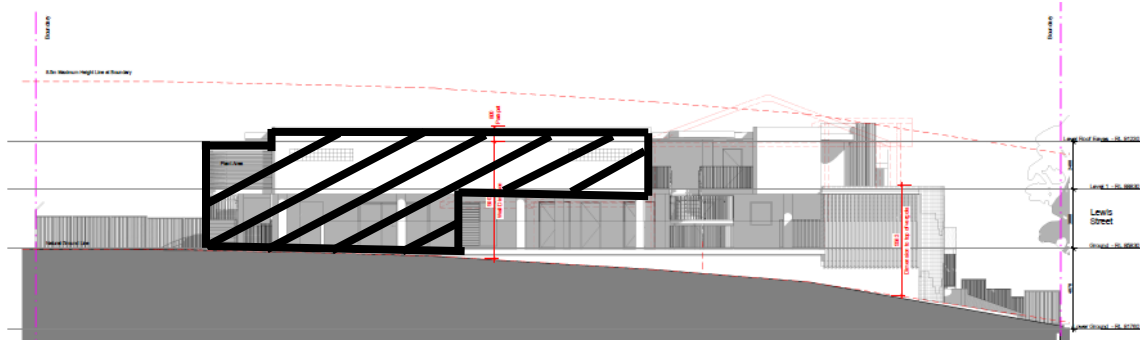
- (a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,
- (b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,
- (c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,
- (d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

The proposal is not consistent with these objectives. It has excessive bulk and scale, spreads this bulk and scale deep into the site unlike any surrounding development, and does not respect or enhance the landscape setting, public domain or streetscape. It is simply too big and out of context with the surrounding area, as clearly evident from a site inspection and the plans themselves.



## Building Height

Like the FSR, the proposal is within the numerical maximum, although distributes its height and bulk deep into the site, contrary and inconsistent with neighbouring and prevailing development within the area. The rear bulk is well westward of surrounding adjoining development and the predominant rear building line. Also, unlike surrounding residential development, the building does not “step down” to the rear, adding to visual, privacy and bulk impacts. The non-compliant side setbacks also exacerbate perceived bulk and height.



Again, the objectives of the height standard are relevant, and the proposal is inconsistent with the following height objectives:

- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) to control the bulk and scale of buildings,*
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

## Earthworks

Considerable earthworks in the form of excavation are proposed. From the geotechnical report by Ascent, it has been found rock is close to the surface (within 150mm-500mm of the surface). This accords with site observations and the surrounding area.

The carpark is large to accommodate 16 cars and bicycles, as below. The height of the basement (and thereby depth of excavation) is also affected by proposed stacked parking, again reflecting a desire to push the numerical envelope for a long skinny site).



Clause 6.1 of MLEP 2013 contains 8 matters for consideration, as follows:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The deep rock substantial excavation proposed is likely to:

- Limit adaptive reuse to other uses of the building and land over time due to the size of the basement and parking provided;

- Affect drainage patterns;
- Cause adverse construction impacts for an extended time to the surrounding area and sensitive school site; and
- Cause significant exportation of waste fill to unknown destinations.

These impacts are magnified by the excessive scale of the proposal, in turn affecting the parking required. This is proposed on a site founded on rock close to the surface. This matter and the above considerations favour a more sensitive and smaller proposal, amongst other issues.

The excessive excavation and waste also do not represent sustainable building design or practice.

### **3. Manly Development Control Plan 2013 (“MDCP 2013”)**

The proposal is inconsistent with the following provisions of MDCP 2013:

#### Aims of the DCP

The proposal is inconsistent with the following 5 (of 6) overall aims of the DCP in Part 1.7, for reasons related to the incompatibility with the character of the surrounding built and landscaped area, and poor relationship with the public domain:

*Ensure that development contributes to the quality of the natural and built environments*

*Encourage development that contributes to the quality of our streetscapes and townscapes*

*Ensure that development is economically, socially and environmentally sustainable and to require the principles of ecologically sustainable development to be taken into consideration when determining DAs*

*Ensure development positively responds to the qualities of the site and its context*

*Ensure development positively responds to the heritage and character of the surrounding area*

#### Part 3

The proposal is inconsistent with the following objectives or provisions of Part 3 of the DCP:

*To minimise any negative visual impact of walls, fences and carparking on the street frontage [as the parking entry and lower level will dominate the streetscape presentation]*

*To ensure development generally viewed from the street complements the identified streetscape [as the parking entry and lower level will dominate the streetscape presentation and the overall form and scale is excessive, with little landscaping relief]*



*To encourage soft landscape alternatives when front fences and walls may not be appropriate [due to the lack of a landscaped presentation to the street]*

*To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape [due to the excessive excavation and dominance of parking presentation to the street]*

*To assist in maintaining the character of the locality [as the proposal is inconsistent with the existing character of the area due to its form, scale, design and siting]*

*In low density areas: (including LEP Zones R2 Low Density, E3 Environmental Management and E4 Environmental Living) open space should dominate the site [as the building and parking dominates the site]*

*Undercroft areas must be presented as a positive space and integrated into the design of the building by use of appropriate landscaping and/or the retention of natural features and vegetation where possible, having regard to the volume of the space and its orientation [the undercroft area, together with the parking provides a poor presentation to the street]*

*Buildings must not exceed 2 storeys [the building is 3 storeys]*

*To provide equitable access to light and sunshine [due to the minimal southern side setback and overshadowing of the school]*

*To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:*

*encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*

*maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south [due to the minimal southern side setback and overshadowing of the school]*

*To encourage awareness of neighbourhood security [due to a lack of positive engagement with the street]*

*Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas [as the space is oriented to side boundaries and relies on screening which magnifies bulk and visual impacts, contrary to the prevailing form]*

*To ensure the principles of ecologically sustainable development are taken into consideration within a consistent and integrated planning framework that achieves environmental, economic and social sustainability in the short, medium and long term [due to the lack of flexibility in design, excessive excavation and poor orientation]*

*To encourage the retention and adaptation of existing dwellings including a preference for adaptive reuse of buildings rather than total demolition. Where retention and adaption are not possible, Council encourages the use of building*

*materials and techniques that are energy efficient, non-harmful and environmentally sustainable [due to wholesale demolition of all site improvements and landscaping]*

*To minimise waste generated by development and embodied in the building materials and processes through demolition [due to excessive excavation]*

*To require that residential site planning and building design optimise solar access to land and buildings [due to impacts on the adjoining site to the south]*

*To site and design development to optimise energy conservation [as above]*

*To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities [due to the conflicts between pedestrians and cars]*

*To ensure that the design process for all development integrate principles of 'Safety in Design' to eliminate or minimise risk to safety and security [as the proposal is inconsistent with all principles of CPTED]*

*To contribute to the safety and security of the public domain [due to the poor public domain interface]*

*separating pedestrian and vehicular access [as this has not occurred, on a site with high street pedestrian use and a footpath only on this side of the street]*

*In order to promote safety and security, all development is to be designed to maximise opportunities for passive surveillance of public and communal areas by: orientating some rooms to the street; providing sight lines to the street frontage from the window(s) of at least one habitable room unobscured by trees or any other object; ensuring the design of fences, walls and landscaping minimise opportunities for concealment and encourage social interaction [again, as the proposal is inconsistent with the principles of CPTED].*

*To ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residences, the existing environmental quality of the environment or the aesthetic quality of the former Manly Council area [due to adverse impacts and adverse streetscape impacts]*

*To improve the quality of the residential areas by encouraging landscaping and greater flexibility of design in both new development and renovations [due to the lack of flexibility in design and lack of landscaping]*

*Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building [the side setbacks do not meet this requirement and the orientation is sensitive to overshadowing of neighbours]*

*Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss [as the rear setback extends considerably more towards the rear than the prevailing setback, as shown earlier]*

*To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape [as the*

parking area has a poor relationship with the street and does not promote safe use of the adjoining public domain, on a very busy street, due to the adjoining school]

*To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows [due to excessive excavation and trying to accommodate too much development on a narrow site]*

*To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment...the design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality [due to the dominance of parking and lack of landscaped integration to the street setback and presentation to the street]*

The DCP also has specific provisions related to ChildCare Facilities (Part 4.4.6). Many of these are not able to be applied due to the provisions of the prevailing SEPP (addressed earlier). Despite this, as outlined earlier, the proposal is not consistent with the provisions of the SEPP and associated Guideline.

The “character” tests and provisions of the DCP, setback and parking controls are relevant and the proposal is inconsistent with the character of the area, as outlined earlier.

### **Issues of Concern related to Impact**

The following issues outline the key concerns with the application from a planning perspective and issues of concern for my client. There is a relationship between impacts upon amenity to the area and various non-compliances and considerations within Council's planning controls, as outlined earlier and summarised here.

#### **1. Bulk/Scale and Inappropriate Siting**

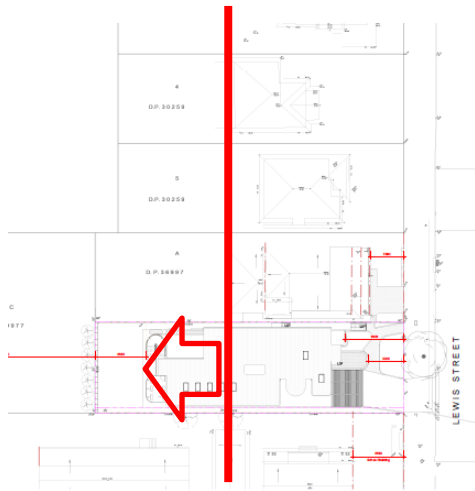
The excessive scale and bulk are shown by:

- (a) The proposal extending well past the predominant rear building alignment. This rear alignment is shown in the aerial photo below:





Instead, the proposal extends well past the rear building alignment, shown in the applicant's own plans:



This is combined with a form that does not step down to the rear and maintains a 2 storey form to the rear, and 3 storey presentation to the street:



The scale is magnified by large areas of undercroft, parking and circulation space, which are not included in FSR calculations, yet which considerably add to the bulk, scale and overall height. This results in a form which is wholly inconsistent with the existing and desired future character of the area.

The proposal is simply seeking to accommodate too much density on the site. The parking provided (16) is excessive for a low density area, while the narrow site width requires this to include double height spaces, in turn adding considerable excavation to a site with bedrock close to the surface.

The scale also requires an acoustic treatment through fencing up to 2.5m, another element inconsistent with the character of area and reflective of the excessive scale.

At the same time, this is intended on a busy street, due to an adjoining public school, with limited street parking and conflicts that already exist between vehicles due to a narrow street, on a site which is on the main pedestrian thoroughfare to a primary school.

These factors mitigate against the proposal and lead to a conclusion that the proposal is simply too large and dense for the site.

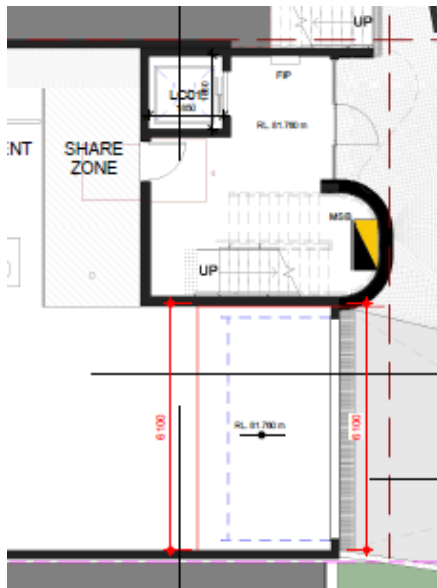
A Child Care Centre may be possible for the site. However, to address the limitations, it would need to be significantly changed and redesigned to either be a considerably smaller building

with reduced capacity, or by doubling the site width to provide greater flexibility in meeting various planning objectives.

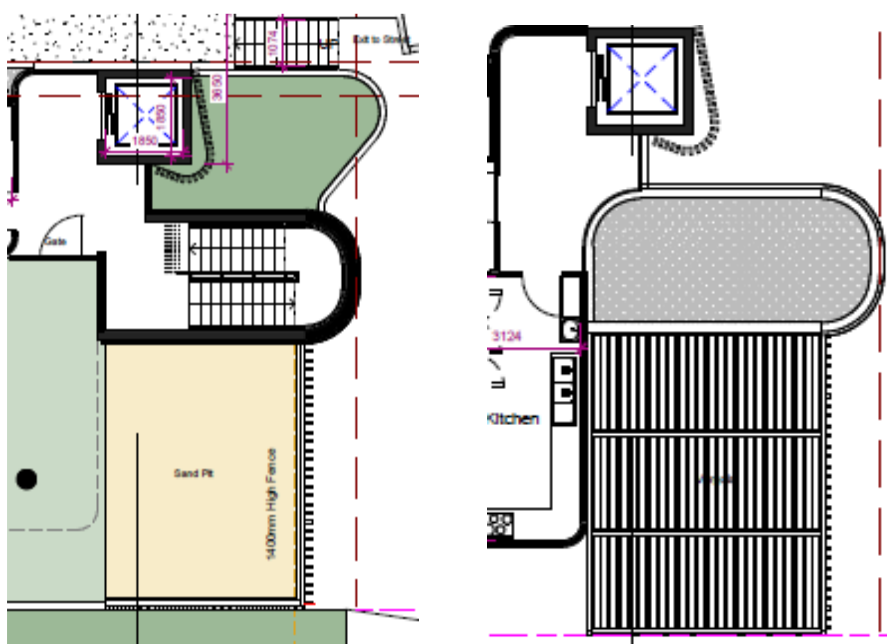
## 2. Poor Relationship with the Streetscape

There are three main aspects to this shortcoming:

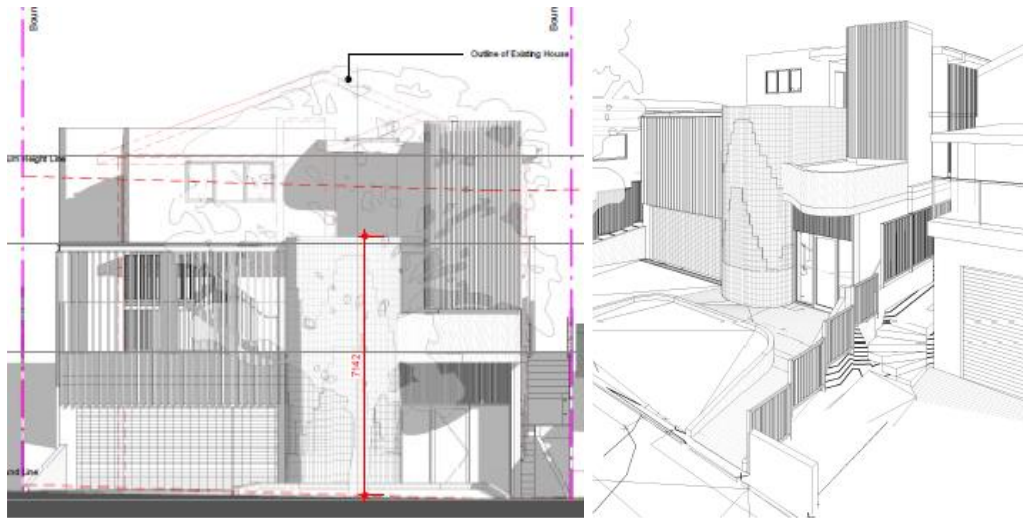
- a) A ground floor dominated by a carpark entry, stair enclosure and small entry (with limited surveillance or gathering space):



- b) A first and second floor above dominated by screening and inactive uses, concealing an undercroft area, with a lack of surveillance or engagement with the streetscape, given the recessed upper kitchen window:



- c) A three storey form and discordant dominant front stair element and flat roof design, inconsistent with the character of the area



These factors combine with traffic and parking issues in the street to cause likely pedestrian and vehicular conflicts.

### **3. Exacerbation of Parking and Traffic Issues in the Area, including safety**

As mentioned previously, there is:

- (a) Limited street parking (in part arising from teachers and others, who park throughout the day), causing issues for parents during pick up and drop off;
- (b) High use of street parking during peak school pick-up and drop off times (which correspond with a CCC);
- (c) Only one street footpath, on the western side of Lewis Street, in high use by young children in peak times;
- (d) A narrow street width along Lewis Street, resulting in larger cars not being able to safely pass, which causes aggravation in busier times, well known to locals;
- (e) A pedestrian link and funnelling past the site when cars park on Radio Avenue to the east and access the school/site via a pedestrian path adjoining No. 26 Lewis Street.







There is a shortfall of one car space and the parking layout/allocation is compromised and complicated by 12 of the 16 spaces being "car stackers" (in turn adding to excavation). The shortfall, compromised and sub-optimal layout and street parking situation does not favour the proposal, in turn compromised by the choice of a relatively narrow site for such a dense proposal. Additionally, the lack of bicycle parking and likely loading requirements (cleaning, food etc) is such that further operational issues are likely during the construction documentation and operational phases.

These issues give rise to understandable concerns regarding parking, traffic and safety in the current situation, apart from the proposal. These factors also do not favour seeking to maximise redevelopment of a narrow site, by use of numeric ratios.

It may be advisable for the site of the proposed development to double its width, to better manage the various constraints and interfaces with surrounding land and considerations.

#### **4. Acoustic Impacts and Excessive Size**

The acoustic report by Day Design assumes children will be equally spaced in play areas. As this is a key aspect of noise generated, this should be subject to sensitivity analysis.

No. 26 Lewis Street has been identified as a sensitive nearby receiver ("R2" in the report). The report shows compliance for my client's site, but not some others (including the school and 54 Beatrice Street, pg. 35, albeit prior to recommended remedial measures).

Apart from this, the proposal relies on fences and measures to contain noise, which are inconsistent with the scale of low density development (including 2.5m high fences) and management measures (limits on the number of children playing), as well as assumptions (such as equally spaced play groups).

This combination of factors again shows the proposal is too large and dense for the site and low density residential environment.

### **C. Conclusion**

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The DA Should be refused.

The proposal:

1. Is not founded upon, nor responsive to, the site's context;
2. Is inconsistent with numerous key guiding planning objectives and controls within the State legislature (through SEPP (*Educational Establishments and Child Care Facilities*) 2017 and associated 2017 Guidelines), and numerous local planning objectives and controls within Manly Local Environmental Plan 2013 and Manly Development Control Plan 2013;
3. Is inconsistent with the existing and desired future character of the area;

4. Has an excessive bulk, scale, intensity and height. This is further magnified by large areas of carparking, undercroft, circulation and screened areas, which add to physical bulk, yet are excluded from numerical FSR standards. In turn this adds to the overall scale of the proposed building, which is wholly discordant with the area. In terms of context, the scale to the street does not mediate between neighbours, includes a flat roofed design in an area with pitched roofs and fails to mitigate impacts to the streetscape and to neighbours;
5. Has a poor relationship and integration with the public domain, lacking any meaningful landscape interface, and lacking surveillance and territorial enforcement, important components in objectives related to CPTED;
6. Provides inadequate and non-complying setbacks, on a site whose orientation magnifies impacts, particularly to the south, where the smallest setback is provided;
7. Involves excessive excavation;
8. Does not allow adaptive reuse of materials or flexibility in design over time and does not achieve or represent principles of Ecologically Sustainable Design;
9. Has insufficient parking and a sub-optimal parking layout, while being located on a site and street with existing issues and problems related to parking and traffic, largely arising from the immediately adjoining school, and well-known to locals;
10. Will exacerbate traffic and parking issues in the street;
11. Relies on measures to mitigate impacts associated with the excessive number of children (screening, acoustic measures etc), which in turn add to the overall inappropriate form; and
12. Results in neighbour impacts that warrant a significant redesign.

These significant deficiencies are such that the proposal should be refused. They indicate a lack of consideration to development of the site from first principles.

The owners of No. 26 Lewis Street requests to be advised of the progress of the application, and when/if it is to be determined by a Planning Panel.

If you have any queries please contact me on 9389-4457 or 0448-413-558.

Yours sincerely



Jason Perica  
Director