
Sent: 8/10/2019 11:23:10 AM

Subject: DA 2019/0081 - Objection from 16 Boyle Street, Balgowlah.

Attachments: 16 Boyle Street - Letter of Objection .docx; Letter of Objection 307 Sydney Road Balgowlah.pdf;

Dear Ben,

Please find **attached** our submissions relating to the amended plans for DA 2019/0081.

Kind regards,
Vanessa Nicolarakis Smith.

To: Northern Beaches Council
Attention: Mr. Benjamin Price

Date: 8 October 2019

From: V. Nicolarakis Smith on behalf of E.A. Nicolarakis,
16 Boyle Street, BALGOWLAH NSW 2093.

Dear Mr Price,

Re: DA 2019/0081 – 307 Sydney Road and 12 Boyle Street BALGOWLAH NSW 2093.

Objection to updated DA 2019/0081.

We continue to **Strongly Object** to DA 2019/0081, including the amended plans more recently submitted by the Developer. None of the amendments made to the plans reduce or resolve the concerns we have previously raised as to the impact of this proposed development on our property. All our submissions still stand.

Our previous submission included objections on the basis of the following issues:

Loss of Water and District Views

Privacy Concerns

Destruction of the Sandstone Wall

Disturbance to Existing Sewer Line

Traffic Concerns along Boyle Street

These issues remain unresolved.

In relation to loss of view, we attach a letter from *Planning Direction Pty Ltd*. We request this letter be included as part of our submission.

Finally, we wish to state our property at 16 Boyle Street was originally purchased with the knowledge that views enjoyed from the upstairs apartments were protected by the Heritage Listing of the three historic homes which make up 303-307 Sydney Road, Balgowlah.

The proposed development of the property at 307 Sydney Road makes a mockery of the heritage listing that currently exists. By diminishing the historic value of one of these historic homes, the value, heritage or other, of the three homes as a whole is also significantly diminished. Subsequently, the value of all neighbouring properties is also, in turn, diminished.



Planning Direction Pty. Ltd.
Town Planning & Development Services

The General Manager,
Northern Beaches Council

3rd October 2019

Att: Benjamin Price,

**Re: 307 Sydney Road & 12 Boyle Street Balgowlah - DA
2019/0081
Proposed Residential Flat Building**

Dear Benjamin,

I refer to the development application for the erection of a residential development incorporating the retention of and modification to the existing heritage item at the above property.

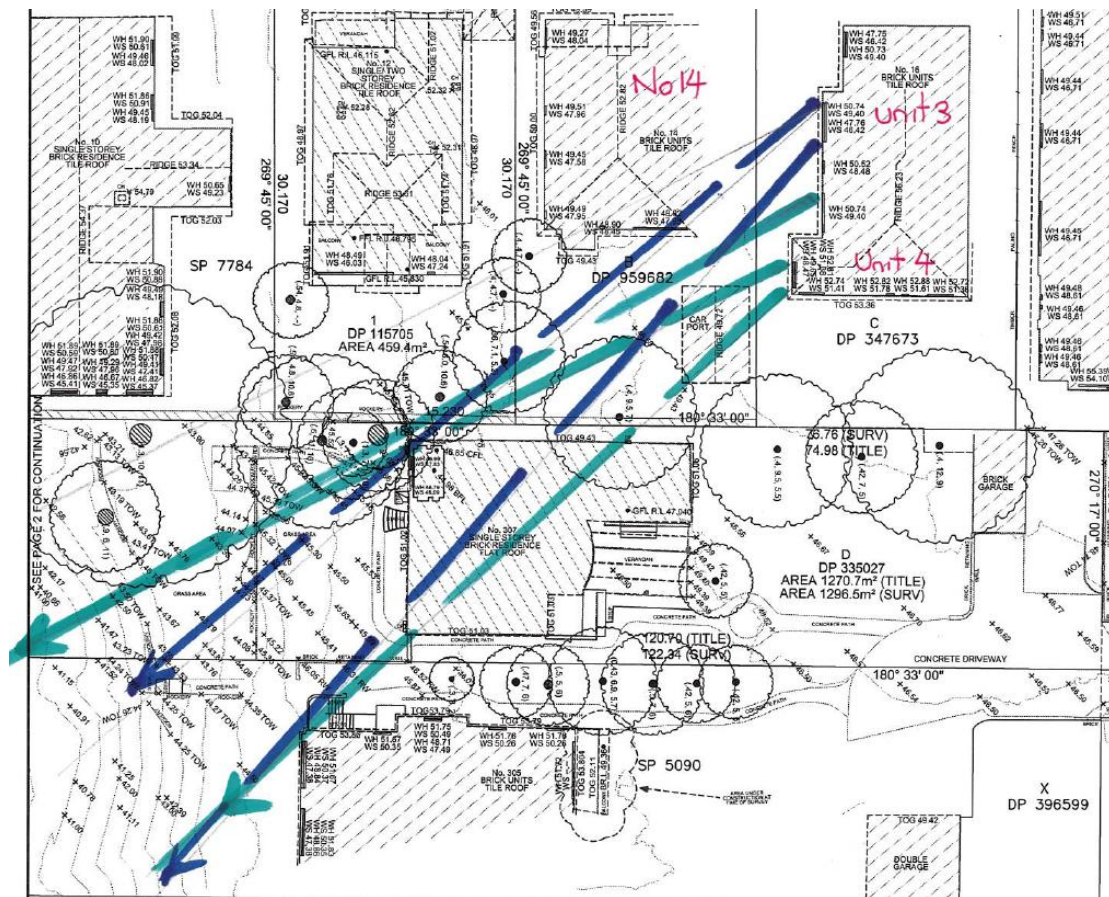
Planning Direction P/L has been commissioned by the owners of No 16 Boyle Street to review specifically the extent of view loss that will occur as a result of this development.

Documents viewed via Council's internet page includes the survey plan and view analysis provided by the applicant.

A.B.N 60 074 291 615
Office Address: Suite 10, 241 – 245 Pennant Hills Road,
Carlingford NSW 2118
Telephone: 9871 4988 – Facsimile: 9871 5218
Email: admin@planningdirection.com.au

Based on my assessment, I maintain strong objection to the proposal for the following reasons:

The affected properties are apartments No 3 and 4 located on the first floor of No 16 Boyle Street and the dwelling at No 14 Boyle Street, which presently benefit from water views across the subject development site as depicted below:



The current angle of viewing captures North Head and the ocean through to the horizon. Shipping, ferries and passing yachts can be clearly seen from the apartments. The principal views are gained over the heritage item at No 307 Sydney Road.

Balgowlah Group of houses 303–307 Sydney Road Lot A, DP 335027; SP 5090; Lot D, Local I24 DP 335027; Lot X, DP 396599

The proposed development involves the construction of another level over the heritage item and a 2 level building extending further into the rear yard of No 12 Boyle Street (being part of the development site). The result is a total obstruction of the principal view enjoyed by neighbouring dwellings.

The Planning Context

The governing planning regime places considerable weight on maintaining and sharing views. By way of example relevant planning objectives are identified in the Manly DCP as follows:

Relevant DCP objectives to be satisfied in relation to this paragraph include the following:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

- a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.*
- b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.*
- c) Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.*

Note: DA assessment is to determine the extent of, and impact on views at eye height in a standing position (eye height is 1.6m above floor level) from within the main living areas (and associated terraces/balconies) of the proposed and existing, adjacent and nearby developments, as well as public spaces. Refer to Figure 11 - View Loss Assessment Diagram.

The view sharing controls embodied in the DCP are consistent with the NSW Land and Environment Court Planning principle provided in **Tenacity Consulting v Waringah [2004] NSWLEC 140**.

The following considers the proposed developments in reference to the view sharing assessment criteria provided in **Tenacity Consulting v Waringah [2004] NSWLEC 140**.

25 The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment:

The proposed development will obstruct principal water views currently enjoyed by Units 3 and 4, No 16 Boyle Street and from the rear of No 14 Boyle Street. The potentially affected views are of the harbour and the headland - North Head. The views are reasonably considered to be 'iconic' and 'highly valued'.

27 The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment:

The affected views are from the side and rear of first floor apartments at No 16 Boyle Street and the rear yard and kitchen of No 14 Boyle Street. The view are gained from a standing position.

The views are a primary asset to the property and are highly valued/enjoyed by the occupants.

28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment:

The existing views would be significantly compromised by the proposed development. The view loss is of the harbour and the headland. The potential view loss is considered to be severe. It is noted that the amended set plans has been submitted to Council. The amended design provides a narrow corridor of viewing of the southern headland only and with minimal to no water views. Such is not in the spirit of view sharing.

29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment:

Based on the amended plans we know that the proposed development gives rise to a breach of the building height development standard of the MLEP and the density control, building envelope and driveway design standards as contained in the DCP/Australian Standards. A question remains as to whether the proposed development complies with the floor space ratio. In addition the proposed development decimates the heritage

value of the site and the heritage value applied to the grouping of dwellings under the listing.

In my view the proposed design is highly inappropriate in its context and remains an overdevelopment of the site.

A more skilful design would ensure that the heritage building on the development site is not altered and that no development occurs in front of the dwelling as viewed from Sydney Road.

Such would be consistent with heritage advice and consideration applied to a prior development proposal at the site.

I recommend a review of the heritage consideration undertaken by Manly Council in respect of DA0064/2012 for alterations and additions to the heritage item at No 307 Sydney Road Balgowlah, particularly the report prepared by *Rappoport Pty Ltd - Conservation Architects and Heritage Consultants*. Findings of the consultant re the heritage item include:

The subject site has aesthetic significance as an example of the inter war Functionalist style, showing elements of the related P&O style. It features a flat roof, strong horizontal elements including rendered drip course and wide windows, smooth rendered finish and a fin wall. page 25.

Ordinarily any proposed alteration to a heritage item could impact on the heritage value of the place. However if undertaken in a sympathetic manner, the impact can be mitigated. The proposed extension to create more living space would occur to the rear and interior and only a small part would be visible from the public domain. In our view, this reduces potential negative impact upon the significance of the item or the positive contribution that the subject item currently makes to the heritage group. page 36.

Council's heritage officer concluded that the proposed addition located at the rear of the site is considered to have a manageable impact on the existing listed cottage and the group as a whole. Council report 20th March 2012.

Clearly the proposed development represents accumulated view loss 'view creep' to the detriment of the neighbourhood and heritage value of the site and adjoining properties.

View loss is a direct symptom of overdevelopment and can and should be addressed via an appropriate design, which starts by retaining the heritage item in its current state. This will ensure that current views remain.

It should be noted also that the extent of building height non-compliance occurs within the principal view corridor.

Compliance with the density control would ensure a more sympathetic development of the site occurs.

The application fails the test for reasonable view sharing and should be refused.

Yours Sincerely

A handwritten signature in cursive script that reads "Nigel White". The signature is written in black ink and is positioned to the left of the printed name.

Nigel White
Bachelor of Applied Science (Environmental Planning)