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**Sent:** 12/06/2023 10:25:07 PM  
**Subject:** Development Application DA2023/0617 – Submission to Council  
**Attachments:** DA2023\_0617 submissionvF.pdf;

Dear Maxwell,

Please find attached submission in relation to the proposed development application 'DA2023/0617' lodged with the Northern Beaches Council on 24/05/2023.

Please confirm receipt of this email.

Regards,  
Tristan Moore

Tristan Moore  
1/72B West Street  
Balgowlah NSW 2095

12 June 2023

Maxwell Duncan  
Northern Beaches Council  
725 Pittwater Road  
Dee Why NSW 2099

By email: [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

### **Development Application DA2023/0617 – Submission to Council**

Dear Maxwell,

I am writing to formally object to the development application 'DA2023/0617' lodged with the Northern Beaches Council on 24/05/2023. I am deeply concerned about the proposed development at Lot 6 & Lot 7 DP 9585 22 & 24 Angle Street Balgowlah, which demonstrates significant non-compliance with existing planning controls and is not compatible with the surrounding properties.

### **Summary of concerns**

My key concerns are summarised as follows, and further detailed below:

- Bulk and scale of development
- Excessive density
- Minimal setbacks and associated loss of privacy
- Overshadowing
- Unapproved drainage easement
- Increased downstream flood risk
- Open space minimised
- Sub-optimal landscaping outcome
- Shared footpath safety
- Site stability of adjacent property 72A-72B West Street
- Misrepresentation on submitted plans

### **Bulk and scale of development**

With a proposed FSR of 0.95:1 the proposed development is a gross exceedance of the acceptable floor space ratio (FSR), representing a 90% increase to (or variance from) the existing planning controls, Manly LEP 2013. This non-compliance is excessive as demonstrated by the scale of building footprint on the site, the minimal open space and the minimal building separation. It results in a development that is out of proportion and visually dominating compared to adjacent and surrounding properties, compromising the existing neighbourhood character and aesthetic appeal. This is supported by data in the table below which compares FSR for the proposed development with FSR for the adjoining and surrounding properties.

## Benchmarking analysis | Floor space ratio

Site	Site area (sqm)	Floor space (sqm)	FSR	Notes
Existing planning control			0.50	Manly LEP 2013
<b>22-24 Angle Street, Balgowlah (proposed)</b>	<b>835</b>	<b>793</b>	<b>0.95</b>	<b>Per DA2023/0617, 90% variance to planning control</b>
22-24 Angle Street, Balgowlah (current)	811	509	0.63	Source: SIXmaps (approx. site area; FSR = approx. roof area * floors)
20 Angle Street, Balgowlah	1,848	1,521	0.82	Source: SIXmaps (approx. site area; FSR = approx. roof area * 3)
14 Angle Street, Balgowlah	2,530	1,311	0.52	Source: SIXmaps (approx. site area; FSR = approx. roof area * 3)
12 Angle Street, Balgowlah	432	180	0.42	Source: SIXmaps (approx. site area; FSR = approx. roof area * 3)
72A-72B West Street, Balgowlah	600	428	0.71	Source: SIXmaps (approx. site area; FSR = approx. roof area * 2)
72 West Street, Balgowlah	500	136	0.27	Source: SIXmaps (approx. site area; FSR = approx. roof area * 1)

## Excessive density

The proposed development fails to comply with the residential density requirements in Manly DCP 2013. The proposed site area per dwelling (or unit) in the development is 104m<sup>2</sup> of site area<sup>1</sup>, well below the minimum density requirement of 300m<sup>2</sup> of site area per dwelling (or unit). The development attempts to maximise the number of 3 bedroom dwellings with an adverse outcome of overcrowded and undersized accommodation.

Referring to the data in the table below, the density of the proposed development is 44% and 48% higher than adjoining lots 72A-72B West Street and 20 Angle Street, respectively, and significantly higher than the surrounding properties. Considering the characteristics and amenity of the immediate neighbourhood, this proposed density compromises the quality of living for both future and existing residents.

## Benchmarking analysis | Residential density

Site	Site area (sqm)	Number of dwellings (#)	Site area per dwelling (sqm)	Variance to DA (%)	Notes
Existing planning control			300	188%	Manly DCP 2013
<b>22-24 Angle Street, Balgowlah (proposed)</b>	<b>835</b>	<b>8</b>	<b>104</b>		<b>Per DA2023/0617, 65% variance to planning control</b>
22-24 Angle Street, Balgowlah (current)	811	2	406	289%	Source: SIXmaps (approx. site area)
20 Angle Street, Balgowlah	1,848	12	154	48%	Source: SIXmaps (approx. site area)
14 Angle Street, Balgowlah	2,530	16	158	52%	Source: SIXmaps (approx. site area)
12 Angle Street, Balgowlah	432	1	432	314%	Source: SIXmaps (approx. site area)
72A-72B West Street, Balgowlah	600	4	150	44%	Source: SIXmaps (approx. site area)
72 West Street, Balgowlah	500	1	500	379%	Source: SIXmaps (approx. site area)

## Minimal setbacks and associated loss of privacy

The proposed development does not adhere to the minimum required 3.0 metre setback on the western boundary in Manly DCP 2013.

The basement carpark structure protrudes approximately 1.2m above natural ground level at the north elevation adjacent to the western boundary [Plans – Master Set ‘Elevations 1’ p.6]. This structure is well within the required 3 metre setback from the western boundary.

The balconies on the western elevation of the proposed development sit atop the basement carpark and are located well within 3 metres of the western boundary. As a consequence of these balconies being elevated 1.2m above natural ground level (and above ground floor level at 72B West St) the impact on the privacy of neighbouring residents is more intrusive both visually and acoustically than otherwise would be the case. This is shown in the Ground Floor annotated plans below.

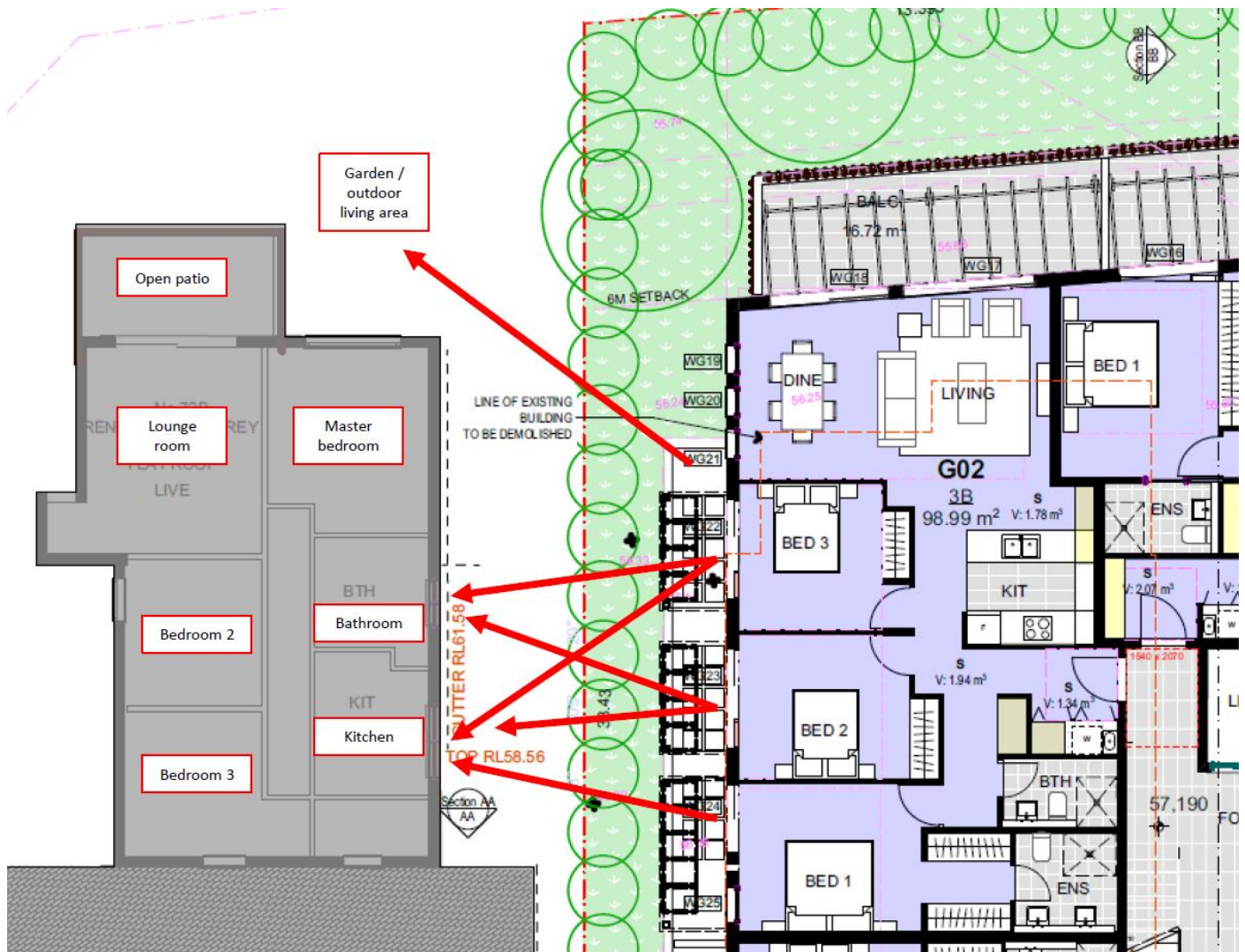
On Level 1, the articulated architectural element (being the external cladding and windows) on the western elevation is within the required 3 metre setback from the boundary. This non-compliance impacts the neighbouring properties' privacy at 72A and 72B West St by increasing the proximity and associated impact of overlooking

<sup>1</sup> Reported as 105.29m<sup>2</sup> per unit in p.6 of ‘Report- Design’ prepared by Wolski Coppin Architecture. Refer to additional commentary below in ‘Misrepresentation of submitted plans’ on p.6.

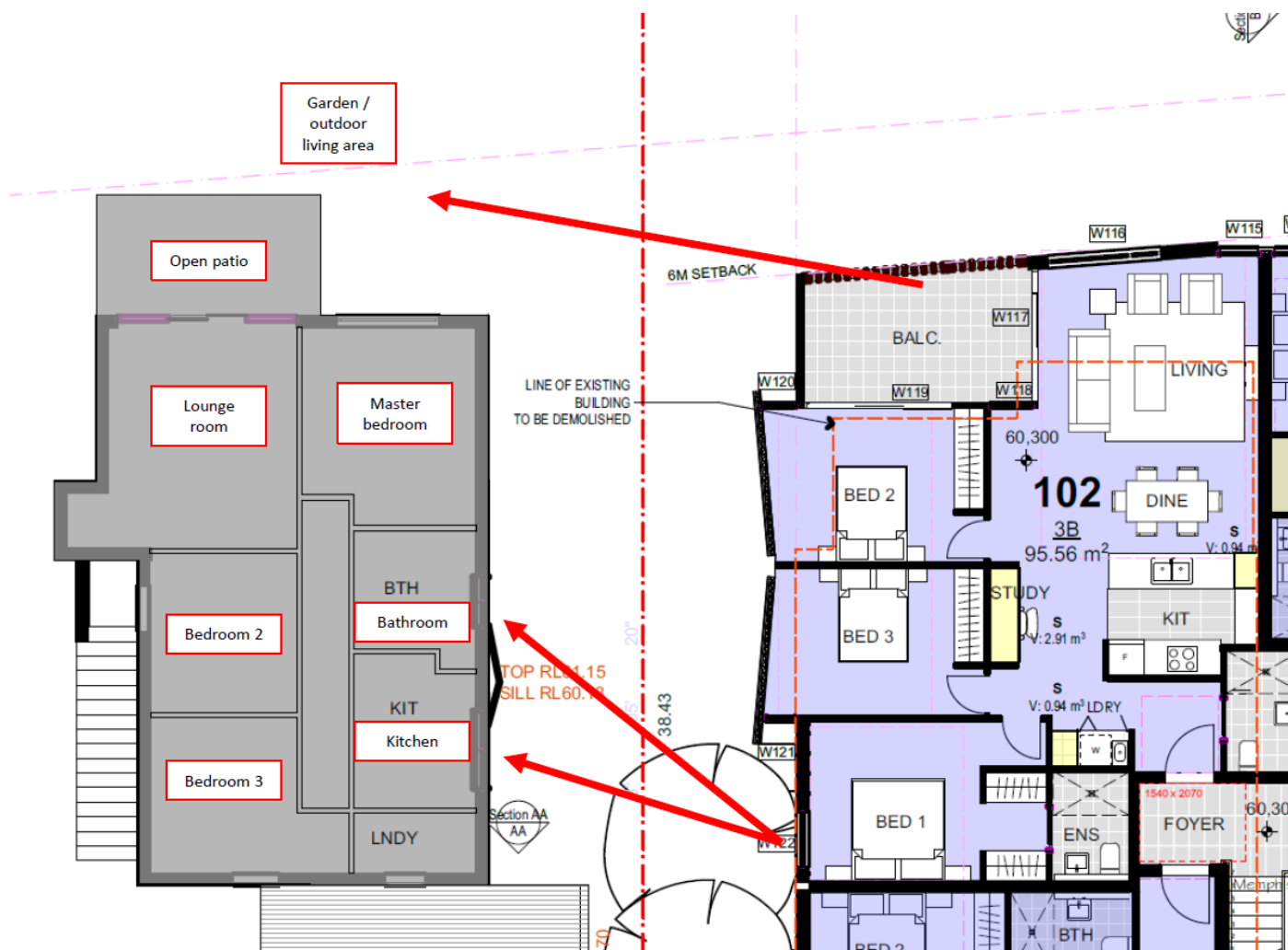
windows. It infringes upon the residents' right to privacy and enjoyment of their own homes. This is shown in the Level 1 annotated plans below.

On the western elevation of the proposed development, the Unit 102 bedroom #1 and Unit G02 bedrooms #1, #2 and #3 in directly overlook the kitchen and bathroom windows of 1/72B West Street. This conflicts with the statement by Wolski Coppin Architecture on p.3 of their Design Verification Statement (Annexure A) used to justify the non-compliant setback stating, ***“the setback to the west is appropriate due to the neighbouring blank wall and thus there is minimal loss of amenity for neighbouring residents”***. For the avoidance of doubt there is no “blank wall” on the existing adjoining property. This is shown in the Ground Floor and Level 1 annotated plans below.

At the northern elevation, the Unit 102 balcony overlooks the open patio and principal outdoor living area of 1/72B West Street, significantly impacting the privacy and amenity of existing residents. This is shown in the Level 1 annotated plans below.



[Plans – Master Set ‘Ground Floor Plan’ p.3 with annotations]



[Plans – Master Set ‘Level 1 Plan’ p.4 with annotations]

### Overshadowing

The proposed development's height and bulk, and the encroachment on the existing building setback from both the northern and western boundaries is expected to overshadow 1/72B West Street and restrict solar access from sunrise until after 12pm (midday), as shown in Plans – Master Set ‘Views From The Sun 02’ pp.19-20. The reduction in natural light (solar access) will significantly and negatively impact both indoor and outdoor living areas including lounge room, patio, garden, master bedroom, kitchen and bathroom. This overshadowing diminishes the amenity of 1/72B West Street.

### Unapproved drainage easement

The stormwater plan submitted [Plans – Stormwater p.3] show stormwater drainage converging in the north-west corner of the site at Pit D1, with stormwater proposed to be discharged to West Street via an unapproved drainage easement along the southern boundary of 72 West Street. The drainage plan proposed is conditional on the future approval of an easement (noted on the plans) which is not guaranteed to be granted.

The available width for the proposed 900mm wide drainage easement to West St appears to be inadequate and in conflict with the southern elevation building line of 72 West Street when considering the proximity to the property boundary.

### Increased downstream flood risk

The proposed drainage design appears to present a significant risk of downstream flooding during major rain events due to the use of undersized outlet pipes from all pits (100mm) relative to the total roof area (>400m<sup>2</sup>). This risk is most pronounced at Pit D1, which consolidates stormwater from the entire site area.

The drainage design provides no contingency in the event of blockage at Pit D1 or Pipe D3 or in extreme weather events beyond the design capacity. This presents a significant risk of stormwater overflowing from this pit and flooding downstream properties to the north of the site, based on the local topography.

### Open space minimised

The proposed development does not comply with the minimum open space requirement of 55% total site area in Manly DCP 2013. The proposed open space of only 40% of total site area (i.e. 337m<sup>2</sup>) represents a 27% shortfall from the planning controls.

### Sub-optimal landscaping outcome

The proposed landscaping on the western elevation is seriously compromised and likely ineffective due to:

- Lack of solar access along the western elevation with the excessive size of the building footprint, and the non-compliant building separation and setback; and
- Insufficient width available within the setback for any substantial planting along the western boundary (<1 metre wide) with the basement carpark structure and balconies encroaching, and provision of an access pathway along the western boundary.

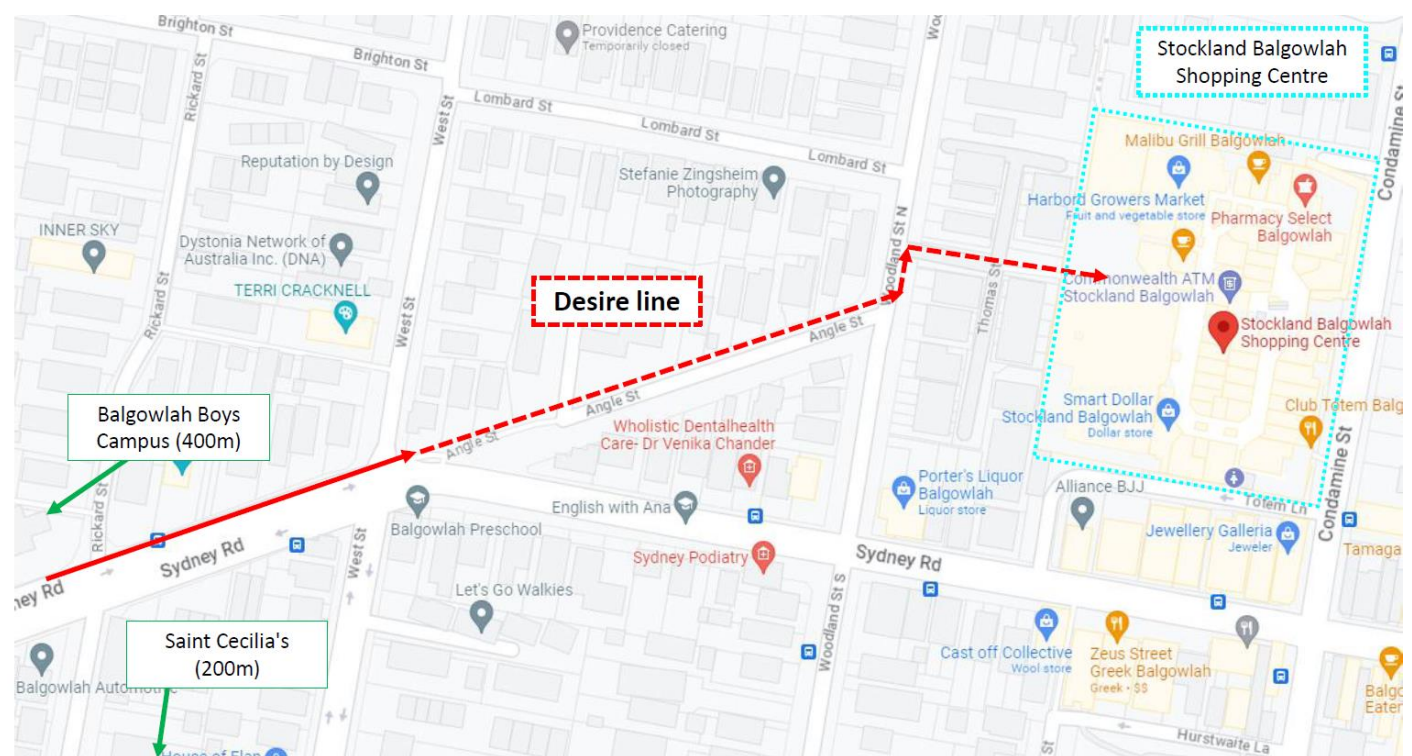
### Shared footpath safety

The proposed development provides for 16 carparking spaces which represents a 400% increase in the number of private vehicles accessing 22-24 Angle St.

These vehicles will access via the shared footpath connecting the driveway of the proposed development to Angle Street. This increase in traffic using the shared footpath presents a heightened risk to pedestrians who use the footpath daily, in particular schoolchildren and the elderly. The shared footpath serves as the 'desire line' for pedestrians accessing the Stockland Balgowlah Shopping Centre (as shown below), given it is the safest and most direct pedestrian route from nearby schools and residents to the west.

Furthermore, the open space (including the shared footpath) at the western end of Angle Street is frequently used as a pocket park for recreation by children who live in the surrounding streets.

This increase in traffic on the shared footpath arising from the proposed development increases the risk to these children and pedestrians of being involved in an accident or conflict with these vehicles.



[Google Maps – Pedestrian route to Stockland Balgowlah Shopping Centre]



[Google Maps – Northern end of Angle Street]

### Site stability of adjacent property 72A-72B West Street

The proposed excavation works are within 1.5 metres of the western boundary, raising significant concerns in relation to the stability of 72A-72B West Street. The Preliminary Geotechnical Report (pp.4-5) prepared by D&N Geotechnical notes that *"rock saws and hydraulic impact hammers are likely to be required to assist in excavation"* and that *"the use of impact hammers for bulk excavation, trimming sides of excavation and for detailed excavation will cause vibrations that **could damage vibration sensitive structures and services, such as the existing adjacent residential developments**"*.

The Preliminary Geotechnical Report identifies the risk of *"**excavation induced ground movements**"* within the zone of influence of the proposed basement excavation which will extend to the adjoining property at 72A-72B West St.

It is critical to assess and mitigate these risks to ensure the safety, stability and integrity of the adjacent properties, particularly 72A-72B West Street, given the proximity of excavation works to the western boundary *'**within the zone of influence**'* and considering that 72B West Street building structure is constructed on a terraced site (i.e. not founded on rock) which is susceptible to ground movement and settlement from excavation and vibration.

### Misrepresentation of submitted plans

There are several misrepresentations in the submitted plans and ancillary documents attached to DA2023/0617.

1. The 'Plans – Master Set' inaccurately portrays the following:
  - a. The bulk and scale of 72B West Street as shown in the 'Plans – Master Set' pp. 6, 23 (northern elevation) is incorrect:
    - i. 72A West Street (at the southern elevation) and 72B West Street (at the northern elevation) have been portrayed as a single building at the northern elevation, to optically minimise the bulk and scale of the proposed development. This significantly misrepresents the bulk and scale of the existing structure at 72B West Street, as shown below.



- i. The open patio and principal living room at 1/72B West Street (northern elevation) is not shown, instead replaced by a blank wall without windows [‘Plans – Master Set’ pp. 6, 19-20, 23] (shown below).
- ii. The courtyard at 2/72A West Street (southern elevation) is not shown [‘Plans – Master Set’ pp. 1, 3, 6]
- iii. Various other windows at 72A – 72B West Street are not shown [‘Plans – Master Set’ pp. 1, 3-4, 6, 19-20]



- c. Cladding and window design on western elevation:
  - i. From the western elevation (p.18) it appears that a window is planned between bedroom 2 and 3 of Unit 102, although not designated as a window on the plan view (p.4).
2. The 'Report – Design' misrepresents the density of neighbouring properties:
  - a. Wolski Coppin Architecture ['Report – Design' p.6] incorrectly states that *“in comparison to the neighbouring existing residence at 72A + 72B West Street which has a density of 1 unit per 138.87m<sup>2</sup>, the proposed development has a density of 1 unit per 105.29m<sup>2</sup> which is not too dissimilar considering it involves the amalgamation of two sites”*. In fact, 72A – 72B West Street has an approximate site area of 600m<sup>2</sup> [SIXmaps] consisting of 4 units, and therefore a density of 1 unit per 150m<sup>2</sup>. Furthermore, the amalgamation of two sites is irrelevant and does not serve as a mitigant for non-compliance with the density requirement, nor does it reduce the impact on future and existing residents.
3. The 'Report – Statement of Environmental Effects' p.7 misrepresents the surrounding properties, showing photographs of properties in the locality as comparable despite being subject to different (less stringent) density controls [Manly DCP 2013], open space controls [Manly DCP 2013], and building height controls [Manly LEP 2013]. This is an attempt to minimise the severity of non-compliance and the perceived impact on the prevailing streetscape and amenity of the precinct.

## Recommendations

To address these concerns, I request that Council consider the following amendments to the development application:

1. Reduce the FSR to align with the current planning controls [Manly LEP 2013], ensuring a more harmonious scale and density.
2. Reduce the number of dwellings within the development such that the residential density [Manly DCP 2013] is no less than the adjoining residential flat buildings, namely 72A-72B West Street and 20 Angle Street.
3. Ensure full compliance with the required setbacks [Manly DCP 2013] particularly on the western elevation, to protect the privacy of neighbouring properties. Improved screening measures and increased landscaping and open space should also be enforced to mitigate privacy (visual and acoustic) impacts.
4. Mitigate overshadowing impacts on neighbouring properties by reducing the scale and bulk of the development and adhering to the required setbacks, allowing for adequate solar access to adjoining properties and maintaining the amenity of the surrounding area.
5. Discharge stormwater via Angle Street, in the absence of an approved drainage easement.
6. Provide a contingent stormwater discharge solution connecting to Council's network to mitigate the risk of downstream flooding of properties in the event of extreme weather events or blockage of critical pits and pipes.
7. Enforce compliance with the minimum residential open space and minimum landscaped area requirements, and ensure that landscaping along the western elevation has sufficient width, solar access and soil area for substantial planting.
8. Reduce the number of units (and associated car parking spaces) to reduce the risk to pedestrians of pedestrian-vehicle conflict on the shared footpath.
9. Implement appropriate measures to assess and address neighbouring site stability risks associated with the proposed excavation works. This should include a comprehensive analysis of potential vibrations, ground movement and land stability, as well as a dilapidation survey of existing structures prior to and upon completion of excavation works.
10. Re-submit an updated set of plans and ancillary documents which: accurately portrays the key features of adjoining lots (i.e. window locations, patio, courtyard); accurately portrays the bulk and scale of the

adjoining properties at the northern and southern elevations; accurately states the density of adjoining properties; and details the building separation distances to all adjoining properties.

Should the development application (or an amended version) be approved, I request that the Council apply the following condition:

- That the Applicant be liable for any damages to adjacent structures and/or site remediation costs associated with excavation works and broader construction activities.

I strongly urge the Northern Beaches Council to carefully consider these objections and proposed amendments to the development application. It is important that Council upholds the existing planning controls, protect the privacy of residents, and maintains the character of the local area for the benefit of the precinct community.

Thank you for your attention to this matter. I trust that the Northern Beaches Council will give due consideration to the objections and proposed amendments, working towards a resolution that upholds the best interests of the community.

Yours sincerely,

Tristan Moore