
Sent: 31/08/2020 1:20:34 PM
Subject: Letter of Objection - Application No DA2020/0884
Attachments: Letter of objection to DA2020_0884 v1.0.pdf;

Dear Sir/Madam,

Please find our objections to the Proposed Development DA2020/0884 (See attached). This proposal is a real concern to us and if approved, will have a significant impact on our home.

We are open to meet with you at our home to discuss our concerns further. Please let me know if you need any further information?

Thanks and Regards

David Simington - Mobile 0407 896 783
Emma Lane

From: David Simington
Sent: Monday, 9 March 2020 4:14 PM
To: Council@northernbeaches.nsw.gov.au
Cc: david.simington@outlook.com; lane.emma@gmail.com; Nigel White
Subject: Letter of Objection - Application No DA2020/0116

Dear Sir/Madam,

Please find our objections to the Proposed Development DA2020/0116 (See attached). This proposal is a real concern to us and if approved, will have a significant impact on our home. We have worked with Nigel from Planning Direction to help articulate our concerns.

We are open to meet with you personally at our home to discuss our concerns further. Please let me know if you need any further information?

Thanks and Regards

David Simington - Mobile 0407 896 783
Emma Lane

The General Manager,
Northern Beaches Council
27 August 2020

Re: 129 Upper Clontarf Street Seaforth - DA 2020/0884

Proposed Alterations and additions - Construction of a Swimming Pool and ancillary works

Dear Sir/Madam,

I refer to the development application for alterations and additions to a dwelling including a new pool at the above property. Documents viewed via Council's internet page includes the survey plan, architectural plans, statement of environmental effects, geotechnical report and the landscape Plan.

Also referenced is the previous **Development Application Assessment Report DA2020/0116** which recommended the Swimming Pool, Decking and Fencing as non-compliant and be removed from the application.

The DA Assessment Report DA2020/0116 agreed that the location of the pool is inappropriately sited and failed on compliance across multiple areas. The new application includes a revised pool structure and Deck surrounding that is same height, length but has been narrowed by 1.2m. It fails to address any of the previous Non-Compliance issues as outlined in the assessment. These are summarised below (extract for DA Assessment Report).

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.3.1 Landscaping Design	No	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	No	Yes
3.4.1 Sunlight Access and Overshadowing	No	Yes
3.4.2 Privacy and Security	No	Yes
4.1 Residential Development Controls	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.8 Development on Sloping Sites	No	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.1.10 Fencing	No	Yes

Extracted from DA Assessment Report DA2020/0116 pages 11 and 12 showing Non-Compliant Requirements from Manly Control Plan.

I strongly object to the proposal for the following reasons.

The subject site and site context

The subject site is identified as No 129 Upper Clontarf Street, which is legally described as Lot 189 in DP 11162. The subject site has a distinct site characteristic of being the last accessible house from the northern end of Upper Clontarf Street because of the significant fall in the land to the south. The subject site presently contains a 3-4 level dwelling located at the rear of the site and accessed via an existing driveway inclusive of a right of way arrangement over No 131 Upper Clontarf Street. The land forward of this dwelling has an appreciable cross fall to the south by up to 6m over a site width of 12.5m. The site is characterised by several large rock outcrops in the front setback and has a steep drop to the south. Several rock outcrops have significant undercutting in several places.

An array of vegetation exists within this front setback inclusive of rock outcrops. Formal drainage of the property is not known.

We own and lived in the adjoining property known as No 127 Clontarf Street since 1999. This is our family home and is the property most affected by the proposed works.

No 127 Clontarf Street is situated on the southern side and sits directly below the subject property. The subject property effectively towers over the adjoining southern property (see photo below).

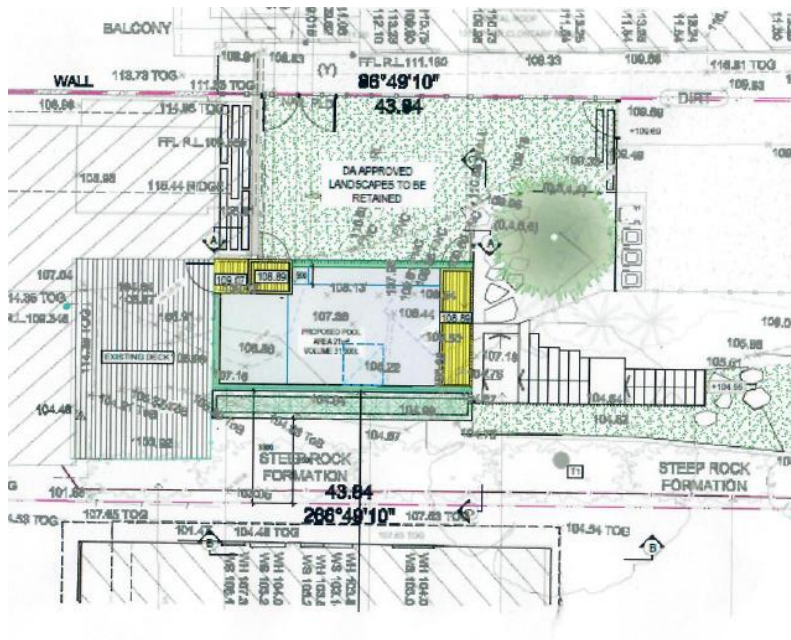
Overshadowing and building bulk are present issues for 127 Clontarf Street.



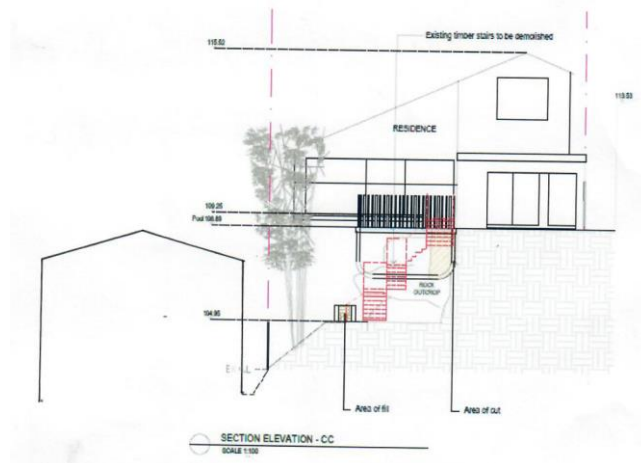
View of Subject House from the rear yard of 127 Clontarf Street highlighting Building Bulk and overshadowing

The proposal

The applicant proposes to carry out alterations and additions to an existing dwelling to include a new above ground swimming pool and timber decking. The proposed construction of a swimming pool is described as above ground level and adjacent to the existing Deck. The proposed structure is above the existing roofline of the adjoining property.



The proposed pool is to be built above an existing outcrop with a maximum height to the coping of approximately 4.5m at a setback from the southern side boundary of 3m. The access stairs to the pool deck and proposed retaining walls are also located near the southern side boundary.



Proposed pool showing proximity to neighbouring property. It is located above the roofline of 127 Clontarf Street with a setback of approx. 3m.

The Council Planning Controls

The subject site is zoned Low Density Residential pursuant to the Manly Local Environmental Plan 2013 (MLEP 2013). The proposal is permissible subject to Council assessment and satisfying zone objectives, Clauses of the MLEP 2013 and provisions of the Manly Development Control Plan 2013 to determine acceptability.

A relevant clause of the LEP are as follows:

Clause 6.2 Earthworks

(1) The objectives of this clause are as follows—

(a) to ensure that earthworks and associated groundwater dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, (b) to allow earthworks of a minor nature without requiring a separate development consent.

(2) Development consent is required for earthworks unless—

(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

(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.

Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.

Comments:

The subject site relative to the adjoining southern site is substantially higher and includes rock outcrops and sloping ground. Several of outcrops have significant undercutting.

The inclusion of a swimming pool in the vicinity of rock outcrops and sloping ground requires geotechnical stabilisation and significant engineering works to secure the footing and weight of an elevated swimming pool. Importantly, the location and design of the pool sits directly to the side of the southern neighbouring dwelling - 127 Clontarf Street.

The extent of works required to secure this pool is significant and concern is raised that if the works are not properly undertaken then major damage to the neighbour's dwelling will eventuate, if not in the short term possible in the long term. The proposed pool also has the effect of covering over rock outcrop replacing a feature of the natural landscape with built form.

The photo below shows informal stabilisation works of the affected rock crop already taken, thus highlighting the precarious circumstance proposed by placing a suspended pool in this location.



View of existing rock outcrop, stabilisation work and location of the proposed pool.

Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

The Manly Development Control Plan (MDCP) 2013 contains more specific design and amenity considerations.

3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

Relevant DCP objectives to be met in relation to these paragraphs include the following:

Objective 1) To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.

Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.

Designing for Amenity

*a) Careful design consideration should be given to **minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property.** This is especially relevant in higher density areas, development adjacent to smaller developments and development types that may potentially impact on neighbour's amenity such as licensed premises.*

*b) **Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.***

c) The use of material and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry standards. See also Council's Administrative Guidelines regards DA lodgement requirements for materials and finishes.



View of the private open area of the adjoining southern property. The privacy of this open area will be significantly effected under the proposed development.

The MDCP clearly establishes protocols for appropriate development and the protection of neighbour amenity.

Objective 1 provide clear guidelines for new developments that it should be achieved through careful design, which aims to *“minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property.”*

Part b states that

“Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.”

The proposed pool, deck and access stairs present an unacceptable bulk and design, which will significantly impact upon the private open space and living areas on the adjoining southern dwelling.

Sunlight Access and Overshadowing

The consideration above, clearly calls for careful consideration in relation to maintaining adequate levels of sunlight to adjoining properties. The adjoining southern property is already subject to overshadowing given the orientation of the land, the dramatic change in ground level between properties and the sheer bulk of the existing dwelling on the subject site.

3.4.1 Sunlight Access and Overshadowing

See Council’s Administrative Guidelines for DA lodgement requirements for shadow diagrams. See paragraph 4.1.5.3.b.iii for sunlight requirements to private open space with boarding houses.

Relevant DCP objectives to be met in relation to this part include the following:

Objective 1) To provide equitable access to light and sunshine.

Objective 2) To allow adequate sunlight to penetrate:

- **private open spaces within the development site; and**

- private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.

Objective 3) 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.

Presently the adjoining southern property benefits from solar access penetration. It is evident that the construction of the pool in its proposed location at an equivalent height to the ridge of the adjoining southern property will erode the remaining quality solar access available to the adjoining southern property.

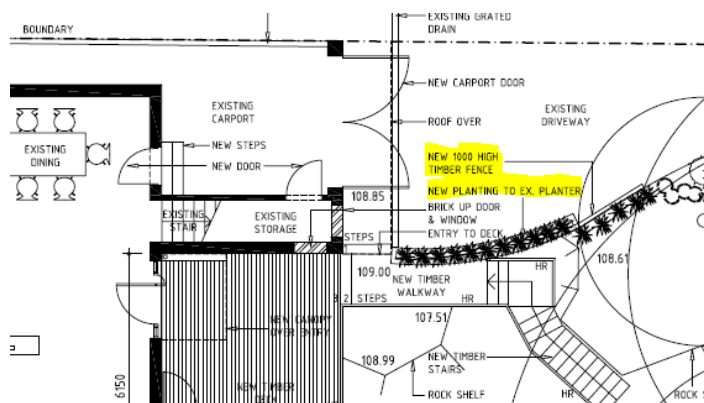
Currently, there is sunlight entering all the first-floor windows from Spring through to Summer and into Autumn. The second-floor windows also get sunlight all year round. Should this proposal be approved, the lower kitchen and bathroom windows will lose direct sunlight all year round. The second-floor windows will also receive significantly reduced sunlight.

Proposed Shadow Diagrams

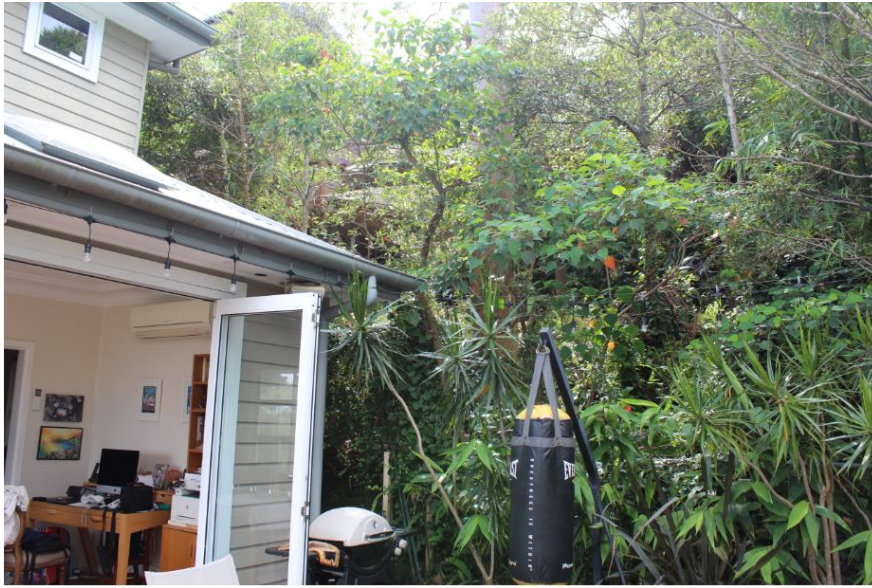
There has been no consideration to the guidelines set out in Clause **3.4.1.1 Overshadowing Adjoining Open Spaces** and **3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties** which recommends that measuring sunlight availability to adjoining properties should not just rely on measurements around the winter solstice on the 21st June.

Also, the reliance on the Application Shadow diagram that has made use of the 2m high fence is inappropriate. The 2008 Development application DA62/08 approved a new Deck and 1-metre high fence that was approximately 2-metres in length. Over time, the fence has been modified to be around 2 metres in height and around 5 metres in length and is not in compliance with **MDCP 4.1.10** clause which states that the “Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point.” **This change was never agreed with us and has removed direct sunlight to our property.**

This fence is also planned to be removed as part of the approved DA 2020/0116 and will return any lost sunlight to our property. It should not be used to support the new application that will further reduce sunlight to the adjoining property – 127 Clontarf Street.



Extract from 2008 diagram showing approved 1 metre high fence.



View of the location of the proposed Pool and surrounding Deck showing the proximity and height above the southern adjoining property.

The applicant's commentary on overshadowing is not an accurate account of site circumstances and is dismissive of the real issues affecting the southern neighbour.

Kitchen Light

The kitchen window of the adjoining southern dwelling currently receives sunlight from Spring, through to Summer and Autumn and is a focal point in the house. The proposed development will greatly reduce natural light getting into the kitchen window. The side of the house currently gets natural light all year round and the path will become darker and the concrete may become susceptible to moss. This is the only external way to get from the front yard to the back of the house.

Second Floor Second Bedroom

The upstairs second bedroom of the adjoining southern dwelling benefits from a north facing window. This currently receives direct sunlight and is used to provide natural light into the room. The proposed pool and deck will effectively remove direct natural light to this room and make it very dark.

Second Floor Bathroom

The second floor bathroom currently receives direct sunlight year round and is used to provide natural light into the room. The proposed pool and deck will effectively remove direct natural light from the window,

Second Floor Deck and Main Bedroom

The second-floor balcony that leads off the main bedroom of the adjoining dwelling is currently very private. With this development, the pool deck will provide opportunity for viewing straight down onto this balcony, thereby removing all privacy. Anyone walking up the stairs to the proposed pool will have a clear vision into the bedroom, meaning that the curtains will need to be closed all the time.



View from the Main Bedroom of the balcony and subject site in the background.



View from the balcony towards the subject site and rock outcrops that will be cover with new development.

Currently, the main bedroom is private and if this development goes ahead all privacy for the main bedroom and deck will be unfairly compromised. The proposed position of the pool being above the roof means that the pool, pool deck and stairs significantly affect current levels of privacy the southern neighbour presently enjoys.

Front Deck

Because of the overshadowing and lack of any privacy for the rear yard, the Front courtyard is used exclusively by the family for any outdoor activities. The proposed development and location of the pool and deck has the potential to look straight into the front courtyard and upper balcony on the neighbouring southern property.

The proposed pool stairs start above the roof line of the southern adjoining dwelling and extends down to ground level that is about 2 metres above the neighbour's front yard. The privacy of the adjoining southern property will be compromised through the use of the pool and access stairs. The proposal will significantly reduce the current level of privacy enjoyed by the adjoining owners.

Under the current proposal there is considerable loss of privacy and natural light from the elevated pool and ancillary structure to the adjoining property. The adjoining property already suffers significantly by the building bulk and overshadowing.

Noise Concerns

The use of the pool and new deck has the potential to an increase in noise disturbance as it above and directly next to the southern property (including all the families bedrooms). The location of the pool pump under the deck beside the adjoining southern dwelling contributes to potential noise disturbance. The enclosure of the space may direct noise from the pool pump to the south. In addition, will the pool pump be readily accessible for back washing and servicing?

Clause 4.1.9 outline the guidelines for locating Swimming Pools.

4.1.9 Swimming Pools, Spas and Water Features

See also paragraph 4.1.5 Open Space and Landscaping.

Relevant DCP objectives to be met in relation to these paragraphs include:

Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;

Objective 3) To integrate landscaping; and

Objective 4) To become an emergency water resource in bush fire prone areas.

See also paragraph 4.1.5 Open Space and Landscaping.

The above objectives are clearly designed to ensure swimming pools are sensitively located and designed.

Height above ground.

Clause 4.1.9.1 specifies that swimming pools are not elevated more than 1m above natural ground. The proposed swimming pool has a maximum of 4.5m above the natural ground level and would be 3m from the southern boundary. This represents a significant variation from the requirement of the control. It has a significant impact on the amenity and loss of light and outlook for the southern property.

4.1.9.1 Height above ground

a) Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. Consideration of any exception to exceed the height above ground must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse more than 1m above natural ground level:

i) would not detract from the amenity or character of the neighbourhood; and

ii) is a minimum distance from any side boundary equivalent to the height of the swimming pools and/or spa and their curtilage and/or concourse at any point above existing ground level.

4.1.9.2 Location and Setbacks

See also paragraph 4.1.4.5 Foreshore Building Lines and paragraph 4.1.4.6 Setback adjacent LEP Zones RE1, RE2, E1 and E2.

The proposed location is a significant and elaborate structure, which is suspended above the existing ground level by 4.5m.

This structure and associated deck and access stairs will be prominent when viewed from the neighbour's property and will significantly alter the natural landscape. Currently, the southern property have an outlook to a natural rock wall and vegetation on the subject site.

The Pool would need a minimum 4.5m setback from the side boundary to alleviate impacts as per the control.

Developments on Sloping Sites.

The MDCP is very specific on development on Sloping Sites.

4.1.8 Development on Sloping Sites

Relevant DCP objectives to be met in relation to these paragraphs include:

Objective 1) To ensure that Council and the community are aware of, and appropriately respond to all identified potential landslip & subsidence hazards.

Objective 2) To provide a framework and procedure for identification, analysis, assessment, treatment and monitoring of landslip and subsidence risk and ensure that there is sufficient information to consider and determine DAs on land which may be subject to slope instability.

Objective 3) To encourage development and construction this is compatible with the landslip hazard and to reduce the risk and costs of landslip and subsidence to existing areas.

See also paragraph 4.4.5 Earthworks (Excavation and Filling) of this plan, Clause 6.2 of the Manly LEP 2013, paragraph 4.1.2 Height of Buildings in respect of sloping sites and paragraph 3.1.1.1.b Setback Principles in Low Density Areas.

Note: Development on sloping sites often require geological survey to consider the stability of the slope and the suitability of the proposed design for that slope.

Requirements

- a) The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.
- b) Developments on sloping sites must be designed to:
 - i) generally step with the topography of the site; and
 - ii) **avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope** whether to the foreshore or a street.

The site currently has several rock caps with undercropping that will form the foundations of the proposed pool. The Requirements under 4.1.8 states that any development on sloping sites should *“avoid large undercroft spaces and minimise supporting structures by integrating the building into the slope”*. The proposed pool clearly does not take this in consideration. It fails to integrate important natural features such as rock outcrops into the proposal and fails to present the undercroft areas as positive space.

It further states that *“The design of development must respond to the slope of the site, to minimise loss of views and amenity”*.

Under the current proposal, there is considerable loss of amenity from the pool and ancillary structure. The extend of the elevated pool provides an unreasonable opportunity for noise disturbance, loss of sunlight and loss of outlook for the neighbouring property.

3.3.1 Landscaping Design.

Relevant DCP objectives include to *“To retain and augment important landscape feature”*.

3.3.1 Landscaping Design

See also Schedule 4 - Part B - Native Tree Selection

See also Schedule 4 - Part C - Plant selection for energy efficiency

See also paragraph 3.5 Sustainability.

See also paragraph 4.1.5 Open Space and Landscaping.

Relevant DCP objectives to satisfy in relation to this part include the following:

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.

Landscape Character

a) The design, quantity and quality of open space should respond to the character of the area. In particular:

i) In low density areas: (including LEP Zones R2 Low Density, E3 Environmental Management and E4 Environmental Living) open space should dominate the site. Setbacks of buildings from open space should also be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshore.

ii) In higher density areas: the provision of adequate private open space and landscaped areas are to maximise residential amenity. Site works must be minimised to protect natural features.

iii) In areas adjacent to native vegetation: the design of development should be sympathetic to the natural environment in order to protect and enhance the area as habitat for native fauna.

iv) In areas of habitat for the long-nosed bandicoot: (see paragraph 5.4.2), landscape design must include native plant species to provide new and/or improved low dense clumping habitat to provide for potential foraging and nesting. The planting schedule should comprise species such as *Lomandra* sp., *Dianella* sp., *Banksia spinulosa*, *Caustis* sp., *Xanthorrhoea* sp., *Isolepis* sp., *Juncus* sp., *Adiantum* sp., *Calochlaena* sp., *Callistemon* sp., *Grevillea juniperina*, *Gleichenia* sp., *Grevillea* ‘Robyn Gordon’ and tussocky native grasses (eg. Kangaroo Grass)

b) Planting criteria including Native Plant Species and Amenity

i) Landscaped Areas must be capable of supporting new native tree species that are typically expected to reach a mature height of 10m notwithstanding the minimum dimension requirements at paragraph 4.1.5.2 of this plan.

ii) The use of locally occurring native plant species is preferred to assist in providing habitat for local fauna; and preserve threatened native plants.

iii) Trees should be positioned in locations that minimise significant impacts on neighbours in terms of:

- blocking winter sunlight to either living rooms, private open space or solar collectors; or
- where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.

Undercroft areas

c) 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. In relation to sloping sites (see also paragraph 4.1.8) and in lower density areas, any supporting undercroft structures must be minimised.

It clearly outlines that *“Site works must be minimised to protect natural features”*. The proposal suggest that all undercut portions (page 4 of *Geotechnical Investigation J2532A 22nd July*) should be cut back. This will create a sheer rock face further impacting the outlook for the adjoining property.

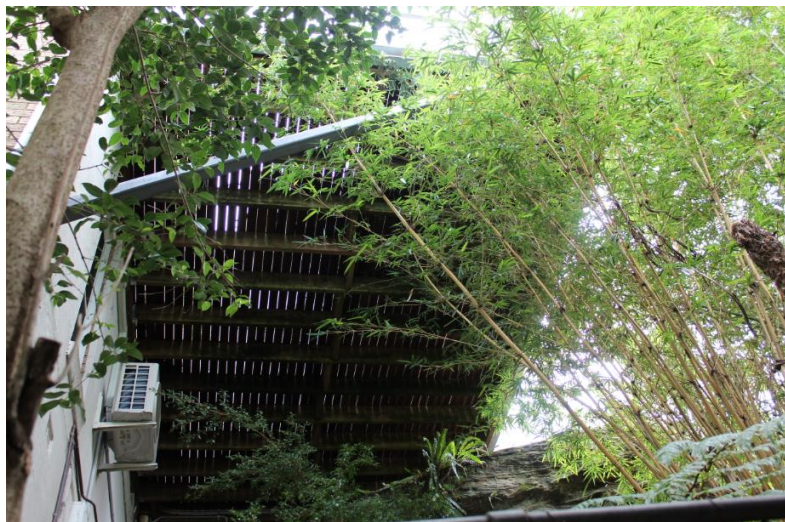
<p>11. Excavations</p> <p>The proposed pool will require partial excavation through Medium Strength Sandstone. The portion of the rock to be cut sits above the E undercut rock (Photo 5). To ensure the stability of the rock face into the future, we recommend all significant undercut portions of this rock face be cut back to form a sheer rock face.</p>	<p>Extract from Geotechnical Investigation recommending <i>'all significant portions of this rock face to be cut back to form a sheer rock face'</i></p>
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MDCP clearly establishes guidelines in relation to undercroft areas;

Part c of this section states that *“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”*.

In relation to sloping sites (see also paragraph 4.1.8) and in lower density areas, any supporting undercroft structures must be minimised.

The proposal is not in line with preserving the natural landscape. This area of Seaforth is unique and any destruction of natural rock face should be avoided. The area is characterised by open spaces, large front setbacks and a bushland feel. To allow a natural sandstone cliff face to be cut back to facilitate a pool will change the character of this part of Seaforth. The subject property was purchased understanding the uniqueness of the block.



Current deck of the subject property highlighting the height of the proposed pool above the adjoining property (the proposed pool and ancillary works is at the same height as the current deck and will effect nature light to the adjoining property).

Stormwater issues

The prior application assessment (DA2020/0116) which excluded the Pool and deck. included a Stormwater plan that seems inconsistent with the current plans. There was the use of a rainwater tank and dispersion pits which do not appear to be part current Pool planning.

The current Stormwater system collects water from all roofs and hard surfaces and concentrates them into a single stormwater pipe that runs along the southern boundary and discharges on the extreme southwestern corner of the subject block meaning all stormwater is effectively discharged into the yard of the adjoining properties. The owner of 4B Alto Avenue (Rob Lowe) has expressed concern that this has caused flooding underneath his house. Discussions between the owners of subject house and owner of 4B Alto Ave has failed to come to a solution.

The potential use of a dispersion pit directly next to and above the southern neighbouring property has the potential for the stormwater to seep through and undermine the foundations and cause potential moisture issues for the adjoining property 127 Clontarf Street. The location where the dispersion pit is to be created is not suited to maintain a dispersion pit or increased water flow as shown in photos below.



Stormwater pipes from subject property downpipes that flow to the extreme South West corner of subject block and discharge into neighbouring properties.



Embankment where the dispersion pit is planned to go. Stormwater from this has the potential to erode this bank and adversely affect the neighbouring property. Water can also seep into the neighbouring property and cause stability problems and dampness to beneath the neighbouring property.

Clause 3.7 of the MDCP clearly notes that *Development consent must not be granted on residential, business and industrial lands unless Council is satisfied that the matters identified in LEP clause 6.4(3) are satisfied (shown below).*

6.4 Stormwater management

(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

(2) This clause applies to all land in residential, business, industrial and environmental protection zones.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Section 2 Part c) clearly states that any development must avoid impacts of stormwater runoff. This has not been fully addressed in the revised proposal.

Conclusions

The proposed pool, deck and access stairs are inappropriate, excessive and give rise to unacceptable levels of privacy loss and overshadowing impacts. The proposed reliance on vegetation to be used as screening is inappropriate given that solar access is limited within this space, and rock foundations dominate the landscape. In addition, the reliance on landscaping to screen the development highlights the inappropriateness of the proposal.

The proposal is an overdevelopment of a site, which is already constrained and the proposed pool and associated works will be a significant impost to the adjoining southern neighbour. The proposal effectively borrows amenity from the adjoining southern property to achieve its goals.

A more sympathetic development of the site needs to be considered. The application fails the test of reasonability as established by MDCP controls and should be refused.

Thank you for the opportunity to comment on this development application.

Yours Sincerely

David Simington

31 August 2020