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**Sent:** 23/02/2021 5:08:32 PM  
**Subject:** DA2021-0060 Response to 10 Taminga St  
**Attachments:** 210223 DA2021-0060 Response to 10 Taminga St from 11.pdf;

To Catriona Shirley,

Following our recent phone conversations, please find attached our response to the DA from 10 Taminga Street. Please get in touch if you have any further queries. We look forward to discussing this further with you.

Best regards,

Pete Murray

Tuesday 23 February 2021

Peter Murray  
11 Taminga Street  
Bayview NSW 2014

By email to  
<council@northernbeaches.nsw.gov.au>

Catriona Shirley  
Assessing Officer for 10 Taminga Street Bayview  
Planning Team  
Northern Beaches Council

**Re: 10 Taminga Street Bayview DA 2021/0060**  
**Response from 11 Taminga Street Bayview**

Dear Catriona,

I write to you in response to the Development Application 2021/0060 lodged by 10 Taminga Street Bayview. The proposed development has significant shortcomings in its unresponsiveness to its immediate context and broader local place character and is therefore in conflict with the local PLEP controls and DCP guidelines. Two specific reasons for this conflict include:

1. At a locality scale, the proposed development is inconsistent with the low-impact, low density and scale, landscape integration, and aesthetic value objectives of the E4 Environmental Living zone and the Desired Character of the Church Point and Bayview Locality, and
2. At a local scale, the proposed development demonstrates height and massing that are in excessive non-compliance with the Height of Building control, and which create insensitive interface issues with the established and prevailing local built form character in proposed height and massing, resulting in visual, privacy, and noise impacts on our property.

These concerns are explained in greater detail below, and serious errors in the proposed plans and SEE are identified. As an immediate neighbour to the proposed development, my specific concerns are that it:

- Presents an unreasonably large built frontage, creating a significant visual impact upon the Bayview hillside when viewed from Griffin Park or Pittwater,
- Overdevelops the site well beyond what is reasonable, and well beyond the established low density of our property and our neighbours,
- Has additional non-compliant height and massing that is unsympathetic to the established local character pattern of our property and our neighbours, creating significant adverse visual, privacy, and noise impacts, and

- Removes all canopy trees from its property, and the proposed layout does not readily accommodate the new canopy tree required by Council, leading to significant visual, ecological, and local urban heat impacts upon our property and the neighbourhood.

On the basis that these issues demonstrate poor environmental planning merit, I request that the Northern Beaches Council refuses this application in its current form.

## Preface

- I am writing from 11 Taminga Street Bayview. Our house, built by my parents in 1978 and family home ever since, is the immediate eastern neighbour to the proposed development.
- Like all our neighbours, my parents sought live in a bushland area close to water. Having grown up here, we have grown to appreciate and love this area for its natural character.
- We have welcomed our relatively recent new neighbours at number 10, who are very friendly and kind, and look forward to sharing this beautiful green bushland neighbourhood with them into the future.
- The proposed development is one of a row of houses along the south side of Taminga Street (numbers 6-14 inclusive), and Ilya Avenue (numbers 1, 3, 5, 7, 9, and 11). Where this DA response letter describes the 'row' of houses, this reference is to collectively address all these 15 properties. These existing houses demonstrate a consistent local character that must be recognised and respected by any proposed developments.



**Taminga Street – Ilya Avenue Lot Plan:** Number 10 Taminga (yellow) is one of 15 properties that share an accessway easement (blue dash). The development proposal and must respond to the prevailing local character of this properties.

## Limited Consultation to Date

For perspective, we wish to raise that the level of consultation on the proposed development has been superficial. My mother and I met with the proponent, Neils Walters, late last year. The meeting was described as being preliminary, and we considered it to be the starting point for our engagement on this issue. We were shown some plan drawings at this meeting, but these were also described as being of a preliminary nature, with the proponent commenting that there would likely

be further changes in drafting. We requested a copy of the plans, but this was declined. Mr Walters said that further revised plans would be shared with us for feedback (especially prior to the Development Application being lodged with Council), however this has not occurred. Therefore, as a result of this limited consultation and our otherwise very good relationship with the proponents, our response to their Development Application is based purely on the form of the proposed development as it currently stands.

## **Detailed Objections**

### **1. At a locality scale, the proposed development is inconsistent with the low-impact, low density and scale, landscape integration, and aesthetic value objectives of the E4 Environmental Living zone and the Desired Character of the Church Point and Bayview Locality**

Bayview features a notably steep and bushy hillside fronting onto Pittwater. The existing houses in this area are (mostly) of secondary distinctiveness to the landscape. The E4 Environmental Living zoning of Taminga Street and the DCP strategies for this area ensure that local planning policy is well-aligned with this existing local character.

Like many houses in Bayview, the row of houses on the southern side of Taminga Street and Ilya Avenue all enjoy excellent views of Pittwater, including from the Bayview waterfront to the Palm Beach Lighthouse. This also means that these houses are easily visible from the bay, including from along Pittwater Road near the Bayview Yacht Racing Club, from Griffin Park on the headland, and beyond. We note that the waterway of Pittwater itself is a public space, and therefore that the visual amenity of the houses amongst the bushy Bayview hillside is of critical importance. So while the row of houses in our street enjoy such a great view, we also have the responsibility to not detract from the view of Bayview from Pittwater.

Notable observations of the proposed development's potential impact upon the Bayview hillside include:

- The proponent has, since purchasing the property, cleared several mature canopy trees to the south side of the existing house, has excavated into the hillside to expand the driveway space, and built a retaining wall along their south boundary. These works have created a distinctive new gap in the tree canopy behind the existing house when viewed from Griffin Park and Pittwater (and have also increased local urban heat impacts).
- The proposed building is amassed vertically (despite its steeply sloping site) and presents a 5-storey frontage to the north. This tall frontage exceeds the scale of the 2-3 storey frontages of all the other houses in our row, and also of the broader Bayview neighbourhood. This frontage would appear excessively tall when viewed from Taminga Street, Griffin Park, or Pittwater (despite the flat roof design).
- The proposed plans enable the new house to be split into 3 self-contained dwellings, as the upper, entry, and lower levels are all able to operate independently of one another. This density is in excess of the usual permissible arrangement of a low-density residential property of a primary dwelling plus a secondary dwelling. The additional density may result in excessive demand on local services, and excessive car movements and car parking







**View from Griffin Park:** 10 Taminga (approximate site boundary in red) is currently clearly visible from this public space, including with existing trees to the north of the house.



**View from Griffin Park:** The proponents have already cleared several mature trees to the south side of the existing house, creating a gap in the tree canopy of the Bayview hillside (indicated by grey semicircle).





**View from Griffin Park:** 10 Taminga's existing house outline (approximately drawn in yellow) is currently partially obscured by trees on its own site (approximately outlined in white), on both neighbouring properties, and on public land on Taminga Street.



**View from Griffin Park:** The proposed development will present a significantly larger and taller built frontage that will clearly stand out against the Bayview hillside. There will be no existing trees on its own site remaining to obscure

it. The trees on neighbouring properties and public land are likely only obscure the edges and base of the building, leaving the majority of the frontage visually exposed, creating a negative visual impact on the Bayview locality.

The SEE does not include a visual impact assessment, which is an unfortunate lack of justification for a development of this scale. The indicative assessment above suggests that if every proposed development in Bayview were to have the same visual impact as 10 Taminga, then the bushy low-density character of the locality would be irretrievably lost.

Comparing these observations with Council's objectives of the E4 Environmental Living zone, it can be observed that the proposed development:

- Cannot be considered "*low impact*" by virtue of its excessive scale,
- Cannot be considered to be of "*low density and scale*" due to its size and ability to operate as 3 separate dwellings,
- Will have an "*adverse effect*" on the "*special aesthetic values*" of the zone due to its visual prominence,
- Cannot be considered to be "*integrated with the landform and landscape*" due to its tall vertical massing and lack of consideration for tree canopy.

The Desired Character of the Church Point and Bayview Locality plans for:

*"...a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. It also suggests that "future development will... minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development." And due to the visual prominence of the locality, "a balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land."*

The proposed development is grossly non-compliant with Council's planning strategy for Bayview in all these respects, which includes DCP items A4.4, D4.1, and D4.2.

The *Statement of Environmental Effects* provided in the application is inadequate as it does not comment on the suitability of the proposed development in meeting the requirements of the E4 Environmental Living zone. Furthermore, the SEE applies a combination of egregious exaggeration and outright falsehoods in stating:

*"The proposed development respects the scale and form of other new and existing developments in the vicinity and therefore compliments the locality.*

*Majority of the existing vegetation will remain.*

*The proposal will be surrounded by existing canopy trees. The visual impact of the built form is secondary to landscaping and vegetation. The proposal will not dominate the streetscape as it follows the steep topography of the site."*

*"There will be no change to the visual views from waterways. The proposed additions will not be visually seen from the waterways. Existing vegetation has remained on the site. A bushland landscape is the predominate feature of the site."*



The SEE should therefore be not given high regard by Council since the development is demonstrably out of scale with the locality, involves the removal of all existing substantial vegetation, and that it relies entirely upon neighbouring and public vegetation to have any softening of its substantial visual impact. The existing house is easily visible from the waterways, so the additional tree clearing in front, as well as the higher and wider built form will ensure that the proposed development will be clearly seen from the water.

As a result of this proposed development's excessive non-compliance with the LEP zone objectives and DCP strategy, this application must be refused by Council.

**2. At a local scale, the proposed development demonstrates height and massing that are in excessive non-compliance with the Height of Building control, and which create insensitive interface issues with the established and prevailing local built form character in proposed height and massing, resulting in visual, privacy, and noise impacts on our property.**

It is essential that a particular feature of the local lot planning arrangement should be noted when assessing this development proposal. All the lots in the row along the south side of Taminga Street and Ilya Avenue have 'street frontages' to the north. However, due to the steep topography, all these houses locate their 'front entrances' to the south (the one exception is 9 Taminga Street, a house positioned further down the hill). A right-of-way easement along the south side of each of our lots gives us shared access from our front doors to Ilya Avenue and beyond. This communal space and accessway – which is a very distinctive local place feature – is our primary experience in everyday living (the right-of-way has greater relevance to our row of houses as our local 'street' than Taminga Street), and is the basis for our everyday exchanges and close local community.

This row of houses all demonstrate consistency with one another in their location and form in respect to the communal accessway (again, 9 Taminga is the exception, but the form of this particular house is not inconsistent with or disruptive of the communal accessway). There are several features with which the proposed development is inconsistent with its neighbours' established character, such as:

- All houses along the row are 2 or 3 storeys in height (except 9 Taminga at 1 storey). None are 4 storeys tall or greater. The proposed development is grossly out of scale at 5 storeys.
- All houses along the row have a single storey frontage onto the communal accessway (except 9 Taminga doesn't front onto the accessway). All these houses' additional storeys are located at lower levels. 7 Ilya was the most recent development to test this prevailing character, as it proposed a 2 storey mass immediately alongside the accessway, however this height was opposed by many of the neighbours, resulting in the as-built single storey frontage to the communal accessway. 9 Ilya has also recently exhibited a development proposal, but their design maintains the existing character by developing downwards instead of upwards, and as a result, is quite agreeable from ours and our neighbours' points of view. These recent and current developments establish a consistent precedent for contextually appropriate development along this row of houses. The proposed development at 10 Taminga amasses 2 storeys immediately alongside the accessway, which is excessively tall and imposing on the neighbouring buildings, private spaces, and the communal accessway space.



**View from 11 Taminga:** The proposed development (indicative yellow box) will have an unsympathetic visual and privacy impact on our property, including a window and upper level stair that will overlook our front entrance and entry-level garden area (behind camera).



**View from 14 Taminga:** The proposed development (indicative yellow box) will present as an uncharacteristically large mass above the shared accessway, out of scale with the single storey frontages of its neighbours.





**View from 11 Ilya Avenue:** The most recent development at 7 Ilya proposed an additional storey (indicative red dash), but this was rejected as being out of scale with its context.

- All houses fronting onto the accessway have southern facades that are aligned with one another. This creates a distinct streetscape arrangement along the communal accessway, creating a physical embodiment of the social sense of community, while also collectively maintaining clear sight lines along this space for pedestrian and vehicle safety. Numbers 8, 11, 12, and 13 Taminga's southern facades are all closely aligned. 10 Taminga's southern facade extends approximately 3 metres further south than the facades of its neighbours, and this projection is exacerbated by the additional storey proposed above. It is noted that 10 Taminga has two existing carports that form the southern footprint of the proposed development, however 8 Taminga demonstrates that a carport can be located beyond the established alignment without overly disrupting the visual continuity of the communal accessway.

(12 Taminga's existing single garage is an exception, as it was built over the easement for the communal accessway. This is unfortunate, but this structure predates my family's time here so we don't know the circumstances of its development).

Ultimately, while the proposed development at number 10 would be best to adopt the prevailing southern frontage of its neighbours as its southernmost alignment, the existing carport spaces may be considered reasonably within the scope of the proposed redevelopment – providing that no structures are built on number 10's right-of-way easement, and that the other local character interface issues (principally height) are respected.



**Taminga Street – Ilya Avenue Lot Plan:** Numbers 8, 11, 12, and 13 are all closely aligned to create a harmonious streetscape along the communal accessway. Number 10 (yellow) conflicts with this arrangement.

As a result of these insensitivities in height, massing, and frontage misalignment, there are several negative impacts of this development upon its neighbours:

- The visual impact of the proposed development is that it will appear unnecessarily imposing when viewed from nearby, due to its 5 storey height in total and its 2 storey frontage to the shared accessway. This includes when viewed from a relative distance, such as from 8 or 14 Taminga, but is especially impactful from our perspective immediately alongside at number 11. It is noted that the proposed development is non-compliant with Height of Building controls. We consider this excessive form to be unjustified where it is positioned away from the existing western wall of our property at number 11, and in particular, wish to object to the non-compliance with the side building envelope at the south-eastern side of the proposed development.



**Taminga Street – Ilya Avenue Lot Plan:** The additional upper level of the proposed development (yellow) will create a negative impact when viewed from the communal accessway anywhere between 8 to 14 Taminga (red dash).

- The 5<sup>th</sup> storey of the proposed development will totally overlook interior windows and exterior spaces of our property, creating unwelcome privacy impacts, especially our front door, entry area, and outdoor sitting area (which is under construction).
- The 5<sup>th</sup> storey will be above all others in the surrounding area and includes a large outdoor space, so there is significant potential for noise impacts if any outdoor gatherings are to be



held, as any significant sound from this space could be transmitted more freely and more widely due to the minimal reduced acoustic obstructions at that level. This is a significant risk for our quiet enjoyment of our property, as our main living room space and main bedroom are located on the north-western corners of our 2 storey house, immediately adjacent to the proposed development.

- The clearance of all canopy trees from number 10 will create significant local urban heat impacts. Our house includes passive design features and does not have air conditioning. As such, it is especially important for number 10 to make its contribution to the Bayview tree canopy because this could shade our property from the afternoon sun.

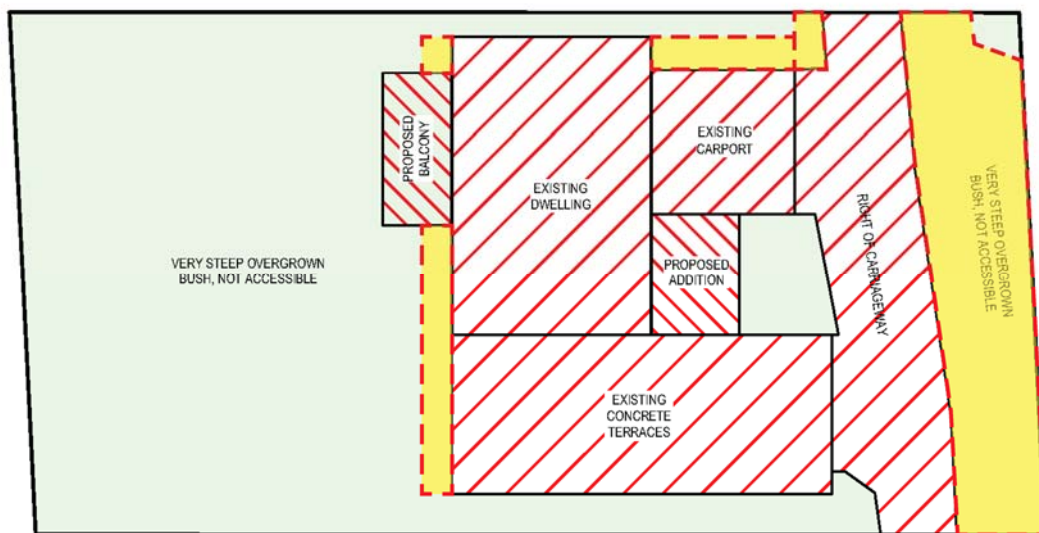
Ultimately, the proposed development presents very poor design quality due to its lack of urban context awareness and consideration, and its height and massing disregards the local character of its neighbours. On the basis of these concerns, it is requested that Council refuses the application in its current form.

### **Additional Comments Challenging the SEE**

In addition to the locality and local scale impacts of the proposed development listed above, several points made in the proposed development's SEE must be challenged:

- The lack of outdoor living area is expressed in the SEE and the Clause 4.6 Report as the primary reasoning for the non-compliance with the Height of Building control. While it is accepted that the site is steep, the proponents have levelled the entirety of the site area to the south side of their house to expand their driveway. (The previous owner had a green space alongside the shared accessway – note that this greenery is visible in the first photo in the SEE on page 10). In addition, the proposed development includes large balcony spaces on 3 of the 5 levels, as well as level access to the northern garden via the proposed lowest level. On this basis, the argument for adequate outdoor living space is tantamount to 'quadruple-dipping' based on the 3 large balconies on separate levels in addition to the loss of what could have been useful garden space at entry level on the south side of the house. As a result, that the proposed development uses outdoor living area as an inadequate justification for blatant overdevelopment of its site.
- Secondary reasonings for the non-compliance with the Height of Building control, as expressed in the SEE and Clause 4.6 Report, are that the proposed development is supposedly not impactful on its neighbours or neighbourhood, and therefore supposedly "*in the public interest*". Aside from challenge of a steep site, which is a valid point, the arguments for supposed limited impacts of the proposed development are flawed, due to all the impacts that have been described in points #1 and #2 above. However, for the purposes of the Clause 4.6 assessment, it must be noted that the proposed development is in conflict with several of the objectives of Clause 4.3 of the PLEP:
  - 4.3 (1a) The building is inconsistent in height and scale relative to the desired character of the locality,
  - 4.3 (1b) The building is incompatible with the height and scale of surrounding development, and

- 4.3 (1f) The building has an adverse visual impact on the natural environment.
- The SEE omits consideration of the communal accessway in its site analysis and design response. As the communal accessway is the primary access route for this row of houses, this represents a significant flaw in the local context understanding.
- The SEE calculations for Landscaped Area must be carefully reviewed by Council, as it appears that there are several omissions in the Proposed Landscaped Area Plan, especially when this plan is compared against the Existing Landscaped Area Plan. Potential omissions include:
  - The proposed extension of the full width of the balconies to the north
  - The upper level outdoor staircase to the east
  - The excavated driveway and retaining wall to the south of the house (we understand the entirety driveway is proposed to be sealed).



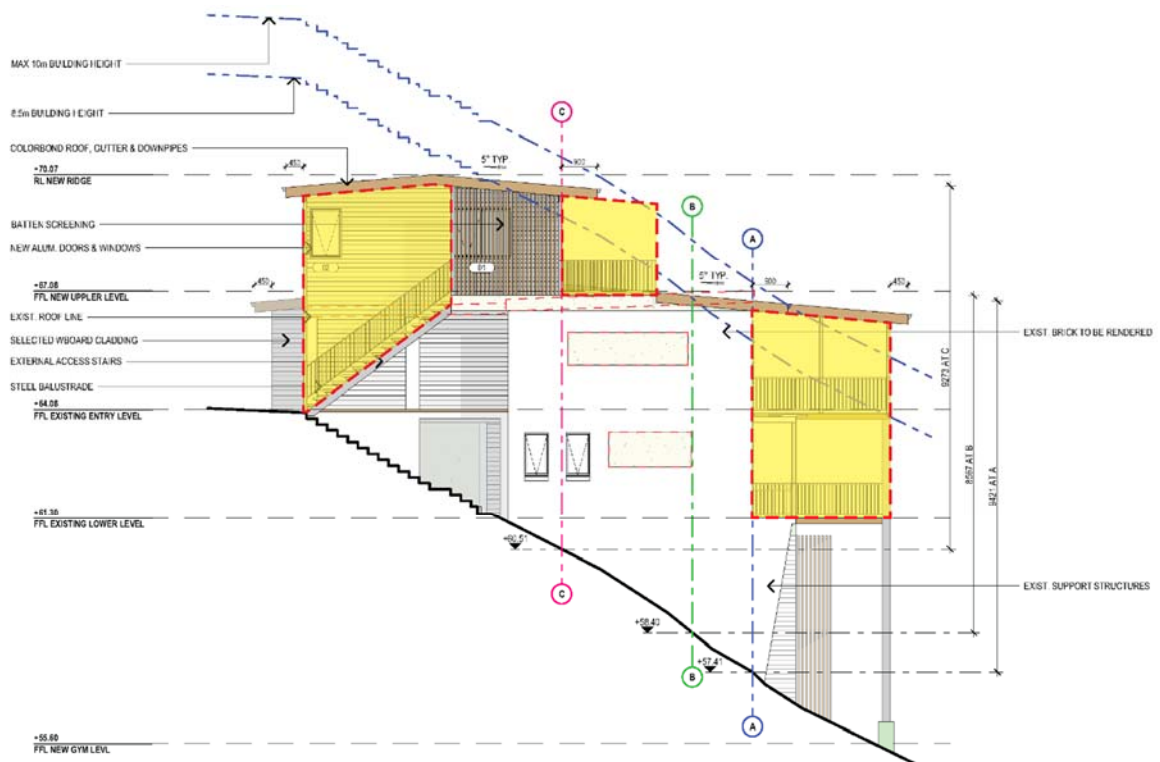
**Annotated Proposed Landscaped Area Plan:** the yellow areas and resulting landscaped area calculations should be reviewed by Council.

On the basis of these points, the Clause 4.6 application cannot be sustained on merit. We see no valid reason why the development cannot reasonably comply with the Height of Building control, and suggest to Council that this control be strictly enforced.

### Additional Requests

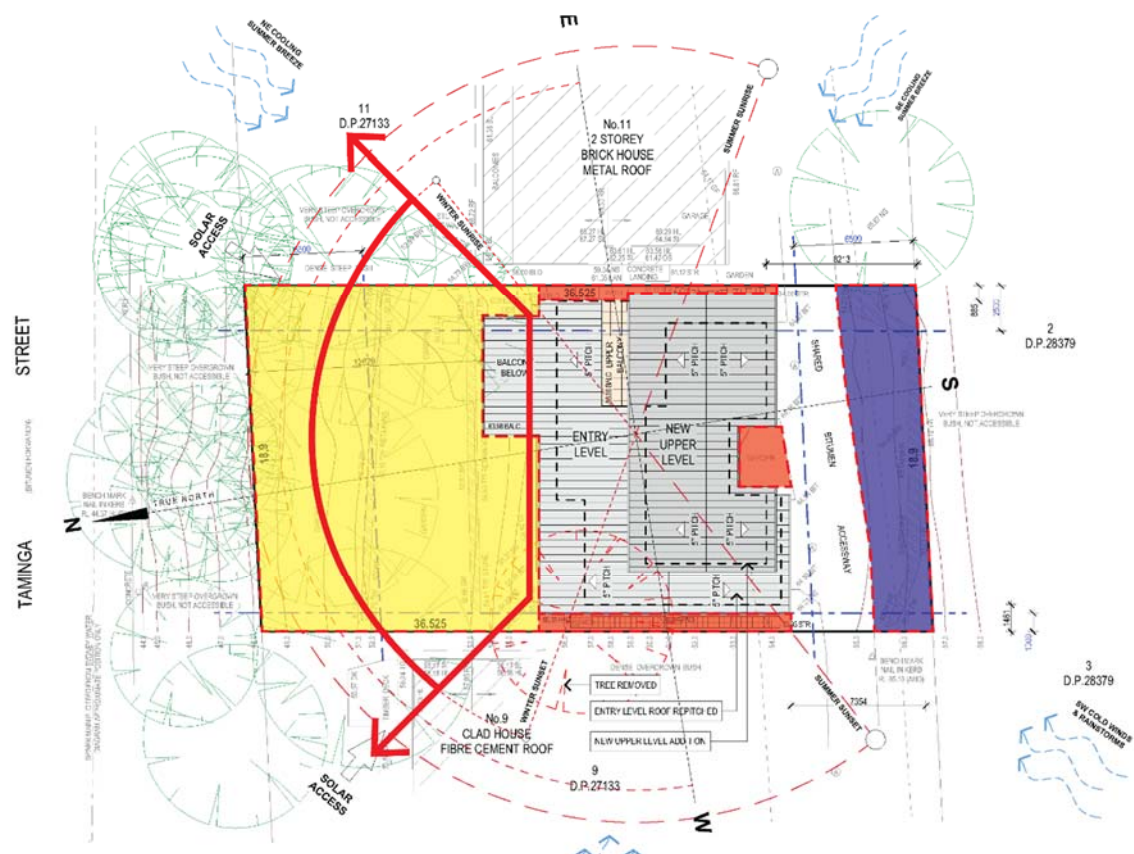
In addition to the concerns listed above, we request the following concerns are addressed in the proposed plans prior to any approval:

- When our house was built in 1978, the northern frontage of our balconies was drawn to align with the existing house at number 12. To reduce privacy impacts upon our neighbour, our house included a privacy wall on the balcony. Similarly, now that number 10 is proposing to align their new balconies with ours, we request that their design incorporates privacy screens along the eastern edge of the new balconies on all levels.



**Proposed East Elevation Annotated:** We request that privacy screens are included in the proposed development along the eastern edge of all stair and balcony spaces as shown above in yellow.

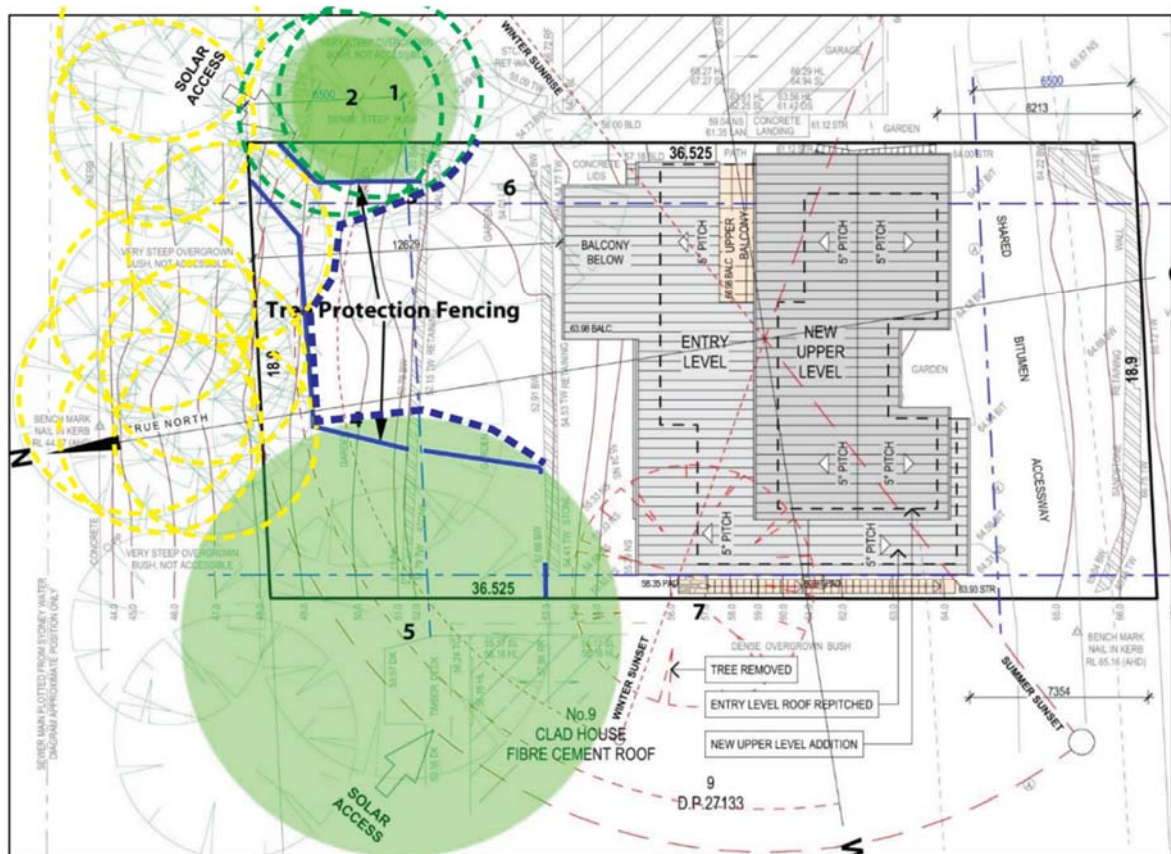
- As noted above, the proponents have already cleared mature canopy trees on their site, and the current development proposal suggests removing all remaining trees. Their proposed plan does not readily accommodate any new trees, due to lack of suitable space south of the house, and risk of view impact north of the house. Due to the extent of tree clearing that has occurred and has been proposed, we request that the proposal is updated to include a plan for at least the 1 required canopy tree to be planted where it is in a suitable location for the proponents. We wish to note that we do not mind if the tree (or trees) are planted in front of their house, as we would be happy for our view to look through these trees. Our property includes 8 native and mature canopy trees to our north, which are delightful features for their shade, flowers, bird life, and filtered views. No matter where the proposed tree is located, it is important that neighbours and Council have assurance that the requirements for a canopy tree for this site is realistic relative to the proposed plan. Also, if the proposed development is revised and approved by Council, then this canopy tree planting can more readily be verified in a future Council assessment of the completed development.



**Annotated Site Plan:** the proposed layout is likely to be incompatible with tree canopy planting, due to view conflict (yellow), proximity to the proposed dwelling (red), or already cleared and excavated land for an enlarged driveway (blue).

- The Arboriculture Recommendation Plan Figure C identifies trees 1 and 2 on our property for Tree Protection Fencing. These two trees are mature Cheese Trees in good condition. There are also more significant native trees on public land in Taminga Street to the immediate north of our property that have not been identified or assessed by the arboriculturalist. In the interest of maintaining the health of all these trees we request an enlarged TPZ that is at least twice the Structural Root Zone radius of each tree. It is suggested that the reduction in working space in the garden during the construction would likely not have a significant impact on the construction activities, as most of the building works are likely to occur at the entry level.
- Figure C identifies TPZ fencing with an access route onto the site from Taminga Street. This is due to the existing entrance pathway for number 10 overlapping over the corner of our property. While we don't mind this access route continuing in the short term for construction worker access from Taminga Street, this sensitive garden space isn't a viable pathway for the carriage of construction machinery or materials. We therefore request that during construction, only pedestrian access be permitted onto the site from Taminga Street. In the long term, if a new landscape plan is drawn for number 10, then this plan should consider the boundaries in the alignment of the future pathway.





**Annotated Arboricultural Plan:** We request enlarged TPZs around our trees (green dash / numbers 1 and 2) and the trees on public land (yellow dash), and for the Tree Protection Fencing area to be adjusted accordingly. Only pedestrian access should be permitted from Taminga Street during construction.

- On relatively frequent occasion, we have been disturbed by cigarette smoke emanating from people at number 10. With my mother currently experiencing very fragile health and experiencing ongoing medical treatment, we have requested that the Walters and/or their guests avoid smoking when it could blow our way. For construction purposes, we request that the property of number 10 as well as the entirety of the shared accessway from Ilya Avenue be designated a no-smoking zone for construction workers, and that a designated smoking area be identified on Taminga Street, away from our property, to limit any impacts of secondary smoke.

## Positive Initiatives

There are several positive aspects to the proposed development which we consider praiseworthy:

- The existing house footprint is maintained to a large degree, reducing additional impacts upon the land and soil,
- The existing house structure and fabric is utilised where possible, which should help to reduce new construction materials and waste, and
- The proposed northwards extension does not go beyond the northernmost alignments of numbers 11, 12, and 13 Taminga, which maintains our sharing of views.

**Conclusion**

The proposed development will create significant negative impacts on the Bayview locality, on the local character of our row of houses, and on our property in particular. As such, it represents poor environmental planning, and must be refused by Council.

Please get in touch if you wish to discuss or clarify any of the points raised above.

Kind regards,

Peter Murray