

Northern Beaches Council
1 Belgrave Street
MANLY NSW 2095
23 June 2020

Re: Assessment of Proposed Development No: 2020/0302
41 Upper Clifford Avenue Fairlight.

Dear Sir/Madam,

Thankyou for the opportunity to review the assessment of the DA for 41 Upper Clifford Avenue. We have reviewed assessment of the DA 2020/0302 and believe the motion to approve this DA in its current form should be rejected. We do believe that a development that is fully compliant with the DCP will be beneficial to all neighbours and the Norther Beaches community.

The assessment lists several areas of non-compliance with the Manly DCP and then recommends approval based on meeting the DCP's broader objectives however in all cases, it does not meet the stated DCP objectives of:

- Ensuring future development has consideration for the needs of all members of the community.
- Ensuring development positively responds to the qualities of the site and its context.

The Manly DCP section 4.1 also references several clear objectives. For Building B, the development application also does not meet Objective 2 which is stated as "Ensure and enhance local amenity by:

- providing privacy
- providing equitable access to light, sunshine and air movement
- facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces."

Specifically the assessment report incorrectly states that the areas of non-compliance meet objectives in the areas of:

- Loss of privacy
- Overshadowing
- Loss of View.

The issues of loss of privacy and overshadowing are largely because of the wall height, number of stories and setback. The issue of loss of view is addressed directly however the setback, wall height and number of stories all contribute to this issue.

Wall Height, Number of Stories and Setback

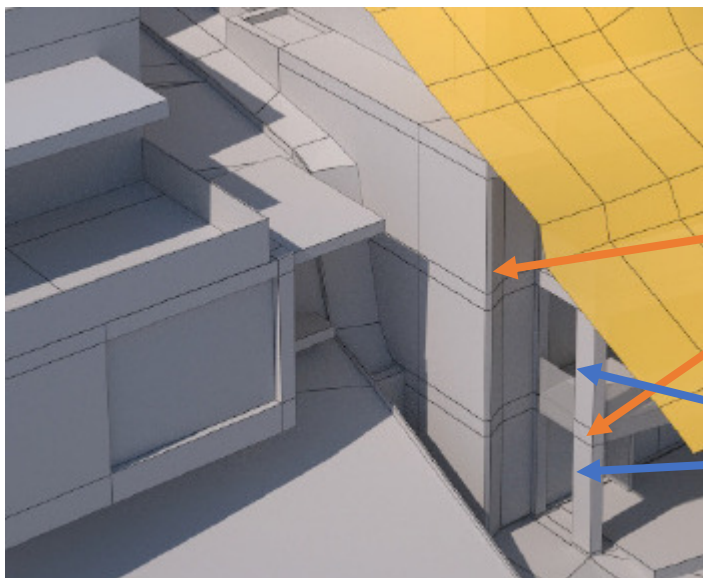
Page 23 of the assessment report referring to:

- 4.1.2.1 Wall Height, has Building B height assessed as non-compliant at 9m to the 3rd floor
- 4.1.2.2 Max stories has Building B non-compliant at 6 stories;
- 4.1.4.1 Street Front Setback which has Building B is 6.1m which is erroneously stated as compliant but does not comply with 4.1.4.1 of the DCP which states "Street Front setbacks must **relate to the front building line of neighbouring properties and the prevailing building lines** in the immediate vicinity".
- 4.1.4.2 Side Setback has Building B West being non compliant and exceeding the allowable amount by 47.6%

Page 26 states that "even though the height is not compliant, it is consistent with the aims and objectives", yet it has a significant impact on privacy, overshadowing and impact of views associated with 43 Upper Clifford Avenue in direct contradiction to Objective 2.

Overshadowing

Page 25 section 3.4.1 access to sunlight and overshadowing is non-compliant and should not be listed as consistent with the aims and objectives. The assessment on page 26 states that "the submitted diagrams demonstrate that the proposed development will not lead to an unreasonable increase in overshadowing". The DA provided shadowing diagrams and analysis only for the winter solstice, which is extremely misleading as everything on the southern ridge is in shadow. Parts of the southern garden of 43 Upper Clifford Avenue will lose 5.5 hours of sunlight in spring or autumn because Building B protrudes around 2 meters further south on the western corner than the building on 43 Upper Clifford Avenue. .



This level of protrusion will cause overshadowing in Spring and Autumn, loss of privacy and loss of views.

The loss of privacy is based on having a person on their deck looking back into the bedroom window

Loss of Privacy

Page 27 of the assessment has an objective to minimize loss of privacy to adjacent and nearby developments by mitigating direct viewing between windows. The DA with the current set back will allow anyone on the balconies to look back directly into the southern windows of our bedrooms and study as shown in the diagram above. This was not considered in the assessment.

Loss of View

On page 33 of the assessment, the reference to views states that the “views are generally unobstructed to likely to remain largely unaffected in perpetuity” however the south western corner of the proposed DA juts out by around 2 meters, extends about 3 meters above the unit 3 upper deck of 43 Upper Clifford Avenue and is of copper cladding appearance. It will have a dramatic impact.

The iconic component of our view is the Sydney Heads which are roughly South East of our property as shown below.



The loss of view is approximately to the left of the red line and the proximity of the proposed building will have an impact on the expansive nature of the view. The trees on the left have grown way above their usual height since this property has been derelict for the last 6-7 years.

The portion lost is more than the adjacent buildings as stated in the assessment report. We have provided diagrams to demonstrate this and requested a template however the assessor did not adequately assess our view as it was raining.

In summary, the assessment report is flawed and the subjective assessments made by the assessor are inconsistent with the aims and objectives of the Manly DCP.

We believe the DA will lead to a significant loss of our property value. We understand this is not a consideration for your approval however, it provides us and other impacted owners a good incentive to take this to the Land and Environment Court and do our best to have any approvals of this DA overturned.

Yours Sincerely

Michael Gale
3/43 Upper Clifford Avenue, Fairlight