
From: Richard Barker
Sent: 7/11/2022 4:36:07 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: 8 Delecta Aveune Clareville - Mod2022/0565, DA2021/1032
Attachments: Further submission to 2nd Local Planning Panel - 8 Delecta Ave,
Clareville, 6 November 2022.pdf;

Dear Sir/Madam

Attached is a submission in respect of the above medication for 8 Delecta Avenue Clareville.

Regards

Richard Barker

Mob: [REDACTED]

6 November 2022

Further submission to 2nd Northern Beaches Local Planning Panel

Re: Mod 2022/0565 - DA2021/1032, 8 Delecta Ave, Clareville - Alterations and additions

Dear Planning Panel members

We are very disappointed that this same issue is being revisited by the applicants after it has already been determined by a planning panel on 15 December 2021 (the Panel). Despite many written objections to Council regarding the excessive bulk and scale of the development, non-compliance with the landscape ratio control, the impact on the only native canopy tree on-site and several other issues, which then culminated in presentations to the Panel by four neighbours, the neighbourhood has accepted the decision of the umpire. It is a pity that the applicants have not.

As far as the neighbourhood is concerned, nothing has changed to warrant approval of these modifications and the reinstatement of most of what was deleted by the previous Panel in December 2021. It is instructive to note the minutes of this matter from the Northern Beaches Local Planning Meeting (dated 15 December 2021):

- Item 4.7: Determination of Development Application – Condition of approval:

“19. Deletion of Powder room, boat storage and laundry

The powder room, water craft storage, and laundry (off the hallway) and the storage (off the garage) are ***to be deleted from the plans and replaced with landscaped area with planting to screen the hallway.***

These areas may be incorporated in to the remaining floor space of the proposed dwelling.

Details are to be provided prior to the issue of the Construction Certificate.

Reason: ***To increase Landscaped area, screen the length and bulk of the dwelling from adjoining property and remove built form from near Tree 5.*** (emphasis added)

Most relevantly, during the presentations to the Panel, the applicants’ representative provided an amended plan (which incidentally was not shown to neighbours in advance of or at the meeting) to illustrate changes to the condition that would increase the landscape area, without requiring the deletion of the powder room and laundry. The Panel noted “that these changes would achieve the same numerical increase in landscape area but not the qualitative outcome sought by the control.” Hence, the then “on the spot” modification, which is substantially the same as the current modifications, was rejected, as it should be this time.

As part of our previous submissions to Council on this matter late last year, we employed a local architect to advise us on the development’s compliance with the DCP controls and the principles of the LEP – his two reports are available on the Council portal as are our submissions which refer to his findings. In summary, most of our architect’s findings, which are set out in his 2nd report dated 14 November 2021, remain unchanged by these proposed modifications, the key ones being:

1. **No significant change to the bulk and scale of the building** – “the changes to the DA involve very minor amendments that skirt around the fact that the scheme is an overdevelopment of the site with excessive bulk and scale impacting negatively upon the neighbouring properties.” This is still the case even with the proposed modifications;
2. **Non-complying Landscape Area calculation** - the applicants hide the non-complying Landscape Area by including the ground between wheel strips in the driveway as landscape area. If a complying driveway were included (pursuant to clause B6.2 of the DCP) then the hard surface area of the site would increase, exacerbating the reduction in soft area and the non-compliance of these proposed modifications. The removal of the paving from the house on the waterside as a potential offset to the re-inclusion of the laundry and powder room areas is a cynical attempt to justify an already non-

compliant proposal. It is laughable to believe that in time, after the Occupation Certificate has been granted, that this paved area will not be repaved so that the occupants do not have to step from the living room floor onto grass. It is clear from our architect's diagram showing the landscape area calculation (refer to his 2nd report dated 14 November 2021, page 3) that the development even with the proposed modifications exceeds the DCP control by a substantial margin;

3. **Overbearing wall on southern side** – notwithstanding the set-backs and reduced height of the southern wall, it is still a dominating structure when viewed from our neighbour's home at #6 Delecta Avenue. To increase this bulk further and closer to the residents at #6 would exacerbate the impact of an already imposing building. Furthermore, lowering the height of the wall above the walkway does nothing to improve the building/open space ratio;
4. **Jeopardises the only native canopy tree on-site** – although the revised plans have increased the distance of the building from the Melaleuca's trunk, given the substantial height of the development, the applicants have cut significant branches from the tree to accommodate the second story of the house fronting Delecta Avenue. To add back more built area in close proximity to this tree will only jeopardise its existence even further.

We also refer to the report prepared by Milligan Development Consulting (Milligan report) on behalf of the applicants and in support of the proposed modifications. Many of their justifications for the proposed modifications are addressed above in this letter. Specifically in respect of Condition 19 of the DA, being the Panel's decision to remove the powder room, water craft storage and laundry, the Milligan report suggests that the proposed modifications can be supported because of:

- The offset of removing hard surfaces at the rear (waterside) of the dwelling – as stated above, it is highly unlikely that this removal of hard surface will be permanent;
- The provision of a powder room immediately adjacent to the primary living area is not unreasonable – this concept is agreed in theory, but has there been any attempt made to incorporate the powder room elsewhere in the large downstairs area? The suggestion that it would be more cost effective to reinstate the powder room than to retrofit it into the existing building is nonsense, since the ground floor has been completely gutted, creating a shell of generous space.

To demonstrate further the concerns (and scepticism) we and our other neighbours have with the applicants' compliance to the Notice of Determination, we cite the following:

- For the duration of the demolition and construction period, which commenced in May 2022, the site shed, portaloo and perimeter fencing have all been situated off site on the reserve land that fronts Clareville (Long) beach. Has a permit been obtained for this?
- For the duration of the demolition and construction period, the applicants' builders have utilised the Council nature strip fronting Delecta Avenue to store building refuse and construction materials. Is this permitted by the approved DA? This area was cleaned up last week, but the turf that our neighbours at #6 planted on the nature strip has been significantly degraded;
- On 4 November 2022, several substantial branches of Tree 5 (the protected Melaleuca) were cut down and disposed of – refer to the attached photo. This was after hours and there was no arborist present. If consent was not received in advance, this act is in contravention of a development condition;
- It appears to us that building works already undertaken (installation of pipes, electrical cabling) have pre-empted a positive result to this application for modifications;
- Finally, neighbours on both sides of the development have had to endure demolition outside permitted hours (8am to 5pm, Monday to Friday), with demolition often starting shortly after 7am.

In addition, although the approved plans originally showed the demolition only of the existing garage (that fronts Delecta Avenue), the majority of the original house (fronting Clareville beach) was also demolished, resulting in only the ground floor and ground floor two side and front walls remaining. Apparently this was because of the "discovery of concrete cancer". This extra demolition caused significant and extended aggravation to the immediate neighbours.

Conclusion

If the modifications are allowed it will set a highly undesirable precedent in Delecta Avenue and surrounding environs, which will encourage others to bend the rules, building properties that are not in keeping with the LEP principle of "houses among the trees".

As adjoining neighbours, we have all accepted the decision of the previous Panel. There is ample room elsewhere in either of the 2 buildings to re-locate the laundry and powder room. Nothing has changed since the last Panel hearing to justify acceptance of the proposed modifications – the development still exceeds the landscape ratio by a substantial amount and the building is still an overbearing over development. To allow this modification would make it worse, and it would render the approval process irrelevant and the Panel impotent.

Yours sincerely

Handwritten signatures of Richard and Anne Barker in blue ink. The signature on the left is 'R Barker' and the signature on the right is 'A Barker'.

Richard & Anne Barker

Tree 5 – Protected Melaleuca

Branches cut off 4 November 2022:

