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RE: DA2021/0008 - 14 Ponsonby Parade SEAFORTH NSW 2092

13 June 2021
Northern Beaches Council

Attention : Ms Rebecca Englund

Dear Rebecca,

Re: DA 2021/0008 - 12 & 14 Ponsonby Parade, Seaforth NSW 2092
Amended Plans

We wish to make a further submission in relation to the further amended plans submitted by the applicant under DA 2021/0008 ("DA") and also record our agreement with other comments submitted by our neighbours, particularly in relation to the fact that it seems to fall upon the local community to ensure that the building codes, put in place by the Local Council for the benefit of the residents, are enforced. Few of the local residents have expertise in property development and interpreting building plans but surely are learning the result of inappropriate property development.

We rely on all our previous submissions lodged and note that the amended plans in question still do not address the issues previously raised or the following issues and accordingly urge Council to reject the proposed DA:-

1. Two Stories in Rear 25% of the block as required under SEPPHSPD

The amended plans still unacceptably encroach on the visual and acoustic privacy, solar access and amenity of all the neighbours with a separate, exceedingly high, two storied, large bulky building in the rear of the block looking directly into rear private gardens, particularly the immediate adjoining neighbours at Nos 10 & 8 Ponsonby Parade. The reduction of internal living space to Unit 8 with a large outdoor entertaining terrace on the eastern side of the two storied building does not solve the impact on the adjoining neighbours. This is in direct contravention of the intention and guidelines for SEPPHSPD developments which is to fit with the existing residential housing and create as little impact as possible on the existing neighbours and neighbourhood by not allowing two storied building in the rear 25% of the block. This is creating much stress and anxiety for those neighbours but does not seem to be of concern to either the developer or the local Council. Can the Council please explain why these building regulations for SEPPHSPD are not being enforced?

2. Breach of 8m Height Limit

Once again there appears to be little regard for the 8m height limit imposed on buildings under the SEPP/HSPD rules. Both the building fronting onto Ponsonby Parade and the separate two storied building in the rear 25% of the block breach the height limit of 8m. Due to the topography of the land, this height is exacerbated by the rise from Ponsonby Parade to the rear Ross Street creating more density and bulk to the neighbours and the streetscape viewed from both Ponsonby Parade and Ross Street. Naturally, this breach has a direct impact on neighbouring properties and is unacceptable. Indeed, the plans show that the rear two storied building has a ground floor that is raised some considerable way up from ground level further impacting on neighbouring properties' privacy and solar access and contributing to the breach of the height limit. The images on the plans clearly shows the height and bulk of the development from No 10 Ponsonby Parade which will also impact on our property at No 8 Ponsonby Parade but seeks to diminish the effect on the neighbours' with superimposing tall leafy trees. The existing mature tree (jacaranda) on the development site purportedly to be retained, and the existing mature trees on the boundary in No 10 Ponsonby Parade are unlikely to survive the impact of the proposed large excavation and any new plantings will definitely never achieve such height or density. We again suggest a heavy fine to the developer for any damage or loss of any mature trees that are to be retained. Again, can the Council please explain why this height limit is not enforced?

3. SEPP (HSPD): Cl. 50(b): Breach of Floor Space Ratio Regulations ("FSR")

The FSR control requirement under the SEPP (HSPD) was identified as 0.5:1. The local Council zoning regulation requires 0.45:1. The DA still seeks to significantly increase the size and bulk of the buildings with a FSR of 0.59:1. The SEPP (HSPD) must be enforced. Additionally, the ceiling heights in the proposed DA are unnecessarily high also adding to the size and bulk of the buildings resulting in overdevelopment of the block to the detriment of the amenity of the existing neighbourhood and streetscape. How does this increased height benefit the proposed residents of a SEPP (HSPD) development?

We point out that the proposed development is under the SEPP (HSPD). This SEPP permits an increased floor space ratio and the setting aside of local planning controls that would prevent the development of housing for seniors or people with a disability as long as development criteria and standards specified in the SEPP are met. These standards have not been met and again, should be enforced by the Council, acting in the best interests of the residents. There does not appear to be any Clause 4.6 Variation document lodged in pursuit of the increased FSR. We understand Council is well within its rights to refuse this development application in this regard for non compliant density.

4. Breach of Building Alignment to Ponsonby Parade

The front building alignment with Ponsonby Parade imposed by Council continues to be breached by quite some metres with the development protruding well in front of properties aligned to the east of the development. These neighbouring properties must abide by the controls of building alignment, why not this development? The result of this breach of building alignment will also mean loss of privacy by overlooking and less solar access to the neighbouring properties and is unacceptable.

Driveway

The proposed driveway entrance and exit to Ponsonby Parade should also be carefully considered due to safety concerns for the frequent pedestrians who use the footpath and the frequent cyclists who use Ponsonby Parade, travelling west to east, often in the dark. The purportedly "senior" residents and people with a disability residing in the development may

pose a significant risk to such pedestrians and cyclists when using the driveway to the development. Ponsonby Parade is also a busy road and bus corridor with few vehicles adhering to the 50kpm speed limit, adding to the safety concerns with the driveway.

Parking

Prior to COVID 19 Ponsonby Parade was parked out most days of the week, creating a parking problem for the residents and users of the two child care facilities in the vicinity. Inevitably, should this development proceed, there will be 'no parking' signs installed along Ponsonby Parade to address safety concerns in relation to the development's driveway and the high risk of accident with residents accessing the development. This reduced parking will further impact on parking availability for existing residents and their visitors. We also note there is little visitor parking for the proposed 9 x 2 and 3 bedroom unit development.

5. Streetscape and Character of the Neighbourhood

The impact of the proposed development lodged under the State Environmental Planning Policy for Seniors or People with Disability ("SEPPHSPD"), we believe, will not be in keeping with the intention of this housing policy which is to provide suitable housing for Seniors and People with a Disability in existing neighbourhoods. The intention was to provide such housing without causing intrusion on existing residents and to allow discreet developments that fit with the existing character, streetscape and amenity of a neighbourhood. The proposed development does not meet this criteria but will significantly change and create an inappropriate and unacceptable overdevelopment in the neighborhood by introducing a large deep excavation for two (2) large bulky, double storied with underground parking, apartment buildings covering two (2) lots running in an east west direction fronting onto Ponsonby Parade and Ross Street in a low density housing area zoned by the local Council's DCP as R2. The development will impact on the natural environment due to loss of vegetation and deep excavation over almost all of the site, loss of visual and acoustic privacy of existing residents, loss of existing residents' solar access and views and create further parking congestion and safety concerns for many pedestrians and cyclists who use the road and footpath day and night.

6. Breach of Visual and Acoustic Privacy

Our neighbour who lives in the immediate adjoining property at No 10 Ponsonby Parade continues to be very distressed knowing she will suffer loss of privacy both visual and acoustic in her home and backyard, loss of solar amenity to an unacceptable level (as shown in the applicant's shadow diagrams) all due to the breaches of SEPPHSPD guidelines. The development plans two (2) double storied buildings all along the eastern boundary which it shares with No 10 Ponsonby Parade with little relief and with deep excavation, windows and large outside two storied entertaining terraces overlooking the boundaries with No 10 and No 8 Ponsonby Parade in breach of the SEPPHSPD regulations in relation to loss of visual and acoustic privacy, solar access and neighbourhood amenity for neighbours. This is unacceptable.

Our property will still be impacted by loss of afternoon sun and privacy in our backyard as the development breaches the guidelines with two (2) double storied buildings along its eastern boundary in breach of the SEPPHSPD regulations which provide for a single storey building only in the rear 25% of a lot, to ensure visual and acoustic privacy, solar access and minimal impact on surrounding neighbours. The plans show windows and large terraced entertaining spaces facing east on the SE and NE corners of the buildings on both levels which will look directly into our backyard to an even greater extent than No 10, due to the increased rise of the

ground level at the rear of the property. Privacy screens will not alleviate the height and bulk of the imposing buildings overlooking our backyard.

We believe that the plans of the proposed development with windows and balconies looking straight into and over 10 and 8 Ponsonby Parade appears to be designed to overlook those properties. Indeed, the water views are in a south east direction. The location and height of windows and balconies in the proposed development appear to look in a south east direction and straight into the indoor and outdoor living areas of 10 and 8 Ponsonby Parade. The residents of 10 Ponsonby parade will be precluded from looking out their living room and bedroom windows unless they look straight into the eastern side balconies and apartments of the proposed development.

7. Excavation

We continue to be very concerned about the excavation required to accommodate the proposed buildings over a substantial part of the 2023sqm site, to a significant depth of approx. 4.5 metres [as described in the Geotechnical Report] and appears to be only 4m from the eastern boundary with No 10 Ponsonby Parade. The plans are not clear to us as to the actual dimensions of the excavated area and this should be clarified in detail by the Council officers. The previous development application that only consisted of the site at No 14 Ponsonby Parade envisaged that some 1,440 cubic metres will be excavated [32 m x 18 m x 2.5 m]. The current DA will no doubt involve the removal of double this amount of the existing ground and create a significant impact from vibration from excavators and rocksawing equipment to adjoining neighbours. Accordingly we request the Council to impose a condition on the applicant that all adjoining neighbours including No 8 Ponsonby Parade, to be supplied with independent dilapidation reports at the applicant's expense well prior to any commencement of works and to be agreed upon by those owners.

8. Setbacks

The setbacks for entertaining terraces and windows on the eastern boundary continue to be inadequate and the result is loss of privacy as mentioned previously and is not acceptable. This privacy issue cannot be solved with a "drop down privacy screen".

The unacceptable setbacks contribute to the loss of visual and acoustic privacy and solar amenity to neighbouring properties and must be addressed to ensure compliance with guidelines.

Further, we note as follows:-

SEPP (HSPD): Cl. 40(4)(b)

1. SEPP cl. 40(4)(b) states that a building that is adjacent to a boundary of the site must be not more than 2 storeys in height. Similarly, the Manly DCP 2013 at cl. 4.1.2.2(a) states that "Buildings must not exceed 2 storeys".

A storey is defined in the Manly LEP as "a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- a space that contains only a lift shaft, stairway or meter room, or

- a mezzanine, or
- an attic."

None of these exclusions appear to apply to the lowest storey of the proposed development.

The rear building still breaches the 8m height limit imposed by SEPPHSPD and presents as an even larger, bulky building overlooking the front building when viewed from Ponsonby Parade. The plans seek to hide the impact of two large two storied buildings with inappropriate mass and density in contravention of the existing neighbourhood and streetscape and objectives of providing housing for seniors and people with a disability in an existing neighbourhood, using superimposed large trees to soften the streetscape image in the plans. This non compliance is unacceptable and will change the neighbourhood completely.

The Manly DCP 2013 effectively permits a third storey in specific cases. It allows an additional understorey where that storey satisfies the meaning of basements in the LEP. The definition of basement in the LEP is:

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

2. The site elevation plans seem to show that the entrance foyer and lift lobby on the lowest level of the proposed development is more than 1 metre above existing ground level at the Ponsonby Parade entrance. Can the Council officers please confirm that the floor level is less than 1m above ground level (existing). It does not appear so.

Additionally, we would like to see height poles erected in the SE corner of the building fronting Ponsonby Parade to show the impact of the non compliance with front building alignment and height and bulk of development. These poles should not be painted green.

Conclusion

As stated in our previous objections to this DA, the proposed development:

- imposes both bulk, excessive height, loss of visual and acoustic privacy and overshadowing on the adjacent properties and is non-compliant with two storeys in the rear 25% of the property;
- is effectively three storeys in height when viewed from Ponsonby Parade, in breach of both the SEPP and the Manly DCP 2013;
- significantly exceeds the permitted floor space ratio;
- does not use a building form that relates to the site's land form, given the amount of excavation proposed;
- will introduce multi-storey, dual apartment blocks into street of single dwelling households changing the character and amenity of the neighbourhood in a R2 Council zoned area;
- is of a bulk and scale that is out of character with the area;
- will change the quality and identity of the area rather than contribute to it.
- the eastern side balconies of the proposed development look directly into the bedroom and livingroom of 10 Ponsonby Parade and the backyards of 10 & 8 Ponsonby Parade;
- there will be less than the prescribed 4 hours solar access on the western windows of 10 Ponsonby Parade from 9 am to 3 pm on the winter solstice;
- the proposed development will block this solar access on these windows in breach of the Manly DCP 2013 control requirements; and
- the side setbacks on the eastern side of the proposed development are inadequate,

exacerbating overshadowing and overlooking both 10 & 8 Ponsonby Parade by the proposed development.

- will contribute to already dangerous and congested parking in the vicinity with its entrance creating a further safety hazard to cyclists and pedestrians.

Again, we recommend to Council that the proposed development be rejected as we believe, the revised plans submitted do not adequately address any of the non-compliance issues raised in the preceding development plans.

Yours faithfully

P & D Hamblett