
Sent: 17/11/2019 6:26:40 PM
Subject: DA2019/1154
Attachments: Objection DA2019-1154.pdf;

Dear Northern Beaches Council Assessment Officer.

Please see attached my objection to the above Application.

This application further extends the 1996 Approval of a pop up extension in the roof space of number 12 George Street and is outside multiple Council Planning Controls. It has significant negative impacts on number 14 George Street, as detailed in the objection, not least of which is further erosion of the Iconic View.

I would be pleased to meet with Council to discuss.

Kind regards
Stephen

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DA DA2019/1154 Objection

1. Application

DA2019/1154 seeks to extend the existing second level pop up roof space conversion of unit 1, 12 George Street.

2. Background

14 George Street has just completed a rebuild of the rear structure under DA 214/2016. Two prime objectives were to reclaim some of the views that were blocked by the existing pop up roof extension of unit 1 and to improve privacy.

The concerns and requests of the adjacent owners were accommodated in the design of number 14. Notably the pre-existing windows to the southern elevation which directly looked into both units 1 and 2 of number 12 were removed. The rear set back was not extended at any level beyond that which was existing to ensure there was no additional overshadowing to number 12 and views from number 16 were maintained. Letters of support from all three neighbours to either side were included in the submission.

A key criteria to the design of number 14 renovations was to maintain the views of the harbour from the inside living area at a location to maximise solar gain. Essentially a sunny spot in which to sit and enjoy the Iconic View of South Head especially in winter.

Whilst we were provided with the plans for number 12 during the design process and raised our concerns at that stage they have not been addressed.

3. Summary of Issues and Concerns

The existing upper level of unit 1 of 12 George Street has been achieved by extending into the loft space. DA2019/1154 seeks to further extend the pop up extension of unit 1, 12 George Street into a 5 bedroom home above unit 2 below which is a 3 bedroom home. This Application is largely outside Council Planning Controls with significant negative impacts on the neighbouring properties including number 14 George Street.

These are:

Iconic View Loss

Privacy intrusion

Unacceptable Fire risk

Parking reduction on George Street

Increased pollution risk and flooding

Errors and omissions on the DA drawings

4. Iconic View Loss

The western extension of the existing balcony further erodes the already devastated Iconic Views from the southern windows of number 14 and constitutes view loss creep. The view from unit 1's balcony will not materially change, see EIS Figure 7, as a result of these works and therefore cannot be considered as view sharing. The submitted plans clearly show this is an extension of the existing balcony can only be considered as additional FSR. The planning principles established in sighted in EIS clauses 3.4.3 Tenacity Consulting v Warringah Council (2004) NSWLEC 140 do not apply as there

would be no material change in view from the applicants property. The review of the assessment under this judgement is appended Appendix A.

The EIS 3.4.3 assessment of views is factually incorrect when it states that the views from other dwellings “will not be impacted by the proposal”. In addition EIS clause 4.1.4.4 is incorrect when it states that “no change is proposed to the rear setback” The applicants documentation show the proposal to extend non the compliant level 3 roof and and the level 2 balcony to the east.

4.1 Extension of roof line

The proposed extension to the rear second story roof line not disclosed. DA9 Northern Elevation position units 1’s existing third floor roof 225mm to the east in front of the alignment of the cavity wall below. The attached photograph clearly shows the roof 150mm west, behind the alignment of the wall below. The existing roof and balcony is structurally sat and aligned on the inner leaf of the cavity wall below.

The proposal therefore is an undisclosed extension of the rear full height roof line of 375mm to the east. The increased roof line is not clearly annotated on the application.



Figure 1.

Photograph showing existing eastern elevation of second floor roof aligned 150mm behind east of the face of wall below.

Extract of drawing DA9 showing proposed roof aligned west in front of the face of the wall below. The proposal moves the roof 375mm to the rear in a westerly direction.

4.2 Non compliance with rear setbacks

EIS para 4.1.4.4 is incorrect when it states that there is no change is proposed to the rear set back. The setback at the critical upper level currently below the Council 8.0m requirement. In addition number 12 has significantly less set back than the properties to either side of what could be considered a “building line”. This is further reduced by a further 375mm at roof level and 704mm at second floor balcony extension level totalling a further setback reduction of 1.079m at the upper level.

4.3 Non compliance with side setbacks

At the point of the proposed extension the third floor level is 34.42m with a 1m balustrade above gives a top level of 35.42m. The adjacent ground level is 27.629m. The top of balustrade is 7.791m above ground level.

The required side set back requirement is $\frac{1}{3}$ of building height which is 2.587m

The proposed set back as measured on the northern side is only 2.23m from the boundary.

The proposed set back on the southern side of the boundary which is not dimensioned scales in the order of 1.0m.

4.4 Non compliance with FSR

The stated FSR of the building is already over the permitted and checks indicate that the sites proposed FSR is under-calculated. The Application is seeking a clause 4.15 Exception to Development Standards. The statement that there is “no impact to adjacent properties” is factually incorrect. The increase in FSR does impact on the views and privacy from 14 George Street and additional impacts to other adjoining properties.

4.5 Glass Balustrade

There are no powers available to restrict what is put upon the extended balcony once it is constructed. It is likely that planting or other items will be placed adjacent to the glass balustrade to provide privacy to unit 1. This would further obstruct the view from number 14. The balcony dimensioned 704mm beyond the further extended roof line amount totalling an extension of 1079mm to the east.

4.6 Increased roof height

Further the application has not disclosed the intent to increase the roof height on the existing second level as shown on drawing DA9. The existing tiled roof above the proposed sun room currently falls as the same pitch as the adjacent roof from the existing third floor level east to west to meet with the existing eve. Due to the balcony extension of the building to the east proposed roof line is raised and falls less steeply on a 5 degree pitch from the edge of the balcony. Without the detailed dimensions it is difficult to assess but this indicates that the roof level has been raised across the whole rear of the building. This may impact the shadow diagrams.

4.7 Documentation of Iconic View loss.



Figure 2. Main living room view obstructed by previous existing extension of unit 1 only 3m away devastating Iconic View loss.



Figure 3. Current Iconic View from main living area of 14 George Street.



Figure 4. Potential Iconic View loss from 14 George Street. Note second and first story roof and balcony extension only 4m away.

4.8 Request to remove balcony and roof extensions.

The impact of these extension to both the roof and balcony amounts Iconic View loss creep which overall is devastating and non compliant with many Council planning controls and should not be approved.

5. Privacy

EIS clause 3.4.2 Privacy states “there will be no direct overlooking into key living areas of adjoining properties.....the first floor balcony is existing and the changes proposed will not alter or significantly change its privacy or implications for any neighbours”

5.1 Visual Privacy

The rear face of the proposed balcony will be 1.5m further to the east (rear) of number 14’s living room glass doors and at a similar level. This will provide direct views into the living room through the rear and side windows from a distance of only 4m and in addition into to the master bedroom below. If a privacy screen were to be provided on the balcony it would not prevent someone leaning on the balcony obtaining these views directly into number 14.

Figure 4 shows the proposed balcony extension as seen from the main living area of number 14. Further a privacy screen would add to the view loss creep and detract from the Iconic Views of South and remove the gains of the works undertaken to improve privacy between the properties.

5.2 Acoustic Privacy

Unit 1’s current balcony is acoustically shielded from the adjacent balcony of number 14 by the solid vertical wall and roof above. The existing wall and roof form an acoustic barrier preventing the sound waves travelling directly between the buildings. Opening the balcony and providing a direct and unobstructed line for sound to travel the 4m distance between properties would remove any acoustic privacy and if noisy create a nuisance.

5.3 Request to retain existing privacy

The proposed balcony extension is a major visual and acoustic privacy loss and intrusion not in accordance with Council requirements and should not be approved.

6 Fire Risk

The application extends the second story northern elevation of the Class 2 building to the west. This extension is part in brick and part in cladding. See Drawing DA09.

The proposed side setbacks is only 0.765m from boundary to external face of the proposed wall. At this point the proposed extension has a height above ground of over 9.9m. The compliant set back should be over 3.3m.

Secondly it also changes the fire relationship between the number 12 and number 14.

The Australian Building Code Board require that “In the event of fire in a building, occupant safety and the protection of adjoining property are fundamental requirements of building regulations”. A BCA compliance fire condition added to any approval can alone not mitigate the increased impact.

At this point number 14 has a easement over number 12 to allow for projection over the adjacent lot. At this point 14 George Street’s gable end is clad with the highly combustible cedar shingles. If the proposed extension was constructed in accordance with the BCA requirements for fire rating for passive protection it would not eliminate the extra fire load below and directed towards the highly combustible gable end of number 14.

Further the application proposes to remove the existing tiled eaves between number 12 and 14 separating unit 1 and the pop up extension level of unit 2 of 12 George Street. These eaves act as fire break between the windows of both unit 2 and the lower level of unit 1 and what would be a chimney effect to the gable end shingles of number 14.

In addition number 12 is a Class 2 building and does not currently meet the requirements for Fire Safety Regulations as there is no passive horizontal fire separation between unit 1 and 2 and in some areas only timber floor boards separating the units. In addition there is no active systems as are required. The whole building should be improved to meet the current fire code for a Class 2 building. As it stands it is a tinder box.

Should this application be approved even subject to BCA requirements there is no foreseeable way that these additional introduced factors could be mitigated. Number 14 would have to live with the concern for the fire and life safety of the our home and its occupants.

6.1 Request for fire upgrade and no increase in fire load

The proposed extension is not in accordance with Council requirements significantly increases the fire risk and should not be approved.

The Class 2 building should be upgraded to be compliant with Passive and Active Fire Safety Regulations.

7 Parking

As Council is aware parking in George street is a highly contentious issue with lack of kerb side parking provision and driveways regularly becoming obstructed. The owners of number 14 regularly have to call the wardens or police to have vehicles moved to enable entry or exit from their driveway.

The application seeks to widen the garage door, located on the boundary of the property. The amount of widening to the north appears to be in the order of 900mm.

The existing kerb crossing should not be modified as it would remove parking on George Street by reducing the kerb length between driveways. The reduced length of kerb parking (3.9m) would also encourage further driveway obstructions.

7.1 Request not to extend drive way crossing.

Removal of kerb length is contrary without additional off street parking gain is contort to Council policy and would add to the ongoing public concern about on street parking.

8 Storm Water Drainage

The entire roof of number 12 drains into a piped system to the east (rear) of the building where Council records show the only piped drainage provision is the sewer. This is an illegal cross-connection. Pollution from storm water overflow is a significant issue in the area being so close to the ocean. The sewer in the rear yard of number 12 has surcharged into the garden. Any approval should require the storm water to be properly redirected to the storm water system in George Street as with number 14 via an elevated system. Councils recent flood study has identified that the

George Street storm water system is already overloaded. Any additional runoff should be attenuated to reduce the run off load on the already under capacity drainage system.

8.1 Request for mitigation of pollution and stormwater attenuation.

A condition of the approval should be to remove the illegal storm water connection and mitigate flooding impact on a storm water connection.

9 Errors and omissions

In addition to the above errors and omissions the documentation submitted inspection of the drawings reveal a number of additional issues. For example DA17, 18 and 19 show additional shadow to the north of unit 1. This is simply not possible.

9.1 Request for a detailed review.

The drawings should be reviewed by a competent party.

10 Conclusion.

The application for a further extension of the pop up extension to unit 1 of 12 George Street is non compliance with a number of key Council Planning Requirements. As demonstrated it impacts on number 14 George Street in the following ways:

Iconic View Loss

Privacy intrusion

Unacceptable Fire risk

Parking reduction on George Street

Increased pollution risk and flooding

All the above is either in excess of Council Planning Requirements or contravening other Statutory Controls.

The application as submitted amounts to a gross over development of the block.

10.1 Request of Council.

The Application should not be approved as it stands and should be either deferred and the applicant requested to modify and resubmit or the Application be refused.

I would welcome the opportunity to meet with Council to discuss the matter.



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Appendix A Review of Tenacity Consulting Assessment.

Further the assessment under the Tenacity Consulting v Warringah Council (2004) NSWLEC 140 judgement is incorrect; as follows:

Step 1

The view is incorrectly stated as towards Manly Beach.

The view is actually towards Manly Cove and across Sydney Harbour to South Head.

Step 2

References the incorrect house number, number 8.

Further the views are not obtained for unit 1 of number 12 they are existing views from the existing balcony and windows as demonstrated in the EIS documentation, see Figure 7

Step 3

The assessment states that the development is in the center of the property and Figure 16 provides arrow directions of views that are blocked by tree cover and building structure this is not the actual view lines.

The assessment incorrectly states that the alterations and additions are to the center of the building to minimise the impact on number 12.

This is incorrect as the balcony extension and roof extension are to the rear eastern side and to the northern and southern boundaries impacting on views from number 14. These extensions are clearly shown on the plans.

Step 4

“Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable.”

The impact on the view arises from four non-compliances with planning controls: side and rear setback, FSR controls and privacy.

This extension of an existing balcony and not achieving additional views for unit 1 and must be considered as unreasonable.