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**Sent:** 25/03/2019 7:02:07 PM  
**Subject:** RE: Modification to DA2018/1432 - Mod2019-0118  
**Attachments:** Objections to MOD2019-0118.pdf;

Dear sir,

Please find attached my objections to Mod2019-0118. Unfortunately the Planning and Development submission tab for this application appears to be locked out.

Regards,

Bart Caffin.

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| <b>Objections to MOD2019-0118, 60 Riverview Parade, North Manly</b> |
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The purpose of this letter is to raise an objection to certain elements of the proposed building development intended for 60 Riverview Parade, North Manly as detailed in Mod2019-0118.

The objections are based on information contained in the following documents: -

1. Application for Development Consent, Modification or Review of Determination 18/19, application # Mod2019-0188, receipt # 100390913, PDF, Northern Beaches Council website.
2. Plans - External, PDF, Northern Beaches Council website.
3. Development Application 2018/1432 - Response to Submissions, J&J Smith

This modification is based on DA2018/1432 which was lodged on 30th August 2018.

I have broken my response into four sections: -

1. Description of the objection and WDCP requirements
- 2a & 2b. Response to Development Application Assessment Report
3. Response to Smith submission
4. Summary of Responses

## Part 1

### Objection. Loss of privacy and Warringah Development Control Plan

***My objection concerns the addition of a first floor balcony that directly overlooks my garden and three bedrooms as illustrated below.***

The south facing wall (facing 60 Riverview) of bedrooms 1 and 2 is a floor to ceiling window that horizontally extends the full length of the room (the dotted line). I have illustrated the situation below, the green arrow indicating line of site.



The **Warringah Development Control Plan (WDCP) Part D Design, D8 Privacy** is very clear on the design principles behind ensuring visual and acoustic privacy between neighbours.

I have pasted the design requirements directly below, the bold and italics are my own.

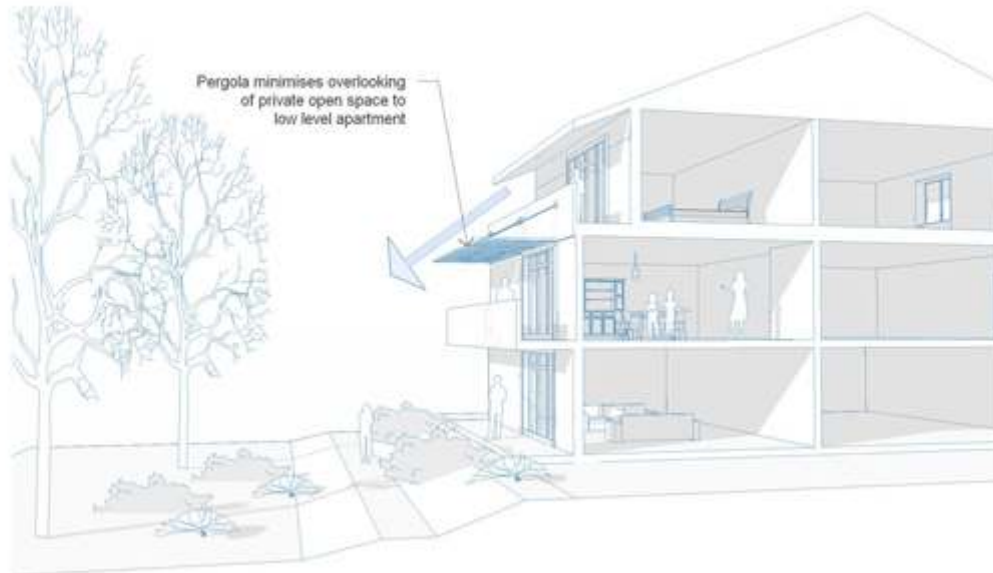
#### "Requirements

1. Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.
- 2. *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.***
3. The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.
4. The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.

5. Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment."

I have included a copied image of one of the examples found on the WDCP website. I would note that this example has a strong correlation to the situation that exists between 58 and 60 Riverview Parade.

#### Privacy between levels



The WDCP also provides some suggestions when screening devices are necessary. Again I have copied this list directly from the WDCP website, the bold and italics are my own.

"When screening devices are necessary, consideration should be given to longevity, maintenance requirements and treatment of screens and windows so they are integrated components of the design. Screening solutions may include:

- **Timber screens**
- **External blinds**
- **Window hoods or shutters**
- Landscaping to adequately screen windows and outdoor areas and may also visually reduce building bulk
- Balconies provide privacy when viewed from the street or public space
- **Screen balconies to avoid overlooking into the private open spaces of lower terraces using planter boxes, louvre screens and pergola structures**
- High window sills of at least 1.7m above floor level
- **Obscure or translucent glazing.**"

**Anyone of these screening devices would be acceptable to me as a solution.**

**Part 2.**  
**Response to Development Application Assessment Report for DA2018/1432 (included in Mod2019-0188)**

The Development Application Assessment Report did attempt to address my privacy issues.

Whilst certain previously existing privacy elements have been improved there have been new privacy issues created. I am of the opinion that due consideration was not given to the impact of the balcony included in DA1432.

I have copied and pasted the relevant sections from the report relating to privacy below. I will attempt to address statements made in each section directly and in order below.

**Part 2a.**  
***"Concern is raised that the proposed front balcony creates privacy impacts through the direct overlooking into the bedrooms windows of No. 58 Riverview Pde.***

Comment:

A site visit was undertaken and it is concluded that the privacy impacts on the northern site as a result of the balcony are not unreasonable.

The proposed balcony adjoins a bedrooms which is considered a low usage room. The proposal also has a rendered wall as its balustrade, up to 1.0m in height. This rendered balustrade will reduce the line of site to the northern adjoining property and minimise further impacts.

The proposal removes section of the existing first floor terrace that has existing orientation towards the northern adjoining property. The proposal also removes a larger existing window on the northern elevation, and utilizes a high-sil window to the northern elevation.

Therefore, the privacy impacts to the northern adjoining site are improved by the proposal. In this regard, the privacy impacts will not be unreasonable, and does not warrant the refusal of the application."

**Response**

- A site visit was scheduled for 24th October 2018. I confirmed that my partner (who is fully aware of all facts) would be attending. I would note that the Planner did not appear on that day or respond to my email queries about her presence. I had specifically asked to be in attendance for the visit.
- My privacy concerns are acknowledged as being not unreasonable by the author.
- The balcony adjoins a claimed low usage room. This is an entirely subjective claim and there are no controls on it.
- The 1 meter balustrade does not prevent any occupant from standing on the edge of the balcony and having an uninterrupted view of all bedrooms. I would also note that bedrooms 1 and 2 are partially screened by two deciduous trees. These trees will lose all their leaves over the cooler 6 months of the year. Once the leaves go my privacy is further degraded.
- I would also note that the lack of privacy afforded by this balcony due to its proximity to the edge of the boundary will impact my ability to enjoy my front garden.
- The removal of the existing terrace does improve my privacy situation. I would note that due to its distance from the boundary its impact on my privacy was always minimal.
- The removal of the large window does improve my privacy situation. Again it was a reasonable distance from the boundary so its impact was never significant.

**Part 2b.****"D8 Privacy**

Having regard to this localised situation, the assessment of privacy is to be based on the principle of not creating additional impacts on the existing level of privacy between neighbours.

Privacy between the subject site and the adjoining neighbours will be satisfactorily maintained by the following;

- \_ The use of a high-sil window on the northern elevation of the dwelling house;
- \_ The removal of the existing northern elevation first floor window;
- \_ The removal of a proportion of the existing first floor terrace that is orientated towards No.58 Riverview Pde;
- \_ Spatial separation of over 0.9m - 4.4m to the northern adjoining site; and
- \_ The intervening side and rear boundary fencing and vegetation."

**Response**

- I would argue that the situation does create additional privacy impacts.
- The modification and removal of the existing windows and terrace does improve my privacy situation.
- *The addition of a new balcony approximately 0.9 meters from the property line directly overlooks my bedrooms and front yard. Image 1 below is from my bedroom 3 window, the balcony can be easily seen to the left of the blue wall wrap. From the balcony an occupant of number 60 can look over the plants directly into bedroom 3.*
- The intervening vegetation mentioned is limited in height (so not screening) and is deciduous, meaning a loss of privacy over the cooler months. I have included images below to illustrate.

Please refer image 2 below. Image 3 was taken by me whilst standing at the site of the red circle looking towards the balcony (which can be easily seen). Image 4 is the reverse view (from red circle) looking back towards bedrooms 1 and 2. The yellow circles on image 2 indicates the location of these plants referred to in image 4.

*The green circled plants of image 4 will lose their leaves over winter providing no screening at all. The remaining plants are two tree ferns that are not effective as privacy screens.*

**An acceptable solution to me would consist of one of the screening solutions suggested in D8 Privacy of the WDCP (e.g. a fixed frosted glass panel). I believe that is consistent with the intent of the WDCP.**

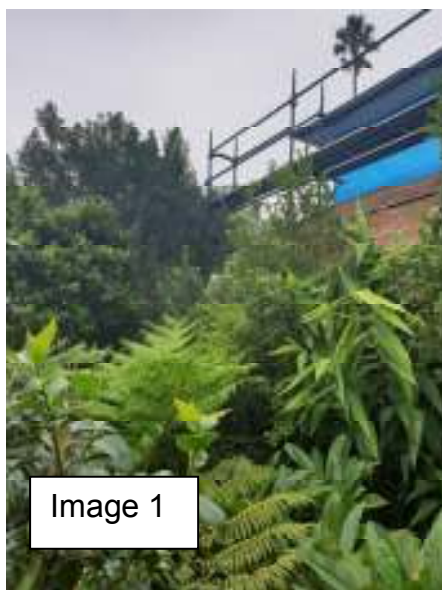
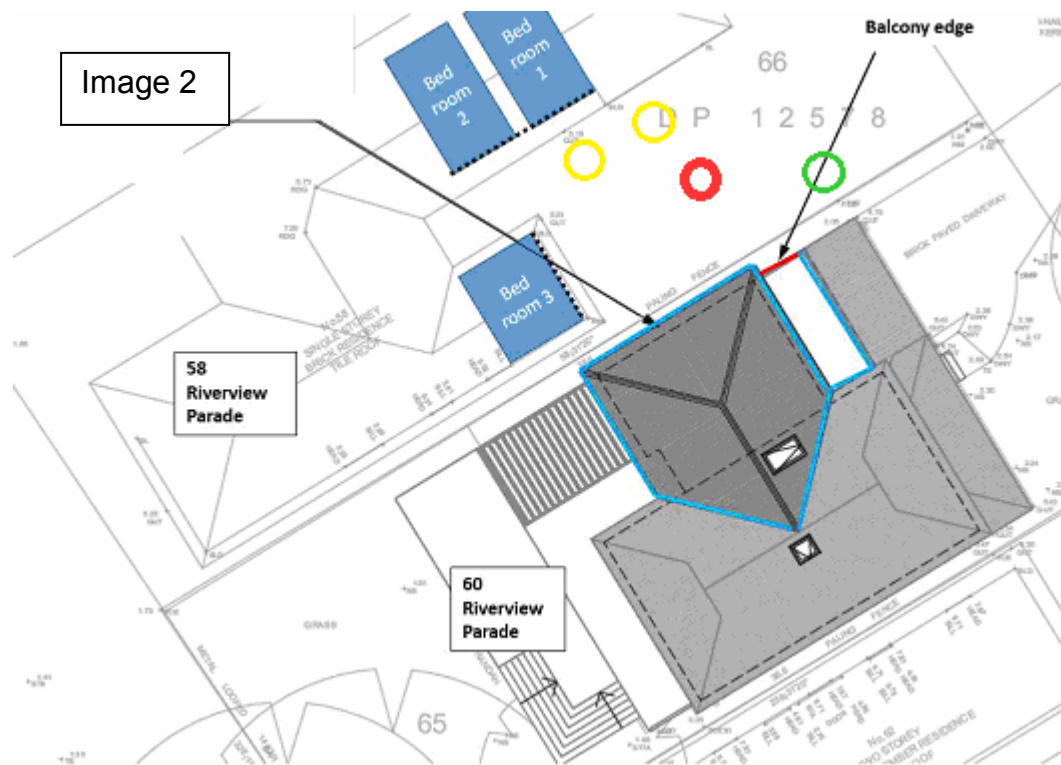


Image 1









**Part 3.**  
**Development Application 2018/1432 - Response to Submissions from J&J Smith**

I have included a screen snapshot of the text from their submission as it relates to my privacy issues and the balcony below.

No 58 Riverview Parade.

The objector's concerns are limited to an assumed loss of privacy and the bulk of the proposed addition when viewed from the objector's property.

Privacy – the issue of privacy arises only from a concern of potential overlooking from the front balcony backwards, in a south-westerly direction, towards No. 58. This submission would not be accepted for the following reasons:

- 1) **Photo 1** below illustrates the potential view corridor from the proposed balcony. The view is clearly obstructed by the existing vegetation in No. 58;
- 2) the view to the allegedly affected front garden and bedroom is already directly visible from the street over the existing low front boundary fence;
- 3) the front garden of No. 58 does not constitute private open space under DCP 2001 Control D2 as it is located in the primary front building setback and is not directly accessible from a living area;
- 4) the proposed study addition has been designed so that there are no north-west facing windows towards No. 58, so as to prevent any potential overlooking;
- 5) the balcony balustrade is proposed to be made of solid material not a transparent glass;
- 6) the balcony is off a proposed study and not a primary living area such that the use and level of traffic to that study will be minimal;
- 7) the potential for direct overlooking from the **current** approved balcony will be **removed** as a result of the proposed development thus reducing any overall perceived impact on privacy to the adjoining neighbour (see attached **Photo 2** - Current overlooking from existing first floor side balcony which will be removed); and
- 8) the proposed balcony otherwise complies with each of the DCP 2011 Part B Built Form Controls in particular B1- Wall height, B3-Side boundary envelope, B5-Side setback, B7-Front setback and Part D, D8 Privacy, in circumstances where the balcony faces the street. In light of the above compliance then in accordance with section 4.15(3A)(a) of the EP&A Act a more onerous requirement, as would seem to be suggested by the objector, cannot be imposed.



I will attempt to address each of these points below.

1) Photo 1 (refer J&J Smith submission or image 5) is taken along the line of the roof edge prior to construction of the balcony.

The balcony as built is set back over one metre from the roof edge shown.

The location of that tree is shown by the green circle in image 2 or the image left. It does not provide any screening

for bedrooms 1 and 2. I have attempted to illustrate this with a Google satellite view, my apologies for the poor resolution.

As per the satellite view, the green circle is the location of the tree mentioned. The blue lines indicate the location of the balcony and the bedrooms respectively.

Image 3 (above) further confirms my claim. The view from the balcony towards 58 is unimpeded.

Image 5 below) is a copy from the Smith submission. The blue vertical line (added by me) indicates where the balcony is actually positioned. Image 2 and 3 confirm this.



**Photo 1 – Vegetation blocking potential view corridor from proposed balcony from No. 60**

2) This claim is partially true. However the view from the street is at such an acute angle that visibility into bedroom 1 is sufficiently limited to ensure privacy, refer image 6 looking towards the street. There is effectively no street visibility to bedroom 2 and 3.

Additionally the windows of each room are recessed by the walkway further boosting privacy from the street. This is on top of the low plants situated along the front of the property line, refer image 6 again.

For your information the plant circled in green in image 6 is one of the deciduous plants listed in Part 2b.



3) I would mention that the circled green tree in image 2 (plan view) effectively creates a private garden space for me.

It is also easily accessible from my kitchen area and directly from bedrooms 1 & 2 , refer image 6. The balcony as designed directly impacts the privacy of this open space.

4) That seems to be the case.

5) A solid balustrade assists my privacy. However an occupant of 60 Riverview can stand on the balcony and have an uninterrupted view of my (formally private) garden and bedrooms 1, 2 and 3. Refer images 1 and 2.

6) I have no means to control this and consider it only partially relevant. WDCP does not make specific mention of through traffic either.

7) This is true. However I would mention it was set further back than the new balcony and always posed less impact. This is why I did not object to it previously.

8) I would note that I have never requested an onerous solution with regards privacy or the balcony. In my original response to DA1432 I objected to the balcony and left the solution up to the council. I had assumed at the time that they would follow what seemed to be one of the obvious solutions posed by WDCP D8 Privacy.

**One of the solutions as suggested by D8 Privacy of the WDCP (e.g. a screen of some form) would be very suitable and acceptable to me.**

#### 4. Summary of Responses

- The privacy of bedrooms 1 and 2 is only due to the plants shown in image 4, yellow circled below. Once they lose their leaves in winter the privacy of those rooms is greatly reduced.
- The privacy implications to bedrooms 1 and 2 of street views is effectively zero, refer image 6.
- The tree mentioned in point 1) of the Smith submission does not obstruct any view of the bedrooms. Image 2 and green circled below.
- The balcony looks directly into bedroom 3, refer image 1.
- The front garden was effectively a private space, despite being in the front set back. The balcony directly overlooks it.
- The addition of the balcony as designed and as shown in image 3 has reduced my privacy. This is at odds with WDCP D8 Privacy section intent.
- An agreeable solution would be the addition of some form of screening feature to the balcony (e.g. a frosted glass panel fixed in line with the balcony). This would be as per Warringah Development Control Plan D8 Privacy.
- I was contacted on 24th October 2018 at 4.38PM by the Planner Catriona Shirley. She informed me of her intent to perform a site visit at 9AM on the 25th October. I had previously requested to be informed and confirmed that my partner would be in attendance.

Ms Shirley did not attend on that day nor have I ever met her in person.

