
Sent: 2/06/2020 10:38:47 AM

Subject: Objection Submission - DA 2020/0470 - Attention Kent Bull - 79B Lauderdale Avenue Fairlight

Attachments: Objection Submission DA2020 0470 2nd June 2020.pdf;

Dear Sir,

Please find enclosed my Objection Submission for DA 2020/0470 in relation to property 79B Lauderdale Avenue Fairlight.

Yours faithfully,
Michelle Montgomery

Owner 72 Lauderdale Avenue Fairlight

DA2020/0470-79B LAUDERDALE AVENUE, FAIRLIGHT

OBJECTION SUBMISSION BY OWNERS 72 LAUDERDALE AVENUE, FAIRLIGHT – 2ND JUNE 2020

My husband Robert and I own 72 Lauderdale Avenue, Fairlight. Our home is immediately across the road from 79A Lauderdale Avenue. 79A stands between our home and 79B. Both 79A and 79B stand between our home and Sydney Harbour. We object to this proposal, DA2020/0470 because it will cause us loss of views of Sydney Harbour and worsen the already inadequate parking on Lauderdale Avenue between Boyle Street and Rosedale Avenue.

WESTERN PERGOLA INTERRUPTION OF VIEWS.

The proposed western pergola over the second floor entrance terrace will impede our views of Sydney Harbour. It will impede the view corridors which Approval for development of 79A is Conditioned to protect.

On 20 May 2020 Council Approved DA 2019/0342 concerning 79A Lauderdale Avenue. DA 2019/0342 supersedes DA 2016/0326 for development of 79A Lauderdale Avenue. It has taken 4.5 years, Land and Environment Court proceedings and Proceedings in the Common Law Division of the Supreme Court of NSW (in which Council was a defendant) to resolve our (and other neighbours') view protection issues with 79A. A great deal of costs, resources and inconvenience were expended by Council (ratepayers), the developer and us.

Council's Conditions of Approval granted for development of 79A are designed to protect the views of our home 72 Lauderdale. The Approval hopes to achieve view corridors between our home and Sydney Harbour. Conditions of Approval DA2019/342 determined by Council 20 May 2020 and operative 27 May 2020 specifically provide for provision of and protection of those view corridors as follows:

*-Condition 1: plans include CDH08 View From 72 Lauderdale Avenue Issue L and **Plan Reference No. 21254 ("The Plan")**.*

-Condition 13: second floor (top floor) plan (DA 17) is amended by reducing the length of the deck from 5.424m to 4.0m. The area where the deck is reduced is to be non-trafficable.

-Condition 23: prior to the issue of a construction certificate DA2016/0326 LEC Approval is to be surrendered.

-Condition 50(b) trees should be positioned in locations to minimise any significant loss of views.

*-Condition 53: Second Floor (top floor) Level. **"All dimensions of the second floor are to be strictly in accordance with the Plan."***

*-Condition 56 Maximum Height. **"Except as depicted on the Plan (plan reference 21254 ...) the maximum height of any building, improvement, structure or erection, vegetation or planting on the whole of 79A shall not exceed AHD 32.5A certificate of compliance from a registered surveyor certifying that this condition has been complied with must be submitted to the Principal Certifying Authority prior to issue of any interim/final Occupation Certificate.***

Reason: To ensure that the height of the approved second floor (top floor) is constructed and planting is carried out in accordance with the levels shown on the Plan."

-Condition 62 Second Floor Level Non-Trafficable Area. "The area on the second floor (top floor) level on The Plan, marked with small south facing arrows outside the area marked deck is to be non-trafficable. No movable or immovable structures or erections (including but not limited to balustrades or railings; shade structures (including screens); furniture; planter boxes; plants and ornamental trees) or any other object, shall be placed upon the non-trafficable area of the second-floor (top floor) level or 79A Lauderdale Avenue.

Reason: To ensure that views from neighbouring properties are not impacted by access of persons on, structures and vegetation placed on non-trafficable area."

The Plan referred to in Council's Conditions of Approval of DA 2019/0342 is a Surveyors Plan describing levels and the view corridors for neighbours on the north side of Lauderdale Avenue, Numbers 68 to 78 through which to view Sydney Harbour and its foreshore.

Council has considered DA 2019/0342 for 79A simultaneously with its consideration of the subject DA2020/0470. It would be inconsistent and misleading of neighbours for Council to resolve in DA 2019/0342 to protect neighbours views by those corridors and then to approve the pergola structure proposed in DA 2020/0470. The louvered cover will impede Sydney Harbour views just about as much as a complete roof would. The meshed walls propose a gun barrel type "look through" in place of existing open views.

The Applicant architect's SOEE fails to deal with our home's view loss. The owner Applicant participated in the development application for 79A by making submissions in support of it and is aware of the view corridors.

The proposal for the western pergola is for purely cosmetic purposes, assuming the only "cover" is louvres. It will not provide any protection from rain, wind or sun. The long time existing entrance has no roof or pergola.

If "new under cover pergola and stair to upper floor on western façade" means that there is a roof, not just open louvres, to the pergola; then impact on our views looking down to the Harbour and on public views looking down from Lauderdale Avenue will be severe.

The proposed non-compliance with western side setback is by the pergola, the side mesh and the entrance stair/ terrace. The long time existing stair/terrace which is free of any pergola or covering or side mesh and which does comply with western side setback has long term serviced the exact same purpose of entrance to the premises.

The proposed pergola will severely impact public views from the footpath of Lauderdale Avenue to Sydney Harbour, down the driveway to 79B. The pergola, louvered roof and side meshing proposes at best a "rifle barrel" limited view for pedestrians. Sydney Harbour views from the footpath are important to the amenity of the area because such views and glimpses reveal proximity to the Harbour.

The proposal is for breach of Manly LEP 2013 clause 6.9 Foreshore scenic protection area because of its impact to private and public views to the foreshore.

Pursuant to Manly LEP clause 4.6:

(3) (a) compliance with each of the development standards of side setback (western) and view sharing is neither **“unreasonable” nor “unnecessary”**. Council does not have jurisdiction to grant LEP 4.6 flexibility.

(3)(b) there are not sufficient environmental planning grounds to justify contravening the development standards of side setback (western) and view sharing. Council does not have jurisdiction to grant LEP 4.6 flexibility.

(4)(a)(i) the applicants written request does not adequately address the (3)(a) and (3) (b) criteria above. Council does not have jurisdiction to grant LEP 4.6 flexibility.

(4)(a)(ii) the proposed extension of terrace into the western setback and the covered pergola with side screening is not consistent with the standard of view sharing including its impact on public views from Lauderdale Avenue footpath and is not in the public interest. Council does not have jurisdiction to grant LEP 4.6 flexibility.

None of the grounds in the SOEE, in support of the Application for LEP 4.6 Flexibility are valid considerations meeting the criteria of Manly LEP 4.6 (3) and (4). The Application only offers the following broad statements of subjective values none of which satisfy those statutory criteria; “Increase in available accommodation for sale”; “Easy access to transport”; consistence with “principles of urban consolidation”; or the “site can adequately accommodate the proposed development and fit into the locality”.

STRATA TITLE- PARKING

The proposal is for 3 car spaces to provide for 2 separate, 3 bedroom residences. There is no practical other on-site parking because of the “battle axe” lot and drive shared with 79A Lauderdale Avenue. The SOEE deals with the inadequate provision for parking by the glib statement that there is “ample parking on Lauderdale Avenue”. No factual basis or reasoning is provided for that proposition. In reality there is presently inadequate parking on Lauderdale Avenue for existing use. Inspection on weeknight evenings will find no free space to park between Boyle Street and Rosedale Avenue. The surrounding development is predominantly town houses and home units. Lauderdale Avenue has parking along only the northern kerb for about 600m. The subject property is on the southern side of Lauderdale Avenue. There is no parking within hundreds of metres of the subject property. Access to the popular Manly to The Spit walkway and the Sydney Harbour foreshore reserve is just down the street, so parking on weekends is also generally completely occupied and the public have to park in Rosedale Avenue or even further away.

Michelle Montgomery

72 Lauderdale Avenue, Fairlight

