



S4.55 APPLICATION REPORT 95 GURNEY CRESCENT SEAFORTH FEBRUARY 2021

1.0 INTRODUCTION

This report is submitted to Northern Beaches Council in support of a S4.55 Application for 95 Gurney Crescent, Seaforth. The Statement of Modifications for the requested amendments is covered below.

This application does not amend any statutory planning requirements with the exception of the specific requests in relation to an analysis of privacy. The development has no significant adverse environmental effects and no persons would be prejudiced by its approval, as will be outlined below.

The report contains a description of the proposal and a Statement of Environmental Effects. This report should be read in conjunction with the accompanying architectural plans Nos. as follows:

- A102B-LEVEL 4 PLAN.pdf
- A103B-LEVEL 3 PLAN.pdf
- A104A-LEVEL 2 PLAN.pdf
- SK24A_P1-VIEW OF NEIGHBOURS FROM INSIDE .pdf
- SK25A_P1-VIEW OF NEIGHBOURS FROM BALCONY.pdf
- SK102-LEVEL 4 PRIVACY ANALYSIS.pdf
- SK103-LEVEL 3 PRIVACY ANALYSIS.pdf
- SK104-LEVEL 2 PRIVACY ANALYSIS.pdf

2.0 STATEMENT OF MODIFICATIONS

Below is a list of all requested amendments to both the plans and the Conditions of consent. These items are then addressed individually below.

- **Removal of additional privacy screens as added in Condition 9.**

This includes:

- Level 4 – removal of additional 2m extension (previously proposed privacy screens to remain).
- Level 3 – removal of additional 2m extension (previously proposed privacy screens to remain).
- Level 2 – removal of full length of privacy screen alongside of walkway (replace with translucent film if necessary).

- **Amendments to RLs as show on plans and section.**

The current approved plans show only one RL per floor, but this does not specify if it is a Structural Floor Level (SFL) or a Finished Floor Level (FFL). Amended plans now show both SFL and FFL.

- **Deletion of Landscape Plan .**

With the approval of the separate DA for the lower garden area, which includes specific landscaping selections, there is now a conflict with the current approved landscape plan A106 Issue B and replace it with a new landscape plan, as attached (A106 Issue D).

**S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 2**

- **Deletion of Condition 16.**

Clause 16 requires all new landscaping to be entirely composed of Sydney Coastal Sandstone PCT. The landscape plan has been amended to remove the section below the retaining wall, as this area is now covered by a separate DA (which will be planted with plants entirely from that PCT).

- **Removal of Condition 35.**

With the removal of the land below the retaining wall now as part of the separate DA and the only remaining landscaping being smaller areas around the lift shaft (Level 5) and pool (Level 1) it is requested that the necessity for this landscaping to be completed prior to OC be removed. The Client wishes to be able to move in and then complete the landscaping while they are living on site.

- **Removal of Condition 38.**

Similarly to the item above, client wishes to delete this from the necessity to be done prior to OC.

- **Amendment to Condition 40.**

The Client wishes to streamline the possibility of making a request to the Certifier occupy the site prior to completing the entire works. This is just a matter of timing as they have a necessity to move out of their current place of living ASAP. While this request will be made to (and decided upon) by the Certifier (which in this case is Council) this request will be judged against the conditions of consent. As such, it is requested to amend Condition 40 to remove the words “any interim”

- **Amendment to Condition 41.**

This is a minor issue but the same as the request above, to remove the words “any interim”.

3.0 Analysis of Proposed Amendments

3.1 Deletion of Privacy Screen additions

The request in the S4.55 is to:

- Level 4 – removal of additional 2m extension (previously proposed privacy screens to remain).
- Level 3 – removal of additional 2m extension (previously proposed privacy screens to remain).
- Level 2 – removal of full length of privacy screen alongside of walkway (replace with translucent film if necessary).

The proposal has been designed to minimise visual privacy impacts and be sympathetic with neighbouring properties.

The view from most houses is quite panoramic – looking out at the view. There is little need to choose to look in a direction other than toward the North-West through to South-West. But as demonstrated in the Diagrams, most of the surrounding buildings are do have a particular orientation slightly toward the North West, to make the most of the key

S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 3

view, which is the view up Bantry Bay. And the design of most houses reflect this – with service windows facing the South and main windows facing the West and North. This is a repeated pattern, and it occurs in both neighbouring properties also, particularly in No.97.

To the north No 97 is not impacted by overlooking from the proposed building at No.95 as they have few openings in their southern elevation and have installed their own privacy screen in their deck area looking at the southern boundary into the proposed site.

In designing the proposal for No.95, the extent of protection of privacy for No.97 was carefully considered. The issue had been raised by the neighbour before the DA lodgement and translucent glass and privacy screens added to the Office on Level 5. It was also considered that an adequate setback was maintained in the proposed building facing north where a window opening was proposed. All the window openings proposed in the northern elevation are provided with adequate setback from the neighbouring building as well as located beyond the building line of the neighbour.

When the application was lodged and reviewed by Council, further concerns in regards to privacy and overlooking was raised by Council and also in the neighbour's objections. A number of key amendments were made that provided a remedy for these concerns, including:

1. Removal of trafficable area from the (previously approved) terrace on Level 4 (Master bedroom) and Level 3 (Living Room level). The glass balustrade was pulled back away from the edge to reduce the possibility of overlooking.
2. The window sizes for windows facing North toward No.97 were reduced.
3. Privacy screens were proposed for the Northern edge of Level 4 and Level 3. Each of these privacy screens were demonstrated in the DA with CAD modelling as being able to provide an appropriate level of privacy for the neighbour.

In the finalisation of the DA assessment, the Assessing officer added a condition that increased the extent of these privacy screens, primarily due to the level of complaints raised by the neighbour.

Amended CAD modelling has been produced to show how the original extent of privacy screens are in reality quite sufficient to protect the privacy of the neighbour

It is submitted that these additional screens were unnecessary and worse, they dramatically impact on our Client's amenity by knocking out precious winter Northern sun and making the living spaces feel cage-like, as follows:

- a. The entire house of No.97 is obscured by the provision of the original privacy screens, when viewed from inside the rooms (Master Bedroom, Living Room). As the majority of time is spent in the internal spaces of a home rather than the external spaces, this is an adequate protection of privacy.
- b. While it is acknowledged that once you step outside it is possible to turn and look back at No.97, it has to be recognised that this outlook must be taken in its context, which is that this view is *only* achieved by looking **back** (toward the North-East) at

S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 4

No.97, when the view at this point is clearly drawing the eye North-West and West toward the water.

- c. Even the view back to the neighbour is screened to some extent by their own privacy screens and any view to No.97 is to their (multiple) balcony spaces – not inside their house.
- d. While the additional screens will undeniably further reduce this view back to the neighbour, it is really at the expense of the amenity for our Client with no positive outcome for the neighbour.
- e. The increased length of privacy screens will actually block the South-Western water views from No.97.
- f. The proposed addition of the privacy screen along the north edge of the balcony on Level 2 is unworkable. This balcony is an existing approved structure (previously constructed prior to our Client purchasing the site), and there is only just enough space between the building and the edge of the balcony for a balustrade, or for the stair down. There is not enough width to install a privacy screen in this area.
- g. Bedroom 2 is a secondary bedroom and quite low down in the site. The retaining wall beside the bedroom comes up to a height of around 1m above the finished floor level at that point. As the main window and door for that room is the West facing windows and doors facing the view, it is considered that the norther window is mainly for capturing the much-needed Winter sunlight. Adding a full screen along this edge very much affects that outcome.

These points are demonstrated in the diagrams included in this application and in the photo analysis below.

**S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 5**

4.0 Photo Analysis

The following photo analysis assists to validate the points raised above.

Panoramic North-West to South West view from Level 4 (Inside Master Bedroom)



Panoramic North-West to South West view from Level 3 (Inside Living room)



Panoramic North-West to South West view from Level 3 (Outside Living room)



**S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 6**

LEVEL 3 LIVING

Demonstration of privacy screen impact on Owner with no benefit to neighbour



**S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 7**

LEVEL 2 BEDROOM

**Demonstration that privacy screen on window provides sufficient privacy to neighbour –
no need for screen to outside of walkway**



S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 8

LEVEL 2 WALKWAY

Walkway too tight to include a privacy screen between edge of walkway and external staircase. Note neighbour has their own entirely unscreened external staircase.



**S4.55 APPLICATION
95 GURNEY CRESCENT SEAFORTH
FEBRUARY 2021
PAGE 9**

5.0 Development Controls

5.1 Height

The S4.55 does not amend the approved height of the building.

5.2 FSR

The S4.55 does not amend the approved FSR of the building.

5.3 Sunlight Access and Overshadowing

The S4.55 does not amend the shadow impact of the building.

5.4 Privacy and Security

This is covered in the explanation above.

5.5 Maintenance of Views

The S4.55 does not amend views from neighbouring buildings other than as noted above. Removal of Condition 9 would open up the South West view from No.97.

5.6 Open Space and landscaping

The S4.55 does not amend the approved open space or landscaping for the building.

5.7 Parking, Vehicular Access and Loading (including Bicycle Facilities)

No change

5.8 Biodiversity, Flora and Fauna Assessment

As noted in the request above, the S4.55 seeks to draw a line between the portion of the site that must follow the Biodiversity plant selections of the Sydney Sandstone PCT and the smaller portions of gardens directly surrounding the residence. It is requested that these be allowed more flexibility in final plant selections as they relate more to the house and its private open space areas.

5.9 Bushfire

The approved bushfire controls are somewhat at odds with the Landscaping policy requirements, which requests a larger number of trees and large shrubs to be planted closer to the building than the bushfire policy allows. This has been taken into consideration in the landscape plan of the now approved lower garden area and as such it is requested that the current approved landscape plan be adjusted.

6.0 Conclusion

While this S4.55 application is a request to tidy up some details it is mainly submitted to request the removal of Condition 9 which was added to the approval at a late stage in the assessment.

As have been demonstrated in this application, the additional privacy screens added in Condition 9 are really not required to protect the neighbour's privacy and that a considered strategy to protect their privacy had already been considered.

The impact of these screens on our Client is quite extreme. They block sunlight (which is particularly an issue for winter) and quite unnecessarily block the major water views up Bantry Bay.

The privacy screens as originally intended are sufficient to do the job and we submit Condition 9 should be deleted.

We trust Council will reassess this positively and look forward to Council's response in this matter.