

Date: 28 November 2022

To: Northern Beaches Council

Attn: Michael French, Assessing Officer

**Dear Sir:**

**RE: DCP SETBACK NONCOMPLIANCE RAISED IN RFI**

**PROPERTY: 79B WANGANELLA STREET, BALGOWLAH**

**DA: DA2022/1375**

Sky Planning has been commissioned by Ian and Bianca Perry, the owners for the abovementioned property, to respond to the setback non-compliance item raised in Council's letter dated 28 October 2022 regarding DA2022/1375.

Setback Non-compliance:

***Mainly Development Control Plan***

*Side Setbacks and Secondary Street Frontages*

*Clause 4.1.4.2 requires that setbacks between any part of the building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.*

*The required first floor setback on the north side is 2.3m. The development proposes a 1.6m setback, causing a 30.4%.*

*Therefore, council requires that the First Floor Addition is setback 2.3m from the northern side boundary to comply with clause 4.1.4.2.*

**Response:**

The subject site is located at 79B Waganella Street, Balgowlah, legally described as Lot A on DP328579. The property is a dual occupancy adjoining with 79A Waganella Street.

The residential density of the street and immediate surrounding area ranges from low to medium density. It is a relatively built-up area characterised with battle-axe subdivisions and low-rise residential apartment buildings (RFB).

Immediately adjoining the site to the rear is a battle-axe lot with a dual occupancy. Adjoining to the north is a town house development with the driveway running along the entire northern subject site boundary. Opposite the street are townhouses in a battle-axe configuration and a 4-storey RFB.



The first floor addition proposed for this property is to accommodate for a growing family as well as modern day living needs including space to work from home. The first floor addition is a modest 51sqm in floor area which can accommodate 1 x master suite and 2 x bedrooms, the layout is compact and designed for optimal function.

The site itself is only 6.4m wide. A setback of 2.3m is almost 1/3 of the site width in this case. The very narrow site and existing building footprint together create a limited buildable area for the first floor that can provide the required living space for modern day needs in a functional and well-designed layout.

With the proposed setback of 1.6m to the northern boundary the 2 x bedrooms can currently achieve a 2.3m width which is already a constrained dimension. If the setback was to increase to 2.3m as per the council control ,the bedrooms would be reduced to approx. 1.9m in width which creates an undesirable and dysfunctional bedroom layout.

Therefore, strictly meeting the setback in this regard would mean losing one of the bedrooms for this family. It is reiterated that the proposal has been made to be fully compliant with FSR and is a modest proposal despite the setback noncompliance which arises as a result of the constrained site width.

Despite the non-compliance the proposal can still meet the objectives of the development standard as addressed herein:

#### **4.1.4 Setbacks (front, side and rear) and Building Separation**

##### **OBJECTIVES**

- 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

##### **Response:**

The proposed first floor addition fits contextually with the surrounding development. The FSR and height is fully compliant demonstrating this is a modest development that is within the bulk and scale expected by council on this site. Also the site benefits from a driveway along the northern boundary on the adjoining site providing enhanced spatial separation between the adjoining properties.

A review of the surrounding area shows there are other examples of similar development nearby of first floor additions and new builds that have variations to the setback controls. These are provided in the accompanying table below.

**59 Wangella Street,  
Balgowlah**



**4 Angle Street,  
Balgowlah**

**example of first floor  
extension being built  
close to the boundary  
line in - 450m from  
subject site.  
Renovated in 2020  
under CDC.**



**4 Angle st Balgowlah  
First floor added in 2020**



**2 Viotet Street,  
Balgowlah**



**7 Hill Street,  
Balgowlah**



**263 Sydney Road,  
Balgowlah**



2) *To ensure and enhance local amenity by:*

- a. providing privacy;*
- b. providing equitable access to light, sunshine and air movement; and*
- c. facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- d. defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- e. facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Response:

**The impact of the non-compliant setback has been analysed in this regard it is concluded that it is absent of any adverse impacts on both neighbourhood character and adjoining properties.** Firstly, the immediately adjoining property to the north is a townhouse development and the driveway for these dwellings runs along the entire boundary line. The private open space for these homes are located on the northern side. As such the site benefits from the location of the driveway

which provides an increased separation between the proposed first floor and the dwellings located on this adjoining site.

Specifically, the separation distance to the townhouses to the north is 5m as shown by the red dotted line in the image below. This 5m distance ensures that a reasonable level of privacy and amenity can be maintained despite the first floor noncompliance. In any case, the windows located along this northern elevation all have a sill height of 1.6m to reduce overlooking and privacy impacts.

There will be no overshadowing impacts arising as a result of the noncompliance as the site faces east and shadows will be cast to the south over the roof of the dual occupancy itself.

This modest development has been thoughtfully designed and it ensures that any impacts created will not be above or beyond that of a fully compliant design.



3) *To promote flexibility in the siting of buildings*

N/A – first floor addition

4) *To enhance and maintain natural features by:*

- a. *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*



- b. ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- c. ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

N/A – first floor addition

- 5) To assist in appropriate bush fire asset protection zones.*

N/A – first floor addition

Summary:

It is considered that the proposed development meets the relevant DCP objectives for the reasons outlined in this letter. The proposed first floor addition will significantly improve the quality of life for the occupants and the aesthetic quality of the site when viewed from the public domain.

Whilst the proposal requires the consent authority to give favourable consideration to this DCP setback variation, strict compliance has been found to be unreasonable having regard to the particular circumstances of the case, including the site constraints as well as the resulting positive outcomes without any adverse amenity impacts. This is considered to be sufficient environmental planning grounds to support this minor variation.

We trust this information is sufficient for your purposes, however should you require any further information, please don't hesitate to contact us.

Kind regards,

**Melissa Neighbour**

BEnvPlan(Hons), DipPM

PIA Membership #10605

Sky Planning

Principal Planner