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15/11/2019

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**RE: DA2019/1173 - 3 Berith Street WHEELER HEIGHTS NSW 2097**

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RE: DA2019/1173 - 3 Berith Street WHEELER HEIGHTS NSW 2097

To whom it may concern, DA2019/1173 3 Berith St

DA description ( GEOTECHNICAL Report):

Demolish the existing house and construct a new two-storey apartment block and basement car park by excavating to a maximum depth of 4.7m.

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I am against this development for many reasons. I will list some below and may do a follow up submission.

This list is not in order of importance.

I have no confidence in the building/planning skills or integrity of the developer due to the appallingly sloppy standard of most of the required documentation provided or indeed missing. Even 'corrected' documents continue to contain major errors.

There is no evidence that the developer has read and worked to meet the 'SENIORS LIVING POLICY Urban design guidelines for infill development'

<https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/seniors-living-policy-urban-design-guidelines-for-infill-development.pdf>

Their plan does not:

- have a high standard of urban design
- provide a high level of amenity for both new and existing residents
- improve neighbourhood fit
- reduce impacts on streetscape
- reduce impacts on neighbouring properties
- improve internal site amenity.

Council please note that 'Consent authorities are also required to take these guidelines into consideration when assessing applications for infill development made under the policy (Cl. 29)'

Some specifics

## 1. The DA does NOT fit the neighbourhood

There are no other 'apartment blocks' in the residential streets of Wheeler Heights or Collaroy Plateau.

This is a money grabbing example, of incremental expansion of land developed, for Housing for Seniors or People with a Disability, in a very small area of residential Wheeler Heights/Collaroy Plateau/Narrabeen (War Vets Lantana Ave). Key changes to the SEPP became effective 1 October 2018 designed to allow sensible, fair planning and scrutiny of these SEPP DAs. <https://www.legislation.nsw.gov.au/#/view/EPI/2004/143/chap3/part1a/cl24> Clauses 24 and 25. Under these changes the following wider view must be seriously taken into consideration and acted on.

- This DA is only one block from 4\* other large 'Housing for over 55 and disabled' approved developments. This DA will make around 746 'over 55 places' within a block, and definitely within 1 kilometer of 3 Berith St Wheeler Heights.

\*34 Rose (completed), 44 Rose (in construction), 37 Lantana Ave (approved), Lantana Ave War Vets (in construction) plus the rest of the War Vets 700 'homes for independent residents maintaining an active lifestyle'.

### NOTE

The units at 44 Rose Ave have largely remained unsold which would indicate a lack of demand for more SEPP (seniors) housing here in this kilometer radius.

- Where is the 'Cumulative Impact Study' to be provided when an application is lodged within a 1km radius of 2 or more other Seniors SEPP applications/developments. Clause 24

- Where is the Site Compatibility Certificate provided by NSW Department of Planning and Environment.

<https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/seniors-or-people-with-a-disability-site-compatibility-certificate-application-form-2018-10-08.docx?la=en>

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## 2. Nothing to stop an 'over 55 etc' from selling to anyone at a future date (12 months)

Strict conditions of consent must be imposed, to ensure that these units cannot ever be sold off as individual town houses that are no longer under the covenant of seniors housing.

2.1 Impose conditions of consent requiring a covenant on the title/s which prohibits the use of the land for anything but housing for seniors or people with a disability. (Section 88E of the conveyancing Act)

The following positive covenant to be registered on the title of this development and all future SEPP (Senior) DAs which states:

'that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household as seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provisions of services to housing provided under this policy.'

2.2 Include occupancy restrictions in the Planning Certificate (Under Section 149 certificates) and all future ones.

2.3 Implement Council's Policy on Affordable Housing by imposing a restrictive or positive covenant on the land requiring the continued provision of a number of affordable places, i.e. priced a lot less than the advertised for Rose Ave units from \$1,460,000.

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### 3. Streetscape

It will have a huge impact on the streetscape of Berith St, which is residential, with large blocks with houses set back a long distance from the street. Where there is a garage or building in front of a house it is one storey.

This DA includes a large boxy 2 storey building covering the whole block frontage. The developer is attempting to hide the ugly building behind the large Liquid-amber on the nature strip, however if they are to provide the required disability access into the building\*\* and out to buses etc for wheelchairs and motorised scooters, this tree will have to be removed, leaving a huge, out of character, eyesore, block of flats. See Drawing no. A08 WEST ELEVATION on 'Plans - External updated with additional plan - 11/11/2019'

\*\* Current plans for entry and exit path directly into the tree T1. A07 and Footpath Plan on 'Plans - External updated with additional plan - 11/11/2019'

- The plan must be reduced from 6 dwellings to a maximum of 4 dwellings that include at least one single story.

- The single story dwelling/s must be at the front of the block, set back on the same line as neighbours' houses.

- The maximum height of any single storey dwellings, including the HIGHLIGHT WINDOWS and anything else on the roof, is to be no higher than the existing house's pitched roof at 3 Berith St, to ensure no loss of sun and existing district views to Sydney Bahá'í Temple for 5 Berith St.

- Parking must be provided on the same level as dwellings and not underneath - ie not in a ~4.7 m deep excavation. e.g. See 34 Rose Ave over 55 development.

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### 4. Neighbours' sun and privacy

The buildings will impact dreadfully on neighbouring properties' sun and privacy, as well as cause damage from the excavation of ~4.7 meters in solid rock close to neighbours' boundaries.

As there are not 'to scale' drawings of the proposed buildings in relation to neighbours' buildings, I would request that there be installation of height poles on the development site to demonstrate the height and envelope of the works, including to the top of the HIGHLIGHT WINDOWS as these are well above the roof height, and take into account any lift, water or other items that will be above the roof. The height poles must be checked and certified by a Registered Surveyor as being accurate with relevant certification submitted to Council.

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### 5. Asbestos

I have No confidence in the developer to safely handle the removal of the asbestos that is on and in the house and shed at 3 Berith St, as they have repeatedly attempted to hide the existence of asbestos on 3 Berith. Incorrect removal presents an enormous health risk to the neighbourhood and in particular to the children at the adjoining Wheeler Heights Primary School.

- Despite knowing the house and shed are asbestos clad the developer has repeatedly referred to the buildings to be demolished as 'Brick with tile roof and shed' This has not been changed in most of the current documentation.

- A Demolition Plan has not been provided despite being ticked as included in Development Application Form, and as A12 in 'Plans External'.

After questions being asked by concerned residents 'Demolition Notes' were added to Plan - A12 DEMOLITION - 8/11/2019.

These are so tiny it is difficult to read and in no way meet the reasonable requirements for a Demolition Plan: Where a development requires demolition of an existing building, full details of the age and condition of the buildings or works to be demolished must be provided.

- As the buildings were built before 31 December 2003, the developer must provide a register that outlines when and where asbestos has been located, what type it is, and what condition it's in. This is to be also provided to any workers on the site.

<https://www.safework.nsw.gov.au/hazards-a-z/asbestos/asbestos-at-work/working-with-asbestos-accordians/keeping-an-asbestos-register>

- There must be 14 days notice for Asbestos removal for All neighbours on the Notification map.

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6. The Geotechnical Report highlights how inappropriate this development is for this street. It reads more like a development in an industrial area or high density area, not a quiet street that includes key access to a primary school.

Given the demonstrated lack of integrity and building design ability of the developer I am very skeptical that the developer will follow the conditions to be met to remove the 2 'UNACCEPTABLE' hazards.

Once the building is built without suitable controls and inspections council could well have another 'Opal Tower' to deal with.

Hazard One: The vibrations produced during the proposed excavations impacting on the supporting walls of the neighbouring houses.

Hazard Two: The proposed excavation is a potential hazard until retaining walls are in place. This level of risk to property is 'UNACCEPTABLE'. To move risk to 'ACCEPTABLE' levels the recommendations ... are to be followed.'

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7. Other Excavation requirements

Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land

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8. Building the development will damage neighbouring properties.

A Dilapidation Report\*\*\* must be carried out before any demolition or excavation of site.

\*\*\*A Dilapidation Report is a photographic survey of adjoining properties of adjoining property assets, detailing the physical condition of those properties, both internally and externally (as appropriate to the proximity of site work risks), including such items as walls, ceilings, roof, structural members, access and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require

rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent. In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. (Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible). Reason: Proper management of records to minimize dilapidation risks (DACPLDPC1)

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9. Report - BASIX Certificate is not valid as the details provided by the developer to the Building Sustainability Assessments department are incorrect according to the DA provided to Council.

'BASIX Certificate 952573M\_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below.'

This certificate number: 952573M\_02 on:

- P2/20 Description of project has all 6 units with 3 bedrooms
- P9/20 - all dwellings = 3 bedrooms

However the DA provided to council specifies 2 X 2 bedrooms and only 4 X 3 bedrooms.

This means many measurements used in the BASIX Certificate must be incorrect and a new certificate needs to be applied for with the correct information.

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10. Accessibility

DA2019/1173 does not meet the requirements for the following Clauses and sub-clauses in the Housing for Seniors Policy (SEPP HS)

Clause 26 - Location and access to facilities

- (2) Access complies with this clause if: (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway
- (4) For the purposes of subclause (2):(a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like,

Clause 38 - Accessibility: The proposed development should:(a) have obvious and safe pedestrian links from the site that provide access to public transport services and local facilities.

10.1 Page 5 of the 'Report - Access' It is not 'The Rose Ave' site.

The development is contained completely in 3 Berith St which is not on the corner of Rose Ave.

This is misleading in regards to required accessible access.

10.2 It is not possible to provide 'a suitable access pathway' or 'obvious and safe pedestrian links from the site'

This is due to the DA proposal to keep Tree T1 which is a large Liquidambar styraciflua (Liquidamba) - an Exemption Species.

On the Site/Ground Floor Plan it is shown as right in the middle of the only designated accessible entry/exit to the complex.

T1 Liquidambar styraciflua (Liquidamba) - an Exemption Species must be removed to ensure that over 55s and people with disabilities using electric wheelchairs, motorised carts or the like, or pushing grandchildren in strollers will be able to safely collect their mail, take out their bins and go to the shops or bus stop in perpetuity.

As council is aware, cutting back the roots of Liquidamba and putting a 'concrete path pavement'\* over them will not stop the roots from rapidly lifting the cement and again posing a significant trip hazard making accessibility impossible for the over 55s or people with disabilities using electric wheelchair, motorised cart or the like trying to access transport, shops or mail. And bitumen is not a viable solution for what will be a busy path used by people in wheelchairs, with walkers or motorised carts.

\*Concrete path pavement' the Legend on GD01-Landscape Plan in 'Plans - External updated with additional plan - 11/11/2019')

This tree (T1) falls into the same category as the over 33 mature trees in Oaks and Howard Avenues that Council approved to be removed. As an accessible path is required for this development the tree should be removed and deleted from the plans.

When this tree is removed from the plans the proposed complex is revealed to be completely out of character and a huge visual intrusion into a quiet suburban street.

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11. To ensure the safety for school children and families accessing Wheeler Heights Primary School daily from Berith St. There must be no trucks in Berith St during school zone periods: 8 - 9:30am and 2:30 - 4 pm

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I am absolutely against this development.