

19th July 2022

Northern Beaches Council
PO Box 82
MANLY 1655

RE: 45 THE ESPLANADE, FRENCHS FOREST – RESPONSE TO REQUEST FOR INFORMATION

I refer to the request for information made by Northern Beaches Council on 5th July after a preliminary assessment of the application was completed. We have responded to each item raised in the request for council to review and continue with the assessment accordingly.

1. Proposed Works:

We have sought clarification from the owners and they did indeed engage their demolition company to issue the Complying Development Certificate. We seek to remove the demolition works from our application this was a misunderstanding prior to lodgment.

2. BASIX Certificate:

Noted, an updated certificate has now been provided.

3. Clause D8 Privacy of Warringah Development Control Plan 2011:

The owners are concerned with compromising on their upper level windows and the amount of light which will come into these rooms. When discussing the concerns of council with the owners it was noted the proposed dwelling outcome is a better outcome for council and the neighbours than the current dwelling and rear deck. They have sent their own comments via a separate email which they would like to be noted and form part of council's assessment. These comments have been included within Appendix 1 of this letter.

We have reviewed each requirement of Clause D8 in Warringah DCP 2011 below with justification and amicable compromises to the design to comply with council's request. We are open to these being conditioned within the DA Consent if possible.

1. *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*

The current dwelling on the site (approved to be removed) currently faces The Esplanade and orientates all of the private open space and backyard which directly is viewed and can be viewed by the surrounding neighbours. This proposal has sort to better suit the site by positioning the sites frontage to Trigalana Place and allows for better distances and clearance to the boundaries. The distance to the rear boundary can therefore be increased to further protect and enhance the privacy of all occupants.

The natural topography of the site is lower at the rear and the neighbours below are naturally lower due to this. Some degree of overlooking is always going to be

applicable. The purpose of this rooms to have larger windows is to gain additional light and wellbeing to the main occupants of the dwelling and to have a view over the houses below to take in the surrounds. A luxury which is applicable to many other dwellings along the streetscape. The northern elevation is burdened by older homes which have larger decks in the front of the yard that will look directly onto this elevation, hence why smaller windows have been selected to shield privacy from the street and neighbours. The southern boundary is closely boarded by an adjoining neighbour which is of no benefit to either party, smaller windows have also been selected here. The rear elevation is the only other elevation which can provide a clearance of over 9m to the dwelling and a sufficient rear setback. The owners are willing to account for tree planting to screen along the rear boundary and obscure glazing to the deck balustrade as a condition of consent.

2. *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*

As mentioned above the proposal has tried to maintain the existing house and the layout it had to appropriately address the setbacks and neighbours' footprints. The lower ground level achieves the private open space through a second living area. The upper level contains the main living space which does achieve the most amount of light and ventilation to the home. The larger windows and deck from the main living area are setback almost 9m from the boundary and with the proposed screen planting and distance from the surrounding properties we are not anticipating overlooking to any neighbouring dwellings in this current location. The existing home is further setback on the site and has a greater impact then the current proposal. This design adequately address councils concerns and we do believe complies with councils DCP and we hope merit can be seen in this approach.

3. *The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screen devices, high sills or obscure glass.*

As noted above we have proposed additional measures in this response to council namely the tree planting (screening) along the rear boundary and obscure glazing to the deck balustrades as secondary measures. The proposal is distanced on the site and we struggle to believe the natural topography at this distance, site fencing and the tree planting would have clear overlooking opportunities into this rear dwelling (eastern boundary). We hope merit can be given as we have tried to address council's concerns and the owner's intensions for the proposal, we hope a mutual arrangement can be made.

4. *The windows of one dwelling are to be located so they do not provide direct or close views (i.e. less than 9m away) into the windows of other dwellings.*

The windows and placement of all windows along the structure have been designed with the surrounding owners in mind. The only dwelling which is within 9m of the current position is Lot 35 (southern side neighbour). These windows are smaller windows are for light and ventilation only and not the amenity of occupants. The only elevation which displays larger windows is along the rear elevation to extend the amenity and use of the space as the main living areas. The highlight of the windows we understand are naturally raised due to the natural topography. The distance to the neighbours below to the east are more

than 9m away. The direct neighbour to the each has a setback of 9m to their rear boundary.

The owners have also suggested the current dwelling is further forward from the rear boundary and therefore this current proposal is a better outcome to the site and neighbours. This proposal does not create as much disturbance or overlooking potential to that of the existing dwelling.

The owners have agreed to tree planting to act as screening to protect both the neighbour and their privacy from the main living area. The current dwelling is further situated on the lot and has a direct view into the neighbour's private open space. The owner/s have agreed to tree planting along the rear boundary if this is amenable to council as well as the addition of obscure glazing to the balustrades around the deck area.

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

Although this is not directly applicable in this instance as we are not an apartment building or structure. The principle private open space for the dwelling is located on the lower floor of the structure and is directly accessible from the rear elevation rumpus room. The upper level deck does shield and protect the space below and can offer versatile uses to the space for all season use.

We do believe we comply with the objectives of the clause and a high of visual and acoustic privacy can be achieved in this proposal. This is the owner's intention with the larger windows to the upper level to further increase their own opportunity on their lot. The additional measures proposed are to also further enhance the surrounding properties. These innovative design solutions will help to improve development across the area and if further re-development is to occur in this current street.

The proposal does comply with the Northern Beaches Council and we hope we have addressed all concerns within this response. The application we have presented to council appropriately addresses the site constraints and the concerns of the surrounding properties.

If you require any further information, please feel to contact myself on 4945 4000.

Yours faithfully
Montgomery Homes



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APPENDIX 1

The Owners have provided the below responses to the neighbor's submissions against the development

28 Jindabyne St

He states in his submission *"would like to state my objection to the planned deck on the Eastern side of the development, on the grounds it will have a huge impact on my privacy. The deck, being on the high side of my property and being so close to the boundary will totally overlook my entire rear yard, pool area, deck, kitchen, lounge, dining, toilet and bathroom therefore providing a constant grandstand view of me and my property."*

We would contend that his privacy will be less impacted than it is by the existing house. From our current balcony we are already able to overlook his rear yard, pool and deck. Indeed, until we built a wooden screen a few years ago, we were able to overlook his pool from the concrete patio on the south side of the house, lower than the balcony. The deck in the planned development is a further 3 three metres further away from his boundary than our current deck. We cannot currently see inside his house and being placed further back will not increase the likelihood of being able to view the internals of his property.

30 Jindabyne St

They state *"The loss of privacy is significant for both properties where the deck and windows will overlook the houses, yards and pool areas. The existing building has a small balcony"*

Again, we would contend that their privacy will be less impacted than it is by the existing house remaining. The current balcony is 13 sqm, triangular in shape. The current balcony has a south-east aspect and looks directly over their backyard at a south/east angle. The proposed balcony will face east and be placed 3 three metres ~~back~~ further from the east boundary, and roughly in line with the rear corner wall of 29 Trigalana Place. Thus, the new proposal will have the effect of increasing their privacy

"The existing building does not have the same large windows overlooking our property."

- The living room in the existing building has a window along the balcony that faces south is 3m x 1.3m, as well as glass bifold doors 3m wide that both look directly into their backyard. In addition, there are 4 windows and a small deck on the south of the current building that looks directly into their upstairs bedrooms since their extension.
- The proposed windows in bed 1/meals are smaller than the current window and will face east, giving more privacy
- On the plans it looks like the proposed deck and windows will be 11m to the from the eastern boundary fence with them, plus the distance of their backyard.

They proposed - "The eastern window of BED1/MEALS is reduced in size and set high to match those of the southern aspect."

He is referring to the ensuite and bathroom windows. Having windows this size would have an adverse effect on our living area

- We would definitely plant screen plants along the rear boundary fence.
- We would consider translucent glazing for the railing around the deck if we HAVE to.