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**Sent:** 23/04/2019 11:17:30 AM  
**Subject:** DA2019/0081  
**Attachments:** Objection Letter - 307 Sydney Road and 12 Boyle Street Balgowlah.pdf;

Hi Benjamin,

Please find attached an objection letter from our client in relation to the above mentioned development application.

Kind regards

**Josh Taylor-Real**

Principal Planner

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Dear Ben Price,

**Re: Public Notification – DA 443/18 – 307 Sydney Road and 12 Boyle Street Balgowlah**

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## 1 Introduction

Outlook Planning and Development have been engaged by the owner of unit 6 10 Boyle Street Balgowlah to review the application for a residential flat building at 307 Sydney Road and 12 Boyle Street Balgowlah. Our review of the DA has been based on the information that is available from Northern Beaches Council's Website.

## 2 Background

A Development application was submitted to Northern Beaches Council on 04/02/2019 for "demolitions works and construction of residential accommodation" at 307 Sydney Road and 12 Boyle Street Balgowlah as shown in the image below.



The subject site is zoned R1 General Residential.

## **Zone R1 General Residential**

### **1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

### **2 Permitted without consent**

Home-based child care; Home occupations

### **3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Water recreation structures; Water recycling facilities; Water supply systems

### **4 Prohibited**

Advertising structures; Water treatment facilities; Any other development not specified in item 2 or 3

## **3 Development History**

A development application (DA2018/0355) was lodged on 7/03/2018 for the construction of 6 x 3 bedroom apartments and 1 x 3 bedroom dwelling house with basement and off street parking for 13 vehicles. The application was subsequently withdrawn as a response to a high number of concerns by the community and the assessment officer regarding privacy, view loss and parking considerations. The application was resubmitted with the applicant explaining the project was redesigned to address the concerns from Council and the objectors.

## **4 Planning Submission**

### **4.1 Plans Provided**

The plans provided with the development application are difficult to read due to the number of different buildings. It is noted that the three buildings located on 307 are missing their western

elevation in the plans. Additional information should be requested with elevations and sections provided for each building on the site.

## **4.2 Heritage**

The site incorporates a heritage item being the dwelling at 307 Sydney Road. The listed heritage item also includes the neighbouring dwellings at 303 and 305 and together the group of three P&O dwellings and their grounds form the example of thirties modern functionalist style. The homes are known as “Group of Homes” with the Heritage Inventory Sheet for the item being updated on 17 March 2008 with a note explaining that the inventory sheets for the area are in the process of being updated.

The physical description of the “group of homes” is:

*Generally intact example of modern style architecture in rendered brick with flat roof. Significant and typical elements include the strong horizontal elements, notably bands of render; original glazing in fine leadlight; curvilinear form; entry porch and low front fence.*

The proposed development seeks consent to heavily modify the heritage item with the addition of a new floor above and internal modifications to the existing floor plans. Additionally the heritage item will be dwarfed by the development at the front and rear of the item and in doing so will lose all heritage value. It is considered that the design of the development will not help to retain any heritage value for the item. The heritage report provided by the applicant essentially treats the application as if the item were to be removed by suggesting historical evidence by way of photographs could be taken of the item prior to construction.

It is considered that the application should be refused based on heritage grounds as the application is seeking consent for development that will lead to the destruction of a heritage item. The application should retain the heritage item and the design of the development should respond to the retention by maintaining a low scale of development on the site.

## **4.3 Height**

The proposed development results in breaches to the maximum height of 8.5m on both Lots as shown in the proposed plans. While the breaches are considered minor they are a result of the boxed design of the development that seeks to maximise on the site area and providing insufficient side setbacks. It is considered that the height breach while minor shouldn't be accepted to the high number of non compliances particularly around view loss, overshadowing and general setback controls.

## **4.4 Floor Space Ratio**

The proposed development results in a non-compliant FSR of 62.5sqm. A 4.6 variation was provided with the application. It is considered that the 5.9% non-compliance to the development standard is excessive considering the number of non-compliance and considering the dwelling density and landscaping provisions for the site. It is considered that the proposed development should be reduced in size to seek compliance with the controls. The application for variation should not be supported by Council.



#### **4.5 Setbacks**

The proposed development provides numerous side setback non-compliances. The development seeks consent for buildings that should be sited approximately 2.8m off the side boundaries as the wall height of the development is around 8.5m. The plans show setbacks of less than 2.8m and therefore it does not comply with the control. It is considered that as the development results in substantial impacts on overshadowing and view impacts that the non-compliant setback should not be accepted. Amended plans should be provided to provide more separation between the proposed development and the adjoining properties. The amended plans should also consider overshadowing and view sharing in the redesign to seek compliance with those controls. Where amended plans do not sufficiently address the concerns then the application should be refused.

#### **4.6 Visual privacy**

The submitted DA plans only provides a western elevation on the property at 12 Boyle Street Balgowlah and not of the three buildings located on 307 Sydney Road. Additionally, north and south elevations of 12 Boyle Street Balgowlah have not been provided. It is difficult to determine whether visual privacy will be an issue without sufficient plans showing window locations.

Additional plans are requested to show the additional missing elevations of all buildings to assess the visual privacy impacts the development will have on our client's property. Upon receiving these plans we would also expect a renotification of the application due to the applicant not supplying a full set of required plans as per Schedule 1 of the Environmental Planning and Assessment Regulations 2000.

#### **4.7 Solar Access**

The solar diagrams provided shows a substantial impact on 10 Boyle Street with windows and private open space of 10 Boyle Street being detrimentally impacted as a result of the proposed development. It is noted that if the development achieved a greater compliance with the side setbacks and provided articulation into the design of the side walls then the overshadowing impact would be considerably less.

It is considered that the development should be refused based on the substantial overshadowing impacts on 10 Boyle Street.

#### **4.8 Parking**

Access to the basement carpark will be via driveway on the southern boundary of the Boyle Street into a basement parking area. It is questioned whether the access driveway is wide enough to handle the traffic and facilitate entry and exit to the site in a forward direction. Additionally vehicle movements within the site are questioned.

#### **4.9 Dwelling Density**

The DCP specifies a density of 1 dwelling per 250sqm which equates to approximately 7 dwellings. It is considered that the applicant has included the access handle off Sydney Road in the lot size calculations in regards to the density which is approximately 135sqm. When removing this from the calculations the total permissible density on site is approximately 6.48 dwellings. The result of which is that the site provides an additional 1.5 dwellings which is considered to be a clear non-compliance and the application should be refused based or withdrawn to address this issue.

#### 4.10 Open Space and Landscaping

The DCP requires a total open space of 55% and 35% landscaped area.

**Total open space** means that part of a site which is designed or designated to be used for active or passive recreation and includes:

- Landscaped area (see LEP meaning);
- Open Space Above Ground as defined in this DCP;
- Hard paved areas (un-enclosed pedestrian walkways and access paths pergolas, clothes drying and barbeque areas);
- Swimming pools occupying less than 30 percent of total open space; and
- Private open space (including principal private open space) as defined in this DCP.

but excludes:

- any area for parking (including garages; carports; hardstands and vehicular access to that parking);
- out buildings (including sheds, cabanas, cubby houses and the like).

The figure below is an extract from the applicant's Landscape Plan showing the areas of *total open space* in green. The total open space is noted to be 965.6sqm on the plan.



As shown in the definition provided for *total open space* above, the calculation of total open space should not include "any area for parking (including garages; carports; hardstands and vehicular access to that parking)". The plan above shows the access to the carpark for 307 Sydney Road and

the access off 12 Boyle street are both included as total open space. It is questioned how these areas could be utilised by the residents of the site for active or passive recreation. Amended plans should be provided to show an accurate total open space for the site.

It is considered that as the application is shown in the statement of environmental effects to meet the required 55% that with the exclusion of these large areas of the site that it will be deficient in total open space for the site. It is considered that as the proposal seeks to utilise the majority of the site for the development footprint that the non-compliance would not comply with the objectives of the control.

It is considered that the proposed development does not comply with the objectives of the control as the development does not enhance the amenity of the surrounding area and will have a negative impact on adjoining sites.

#### **4.11 Existing Trees**

It is noted that the previously approved development application (DA64/12) was approved by Manly Council on 20 September 2012 for alterations and additions to no 12 Boyle Street. There were specific conditions on this approval which required both the retention of the historic drystone wall and the retention of 3 trees being a date palm, eucalyptus and Cedrous Deodra. These trees should be retained as part of this development.

#### **4.12 Views**

Valuable views are achieved from the eastern windows of unit 6, being the 2 bedrooms. These water views to the harbour are of high value and there is concern from our client that these may be to some degree lost as a result of the development. While the rear component of the proposed development is at a lower level than no.6, it does appear that the lower level units will lose significant views. We believe a more thorough assessment of view loss is required and that Council officers will need to visit the various premises at 10 Boyle Street to ensure this is adequately completed.

#### **4.13 Geotechnical impacts**

The geotechnical report provided with the application requires further testing. It is believed that this testing is essential prior to a consent being issued and accordingly a deferred commencement consent would be the only means to approve an application where such uncertainty remains.

#### **4.14 View Loss**

View loss has been raised as a major concern with the proposed development. The existing building is a heritage item and is positioned in a way so as to not impact on adjoining land owners from a view sharing perspective. The proposed development seeks to maximise on views while compromising on the views currently enjoyed from 10 Boyle Street. A view loss document was submitted with the application with assessment against the planning principle Tenacity V Warringah Council (Planning Principle). An assessment of the development against the planning principle is provided below.

#### **Assessment of View loss against Planning Principle:**

1. The view is currently enjoyed from the bedroom window of unit 6 of 10 Boyle Street with district water views of Sydney Harbour with some land/water interface. The view is considered iconic and is a view that is deeply sought after by residents.
2. The view is obtained from a standing and sitting position in the two bedrooms as well as from the deck area of unit 6. The view is currently obtained across the rear setback of the site.
3. As demonstrated in the view loss images presented with the application the view from the bedrooms is completely destroyed as a result of the development. The view from the deck area of the apartment is maintained however. While entertainment areas have more weight than bedrooms it does not mean that views obtained from bedrooms are to be ignored. There still should be a level of view sharing maintained through the development process.  
The views obtained from the bedrooms, while not being from the main area of entertainment are views that are intrinsic to the apartment, it is a view that is currently enjoyed by the occupant every day. It is a view that is highly sought after and admired by guests and something that should be maintained to some degree. While real estate value is not a planning matter it is considered that the loss of the view from the kitchen would have a substantial impact on the value of the unit.
4. The proposed development seeks to maximise on the site area and topography of the site. While the assessment provided by the application states that the development generally complies that planning principle asks whether a more skilful design would result in less of an impact. It is considered in the case of this development a reduction in the height, compliant setbacks and floor space ratio and a reduction of the number of units would result in the view being obtained or at least an element of view retention could be provided rather than completely destroying the view. It is noted that the development does result in breaches to the height and floor space ratio for the site.

The assessment above shows that the development will result in a devastating view loss impact on the adjoining property. It is considered that Council should seek additional plans to amend the application to reduce the impact on the adjoining properties through a redesign of the development.





View currently enjoyed from bedroom 1



View currently enjoyed from bedroom 2

#### **4.15 Surrounding Development**

The proposed development is considered to not be compatible with the surrounding development. The Planning Principle, *Project Venture Developments Pty Ltd v Pittwater Council* 2005, provides a clear assessment path to determine whether a development is compatible with the surrounding development. The Principle establishes the following two questions to be answered to determine whether a proposal is compatible with its context:

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

An assessment against the planning principle follows:

**2. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.**

As mentioned in the further assessment of the development below, the development has substantial impacts on the surrounding developments with breaches to the height limit, impacts on visual privacy, view loss and overshadowing. It is considered that the physical impacts of the development on the surrounding lots is substantial.

**3. Is the proposal's appearance in harmony with the buildings around it and the character of the street?**

The submission Point *Character of the area* below, addresses that the development is out of character of the street and the area due to the bulky size of the development, the height and the design of the development. The building is surrounded by buildings of a small nature to the proposed development with the exception of two buildings to the south and west of the proposed development. It would be considered that the design of the proposed development is not compatible with the surrounding scale of development.

It is therefore considered that the proposed development is not compatible with the surrounding development and therefore should be refused.

#### **4.16 Character of the area**

It is considered that the development does not comply with the character of the area. The character of the area around the site is single storey dwellings and small unit blocks generally with pitched roofs. The unit development at 299 Sydney Road incorporates flat style roofing and is a visual distraction from the area. It is considered that the design of the development is out of context and will impact on the future character of the area.

#### **4.17 Safer by Design**

The proposed development is a residential flat building that will be increasing the occupants on site which can result in an increase of crime opportunities on site. A Crime Risk Assessment has not been provided with this development application.

## **5 Conclusion**

The owner of unit 6/10 Boyle Street is not opposed to development and do not want to restrict the site from being developed. They are only seeking the development to comply with the development controls and for the building to be sympathetic to the surrounding locality. It is recommended that the development be refused based on the current design or additional plans be requested to redesign the development to comply with the DCP and reduce the impact on adjoining buildings and the streetscape.

Outlook Planning and Development

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