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**From:** Helen Monks  
**Sent:** 9/04/2024 3:56:22 PM  
**To:** Council Northernbeaches Mailbox  
**Cc:** Stephanie Gelder  
**Subject:** DA 5 Portions, Lovett Bay  
**Attachments:** NBC submission to amended plans 9apr24 as lodged.pdf;

Please refer to the attached.

Regards  
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Integrated town planning and property services  
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Highlight Consulting acknowledges the traditional custodians of the land and waterways in this region: the Guringai, Dharug, and Darkinjung people and their leaders past, present and emerging.



Regional Town Planning Services

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Attention: Stephanie Gelder, Planner, Development Assessment  
Northern Beaches Council  
PO Box 82  
MANLY NSW 1655  
By email: [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

8 April 2024

Dear Mesdames/Sirs

**DA 2023/1832  
5 PORTIONS, LOVETT BAY**

Thank you for the opportunity to make a submission on the amended plans for the vacant land.

1. A reduction of the studio building from 3 to 2 storeys is acknowledged.
2. The intertwined issues of the studio and its neighbours remain, however. Privacy protection has been proposed exclusively through use of a band of landscaped shrubs along the property's southern (downhill) boundary. However, Land & Environment Court's 2 Planning Principles on privacy apply (Meriton and Super Studio). In particular, the Super Studio decision (Super Studio v Waverley Council [\[2004\] NSWLEC 91-](#) at 5-7) is explicit: landscaping cannot be relied upon for privacy protection. However, no aspect of the studio building's design offers anything compliant with privacy protection. This proposal therefore fails. Further, the proposed landscaping increases bushfire risk to neighbours, on land where the previous house was destroyed by bushfire! Increasing the risk on and off-site is contrary to best practice. Another means of protecting privacy without increasing bushfire risk should be found by the applicant.
3. Making the studio building a single storey without the proposed landscaping would vastly improve privacy whilst retaining this ancillary structure's views and avoiding an increased bushfire risk: a win/win.

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*specialising in environmentally sensitive land*

4. An alternative, if the studio building is to be retained at 2 storeys, is for the southern windows to have a much higher sill, providing better privacy protection for those downhill from overlooking.
5. Given the nebulous description of intended uses of the studio building, with its plumbing and wiring, a condition of Consent prohibiting its use as any form of dwelling would be consistent with the proposal, as well as preventing any "conversion" to a secondary dwelling (or equivalent) in future. Such a condition of Consent is uncontroversial in light of the application's wording and is formally requested.
6. The unamended sewage management system proposal remains unacceptable to neighbours. This is reinforced by neighbours' existing, long term experiences with the applicants at their existing (adjacent) dwelling (Lot 4), where sewage leakage is a continuing and unfixed problem (explicitly between neighbours, whether or not formally between locals and Council).  
 Although the geotechnical report found soil to a reasonable depth below the proposed EMA, local experience is that on this south-facing slope, liquids of all types can and will flow quickly off-site and onto neighbouring (downhill) properties, particularly during wet periods.  
 A solution which we present as a "win/win" is for the EMA (but not necessarily the initial treatment tank) to be moved to the opposite end of the proposed house (i.e. west). The principal requirement would be a sufficient fall in the pipe from the tank to the trenches, which is achievable based on levels in the plans.  
 This solution moves the liquid disposal area away from 2 downhill neighbours where the distances are shortest to boundaries and dwellings. The distance between the proposed house and the downhill boundary of the subject site widens significantly the further west the EMA moves, giving a greater setback. In addition, there are no dwellings below that western area, only 2 pedestrian access handles. Further, these provide an optional opportunity for a low berm and piping directly to the foreshore part of the subject site (to cater for possible failures of the EMA eg during wet periods). Finally, the EMA would be closer (eg for maintenance) to the applicants' existing dwelling (to the west), rather than close to and immediately above off-site neighbours'. Those neighbours have gardens on their properties, including a vegetable garden near the common boundary. These are at risk from the current proposal, with long-term consequences due to the constrained nature of the subject site.  
 This movement of the EMA westwards to their western boundary is formally requested.
7. For a proposal such as this, a tertiary (or at least an advanced secondary) treatment system should be provided, due to the environmental sensitivity of the area and proximity of the southern boundary to private land. It is not clear that the proposed secondary system with disinfection achieves a sufficient treatment standard to protect environmental and public health. A condition of Consent is requested to require a tertiary system (producing potable water with few off-site risks).
8. Diagrams used by the applicants and by Broadcrest Consulting are inconsistent numerically about the distance from the EMA to the south-eastern boundary. In any case, the shorter distance submitted with the DA is non-compliant, being

- about 4m rather than 5 or 6m. Clarify on this detail is important, although the current location of the EMA remains unacceptable (see above).
9. Stormwater management remains unresolved: 2 tank overflows and 2 drains would empty to the ground although such water is technically "collected". As a result, it has to be disposed of to a public system, not onto adjoining private land downhill, as proposed. Stormwater can easily be piped from the proposed system, on site, via a sufficiently wide stormwater pipe below the proposed house to the access handle then down to the site's waterfront. Either the applicants or Council can specify any nutrient control structures or velocity controls for that system.
  10. The main house's second storey with narrow balcony provides another source of privacy loss for downhill neighbours. At the least, the balcony should have an opaque balustrade to prevent direct overlooking of others. It could be solid, or else opaque glazing, or another solution to achieve required privacy protection. Given that the interior space behind is labelled as a family room, noise transfer from that room to other properties should also be avoided. A solid balustrade would assist in deflecting noise up and away from neighbours. Again, landscaping cannot be relied upon to provide for mutual privacy (LEC, Super Studio).
  11. The roof form, narrow building footprint and extended width of the house are completely out of character with adjacent dwellings as well as other buildings in Lovett Bay. Equally, the square studio building is out of character both with the adjacent sinuous, narrow house and with other buildings in Lovett Bay. Council seeks consistency in character in each precinct, however the applicants have not justified two major departures from the local character.

Just because a proposal is lodged with Council does not necessarily lead to a need for Council to approve it. Either the house, studio, landscape and OSSM plans need significant amendments or the DA should be refused as non-compliant on multiple grounds in a sensitive location. The reasons have been documented in our 2 submissions as well as many others'.

Yours faithfully  
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