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13/05/2025

MR Robert Royce Honour
- 53 Neridah AVE
Belrose NSW 2085
[REDACTED]

RE: DA2025/0272 - 6 Lockhart Place BELROSE NSW 2085

RE: DA2025/0272 - 6 Lockhart Place, Belrose NSW 2085
Formal Planning Objection to DA2025/0272
Date: 13/05/2025

Dear Assessment Officer,

I am the owner of 53 Neridah Ave Belrose, an adjoining property to 6 Lockhart Place, Belrose and part of the notified area. I submit this formal objection to Development Application DA2025/0272 and respectfully request given the current state of DA, council should not approve the DA unless it is significantly redesigned and resubmitted in a scaled-back form.

AJH Design, the applicant's nominated design consultant, has submitted documentation that is fundamentally flawed, both in technical accuracy and planning integrity. Their plans contain significant omissions and distortions, particularly in shadow modelling and setback representations that actively mislead the reader. The Statement of Environmental Effects, prepared under their direction or advice, offers blanket claims of compliance without addressing substantive breaches of key controls. In our view, this reflects a disregard for professional planning standards and undermines the transparency expected in the DA process.

The proposed development, in its entirety, represents an unacceptable and irreversible impact on residential amenity, neighbourhood character, privacy, stormwater management and site overdevelopment. It fails to comply with core planning objectives and controls under the Warringah Development Control Plan DCP. These deficiencies are fundamental and cannot be mitigated through conditions of consent in the current design.

The approval of an over-scaled development on a steeply sloped site directly undermines my ability to design a future dwelling that respects the established character, maintains equitable view corridors, and preserves privacy between properties. It is imperative that Council enforces consistent planning outcomes to avoid a precedent that rewards overreach while penalising compliance. I ask that this proposal be significantly scaled back and reconfigured to align with the planning expectations applied equally to all landowners.

1. Severe Privacy Impact from Elevated Second-Storey Addition
Relevant Control: Part B3 - Warringah DCP 2011

Applicant Documents: Plans - Master Set - Amended; Statement of Environmental Effects

The proposed second-storey addition includes multiple habitable room windows that, if constructed, will directly overlook my vacant residential lot, which I intend to develop in the near future. The subject site sits on higher ground, and the proposed upper-level windows will establish a permanent line-of-sight into the principal area where future private open space and habitable rooms would naturally be located creating an ongoing and foreseeable privacy conflict.

Once I construct a dwelling consistent with zoning expectations and neighbourhood character, the impact of this development will be immediate and irreversible. The elevated positioning and direct orientation of the proposed windows will intrude upon the intended backyard and living spaces of any future home, effectively limiting my ability to design for privacy, outdoor amenity, and internal comfort. This would unfairly prejudice the reasonable development potential of my land.

Moreover, the plans include no effective privacy treatments such as high sill heights, offset positioning, or screening to mitigate the overlooking. This absence of mitigation measures disregards the performance objectives of Part B3 of the Warringah Development Control Plan, which explicitly requires new development to protect the privacy of both existing and future adjoining properties, especially where elevation differences are involved. Approving the application in its current form would undermine the planning intent of the area and impose unjust and lasting constraints on my lawful future use of the land.

The DCP requires development to consider the privacy of adjoining dwellings, particularly when located on higher ground. The application does not provide any privacy screening, use of high sill heights, offset window placement, or visual barriers, representing a direct breach of both the intent and performance requirements of Part B3. From a planning law perspective, this fails the reasonableness test applied in the Land and Environment Court in terms of adverse amenity impact.

2. Excessive Bulk, Scale and Visual Domination
Relevant Control: Part D9 - Warringah DCP 2011
Applicant Documents: Elevation Plans; Site Plan

The design proposes a significant increase in vertical massing with little or no modulation to break up the form. Combined with the site's natural elevation and the use of minimal setbacks, the structure will dominate the rear outlook from neighbouring properties.

Council planners assessing this application should question whether the proposal satisfies the bulk and scale objectives that underpin the visual harmony of low-density zones. The new built form substantially exceeds the prevailing height datum when perceived from surrounding backyards, and it lacks architectural articulation (e.g. step backs, split levels) expected in a sensitive infill context.

The applicant's failure to incorporate such strategies suggests a disregard for Part D9's requirement that new buildings respond sympathetically to the local built environment.

3. Overdevelopment and Improper Site Coverage Justification

Relevant Control: Part B4 - Warringah DCP 2011

Applicant Documents: Statement of Environmental Effects; Plans - Master Set - Amended

The applicant proposes a total site coverage of 34.5%, exceeding the DCP maximum of 33.3%. Their justification-that the excess is due to the existing secondary dwelling-is fundamentally flawed and should be rejected outright. It is particularly concerning that the applicant has attempted to plead for an allowance based on the existence of a secondary dwelling, which demonstrates a lack of respect for the integrity of Council's planning controls and is highly unprofessional.

Council's DCP provides a strict quantitative threshold for site coverage, applying to the total footprint of all structures on the lot. There is no provision or clause in either the LEP or DCP that permits a bonus or variation due to the presence of a secondary dwelling. In fact, the DCP explicitly requires all buildings, including granny flats, to be included within the site coverage calculation.

To accept this justification would create a precedent for systematically ignoring development controls based on subjective interpretation, eroding the enforceability of the DCP. This level of non-compliance directly undermines the planning framework for R2 zones, which relies on landscaped areas for both amenity and stormwater outcomes.

The SEE refers to the alfresco contributing to the additional site coverage, but fails to acknowledge that the proposed first floor bedrooms will be directly above the alfresco area and occupy the same footprint. Therefore, this is not a solid argument for relaxing the site coverage rules.

4. Inadequate Stormwater Management and Drainage Risk

Relevant Control: Part C4 - Warringah DCP 2011, Water Management for Detention Policy

Applicant Documents: Engineering Referral Response; Statement of Environmental Effects

There is also no mention of an Onsite Detention (OSD) system, which is a critical requirement for developments of this nature under Council's stormwater management controls. OSD systems are essential to mitigate the increased volume and velocity of runoff caused by additional hard surfaces, especially on elevated sites like this one.

Furthermore, the Northern Beaches Council's "Water Management for Development Policy" (2022) requires that all new residential developments include appropriately sized and designed Onsite Detention Systems to reduce the risk of downstream flooding, erosion, and infrastructure burden. Despite this, the application does not show any OSD tanks, system diagrams, or design calculations for runoff storage and release.

Council's engineering referral (dated 24/04/2025) confirms that the submitted stormwater plans are inadequate, and we assume this is a typographical error and that Council's engineer will be submitting a request for more. By exceeding the permitted site coverage, the development reduces natural absorption and increases surface runoff. This adds strain to existing drainage infrastructure and poses flooding risks to neighbouring lots.

The Survey Plan shows the site falls from north-to-south from an elevation of 178.4 mAHD at the northern boundary to 176.9 mAHD at the southern boundary; i.e., a fall of about 1.5 metres. Any overland flows in excess of the capacity of the downpipes and piped system will flow overland to the south, into the neighbouring properties at 53, 58 and 56 Neridah Ave.

The Survey Plan also shows there is a formal drainage easement along the western and southern boundaries of the development site. This easement contains the Council stormwater drainage pipe that runs south from the end of Lockhart Place. The proposed house will connect directly to this pipe. The Council drainage pipe and easement runs south and then east at the rear of the development site towards Forest Way. The size of the stormwater pipe is not shown; however it is likely to have a capacity equivalent the peak flow during a 20% or 10% AEP storm (ie, 1 in 5, or 1 in 10 year storm). There is no formalised overland flow path (swale or channel) along the rear of the development site to carry excess flow in the 1% AEP event towards Forest Way.

There is a history of stormwater pooling on Wyatt Avenue, which causes overflow south down Lockhart Place during heavy rain and flows through the development site and into the properties at the northern end of Neridah Avenue (i.e., 53, 58 and 56 Neridah Ave). Council needs to fix the drainage issues at the end of Lockhart Place and formally construct a proper overland flow path (swale/channel) to discharge Lockhart Place stormwater into Forest Way and away from Neridah Avenue properties.

In the short term, at the very least, the proposed development needs to incorporate an Onsite Stormwater Detention (OSD) system (designed by a proper stormwater engineer) to capture stormwater runoff from the development during events up to and including the 1% AEP storm.

5. Rear Setback Deficiency and Amenity Loss

Relevant Control: Part B9 - Warringah DCP 2011

Applicant Documents: Plans - Master Set - Amended; Statement of Environmental Effects

The proposed rear setback of 4.525 metres falls significantly short of the 6 - 8 metre setbacks typical of the Belrose area. This reduced setback increases the building footprint at the rear, limits landscaping, and heightens privacy and overshadowing impacts.

The construction of a two-storey building in such close proximity would significantly compound the loss of sunlight to private open space, particularly in winter months, further undermining residential amenity and usability of rear yard areas.

The applicant has offered no justification via site constraint, design merit, or compensatory mitigation. The variation is therefore unjustified and unacceptable under merit assessment. This concern is compounded by the fact that the shadow diagrams submitted with the application are already flagged as potentially inaccurate (see Section 6).

Warringah DCP - B9 Rear Boundary Setbacks

A rear setback of 6 metres applies to the development site as per the rear setback map from Council's DCP website. As per the image, the provided setback from the proposed house to the rear boundary is only about 4 metres on the perpendicular, which is well short of the required 6 metre setback. The first floor bedrooms are also at this 4 metre setback, providing bulk and privacy issues for the southern neighbours at 53 and 58 Neridah Ave.

Council cannot approve this construction footprint. The house needs to be redesigned with a significant reduction in the bulk of the building, including ground and first floors.

6. Misleading Claim of Full Compliance

Applicant Document: Statement of Environmental Effects - Page 10

The Statement of Environmental Effects claims on Page 10 that the proposed development is 'compliant' with respect to privacy, setbacks, and solar access. This assertion is not only

inaccurate based on the documentation and diagrams provided, but also misrepresents key impacts that have not been adequately addressed.

This blanket compliance statement fails to acknowledge multiple breaches already demonstrated in this objection. Relying on such a generalised assertion undermines the transparency and integrity of the planning process.

7. Risk to Electrical Infrastructure - Unverified Overhead Clearance
Documents: Plan - Survey.pdf; Ausgrid Referral Response - April 2025

The survey plan submitted as part of the application identifies the presence of overhead electric lines near the property boundary. Despite this, the development proposal provides no assessment of electrical clearance, no vertical section indicating safe separation, and no confirmation from a qualified electrical consultant that the proposed second-storey addition meets minimum clearance distances required under Ausgrid's Network Standards and SafeWork NSW Codes.

This is of particular concern given:

- The proposed building includes a second storey on elevated topography, increasing the likelihood of vertical encroachment;
- The Ausgrid referral response is not a clearance sign-off, it clearly states that ensuring compliance is entirely the developer's responsibility;
- Council has not been provided with any supporting diagram or compliance verification confirming that infrastructure safety requirements are met.

The absence of this critical clearance information presents a potential conflict with electrical infrastructure, posing risks to construction safety, service continuity, and legal liability should a breach be discovered after approval.

Council should not consider the referral satisfied unless the applicant provides a detailed clearance assessment and, if necessary, design amendments to guarantee compliance. To approve the development in its current form would be premature and unsafe.

8. Additional Concern - Potential Future Breach of Occupancy and Kitchen Installations
It has been observed in the Belrose area that several recent developments after receiving DA approval and completing construction, have proceeded to install additional kitchens and bathrooms to enable multi-family occupancy, in direct contravention of their approved plans. These unauthorised modifications typically occur post-certification and are not always picked up by compliance teams unless proactively monitored.

Given the scale and layout of the proposed development at 6 Lockhart Place, there is a genuine concern that a similar breach may occur, potentially transforming the dwelling into a multi-family boarding-style residence, contrary to its intended single dwelling use. We therefore strongly request that Council, as a condition of any future approval, commit to inspecting the premises within six (6) months of occupation to confirm that no unauthorised internal modifications (such as additional kitchens or self-contained living quarters) have been installed. This proactive compliance measure is essential to uphold planning integrity and preserve the residential character of the neighbourhood.

Conclusion

While we acknowledge and support the need for thoughtful development within the Northern Beaches, particularly in Belrose where growth must be carefully balanced with the area's unique bushland character and low-density residential values, it is vital that such developments remain consistent with Council planning controls. The delicate balance between environmental preservation, residential amenity, and appropriate urban growth must not be undermined by ad hoc or non-compliant intensification.

The cumulative breaches listed above are not minor technicalities. They represent substantive planning failings that go to the heart of orderly development in R2 residential zones. The proposal is incompatible with both the objectives and specific provisions of the LEP and DCP and will result in permanent adverse impacts on neighbouring amenity.

On the basis of the concerns raised above, this development application should not proceed in its current form. The cumulative breaches identified are significant and not capable of resolution through the imposition of conditions. Approval in its present form would be inconsistent with Council's planning framework and risk establishing an undesirable precedent for future non-compliant developments.

Thank you once again for your careful consideration and for the time and effort invested in reviewing this submission.