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**Sent:** 16/05/2022 1:46:25 PM  
**Subject:** DA2021/1808 Submission | Melanie Cordony of 7 Cheryl Crescent, Newport  
**Attachments:** Ltr - Northern Beaches Council - Objection to DA2021 1808 in relation to 9 Cheryl Crescent Newport - 16-05-22 - 7 Cheryl Crescent.pdf;

Dear Brittany,

Please see submission attached.

Kind regards,

**Apex Planning and Environment Law**

**Jill Marsland**  
Associate Solicitor

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Ref: 016/2022

16 May 2022

General Manager  
Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Attention: Ms Brittany Harrison

Dear Sir / Madam

**YOUR REFERENCE: DA2021/1808**  
**PREMISES: 9 CHERYL CRESCENT, NEWPORT**

1. We act for Ms Melanie Cordony, the owner of 7 Cheryl Crescent, Newport ("our Client"). Our Client's property is immediately adjacent, and to the south of, 9 Cheryl Crescent ("the Development Site").
2. Our Client has instructed us to lodge the following submission objecting to development application DA2021/1808 ("the DA").
3. The DA seeks consent for alterations and additions to a dwelling house. The Development Site is zoned E4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014 ("the LEP").
4. Our Client objects to the DA for the following reasons.
5. **Boundary setbacks** – The DA seeks to demolish the existing single carport on the lower-level and extend the existing single garage into a double garage with internal laundry. The proposal provides for a 1.18m side setback to the northern boundary and a 300mm side setback to the southern boundary, contrary to clause D10.8 of the DCP, which provides that one side setback must be of at least 2.5m, and the other side setback must be of at least 1.0m.

#### **D10.8 Side and rear building line**

##### **Outcomes**

To achieve the desired future character of the Locality  
The bulk and scale of the built form is minimised  
Equitable preservation of views and vistas to and/or from public/private spaces  
To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping  
To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties

Substantial landscaping, a mature tree canopy and an attractive streetscape  
 Flexibility in the siting of buildings and access  
 Vegetation is retained and enhanced to visually reduce the built form

...

#### Controls

Side & Rear Building Line Setback (metres)

2.5 to at least one side; 1.0m for the other side.  
 6.5 rear

Neither the controls nor the outcomes of clause D10.8 of the DCP are met and the DA requires a complete amendment to provide a more satisfactory design outcome in compliance with Council's controls.

6. **Visual privacy** – The proposed windows and glass doors along the south elevation on both the ground floor and first floor will create significant privacy impacts for our Client, allowing substantial, unmitigated overlooking directly into her main living and entertaining areas, contrary to a reasonable application of Council's controls.

#### C1.5 Visual Privacy

##### Outcomes

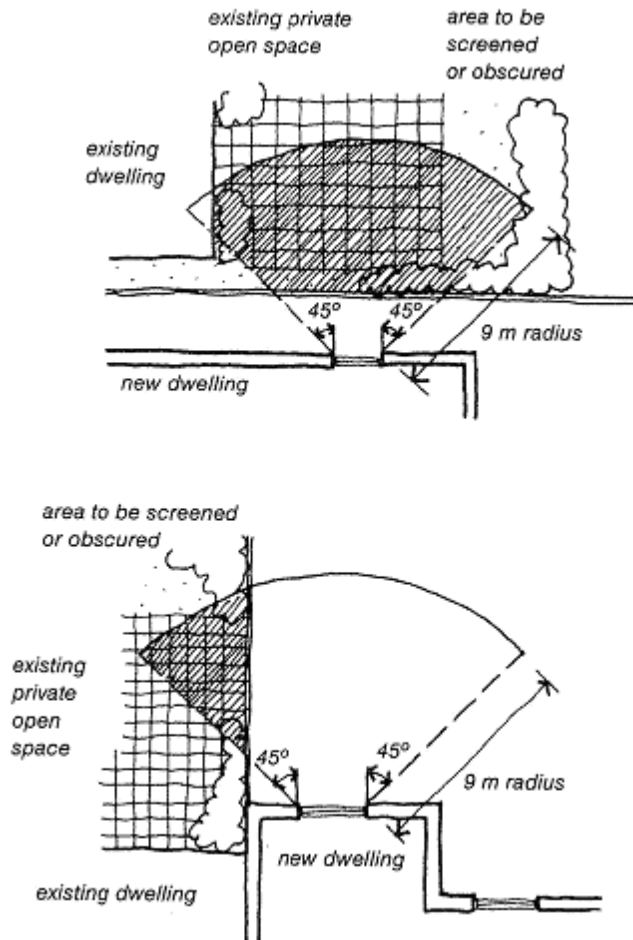
Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design  
 A sense of territory and safety is provided for residents.

##### Controls

Private open spaces including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

...

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.



Direct views of private open space or any habitable room window within 9m can be restricted by:

- Vegetation/ landscaping
- A window sill height 1.7m above floor level, or
- Offset windows
- Fixed translucent glazing in any part below 1.7m above floor level, or
- Solid translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are:
  - Permanent and fixed,
  - Made of durable materials; and
  - Designed and painted or coloured to blend in with the dwelling.

Information to be included in the Statement of Environmental Effects

- An analysis outlining how the proposal achieves an acceptable level of privacy for residents and users and protects the privacy of any adjoining development.

The Statement of Environmental Effects prepared by Sketch Arc dated September 2021 and provided with the DA ("the SEE"), does not provide an adequate analysis of how our Client's visual privacy will be protected. The

proposed windows have not been appropriately screened and the setbacks have not been considered for both ground floor and first floor.

7. **Overshadowing** – The natural slope of the land falls to the southwest, significantly increasing impacts associated with height, bulk, scale and overshadowing. Our Client's property is already substantially overshadowed by the existing dwelling at the Development Site and adding the first floor will increase that overshadowing to an unsatisfactory level. Our Client intends to install solar panels on her roof, and the increased shadow impacts will detrimentally affect the viability of her doing so.
8. **Land stability** – We note that a Geotechnical Investigation Report prepared by White Geotechnical Group dated 16 September 2021 was provided with the DA. While that Report provides that the proposed works are suitable for the Development Site, our Client has already raised the issue of cracks to her dwelling and landslips to her land, having occurred after the excavation works involved in the construction of the swimming pool at the Development Site. It is essential that Council addresses these concerns prior to the determination of the DA.
9. **Access requirements** – Detail of how materials will be delivered to the Development Site have not been provided. A traffic report has not been provided to the Council with the DA, and the lack of this information precludes it from being appropriately determined.
10. Having regard to the above matters, it is clear that the DA is not worthy, or able to be, approved. We are instructed that should the Council grant consent despite the shortcomings identified above, our Client will consider commencing judicial review proceedings in the Land and Environment Court on the basis of the Council's error in exercising its statutory duties by failing to consider relevant matters in a reasonable and objective manner.
11. Please contact us if you have any questions in relation to this letter.

Yours faithfully

**Apex Planning and Environment Law**



**Grant Christmas**

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