
Sent: 30/06/2022 11:04:45 AM
Subject: Development Application No's 2021/1912 and 2021/1914
Attachments: Submission DA's 2021.1912 and 2021.1914.pdf;

Attention: Lashta Haidari

Dear Madam,

Please find attached a submission in relation to BOTH Development Application No's 2021/1912 and 2021/1914.

The DA's relate to the former Queenscliff Community Health Centre.

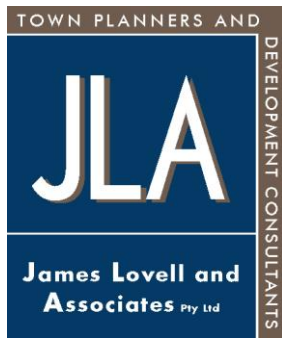
The submission has been prepared on behalf of "The Triangle Community Group".

Please do not hesitate to let me know if I can provide any further information or clarification.

Kind Regards,

James Lovell

James Lovell and Associates Pty Limited
Town Planners and Development Consultants
Suite 1, 9 Narabang Way, Belrose NSW 2085
PO Box 716, Turramurra NSW 2074
P 02 9986 3362 | F 02 9986 3364 | M 0412 775 259
W www.jameslovell.com.au



Ph: (02) 9986 3362 Fax: (02) 9986 3364

Suite 1, 9 Narabang Way, Belrose 2089

PO Box 716 Turramurra 2074

Email: james@jameslovell.com.au

Web: www.jameslovell.com.au

30 June 2022

The General Manager
Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir/Madam,

**DEVELOPMENT APPLICATION NO'S 2021/1912 AND 1914
QUEENSLIFF COMMUNITY HEALTH CENTRE**

Introduction

I act on behalf of *The Triangle Community Group* ("TTCG") in relation to the abovementioned matter which concerns both Development Applications (DA's) No's 2021/1912 and 1914.

TTCG is comprised of members of the community who own and occupy properties within the low density residential neighbourhood extending along Lakeside Crescent, Palm Avenue, Riverview Parade and Pittwater Road.

The subject site is currently occupied by the former *Queenscliff Community Health Centre*. The proposed development (collectively) comprises the subdivision of the site to create three (3) residential allotments fronting Pittwater Road, and the expansion and adaptive re-use of the existing building on the remaining portion of the site to provide a boarding house at the ground floor level, and self-contained dwellings intended as housing for seniors or people with a disability at the first and second floor levels.

I hold a Bachelor of Town Planning (Honours), and a Master of Environmental and Local Government Law. I have 25 years experience in the New South Wales (NSW) planning system, and have particular expertise in preparing and assessing DA's, and providing expert town planning evidence on behalf of both Applicant's and Council's in the NSW Land and Environment Court. I have also been appointed by the Court on multiple occasions as a Court Appointed town planner.

Background

As you are aware, I previously prepared a submission on behalf of my client dated 3 December 2021. In that submission, I raised a series of concerns in relation to the proposed development/s, and those concerns can be summarised as follows:

- the existing building on the site is wholly incongruous with the existing character of the area, and the existing zoning regime;
- the impacts of the existing, large and incongruous, building on the site are partially ameliorated by its spatial setting and relatively large lot size, and the proposed development will fundamentally change the setting and context of the existing building, and its physical and visual relationship with surrounding properties;
- the proposed development significantly expands the existing building to the extent that the proposed additions breach the building height control specified in the Warringah Local Environmental Plan (LEP) 2011, and State Environmental Planning Policy (SEPP) (Housing for Seniors of People with a Disability) 2004;
- the existing building on the site (as reduced in area by the proposed subdivision) exceeds the floor space ratio control (FSR) referred to in SEPP (Housing for Seniors of People with a Disability) 2004, and the proposed development materially increases the gross floor area of the existing building;
- there is no proper town planning basis to support the expansion of the existing building having regard the significant (existing) size and scale of the existing building, the reduced site area arising from the proposed subdivision, and the low density nature and scale of surrounding development; and
- the form of development currently being pursued by the Applicant is fundamentally flawed, and is effectively seeking to implement a form of development more appropriately accommodated in the R3 – Medium Density Residential zone located elsewhere within the Local Government Area (LGA).

I maintain the concerns expressed in my previous submission and have formed the considered opinion that the proposed amendments have not resolved any of the fundamental town planning concerns associated with the proposed development.

My clients understand the need to facilitate an appropriate use of the site, and that the adaptive re-use of the existing building is a possibility (but not an absolute requirement), subject to the planning controls that apply to the site.

Irrespective, there are no proper town planning grounds to support the substantial expansion of the existing building, particularly in circumstances where the spatial context of the building is being materially changed (by substantially reducing the site area).

The site and surrounds are zoned R2 – Low Density Residential pursuant to the Warringah LEP 2011, and the objectives of the zone relating to residential development are expressed as follows:

- *To provide for the housing needs of the community within a **low density residential environment**.*
- *To ensure that **low density residential environments** are characterised by landscaped settings that are in harmony with the natural environment of Warringah [emphasis added].*

The neighbourhood exclusively accommodates detached dwelling houses, and the existing building on the site is the only building in the neighbourhood that is not a detached dwelling house.

In that regard, my client's maintain a reasonable expectation that Council will preserve the integrity of the applicable planning controls, including in relation to the zone objectives, and the building height and FSR controls.

Further, any perceived benefits associated with the provision of "*affordable housing*" do not derogate or detract from the requirement to appropriately implement the planning controls, and if "*affordable housing*" of the type proposed is deemed desirable, it should be provided in appropriate locations having regard to zone objectives, building height and FSR controls.

Alternatively, if the site is deemed appropriate to accommodate "*affordable housing*", it could (and should) be provided substantially with the form of the existing building.

In my opinion, the Applicant is effectively seeking to implement a form of development more appropriately accommodated in the R3 – Medium Density Residential zone. In the absence of any change in the existing planning controls, the proposed development should be refused.

Recent Amendments

On 28 March 2022, Council wrote to the Applicant and identified various issues with respect to the proposed development/s.

On 17 May 2022, the Applicant responded to Council with additional information, and provided a series of amendments to the proposed development/s.

The additional information provided by the Applicant includes correspondence from the Development Director (Nicole Woodrow) of *Landcom*. The correspondence includes the following comments in relation to the proposed development/s:

Landcom and its partner Link Wentworth Housing, are pleased to be part of a project that provides a diversity of housing types and affordability options, including homes for older people looking to downsize and housing for those who may not earn sufficient income to afford housing in the Northern Beaches otherwise. These objectives align with Council's objectives for housing as summarised in the table below:

The Table referred to in the correspondence is titled “*Alignment*”, and purports to demonstrate some sort of synergy between the objectives of Council, *Landcom* and *Link Wentworth Housing*. I note that the document has not attempted to identify any synergy with the objectives of the local land owners and residents, including my clients.

Irrespective, my client does not dispute the contribution *Landcom* and *Link Wentworth Housing* make to the provision of affordable housing elsewhere, however with all due respect, that contribution is entirely irrelevant for the purposes of assessing and determining the current DA.

In that regard, the DA must be assessed against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and in turn, the provisions of the applicable environmental planning instruments and associated planning controls.

Further, any Development Consent granted by the Council relates to the land, and the owner of the land at any particular time, and the Applicant for a particular DA/s, is an irrelevant consideration.

Subdivision

The amendments to the proposed subdivision are limited to providing a shared point of vehicular access for proposed Lots 2 and 3 to/from Pittwater Road. In other respects, the proposed subdivision remains unchanged beyond adjusting the proposed lot sizes by between 0.2m² and 1.4m².

In that regard, I note that on 17 November 2021, *Transport NSW* made the following comments in relation to vehicular access to/from Pittwater Road:

As the subject site has alternative vehicular access via the local road network, TfNSW does not support the proposed subdivision in its current format. Upon receipt of amended plans that demonstrates all access to the site via the local road network, TfNSW will review and provide a response accordingly.

The amended development maintains vehicular access to/from Pittwater Road, circumstances in which the requirements of *Transport NSW* have not been satisfied.

Irrespective, I maintain the concerns expressed in my previous submission in relation to the proposed subdivision. In particular, the proposed subdivision directly affects the potential use of the existing building in terms of:

- the existing site area is reduced by approximately 34% from 4,032.98m² to 2,666m²;
- the substantial majority of the existing off-street car parking is being excised from the site;
- the existing access driveways servicing the main car parking area are being excised from the site;

- all traffic generated by the existing building will be redirected to Palm Avenue;
- a substantial number of trees will be removed from the site to the detriment of its landscaped setting; and
- the spatial setting of the existing building will be materially changed.

Alterations and Additions to Existing Building

The recent amendments are not identified on the Architectural Plans (contrary to convention). Irrespective, *Attachment A* to the Applicant's submission to Council identifies in table format, the "*Design Response*" to the comments provided by Council's Design and Sustainability Advisory Panel (DSAP).

In my opinion, and by any objective analysis, the proposed amendments are very minor in nature, and effectively limited to:

- relocation of the bin storage room at the ground floor level;
- expansion of Units 1.04 and 1.07 at the first floor level;
- reduction in the size of Unit 1.12;
- expansion of Units 2.04 and 2.07 at the second floor level; and
- reduction in the size of Unit 2.12 at the second floor level.

The proposed amendments reduce the gross floor area of the proposed building by approximately 48.4m², representing a change of less than 2.2%.

The proposed amendments do not alter the building height, and no changes are proposed to the number of boarding rooms at the ground floor level (12 rooms), or the number of seniors housing apartments at the first and second floor levels (25 rooms).

Further, no changes are proposed to the off-street car parking provision or vehicular and pedestrian access arrangements.

Assessment

Building Height

The additional information provided by the Applicant includes revised "*written requests*" to vary the building height controls incorporated in SEPP (Housing for Seniors of People with a Disability) 2004 and the Warringah LEP 2011. The "*written requests*" include the following comments in relation to the proposed development:

It is noted that the existing structure is 2-3 storeys in height, and therefore the additional height increase will result in a 3 storey structure, representing a minor increase to the scale of the development.

The proposal is for adaptive re-use of an existing 2-3 storey building to a 3-storey mixed housing development. The architect has skilfully incorporated the floorspace of the proposed housing substantially within the existing building envelope.

The exceedance of the height standard is a consequence of the architectural form of the existing building and roof and lift overrun which provides enhanced amenity to proposed residential accommodation and improved stormwater management. The new roof form is integral to overall architectural renewed expression provided for the building which will provide a positive contribution to the existing character of the area.

The proposed development will not have a negative visual impact on the surrounding locality when viewed from any public place, and presents as an improvement of the built form's visual presentation to the streetscape through being a sensitively designed adaptive re-use project that is compatible with the surrounding residential character of the site. The proposed height increase is not substantial in relation to the existing built form on the site, and offers a range of textures and visual façade treatments.

Firstly, the proposed development does not represent a “minor increase to the scale of the development”. In that regard, the existing building provides a gross floor area of approximately 1,595m², and the proposed alterations additions provide a gross floor area of approximately 2,251.1m², representing an increase of more than 41%.

Secondly, the additional floor space is not “substantially within the existing envelope”, and the additional floor space is substantially contained within the additional storey extending above the existing building.

I have marked on the plan extract below in **red** (as accurately as possible) the additional floor space located at the second floor level.

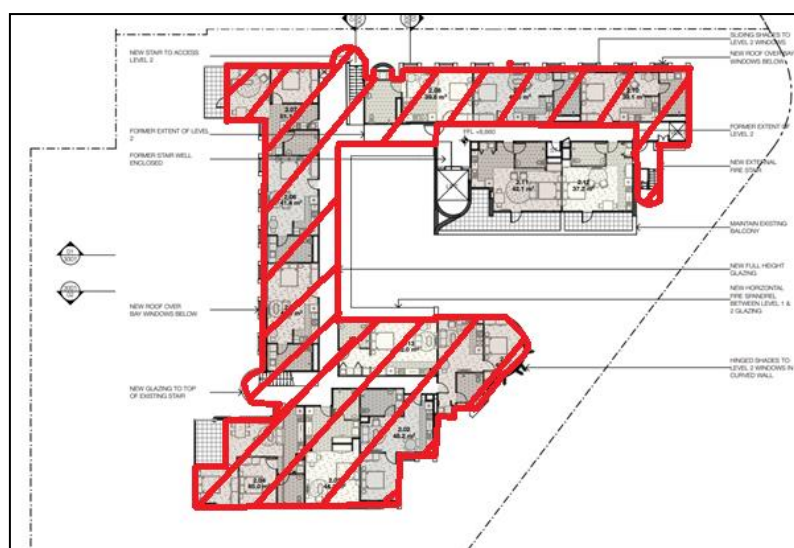


Figure 1: Additional Floor Space at the Second Floor Level

In the regard, the partial second floor level has a gross floor area of approximately 130m², and the proposed second floor level has a gross floor area of approximately 734.4m², representing an increase of approximately 565%.

Thirdly, the non-compliance with the building height control is not *"a consequence of the architectural form of the existing building"*. The substantial majority of the non-compliance (and the entirety of the additional non-compliance) relates to the additional storey extending above the existing building.

Fourthly, I note the comments regarding the *"improvement of the built form's visual presentation to the streetscape"*. In that regard, the visual presentation of the built form is highly subjective, and in any event, any improvements to the building appearance in terms of textures, materials and façade composition could equally be achieved without the additional storey extending above the existing building.

Finally, the *"written requests"* advance three (3) *"environmental planning grounds"* to support the non-compliances as follows:

There are three primary environmental planning grounds which support the contravention to the height of building standard. These relate to the fact that equitable and lawful access is enabled throughout the site, that the existing structure is non-compliant with the maximum building height, and that there will be no impacts to surrounding properties in terms of view loss, overshadowing or privacy impacts.

The need to provide access to each level of the site as per the Seniors Housing SEPP results in the lift overrun height exceedance, while the additional roof height is a response to existing arrangements that result in the poor and outdated ability of the site to manage stormwater.

The proposed development has been designed as an adaptive reuse of an existing building which has effectively dictated its height. The reuse of the existing building has the benefit of maintaining and updating a building that has been a part of the character of the area, and contributed to the wellbeing of the community, for decades. The importance and value of pursuing an adaptive reuse development option is explained in detail with the statement of environmental effects accompanying the subject development application. The reuse of the building also has substantial waste minimisation savings.

The higher building form allows for the concentration of floorspace at the eastern end of the site, away from existing residences to the west.

Firstly, I cannot understand how providing *"equitable and lawful access"* is any way related to the additional storey extending above the existing building. Similarly, I cannot understand how any stormwater issue requires the additional storey above the existing building.

Secondly, I agree there are general benefits associated with the adaptive reuse of an existing building, however the reuse of the existing building does not generate any inherent need to provide an additional storey above the existing building.

Finally, I note the comment regarding the “*concentration of floor space at the eastern end of the site*”. In my opinion, that comment is meaningless in terms of the building height control, and there is no requirement to “*concentrate*” any floor space on the site if the existing building is not being expanded above the building height (and FSR) control. That is, the existing building could be adaptively reused without the need to “*concentrate*” any additional floor space in any location on the site.

Floor Space Ratio

The proposed seniors housing component is subject to the provisions of SEPP (Housing for Seniors of People with a Disability) 2004. The SEPP specifies that development consent cannot be refused in relation to density and scale, if the proposed building has a maximum floor space ratio (FSR) of 0.5:1. That is, development consent can be refused if a building exceeds an FSR of 0.5:1.

The existing building has an FSR of approximately 0.62:1 (on the reduced site area), and the proposed development increases the gross floor area of the building by approximately 656.1m², providing an FSR of 0.84:1.

In relation to the FSR of the proposed development, the SEE prepared to accompany the DA includes following comment:

Overall the bulk and scale of proposed development is substantially contained within the envelope of an existing building that forms an integral component of the character of the area and does not result in any unacceptable impact on the streetscape or amenity of the area.

As noted previously, the proposed development is not located substantially within the envelope of the existing building, and the gross floor area of the existing building is being increased by more than 41%.

Further, the existing building on the site is wholly incongruous with the existing character of the area, and the existing zoning regime. The proposed development seeks to substantially reduce the site area occupied by the existing building, and substantially expand the existing built form.

Mix of Uses

In my opinion, the interrelationship between the boarding house and seniors housing is highly unusual, and I cannot recall having ever seen such a mix of uses, and/or the effective sharing of facilities between such uses.

I assume the unusual mix of uses is an attempt to circumvent a clear jurisdictional hurdle (or dilemma) faced by the Applicant. In that regard, boarding houses (in the R2 – Low Density Residential zone) are limited to a maximum of 12 rooms, and seniors housing at the ground floor level is highly problematic having regard to the flood issues associated with the site.

Interestingly, the Applicant has submitted a *“written request”* to vary the maximum room size for individual boarding house rooms specified in Clause 30 of SEPP (Affordable Rental Housing) 2009. In that regard, the proposed (non-compliant) boarding house rooms are effectively identical to the self-contained seniors housing rooms provided at the levels above.

Finally, the range of permissible uses in the R2 – Low Density Residential zone are quite limited, and all forms of *“multi-dwelling housing”* and *“residential flat buildings”* are prohibited. In my opinion, the Applicant is effectively trying to *“fit a square peg in a round hole”*.

Character Assessment

Clause 30A of SEPP (Affordable Rental Housing) 2009 requires the consent authority to take into consideration *“whether the design of the development is compatible with the character of the local area”*.

Further, Clause 31 of SEPP (Housing for Seniors of People with a Disability) 2004 requires the consent authority to take into consideration the provisions of the *Seniors Living Policy: Urban Design Guideline for Infill Development*.

Collectively, the SEPP’s require a proposed development to be compatible with the character of the local area, and appropriately respond to the existing and desired future built form. The objectives of the R2 – Low Density Residential zone (which are relevant pursuant to Clause 2.3 of the LEP) effectively requires the same type of assessment.

As noted previously, the existing building on the site is wholly incongruous with the existing character of the area, and the existing zoning regime. Further, the proposed development seeks to substantially reduce the site area occupied by the existing building, and substantially expand the existing built form.

In my opinion, there no environmental, topographical or town planning reasons to justify the proposed expansion of the existing building. Further, the proposed development will fundamentally change the setting and context of the existing building, and radically change its physical and visual relationship with surrounding properties.

Conclusion

In my opinion, the recent amendments made by the Applicant are very minor, and do nothing to resolve the fundamental concerns with respect to the proposed development.

The proposed amendments reduce the gross floor area of the proposed building by approximately 48.4m², representing a change of less than 2.2%.

The proposed amendments do not alter the building height, and no changes are proposed to the number of boarding rooms at the ground floor level (12 rooms), or the number of seniors housing apartments at the first and second floor levels (25 rooms).

Further, no changes are proposed to the off-street car parking provision or vehicular and pedestrian access arrangements.

The proposed development includes substantial non-compliances with the applicable building height and FSR controls, and the proposed development is inconsistent with the objectives of the R2 – Low Density Residential zone which include *"To provide for the housing needs of the community within a low density residential environment"*.

In my opinion, there is no proper town planning basis to support the expansion of the existing building having regard the significant size and scale of the existing building, the reduced site area arising from the proposed subdivision, and the low density nature and scale of surrounding development.

I trust this submission is of assistance, and ask that I be kept informed prior to any determination being made, and/or in relation to any further information submitted by the Applicant.

In the meantime, should you require any further information or clarification please do not hesitate to contact the writer.

Yours Sincerely,



James Lovell
Director
James Lovell and Associates Pty Ltd