



28 June 2022

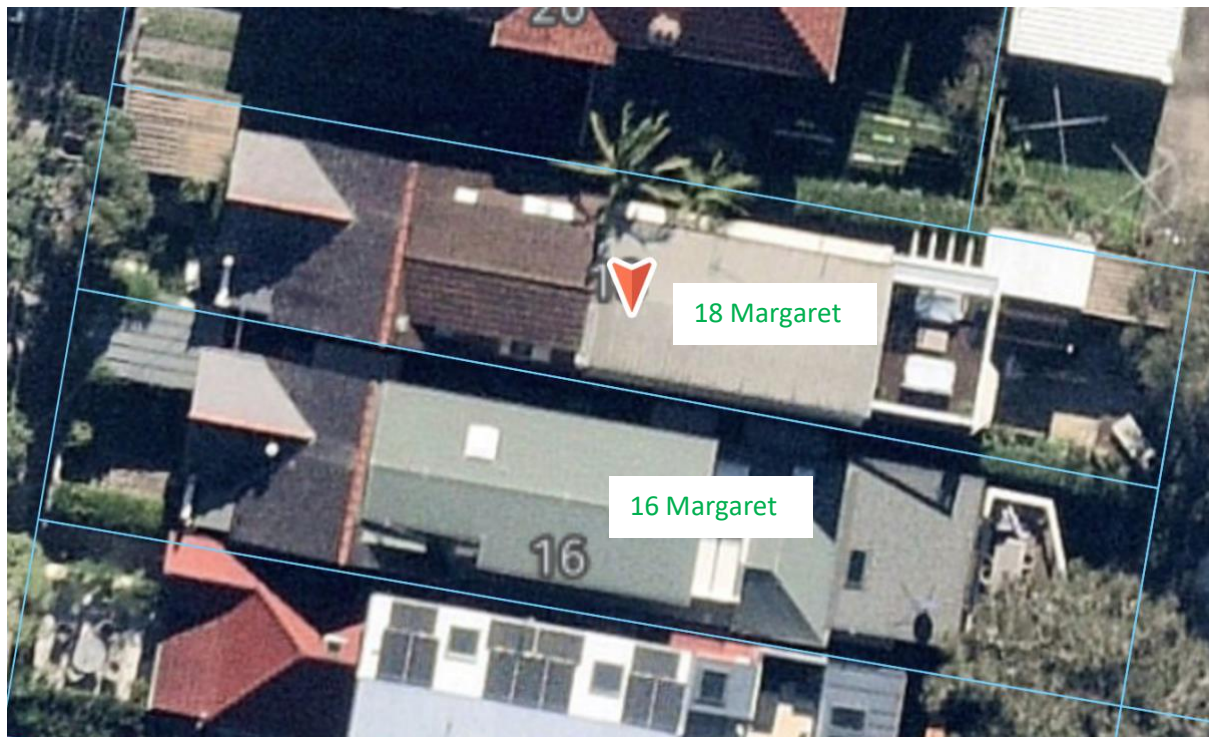
The General Manager  
Northern Beaches Council  
725 Pittwater Road  
DEE WHY NSW 2099

Dear Sir/Madam,

**Submission in regards to DA/2022/0670 Development Application  
18 Margaret Street, Fairlight**

*“Alterations and additions to a dwelling house.”*

Corona Projects has been engaged by the property owners of 16 Margaret Street to undertake an assessment of DA/2022/0670 and provide a submission to Council on their behalf. 16 Margaret Street lies to the south of the development site at 18 Margaret Street, Fairlight. This assessment is based on a review of the development application plans and documents available for inspection on Northern Beaches Council’s website and a site visit.



**Figure 1 – Site Locality Map (NearMaps, 2022)**



**Figure 2** – Development site viewed from street (Corona Projects, 2022)

## 1. Introduction

The proposed dwelling house alterations and additions at 18 Margaret Street raise considerable concerns regarding overshadowing, negative heritage impacts, general local planning control non-compliances and unsuitable fencing. Consequently, it will pose an unacceptable impact on the residential amenity of 16 Margaret Street, and on the character of the locality.

## 2. Solar Access and Overshadowing

At present the principal habitable space (open plan living room and dining room) of 16 Margaret Street receives limited sunlight on the Winter Solstice given the existing close proximity of 18 Margaret Street directly north of external windows to this space. As such, the little sunlight and reflected daylight that the windows and skylight shown in figure 3 get during the Winter Solstice and other times of year is highly valuable.



**Figure 3** – North-facing openings to the principal habitable space of 16 Margaret Street (Corona Projects, 2022)

Whilst hourly shadow diagrams in elevation and plan view, with different colours clearly differentiating between “existing” and “proposed” shadow have not been submitted, the works proposed under DA/2022/0670 are expected to unreasonably further decrease the amount of sunlight and reflected daylight received by the openings shown in figure 3 due to the increase in roof height. This will result in a non-compliance with the applicable solar access controls under Part 3.4.1 Sunlight Access and Overshadowing of the Manly Development Control Plan 2013 which requires:

*“For adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June).”*

***For all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.”***





Even if the proposal did comply numerically with MDCP 2013 solar access controls, “reasonable sunlight” should be subject to consideration against planning principles established in *The Benevolent Society v Waverley Council (2010) NSWLEC 1082* and *Parsonage v Ku-ring-gai (2004) NSWLEC 347*.

Senior Commissioner Moore established the planning principles to properly assess the impact of solar access to open space in *The Benevolent Society v Waverley Council (2010) NSWLEC 1082* as it is concluded that

*“overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guideline” and,*

*“for private open space to be assessed as receiving adequate sunlight, regard should be had to the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space.”*

The overshadowing by DA/2022/0670 is a direct result of “poor design” given the ability for a development to occur within the existing building envelope, without a raised upper floor roof. Furthermore, the living room and dining room are the most used spaces of 16 Margaret Street, rendering them highly important for the current and future residents.

In addition, Senior Commissioner Roseth concludes in *Parsonage v Ku-ring-gai (2004) NSWLEC 347* that numerical guidelines should be applied with a great deal of judgement with the following example provided:

*“Consider a dwelling that now receives sunlight all day. Taking away that sunlight from 9am till noon would satisfy most guidelines; and yet the occupants of such a dwelling are likely to perceive it as a devastating impact on their dwelling’s amenity”*

The above example is identical to the circumstances imposed by DA/2022/0670 on the primary living area of 16 Margaret Street, wherein the little remaining sunlight and daylight received is being put at risk of further obstruction. **This will have a detrimental impact on the current and future residents, and cannot be supported.**

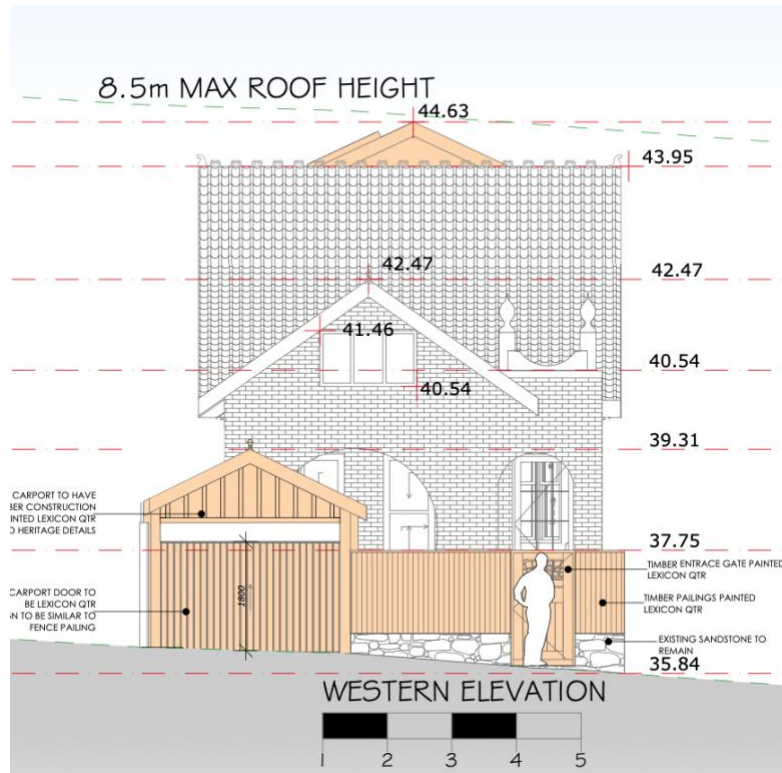
It can therefore be reasonably concluded that DA/2022/0670 will impose an unjustified overshadowing impact on the primary living area of 16 Margaret Street that cannot be supported, in accordance with an assessment against both the MDCP 2013, the findings under *The Benevolent Society v Waverley Council (2010) NSWLEC 1082* and *Parsonage v Ku-ring-gai (2004) NSWLEC 347*. A reconfigured design, as detailed in the Recommendations of this letter will assist to protect the solar access for 16 Margaret Street, whilst still allowing 18 Margaret Street to increase their residential amenity.

### 3. Destruction of Heritage Significance

The existing dwelling at 18 Margaret Street exhibits typical Federation-style architecture features, with qualities rendering it suitable for identification as a contributory building within the local Heritage Item “Group of Dwellings” at 2A-25, 27, 29 Margaret Street and 38 The Crescent, Fairlight. Specifically, the dwellings at 16 and 18 Margaret Street are identified as a unified pair of dwellings, with an exceptional level of intactness of original external fabric when viewed from the street.

It is acknowledged that numerous dwellings within the streetscape have undergone alterations and additions, however, the changes are typically concealed from the streetscape in order to preserve the heritage value of the locality.

The changes under DA/2022/0670, however, are highly visible from the street and disrupt the special aesthetic unity that 16 and 18, and other sites along Margaret Street share. Figure 4 highlights the way in which the proposed raised pitched roof will sit well above the ridge of the original front roof, altering the established roof pattern. Figure 5 shows the high visibility of 18 Margaret Street when viewed from the side, which any new raised roof will also dominate.



**Figure 4 – Proposed western elevation with new works in colour (Complete Trade, 2022)**



**Figure 5** – Existing view of 16 Margaret Street (Corona Projects, 2022)

The increase in upper roof ridge height above the existing highest roof ridge is not necessary to accommodate for upgrades at 18 Margaret Street. Development at 16 Margaret Street shows the way in which contemporary changes can be skilfully concealed and their impact minimised, specifically through the location of all new first floor components at the same height or lower than the existing ridge. Implementing a similar approach at 18 Margaret Street will allow the original front roof to be celebrated, and allow new works to lie visually subservient from the public domain.

#### 4. DCP Non-Compliances

DA/2022/0670 exhibits major non-compliance with the objectives and controls of the MDCP 2013 as per the below table. In its current form, the proposal can therefore not be supported as it does not contain planning merit.

Control	Comment
<b>3.1.1 – Streetscape</b> Development in the streetscape (including buildings, fences and landscaping) should be designed to:	<b>Non-Compliance –</b> The proposed works overwhelm the existing built form and do not align with the sympathetic nature



<ul style="list-style-type: none"><li>- complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;</li><li>- ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;</li></ul>	of upgrades that have occurred to the rear and below the main ridge line at neighbouring sites, including No. 16 Margaret Street. The increase in upper roof height has a direct impact on the visual bulk of new works as viewed from the street, and on the disruption of heritage value.
<b>3.2.2 – Heritage</b> <ul style="list-style-type: none"><li>- Alterations or additions to heritage items or buildings within a conservation area will not necessarily seek to replicate, overwhelm, dominate or challenge heritage details or character of the building or structure of heritage significant buildings. However, a contemporary response which complements and respects the form and scale of the original buildings may be considered if the heritage significance is retained.</li><li>- Consideration should be given to whether making a house bigger will ruin its appearance. Additions to small houses can easily overwhelm them and use up garden space needed for private open space and impact the setting and pattern of development in the locality. Modest additions work best and can be organised as wings or pavilions to the existing house. All additions must be at the back of the house, not the front.</li><li>- Retain original and traditional roof form, roof pitch with any alterations to the roofs to be sympathetic to the style of the heritage item or building within a conservation area;</li></ul>	<b>Non-Compliance –</b> New works are clearly visible from the street in the latest design scheme, sitting above the existing original roof.  The raised pitched roof visually dominates the site when viewed from Margaret Street and disrupts the established unity that No. 18 currently has with its other neighbours.
<b>3.4.1 – Solar Access</b> For adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June).  For all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.	<b>Non-Compliance –</b> Refer to Part 2 of this report for discussion.

## 5. LEP Floor Space Ratio Non-Compliances

The existing building currently features a non-compliant Floor Space Ratio, exhibiting a larger bulk than permitted on a site of such size. Whilst it is acknowledged that a reduction in FSR from the existing figure built at 18 Margaret Street is unreasonable and unsustainable, any works that seek to



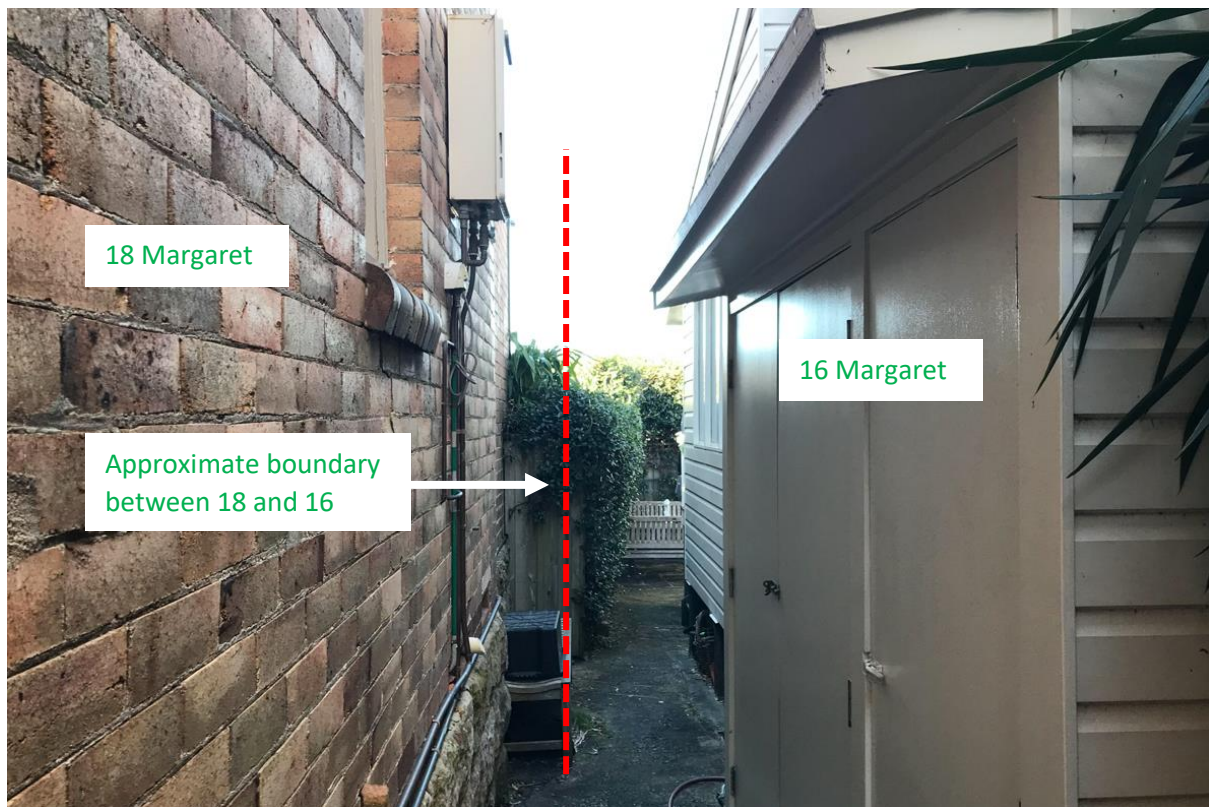
increase the building bulk further, such as the proposed roof ridge height increase are not considered acceptable.

## 6. Side Fencing Concerns

At present, many existing services and utilities are located along the southern elevation of 18 Margaret Street, as per figure 7. These include Foxtel boxes, downpipes, and other electrical wiring. is facilitated by the historical lack of boundary fencing between No. 16 and 18.

The majority of the spaces between the two buildings at No. 16 and 18 belongs to No. 18, whereas a historical lack of boundary fencing between the two has facilitated ongoing access to maintain these services and utilities out of good faith. No registered easement or the like is in place.

The proposed southern side boundary fencing would unnecessarily restrict access to maintain services along the southern elevation of 18 Margaret Street, creating an obstacle rather than a solution for the site. Once fenced, access to the southern elevation of 18 Margaret Street from the northern side setback of 16 Margaret Street will not be available.



**Figure 6** – Existing side setback between 16 and 18 Margaret Street (Corona Projects, 2022)





Furthermore, the construction of new side boundary fencing would require the demolition of existing fencing and hedging in the eastern-most portion of the two sites which currently provides visual privacy. This hedging is seen in the distance in figure 6. Any new fencing constructed should maintain the privacy by featuring at least 1.8m heights along the entire length of the boundary.

## 7. Site Survey

The site survey submitted alongside the Development Application contains wide ranging disclaimers as to who can use it and its accuracy which indicate that it cannot be relied upon and subsequent surveys may produce different results. As the survey was the basis for the architectural drawings and shadow diagrams, it is critical that it is entirely accurate and highly reliable.

Whilst it is likely it is accurate, we are relying on shadow diagrams and boundaries based on a survey that may be incorrect. Can we have NBC make them produce a survey that has no disclaimers in it at all, and then have them redo the plans/shadow diagrams if there are any discrepancies.

## 8. Recommendations

A more skilful design by way of reconfiguration and minor scale reduction can allow both 16 Margaret Street and 18 Margaret Street to retain and/or improve their amenity respectively. Actions a – g provide a suitable scheme which solves all concerns raised within this letter and allow for alterations and additions at 18 Margaret Street.

- a) **Action:** Retain the existing roof height along all portions of the building.  
**Outcome:** This will result in no additional shadow for 16 Margaret Street, and protect the heritage value of the site and wider Heritage Item.
- b) **Action:** Hourly shadow diagrams in plan and elevational format (showing the northern elevation of 16 Margaret Street) should be prepared by the applicant for the Winter Solstice.  
**Outcome:** This will allow for an accurate assessment of solar impact.
- c) **Action:** Prepare a revised site survey by a suitably qualified surveyor with accurate measurements and no disclaimers. If found to be different from the site survey already prepared, then revised architectural drawings and shadow diagrams should be prepared and re-notified.  
**Outcome:** This will allow for an accurate assessment of the proposal and solar impact.
- d) **Action:** Remove the proposed southern boundary fence, or locate it entirely on the land belonging to 18 Margaret Street with a 1.8m height along the entire site length. Confirmation of the boundary line by an independent surveyor should be obtained.  
**Outcome:** This will ensure that 16 Margaret Street has their visual privacy retained, and do not lose access to their own land.
- e) **Action:** Any new southerly side fencing should include retaining wall/support on the land of No. 18 and making good of the retaining wall and land of No. 16 if impacted, at the expense of the applications of DA/2022/0670.



**Outcome:** This will protect the integrity and quality of built works at No. 16.

f) **Action:** Frost any new south-facing windows.

**Outcome:** This will protect the visual privacy for the current and future residents of 16 Margaret Street.

g) **Action:** South-facing walls should be painted white or a similar light colour.

**Outcome:** This will improve reflected sunlight for 16 Margaret Street and reduce visual bulk.

## Conclusion

We have strong concerns about the proposed development and believe it cannot be supported in its current form. The development will have an adverse impact on the residential amenity of 16 Margaret Street, and the character and heritage significance of the wider locality. A development of this configuration cannot be supported on this site. It is therefore requested that the proposed development in its current form be altered. Any future development on the site should ensure compatibility with the local area and address the issues raised in this submission.

The owners of 16 Margaret Street invite Council to conduct a site inspection on their property to best understand the perspective of the discussed concerns. Please contact Mr Craig and Ms Jill Smith (0412284359) to arrange a visit.

Kind regards,

Emma Rogerson

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