

15 August 2022

The Chief Executive Officer
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

By e-mail: council@northernbeaches.nsw.gov.au

FAO: Kye Miles

Dear Kye

**Submission with regard to Development Application DA2022/0727
Alterations and additions to a semi-detached dwelling
12 Clarence Street, Balgowlah NSW**

I write regarding the above Development Application DA2022/0727 (subject DA) in response to your letter dated 12 July 2022.

This letter is prepared on behalf of Matthew Adams and Anna Fredricks (the owners) and William Linehan (the applicant) in response to your letter and as an appendix to the submitted Statement of Environmental Effects.

DA2022/0727 seeks consent for alterations and additions to a semi-detached dwelling at 12 Clarence Street, Balgowlah and accompanies plans prepared by Evolving Design and supporting documentation.

My clients have carefully considered the concerns raised by Council and respectfully request that the amended plans and additional information detailed overleaf and attached herewith, be accepted to overcome Council's concerns.

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The amendments include the following:

- Amend windows on Western side elevation to be narrow, high level windows to address privacy concerns.
- Annotate 'Reduced Level' RL height for boundary wall.
- Amend site plan and Landscaping plan with driveway and crossover removed to address Council's Landscape referral response and landscaped area and open space calculations added.

Amended plans at Attachment 1, will be uploaded to planning portal and include:

- Masterset DA Plans – Drw. 117.18 Sheet1/7 dated 16.08.22
- Landscaping Plan – Drw. no 117/18E– dated 18.08.22
- Street View – Drawing no. 11/18SV – dated 18.08.22
- High level window view line
- Shadow Diagram – 117/18C – dated 16.08.22
- Amended Basix Certificate A353344_03 dated 16 August 2022

Additional information at Attachment 2 includes a Clause 4.6 request to amend Clause 4.4 of the Manly LEP and will be uploaded to planning portal.

As detailed below, the submitted amendments and additional information overcome the concerns set out in your letter for the following reasons.

Floor space ratio – Clause 4.4 of the Manly LEP 2013

Request to vary Clause 4.4 of the Manly LEP 2013 is justified as demonstrated in the Clause 4.6 Variation Request at Attachment 1 and as submitted on the Planning Portal. The variation is a justified exception as per DCP Control 4.1.3 given the undersized lot.

Please see Attachment 2 – Clause 4.6 Variation Request for further justification.

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Privacy and Security – DCP Control 3.4.2

Amended elevations (western elevation), demonstrate compliance with the objectives of DCP Control 3.4.2, including 3.4.2.1 and 3.4.2.2 and this is supported by the submitted view line image which shows that the high level outlook will be of the sky and not into the privacy amenity space of neighbouring occupiers.

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings;*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Objective 3) To encourage awareness of neighbourhood security.

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3.4.2.1 Window Design and Orientation

- a) *Use narrow, translucent or obscured glass windows to maximise privacy where necessary.*
- b) *When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.*

3.4.2.2 Balconies and Terraces

- a) *Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy.*
- b) *Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.*

Comments: To address concerns regarding overlooking impacts from the first floor accommodation at the western elevation to No. 14 Clarence Street and Nos.66-68 Condamine Street, the proposed development has been amended to include only narrow, high level windows and retention of the proposed privacy screen to the balcony.

The distance from the narrow, high level windows proposed on the western elevation from the rear windows of the neighbouring dwellings to the west of the subject site is approximately between 13-19 metres. The proximity from neighbouring windows is appropriate to restrict direct viewing.

Notwithstanding this, the narrow high level windows detailed on the amended plans would clearly mitigate loss of privacy.

It is not considered reasonable to condition obscure glazing in addition to the narrow, high level windows given the proximity from neighbouring windows and the narrow window treatment proposed which meets the stated requirements. It is requested that draft conditions be sent to the applicant prior to determination.

Setbacks – DCP Control 4.1.4 and building separation

As previously discussed, given the narrow lot size, it is not feasible to achieve first floor accommodation with a greater first floor setback at the western boundary. As shown below in figure 1, the narrow lot size only allows for limited size accommodation and hallway access. Any additional western side setback would deem the proposal unfeasible.

Figure 1 – Narrow lot size of subject site deems a greater side setback unfeasible



The master suite is limited in size to a width of only 3.3 metres. It would not be feasible to construct first floor accommodation which would result in a bedroom less than as proposed.

Source – Extract from submitted plans

Objective 2) of DCP Control 4.1.4 has been overcome by the amended plans to ensure that all windows on the western elevation are high level. This amendment addresses the privacy concerns raised. The proposed development is compliant with all the objectives of the control.

Landscaping – DCP Control 3.3.1 – Landscape Design; 3.3.2 – Preservation of Trees and Bushland Vegetation and 4.1.5 Open Space and Landscaping

Landscape Design – A landscape plan is submitted with amended plans and has been uploaded onto the planning portal. The layout of the proposed development has been amended to remove the proposed crossover and driveway.

Preservation of Trees and Bushland Vegetation – The proposed development has been amended to remove the crossover and driveway and retain the Brushbox street tree. An Arboricultural Report is not required.

Open Space and Landscaping – A landscape plan is submitted, as detailed above which addresses DCP Control 4.1.5 including 4.1.5.2. Landscaped Area and Open Space Area calculations are annotated on the submitted Landscape Plan.

Plan detail

Amended plans include a ‘Reduced Level’ (RL) for the proposed ridge and top of the common boundary wall. Amended plans with the required information have been uploaded onto planning portal.

Any other matters:

Council referral responses:

Landscape Referral Response: Unsupported – overcome by Amended Plans submitted.

Submissions:

66 Condamine Street, Balgowlah – Amended plans address the privacy impacts and non-compliance side setback identified in the submission letter. The level of overshadowing proposed is not contrary to the objectives or requirements of DCP Control 3.4.1.

8 Clarence Street, Balgowlah – Shadow diagrams at September, December and March are not required for the subject DA as the proposed development accords with DCP Control 3.4.1 and DCP Control requirement 3.4.1.1 b) is not relevant.

The RL height of the proposed Boundary Wall extension is detailed on the Amended Plans.

6 Clarence Street, Balgowlah – RL is shown on Amended Plans.

Level of overshadowing complies with DCP control 3.4.1.

Stormwater is as existing. Council has not raised any objections.

Easements – A survey has been submitted as part of the DA application and does not identify any easements or areas of influence.

Conclusion

The subject DA has been assessed having regard to the matters for consideration pursuant to Section 4.15 of the EP&A Act and Council can be satisfied of the following:

- The use (proposal) is permissible in the zone and consistent with the objectives of the zone, pursuant to the Manly LEP, 2013 and does not give rise to any unacceptable non-compliance with EPIs or DCP controls, as discussed and is in accordance with Section 4.15 (1) (a) of the EP&A Act.
- The use will result in positive environmental, social and economic impacts in accordance with Section 4.15 (1) (b) of the EP&A Act as follows:

- **Environmental Impact**

The proposed development does not have any impact on neighbouring amenity given the amended plans submitted.

Social Impact

The proposed development will have no harmful impact on neighbouring occupiers as detailed on the amended plans.

- **Economic Impact**

The proposed development will have a limited economic benefit during the construction phase.

- The site is suitable for the proposed development in accordance with Section 4.15 (1) (c) of the EP&A Act given that the proposed development is in keeping with and compatible with the current and desired future character of the area.
- Public interest is best met through the approval of this subject DA in accordance with Section 4.15 (1) (e) of the EP&A Act.

For the reasons set out in this letter, which should be read as an appendix to the submitted Statement of Environmental Effects, the proposed development is considered appropriate when assessed against the relevant EPIs and Planning Controls applicable to the subject site.

The proposed development is in keeping with the surrounding built form and character of the area and would not give rise to any harmful impacts on neighbouring amenity, environmental qualities or amenity of the immediate locality. The development, as proposed, has been designed to be compliant and mitigate against any impacts on the subject site, surrounding environment and neighbouring amenity.

It is respectfully requested that the proposed development be supported by Council and conditional consent granted.

I thank you in advance for your consideration of the concerns raised in this submission.

Kind regards,

Karen Buckingham *on behalf of William Linehan*
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