
Sent: 21/02/2020 12:07:01 PM
Subject: DA 2020/0039
Attachments: Letter of Objection 17 Kimo Street, NB_2020.doc;

Please find attached Letter of Objection to DA 2020/0039 on behalf of No. 48 Condoover Street, Paul and Sandra Kaplan.

Please can you acknowledge receipt of submission.

Tracy

Contact: Paul and Sandra Kaplan/Tracy Davey

Date: 21 February 2020

The General Manager
Northern Beaches Council
Village Park
1 Park Street
MONA VALE NSW 2013

Attention: Georgia Quinn Assessment officer, Planning Division

Objection to DA 2020/0039 for proposed alterations and additions to the ground floor and upper level to an existing dwelling on Lot 339 DP 12316 at 17 Kimo Street, North Balgowlah

I represent the owners of No. 48 Condoover Street, North Balgowlah, Paul and Sandra Kaplan. Their residence adjoins No.17 Kimo Street, North Balgowlah to the east as indicated in *Figure 1* overleaf.

We are writing in response to the Development Application (DA2020/0039), and I have been engaged to prepare a Letter of Objection to the Northern Beaches Council on their behalf.

Their site is negatively impacted by the proposed alterations and additions in terms of loss of privacy and overlooking, loss of amenity, and uncertainty pertaining to the management of stormwater runoff onto their site.

The Proposed Works

The proposed works at 17 Kimo Street are for alterations and additions to the existing dwelling, as identified in the Statement of Environmental Effects (SEE) includes the following works:

Upper level addition

To include the following:

- A master bedroom with a walk-in robe and ensuite;
- Two additional bedrooms;
- A bathroom; and
- An Internal staircase accessing lower level
- **A rear upper level Juliette balcony (which is not addressed in the SEE)**

Ground Floor Alterations

To include the following:

- Removal of some internal non-load bearing walls to open up the living room, kitchen and dining area;

- Construct a new entry verandah;
- Install an internal staircase accessing the upper level.
- Revise the design of the approved detached double carport over the existing car spaces;
- install a swimming pool in the rear yard and install a vergola over the rear deck as per prior approved plans.

The Site Locality

No. 17 Kimo Street is located on the eastern side of Kimo Street and has an east west orientation. The site is at the edge of an escarpment which is terraced and drops steeply towards Condover Street. No 48 Condover Street adjoins the site in a north easterly direction. 17 Kimo Street is heavily vegetated, as is indicated in *Figure 1* below.



Figure 1 – 48 Condover Street in relation to No. 17 Kimo Street, North Balgowlah

The key issues in contention

The key issues of concern pertain to the negative impacts of the proposed works on No.48 Condover Street, specifically:

- Non-compliance with the Objectives of the Warringah Local Environmental Plan, 2011;
- Non-compliance with Clause 4.3 of the Warringah Local Environmental Plan, 2011 Building - exceeds the 8.5m requirement, which is a legal requirement not a guideline.
- Inability to meet Warringah Development Control Plan , 2011 Part B3 Side Boundary Envelope DCP .The proposed upper level addition gives rise to an encroachment into the building envelope along the northern elevation at the rear of the dwelling.
- Inability to meet the Warringah Development Control Plan, 2011 Part D8 Privacy Objectives and Requirements;

- Consistency with Warringah Council Policy No. PDS-POL 136 Stormwater Drainage from Low Level Properties.

Legislative Framework

The above issues will be addressed within the context of the planning framework, being the Warringah Local Environmental Plan 2011 (WLEP2011) and the Warringah Development Control Plan (WDPC2011) as outlined below.

Table 4.1 Warringah LEP, 2011

Warringah Local Environmental Plan 2011	Commentary	Compliance
<p>Objectives (d) in relation to residential development <i>Protect and enhance the residential use and amenity of existing residential</i></p> <p><i>Promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and</i></p> <p><i>increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah</i></p>	<p>The proposed alterations and additions are not compatible with the neighbouring development in terms of impact on the residential amenity currently enjoyed by adjoining sites.</p>	<p>No (Partial)</p>
<p>Warringah Local Environmental Plan 2011</p> <p>4.3 Height of buildings (1) The objectives of this clause are as follows—</p> <p>(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</p> <p>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,</p> <p>(c) to minimise any adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,</p> <p>(d) to manage the visual impact of development when viewed</p>	<p>Commentary</p> <p>The required height limit is 8.5m and the proposal currently exceeds this to on average 9m .</p> <p>Unfortunately this exceedance directly negatively impacts on the surrounding neighbouring sites in terms of loss of privacy and amenity.</p>	<p>Compliance</p> <p>No</p>

from public places such as parks and reserves, roads and community facilities.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

(2A) If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.

Table 2 – Warringah Development Control Plan Compliance Table

Warringah DCP applicable requirements	Response	Consistency Yes / No
Part B3 Side Boundary Envelope		
Objectives <ul style="list-style-type: none"> ▪ To ensure that development does not become visually dominant by virtue of its height and bulk. ▪ To ensure adequate light, solar access and privacy by providing spatial separation between buildings. ▪ To ensure that development responds to the topography of the site. 	The proposed alterations and additions impact negatively in terms of overlooking and loss of privacy to neighbouring sites, in particular No. 48 Condover Street	No
Requirements <p>1. Buildings on land shown coloured on the DCP Map Side Boundary Envelopes must be sited within a building envelope determined by projecting planes at 45 degrees from a height above ground level (existing) at the side boundaries of:</p> <ul style="list-style-type: none"> • 4 metres, or • 5 metres as identified on the map. 	There is no justification for the exceedance.	No
Part C4 Stormwater		
Objectives <ul style="list-style-type: none"> ▪ To manage and minimise stormwater overland flow, nuisance flooding and groundwater related damage to properties. ▪ To protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised. ▪ To minimise the quantity of stormwater runoff from new development on Council's drainage system 	This issue has not been addressed. Further information is requested.	No
Requirements <p>1. Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.</p> <p>2. The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with</p>	Further detailed investigation is required to ensure that No. 48 Condover Street is not impacted by flooding and overspill,	No

Council's Water Management Policy		
Part D Private Open Space		
Objectives <ul style="list-style-type: none"> ▪ <i>To ensure that all residential development is provided with functional, well located areas of private open space.</i> ▪ <i>To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.</i> ▪ <i>To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.</i> ▪ <i>To ensure that private open space receives sufficient solar access and privacy</i> 	<p>The current design is unable to meet these objectives as there will be a negative impact on adjoining buildings. The primary private open space area for No. 48 Condover is to the rear of their property which will be directly overlooked by the proposed alterations and additions.</p>	No
Requirements <p>4. <i>Private open space is to be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development.</i></p>	<p>The proposed rear balconies/decks should be located within the side boundary envelope and be visually screened by structural elements.</p>	No
Part D8 Privacy		
Objectives <ul style="list-style-type: none"> ▪ <i>To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.</i> ▪ <i>To encourage innovative design solutions to improve the urban environment.</i> ▪ <i>To provide personal and property security for occupants and visitors.</i> 	<p>The proposed balconies/decks will compromise the amenity of the principle private open space areas of No. 48 Condover Street which will be directly overlooked.</p>	No
Requirements <p>1. <i>Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.</i></p> <p>2. <i>Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.</i></p> <p>3. <i>The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.</i></p> <p>4. <i>The windows of one dwelling are to be located so they do not provide direct or</i></p>	<p>The proposed alterations and additions should be accommodated within the existing setback envelope and include structural screening elements to ensure no direct overlooking.</p>	No



Photo 1: View from No 48 Condover Street to No 17 Kimo Street. The arrows indicate the directional overlooking and associated loss of privacy and amenity from the existing balcony, which will be exacerbated by the proposed rear additions at No. 17 Kimo Street.

A review of Councils controls and guidelines clearly indicates that the proposed alterations and additions are inappropriate in terms of height and bulk for the locality and result in negative visual and privacy and impacts.

7. Recommendations

Given the information provided in the DA submission, the following amendments are suggested to ensure that No. 17 Kimo Street is able to undertake alterations and additions that meet their needs as property owners, and similarly do not unduly impact neighbouring in particular No. 48 Condover Street.

- Ensure the alterations are within the required height requirements. There is no justification to exceed the height limit given the negative impacts on neighbouring sites.

- Remain within the existing side boundary envelope, there is no justification for this site to exceed the envelope given that this is the primary mechanism to manage height, bulk and scale, and is applied consistently within the immediate area.
- The balcony at the upper level is to be for ventilation only. It is not suitable for the balcony to have standing or sitting room as this will create significant overlooking issues.
- Provide privacy screens on the ground level balcony to reduce overlooking.
- Provide information regarding the management of stormwater run-off and evidence that it meets the intentions of Policy No. PDS-POL.

8. Conclusion

It is recommended that the proposed alterations and additions be reduced to be consistent with Councils controls in order to ensure there are no negative amenity impacts on neighbouring properties.

We would be happy to meet with Council officers on site to illustrate our concerns at a mutually suitable time.

Should you have any queries, please contact the undersigned

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tracy Davey', written in a cursive style.

Tracy Davey (MTRP)
Town Planner

Email: tracydavey365@gmail.com.au

Paul and Sandra Kaplan
Owners No. 48 Condoover Street,
North Balgowlah