
Sent: 17/02/2023 3:04:46 PM
Subject: Submission re: DA2023/0020 - 48 & 50 Eurobin Ave, Manly
Attachments: Stella Marist Submission.pdf;

Please find attached a submission with regard to the DA lodged for 48 & 50 Eurobin which relates to Stella Maris College.

Kind regards,
Will

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Planner**



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13 February 2023

The General Manager
Northern Beaches Council
PO Box 82
Manly, NSW 1655

Attention: Jordan Davies

**RE: DEVELOPMENT APPLICATION – DA2023/0020
DEMOLITION OF EXISTING DWELLINGS AND CONSTRUCTION OF NEW TEMPORARY
DEMOUNTABLES; CHANGE OF USE TO AN EDUCATIONAL ESTABLISHMENT
(SCHOOL)**

I write on behalf of my client who is the owner of 10 Iluka Avenue, Manly who has serious concerns associated with the current DA lodged for Stella Maris College ('the College'). This application raises both immediate and future concerns with regard to residents amenity, streetscape implications, tacit rezoning of residential land for non-residential purposes and the future implications of complying development being able to be carried out on this land should the change of use be approved.

1.0 CHANGE OF USE/ZONING

The application proposed the change of use to a school which is permissible under the State Environmental Planning Policy (transport & Infrastructure) 2021. The proposed demountables are to service as classrooms while works associated with the College's previous DA consent can be carried out. The demountable will then be removed after 2 years and converted into a grassed lawned area.

Considering the temporary nature of the demountables it is reasonable for Council to limit the change in land use to be temporary for 2 years also. Should the use be approved without any

time restrictions the residential zoning of these sites will be made redundant. The change of use is effectively a rezoning without the need to go through a planning proposal. This is unreasonable. It is requested that Council place a condition on the consent that states words to the effect of

“Upon obtaining an occupation certificate the use as an Educational Establishment (School) will cease after a period of 2 years”

Should more time be required for the use as a school the applicants could apply to modify the consent under the 4.55 provisions.

The approval of the use as a school opens up pathways for complying development that would see significant uplift with regard to the scale of the buildings that can be achieved:

A building (whether a new building, or an existing building as a result of an addition or alteration) or any part of a building (including a basement or any other part of a building that is constructed below ground)—

- (a) that is 12m or less in height—must be located more than 5m from any side or rear property boundary with land in a residential or conservation zone or more than 1m from any side or rear property boundary with land in any other zone, or*
- (b) that is more than 12m but less than 15m in height—must be located more than 8m from any side or rear property boundary with land in a residential or conservation zone or more than 2.5m from any side or rear property boundary with land in any other zone, or*
- (c) that is more than 15m but no more than 22m in height—must be located more than 10m from any side or rear property boundary with land in a residential or conservation zone or more than 4m from any side or rear property boundary with land in any other zone.*

A multi-storey school building on these sites would bare no resemblance to its residential zoning, achieve a residential scale nor be consistent with the existing streetscape character and heritage value of the local area.

Furthermore, the applicants propose that:

“The proposed prefabricated temporary building on the New School Site will be in place for a period 24 months. Following that, the temporary demountable building will be removed from the New School Site and the land will be made good (open space turf).”

The use of the site will still remain as a school with it being replaced with open space. This will just raise more concerns with acoustic and visual privacy if the use of the site does not cease along with the demountables.

It is imperative that the use as a school cease when the need for the demountables end to protect the amenity of residential properties.

2.0 HERITAGE

While the subject sites are not identified as heritage items it is vicinity to a number of heritage items as well as areas of the College. The flat buildings opposite the street are identified as a fine example of period residential flat buildings.

The buildings existing on site contribute positively to the existing streetscape character of the immediate area. The demolition of these dwellings and the potential future CDC building on these sites will severely diminish the heritage value of surrounding items. The bulk and scale of a future CDC building will be much larger and of considerable bulk and scale than the residential zoning would permit otherwise.

Both sites were constructed around the same time as the heritage items opposite the street. It is requested that Council impose an interim heritage order under the *Heritage Act 1977* to facilitate investigations into the potential heritage significance of the buildings.

To demolish these dwellings without any idea of what is to be permanently replaced on these sites would be reckless, in my opinion, and unfair to the local residents.

3.0 CLAUSE 4.6 – FSR VARIATION

The applicants clause 4.6 has not adequately demonstrated that strict compliance with the FSR development standard is unreasonable or unnecessary in this instance nor provided relevant

environmental planning grounds.

When assessed against the objectives of the FSR standard the clause 4.6 cannot be supported. Assessment against the objectives is provided below:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character

Comment: The issue when assessing against this objective is that they are temporary structures. The single storey demountables may not be high but they will now dominate 2 street frontages with a square demountable that offers no articulation, no visual interest and bares no resemblance to the residential zoning.

A demountable cannot bare any resemblance to the existing residential character of the street which includes heritage items.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features

Comment: The demountable will take up the vast majority of site area and require the removal of several trees (this will be discussed further in this submission). The building will not complement the existing landscape and townscape features but the concern is greater for what could be achieve via a CDC with regard to bulk and scale should the use be approved.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area

Comment: A temporary demountable has no relationship with the existing character of surrounding heritage items and the dwellings generally. The future CDC development, should the use not be temporary as well, will not have an appropriate relationship with the existing character of the area.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment: No adjoining dwelling should have to experience any adverse environmental impacts as a direct result of a non-compliance with the FSR development standard. The dwellings to Iluka will experience overshadowing of their rear private open space in the morning. Not only is this a result of a non-compliance with FSR but also rear setback controls. This is unreasonable, even temporarily. Having significant non-compliances with several LEP and DCP controls cannot purport to be minimising the adverse environmental impacts to adjoining land.

Once the temporary buildings are gone and converted to lawn it will result in worse acoustic and visual privacy outcomes for surrounding residents. The school use being approved will allow the College to use the land virtually in any way they want including outdoor recreation.

The heritage impacts have been mentioned previously.

4.0 ACOUSTIC IMPACTS

The application includes the conversion of the demountables into a lawned area once the need ceases. The use will remain as a school should no temporary restriction be included with any consent. There is no assessment of the impact of these sites being used by the school as a playground for their students. The acoustic report just assessed traffic generation noise and from an external mechanical plant. It is not a complete assessment of the whole application.

It is concerning that Council's Environmental Health referral has already recommended approval despite the incomplete assessment. Schools are a significant source of noise intrusion and to have a potential playground next to residential dwellings demands adequate noise assessment which has not occurred.

That being said, we understand that there is no intention to use the sites as long term playgrounds however it is what they have proposed and should be assessed as such.

5.0 TREES

The SEE states that:

A number of trees are located on the New School Site and in the vicinity of the proposed works, however they are exempt species and can be removed without approval (as detailed in

the Arborist Report).

A separate Tree Application (TA/2022/0796) was submitted to Council in relation to the Agonis Flexuosa to the rear of 48 Eurobin Avenue and the removal of this tree was approved on 13 December 2022. This DA does not propose or require any tree removal.

There are 2 Agonis Flexuosa (Willow Myrtle) identified as tree 78 and 79. Tree 78 is identified as having acute dieback and decay and it is assumed that this is the tree that was removed with the tree application. The arborist report suggest that there is at least 1 Willow Myrtle (tree 79) requiring approval to remove in contradiction to the SEE. Confirmation is sought.

NOTE: This excludes one *Agonis flexuosa* (Willow Myrtle) located to the southwestern corner of the existing rendered garage in 48 Eurobin Avenue, Manly.

Taken from Arborist report

Notwithstanding, the applicants based their clause 4.6, and justifications generally, on retaining the existing character and landscape of the area as they are not removing prescribed trees. This is not accurate. A compliant scheme with regard to FSR and setbacks would not require the removal of tree 78 given its location on site.

6.0 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT & INFRASTRUCTURE) 2021

Schedule 8 of the SEPP relates to design principles for schools. To provide design principle analysis for what are temporary structures is superfluous. The main goal of this application is to get the use approved which will open up a pathway to a CDC and negate the need for DA assessment, probable final determination via a planning panel and remove the public's ability to have their objections considered.

The applicants have not provided any analysis against the design principles when the structures are removed and replaced with lawn. The College would have no restrictions on how the grassed area can be used as stipulated in section 3.36 (5) of the SEPP, which states:

(5) A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.

The amenity impacts of having the College's recreational outdoor space directly adjacent to residential properties is unacceptable and highly unfair on the local residents.

We know what the end goal for the College will be as their representative offered their vision to my client with regard to their intent in buying adjoining sites along Eurobin and Iluka Avenue. The aim is to expand the school and construct new similar scale buildings on these residential zoned lots. The College's long term goal is to create a senior hub and additional car parks are envisaged for construction on 48 & 50 Eurobin Ave. This will replace current Senior facilities at our Benedict Campus and allow for the development of that site into a sports complex".

It is redundant to be analysing the demountables against the design principles when it should be done against the future 'Senior Hub' intended for the site. It is this piecemeal approach that effectively will rezone the Eurobin and Iluka sites and remove the availability of residential dwellings within a residential zone.

This strategic approach is designed to limit any oversight that would come with a DA (Council assessment, planning panels etc) which proposes a change of use and construction of a new multi storey 'Senior Hub' on these sites. It is evident by their engagement of JHD Architects who, according to their website, seemingly specialise in large scale school developments.

7.0 MANLY DCP

The Manly DCP does apply to the site with only specific standards or controls in relation to a development for the purposes of a school having no effect. Clause 3.36(9) states that:

(9) A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subsection (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.

Subsection (1), (2), (3) and (5) all relate to development and use for the purpose of a school.

The Manly DCP does not have any specific requirements, standards or controls in relation to development for the purposes of a School. Consistency with the Manly DCP is relevant to this application.

3.1 Streetscapes and Townscapes

As mentioned previously, the immediate area includes heritage mapping. The two dwellings to be demolished contribute positively to the streetscape character and are of a similar period to the group of residential flat buildings on the opposite side of the street. The temporary structures will not complement the existing character of the streetscape, has no relationship with established building alignments of adjoining dwellings, removes all landscaping features and will severely reduce the heritage value of surrounding items.

Should the use be approved and a CDC pursued it will create a development on this site that will be even more dominant in the streetscape further reducing the heritage value of the street. Please don't hesitate to contact me should you have any questions.

3.3 Landscaping

The SEE states no prescribed trees are to be removed. The Arborist contradicts that statement saying tree 79 requires consent. Tree 79 would not be required to be removed if there was no variation to the FSR and rear setback controls. It is also contrary to the design principles of the SEPP with regards to 'Aesthetics' which state:

"School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood."

Removing significant native trees due to non-compliances with the planning controls is unacceptable and has a negative impact on the neighbourhood character.

3.4 Amenity (Views, Overshadowing, Overlooking, Privacy, Noise)

The proposed demountables are non-compliant with the FSR development standard and setbacks. It is unreasonable to subject surrounding dwellings to overshadowing because of non-compliances. Compliance with the control is not relevant when it is non-compliances that contribute to overshadowing.

The objectives of the FSR development standard and DCP setbacks speak to minimising environmental impacts and providing equitable access to light, sunshine and air movement. The FSR and rear setback non-compliances contribute to overshadowing, not minimise. It cannot be consistent with the objectives of the FSR standard and the setback provisions.

The use also raised acoustic and visual privacy concerns both with the temporary structures and conversion to turf once the need ceases. There would be no restrictions on the use of the site for recreation by the College.

4.1.4 Setbacks (front, side and rear) and Building Separation

As mentioned above, the rear setback non-compliance contributes to overshadowing and does not meet the objective of the clause which aims to ensure and enhance local amenity by providing equitable access to light, sunshine and air movement

4.1.5 Open space and landscaping

The development will not meet the open space and landscaped area requirements. The basic perimeter planting schedule will not provide any significant softening or screening of the development when viewed from neighbouring properties. The removal of all trees on site further reduces landscape features of the area.

8.0 CONCLUSION

The proposal is considered inappropriate and a strategic approach to remove any oversight that comes would come with DA for the true intent of creating a new multi-storey building on the site for use as a 'senior hub'.

The proposal represents a significant threat to the heritage value of the local area and see further degradation of heritage and streetscape character with the demolition of dwellings that

complement and contribute positively.

The demountables require variations to LEP and DCP controls that results in amenity impacts with regard to overshadowing and privacy. This is unreasonable and not consistent with the objectives of the controls.

Again, we say it is imperative to restrict the time of the use as a school to ensure any future application for the 'Senior Hub' building requires a DA application that requires the change of use and is subjected to the rigor of DA assessment, and gives the residents a voice to raise their concerns.

Yours sincerely

William Fleming

BOSTON BLYTH FLEMING

BS, MPLAN