

13 December 2021

Submission to the Northern Beaches Local Planning Panel

Re: DA2021/1032, 8 Delecta Ave, Clareville - Alterations and additions

Dear Planning Panel members

There have been many submissions to Council objecting to the above proposed development, with the issues raised by local residents (and our local expert architect) falling into two broad categories – 1. Qualitative concerns with its bulk and scale, visual impact from Delecta Avenue and its suitability for this beachside community; and 2. Significant non-compliance with the numerical controls of Council's DCPs, specifically landscape ratio, the form of the driveway and the impact on the only substantial native canopy tree on site.

By their nature, qualitative issues are subjective in judgement, and it appears that Council has dismissed all of our qualitative concerns, labelling the impacts as "reasonable". We strongly disagree. This is a development out of character and scale with other homes in this special environment. It is inconsistent with the objectives of the LEP (refer to clause 1.2) and the aims of the E4 zone "to provide for low impact residential development in areas with special ecological, scientific or aesthetic values", such as Clareville (Long) Beach, and "to ensure that residential development does not have an adverse effect on those values". The proposed development does not adhere to these goals - refer to the Appendix for a before and after comparison of bulk and scale.

While there is some room for subjective interpretation of qualitative guidelines, there is little such leeway in the assessment of numerical controls. The amended proposed development still breaches key DCP numerical controls, and by a substantial margin:

a. Landscape ratio non-compliance – our architect has assessed the landscape area of the amended development proposal on the basis that it complied with Council's DCPs (that is: excluding roof gardens and in-between driveway wheel strips from the calculation of soft area and also incorporating a driveway that complies with the DCP), with the results as follows:

Metric	Council DCP control limit	Proponent's amended calculations	Actual complying calculations (our architect)	Non-compliance difference
Landscape Area - %	60% of site area	58.72%	46.25%	-13.75%
- sqm	379.38 sqm	371.27 sqm	292.43 sqm	-86.95 sqm
Hard Surface Area - %	40% of site area	41.28%	53.75%	+13.75%
- sqm	252.92 sqm	261.03 sqm	339.87 sqm	+86.95 sqm

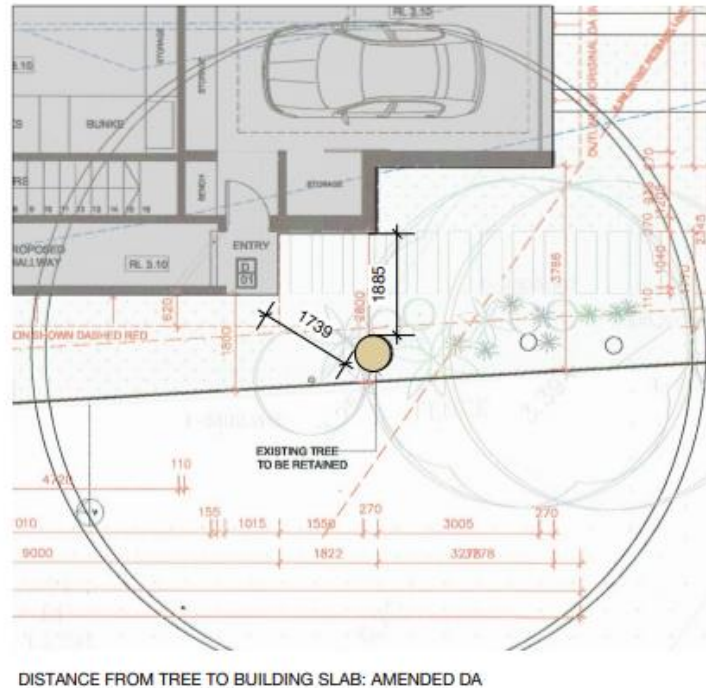
* Note: Site area is 632.3 sqm

There are two primary controls in relation to bulk and scale of a proposed development under the DCP – 1. Landscape ratio, being 60% soft landscape area/40% hard surface; and 2. A height limit of 8.5 metres. There is no FSR (floor space ratio) limitation. The height limit in the DCP is generous, particularly for such a small site (632.3 sqm) being less than 15 metres in width. But the Landscape Area Control is a key control, as it is the sole determinant of the building footprint on the site. It operates in the absence of an FSR control, is a critical mechanism for controlling bulk and scale, and must therefore be adhered to. Such a substantial non-compliance with this control should be considered a serious breach, particularly in circumstances where the qualitative aspects of bulk and scale have been dismissed. While there is a 6% "buffer" for landscape ratio, the proposal is way outside even this generous allowance.

The actual Landscape Area of the proposed development is a substantial non-compliance and is certainly not "reasonable". On a small site, 87 sqm is a large area in excess of the control that should be set aside for soft landscaping. To put this issue further into perspective, the amended proposed development seeks an additional 34.4% of the DCP Landscape Area Control, which is outrageous. Hence, the development proposal should be further amended so that it complies with this important control.

b. **Native Melaleuca (tree #5) still in danger** – this tree is the only substantial mature native canopy tree on site. While the amended development proposal now has provided “greater opportunity for the retention of the tree”, given the proximity of the building to the tree, its survival is in jeopardy. The original arborist’s report accompanying the DA stated that the tree was of high retention value and high significance – indeed, it was a condition of the DA approval at #6, 4 years ago, that it be protected. The distances of the built form from the tree’s trunk are depicted in the diagram below:

The distances from tree trunk to the built form are 1.739m on the oblique and vertically 1.885m. These distances are far too close to ensure the tree's survival – in fact, the key determinant is the potential impact of the building on the tree's root zone. The tree protection zone (TPZ) is 6.9m, and the structural root zone (SRZ) is 2.8m. Building encroachment to 4.75m from the tree or within <10% of the TPZ area (but outside the SRZ) is permissible. However, the amended development proposal has the building's footprint more than 10% inside the TPZ and also well within the SRZ. Therefore, an arborist's report (involving exploratory excavation and root mapping) is required that demonstrates that the tree will remain viable. This report needs to be commissioned (at the proponent's expense) before the development amendments to the plans. It is nonsensical to issue the construction certificate, as su



Other matters – Compliance with DA conditions

Other concerns, addressed in previous submissions to Council, include: the building of two homes on the site linked by an enclosed walkway; the large expanse of wall that will be close to and highly visible from #6 Delecta Ave, being approx. 34m long by 2.7m in height (c.92 sqm), adversely impacting their amenity; access to the site on a narrow shared driveway by the numerous large trucks and trades vehicles over an extended construction period, causing inconvenience to us at #10; and traffic management issues in the narrow lane-like Delecta Avenue. According to Council, these issues are to be “resolved” primarily by conditions imposed on the DA. Who is going to monitor subsequent compliance? It won’t be Council, but it will be up to the local residents to observe, complain, endure and most likely get no satisfaction. It is simply not acceptable or sensible to have such conditions imposed post DA approval.

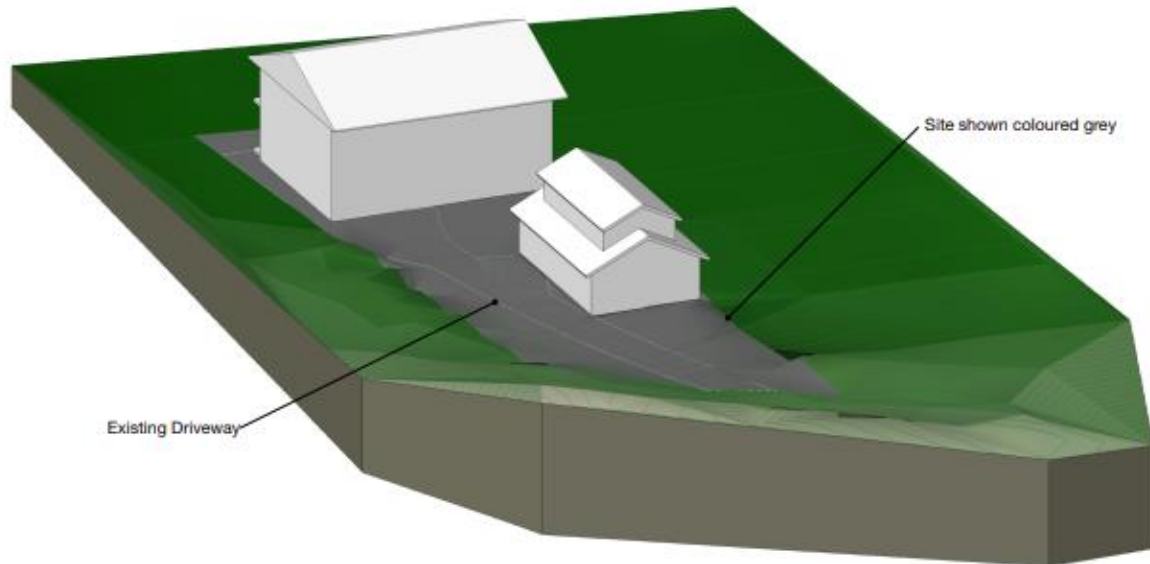
Conclusion

Substantial amendment to the proposed development is required so that it complies both with Council's numerical DCP controls and also the LEP objectives. Otherwise, what is the point of having these rules if Council allows them to be significantly breached? As residents and ratepayers, we expect Council to look after our interests, the significance of this area, and to observe its own rules. The amended proposed development is such a substantial departure from the DCP controls and the LEP aims that it should have been an easy task to reject it. To approve it will set an unhealthy precedent, opening the door to many more non-compliant developments.

Thank you for your consideration, Richard & Anne Barker.

APPENDIX – Before and after comparison of bulk and scale

Current house – Massing model:



Amended proposal – Massing model:

