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**Sent:** 15/08/2022 9:35:05 PM  
**Subject:** DA2022/1084 - 35 Kenneth Road, Manly Vale - Submission  
**Attachments:** 35 Kenneth Road - DA Submission.pdf;

Dear Mr England

Please find our submission in relation to the above DA application attached.

Kind regards  
Adam Booth

15 August 2022

Adam Booth and Annette Madden-Booth  
39 Kenneth Road  
Manly Vale NSW 2093

Nick England  
Planner  
Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Dear Mr England,

**DA2022/1084 - 35 Kenneth Road, Manly Vale NSW 2093**

We refer to the above Development Application (**DA**). We own and live at 39 Kenneth Road, Manly Vale and are adjoining western neighbours to 35 Kenneth Road, Manly Vale.

Please find attached a letter sent to the private certifier for the associated Complying Development Certificate CDC/1304902 (Council Ref: CDC2022/0361). Please refer to this letter in relation to your decision regarding the DA - we have concerns about the DA being issued prior to these matters being resolved.

While not related to the proposed driveway, we would also like to bring your attention to a large tree straddling the western boundary of 35 Kenneth Road which has not been noted on any plans associated with the CDC or DA. Presumably this tree would be removed as part of the proposed development and we query why this tree has been omitted from the plans.

Thank you for considering our submission. Please feel free to contact us if you would like to discuss further.

Yours faithfully,



Adam Booth



Annette Madden-Booth

15 August 2022

Adam Booth and Annette Madden-Booth  
39 Kenneth Road  
Manly Vale NSW 2093

Mitch Tarlinton  
Buildcert Certification Pty Ltd  
104 Hannell Street  
Wickham NSW 2293

By email: [inspect@buildcert.com.au](mailto:inspect@buildcert.com.au)

Copy: NSW Fair Trading, via online Certifier Complaint Form

Dear Mr Tarlinton,

**Invalid CDC/1304902 - 35 Kenneth Road, Manly Vale NSW 2093**

The above Complying Development Certificate (CDC) issued by you on 14 April 2022 is invalid for the following reasons:

We own and live at 39 Kenneth Road, Manly Vale and are adjoining western neighbours to 35 Kenneth Road, Manly Vale. We did not receive any written notice of the CDC before it was issued, as required by clause 134 of the *Environmental Planning and Assessment Regulation 2021*. When we became aware of the CDC, we contacted Buildcert by phone to advise that we had not received written notice, but have received no further contact.

The CDC cannot be issued until at least 14 days after the certifier has given neighbours written notice. Accordingly, the CDC is invalid.

In addition, the CDC applies out-of-date legislation - referencing the *Environmental Planning and Assessment Regulation 2000*. As at the date of the CDC, those regulations were no longer in effect. The correct regulations were the *Environmental Planning and Assessment Regulation 2021*.

Further, we have not received any verbal or written communication about this development from our neighbours at 35 Kenneth Road.

We also note the following:

1. 35 Kenneth Road is Limited Title. We query whether you can certify Dwelling D to an exact 900mm set back from the western boundary which is "approximate only" (as noted in the *Detail & Boundary Identification Survey* submitted with the associated Northern Beaches Council DA application DA2022/1084).
2. In any event, query whether an attached development is required to have a side setback of 1.5m under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*?
3. The CDC approves the excavation along, and construction of, a retaining wall immediately against the same "approximate" western boundary. We have obtained an independent survey of the same boundary which notes an existing wall which is a dividing fence straddling the boundary. As the dividing fence straddles the boundary, it can not be demolished or altered without our consent. We have received no communication regarding the intent of works to take place along the common boundary.

4. We intend to lodge a plan of delimitation with NSW Land Registry Services regarding the boundary. Query the effect on retaining and setback measurements when the delimitation is registered.
5. There is a large tree on this boundary that has not been noted on any plans associated with the CDC or DA and this tree would presumably be removed to construct a retaining wall. We query why this tree has been omitted from the plans.

Thank you for considering this letter, we would appreciate a written reply within 14 days addressing the concerns raised above. Please feel free to contact us if you would like to discuss further.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Adam Booth', with a stylized flourish at the end.

Adam Booth

A handwritten signature in black ink, appearing to read 'Annette Madden-Booth', with a stylized flourish at the end.

Annette Madden-Booth