

EVOLUTION PLANNING

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8 February 2021

The General Manager
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

Email: council@northernbeaches.nsw.gov.au; maxwell.duncan@northernbeaches.nsw.gov.au

Att: Maxwell Duncan, Planning Officer

Dear Mr. Duncan,

RE: DA2020/1501 – 38 Undercliff Road, Freshwater - Response to request for further information.

We refer to your letter dated 15 January 2021 within which Council has raised a number of matters which require further consideration.

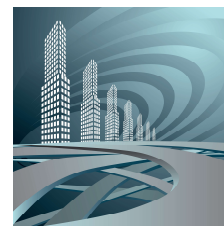
This letter is accompanied by amended architectural drawings, prepared by Arkhaus, and an amended landscaping concept plan, prepared by COS Design.

Amended DA

In accordance with Section 55 of the *Environmental Planning and Assessment Regulation 2000*, the proposed amendments are described in summary as follows:

- Delete driveway and associated hardcover parking area off Undercliff Road;
- Reduction in quantity of hardcover areas within the front setback zone and within the landscaped space at the centre of the site;
- Setback terraced area on top of the garage and secondary dwelling from the rear and western boundaries by ~1m including the introduction of a non-trafficable landscaped planter bed in the recessed area; and, the replacement of the glazed balustrade in this location with a black steel blade type fence;
- Setback the privacy screen at the eastern side of the terrace to the mid-point of the planter box when it was previously located at the eastern edge;
- Associated amendments to the landscaping design;
- Clarification on the architectural drawings that the room originally described on the drawings as a studio is a “secondary dwelling”, in accordance with *Warringah Local Environmental Plan 2011*.

Please refer to the accompanying amended drawings and our response below to the matters raised.



Issue	Response
<p>Setback (Moore Lane) [Rear]</p>	<p>With respect to the rear boundary interface, the design approach has been led by the provision of a double garage (being the preferred location for such structures).</p> <p>The garage is built to the rear boundary, which is not inconsistent with other developments on the Lane. Any setback from the boundary would, in our view, be of limited merit and would instead restrict opportunities for landscaping and recreation space at the heart of the site.</p> <p>Instead of having a vacant portion of land by the provision of side setbacks to the garage, it was decided to make the most efficient use of the land by providing a secondary dwelling which represents a positive outcome in terms of the availability of affordable housing; a positive outcome in terms of securing the site from the rear Lane; and, creates an further space for practically sized private open space above.</p> <p>The rear presentation, (as amended), to the lane is considered to be satisfactorily articulated to minimize the perceived massing of the structure for the following reasons:</p> <ul style="list-style-type: none"> • The rear wall is divided into two distinct parts by the use of different materials, colours and textures, with the garage door being of timber effect metal paneling and the wall of the secondary dwelling being a grey stone finish; • The provision of three windows facing the Lane; • The setting back of the rear edge of the terrace above from the rear edge of the structure to allow for a non-trafficable planter bed allowing for cascading overhanging plants to soften the built form; • The replacement and setting back of the glazed balustrade with a metal blade type balustrade; • Amendments to the privacy screen at the eastern edge of the terrace and setting back the western edge of the terrace as described below. <p>Refer to the figures below showing extracts from the schedule of finishes and the amended perspective from the rear.</p>

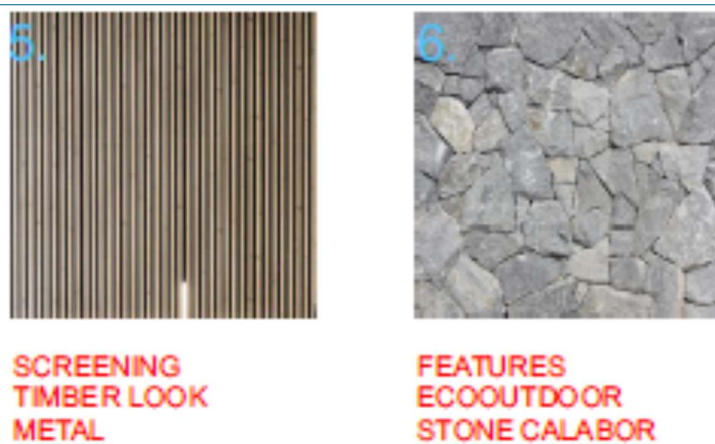


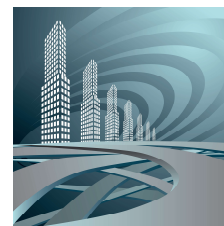
Figure 1: Extract schedule of finishes – rear wall and garage door



Figure 2: Amended perspective from rear Lane

Division 3.6 of the *Environmental Planning and Assessment Act 1979* recognises the flexibility with which DCPs should be applied and legislates that:

- the provisions of DCPs are non-statutory;



- that the provision of the DCP should facilitate the achievement of the zone objectives; and,
- that where numeric compliance is not met then alternative design solutions should be considered on the basis of consideration against the objectives of the particular guideline and the DCP be applied with flexibility.

Section 3.42 of the Act contains provisions related to purpose and status of DCPs as follows:

- (1) ***The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:***
- (a) ***giving effect to the aims of any environmental planning instrument that applies to the development,***
 - (b) ***facilitating development that is permissible under any such instrument,***
 - (c) ***achieving the objectives of land zones under any such instrument.***

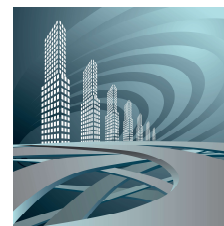
The provisions of a development control plan made for that purpose are not statutory requirements.

[emphasis added]

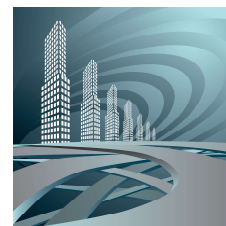
Section 4.15 of the Act “Evaluation” at subclause (3A)(b) states:

- (b) ***if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development***

We therefore request that where the proposed development does strictly satisfy the numeric provisions of the DCP that it be applied, as legislated under the Act, with flexibility, subject to the satisfaction of the related objectives which are discussed below.



	<p>The objectives of guideline B7 Front Boundary Setbacks are discussed as follows:</p> <ul style="list-style-type: none"> • <i>To create a sense of openness.</i> <p>Comment: It is acknowledged that the existing site (unlike many other developments with a presence to the Lane) is open largely because parking is presently available from Undercliff Street.</p> <p>The DCP requires parking from the Lane and therefore that sense of “openness” will be reduced to comply with the DCP. The proposal to include a secondary dwelling and reduce the “openness” when viewed from the rear is justified above.</p> <p>Importantly however, these objectives, whilst applicable to “Front Boundary Setbacks”, are applied in this instance to what is in effect a rear service lane and should therefore be treated in that context.</p> <ul style="list-style-type: none"> • <i>To maintain the visual continuity and pattern of buildings and landscape elements.</i> <p>Comment: The proposed built form at the rear is consistent with the pattern of buildings in the Lane. The building to the immediate east is considered to be an anomaly in terms of the pattern of development in this locale since it is located largely to the north of the site.</p> <ul style="list-style-type: none"> • <i>To protect and enhance the visual quality of streetscapes and public spaces.</i> <p>The proposed development is considered to achieve a superior streetscape outcome to the Lane as compared to existing situation which comprises a 1.8m timber fence and a chain wire gate.</p> <ul style="list-style-type: none"> • To achieve reasonable view sharing <p>Comment: No views are hindered as result of the proposed form at the rear.</p>
Setback (Undercliff Road) [Front]	<p>When assessed against the prevailing front setback of 6.5m, the proposed development encroaches marginally into the front setback area at the eastern part and sits behind the prevailing building alignment to a greater degree at the western part.</p> <p>The non-compliance at the eastern part comprises a blade framing element of the building which is considered to be essential to the aesthetic and</p>



architectural philosophy of the building and also contributes to the articulation and modulation of the faced which the DCP advocates.

As a direct response to the matters raised by Council, the reconfigured driveway and hardstand parking area have been removed from the proposal, creating an enhanced streetscape outcome and landscaped character setting, as discussed further below with respect to “*landscaped open space*”.

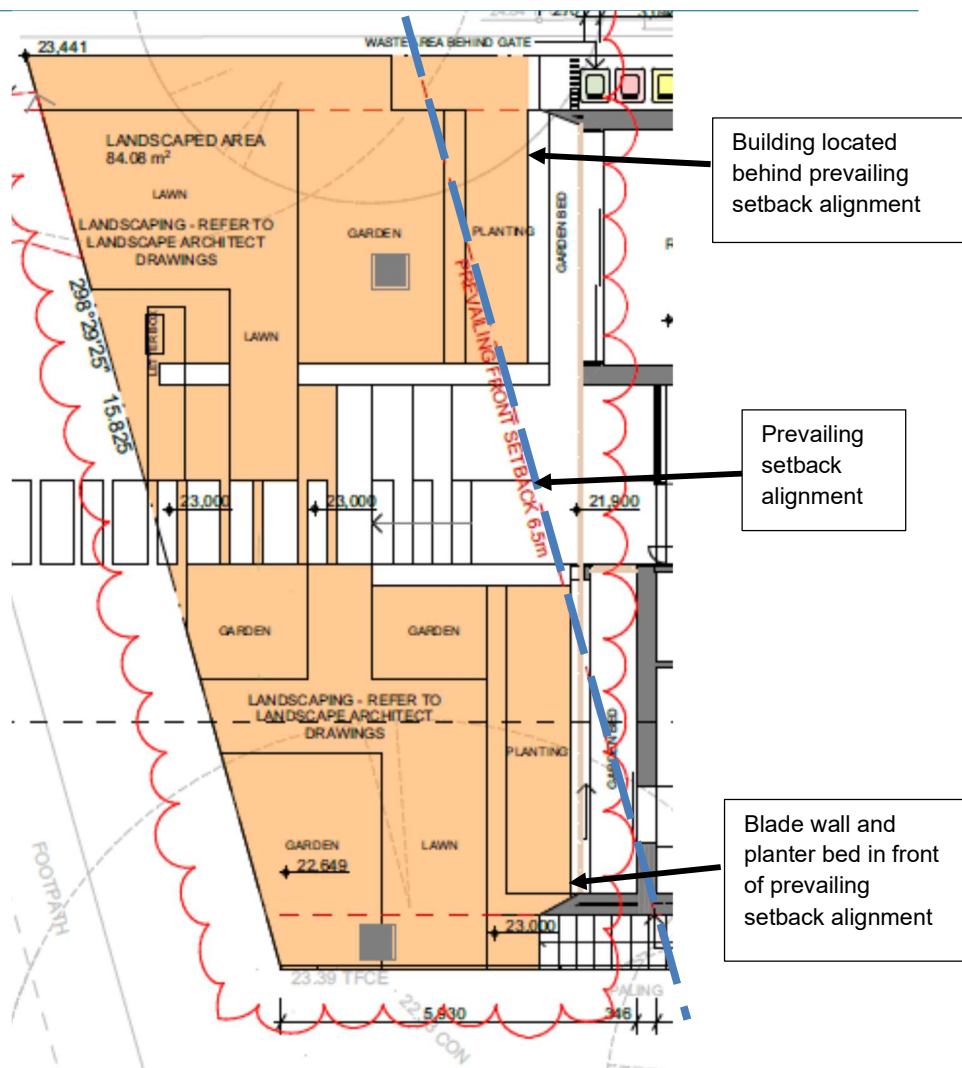
The non-compliance largely arises as a result of the shape of the site, specifically that the site is a right-angled trapezoid and the front boundary is at a diagonal to the side boundaries. Aligning the front of the building to be parallel with the front boundary would not be consistent with the pattern of development in the locality.

The objectives of guideline B7 Front Boundary Setbacks, in the context of the setback from Undercliff Road, are discussed below:

- *To create a sense of openness.*

Comment: The front setback area is entirely free of structures except for essential paving and furniture, such as a post box feature; and a framing blade wall feature at the eastern edge of the building.

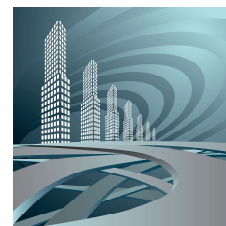
In terms of creating a sense of openness, the minor non-compliance is more than compensated by a larger part of the western part of the building being behind the prevailing building alignment to a greater degree. Refer to the extract below.

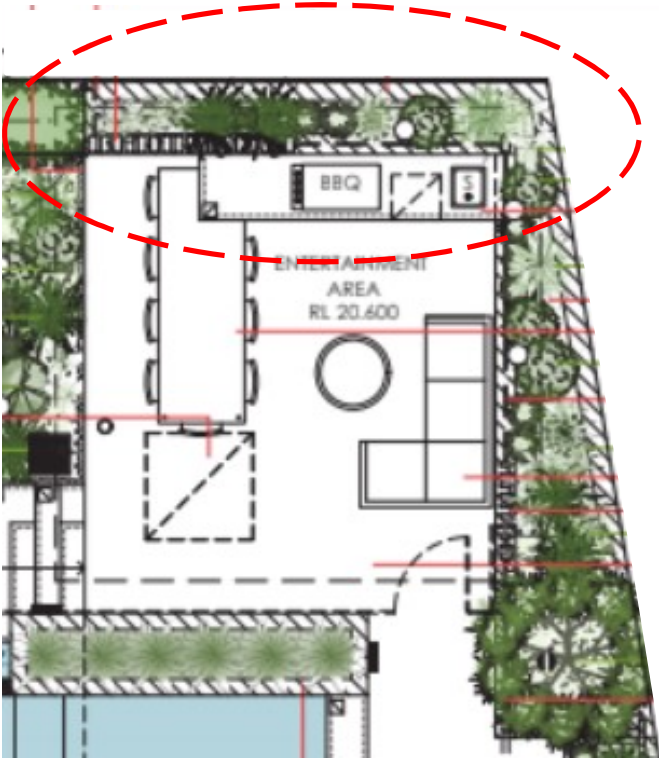


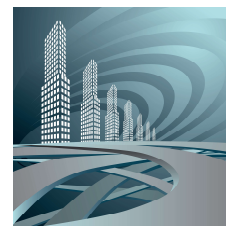
- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment: The proposed minor encroachment does not interrupt the visual continuity and pattern of buildings in any significant way particularly since the building to the immediate east is located towards the north of the site and breaks the prevailing alignment and patterns of buildings.

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	<p>The proposed development is considered to achieve a superior streetscape outcome compared to the existing situation which comprises a dated dwelling; a driveway and hardstand parking area; and, landscaping comprising only turfed areas.</p> <p>The contemporary high-quality design will enhance the visual quality of the streetscape. The non-compliant part of the building which encroaches into the front setback zone is considered to be an essential architectural feature of the building and an essential part of the building design.</p> <ul style="list-style-type: none"> • To achieve reasonable view sharing <p>Comment: No views are hindered as result of the proposed form at the rear.</p>
Side Setback & Building Bulk	<p>The proposed development has been amended to introduce a setback to the rear terrace from the western boundary by the introduction of a planter box at this location, softening the building massing and achieving greater consistency with the objectives under the DCP, which are discussed further below.</p>  <p>Figure 4: Extract amended landscaping plan – terrace setback western boundary</p>



The privacy screen located at the eastern edge of the rear terrace is an essential element of the design to mitigate overlooking from the wrap around balconies over three levels within the dwelling to the immediate east of the site.

Council has raised issue with the perceived massing of the privacy screen, which we observe may have appeared to be bulkier than what it actually will be due partly to the presentation of the structure in the previously submitted elevation which appeared as a solid black structure due to the scale of the drawings. In actuality, the screen comprises a hardwood timber slatted element with gaps.

To minimize the perceived massing of the screen, the design has been amended to setback the alignment of the screen to the centre of the planter box where it is located (where it was previously located on the eastern edge on top of the wall below). This setback has the effect of breaking the vertical plane of the screen and the wall below and provides visual relief and modulation when viewed from the Lane.

The screening structure has also been softened and articulated from the wall below by allowing for climbing plants to cover the eastern side of this element. Refer to the perspective below.



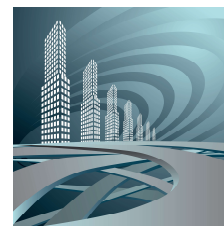
Figure 5: Rear perspective showing treatment of privacy screen

The objectives of the DCP which Council has identified are addressed as follows:

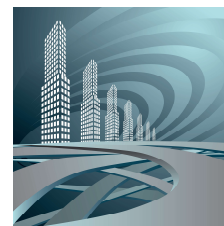
- *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood*

Comment: The proposed development responds to the sloping topography of the site by creating a design incorporating amenable and practical areas of open space which have convenient level access from the living spaces. This has involved the provision of the raised terrace at the rear which is considered to be satisfactory in light of the proposed landscaped setbacks, privacy mitigation measures; and, the consistency of the siting and form of the structure with the neighboring development.

- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome*



	<p>Comment: The proposed development is considered to be a “good neighbour” in light of the relative lack of impacts it will introduce on neighbouring properties.</p> <p>The proposed design is considered to achieve a unified landscaping outcome in terms of the location of landscaping being largely within the front setback area and at the heart of the site, given other development has parking structures facing Moore Lane (as required under the DCP).</p> <p>There is no doubt, in our opinion, that the proposed development represents an attractive design outcome.</p> <p>Moore Lane has no footpaths and is essentially a service lane for residential parking and is not considered to be a pedestrian area of any significance.</p>
Landscaping Calculation	<p>The proposed development includes a variety of landscaped spaces, some of which is in planter boxes and some located above natural ground level, due to the steep topography of the site and the desire to have conveniently located private open space and practical outdoor areas for the occupants to enjoy.</p> <p>Upon the strict application of the definition of “<i>landscaped open space</i>” in accordance with Section D1 of Warringah DCP 2011, parts of the site, (which were previously included in the “<i>landscaped open space</i>” calculation), cannot be included. Such areas included: the semi-permeable driveway; areas above natural ground level; and, areas with a dimension of less than 2m (which we have taken to be each dimension being greater than 2m).</p> <p>In terms of landscaping generally, notwithstanding the DCP definition of “<i>landscaped open space</i>”, the proposed development is considered to be a far superior landscaping outcome to the existing development and will contribute more positively to the streetscapes. Despite some of the landscaping elements not being included in the calculation they will still be perceived and function as landscaped and will contribute to the landscaped setting of the site.</p> <p>Upon the recalculation of “<i>landscaped open space</i>”, the proposed quantity is 202.59sq.m or 35% of the site area which represents a minor shortfall of 5% to the guideline of 40%. Refer to the accompanying landscaped open space calculation sheet.</p> <p>The minor breach to the “<i>landscaped open space</i>” guideline has been minimized by amendments to the proposed development including: the</p>



removal driveway and hardstand parking area at the front setback; and, a reduction in the quantity of hardcover paved areas.

The removal of the existing driveway and hardstand parking area at the front of the dwelling (and the reconfigured version of the same from the originally submitted DA) is considered to be a significant improvement to the landscaped character of the site and the landscaping contribution it makes to the streetscape.

The proposed quantity of “*landscaped open space*” is considered to be acceptable in light of the consistency with the associated objectives of the guideline as discussed below.

Objectives

- *To enable planting to maintain and enhance the streetscape.*

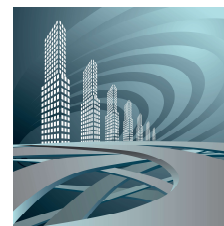
Comment: By the removal of the driveway and hardstand parking area and the reduction in other hardstand areas, the front setback area presenting to Undercliff Road now largely comprises all “*landscaped open space*” except for the pedestrian entry and stairs and a minor encroachment of a blade wall at the eastern edge of the building (which is discussed above).

The degree of “*landscaped open space*” within the front setback area allows for a significant positive contribution to the landscaped character of the Undercliff Road streetscape.

The proposed landscaping, will in our view, “*enhance*”, as opposed to “*maintain*” the streetscape, through the provision of a variety of garden beds, planter boxes, plants and trees, which is in contrast to the existing streetscape presentation which comprises a concrete driveway, a paved pedestrian entry and expanses of turf.

In terms of landscaping, the streetscape presentation to the rear lane is a contextually different proposition. Moore Lane is essentially a service lane characterized by garages with a number of them built to the boundary or recessed slightly with hardcover driveways between the parking structures and the boundary.

The proposed amended development is considered to achieve a satisfactory landscaping outcome in terms of the contribution it will make to the Moore Lane streetscape by recessing the terrace area and the provision of a non-trafficable landscaped planter box creating opportunity for cascading plantings. It is acknowledged that such planting is not technically “*landscaped*



open space” by definition, but in terms of the visual environment along the Lane it will be perceived as landscaping.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment: The existing site does not contain any indigenous vegetation, significant topographical features or habitat for wildlife of any great significance. The proposed landscaping concept, including a variety of different native/indigenous plantings, will attract native birds and insects and a more attractive habitat for wildlife.

In comparison to the existing site, the proposed development is considered to “*enhance*”, as opposed to “*conserve*” such ecological criteria.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment: The proposed landscaping concept includes a variety of plantings of various mature heights, from ground covers to trees with a maximum height of 18m. The height of the building is single storey when viewed from Undercliff Road and therefore canopy trees in this location would be disproportionate to the massing of the building.

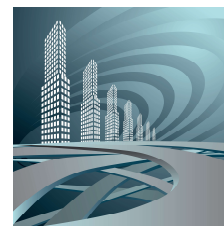
- *To enhance privacy between buildings.*

Comment: Since there are limited openings on the sides of the proposed building and the relationship between the building and the neighbouring buildings, screen planting along the side boundaries adjacent to the building is not necessary in this instance.

Landscaping has been used as a tool to enhance privacy at the rear open space area in terms of planter boxes providing setbacks and the privacy screen at the eastern edge of the rear terrace which is augmented with screen planting.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment: The proposed development contains areas for outdoor recreation in excess of that required under the DCP.



	<ul style="list-style-type: none"> • To provide space for service functions, including clothes drying. <p>Comment: An area for clothes drying is provided at the side of the dwelling adjacent to the laundry.</p> <ul style="list-style-type: none"> • To facilitate water management, including on-site detention and infiltration of stormwater. <p>Comment: The minor shortfall in “<i>landscaped open space</i>” of 5% is not considered to be a significant hindrance to the ability of the site to drain naturally. We have formed this opinion because parts of the open space (such as the deck at the rear of dwelling and the side setback areas which have a dimension of less than 2m and are not included in the calculation of “<i>landscaped open space</i>”) still allow for the natural permeation of water into the soil below.</p>
Secondary Dwelling	<p>The architectural drawings have been amended to clarify the use of the room adjacent to the proposed garage as a “secondary dwelling” as identified in the submitted Statement of Environmental Effects, (SEE).</p> <p>The “secondary dwelling” has been assessed against the related criteria in the SEE.</p>

We trust the proposed amendments and further information is of assistance and that the DA now warrants the support of Council.

Please contact the undersigned directly on 0430007725 should you wish to discuss the proposal further.

Yours sincerely,

Tony Robb
BA (Hons) UPS, Grad.Dip.TP (Westminster) RPIA
Principal

