

Attention Council Officer Mr Thomas Burns
Northern Beaches Council
Submission by email

14 February 2021

Dear Mr Burns,

**RE: AMENDED DEVELOPMENT APPLICATION 9 ADRIAN PLACE BALGOWLAH
HEIGHTS – DA2020/1558 ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE**

Further to our objection letter posted to you on 13 January 2021, as the residents and owners of 6 Adrian Place, Balgowlah Heights we now write in respect of the **Amended DA2020/1558**.

1. If there were no other issues concerning the proposed Second Floor Extension (which is of course a **third floor extension**, notwithstanding the Applicant's label) we agree that given the neighbouring roof profiles and local skyline, the substituted flatter roofline in the amended DA2020/1558 is the only type of roofline acceptable and reasonable for this area. As stated in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140, the height limit is a maximum and does not entitle an applicant to a building enveloping the site.

However, we further submit that the amended roof (should it proceed), be mandated to have its height lowered to start in line, and be seamless with the guttering on the existing roof. The amending roof currently sits well above the existing guttering (see East Elevation and North Elevation Plans). This provides little or no aesthetic benefit for the Applicant on a battle-axe block, but persists in unnecessarily and unreasonably impacting our view. Lowering the roofline would minimise view loss, as the planning laws require.

It is also to be noted from the Cross-section Plan, that the Second Floor Extension appears to breach the 8.5m maximum height level denoted by the red line. If this is in fact the case, the Second Floor Extension is not in accordance with Environmental and Planning law requirements and consent should not be given.

2. Additionally, and notwithstanding paragraph 1 above, the following problems and therefore objections remain:
 - a. As stated in our original letter, the width (south-facing) of the proposed Second Floor Extension doubles the existing roofline footprint of 9 Adrian Place. This not only results in visual bulk and a scale inconsistent with adjoining and nearby properties which is contrary to the specific objectives of the planning laws, but it unnecessarily and unreasonably removes the depth of our valuable and uninterrupted existing view. For the reasons we have

outlined in our previous letter to you, the amended Second Floor Extension does nothing to address this width and bulk issue and we object on this basis.

- b. We have now had the opportunity to read the published objections of our Adrian Place neighbours - Number 7 (who will suffer a complete loss of valuable water views from both sitting and standing positions) & Number 8 (who will suffer a gross privacy impingement and boxing-in caused by the large and continuous wall plane created by the Second Floor Extension). As proximate neighbours we have a vested interest in the outcome of this decision and the precedent it sets for the future character of our street, suburb and Council area. We submit that the amended design does nothing to minimise loss of privacy, views and other nuisance for its neighbouring properties as the law requires, and that construction of the Second Floor Extension would permit an undesirable domino-effect of view and privacy casualties northwards on Adrian Place.

We understand there exists no right to views at common law, which makes Council considerations and decisions on view sharing so important to multi-million-dollar properties with pre-existing views and for residents' certainty. In *Tenacity Consulting*, paragraph 30 onwards, the court held that the obliteration of water views across Manly by the proposed structure was considered severe and unreasonable and therefore the application was refused. Number 7 Adrian Place will analogously suffer valuable view **obliteration** (although our case can be distinguished and arguably strengthened by the compounding negative externalities of subsisting view loss at Number 6, plus privacy infringements and boxing-in at Number 8). Such considerations constrained the relatively recent construction of Number 9 (see Letter from Quinn Homes to Manly Council, March 2009 lodged by Number 7), and since that date nothing has changed bar its transfer of ownership. We therefore submit in accordance with the *Tenacity Consulting* tests and previous building decisions in respect of Number 9, that the proposed and amended Second Floor Extension in DA2020/1558 is unreasonable, and should be refused in its entirety.

Thank you for viewing our house as part of your assessment and for providing the opportunity to respond to the amended DA.

Regards
Daniel and Amanda McLean