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**Sent:** 7/05/2021 10:02:03 AM  
**Subject:** Submission - DA2021/0381 - 17 Ernest Street, Balgowlah Heights  
**Attachments:** Cover Letter - Planning Submission 17 Ernest Street (DA2021\_0381).pdf;  
Planning Submission - 17 Ernest (DA2021\_0381).pdf;

Att: Adam Croft

Please find attached planning submission relating to DA2021/0381 at 17 Ernest Street, Balgowlah Heights.

Should you have any queries please do not hesitate to contact me on 0420 989 146.

Regards,

Brendon Quinn  
25 Curban Street, Balgowlah Heights



+BrendonQuinn  
General Manager, NSW Industrial Development

Direct: +61 2 9230 7402  
Mobile: +61 420 989 146  
Fax: +61 2 9230 7444  
[Brendon.Quinn@goodman.com](mailto:Brendon.Quinn@goodman.com)  
[info-au@goodman.com](mailto:info-au@goodman.com)  
[www.goodman.com](http://www.goodman.com)

The Hayesbery  
1-11 Hayes Road  
RoseberyNSW2018  
Australia



Goodman Limited ABN 69 000 123 071

Goodman Funds Management Limited ABN 48 067 796 641 AFSL Number 223621

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7 May 2021

The General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655  
Email: council@northernbeaches.nsw.gov.au

**Attention: Adam Croft**

**RE: PLANNING SUBMISSION IN RELATION TO DA2021/0381 FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE AT 17 ERNEST STREET, BALGOWLAH HEIGHTS**

Dear Council,

This submission has been prepared in relation to DA2021/0381 for alterations and additions to a dwelling house (including a swimming pool) at 17 Ernest Street, Balgowlah Heights ('No.17').

We are the owners and residents of 25 Curban Street, Balgowlah Heights ('No.25'), and immediately adjoin the rear boundary of No.17. **Figure 1** below establishes the physical location of No.25 (from which this Submission has derived), in relation to the proposed development.



**Figure 1. Development Site in relation to No.25 (Six Maps 2021)**

We do not object in principle to the future development of the site for alterations and additions to the dwelling house, but have a number of concerns with the current Development Application (DA). In particular, the following objections are raised:

- The proposed development exceeds the height standard, which contributes to unacceptable impacts on the amenity of the neighbouring property.
- The proposed development also fails to comply with the setback controls, which further exacerbates amenity impacts and contributes to an excessive bulk and scale for a dwelling in this location.
- The significant height of the proposed development and encroachment within the setbacks, would cause view loss, loss of outlook and visual impacts. View sharing has not however been adequately considered.
- To assist in addressing these matters, it is considered that further view assessment, visual analysis and height poles, should be required prior to determination, to assist in demonstrating the visual and amenity impacts of the proposal.
- Further details should also be provided of landscaping and planting, with suitable conditions included, to ensure new vegetation does not obscure existing views.
- Details on the orientation and reflectivity of roof materials, rooftop equipment and any solar photovoltaics (PVs), should be acquired, and any design amendments made to minimize associated visual and reflectivity impacts.

We would have expected such a proposal may have benefitted from early consultation prior to the Development Application being made and therefore an opportunity to express these concerns but this has not occurred.

It is requested that these matters are addressed through the procurement of additional information and amendment of the proposal, prior to the determination of DA2021/0381.

Should you wish to discuss the matter further, please do not hesitate to contact the undersigned.

Yours faithfully,

Brendon & Robyn Quinn  
25 Curban Street  
Balgowlah Heights, NSW 2093  
Email: [Brendon.quinn@goodman.com](mailto:Brendon.quinn@goodman.com)  
Phone: 0420 989 146

## PLANNING SUBMISSION

This planning submission has been prepared on behalf of the adjacent property owner at 25 Curban Street.

### 1. BUILDING HEIGHT NON-COMPLIANCE

The proposed development contravenes the 8.5m building height standard applicable to the site (together with all other surrounding land) pursuant to *Manly Local Environmental Plan 2013* (MLEP2013). The proposed building height of 9.33m represents a 0.83m exceedance and equates to a 9.76% variation (it is noted that the submitted Clause 4.6 Variation incorrectly references a 9.7% variation which should instead be correctly rounded to 9.8%).

Whilst the region of non-compliance relates to a section of the roof form in the front section of the proposed dwelling, this nonetheless would be visible in the outlook from the neighbouring dwelling to the rear and would block the views currently enjoyed by the existing dwelling. It is anticipated that this view loss would be less severe in the instance of a compliant scheme.

Associated with the view loss impact, the additional building height would cause the proposed development to prominently occupy the neighbouring outlook. Direct outlook towards an over-scaled building mass would represent a negative impact on outlook and an adverse visual impact for the neighbouring property. This unacceptable impact on outlook and visual impact, would be reduced through a more sensitive design that rectifies the height non-compliance.

Given the amenity and visual impacts arising from the height non-compliance, the justification put forward within the Clause 4.6 Variation is refuted. The Clause 4.6 Variation suggests that the proposed height non-compliance would have no unreasonable amenity impacts for neighbouring properties or the public domain. However, as outlined above, given the view loss, loss of outlook and visual impact, the proposal *would* unreasonably impact neighbouring amenity.

Further, the height non-compliance would exacerbate the height, bulk and scale of the dwelling. This would compromise the established streetscape and low density character of the residential suburb. Such a non-compliance may also set a precedence for other developments to similarly disregard the LEP standards and gradually erode the low density character of the streetscape and surrounding area. This is also contrary to the justification presented by the Clause 4.6 Variation.

Overall, the proposal would be contrary to the objectives of the development standard, as per the following tabular summary.

<b>Table 1. Building Height Objectives (MLEP2013, Clause 4.3)</b>	
<b>Objectives of the Standard</b>	<b>Comment</b>
<i>(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,</i>	<p>The most defining feature of the local area is considered to be the prominence of canopy trees, contributing to leafy streetscapes and 'green' views across the valley.</p> <p>The streetscape and local area are also characterized by a sloping topography, with dwellings stepped accordingly down the slope so as to integrate with the landscape.</p> <p>The proposed height non-compliance and dominant roof form may compromise the leafy character and legible topography of the streetscape and locality.</p>



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<b>Table 1. Building Height Objectives (MLEP2013, Clause 4.3)</b>	
<b>Objectives of the Standard</b>	<b>Comment</b>
	As such, the proposal fails to achieve this objective of the building height standard.
<i>(b) to control the bulk and scale of buildings,</i>	<p>The height non-compliance would exacerbate the bulk and scale of the building, with associated amenity impacts, visual impacts and impacts on streetscape and local character.</p> <p>As such, the proposal fails to achieve this objective of the building height standard.</p>
<i>(c) to minimise disruption to the following—</i> <i>(i) views to nearby residential development from public spaces (including the harbour and foreshores),</i> <i>(ii) views from nearby residential development to public spaces (including the harbour and foreshores),</i> <i>(iii) views between public spaces (including the harbour and foreshores),</i>	<p>The proposed development would cause view loss and loss of outlook for the neighbouring property to the rear.</p> <p>This view loss and loss of outlook, would be exacerbated by the height non-compliance, which would cause additional view obstruction and a heightened visual impact compared to a more sensitively designed compliant scheme.</p> <p>As such, the proposal fails to achieve this objective of the building height standard.</p>
<i>(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,</i>	Given the location of the non-compliance with respect to No.25 and also the local topography, solar access is not raised as an issue as part of this Submission.
<i>(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.</i>	The site is not situated in a recreation or environmental protection zone, and so Objective (e) is technically not applicable.

Accordingly, the Clause 4.6 Variation is unfounded. In particular, the proposal fails to satisfy the following requisites of Clause 4.6:

- Contrary to Clause 4.6(3)(a), compliance with the development standard is both reasonable and necessary in the case. A more sensitive design would reasonably allow for compliance to be achieved, with compliance being necessary in order to reduce the unacceptable amenity impact on the neighbouring property, achieve a suitable visual impact, and avoid compromising the character of the streetscape.
- Contrary to Clause 4.6(3)(b), there are not sufficient environmental planning grounds to justify contravening the development standard. As outlined above, a more sensitive design would enable compliance to be achieved and would more appropriately respect neighbouring amenity, the streetscape and local character.
- Contrary to Clause 4.6(4)(a)(ii), the development would not be in the public interest as it fails to achieve the objectives of the particular standard (refer **Table 1**), with associated adverse amenity, visual and streetscape impacts.

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- Contrary to Clause 4.6(5)(b), there would be substantial public benefit in maintaining the development standard, given this would ameliorate some of the amenity impacts for the neighbouring property through improved view sharing, improved outlook and improved visual impact, compared to the current non-compliant scheme. The public benefit of maintaining the development standard would also extend to respecting the low density character of the established streetscape and surrounding area, for the benefit of all local residents.

As such, the requirements of Clause 4.6 have not been met and consent may not be granted pursuant to this clause.

### **2. SETBACK NON-COMPLIANCES**

The proposed development fails to comply with the setback controls pursuant to *Manly Development Control Plan 2013* (MDCP2013). In particular, the development encroaches in the front (street) setback and the first floor side setbacks (east and west).

The setback non-compliances are demonstrative of the excessive bulk and scale of the building, which threaten the low density character of the streetscape and locality.

The failure to adequately setback the dwelling would also exacerbate amenity impacts for the neighbouring properties, by increasing the building bulk evident in their outlook and therefore detracting from the leafy valley views that are characteristic of this area.

### **3. VIEW LOSS, LOSS OF OUTLOOK AND VISUAL IMPACT**

As outlined above, the additional (non-compliant) height of the proposed development and encroachment within the setbacks, would cause view loss, loss of outlook and visual impacts, including for the neighbouring property to the rear.

These impacts have not however been adequately considered (or considered at all) within the DA documentation.

Therefore, it is requested that a view loss assessment and visual analysis, are undertaken, assisted by height poles and photomontages clearly depicting the extent to which the proposed development would be visible from the windows and balconies of the adjoining dwelling. Design amendments should then be requested accordingly, to reduce the extent of unacceptable impact and achieve the principles of view sharing.

To ensure that additional impact on views and outlook, is not catalysed by new planted vegetation, it is requested that further details of landscaping and planting, are also acquired. Suitable conditions should be included in any consent issued, to ensure that landscaping includes only suitable planting and is well-maintained.

### **4. REFLECTIVITY**

The DA documentation does not include a Roof Plan, and therefore details of any rooftop equipment and/or PVs remain unknown. It is requested that a Roof Plan is provided, together with details on the orientation and reflectivity of roof materials, rooftop equipment and any PVs.

Suitable conditions should be included in any consent issued, to minimize reflectivity and ensure a suitable visual impact.

### **5. SUMMARY AND CONCLUSION**

## **Planning Submission**

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This Submission has demonstrated that DA2021/0381 is not adequately supported by detailed assessments and has not been sensitively designed, and therefore is unacceptable in its current form. The following objections are summarized:

- The proposed development exceeds the height standard, which contributes to unacceptable impacts on the amenity of the neighbouring property.
- The proposed development also fails to comply with the setback controls, which further exacerbates amenity impacts and contributes to an excessive bulk and scale for a dwelling in this location.
- The significant height of the proposed development and encroachment within the setbacks, would cause view loss, loss of outlook and visual impacts. View sharing has not however been adequately considered.
- To assist in addressing these matters, it is considered that further view assessment, visual analysis and height poles, should be required prior to determination, to assist in demonstrating the visual and amenity impacts of the proposal.
- Further details should also be provided of landscaping and planting, with suitable conditions included, to ensure new vegetation does not obscure existing views.
- Details on the orientation and reflectivity of roof materials, rooftop equipment and any PVs, should be acquired, and any design amendments made to minimize associated visual and reflectivity impacts.

Accordingly, it is requested that more detailed assessments and design amendments are procured and exhibited for public comment, prior to the determination of DA2021/0381.