

# SUBMISSION: GATT & HAMBLING

a written submission by way of objection to DA 2021/1912 & 1914

Richard Gatt & Jennifer Hambling  
8A Palm Ave  
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17 June 2022

Chief Executive Officer  
Northern Beaches Council  
725 Pittwater Road  
Dee Why  
NSW 2099

Northern Beaches Council  
council@northernbeaches.nsw.gov.au

Dear Chief Executive Officer,

Re:

2 - 4 Lakeside Crescent NORTH MANLY NSW 2100 ; 8 Palm Avenue NORTH MANLY  
NSW 2100 ; 389 Pittwater Road NORTH MANLY NSW 2100

DA 2021/1912 & DA 2021/1914

WRITTEN SUBMISSION: LETTER OF OBJECTION  
Submission: [Gatt & Hambling](#) Submission

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act] to both DA 2021/1912 & DA 2021/14.

## **AMENDED PLANS**

We object to the amended plans submitted in conjunction with GLN letter 17 May 2022, as an amendment to the DA pursuant to Section 37 of the Environmental Planning and Assessment Regulation 2021:

- Amended Architectural Plans prepared by Integrated Design Group (IDG) dated 13.05.2022,
- Amended Landscape Plans prepared by PDS dated 16.05.2022, and
- Amended Engineering Plans prepared by Stantec dated 12.05.2022.

We refer to our Submission dated 8 November 2021.

## **OUR PREVIOUS CONCERNS**

In our November 2021 Written Submission, we listed our main concerns are:

1. Overdevelopment with non-compliance in FSR, height, setbacks, and boundary envelope.
2. Unreasonable Bulk & Scale
3. Adverse effects on our property due to flood storage, flood levels and velocities
4. Morning solar loss at the equinox & summer caused by the excessive height of the additional upper level
5. Loss of Privacy caused by the excessive height of the additional upper level, with direct line of sight into our property from windows and decks
6. Lack of clarity as to the maintenance of the easement access to our property through the demolition and construction phases
7. Insufficient width of carriageway serving the car park
8. Insufficient landscaping between Easement Access and New Carpark
9. Insufficient landscaping for privacy to our eastern boundary
10. Lack of clarity of the trees to be fully protected as listed within Arborist Reports, that differs from the Landscape Plans
11. Lack of clarity to the access to the public roads for Lots 2 and Lot 3 being close to a major intersection
12. Lack of clarity as to the requirements of driveways to the Lots to maintain all trees
13. Non-compliance to SEPP HSPD Clause 29 Character, SEPP HSPD Clause 31 Design of in-fill self-care housing, SEPP HSPD Clause 32 Design of residential development, SEPP HSPD Clause 33 Neighbourhood Amenity and streetscape
14. Non-compliance to SEPP ARH Clause 30A Character of local area
15. Non-compliance to ADG Building separation and visual privacy, Solar access, Natural cross ventilation, Floor to ceiling heights, Private open space
16. Non-compliance to WLEP 1.2 Aims of Plan, 2.1 Zone Objectives, 4.3 Height of Buildings, 5.21 Flood planning
17. Non-compliance to WDCP B1 Wall Heights, B3 Side Boundary Envelope, B7 Front Boundary, B9 Rear Boundary, D1 Landscape Open Space, D6 Access to Sunlight, D8 Privacy, D9 Building Bulk, E1 Preservation of Trees, E11 Flood Prone Land, WDCP Clause C1

Our amenity losses are directly attributable to non-compliance of the main SEPP HSPD, SEPP ARH, ADG, WLEP, WDCP controls.

## **OUR PRIOR CONSIDERATIONS IN RESPECT TO AMENDED PLANS**

In our November 2021 Written Submission, we asked Council to request the Applicant to submit Amended Plans to bring the proposed development back into a more generally compliant envelope including:

1. DELETE Level 2 that is outside of the existing envelope of the existing building. Delete Units 2.01 to 2.07 inclusive, and 2.13. Delete the new stairs to the second floor. Roof to remain in these zones as existing, as a non-accessible roof;
2. Widen accessway to carpark to 6.5m to provide 2-way access operational carriageway
3. 3m wide deep soil landscaping zones adjoining the carriageway and the new car park zone with continuous, 8m high light canopy trees adjacent to the proposed car park and access easement. Provide avenue of trees along carriageway.
4. Reduce car spaces to accord with reduced number of HSPD units
5. Provide screening trees along our boundary with native screening trees to 6m in mature height
6. Preserve all trees as per Arborist Report
7. Provide privacy screens on all windows and decks facing our property
8. Plant rooms and LMR to be positioned in basement
9. Stormwater Pits around the perimeter of our property to intercept surface water and sub surface water. Improved OSD to reduce flooding to neighbours.

We ask that Amended Plans are submitted to Council to resolve these matters, and failing that outcome for the Development Application to be **REFUSED** by Council

#### **DSA UNSUPPORTIVE**

We note the DSA comments made on 25 November 2021, in respect to the DA:

- Inadequate amenity to existing and future neighbouring development;
- Inappropriate streetscape response

#### **COUNCIL's CONCERNS**

GLN letter 17 May 2022 outlined the concern from Northern Beaches Council, along with several referrals that were unsupportive of the DA. We list those matters, and state that we fully concur with Council's concerns and the Referrals that were unsupported. The concerns raised were the following:

#### ***State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development***

*The proposal fails to satisfy the following design quality principles in State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development:*

*Principle 1: Context and neighbourhood character;*

*Principle 2: Built form and scale; and*

*Principle 6: Amenity.*

The development has been found to be inconsistent with the following Clauses in the ADG:

The proposal does not meet the 6m - 9m spatial separation requirements of Objective 3F-1 of the ADG, with 3m (approximate) setbacks to the proposed north-eastern boundary. This issue relates directly to the proposed subdivision proposed under a separate Development Application (DA2021/1914).

With only 4/25 units (16%) achieving natural cross ventilation, the proposal does not comply the 60% minimum requirement of the Objective 4B-3 of the ADG.

The proposal does not achieve 2.7m minimum ceiling heights, as prescribed by Objective 4C-1 of the ADG.

Private open space is either not proposed or is undersized, inconsistent with Objective 4E-1 of the ADG.

### **State Environmental Planning Policy (Housing for Seniors and People with Disability) 2004**

- The proposal development is found to be inconsistent with the neighbourhood amenity and streetscape, as required by clause 33 of SEPP HSPD, particularly noting the inconsistency with built form controls in WDCP 2011 and Development Standards in WLEP 2011 (which establish the desired future character).
- The interface to the proposed residential lots to the north-east does not meet the provisions of clause 34 (Visual and acoustic privacy) of SEPP HSPD given the limited setbacks proposed.
- The proposal exceeds the 8m height limit prescribed by clause 40(4) (a) of SEPP HSPD and the two-storey height limit prescribed by clause 40(4) (b) of SEPP HSPD. Request to vary these development standards have not been submitted as required under Clause 4.6.

### **State Environmental Planning Policy (Affordable Rental Housing)**

The proposal includes boarding rooms (G.05 and G.06) that have a gross floor area greater than 25m<sup>2</sup>, being the maximum prescribed by clause 30(1) (b) of SEPP SRH [sic]. A clause 4.6 submission has been provided in this regard, however the Clause 4.6 does not demonstrate that there is sufficient public benefit to varying the control.

The proposal does not meet the character test of clause 30A of SEPP ARH given the inconsistency with built form controls (which establish the desired future character).

### **Warringah Local Environmental Plan 2011**

#### **Building Height**

With a maximum height of 10.6m, the proposal seeks to vary the 8.5m maximum building height development standard prescribed by WLEP 2011 by up to 2.1m or 24.7%.

A clause 4.6 submission has been provided in this regard, however the written request seeking to justify contravention of the development standard under clause 4.6 WLEP 2011 is not well founded and does not satisfy the matters in clause 4.6 (5) of the WLEP 2011.

The proposal does not demonstrate that there is sufficient public benefit to varying the control.

### **Warringah Development Control Plan 2011**

The proposal has been found to be inconsistent with the following controls of WDCP 2011

- With a wall height of up to 10.34m, the proposed exceeds the 7.2m wall height control prescribed by clause B1 of WDCP 2011. The proposed upper floor intensifies the existing non-compliance.
- The proposed upper floor extends beyond the 4m building envelope prescribed by clause B5 of WDCP 2011 in multiple places, and acts to intensify existing non-compliance with this control.
- The proposal seeks to intensify the existing front setback non-compliance to Lakeside Crescent.

### **Referral Responses**

#### **Transport for NSW (TfNSW) – Concurrence**

TfNSW does support the proposed [sic] as stipulated in their Letter dated 17 November 2021, a copy attached to this Letter. Pursuant to Section 4.51 of the Environmental Planning and Assessment Act

1979, The TfNSW has not granted approval (concurrence) that is required in order for the development to be lawfully carried out.

The following includes issues raised by Council's internal departments: Traffic Engineer

Council's Traffic Engineer has reviewed the proposal and has raised a number of Traffic and parking related issues with the proposed development, a copy of which is attached to this letter.

#### **Bushland and Biodiversity**

Council's Bushland and Biodiversity Team has not supported by Biodiversity due to non-compliance with s7.3 (1) of the Biodiversity Conservation Regulation 2017, a copy of which is attached to this letter.

#### **Flood Engineer**

*Council's Flood Engineer has raised issues with the proposed development in its current form, a copy of which is attached to this letter.*

*Outstanding Referral Comments: Please note, that the time of writing this letter the following referral comments have not been received: Development Engineers*

## **OUR ONGOING OBJECTION:**

*The main legislation on the site is:*

- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Housing for Seniors and People with Disability) 2004
- Warringah Local Environmental Plan 2011
- Warringah Development Control Plan 2011

### **1. CHARACTER: BULK & SCALE**

Any new built form must be contained over two stories with 8m building heights [HSPD], and 7.2m wall heights [DCP]. Separation must be 9m to our boundary [SEPP 65]. The non-compliant built form causes unacceptable built form next to a complaint dwelling, with solar loss, and privacy loss.

### **2. LANDSCAPE**



The PDS Landscape Plan is attached.

Our property is to the north west corner of the site. We are very concerned that the design has not:

- Provided a two-way road to our property. Our access will be poorly affected, as we will be left with unsafe vehicle access to our property, and no consideration of safe pedestrian access to our property.
- Provided sufficient deep soil planting along either side of the proposed carriageway. Native canopy trees are required on either side of the carriageway, in 3m wide zones.
- Provided a safe pedestrian access to our property must be provided along the western side of the carriageway, in a 3m wide zone for pedestrian access and a zone for canopy trees.
- Access must be maintained through the course of the construction and we ask for a 4m wide zone be set aside to maintain our safe access through the durations of any proposed works.

## **FLOOD**

We object as the works proposed on the site is incapable of accommodating all storm events including the 1-in-100 year design storm with no adverse impacts off.

The overland flow path provided is capable of accommodating all reasonable development and redevelopment in the catchment draining to the proposed overland flow path.

The proposed development does not accord with flood control:

- The proposed development results in greater than 0.02m increases in the 1% AEP flood levels on neighbouring properties. This is not compliant with prescriptive control of the DCP and the definition of adverse flood impacts.
- The proposed development results in greater than 0.05m increases in the PMF levels on neighbouring properties. This is not compliant with prescriptive control of the DCP and the definition of adverse flood impacts.
- Difference mapping has not been provided showing if the proposed development will result in a greater than 10% increase in PMF peak velocity on neighbouring properties. This is not compliant with prescriptive control of the DCP and the definition of adverse flood impacts.
- It should be demonstrated that the development will not result in a net loss in flood storage or floodway in 1% AEP flood. These calculations must be provided and mapping of the floodway in relation to the proposed building must also be provided. This is not compliant with prescriptive control of the DCP and the definition of adverse flood impacts.

## **FURTHER REQUEST FOR AMENDED PLANS**

We ask for the following amendments:

1. Any additional new built form must be contained over two stories with 8m building heights [HSPD], and 7.2m wall heights [DCP]. Separation must be 9m to our boundary [SEPP 65].
2. Provide a two-way road to our property. Our access will be poorly affected, as we will be left with unsafe vehicle access to our property, and no consideration of safe pedestrian access to our property.
3. Provide sufficient deep soil planting along either side of the proposed carriageway. Native canopy trees are required on either side of the carriageway, in 3m wide zones.
4. Provide a safe pedestrian access to our property must be provided along the western side of the carriageway, in a 3m wide zone for pedestrian access and a zone for canopy trees.
5. Access must be maintained through the course of the construction and we ask for a 4m wide zone be set aside to maintain our safe access through the durations of any proposed works.
6. Resolution of Flood Concerns

## **CONCLUSION**

The proposed development is not consistent with the intent of the SEPP, LEP standards and DCP controls as they are reasonably applied to the proposal.

The variations to SEPP, LEP standards and DCP controls are considered unreasonable in this instance. The cumulative effect on these non-compliances cause considerable amenity loss to our property.

The development will not sit well within the streetscape with non-compliance to SEPP, LEP standards and DCP controls causing considerable concern. In this regard, the proposal is considered excessive in bulk and scale and would be consider jarring when viewed from the public domain.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this DA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development.
- The proposed dwelling is incompatible with the existing streetscape and development in the local area generally.
- The proposed dwelling will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties.



- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements.

It is considered that the public interest is not served.

The proposed development does not follow the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are multiple matters which would prevent Council from granting consent to this proposal in this instance.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts of which would result in adverse impacts on our property.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, we ask Council to REFUSE this DA.

Yours faithfully,

Richard Gatt & Jennifer Hambling  
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North Manly NSW 2103