
From: [REDACTED]
Sent: 11/04/2023 10:05:13 AM
To: Council Northernbeaches Mailbox
Cc: Tim Boshier; Jordan Davies
Subject: TRIMMED: Re: DA 2022 1425; 132A Queens Parade East Newport 2106 WRITTEN SUBMISSION: LETTER OF OBJECTION SUBMISSION: BOSHER
Attachments: 132A QUEENS PARADE WS 310323.pdf; Applicant response letter to Councils RFI.PDF;

Kind regards,

Bill Tulloch BSc[Arch]BArch[Hons1]UNSW RIBA RAIA
[REDACTED]

On 30 Mar 2023, at 5:31 pm, Jordan Davies <Jordan.Davies@northernbeaches.nsw.gov.au> wrote:

Dear Tim

In regard to DA2022/1425 – 132A Queens Parade East, Newport, Council has received amended plans and additional information from the applicant following Council's assessment.

The documents (including plans) can be found on Council's DA tracking website by typing in the DA number, link here: <https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Public/XC.Track/SearchProperty.aspx>
Amended plans have been submitted, along with a letter from the applicant with their responses and statement of changes (which I have attached for your quick reference).

Could you please provide any further comments to the amended plans by Friday 14 April (two weeks).

My number below if you wish to contact me (noting, I will be out of the office between 11-25 April on annual leave).

Kind Regards,

Jordan Davies

Acting Manager, Development Assessments

Development Assessment - South Team

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From: [REDACTED]
Sent: Tuesday, 11 October 2022 1:32 PM
To: Council Northernbeaches Mailbox <Council.Northernbeaches@northernbeaches.nsw.gov.au>
Cc: Tim Boshier [REDACTED]
Subject: DA 2022 1425; 132A Queens Parade East Newport 2106 WRITTEN SUBMISSION: LETTER OF OBJECTION
SUBMISSION: BOSHER

Northern Beaches Council

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SUBMISSION

a written submission by way of objection

BILL TULLOCH BSC [ARCH] BARCH [HONS1] UNSW RIBA RAIA

prepared for

TIM & MAXINE BOSHER, 134 QUEENS PARADE EAST, NEWPORT NSW 2106

11 April 2023

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

RE: DA 2022 1425; 132A Queens Parade East Newport 2106

WRITTEN SUBMISSION: LETTER OF OBJECTION
SUBMISSION: TULLOCH

Dear Sir,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

This Submission is in response to Amended Plans submitted dated 21 March 2023.

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

In my clients' earlier objection dated 11 October 2022, a number of amenity impacts were raised:

- Visual Privacy
- Solar Loss
- View loss
- Excessive Bulk & Scale
- Unacceptable Landscape Provision

The proposed development fails to meet Council's planning controls, the objectives and the merit assessment provisions relating to:

- Building Height 10.32m v 8.5m [21% non-compliance]
- Wall Height 10.32m v 7.2m [43% non-compliance]
- Number of Storey 3 v 2 [50% non-compliance]
- Rear Setback 6.1m proposed v 6.5m control [6% non-compliance]
- Side Building Envelope East: Substantial Non-compliance to upper level and proposed roof top deck
- Landscape Area: over reliance on roof top planting to accord with landscape area. Impervious landscape treatments higher than 1 metre above ground level (existing) cannot be incorporated into the landscape area calculation.

The earlier 11 October 2022 submission identified that the HOB was higher than that stated within the Cl.4.6, and that remains the case:

- *Ground level (existing)* under the proposed lift and stair core is shown on the Registered Surveyors Plans at RL 47.58m [survey spot]. The height of the parapet of the proposed lift and stair core is scaled at RL 57.9. The Height of Buildings is 10.32m.

I repeat the main concerns, raised within the earlier 11 October 2023 submission:

1. OVERDEVELOPMENT

The proposed design is predicated on a sectional concept that elevates the floor of a Master Bedroom 5.345m above the entry zone below, for unconvincing reasons. The roof over the proposed Master Bedroom is positioned over 8.55m above the entry zone below, presenting HOB, Wall Height and Side Boundary Envelope non-compliances. This presents unacceptable bulk and scale to the streetscape, with loss of district views and additional solar loss.

The proposed Roof Top Terrace looks immediately and directly into my client's windows. The Roof Top Terrace is well over 9.0m above EGL, presenting HOB, Wall Height and Side Boundary Envelope non-compliances, allowing direct overlooking of neighbours' windows and POS, and excessive loss of solar access.

The rear of the building, presenting HOB, Wall Height and Side Boundary Envelope non-compliances, allowing direct overlooking of neighbours' windows and POS, and excessive loss of solar access

The proposed development is non-compliant to all the major controls:

- Building Height
- Wall Height
- Setbacks

- Side Boundary Envelope
- Landscape Area

I refer to the earlier 11 October 2023 submission in these respects.

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual bulk impact.

The development has excessive bulk and scale and fails to comply with development standards set out LEP, resulting in a building which has unacceptable adverse impacts on neighbouring properties and the locality.

The non-compliant building envelope will lead to unacceptable visual bulk impact to neighbours.

The multiple non-compliances arising from the proposed upper floor level indicates that the proposed development cannot achieve the underlying objectives of this control, resulting in an unacceptable building bulk when viewed from adjoining and nearby properties.

The development presents an inappropriate response to the site and an unsatisfactory response to the desired future character of the area.

2. PRIVACY

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual privacy.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of my clients' property, specifically with regard to visual privacy.

The proposed development will result in unacceptable overlooking of the adjoining dwelling and associated private open space, resulting in inconsistency with the provisions of the DCP and the objectives of the DCP.

The roof top terrace proposals rely upon 'privacy screens' at 1.12m high with large openings to provide privacy. The use of landscape cannot be relied upon.

The proposed roof top terrace and the privacy solutions are unacceptable.

I refer to the earlier 11 October 2023 submission in these respects.

On these grounds the DA must be refused.

3. OVERSHADOWING

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to overshadowing.

The Applicant has not provided adequate Solar Access Diagrams, at one hourly intervals, in plan and elevation of my clients' property, to assess the loss of solar access at mid-winter, of my clients' windows, private open space, and PV Solar Panels to accord with DCP controls and NSWLEC planning principles.

My clients believe that further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for Council's reasonable assessment.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of adjoining properties, specifically with regard to overshadowing.

The proposed development will result in unreasonable overshadowing of the windows of my clients' property and the private open space of my clients' property, resulting in non-compliance with the provisions of DCP.

The request was made in the earlier submission to provide 'view from the sun' diagrams at hourly intervals. These have not been provided.

The plan diagrams on Drawing 21 show significant loss of solar access from the non-compliant envelope.

I refer to the earlier 11 October 2023 submission in these respects.

On these grounds the DA must be refused.

4. VIEW LOSS

No assessment by the Applicant has been made.

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to achieve an appropriate view sharing outcome to neighbours.

The development results in a loss of private views enjoyed by the neighbouring properties.

The development does not satisfy the objectives and planning controls of the DCP in respect to view loss.

The development exceeds the maximum quantum of development for the site by contravening development standards and planning controls.

The reduction of private views enjoyed by the neighbouring properties is attributed to the breaches of statutory development standards and planning controls that regulate the building envelope.

I refer to the earlier 11 October 2023 submission in these respects.

5. LANDSCAPING

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate landscape area.

There are insufficient screening trees around the boundaries.

I refer to the earlier 11 October 2023 submission in these respects.

CONTENTIONS THAT MAY BE RESOLVED BY AMENDED PLANS

A compliant building design would reduce the amenity impacts identified.

The earlier objection requested the following amendments.

Reduce the proposed development as follow:

1. Delete the roof deck
2. Delete stairs leading to the roof deck
3. Lower roof form over stair and lift core to RL 56.2
4. Relocate Master Bedroom to be positioned above the garage, with a parapet height at RL 56.2
5. Increase Rear Setback to 6.5m
6. Greater eastern side setback to the proposed upper floor to fully accord with Side Boundary Envelope
7. Privacy Windows: New Windows to have 1.6 high sills, or the window is to be fixed and non-opening and fitted with obscured glazing, with Privacy Screens to be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development, or all the glass is to be fitted with obscured glazing
8. Privacy Decks: 1.8m privacy screens to all decks facing my client's property, shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

9. Landscape: New native screening trees along the complete eastern side setback zone, and along the complete northern boundary to RL 56.2. At 1m centres, in 400L pots.

As none of these matters have been addressed, I ask Council to REFUSE the DA.

REASONS FOR REFUSAL

I ask Council to refuse the DA as the proposal is contrary to the Environmental Planning and Assessment Act:

Council is not satisfied that under clause 4.6 of the LEP seeking to justify a contravention of the development standard that the development will be in the public interest because it is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PITTWATER LEP

- 1.2 Aims of Plans
The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the aims (2a), (2b), (2g), (2i) and (2j) under the LEP.
- 2.3 Zone Objectives
The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the objectives of the C4 zone of the LEP as it fails to provide for the housing needs of the community within a low-density residential environment.
- 4.3 Height of Buildings
The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to comply with the building height development standard under the LEP
- 4.6 Exceptions to Development Standards
Council is not satisfied that under clause 4.6 of the LEP seeking to justify a contravention of the development standard that the development will be in the public interest because it is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
The written requests submitted pursuant to clause 4.6 of the LEP fails to justify contravention

PITTWATER DCP

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of DCP:

- Locality
- Heritage Conservation
- Landscaping
- View Sharing
- Solar Access
- Visual Privacy
- Newport Locality
- Character as viewed from a public place
- Scenic protection
- Side and Rear Building Line
- Building Envelope
- Landscape Area

The proposal is contrary to Section 4.15(1)(a) (iv) of the *Environmental Planning and Assessment Act 1979* in that there is insufficient information has been submitted to enable the assessment of the application. The plans include inaccuracies and inconsistencies and insufficient information has been provided in order to enable a detailed assessment.

The proposal is contrary to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that it will have i) an adverse impact through its bulk, scale and siting on the built environment, (ii) through its potential use, adverse social impact in the locality and (iii) through lack of landscape provision, including there being no indigenous tree plantings, adverse impact on the natural environment.

The site is not suitable for the proposal pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* in that this area of the site is unsuitable for a development of such excessive bulk and scale.

The proposals are unsuitably located on the site pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

The proposal does not satisfy Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* in that the proposal does not adequately address the amenity of neighbours

The proposal is contrary to the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*. The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest.

My clients trust that Council will support my clients' submission and direct the proponent to substantially modify the DA plans, as outlined above, or issue a REFUSAL for the reasons stated.

Yours faithfully,

Bill Tulloch

Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA RAIA
PO Box 440 Mona Vale
NSW 1660

Attached: Submission 11 October 2023

23 March 2023

Northern Beaches Council
PO Box 82
Manly NSW Australia

Attn: Jordan Davies

**RE: ADDITIONAL INFORMATION RESPONSE
132a QUEENS PARADE EAST, NEWPORT (DA2022/1425)**

On the 13th of February Council wrote to the applicants after completing their initial assessment and raised concerns with the proposed works. The changes that have been made constitute:

- Pool relocated and reduced in size to increase soft landscaping
- Driveway has been revised and turntable included to facilitate forward entry and exit as well as picking up additional soft landscaping
- Privacy screens along the east elevation with regard to the roof terrace
- Pathways have been reduced in size to be less than 1m in width

In response to the issues raised within the letter we provide the following commentary:

1. SHADOW DIAGRAMS

Shadow diagrams have been provided within the architectural set (DA21) and demonstrate compliant levels of solar access will be achieved to adjoining dwellings.

2. SITE PLAN

The site plan has been updated to include the deck off the northern façade.

3. SECTION PLAN AND BUILDING HEIGHTS

The section drawings have been updated to include more RL's to the ground and ridge levels to accurately determine building height. The clause 4.6 request has been updated.

4. BUILDING ENVELOPE AND HEIGHT BREACH

Council have raised concerns with regard to the breach to the height development standard and the building envelope control with the DCP. An amended clause 4.6 has been provided with the additional information.

Council have questioned the need for the void under the master bedroom. The master bedroom is cantilevered over the driveway and the void will include structural trusses to achieve the design. The void is also necessary to house the mechanical heat ventilation system to filter and circulate the air and remove stale/contaminated air from internal spaces. It is an important part of the Passive House design requirements.

Further analysis of the proposal in relation to the intended outcomes of clause D10.11 are provided below:

1. To achieve the desired future character of the Locality.

Comment: The proposal is consistent with the desired future character of Newport and provides for dwelling of appropriate bulk and scale and sits below the tree canopy. The dwelling has been architecturally designed incorporating high levels of articulation, a range of materials and finishes and extensive landscaping on and surrounding the house.

2. To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment: The dwelling will sit comfortably below the tree canopy. The bulk and scale of the dwelling in comparison to existing development within the street, in particular with No. 134, is compatible and would not be seen as jarring or offensive when viewed from the street.

3. To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

Comment: The development retains existing footings and piers to limit any further disturbance to the natural environment. The dwelling responds appropriately to the sloping topography.

4. *The bulk and scale of the built form is minimised.*

Comment: The bulk and scale has been minimised through a highly articulated built form that will utilise a range of materials and finishes that will break up the side wall presentation and provide visual interest. The integrated landscaping regime will further soften the built form.

Concern was raised with regard to the building envelope breach to the western elevation of the living room. The building envelope control is taken from the side boundary and the western side boundary is the lowest point on the site. As such, the ability of the dwelling to strictly comply with the envelope control is made more challenging.

The bulk and scale is minimised through providing a 3.5m side setback, the entertainment deck below achieves a significant break in the wall presentation and the breach is confined to the rear portion where the land slopes away. The building envelope breach does not extend down the entire length of the western façade.

We note that the neighbours at No. 41 have requested that the conifer trees along the common boundary be retained to provide additional privacy screening and it will also achieve additional screening of the bulk of the dwelling. New landscaping treatments on and surrounding the dwelling will further soften the bulk and scale.

Concern was raised with regard to the master bedroom encroaching to the eastern side boundary envelope. The master bedroom is cantilevered over the driveway and includes a void beneath which is required to provide structural trusses and an HRV unit to ventilate the dwelling. The bulk and scale is minimised in this location with the area beneath the master bedroom remaining open. There is no solid wall from ground level to the master bedroom level in this location.

The eastern elevation does breach further down the dwelling towards the rear. We note that the existing dwelling is sited towards the eastern boundary and the outline of the existing dwelling is shown below:

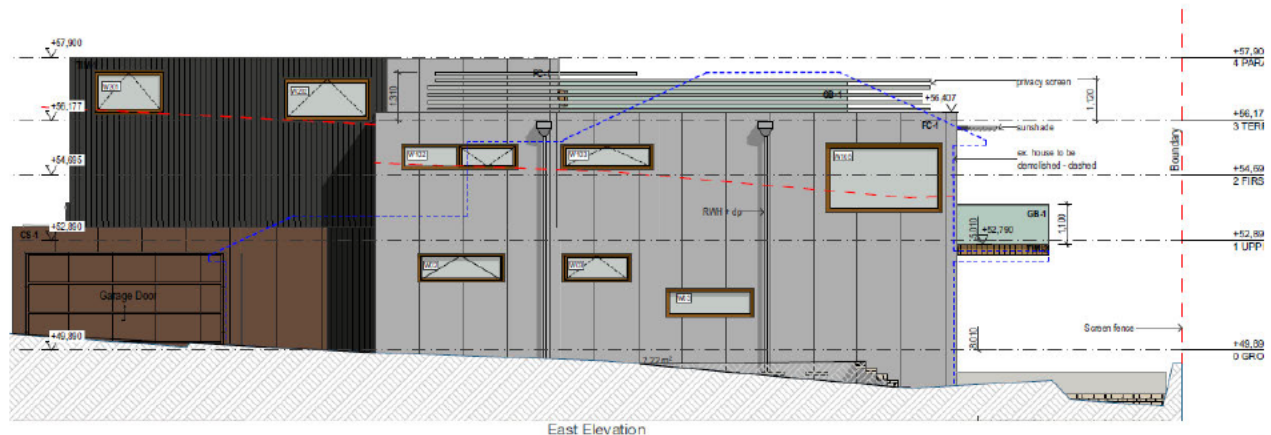


Figure 1: East elevation

The blue hatch shows the existing dwelling to be demolished (footings retained) and the red hatch line shows the building envelope control. It is considered that the bulk and scale relationship of the proposed dwelling when viewed from No. 134 would not be dissimilar to the existing relationship in terms of its visual impact. The retention of the existing footings does contribute to the extent of the breaches also.

5. Equitable preservation of views and vistas to and/or from public/private places.

Comment: No views are impacted by the building envelope non-compliances.

6. To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties

Comment: The proposal is consistent with the solar access provisions within the DCP. No views will be impacted.

Privacy has been managed appropriately with regard to the rooftop terrace. Drawing DA18 has provided privacy analysis of sight lines with regard to No. 134. The location of the balustrade being significantly spatially distanced from the side boundary coupled with the proposed privacy screen closer to the eastern edge within the roof garden prevents any ability to look down through the clerestory window of No. 134. The privacy amenity of surrounding dwelling will be maintained despite the envelope non-compliances.

7. *Vegetation is retained and enhanced to visually reduce the built form.*

Comment: A landscape plan have been provided which shows the treatments proposed on and surrounding the built form which will further soften and screen the development while ensuring the landscape character is dominant on site.

5. CLARIFY AREAS TO BE RETAINED

The plans have been amended to show that areas being retained in black.

6. LANDSCAPED AREA

The landscaped area as defined is calculated at 406.17m² or 57.78%. When including all the areas beneath balconies and roof gardens the landscaped area is 73.67%. The landscape area calculations is shown on drawing DA08. The changes to the pool, driveway and reducing pathways to less than 1m has increased the soft landscaping on site.

When assessing the landscape area against the intended outcomes the minor shortfall is worthy on merit. The outcomes are addressed below:

- *Achieve the desired future character of the Locality.*

Comment: The landscaping on and surrounding the dwelling is consistent with the desired future character of Newport and complements the C4 conservation zoning.

- *The bulk and scale of the built form is minimised*

Comment: The landscaping proposed and the trees to be retained will soften and screen the bulk and scale of the dwelling

- *A reasonable level of amenity and solar access is provided and maintained*

Comment: As mentioned, the dwelling is consistent with the solar access provisions in the DCP. Privacy has been addressed with the landscaping to be retained and proposed providing additional privacy screening.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment: The landscape plan demonstrates an enhancement of the site including a range of native species. The landscaping on and surrounding the built form will soften its visual bulk.

- *Conservation of natural vegetation and biodiversity.*

Comment: A range of native species is proposed that will significantly enhance the biodiversity of the local environment. Trees have been retained where appropriate.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels*

Comment: The rooftop garden not only provides amenity and visual interest for the dwelling but is an innovative design which will reduce stormwater runoff from the building significantly. The innovative design can grow low lying landscaping treatments within reasonably shallow soil depths. The roof section is provided within the architectural set.

In terms of stormwater runoff performance the proposed dwelling present little risk to the soil erosion and siltation of natural drainage channels.

- *To preserve and enhance the rural and bushland character of the area*

Comment: Significant enhancement of the landscaping on site will reinforce the bushland character and includes a range of native species.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management*

Comment: As mentioned above, the dwelling will generate little stormwater runoff. The desire of the owners and architect to create a superior energy efficient dwelling ensure that it will have a low impact on the local environment. The dwelling will have a superior stormwater management system and provides for appropriate levels of soft landscaping to assist in stormwater mitigation.

7. PRIVACY SCREENS

Privacy screens were requested to the western elevation of the entertainment deck to L1 and the living room deck to L2. No privacy screens have been included although can be conditioned by Council if they see the need.

The privacy screens have not been included as the neighbour requested that the conifers trees along the boundary be retained as they provide good privacy screening.

8. ROOF TERRACE

Sight line drawings have been provided within the architectural set. The location of the balustrade away from the side boundary coupled with the privacy screen within the roof garden will ensure no lines of sight are achieved through the clerestory window at No. 134.

The landscape plan has identified the species to be included to the roof. They will be predominately low lying vegetation and succulents.

9. BUSHLAND AND BIODIVERSITY

An arborist report has been provided. The landscape plan shows how the site will be enhanced and positively contribute to the biodiversity value of the area.

Yours Sincerely
Greg Boston
Director
Boston Blyth Fleming Pty Ltd