
Sent: 9/12/2022 4:35:07 PM
Subject: Submission re: 24 Oliver Street, Freshwater
Attachments: 24 Olivier Street, FRESHWATER - Submission.pdf;

Please find attached a submission with regard to the DA lodged for 24 Oliver Street, Freshwater ([DA2022/1710](#)).

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5 December 2022

The General Manager
Northern Beaches Council

Attention: Tony Collier

**RE: DEVELOPMENT APPLICATION DA (DA2022/1710)
PROPOSED CONSTRUCTION OF 2 DWELLING HOUSES
24 OLIVER STREET, FRESHWATER**

1.0 INTRODUCTION

I write on behalf of the owners of 26 Oliver Street in response to the development application lodged for 24 Oliver Street. I have reviewed the submitted documentation and have a clear understanding of their concerns in relation to the subject DA.

2.0 SITE COMPATIBILITY/STREETSCAPE IMPACTS

It is acknowledged that the sites are constrained by their lot size and has restrictive R2 zoning in the Warringah LEP with regard to permissible residential uses. The subdivision pattern in this area is a result of historic subdivision approvals that would not have been approved in more recent times. The R2 zoning in Warringah does not permit any dual occupancies or semi-detached dwellings that would be much more suited to sites such as this with smaller lot sizes. As a result, the existing lot sizes cannot reasonably support dwellings that are able to comply with the current planning controls. The applicants are forced to design detached dwellings of poor amenity with unreasonable impacts to each other and adjoining properties.

Concern is raised as to the impacts on the streetscape should this application be approved. The existing subdivision pattern exists from the 1880's and is not compatible with the current LEP and DCP planning controls for low density residential development. The precedence set will incentivise other sites with undersized lots to pursue redevelopment in a similar fashion. This will result in awkward single dwellings on small lots that will have poor amenity. This is not considered to be in the public interest.

The impacts to the existing character of the streetscape will be significant. Oliver Street is characterised with historic sandstone garden edges with Murraya Trees that are known to have been planted in c1880's. This is detailed in a book penned by a local historian, Gwen Gordan, with regard to the land developer Frederick Wilson planned the Curl Curl Heights Estate. It would be a great disappointment to see these features of the streetscape be removed to accommodate new crossovers and driveways. Should this application be approved it is expected the other historically subdivided sites will redevelop which will further impact on the streetscape landscaping features.

3.0 SETBACKS

It is expected that new development can be designed to meet the built form controls however this site is incapable of strict compliance without severely impacting on the amenity of the dwellings.

The dwellings will have a non-compliant 800mm side setback between them which will have an adverse visual impacts for the future occupants of the dwellings. The side facing walls do not provide any significant articulation and no landscaping is proposed to be able to soften and screen the dwelling. The bulk and scale has not been minimised in that regard. The amenity outcome between the two new dwellings will be poor and contrary to the public interest.

I note that the statement of environmental effects does provide commentary with regard to clause B6 of the DCP however that clause does not apply to the site. The merit assessment of side boundary setbacks only apply to sites that are mapped as being a 'merit assessment' of side setbacks. This means that sites mapped as having no numerically prescribed setbacks are to be assessed on their merits. A 900mm side setback applies to the site and the objectives of clause B5 are what the development will be assessed against.

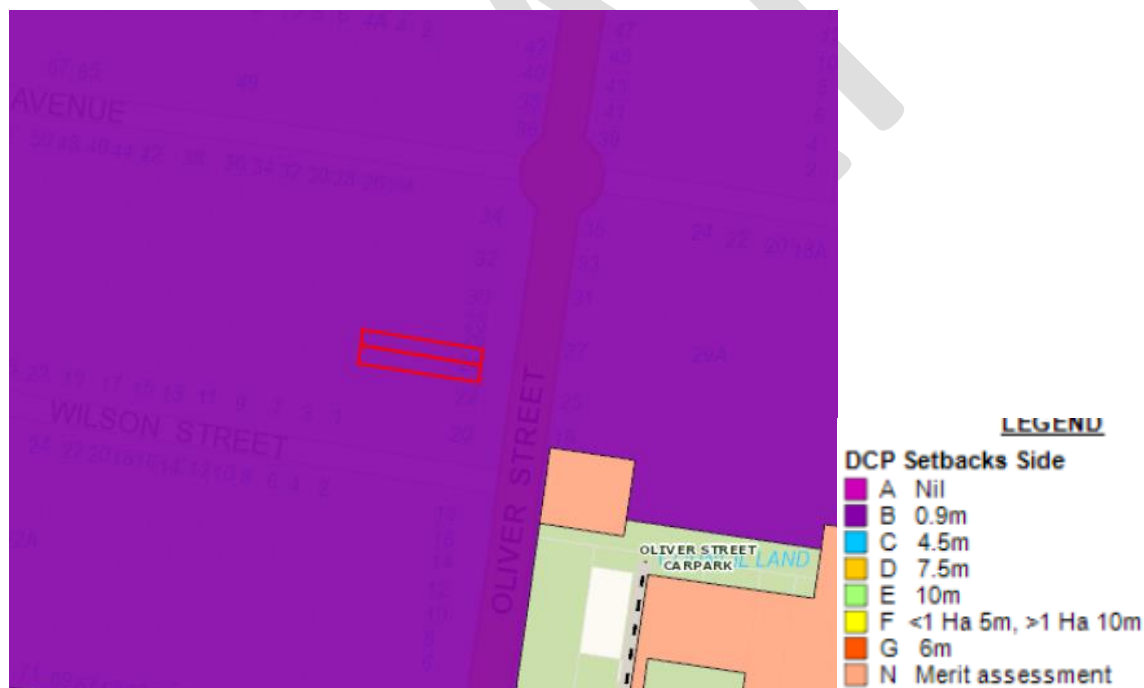


Image 1: Side setback map. Only areas mapped as 'N' are a merit assessment of the side setbacks proposed.

The application does not meet the objectives of clause B5 which states:

- To provide opportunities for deep soil landscape areas.

Response: No landscaping proposed within the side setbacks surrounding the dwellings.

- *To ensure that development does not become visually dominant.*

Response: While the side setback is compliant to the northern boundary there is very little articulation in the wall massing and no landscaping treatments to minimise its visual impact. The 800mm side setback in between the two dwellings will result in visually dominating structures when viewed from either dwelling. There is no landscaping to provided for any relief and very little articulation. The applicants provided the following commentary regarding the reduced setbacks

“Each lot is narrow in nature with an approximate lot width of 6m which makes it difficult to facilitate two full sized dwellings that fully comply with the relevant prescriptive measures, however, it is noted that the insufficient side setback to the common lot boundary is the only non-compliance in relation to prescriptive controls.”

The insufficient setback to the side boundary between the new dwellings is still a non-compliance and will be used as 2 separate dwellings. The amenity of the future occupants and how the new dwellings impact on each other are not to be dismissed as inconsequential.

- *To ensure that the scale and bulk of buildings is minimised.*

Response: As mentioned above, there is very little proposed that provides a minimisation of bulk and scale.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Response: The two dwellings do not provide adequate spatial separation. The northern windows of the new dwelling on the southern lot will not receive any solar access in mid winter.

The applicants, in part, have justified the reduced setbacks between the dwellings as consistent with development in the street. They have stated that:

“Contextual appropriateness is also satisfied given that the two directly adjoining neighbouring dwellings both encroach on the required setbacks and provide close to nil side setbacks.”

The contextual appropriateness does not form part of the objectives of clause B5 which applies to the site so the existing setbacks of 26-28 Oliver Street are not relevant. Notwithstanding, the current zoning does not permit dual occupancies within the R2 zone so the desired character is to move away from attached or reduced setbacks dwelling to provide adequate spatial separation between the dwellings. Adequate spatial separation is an objective of the side setback control which this proposal fails to meet. Compliant side boundary setbacks should be

strictly enforced to reflect the dwelling house use and the objectives of the R2 zone in Warringah.

The dwellings at 26 and 28 are older dwellings and were approved under previous planning legislation. Dual occupancies were permissible uses in the low density residential zones previously under former Warringah LEP's. The nil setbacks between the dwellings would have been more acceptable at the time given its presentation as a dual occupancy. They are also single storey dwellings.

I note that the application is inconsistent with the front setback provision as they are relying on a tandem style parking arrangement. The front setback is to be used as a hardstand parking space. Again, this is reflective of the site not being compatible with the proposal and that the DCP controls do not anticipate small lot detached dwelling developments.

4.0 BUILDING ENVELOPE

Even with the 5m control applying the site the developments are not compliant with the building envelope control further reflective of the compatibility of the site to achieve compliant dwellings. The site constraints with regard to topography do not present challenges to comply with the provision. It is the undersized lot coupled with trying to achieve detached dwellings of reasonable amenity that are driving the non-compliances.

No. 26 Oliver Street has a virtually nil setback to No. 28 Oliver Street which restricts access to solar and ventilation. The new dwelling adjacent will have a 900mm setback to the ground and first floor with very little articulation. This will have a dominating impact on No. 26 and result in their dwelling being boxed in. The breaches to the building envelope are reflective of the overdevelopment of the site and its inability to accommodate reasonable dwellings that have a satisfactory impact to adjoining properties.

5.0 PRIVACY

My client's have concerns regarding the impacts to their privacy with the inclusion of the first floor side facing windows. The full length window (W18) to the northern elevation results in unacceptable privacy impacts. The window is to the stairs/void. It is requested that this window be reduced in scale and being obscured glass to protect the privacy of 26 Oliver Street. We request that the remaining windows to the northern elevation be obscured glass also to ensure privacy.

6.0 DRIVEWAY AND PARKING

The dwellings cannot provide 2 parking spaces that comply with the DCP controls. The applicants are reliant on the driveway forward of the building line as a hardstand parking space meaning that a front setback variation is required to facilitate this outcome. Again, speaking to the unsuitability of the sites to achieve compliant dwellings.

The dwellings propose their own crossovers and separate driveways. As a result, the available on-street parking is further reduced which will have a detrimental impact on the streetscape. An additional crossover to a reasonably busy street increases safety risks.

Furthermore, Council is in the process of removing on-street parking on the eastern side of Oliver Street as part of the initiative to improve connectivity between Curl Curl and Freshwater. The parking availability will be severely impacted by the loss of on-street parking space associated with this development.

Given that the application is for 2 dwellings it would be possible to create an easement between the two dwellings for use of a single driveway and crossover to access each dwelling. This would limit the impact to on-street parking and improve safety.

No engineered drawings of the driveway or cross sections of the driveways have been provided with the application.

6.0 SUMMARY

The main concern is regarding the suitability of the undersized lot to facilitate compliant dwellings that has a reasonable outcome that is in the public interest. The land zoning, permissible uses and the DCP controls are not anticipating single detached dwellings on sites this small.

The LEP does not permit dual occupancies in the R2 zone which results in two awkward 2 storey dwellings that have unreasonable impacts on each other as well as for neighbouring dwellings and the streetscape.

The proposal should be refused.

Please don't hesitate to contact me should you have any questions.

Yours sincerely



William Fleming
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