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Subject: Online Submission

03/09/2021

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RE: DA2021/1334 - 50 Condover Street NORTH BALGOWLAH NSW 2093

Dear Assessing Officer

We are the residents of 26 Kimo Street.

We wish to make the following objections to the proposed subdivision.

1. There is great uncertainty about future dwelling development if the subdivision is allowed

We note that the application is for a subdivision only, with no accompanying final plans for or application for the construction of dwelling houses. Although there are accompanying "indicative" plans for houses, there is no certainty that those will be the final plans.

This issue has been raised with the applicant and, in response, no confirmation has been provided that the final plans for a dwelling will actually resemble the indicative house plans.

In the circumstances, there is considerable risk that if the subdivision is approved and the land is subdivided into the two very small lots that are proposed, the actual final house plans submitted to council may vary significantly from the current indicative plans. As an example, there is risk that, once subdivided into vacant lots, the lots are then simply sold on to developers with there being no existing condition on the dwellings to be built on the sites.

This is concerning to us and local residents for a number of reasons. These reasons include (i) that we are located directly across the road from the proposed new Lot 1 on Kimo Street, so any new dwelling on that lot (being the indicative house or final house, whatever that may be) will impact on our outlook and daily life and (ii) the applicant is seeking to subdivide into two very small lots that are significantly smaller than the minimum lot size allowed in this zone, such that any dwelling will also be of a nature that is not permitted under the LEP and DCP criteria (based on the proposed lot size etc). We and immediately neighbouring residents have a significant interest in and are significantly impacted by the ultimate size, feature and design of what the final dwelling houses will be.

2. The subdivision fails to comply with the LEP

The minimum lot size under the LEP is 600m². The size of the proposed new lots are very small, being 436.7m² and 384.1m². The proposed lots are only 72% and 64%, respectively, of the minimum lot size allowed for a subdivision.

Although there are many lots in the surrounding neighbourhood that are below the 600m² LEP requirement, it is incredibly rare for a lot to be more than 16% below the minimum lot size

allowed under the LEP. Lot sizes that are 36% below the minimum LEP requirement (being the proposed size of Lot 2) are almost non-existent. Exceptions are of lots that have only a semi-detached dwelling on the land, such as 54 and 54A Condoover St. The proposed subdivision of 50 Condoover St is not, however, for the approval of a semi-detached dwelling on the land.

No reason, let alone good reason, has been submitted by the applicant, as far as we are aware, of why there is a need for such small lots that are so significantly below the minimum lot size allowed or why approval should be granted for such a significant departure from the LEP.

In an apparent effort to depart from the minimum lot size requirements of the LEP, the applicant has made the application as a "community title" subdivision.

The proposed subdivision has none of the usual characteristics of a community title subdivision. There is no real shared lot. There is no real common property. There are none of the usual features of community title developments on the Northern Beaches, such as a large or gated estate, a large development that contains shared infrastructure and services, or shared local amenities and services of the residents that intend to reside on the community title lots.

The proposed subdivision is, on its face, a straight forward subdivision of one lot into two much smaller lots (both of which are significantly below the 600m² minimum lot size requirement and other existing lot sizes in the neighbourhood), that has been submitted under the disguise of a community title subdivision. A small third Lot 3 has been proposed to create the reference to community title. Proposed Lot 3 is only 26.4m² in size. Lot 3 is proposed to be for storm water drainage and sewer connecting the Kimo St Lot 1 to Condoover St. Ordinarily it would be expected that such storm water connectivity, if required, would be by way of a drainage easement over the land. Instead of such an easement or the drainage and sewer for Lot 1 being connected to the utilities on Kimo Street, Lot 3 is held out as being a community lot for, it seems, the purpose of bringing the entire proposed subdivision within a mechanism that may allow such a significant departure from the LEP minimum lot size requirement.

The proposed subdivision simply seeks to turn one lot into two new small lots, with a small 26.4m² drainage area down the side of Lot 2. On its face, the proposed subdivision simply seeks to create more housing on a site that, under the LEP, does not allow such high density.

More housing on small lots is not a good reason for approving a subdivision and development in this R2, "low density housing" zoned community.

3. The proposed development would result in dwellings that fail to comply with the DCP

The size of the proposed Lot 1 and Lot 2, and the indicative dwellings accompanying the application, fail to meet the controls set out within the DCP.

By way of example, there would be a failure to meet the minimum building footprint requirements as well as a failure to meet the minimum width and depth requirements.

That being so, if the subdivision were to be allowed, it is difficult to see how the final approved dwellings could meet the DCP criteria. This is a fundamental flaw in the proposed application and the future development of the land if the subdivision was approved.

4. The proposed development would set an alarming precedent

North Balgowlah (including Kimo St and Condoval St) is characterised as a family friendly suburb, with appropriately sized lots. This is reflected in the minimum lot size allowed under the LEP and the actual size of lots on Kimo St, Condoval St and surrounding streets.

The proposed subdivision is a departure from the size and design of lots on the nearby streets such as Condoval St, Kimo St and Water Reserve Road. Approving the subdivision of the land into such significantly small lots could lead to the risk of over development of the suburb.

By way of example, there are a number of immediately adjacent blocks that could rely upon the approval of this development application as a precedent to also seek to subdivide into lots well below the minimum lot size allowed under the LEP. The examples include:

- 52 Condoval St, being a lot size of 736m² and which, like 50 Condoval St (847m²) has rear yard access to Kimo St.
- 54A Condoval St, which has rear yard access to Kimo St.
- 37 Water Reserve Road, being a lot size of 1,132m² and which, like 50 Condoval St (847m²) has rear yard access to Kimo St.

If approval is granted for 50 Condoval St to be subdivided into the proposed lots of 436.7m² and 384.1m² in size, developers in relation to each of the above listed properties could seek to rely on the approval in seeking to subdivide those properties into similarly sized mini-lots. Using the 384.1m² (approx) lot size precedent, the existing 4 dwellings on those properties (one on 50 Condoval St, one on 52 Condoval St, one on 54A Condoval St and one on 37 Water Reserve Road) could be increased to a total of 9 dwellings. That would represent a 120% increase in the number of dwellings at the northern end of Kimo Street.

The precedent created by approving the development application could lead to the overdevelopment of the immediate surrounds and North Balgowlah generally, based on subdivision into lot sizes significantly below the 600m² minimum lot size allowed by the LEP. It would be a simple matter for developers to frame the subdivisions as being under "community title", despite being for all intents and purposes a basic subdivision of one lot into two smaller lots of sizes that would otherwise be impermissible under the applicable planning laws.

5. Conclusion

The summary of the above submissions is that the development application is objected to on the following grounds:

- There is great uncertainty about future housing design if the subdivision is allowed. There is a strong objection to the subdivision being approved without, at a minimum, an accompanying condition as to the precise size, design and layout of the future dwellings houses that must be built on the new lots before they can be subdivided;
- The subdivision fails to comply with the LEP. As a means to get around this fundamental issue, the development application looks to have been made under "community title", despite the plans lacking any of the usual features or characteristics of a community title subdivision;
- The subdivision and any future dwellings (including the indicative house plans accompanying the application) would fail to meet the criteria under the DCP;
- The subdivision, if approved, would set an alarming precedent in support of the overdevelopment of nearby properties and the creation of a localised hub of ultra small lot/high density housing within the otherwise low density housing that currently exists.

Thank you for taking into account the above objections and concerns.

Should you have any questions or would like to discuss further, then do not hesitate to contact us.

Regards

Lewis and Alexandra Seelenmeyer