

To Whom it may concern

Re DA 2020/0008 being for development at 3 Central Avenue Avalon Beach.

Thanks for giving me the opportunity to reply to the DA.

I am not sure of the timing of the approval process within Council, so could I ask that before the DA is considered for approval or modification, that a couple of things be done before we get to that stage?

- Place height poles and boundary lines on the block so residents can see the scope and scale of what is proposed.
- Convene a site meeting for residents and council planners. This is especially relevant because the loss of amenity following tree removal is difficult to visualise without being on site.

I would appreciate it if you could keep me informed of the progress of the DA by letting me know of any meetings or documents that are relevant.

I can be contacted at any time if you have any queries.

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Response to minutes of Pre-Lodgement meeting and DA

As shown in the pre-lodgement meeting minutes, the Council has identified many areas where the proposal is non-compliant with P21 DCP.

In spite of this, many of the identified non-compliant aspects of the DA have found their way into the Notice of Proposed Development as issued for public comment. There are also areas of non-compliance that were not highlighted in the pre-lodgement minutes.

Here are the areas of non-compliance:-

Referral to	Comment	In the DA
Landscape officer	Angophoras shall be retained	DA requests removal
	Bin/terrace area should be available for trees	Bin/terrace area unchanged at front
	Rear setback should be available for trees	Unchanged
Urban Design	Building envelope	Violated by 18%
	Height	Violated by 14%
	Rear 25% of site – one storey required	Violated – 3 storeys
	FSR of 0.5 required	Violated by 30%
	Landscape 30% with 15% deep soil	Not confirmed yet
	Site Setbacks	Too small to comply with envelope

The Council commented:-

“The proposal requires greater setbacks at the side, rear, and laneway. The overall FSR and bulk of the building is also to be reduced so that the development sufficiently blends into the natural environment, to be consistent with the locality statement”

It would be good if DAs were only released for public comment after the developer has re-submitted same with all the areas of non-compliance resolved – either by meeting the DCP rules, or with clear justification by the Council (not the developer) as to why a particular rule should be waived.

However it appears that the developer has ignored the identified areas of non-compliance and just re-submitted the DA without change – flouting both community expectations and the planning rules.

Action required: Council to act strongly in residents’ interest, by rejecting this DA as is, and working towards a fully compliant proposal. (Six units rather than eight seems to me be a starting point for a better development).

Areas for further discussion, not satisfactorily addressed by the pre-lodgement meeting or the DA

Traffic Access. Traffic officer does not examine requiring vehicle access from Central Road. This would be preferable because of better visibility and more turning space. This would mean that basement parking could all be on a single lowest level, which may help address the height and envelope violations. However the developer would resist this because excavation costs could be higher and ground area at the front used for a down-ramp. (Front access is used in other nearby developments).

Side lane access (and thus DA approval) should not be granted unless and until RMS agreement is obtained.

Pedestrian Safety. The Laneway is used by a high number of pedestrians at all times of day. There will be conflict between cars and pedestrians. The developer recognises this in that he is prepared to sacrifice land (!) to contribute to a footpath.

Side lane access should not be granted until pedestrian traffic has been measured and safety concerns have been addressed.

Visitors Parking. Two visitor parking spaces are required. There are none. The parking survey (from the developer) is incorrect, in that it does not identify restricted zones near the school, and states that parking is available in bus zones nearby.

Landscape and Deep Soil. Areas of 30% and 15% are required. This will need confirmation since the area is rocky and deep soil may not be available. Is there a soil report that addresses this?

Courtyard Area At the bottom of a three-storey well. Will receive no natural light.

Trees This is a big-ticket item. Replacing these wonderful trees with bin storage and intrusive buildings provides no community benefit whatsoever.

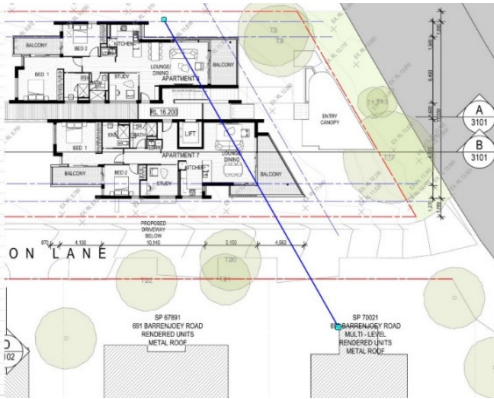
A pleasant treed area at the front of #3, provides a restful appearance to passing traffic, to those in the school area, to the residents on the East side of the Lane, and especially to the many pedestrians using the Lane to access Dunbar Park, will be trashed. The photos in the DA do not give a fair idea of the damage.

The arborists report shows that trees at the front are of high amenity, environmental benefit and heritage value), of good form and visual condition, worth keeping (high retention value), and in good health. If in a private house they would be protected.

Making the DA compliant may allow increased setback. Move all bins to the basement (there already appears to be some provision for this) and reduce structures in the set-back area to reduce root-zone damage.

(noted that "Final engineering and civil design drawings are to be reviewed by an arborist ... before issuance of construction certificate").

Loss of amenity and privacy. Applies to those facing Patterson Lane and on the Western side. In particular U3/693 and the unit above it will be severely affected: by loss of views of the trees, removal of afternoon summer shade, replacement of tree views with view of side of over-height building with inadequate or no screening, and overlooking from side windows and balconies.



Anticipated line of sight from U3/693 patio if DA is approved (overlaid from line of sight taken from existing structure).

Line of sight for unit above U3 takes in a much larger area of the proposed development



Existing view from U3/693 patio (looking west). All trees on LHS, and most on RHS, will go, with front of DA buildings visible on LHS.

Action required: as above: Council to act strongly in residents' interest, by rejecting this DA as is, and working towards a fully compliant proposal.

Comments on Statement of Environmental Effects (Urban Strategies Report).

This submission is replete with tendentious and misleading statements, too many to enumerate, often of a general nature, without merit and without supporting evidence, which are readily apparent on examining the details of the DA.

“the grounds are well landscaped” – “landscaping on Central Road is heavily influenced by the existing Eucalyptus Robusta” – “a central courtyard provides a calm and natural setting” – “the built form is well articulated” – “attractive entry with flowering plants” – “The development is successful in maximising sunshine to clothes-drying areas”.

This DA will result in a monolithic three-storey apartment block with an overwhelming presence onto Patterson Lane, will be too close to the boundaries, and will have overlooking, privacy, and pedestrian safety issues.

But when we filter out these comments and get to pages 18ff and the developer response to the Development standards we see the level to which DA goes in order to justify flouting the rules;-

“The objectives of the standard are achieved notwithstanding noncompliance with the standard”

“The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary”

“The underlying object of purpose would be defeated or thwarted if compliance was required and therefor compliance is unreasonable”

“The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the parcel of land. That is the particular parcel of land should not have been included in the zone”

(Developer also claims (p19) that building height standard falls under 2011 SEPP1 and therefore 8m height rule does not apply. Is this correct)?

Perhaps most audacious of all:-

“The development standard has been virtually abandoned or destroyed by the council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable”

This DA violates DCP/SEPP standards without clearly demonstrated or indeed any community benefit. Action as above.

General Comments on the Planning Process

I feel overwhelmed by the complexity of the DA. There are over 400 pages of technical documents and it has taken me hours to read through them. I do not have the architectural or planning skills needed to fully interpret them in the light of the current planning rules. This means that my comments may be inaccurate or ill-informed.

- Council Officers and others involved in determining the outcomes work with DAs year-round. They are familiar with both the process and with the very complex DCP/LEP documents and planning rules, and thus are better placed (compared to affected residents) to deliver compliant outcomes.
- Access by residents to decision makers seems to be somewhat at arms-length. Developers may have the advantage in that they have pre-submission and other meetings where they can influence the planners. Are residents granted an equal level of access? In many cases it is not clear to a resident who the players are and what their roles may be.

In particular, the "Notice of Proposed Development – Consideration of Submissions" states that "... all submissions ... from or on behalf of the same property ... will be counted as one submission". **I do not understand this**, as I do not presume to speak for other residents in my multi-unit block, nor do they wish to speak for me. This requirement may lead to the under-estimation of the degree of opposition to this DA.

- Developers are money-motivated. Significant extra profits may be made by getting decision makers to waive the DCP/LEP zoning and other rules in the developer's favour - because extra units or floor space can be built and sold without increasing the land cost component of the build. The lure of such windfall profits leads to developers motivated to fight extensive battles. Initial DAs, (which in some cases may be regarded as ambit claims), may be resubmitted with minor modifications and often taken to an external tribunal or court. A resident (or the Council) may not have the time or money to be engaged in protecting community interests in the face of such financial pressures.

In such an environment we can only hope that the Council Planners will look after our interests, by ensuring that the process is conducted in a fair and transparent manner, and that no waivers are granted without clear and long-term community benefit.

A quote from AIA is as relevant today as when it was made:-

"Developers are motivated by profit. They just want to build cheap and sell dear. Therefore enforcement of standards is essential to protect the occupants and the community, long after the developers have taken their profit and moved on".

(AFR 29 July 2014 Aust Institute of Architects)