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Northern Beaches Council
725 Pittwater Road
DEE WHY NSW 2099

1 September 2020

Dear Sir/Madam,

Written Submission to the 'Refusal' Recommendation for DA2020/0501 – 1/2 Beach Road, Collaroy.

This written submission relates to the Development Application for the proposed one into two lot Torrens title subdivision at 1/2 and 2/2 Beach Road, Collaroy. In summary, the application has been recommended for refusal on the grounds that the proposal will restrict all opportunity for the site to be complimentary to the character of the sites to the north, and that the proposal does not reasonably justify the contravention to the development standard – *Clause 4.1 – Minimum Subdivision Lot Size*.

Council's grounds for refusal are addressed as follows:

The proposal does not support the low-density environment and does not sufficiently allow for improvements to landscaped settings.

Comment: The proposal does not alter the density or landscaped setting of the site. The proposal also does not alter future outcomes or possibilities in those regards. Therefore, the grounds that the proposal does not support those outcomes is not relevant.

The subject site is in a neighbourhood in which corner allotments are of a similar size and configuration and lots between each corner are also of a similar size and configuration.

Comment: It is recognised that the proposal alters the current lot configuration. However, within the existing lot, there is a Strata scheme with a similar configuration to that with which is proposed. The proposal therefore does not effectively change the existing situation but simply removes an unnecessary Strata scheme from the site. Therefore, the desirable configuration of lots is not a relevant ground for refusal in this instance.

Additionally, the contention that the proposed lot configuration is uncharacteristic of the neighbourhood is inconsistent with observed examples within the surrounding neighbourhood of allotments similar to the proposal – 38 Beach Road, 36 Beach Road and 37 Cliff Road. Furthermore, 30 and 49 Beach Road are examples of apartment complexes in the neighbourhood, reflecting a greater density than what is existing on the subject site.

The proposal simply reflects the site conditions whereby there are two dwellings on the property, one facing each road. Those dwellings were approved by Warringah Council under DA1995/83. The proposal reflects that approval. That is similar to the aforementioned neighbourhood examples.

The proposal not only reflects the existing site conditions but also improves the existing situation because a 900mm separation between the two dwellings is proposed. That not only provides a minor improvement in visual amenity and in bulk and scale but also provides fire separation between the two dwellings.

As such, the proposal is acceptable in how it impacts the predominant lot configuration of the neighbourhood and it provides fire separation not presently provided.

The proposal would result in an irreversible change in the intensity and density that is not consistent with the character of the area.

Comment: The existing development on the site, comprising two dwellings each effectively occupying a lot of land, has produced the density outcome that the Assessing Officer is seeking to avoid.

The Assessing Officer's contention would be that conversion from Strata lots to land lots will remove a purported incentive to consolidate the existing property into single ownership.

If there are different owners of two adjacent Strata properties, the circumstance may arise that one owner will sell and that the other owner will wish to purchase that other property. That same circumstance may equally arise if those two same properties are on land lots. There are no differences between the two forms of tenure that will alter the likelihood of those circumstances arising. That is particularly the case where, as it is presently the case, there is no overlapping and where there is no common property. There could otherwise be some aspects of a Strata scheme that could incentivise consolidation, but those aspects are not here at present.

To the extent that the consent authority might form the view that the burden of maintaining a Strata scheme and the associated costs might act as an additional incentive for consolidation to occur, it is considered that that would be a misuse of NSW laws that create a system of Strata titles. It is a waste of the administrative time and energy, including of government, in maintaining that system. It is a waste of the time and energy and finances of the property owners in the Strata scheme. Those systems are not intended to serve as an artificial burden on property owners to produce some desired planning outcome. It is contrary to the aim of the *NSW Environmental Planning and Assessment Act, 1979* to produce the "orderly and economic use and development of land" and is a misuse of the planning system.

The proposal removes a non-conforming land use and replaces it with a conforming land use and is a proper use of the planning system.

The proposed reduction of built form will slightly reduce the existing amenity impact for neighbours. However, the regularisation of two new lots with a significant variation to the lot size development standard, reduces any reasonable opportunity to protect the amenity of neighbours.

Comment: Even if the two lots come under single ownership, the single owner would be entitled to maintain two separate dwellings on the existing lot. There is no particular likelihood that they will demolish the two dwellings to create a single dwelling, as that would be likely to result in economic loss. In any case, for the reasons stated above, the proposal makes no difference to the likelihood that that will occur.

The site does not contain any significant amount of remnant bushland. However, the proposal for two lots would restrict opportunity for any remnant bushland to be provided on the site in the future.

Comment: This matter is evidently irrelevant to the present consideration.

Should you have any questions, please do not hesitate to contact Matthew Benson on 9144 7968.

Matthew Benson
Director – MB Town Planning.

