

15 May 2023

The Chief Executive Officer
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

[Sent via e-mail: planningpanels@northernbeaches.nsw.gov.au](mailto:planningpanels@northernbeaches.nsw.gov.au)

Dear Local Planning Panel (NBLPP) Members,

Submission to Item 4.1 of NBLPP – 17 May 2023 – DA2022/0596 (subject DA) at 31 Dobroyd Road, Balgowlah Heights

I have reviewed the assessment report which recommends refusal. The objection letters dated 8 June 2022, 7 July 2022 and 1 May 2023, prepared on behalf of my clients at 31 Dobroyd Road, detail the significant and unreasonable impacts to arise by virtue of the proposed development. I understand that you have reviewed the objection letters submitted and I will not repeat the concerns raised in this submission.

This submission is with regard to the Assessment Report prepared by Alex Keller to the NBLPP 17 May 2023 Meeting. The recommendation for refusal of the subject DA is supported. However, the assessment has considered that the non-compliance with the Housing SEPP, SEPP 65 and the ADG, LEP and DCP controls are acceptable. This submission does not agree with the findings of the report and requests that the Panel consider additional refusal reasons, as detailed below.

- **Non-compliance with the Housing SEPP** – The Housing SEPP is the key justification and planning mechanism to support an application for Co-Living Units. The development does not comply with Part 3, Clause (Cl.) 69 (1) (b) by 41% (51.5% on page 50) and (2) (b) by 100%. The Assessment Report does not provide sufficient reasons for accepting the level of non-compliance, particularly given that the principle of Co-living units rest on the SEPP and non-compliance results in unreasonable impacts on neighbouring amenity. It is requested that the Panel refuse the DA on the grounds of non-compliance with the Housing SEPP.
- **Non-compliance with Clause 2F and 3F of the Apartment Design Guide (ADG).** – The Assessment Report accepts a clear non-compliance with the building separation distance set out in Cl.2F and 3F of the ADG. A building separation plans has been requested in the numerous objection letters submitted. This submission contends that non-compliance is not adequately addressed by design elements that only exacerbate the impacts on my clients' amenity. The Clause 4.6 request does not provide sufficient justification to warrant non-compliance and there are no sufficient environmental planning grounds to warrant contravening the standard. The Housing SEPP reads at Cl.69. (2) (b), that *'the building will comply with the minimum building separation distances specified in Clauses 2F and 3F of the ADG'*.
- **Cl.4.6 request to vary both the minimum lot size and building separation distance does not justify contravening the development standards** - The Cl.4.6 requests submitted, suggest that Council only need

Karen Buckingham BA (Hons) MSc Spatial Planning MPIA
0423 951 234

karen@planningprogress.com.au
www.planningprogress.com.au

PO Box 213, Avalon Beach, NSW 2107

consider whether the building will comply with the separation distance of the ADG. The assessment considered that the building does not comply and states a breach of between 41.6% and 100% with Cl.69 (2) (B) and 41-51.5% with Cl.69 (1) (B). Cl.69 (2) (b), does not permit variance, referring only to compliance with the numerical standards of the ADG. It is requested that the Panel does not accept the Cl.4.6 Variation Requests and refuse the DA on the grounds of non-compliance with the Housing SEPP and SEPP65 and the ADG.

- **Objectives of development standards are not met** – For the reasons set out in the objection letters, the objectives of the development are not met. The proposal development does not provide future residents or neighbouring occupiers with a reasonable level of amenity or enhance the locality, given the lot size, insufficient building separation, loss of privacy (visual and acoustic), lack of off-street parking and overbearing impacts of buildings in too close a proximity.
- **There are no sufficient environmental planning grounds to justify contravening the development standards breached** – As detailed in the objection letters, the proposed development gives rise to unacceptable impacts on the surrounding environment and neighbouring amenity. The amended plans have not overcome the impacts identified and the proposal is not in the public interest. The Assessment Report states that the proposal satisfies ‘*all other requirements of the Housing SEPP with the exception of building separation and the minimum site area*’. This submission contends that a building design that does not comply with numerical building separation distances and is below the minimum lot size required for such a development cannot respond positively in its setting. There are no environmental planning grounds to justify the overdevelopment of the subject site.
- **Planter boxes referred on page 47 of the Assessment Report, to support acceptance of Cl.4.6 are not within the subject site.**
- **Insufficient information – lack of certified height poles** - The Assessment Report details that the proposed Height of Buildings does not exceed 8.5 metres. Certified Height Poles have not been erected on the subject site (as requested). It is requested that the Panel refuse the DA on the grounds of insufficient information, given the lack of certified Height Poles to confirm compliance with Cl.4.3 of the LEP.
- **Non-compliance with the Manly DCP** - It is requested that the Panel refuse the DA on the grounds of non-compliance with the Manly DCP as per objection letters submitted. The proposed doesn't comply with the Manly DCP as the Housing SEPP is not applicable due to non-compliance with Cl.69 (2).

Conclusion: It is requested that the Panel follow the recommendation to refuse DA2022/0596 and

include additional reasons for refusal, as detailed above.

Kind regards

Karen Buckingham *on behalf of 31 Dobroyd Road*
BA(Hons) Planning; MSc Spatial Planning; MPIA **Planning
Progress**

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