

---

**Sent:** 10/05/2019 12:23:16 PM  
**Subject:** DA2019/0347 Objection submission, Attention Maxwell Duncan  
**Attachments:** DA2019-0347\_LetterOfObjection48Waine.pdf;  
201111\_48WaineStHarbordSurvey.pdf;

Attention: Maxwell Duncan

As discussed last week, here is my objection submission for DA2019/0347.

NB: Have also submitted separate objections to compliance regarding front deck, open space, DA2015/0523, & existing encroachments. This are intended as supplemental to the submission regarding DA2019/0347.

.....  
Development Control Services  
Northern Beaches Municipal Centre  
725 Pittwater Rd,  
Dee Why NSW 2099

6 May 2019

For the attention of Mr Maxwell Duncan, assessing officer  
Dear Sir,

**DEVELOPMENT APPLICATION DA2019/0347**

Proposed Alterations and additions to a dwelling house at 50 Waine Street, Freshwater NSW 2096 by Chiara Valente and Andrew Boyce.

I write in connection with the above planning application. I have examined the plans and I know the site well. I wish to object strongly to the alterations to this house in this location.  
The DA will compromise the way we can use our (existing) dwelling in the intended way, with a major impact on privacy and amenity.

50 Waine Street was until recently a small unobtrusive beachside cottage, dotted with trees, and open landscaped space. Since the transfer of ownership in November 2014 to the current owner, the nature of the block has changed dramatically.

Waine Street Freshwater is a low-density residential area, with significant native flora, attracting abundant wildlife, including the (rare locally) bandicoot. With this in mind, development proposals should be considered very carefully. Allowing housing blocks to be converted to a barren environment devoid of native plants, indeed plants of any kind, with the majority of the space covered in buildings, driveway, and decking, ruins the character of the area and ultimately overwhelms it.

The protection of open space, building scale, and setback is supported by the Warringah LEP 2011 plan (1.2) which states its aim is to protect and enhance the residential use and amenity of existing residential environments, and promote development that is compatible with neighbouring development in terms of bulk, scale and appearance.

The proposed development is well outside the building envelope, which directly contravenes LEP (4.3.1.b) building height standards to minimise visual impact, disruption of views, and most importantly loss of privacy.

The proposed siting of the development is particularly ill-considered, as the current development has encroached

significantly onto both the front setback, and the western side setback. As can be clearly seen from an aerial view, none of the nearby dwellings have issues with side setback, and do not intrude into the front setback.

The existing building footprint is skewed on the block, which leads to a number of issues including encroachment well into the standard setback. While design issues might be solved by conditions or revised proposals, these could not remedy the siting problem.

There appear to be inconsistencies with the plan submitted, particularly with the western side setback drawings and stated setback distance. what appears to be an east-west front view slope which has been reversed. \*\* see survey, etc.

Furthermore, there are a series of non-compliant and non-approved developments, including the front deck, removal of open space, and incomplete compliance with a prior DA, all by the current owner.

Maintenance of privacy during construction is critical, as trades will be walking directly outside private dwelling areas include bed & bathrooms. There have been ongoing issues with trades trespassing to maintain #50, suddenly appearing early morning at bedroom windows.

If this application is to be decided by councillors, please take this as notice that I would like to speak at the meeting of the committee at which this application is expected to be decided. Please let us know as soon as possible the date of the meeting.

As discussed, you are invited to an onsite visit of 48 Waine Street to inspect the site at your convenience.

**NOTE:** Please review attachments for details of objections and relevant contraventions of LEP and DCP regulations.

Yours faithfully,

R. Kohler

Attachments:

Letter of objection

2011 survey

Robert Kohler  
48 Waine Street,  
Freshwater NSW 2096  
(02) 9905 5193

Development Control Services  
Northern Beaches Municipal Centre  
725 Pittwater Rd,  
Dee Why NSW 2099

6 May 2019

For the attention of Mr Maxwell Duncan, assessing officer

Dear Sir,

**DEVELOPMENT APPLICATION DA2019/0347**

Proposed Alterations and additions to a dwelling house at 50 Waine Street, Freshwater NSW 2096 by Chiara Valente and Andrew Boyce.

I write in connection with the above planning application. I have examined the plans and I know the site well. I wish to object strongly to the alterations to this house in this location. The DA will compromise the way we can use our (existing) dwelling in the intended way, with a major impact on privacy and amenity.

50 Waine Street was until recently a small unobtrusive beachside cottage, dotted with trees, and open landscaped space. Since the transfer of ownership in November 2014 to the current owner, the nature of the block has changed dramatically.

Waine Street Freshwater is a low-density residential area, with significant native flora, attracting abundant wildlife, including the (rare locally) bandicoot. With this in mind, development proposals should be considered very carefully. Allowing housing blocks to be converted to a barren environment devoid of native plants, indeed plants of any kind, with the majority of the space covered in buildings, driveway, and decking, ruins the character of the area and ultimately overwhelms it.

The protection of open space, building scale, and setback is supported by the Warringah LEP 2011 plan (1.2) which states its aim is to protect and enhance the residential use and amenity of existing residential environments, and promote development that is compatible with neighbouring development in terms of bulk, scale and appearance.

The proposed development is well outside the building envelope, which directly contravenes LEP (4.3.1.b) building height standards to minimise visual impact, disruption of views, and most importantly loss of privacy.

The proposed siting of the development is particularly ill-considered, as the current development has encroached significantly onto both the front setback, and the western side setback. As can be clearly seen from an aerial view, none of the nearby dwellings have issues with side setback, and do not intrude into the front setback.

The existing building footprint is skewed on the block, which leads to a number of issues including encroachment well into the standard setback. While design issues might be solved by conditions or revised proposals, these could not remedy the siting problem.

There appear to be inconsistencies with the plan submitted, particularly with the western side setback drawings and stated setback distance. what appears to be an east-west front view slope which has been reversed. \*\* see survey, etc.

Furthermore, there are a series of non-compliant and non-approved developments, including the front deck, removal of open space, and incomplete compliance with a prior DA, all by the current owner.

Maintenance of privacy during construction is critical, as trades will be walking directly outside private dwelling areas include bed & bathrooms. There have been ongoing issues with trades trespassing to maintain #50, suddenly appearing early morning at bedroom windows.

If this application is to be decided by councillors, please take this as notice that I would like to speak at the meeting of the committee at which this application is expected to be decided. Please let us know as soon as possible the date of the meeting.

As discussed, you are invited to an onsite visit of 48 Waine Street to inspect the site at your convenience.

**NOTE:** Please review attachments for details of objections and relevant contraventions of LEP and DCP regulations.

Yours faithfully,

R. Kohler

## Attachments

Attachment 1 – Front balcony.....	4
Relevant rules:.....	5
DCP D3.5.....	5
DCP B7.2 Front Boundary Setbacks.....	5
DCP D8 Privacy .....	5
DCP D12 Glare and Reflection .....	5
Attachment 2 – Rear balcony .....	6
Relevant rules:.....	6
DCP B3 Side Boundary Envelope .....	6
DCP B6 Merit Assessment of Side Boundary Setbacks.....	7
DCP D3.5 .....	7
DCP D8 Privacy .....	7
DCP D12 Glare and Reflection .....	7
Attachment 3 – Front Deck .....	8
Breaches of DCP; .....	8
Relevant rules:.....	8
Attachment 4 – Inconsistencies with DA plan versus survey .....	9
Attachment 5 – Existing encroachments & non compliance .....	10
Attachment 6 – Open space .....	13
Relevant rules:.....	15
D1 Landscaped Open Space and Bushland Setting .....	15
Attachment 7 – Building bulk & visual impact .....	16
<i>Figure: Building bulk adjacent to fence line &amp; bedroom windows.</i> .....	16
Relevant rules:.....	16
D10 Building Colours and Materials .....	16
Attachment 8 – Privacy during construction.....	17

## Attachment 1 – Front balcony

Existing house structure encroaches onto standard front setback, new construction exacerbates problems by building on this area. Existing side window already creates glare problems, proposed new window will be elevated and increase glare to intolerable levels. Proposed upstairs bathroom & window with associated noises and smells will be adjacent to neighbour's bedroom window.

Breaches of DCP;

- Front balcony and additional storey are constructed within front boundary setback area (DCP B7.2)
- Front balcony allows direct overlooking views into private rooms and areas of neighbouring property. (DCP D8.3)
- Side window allows direct vision into neighbouring windows. (DCP D8.3)
- Side window & balcony shine artificial lighting directly into bedroom windows. (DCP D12)
- Noise from front balcony adjacent to bedrooms (DCP D3.5)

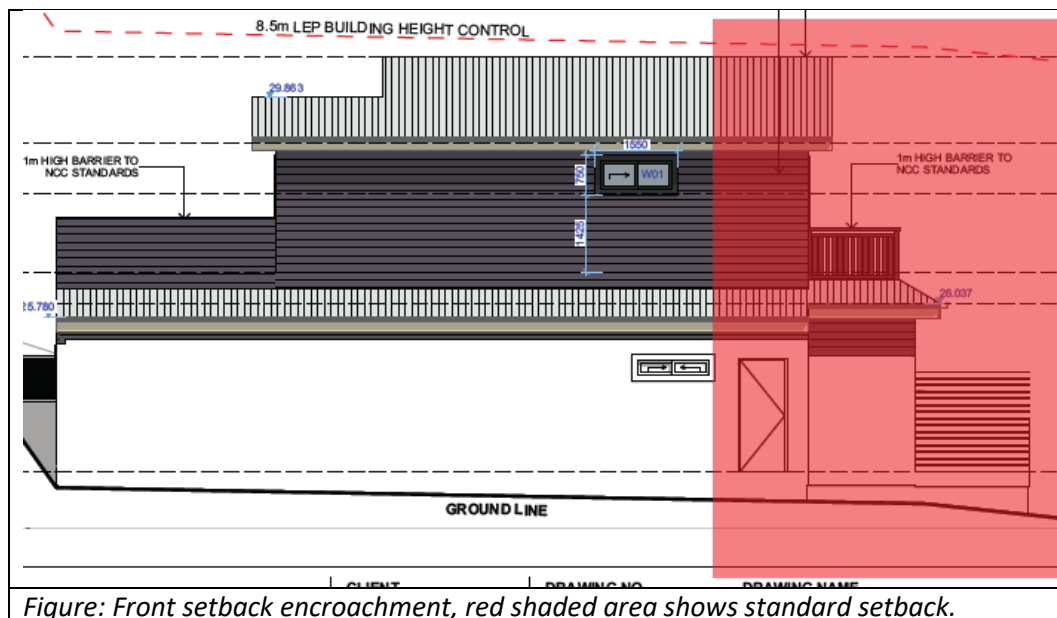


Figure: Front setback encroachment, red shaded area shows standard setback.



Figure: Proposed balcony & window adjacent to bedroom.

Relevant rules:

DCP D3.5

Where possible, locate noise sources away from the bedroom areas of adjoining dwellings/properties to minimise impact.

DCP B7.2 Front Boundary Setbacks

The [front boundary setback](#) area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, [garbage](#) storage areas and fences.

DCP D8 Privacy

3. The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.

4. The windows of one dwelling are to be located so they do not provide direct or close views (i.e. from less than 9 metres away) into the windows of other dwellings.

DCP D12 Glare and Reflection

The overspill from artificial illumination or sun reflection is to be minimised

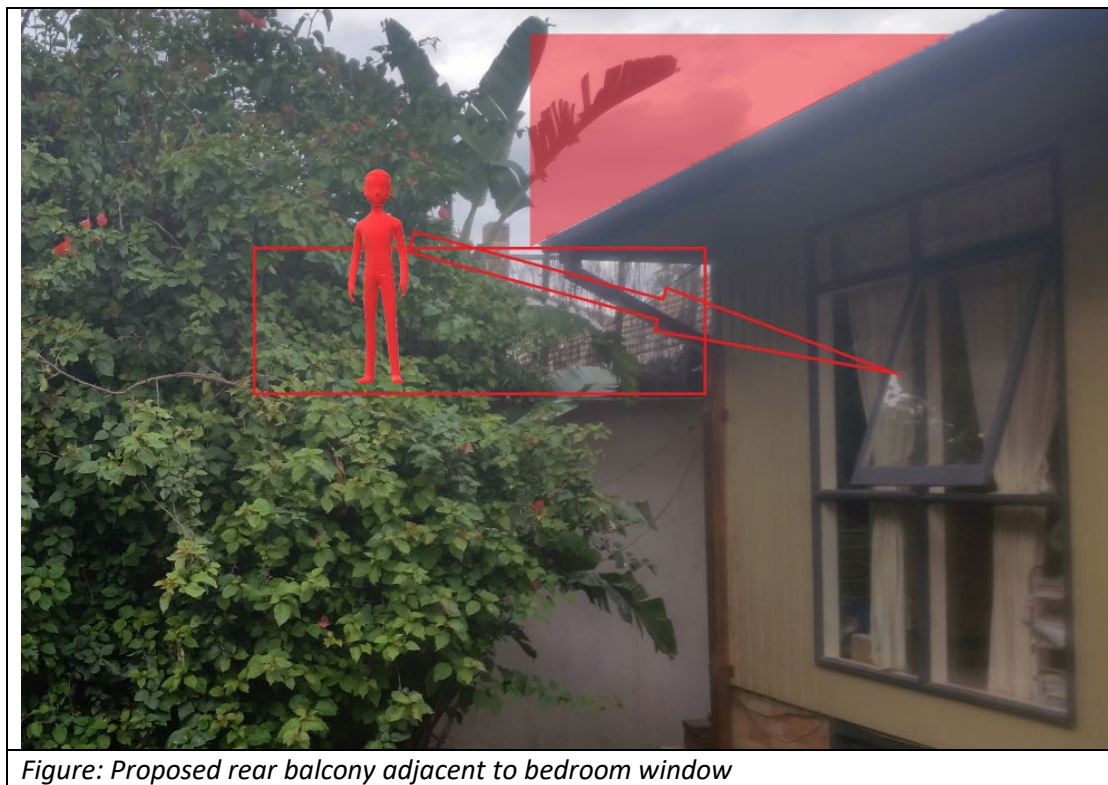
## Attachment 2 – Rear balcony

Proposed upstairs balcony is adjacent to and elevated to private areas of the neighbour's house. The balcony is oriented so that the widest part is towards side fence. This will facilitate & encourage direct view into bedrooms, bathrooms, and other private areas.

Existing house structure encroaches onto standard side setback, new construction exacerbates problems by building on this area.

Breaches of DCP;

- Rear balcony and additional storey are constructed within side boundary setback area (DCP B6)
- Rear balcony allows direct overlooking views into private rooms and areas of neighbouring property. (DCP D8.3)
- Balcony shines artificial lighting directly into bedroom windows. (DCP D12)
- Noise from balcony adjacent to bedrooms (DCP D3.5)



Relevant rules:

DCP B3 Side Boundary Envelope

1. Buildings on land shown coloured on the DCP Map Side Boundary Envelopes must be sited within a building envelope determined by projecting planes at 45 degrees from a height



above ground level (existing) at the side boundaries of:

- 4 metres

#### DCP B6 Merit Assessment of Side Boundary Setbacks

##### *Objectives*

- To provide ample opportunities for deep soil landscape areas.
- To ensure that development does not become visually dominant.
- To ensure that the scale and bulk of buildings is minimised.
- To provide adequate separation between buildings to ensure a reasonable level of amenity

#### DCP D3.5

Where possible, locate noise sources away from the bedroom areas of adjoining dwellings/properties to minimise impact.

#### DCP D8 Privacy

3. The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.

4. The windows of one dwelling are to be located so they do not provide direct or close views (i.e. from less than 9 metres away) into the windows of other dwellings.

#### DCP D12 Glare and Reflection

The overspill from artificial illumination or sun reflection is to be minimised

### Attachment 3 – Front Deck

Existing front deck built in contravention of standard front setback. This deck never was given development approval.



Breaches of DCP;

- No development approval
- Enclosed deck encroaches on front setback. (DCP B7, DCP D2)

Relevant rules:

#### *DCP B7 Front Boundary Setbacks*

##### Requirements

1. Development is to maintain a minimum setback to road frontages.
2. The [front boundary setback](#) area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, [garbage](#) storage areas and fences.

#### *DCP D2 Private Open Space*

3. Private open space shall not be located in the primary front building setback.

#### Attachment 4 – Inconsistencies with DA plan versus survey

Stated western side setback of 0.58m does not agree with survey or actual siting. Setback to existing wall varies from 0.40m at front to 0.51m at rear.

(see attached 2011 survey)



Figure: Side setback looking towards street front, barely enough room for a person to squeeze through

East-West front view slope appears reversed.

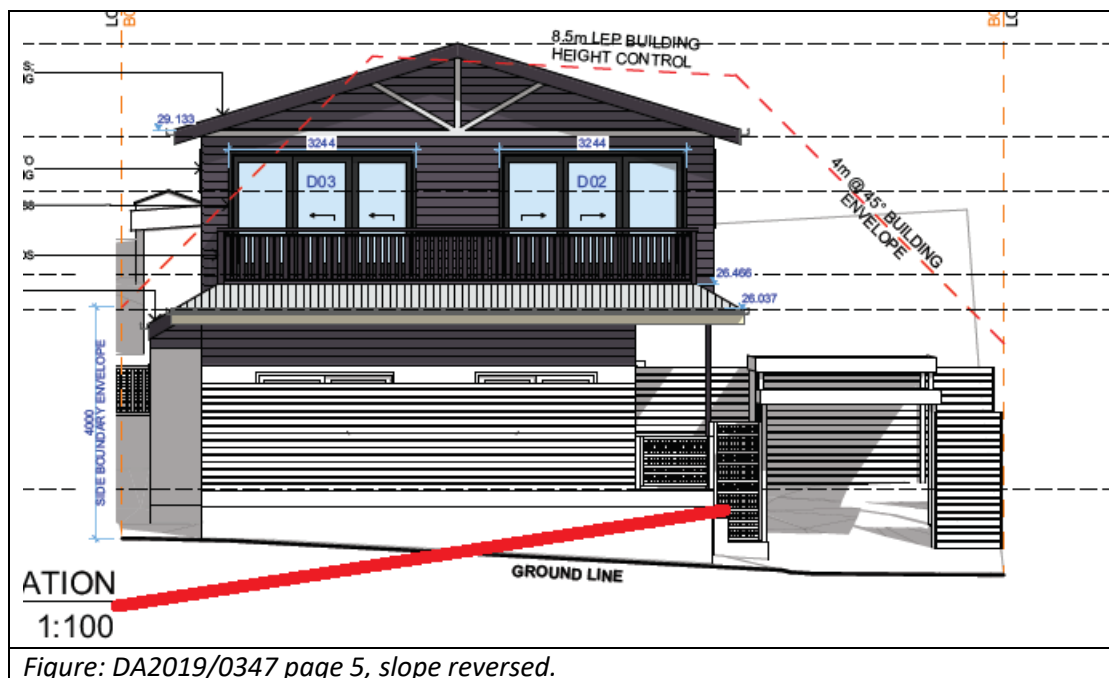
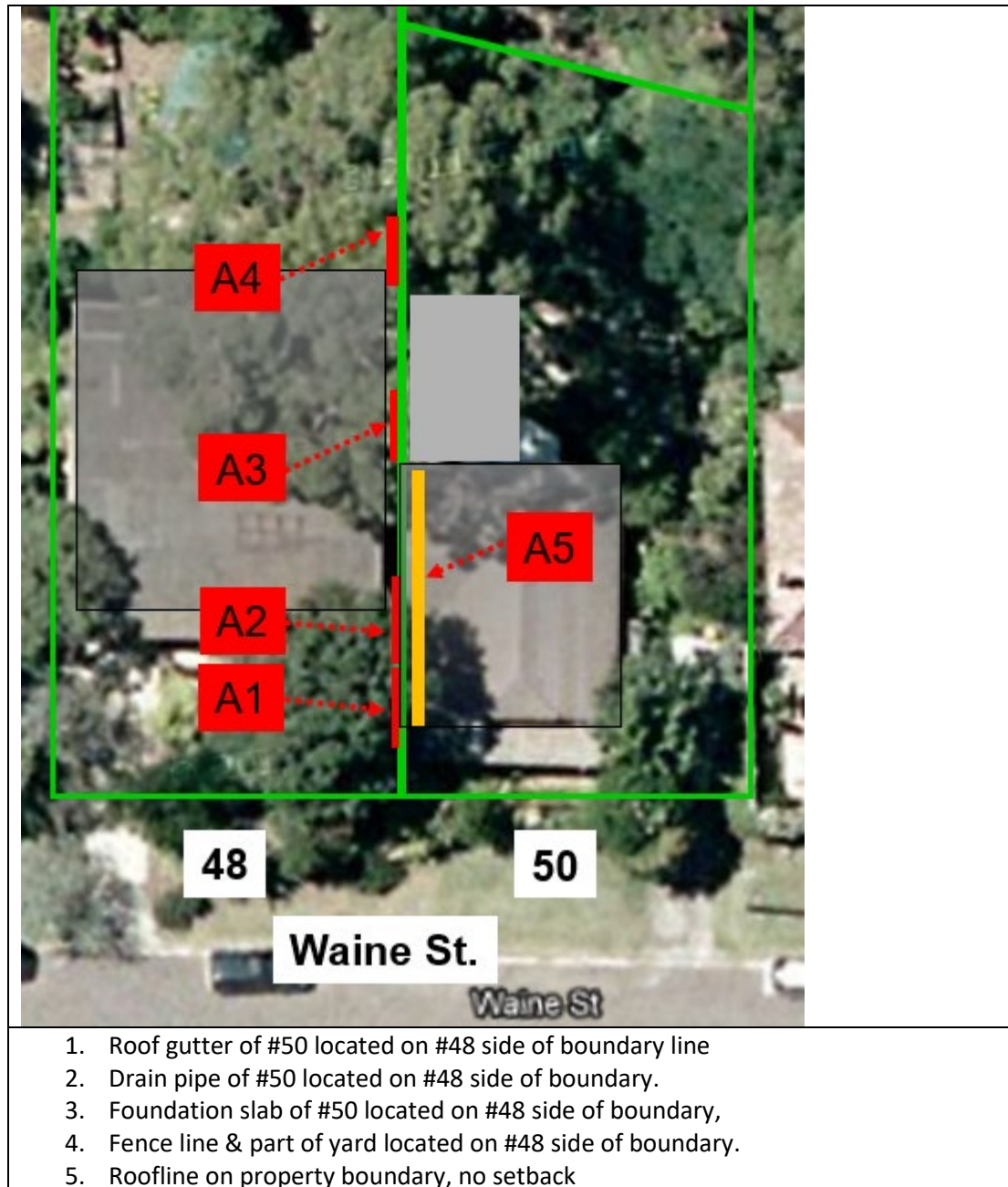


Figure: DA2019/0347 page 5, slope reversed.

## Attachment 5 – Existing encroachments & non compliance

### *Existing encroachments*

Note: Refer to 2011 surveyors report attached.







*Figure: Gutter & drain over property boundary, eaves on or over boundary.*

*DA2015/0523 not properly completed*

- Roof not cut back as per DA2015/0523



*Figure: Roof not cut back as required.*

## Attachment 6 – Open space

Wholesale removal of open space. (DCP D1)

All trees removed, driveway and carport constructed.

Rear yard Decking, Large shed, Small shed constructed

<i>Aerial view 2014</i>	<i>Aerial view 2018</i>
	
<p><i>Figure: Removal of trees &amp; open space during current ownership from 2014 to 2018. Trees to left of images are located on #48, though due to angle of aerial view appear to overlap #50.</i></p>	





*Figure: View from street, May 2019*

Realestate.com.au images November 2014







*Figure: What was once a small cottage in a leafy backyard at time of sale 2014.*

[www.realestate.com.au/sold/property-house-nsw-freshwater-118133291](http://www.realestate.com.au/sold/property-house-nsw-freshwater-118133291)

Relevant rules:

#### D1 Landscaped Open Space and Bushland Setting

1. The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and Bushland Setting. To measure the area of landscaped open space:

a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;

## Attachment 7 – Building bulk & visual impact

### Building bulk & visual impact – setback, side wall, colour, gabled roof

No attempt has been made to soften the appearance of the existing extension by #50. Cheap poorly finished materials have been used on the wall, including a top screening fence which shoddily constructed is leaning over the fence, and appears in danger of collapse.

All greenery in picture is located on #48. Adding onto the bulk by adding an additional story with gabled roof will make the situation even more intrusive and unsightly.



*Figure: Building bulk adjacent to fence line & bedroom windows.*

### Relevant rules:

#### D10 Building Colours and Materials

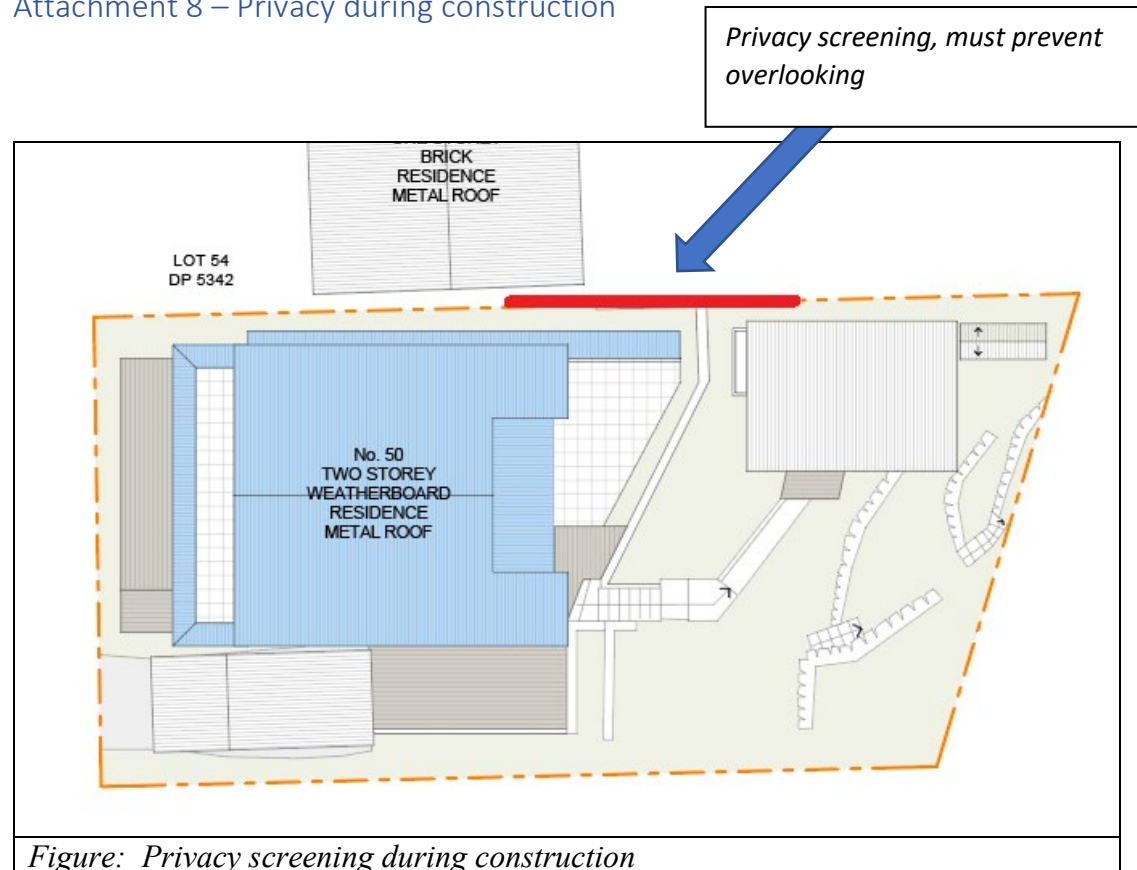
##### *Objectives*

- To ensure the colours and materials of new or altered buildings and structures are sympathetic to the surrounding natural and built environment.

##### *Requirements*

1. In highly visible areas, the visual impact of new development (including any structures required to retain land) is to be minimized through the use of appropriate colours and materials and landscaping.

## Attachment 8 – Privacy during construction



Privacy screening must be installed to maintain privacy of bedrooms & other areas of #48 during construction. Due to elevated position, screening must be high enough to prevent looking over screen while working on new floor level.





# P. S. GRAHAM & ASSOCIATES

REGISTERED SURVEYORS  
CONSULTING ENGINEERS – TOWN PLANNERS

27 WONGALA CRESCENT  
BEECROFT 2119  
(02) 9484 5121  
(02) 9481 8408  
FAX: (02) 9484 7035

ALL CORRESPONDENCE TO:  
P.O. BOX 263, BEECROFT NSW 2119  
Email: psgraham@tpg.com.au

319 GEORGE STREET  
WINDSOR 2756  
(02) 4577 3263

## SURVEYOR'S REPORT

BEECROFT OFFICE

18 November 2011

Ref: S.14956

Mr & Mrs F Kohler  
48 Waine Street  
FRESHWATER NSW 2096

Dear Mr & Mrs Kohler

**RE: F & J KOHLER**  
**PROPERTY: 48 WAINE STREET, FRESHWATER**

As instructed by you I have surveyed the land comprised in Folio Identifier 54/5342 being Lot 54 in Deposited Plan 5342 and being the land edged red on the sketch hereon.

The subject land has a frontage of 15.24 metres to Waine Street and Lawrence Street (not formed) Freshwater in the Local Government Area of Warringah.

Erected thereon and fronting Waine Street stands a brick and timber dwelling with fibrous cement roof known as No 48.

The position of the building in relation to the boundaries is as shown on the sketch hereon.

There are no registered easements affecting the subject land.

Irregularities in the fences exist as shown on the sketch hereon.

**Minor Encroachment:**

1. A covered shed structure encroaches over the eastern boundary onto Lot 2 DP 835234 up to 0.19 of a metre as shown on the sketch hereon.
2. Part of the eave and gutter attached to the western wall of the dwelling known as No. 50 Waine Street encroaches onto the subject land by up to 0.13 of a metre.

Subject to the above and with the exceptions mentioned, I am of the opinion there are no other visible encroachments either by or upon the subject land.

Details shown on the accompanying sketch, together with sufficient information are for identification purposes only. Should any further improvements or additions be proposed for the subject land, I would advise that the boundaries be marked on the ground prior to construction.

Yours faithfully

**P. M. GRAHAM**  
**Registered Surveyor, MIS(NSW)**

