
From: Tony Robb
Sent: 2/05/2023 4:02:56 AM
To: Council Northernbeaches Mailbox; Alexander Keller
Subject: DA2022/596 – MIXED USE SHOP TOP HOUSING AND CO-LIVING HOUSING DEVELOPMENT – 29-37 DOBROYD ROAD, BALGOWLAH HEIGHTS – SUBMISSION AMENDED DA
Attachments: DA2022 596 Mixed use development 29-37 Dobroyd Rd Balgowhal Heights - Submission Amd Plans 010523.pdf;

Dear Alex

Please see attached our submission in response to the amended plan made on behalf of the owners of 26, 27, 28 and 30 Dobroyd Road and 26 Nolan Place.

Regards

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1 May 2023

The General Manager
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Email: council@northernbeaches.nsw.gov.au; Alexander.Keller@northernbeaches.nsw.gov.au

Att: Mr. Alex Keller, Principal Planner

**RE: DA2022/596 – MIXED USE SHOP TOP HOUSING AND CO-LIVING HOUSING DEVELOPMENT – 29-37
DOBROYD ROAD, BALGOWLAH HEIGHTS – SUBMISSION AMENDED DA**

We have been engaged, in a town planning advisory capacity, by the owners of a number of properties located in close proximity to the development site to review the proposed amended development application and make submissions on their behalf. For convenience, we will hereafter refer to this group as 'our clients'.

The preparation of this submission has taken into account our inspection of the site and visits to neighbouring properties; our review of the Amended DA documentation and discussions with our clients. The content of this submission is based on the opinion of Evolution Planning. We have separately advised our clients to make their own submissions.

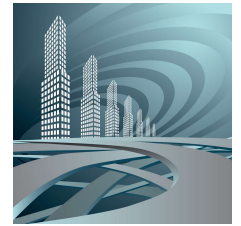
This submission follows our earlier letter of 6 June 2022 and our representations made during the site part of the s.34 conference.

We acknowledge that the proposed amended development will result in a better outcome to our clients, particularly with respect to the loss of privacy to the residents of 27 Dobroyd Road, but there are further, and still unaddressed, matters we wish to bring to the attention of Council for its consideration.

This submission is made on behalf of the owners of:

- A. 27 Dobroyd Road;
- B. 26 Nolan Place;
- C. 30 Dobroyd Road;
- D. 28 Dobroyd Road;
- E. 26 Dobroyd Road

To assist Council in understanding how the proposed development site relates to the properties owned by our clients and the context to which we will refer to throughout this submission, please refer to the context plan below.



Key

- ★ Development site
- Represented properties

Figure 1: Context Plan

SUMMARY

On behalf of our clients, we wish to object to the proposed development for the reasons summarised below and as expanded upon in the body of this submission and we request that Council continue to strenuously contest this Appeal.



1. Policy Considerations

- a. SEPP (Housing) 2021
 - i. FSR;
 - ii. Room Areas;
 - iii. Common External Space.
- b. Manly LEP
 - i. Height
- c. Manly DCP
 - i. Side setbacks

2. Likely Impacts of the proposed development

- a. Potential view loss;
- b. Noise impacts;
- c. Hazardous materials;
- d. Traffic and parking issues (noise and head light glare);
- e. Construction related impacts;
- f. Odour (louvred waste room in proximity to neighbouring living and dining room).;
- g. Landscaping; and,
- h. Privacy.

SUBMISSION

1. Policy Considerations

- a. SEPP Housing 2021

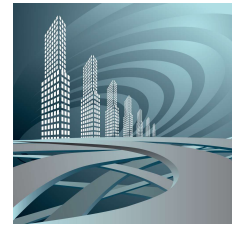
FSR

It is our opinion that the proposed amended development breaches the FSR development standard which applies to the land.

The FSR calculations (at DWG CD 10f) do not include the ground floor rear balconies which appear to be enclosed by privacy screens and upon the application of the definition of GFA should be included since the height of the wall exceeds 1.4m.

Room Areas

A schedule of room areas is required to demonstrate the maximum and minimum room area standards of the SEPP have been satisfied. The measurement should exclude the private bathrooms and kitchenettes (including a 600mm wide strip in front of the kitchenette bench).



Common External Space

The proposed amended DA relies on a pocket of land at ground level at the SW corner of the site to satisfy the area requirements of the SEPP. However, the consideration as to the acceptability of the space does not stop with the SEPP since the DCP includes further more refined guidance as follows:

“In relation to boarding houses in LEP Zones B1 and B2 the minimum private open space is 20sqm with a minimum width of 3m. The landscape treatment must enhance the streetscape on which the building is located and provide both the minimum requirement for private open space (see paragraph 4.1.5.3) but also provide for communal areas (indoors) in accordance with this plan.”

Part 4.1.5.3(b) states:

“The area is to receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter”

The area proposed at the SW corner of the land will almost entirely be in shadow and furthermore will likely be a future source of noise impacts on the residents to the west.

This is further example of where the design of the proposal is convoluted to attempt to comply with the host of compliance issues previously raised and demonstrates why it is an overdevelopment of this constrained site.

b. Manly LEP - Height

The amended DA shows that the proposed development complies with the development standard related to height. If that is the case, the degree of compliance is marginal. To ensure compliance (and to ensure that a consent may be legitimately granted without the requirement for a Clause 4.6 variation request), we ask that the height of the proposed development (as defined in the LEP) be certified for accuracy by an independent registered surveyor.

c. Manly DCP

i. Side setbacks

We acknowledge that a side setback to Commerce Lane has been provided. However, the setback provided is more commensurate with a dwelling type development and not one of this scale and intensity. The waste room (which as discussed below has the potential to introduce amenity related impacts) has a nil setback and the rest of the building is setback 0.9m and more in parts. We understand that strict compliance with the DCP would render the site sterile to reasonable development but we consider that a setback of at least 1.5m should be provided at the eastern side boundary.



2. Likely Impacts of the proposed development

a. Potential view loss

We acknowledge that perspectives of the proposed amended development as viewed from 26 Nolan Place have been prepared (albeit incorrectly labelled). However, these do not constitute a View Analysis.

As shown below, district and skyline views are available from the living area and principal private open space area of 26 Nolan Place and the proposed amended development needs to be considered against the principals for view sharing in accordance with 'Tenacity Consulting v Warringah Council'



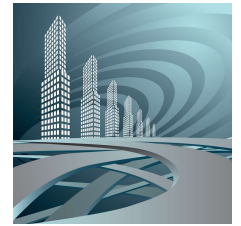
Figure 2: View north across site from principal living room 26 Nolan Place

b. Noise impacts

The originally submitted noise assessment fails to recognise 26 Nolan Place as a sensitive receiver which is, in our view, probably the most likely to be affected by the roof top plant, particularly since the proposed roof is generally on a similar plane as the ground floor of the dwelling at 26 Nolan Place.

We are unaware of any new Noise Assessment being submitted.

Concern is also raised in terms of the noise associated with the security roller door associated with the basement entry given its close proximity to the living space and bedroom associated with 27 Dobroyd Road. Refer to Figures 3 and 4 below.



Living room – See Figure 5 below

Driveway and Louvred wall waste room

Figure 3: View south along Commerce Lane from Dobroyd Road – 27 Dobroyd Rd on left of image and the development site on right.



Figure 4: West elevation of 27 Dobroyd Road directly opposite proposed east elevation of the proposed waste room louvred wall and driveway.



The use of the common outdoor space and the balcony have the potential to significantly adversely impact on the amenity of neighbours and should consent be granted, conditions should be imposed regarding imposing restrictions as to the use of these spaces to prevent their use beyond 9pm.

c. Hazardous materials

Given the age of the building there is potential for it to contain asbestos. We are unaware that any assessment has been provided in this respect.

d. Traffic and Parking

Parking

Whilst we acknowledge that the amended proposal technically complies with the car parking standard adopted under SEPP (Housing) we are of the opinion that in light of the relatively remote location of this local centre; the lack of services available in the centre; and, the low frequency of the local bus service, that the future residents of the development will be more likely to rely on cars than a better serviced like development which is envisaged under the SEPP.

Street parking in the vicinity of the site is already under stress in light of the nearby tennis centre and visitors to the neighbouring café and does not have the capacity to accommodate any overspill from the development.

Council Traffic Specialist has given feedback on the amended DA and recommends approval subject to a number of conditions. One of these conditions is that sensors should be installed on the parking spaces and a "FULL" sign installed at the entry. The requirement for this condition clearly demonstrates that the demand for parking is at times likely to exceed supply and in such cases where will such overspill vehicles park?

Council does not have the ability to demand further parking for the co-living part of the proposal but could require further commercial parking which we feel would not be remiss in the context of this isolated centre.

Head Light Glare

We further raise significant concern with respect to head light glare of vehicles exiting the ramp (which slopes upwards towards the western elevation of the dwelling at 27 Dobroyd Road). The re-location of the driveway to Commerce Lane has the potential to impact on the living areas of 27 Dobroyd Road in terms of head light glare and noise (from traffic and the operations of the security grille – potential impacts which have not been addressed in the amended DA material. Refer to Figures 3 and 4 above.

Noise

The noise associated with the use of the driveway is considered to be a significant potential adverse source of noise, particularly given the proximity of the driveway to the living and bedroom accommodation of 27 Dobroyd Road.



Noise sources such as the operations of the security grille and vehicles accelerating up the ramp or idling waiting for the grille to open need to be fully considered by a qualified specialist.

e. Construction

Due to the constrained nature of the site and the proximity to neighbouring residential uses, should consent be granted, we request that a detailed Construction Management Plan is provided and dilapidation surveys are conducted for neighbouring properties.

f. Odour

Concern is raised with respect to potential odour impact from the bin enclosure which is located ~8m from the window of the main living space of 27 Dobroyd Street.

At Part 4.2.3 of the DCP *“the planning principles in this plan for residential development at paragraph 3.1.1 will also apply.”*

Such principles include setbacks of garbage areas including a principle which requires that they are located and designed with consideration given to the amenity of adjoining properties. This is not considered to be achieved in this instance. Refer to Figures 3 and 4 above

No details are provided as to how (and by whom) the bins will be moved to the street and where they will be left for collection.

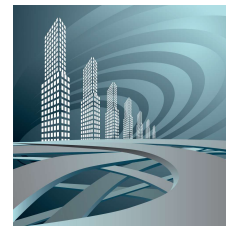
g. Landscaping

Whilst the proposed planter boxes on the east elevation of the building provide some visual relief to the residents of 27 Dobroyd Road, it is critical that these are well maintained and do not turn out to have the opposite effect by accommodated dead or dying vegetation or weeds. Should consent be granted we request that the Plan of Management include a schedule for maintenance of these planter boxes and procedures to replace any faltering species.

h. Privacy

The perspectives provided taken from 26 Nolan Place clearly show that direct sightlines will be available to the upper-level rooms to and from the living room and private open space of 26 Nolan Place. We request that appropriate permanent screening is provided on the southern elevation of all rear balconies.

We also raise concern with respect to the loss of privacy to 27 Dobroyd Road to the east. The privacy screen on the eastern edge of the first-floor balcony needs to be extending to the point before the balcony begins to wraps round at the front and we raise significant concern as to the use of area at the ‘upper floor level’ immediately below the first-floor common balcony. The area we refer to is identified as a ‘non-trafficable roof’. If that is to be the case, why is it surrounded by a balustrade?



CONCLUSION

It is our opinion that the consent authority has no power to grant consent to the proposed development in light of what we believe to be a non-compliance with the FSR standard and the absence of a well-founded Clause 4.6 variation request.

Whilst we acknowledge the permissibility of the proposed co-living development at this location, it is our opinion that in light of the relatively remote location of this local centre; the lack of services available in the centre; and the low frequency of the local bus service that this type of development is unsuited to the site.

Further information is required with respect to potential noise, view sharing, odour and light spill impacts and these determinative factors need to be carefully considered by Council when preparing its Amended Statement of Facts and Contentions.

On behalf of our clients, we thank Council for its careful consideration of this submission.

Please contact the undersigned directly on 0430 007 725, should you wish to discuss this matter further.

Yours sincerely,

Tony Robb
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Principal.

