
Sent: 2/09/2020 10:57:13 AM

Subject: DA2020/0865 - 41 Heathcliff Crescent, Balgowlah Heights - Submission

Attachments: PastedGraphic-1.tiff; 41 Heathcliff Crescent, Balgowlah Heights - 20200831 - Submission Letter.pdf;

ATTN: Nick England

Please find attached a Submission for the above Application that is presently being assessed.

If you have any questions, please do not hesitate to contact me.

Kindest,

Norrsken Ko. 0411. 920. 590.
100 Harris Street, Pyrmont NSW 2009
Design. Draft. Plan. norrskenko.com.au

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Norrskén Ko.

August 31, 2020

Norrskén Ko.
Level 3, 100 Harris Street
PYRMONT NSW 2009
ABN 84 614 454 867

The General Manager
Northern Beaches Council,
Council Chambers
DEE WHY NSW 2099
Australia

Dear Sir,

Submission in response to the Development Application DA2020/0865 at 41 Heathcliff Crescent, Balgowlah Heights

Norrskén Ko. have been instructed by the property owners (our Client/s) of 39 Heathcliff Crescent to prepare a Submission on their behalf, exercising their community participation in the development process, as enlivened by Division 2.6 of the Environmental Planning And Assessment Act 1979.

The Submission is made with regards to DA2020/0865 (the Application) at 41 Heathcliff Crescent, Balgowlah Heights, and is for the construction of a new two storey dwelling house (the Development). 39 Heathcliff Crescent is the adjacent property at the south side boundary of the subject site, at which our Clients presently reside.

This Submission considers the Application, and makes recommendations for improvements where necessary, with the intent of managing any adverse impact to 39 Heathcliff Crescent, the greater residential amenity, and the streetscape quality of Heathcliff Crescent.

In principle, our Client is satisfied with the proposed scheme as a whole, and raises no objection to the erection of a new dwelling house. In the process of reviewing the Application, however, several matters are identified that would merit further consideration before the Application is resolved. In brief, these include the impact of the Development on trees, side boundary setbacks, visual and acoustic privacy, overshadowing, view sharing, and building design.

The number of matters identified and the magnitude of the subsequent impact on residential amenity, finds the Application fails to meet the Aims of the Manly Local Environmental Plan 2013 (MLEP2013), the Objectives of the R2 — Low Density Residential land zone, and the Aims and Objectives of the Manly Development Control Plan 2013 (MDCP2013). In doing so, the Application will result in a needless over-development of the property.

Trees

The Submission considers the impact of the Development on trees, being a crucial element to the natural landscape and amenity of a locality; especially in such proximity to the local park.

The Survey, and Architectural Plans, depict a single tree located within the front boundary setback area, that is proposed for removal, in addition to a single street tree located centrally to the allotment; also proposed for removal. In examining the history of the property, the Application TA2020/0489 was lodged, that requested the removal of two trees. On June 25, 2020, approval was granted, but for the removal of a single tree only. The second tree that was refused approval to be removed, is taken to be the street tree, as no other tree exists relative to the allotment, and because the single remaining tree to the property, within the front boundary setback area, has since executed its approval. Condition 2(e) of TA2020/0489, incidentally, states that a replacement tree is to be planted within three months of the approved trees removal.

The Submission notes that notwithstanding the tree's removal, it is still depicted on the Survey and Architectural Plans. This leaves the single street tree that is now proposed for removal under this Application. The Submission raises concerns of the subsequent implications of its removal, in line with the Objectives of Part 3.3.1 of the MDCP2013, that encourages tree planting and maintaining existing vegetation, and to retain and augment important landscape features; especially as the street tree appears to have been refused Approval once prior in recent times.

The Submission also considers the function of the street trees removal, that is to facilitate vehicular access to the north side boundary. This situation, as set by Part 3.3.2.2(c) of the MDCP2013, is untenable, as the impact or removal of trees on public land for a new Driveway and Crossover is unacceptable. Our Client wishes to emphasise the impact on residential amenity the removal of the street tree will have to the pleasant nature of the Heathcliff cul-de-sac.

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In further study, the MDCP2013 states at Schedule 4, Part A(6), that approval for the removal of a street tree may only be granted where the tree would prevent the installation and facilitation of a proposed Driveway crossing, street awning, street balcony, or other private structure, but only if the following matters can be demonstrated:

- a. The removal of the tree would maximise public benefit;
- b. There is no reasonable alternative to removing the tree; or
- c. The Council is satisfied that the proposal would not have any adverse heritage, pedestrian, streetscape or traffic impacts.

In examination of the submitted documentation, the proposed scheme fails to adequately demonstrate the necessity for the relocation of the Driveway and associated Crossover, from where it is currently located at the north side boundary, to the south side boundary. This Submission asserts that the proposed relocation would result in an adverse impact to the streetscape by the unnecessary removal of a street tree, when a more reasonable siting for the Driveway and Crossover currently exists without the expense of a street tree, and the adverse impact on the visual and acoustic amenity of our Clients dwelling at 39 Heathcliff Crescent, that will be discussed in greater detail below.

This Submission proposes the following resolutions to the Development:

1. That the Survey and Architectural Plans be updated to reflect the tree that has been removed.
2. That the Survey be updated to describe the trunk thickness, height, and spread of the street tree, to identify its Tree Protection Zone and Structural Root Zone in accordance with AS4970-2007 – Protection Of Trees On Development Sites.
3. That an Arboricultural Impact Assessment Report be prepared by a suitably qualified and practising AQF Level 5 Arborist, to assess the health and vigour of the street tree.
4. That the street tree is retained in the first instance.
5. That if the street tree must be removed, that it be transplanted, as detailed in a Transplant Methodology Report, or that details of any replacement street tree planting is to be provided in an updated Landscape Plans and Conditioned with a Notice Of Determination.
6. That an updated Landscape Plan be submitted, with additional details provided to satisfy the specifications of a Landscape Plan in the Consent Authority's Lodgement Requirements.
7. That a suitably qualified and practising AQF Level 5 Arborist prepare Root Mapping to manage the impact of the Driveway, Crossover, and any other excavation that may occur within the Tree Protection Zone and Structural Root Zone of the street tree.

Side Boundary Setbacks

The requirements of side boundary setbacks has been identified in the submitted Architectural Plans as a departure from the Controls at Part 4.1.4 of the MDCP2013. The rationale of the departure, as provided in the accompanying Statement Of Environmental Effects, is unclear, and seems unresolved, considering the Application is for the erection of a new dwelling house, on a well-proportioned allotment that is capable of achieving compliance with side boundary setback controls.

The side boundary setback control in question is that at Part 4.1.4.2(a), that states setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.

Given the topographic profile of the property, the Submission considers the method of wall height calculation relative to the falling land. As the side boundary setback control is a proportion of the wall height, rather than a fixed value, a strict compliance with the side boundary setback on this property would mean a shallower side boundary setback at the front of the proposed dwelling, and a deeper side boundary setback at the rear of the proposed dwelling.

The definition of building line or setback is provided in the MLEP2013, and means the horizontal distance between the property boundary and the closest building wall. It is natural, then, to take the greatest wall height and project the side boundary setback from this point, that would result in an approximate side boundary setback of 1,530mm at the South Elevation Ground Floor, and approximately 2,180mm at the South Elevation First Floor. Notwithstanding, the submitted Statement Of Environmental Effects identifies this non-compliance, and it must therefore be established that the Application has capacity for improvements to the side boundary setbacks.

In this matter, the Submission considers the Objectives of Part 4.1.4 of the MDCP2013, finding that a variation of the side boundary setbacks is not well founded, and will result from a departure from achieving these Objectives; namely; to provide privacy, access to light and sunshine, and defining character to the streetscape through characteristic rhythm and setting.

As such, the variation is found to not improve residential amenity to surrounding properties.

The Submission proposes the following resolutions to the Development:

1. That side boundary setbacks are based on the maximum external wall height, and are to be no less from that value.

Visual And Acoustic Privacy

The Submission turns to consider the matter of visual and acoustic privacy, that is principally in concern with the relationship of the forward facing First Floor Balcony, and the primary living areas and Master Suite at 39 Heathcliff Crescent.

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The proposed living areas of the proposed scheme are situated at the front of the dwelling, at the First Floor, understandably to capture local views to the north-east. Our Client calls attention to the matter that their Master Suite is sited at the First Floor, at approximately the same longitude, itself oriented to the north-east, to capture local views. It is not unreasonable, therefore, that the proposed scheme be sensitive in its design and siting to allow for the adjoining use, consistent with the Objectives of Part 3.4.2.

Our Clients note that First Floor, streetfront-facing Balconies in the immediate locality are not uncommon, but in general, they are not used as primary areas of Private Open Space, and are generally of a proportion that reflects their intended use. The Submission considers examples in the street such as 37, 35, and 31 Heathcliff Crescent that balance views, privacy, and First Floor Balconies, and are of reasonable proportions. Part 3.4.2.2(b) of the MDCP2013 encourages a recessed design of Balconies and Terraces, which is used to limit overlooking and maintain privacy. Whilst Balconies and Decks and the like may contribute to the Total Open Space calculation of a Class 1a building, they are generally not the main proponent of Private Open Space when such a substantial rear yard is available.

In this regard, the Submission calls into question the proportions of the proposed Balcony and its subsequent use – given its size – and considers its acceptability based on its subsequent impact, reasonableness, and necessity.

The Submission considers the necessity of the Balcony, when the property is capable of supplying ample Private Open Space at the west side of the property, away from the Master Suite of 39 Heathcliff Crescent. Balconies are a perfectly acceptable Architectural feature, and they certainly serve a purpose in functionality; yet given the volume of primary internal living spaces relative to the substantial Balcony, it is taken that in practice, the Balcony will be utilised as the primary area of Private Open Space, notwithstanding the area of Private Open Space at the rear yard, accessed from a secondary internal living space at the Ground Floor. This naturally highlights the unreasonableness of the Balcony, which in this matter, relates to its significant area. Examining other, comparable First Floor Balconies in the immediate area, it is clear that none are of such proportion, or appear to be the predominant area of Private Open Space.

The Submission examines the reasonableness of a primary area of Private Open Space at the streetfront, and in such close proximity to a neighbouring Master Suite, rather than adjoining a neighbouring area of Private Open Space. Whilst areas of Private Open Space are not prohibited to face the primary streetfront, a greater than usual level of visual and acoustic privacy is expected to uphold a reasonable relationship and interaction between two adjoining properties, as the streetfront is typically a very exposed area to a property. Considering the Balconies of 37, 35, and 31 Heathcliff Crescent, their proportions and subsequent capacity for use are limited, and therefore do not require a high degree of privacy measures. If the Balcony is not found to be the Private Open Space, then the test of reasonableness is satisfied by the Balcony's unnecessarily large proportions, and it must be reduced.

The Submissions final assessment is the impact of the Balcony to 39 Heathcliff Crescent. The use of a space is an indicator in determining the importance of its privacy. In this matter, both the Balcony and Master Suite become significantly more objectionable. The Balcony's serviceability to the primary living space of the dwelling means that it is not unreasonable for the space to be used frequently, and as a primary area of Private Open Space and entertaining area. The height of the Balcony above ground line is also a matter of contention; at approximately 3,000mm above ground line, there is significant cause for visual and acoustic intrusiveness, in addition to bulk and scale. The Submission considers the State Environmental Planning Policy (Exempt And Complying Development Codes) 2008, that, at Clause 3.12, requires a 3,000 – 6,000mm side boundary setback for Balconies that are 3,000mm above ground line. The Submission also notes the use of an external entry point to the dwelling, that further encourages a passive source of noise and unnecessary intrusiveness. The size of the Balcony, relative to the importance of the associated primary living spaces, means that it is capable of holding a moderately substantial gathering of people, and therefore likely to generate an unacceptable level of noise and disturbance.

In the context of residential Architectural design, visual and acoustic privacy is the freedom from being overlooked by another dwelling. Whilst defining this is generally a qualitative exercise, AMCORD recommends a separation of at least 9,000mm between habitable rooms, to which the distance is to increase as the height of buildings increase, and that similar room uses are to be located adjacent to one another. This Submission acknowledges the attempts of the Applicant to maintain privacy, and our Client is appreciative of the general orientation of the Balcony, that directs overlooking to the north-east toward the local views. However, the occupants of 39 Heathcliff Crescent will still remain exposed, as the Master Bedroom and Ensuite, designed for passive heating and cooling properties, is light and open.

Part 3.4.2.3(a) of the MDCP2013 states that consideration must be given to the protection of acoustical privacy in the design and management of the development. Further, at Part 3.4.2.3(b) of the MDCP2013, it states that proposed development and activities likely to generate noise, including certain outdoor living areas like outdoor open space and driveways, should be located in a manner which considers the acoustical privacy of neighbours, including neighbouring bedrooms and living areas.

In general, this Submission finds that the Balcony is unacceptable in its current state, given its unfounded necessity, reasonableness, and subsequent impact and design and siting relative to 39 Heathcliff Crescent.

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Figure 1 — View from the Master Suite of 39 Heathcliff Crescent, and at right, view from the Ensuite.

To address matters of visual and acoustic privacy, the Submission proposes the following resolutions to the Development:

1. That the Balcony be limited in its capacity, and not be greater than 1,500mm in depth for its entire length.
2. That the Balcony be reconfigured to a rectangular shape, consistent with the predominant form of First Floor Balconies to Heathcliff Crescent.
3. That the Balcony increase its south side boundary setback to be not less than 3,000mm, relative to its height above existing Ground Level.
4. That the vertical timber slats be deleted from the proposed Architectural Plans.
5. That a fixed, full height, uninterrupted Privacy Screen be erected at the South Elevation, of a material to be specified on the Architectural Plans, that cannot be seen through or that has any part that is open or translucent.
6. That a return of the Privacy Screen be erected at the East Elevation of the Balcony, that is not less than 2,000mm in length.
7. That the Privacy Screens have noise attenuation properties, that are to be specified on the Architectural Plans and as a Condition of a Determination.

Overshadowing

The impact of building design, and in particular, setbacks, can result in diminished opportunity for adequate solar access; particularly for east-west oriented allotments. It is well known that at such an orientation, it is a reasonable expectation that some of the Private Open Space and windows to primary living spaces of adjoining properties be overshadowed.

A factor of assessing the acceptability of overshadowing is the amount of sunlight lost. In this regard, the Submission notes that Existing Shadow Diagrams have not been provided for public viewing, and as such, no full assessment can be made as to the proposed solar access. Of particular consideration is the Control at Part 3.4.1.2(a) of the MDCP2013 that states for buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least two hours between the hours of 9:00am and 3:00pm. More significantly, Part 3.4.1.2(c) of the MDCP2013 states that for all adjacent buildings, no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.

Our Clients are the owners of 39 Heathcliff Crescent, who designed and built their house on the principles of thermal efficiency, and have designed and sited their internal living spaces, Study, and Bedrooms, to capture natural light and cross-ventilation without the reliance on any mechanical means of heating and cooling. Their primary internal living spaces are an important element of maintaining a healthy family home, and are situated predominantly to the north side of the dwelling. Whilst dramatic, their lifestyle is threatened by overshadowing, that would revert their living spaces to a more despairing state.

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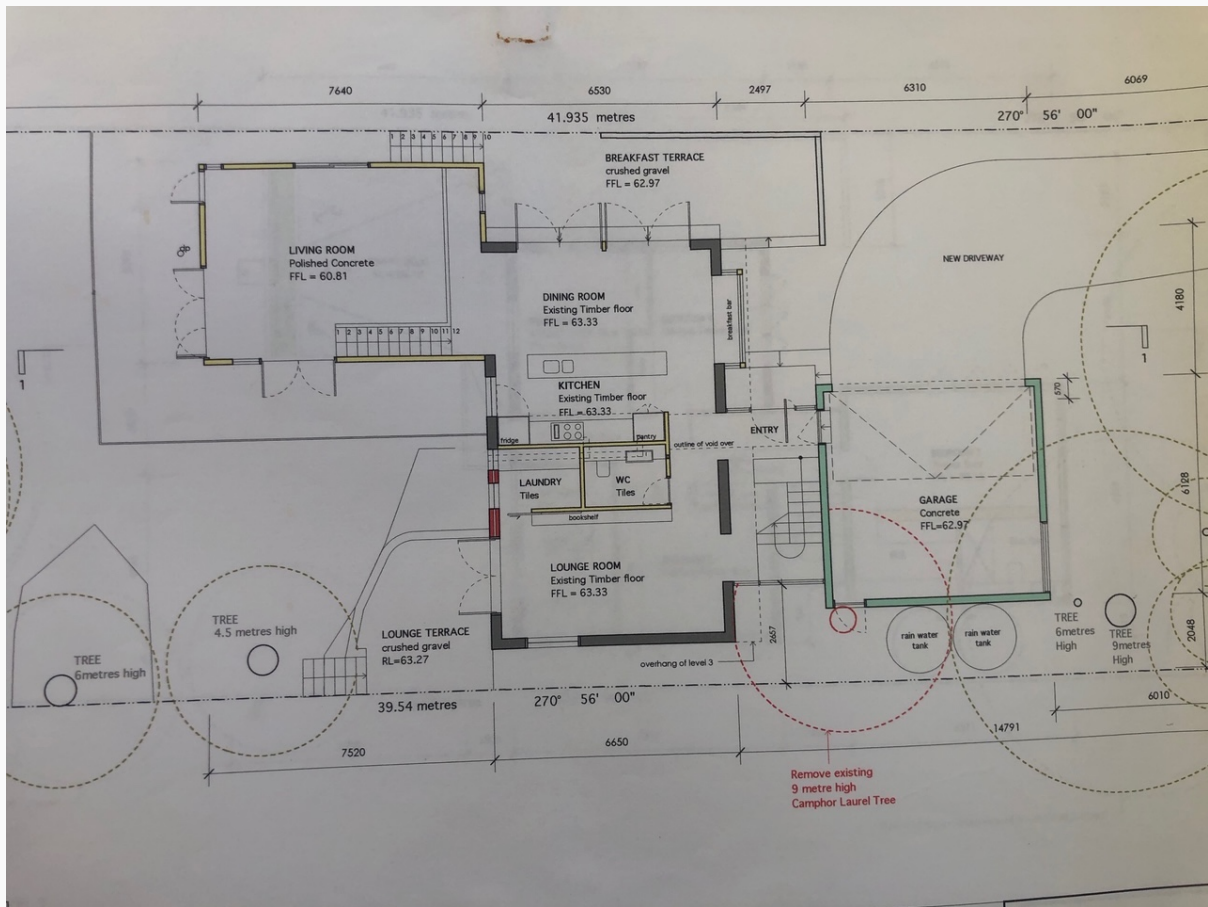


Figure 2 — Ground Floor Plan of 39 Heathcliff Crescent, depicting the locations of primary internal living spaces.



Figure 3 — Existing Solar Access to the internal primary living spaces.

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Understandably, our Clients concern is the substantial loss of solar access presently enjoyed to their primary internal living spaces, that have been designed to carefully balance passive design. The potential impact of the Application could threaten these spaces, materially affecting their amenity.

The Submission notes that at present, the proposed Development results in some solar access being provided to the openings of the living spaces at the North Elevation of 39 Heathcliff Crescent, but the Submission questions the quality of this solar access relative to existing solar access. Without the provision of Existing Shadow Diagrams, a sound assessment of the Development's impact cannot be fulfilled.

Overshadowing that arises from poor design is unacceptable, and with the bulk and scale of the South Elevation of the proposed scheme, the encroachment of the side boundary setbacks, and the protrusion of the First Floor Balcony, simple design improvements can be made for a more sensitive outcome, that would go beyond solar access.

The Submission proposes the following resolutions to the Development:

1. That Existing Shadow Diagrams be provided between the hours of 9:00am and 3:00pm on June 21 in Plan and Elevation or Oblique View.
2. That the gabled roof over the Balcony be deleted and replaced with a shallow skillion awning or similar design that improves solar access to 39 Heathcliff Crescent.
3. That the side boundary setbacks be increased to achieve compliance with Part 4.1.4 of the MDCP2013.
4. That the Balcony be reduced as recommended above.
5. That the solar access provisions of Part 3.4.1.2 of the MDCP2013 be upheld.

View Sharing

The elevation and orientation of the two properties – 39 and 41 Heathcliff Crescent – mean both enjoy local views across North Harbour and Manly beyond, from their primary internal living space, as described in Figure 3 above. As such, the Submission turns to consider the impact of the Development on views from the primary internal living spaces, and its acceptability.

The Planning Principle of view sharing is that established in the matter of Tenacity Consulting v Warringah Council [2004] NSWLEC 140, presided over by Senior Commissioner Roseth. This is also the principle utilised at Part 3.4.3 of the MDCP2013 to fulfil the Objectives of providing view sharing for both existing and proposed development, to minimise disruption to views from adjacent development and views to and from public spaces, including views to the harbour, ocean, and bushland.

Our Client acknowledges and supports the Applications proposed scheme that will undoubtedly improve their current views to a similar extent as that illustrated above, but is concerned by the negligence of the Application to seriously consider view loss from 39 Heathcliff Crescent. Reference throughout the Statement Of Environmental Effects, such as “the proposal will not have any detrimental effects on views” (Page 14), and “the proposal does not unreasonably obstruct any significant views from private property” (Page 16), and “the proposed dwelling has been designed to allow for views to be enjoyed past the dwelling for properties to the south” (Page 16) and that “consideration has been given to the existing outlook for the adjoining property at No 39 Heathcliff Crescent, which enjoys views across the eastern portion of the site towards Manly” (Page 19) is alarming, and serves as evidence that no significant value or consideration is made to share existing views, or that a thorough assessment against the matter of Tenacity Consulting v Warringah Council [2004] NSWLEC 140 is made.

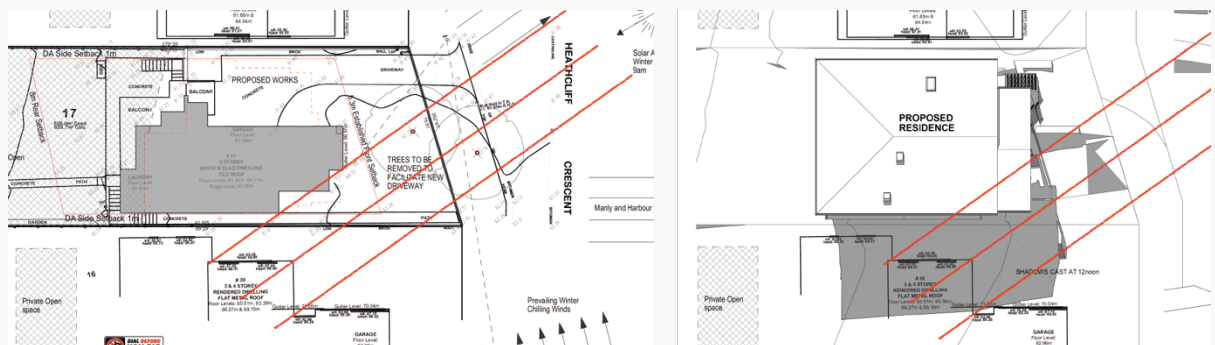
The salient matter of concern for our Client is the extent to which the Development will share its views, or take it away for their own enjoyment. In considering view loss, the Submission briefly utilises the Planning Principle to assess the Development:

Assessment Of Views

The views from 39 Heathcliff Crescent overlook North Harbour and Manly, and is specifically mentioned in the Planning Principle as an iconic view, that is more highly valued than views without icons. The views are also found to be partially affected at the Ground Floor primary internal living spaces.

Location Of Views

Views are accessible from the north-east, and traverses the front boundary setback area of 41 Heathcliff Crescent:



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The images above describe the existing and proposed view loss, that represents a moderate loss, up to fifty percent.

Extent Of Impact

The Planning Principle states that impact on views from living areas is more significant than from Bedrooms or service areas. The Principle also finds that a quantitative assessment of view loss is often meaningless, and is better to describe the impact qualitatively. Given the above illustrations of potential view loss, it is not unreasonable to say that there will be moderate view loss from the primary internal living spaces of 39 Heathcliff Crescent.

Reasonableness Of The Proposed Development

The final step is to assess the reasonableness of the proposal that is causing the impact. The culmination of the Submissions findings is that our Client is not objectionable to the Development in principle, but has found that several matters must be addressed and carefully examined before the Application is determined. This Submission has identified these matters, and found that on balance, improvements can be made to the proposed scheme to improve its response to the constraints of the property and the Aims of the MLEP2013 and MDCP2013. For this reason, the Application in its current state is found to be predominantly unreasonable.

This Submission finds that there is moderate view loss suffered by 39 Heathcliff Crescent, whilst there will be substantial view gain benefitting 41 Heathcliff Crescent. The outlook from these two properties is iconic, as described by Senior Commissioner Roseth himself in his findings, and it is not unreasonable that there be an equitable balance of view sharing between the two properties.

The Submission puts forward the amendments to the proposed scheme as outlined in this letter, that would improve residential amenity, and, as a result, will improve view loss from 39 Heathcliff Crescent. In particular, the following resolutions are made:

1. That a View Share Analysis be undertaken to assess the impacts of the proposed development.
2. That height poles be erected at 41 Heathcliff Crescent by a registered Surveyor, for the Consent Authority to assess potential view loss.
3. That the First Floor Balcony be reduced in extent and reconfigured, as proposed above, to manage view loss.
4. That the proposed Garage be reduced in depth to 5,400mm to comply with the minimum standards of AS2890.1-2004, that will increase the front boundary setback of the south-east corner of the proposed Garage, to facilitate existing views from the primary internal living spaces of 39 Heathcliff Crescent.

Building Design

Good Architectural design does not exempt a building from being assessed for its impact on neighbours and its compliance with the objectives of the MLEP2013 and the MDCP2013. As the MLEP2013 and MDCP2013 have been subject to public exhibition and community consultation, they must be a starting point from which the Application is considered.

In considering the proposed scheme, the Submission examines Part 3.1 of the MDCP2013 and Part 4.1.6 of the MDCP2013, to investigate the Development's impact on the amenity of the streetscape. Part 3.1.1.1(a)(iv) states that development in the streetscape should be designed to avoid elevated structures constructed on extended columns that dominate adjoining sites, such as elevated open space terraces. Further, Part 3.1.1.4(a)(ii) states that Garages must be designed and sited in a manner that does not dominate the street frontage by being compatible with the streetscape and location in relation to front setback criteria. It is generally considered good design to locate on-site parking spaces as far from the streetscape as possible, preferentially from rear laneways and the like. It is only a secondary option to locate Garages to the streetscape, when no alternative siting is available. Part 4.1.6.1(a) of the MDCP2013 states that the design and location of all Garages must minimise their visual impact on the streetscape and neighbouring properties, and maintain the desired character of the locality, and continuing, Part 4.1.6.1(c) states that the maximum width of any Garage is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6,200mm.

In summary, the proposed scheme seemingly ignores these controls, by proposing a Garage in a prominent location to the streetscape, suspending an elevated Balcony to the First Floor, and exceeds the maximum permissible width of 6,200mm. The culmination of this design points to a greater picture of a building design that has not heeded the constraints of the MDCP2013, or seek to lessen any adverse impact on the amenity of adjoining properties.

As this Submission considers the design of the Garage in context with other matters discussed in this letter, it is found that a Garage set behind the building line, typically by no less than 1,000mm, are encouraged as an improvement to streetscape amenity. Part 4.1.6.1(b)(i) of the MDCP2013 states that Garages may be situated forward of the building line so as not to dominate the street frontage, but only if there is no reasonable alternative. The Submission asserts that there is a reasonable alternative, that could materially improve residential amenity to 39 Heathcliff Crescent, and the streetscape, that is achieved by retaining the approximate Ground Floor footprint, but situating the Garage to the north side boundary, setback behind the building line by at least 1,000mm. This alternative solution would benefit the streetscape and the amenity of 39 Heathcliff Crescent, without a material impact on the function of the proposed scheme, in the following ways:

- a. The alternative solution means the existing space for the Driveway and Crossover could continue to be utilised without the removal of an existing street tree.
- b. Situating the Garage and Driveway toward the north side boundary would improve residential amenity to the primary living spaces at 39 Heathcliff Crescent, and would avoid the movement of vehicles and fumes so close to these spaces.

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- c. The proportions and form of the First Floor Balcony could remain consistent with the proposed changes made with this Submission.

As such, the Submission proposes the following resolutions to the Development:

1. That the Garage be located at the north side of the property.
2. That the Garage be located not less than 1,000mm behind the building line.
3. That the width and depth of the Garage be reduced.

Conclusion

In examination of the Development Application to 41 Heathcliff Crescent, Balgowlah Heights, known as DA2020/0865, this Submission is supportive in principle of the proposed scheme, but requests that the following be addressed prior to the issue of a Determination:

1. That the Survey and Architectural Plans be updated to reflect the tree that has been removed.
2. That the Survey be updated to describe the trunk thickness, height, and spread of the street tree, to identify its Tree Protection Zone and Structural Root Zone in accordance with AS4970-2007 – Protection Of Trees On Development Sites.
3. That an Arboricultural Impact Assessment Report be prepared by a suitably qualified and practising AQF Level 5 Arborist, to assess the health and vigour of the street tree.
4. That the street tree is retained in the first instance.
5. That if the street tree must be removed, that it be transplanted, as detailed in a Transplant Methodology Report, or that details of any replacement street tree planting is to be provided in an updated Landscape Plans and Conditioned with a Notice Of Determination.
6. That an updated Landscape Plan be submitted, with additional details provided to satisfy the specifications of a Landscape Plan in the Consent Authority's Lodgement Requirements.
7. That a suitably qualified and practising AQF Level 5 Arborist prepare Root Mapping to manage the impact of the Driveway, Crossover, and any other excavation that may occur within the Tree Protection Zone and Structural Root Zone of the street tree.
8. That side boundary setbacks are based on the maximum external wall height, and are to be no less from that value.
9. That the Balcony be limited in its capacity, and not be greater than 1,500mm in depth for its entire length.
10. That the Balcony be reconfigured to a rectangular shape, consistent with the predominant form of First Floor Balconies to Heathcliff Crescent.
11. That the Balcony increase its south side boundary setback to be not less than 3,000mm, relative to its height above existing Ground Level.
12. That the vertical timber slats be deleted from the proposed Architectural Plans.
13. That a fixed, full height, uninterrupted Privacy Screen be erected at the South Elevation, of a material to be specified on the Architectural Plans, that cannot be seen through or that has any part that is open or translucent.
14. That a return of the Privacy Screen be erected at the East Elevation of the Balcony, that is not less than 2,000mm in length.
15. That the Privacy Screens have noise attenuation properties, that are to be specified on the Architectural Plans and as a Condition of a Determination.
16. That Existing Shadow Diagrams be provided between the hours of 9:00am and 3:00pm on June 21 in Plan and Elevation or Oblique View.
17. That the gabled roof over the Balcony be deleted and replaced with a shallow skillion awning or similar design that improves solar access to 39 Heathcliff Crescent.
18. That the side boundary setbacks be increased to achieve compliance with Part 4.1.4 of the MDCP2013.
19. That the Balcony be reduced as recommended above.
20. That the solar access provisions of Part 3.4.1.2 of the MDCP2013 be upheld.
21. That a View Share Analysis be undertaken to assess the impacts of the proposed development.
22. That height poles be erected at 41 Heathcliff Crescent by a registered Surveyor, for the Consent Authority to assess potential view loss.
23. That the First Floor Balcony be reduced in extent and reconfigured, as proposed above, to manage view loss.
24. That the proposed Garage be reduced in depth to 5,400mm to comply with the minimum standards of AS2890.1-2004, that will increase the front boundary setback of the south-east corner of the proposed Garage, to facilitate existing views from the primary internal living spaces of 39 Heathcliff Crescent.
25. That the Garage be located at the north side of the property.
26. That the Garage be located not less than 1,000mm behind the building line.
27. That the width and depth of the Garage be reduced.

The property that is the subject of the Application is capable of achieving compliance with the Aims Of Plan of the MLEP2013 and the Objectives of the R2 — Low Density Residential land zone, and the Aims and Objectives of the MDCP2013. However, the proposed scheme is revealed to have failed in demonstrating its attempt to achieve compliance, and maintain residential amenity to the occupants of 39 Heathcliff Crescent. In this regard, the Application will result in a needless over-development of the property, with inconsiderate impact to

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our Client. This Submission has demonstrated that the proposed scheme can be recalibrated for improved outcomes against the MLEP2013 and MDCP2013, by relocating the Garage to the north side of the property, retaining an existing street tree, and improving visual and acoustic privacy and solar access.

Should you wish to discuss this Submission further, please contact the undersigned.

Kindest,

A handwritten signature in black ink, appearing to read 'Alex', with a long horizontal line extending to the left.

Alex. Town Planner.
Norrsken Kolektiv.