
From: Jonathan Trope
Sent: 28/10/2022 4:43:05 PM
To: Council Northernbeaches Mailbox
Subject: Objection to DA2022/1528 - 92 Lauderdale Avenue, Fairlight
Attachments: 22001 Ltr to Council 28October2022.pdf;

For the kind attention of Mr A Keller

Mr Keller,

Further to my letter dated 25th October, here is the formal letter of objection generated by KD Town Planning on our behalf based on the issues that we believe impact us as owners of Unit 1, 90 Lauderdale Avenue, Fairlight.

Sincerely

Jonathan and Karin Trope



28 October 2022

Chief Executive Officer
Northern Beaches Council
PO Box 82
MANLY NSW 1655

Attention: Mr Alex Keller

Dear Mr Keller

Re: APPLICATION NO. DA2022/1528 – 92 Lauderdale Avenue, Fairlight

This letter is written on behalf of the following owners and occupants of 90 Lauderdale Avenue, Fairlight:

- Ground Floor (Unit 1): Johnathan and Karin Trope
- First Floor (Unit 2): Bruce and Marianne Mansfield
- Second Floor (Unit 3): Nigel and Joanne Ampherlaw.

This letter sets out their objection to a development application (**DA**) which proposes the demolition of the existing two storey dwelling house and construction of a new three storey dwelling with swimming pool at 92 Lauderdale Avenue, Fairlight (the **development site**).

As shown at **Figure 1**, the development site (at 92 Lauderdale Avenue, Fairlight) shares a side boundary with our clients' properties (at 90 Lauderdale Avenue Fairlight) to the immediate east of the development site.



Figure 1 – Development site shown in red and client's property shown in blue

SUBMISSION

Preparation of this submission follows a review of the exhibited DA material and a site inspection of the development site as viewed from each of our clients' properties at 90 Lauderdale Avenue, Fairlight.

Our clients' object to DA2022/1528 for the following reasons:

A. The proposal is an overdevelopment of the site

A.1 Non-complying wall height and number of storeys

The bulk and scale of the proposed development is not consistent with the bulk and scale that is permissible on the development site. Pursuant to *Manly Development Control Plan 2013 (Manly DCP 2013)* the site is subject to the following development controls:

- Control 4.1.2.1 Wall height 6.8m (sliding scale with gradient of approximately 1:18)
- Control 4.1.2.2 Number of storeys 2

The proposed development will have a maximum wall height of 8.5m (east elevation) which is above the permitted 6.8m wall height control by 1.7m.

The proposed development will be three storeys, when only two are permitted.

As detailed at Points B. and C. this breach along with the other non-compliances outlined in the submission will have a detrimental impact on our clients' properties by way of building bulk and solar access.

Therefore, given the inconsistency of the proposed development with the wall height and number of storeys control it is our view that the proposed development results in a bulk and scale that is not appropriate, and is inconsistent with what is permissible on the site and surrounding area.

In addition, the Statement of Environment Effects (SEE) submitted in support of the proposal, did not address these non-compliances within the report.

A.2 Non-complying side setbacks

Front setback

Part 4.1.4.1 Street Front Setbacks of Manly DCP 2013 sets the following front setback provisions for the development site (using our emphasis):

- a) Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.
- b) *Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need to be set further back for all or part of the front building façade to retain significant trees and to maintain and enhance the streetscape.*

.....

Response: The proposed front setback is inconsistent with immediate established front setback pattern. The proposed front setback is unreasonable using a merit assessment due to the devastating impact it will have on our clients' properties by way of building bulk and solar access.

A 6m standard setback is not appropriate in this context and regard must be given to the adjacent property to the east in establishing the front setback. It is clear that the building has been pushed forward towards the street (Lauderdale Avenue) to minimise the extent of excavation (and cost) to the applicant to the detriment of the adjacent site. Setting the building further back from the front

boundary and in line with the prevailing built form will go a long way in preserving the amenity of our clients' properties.

This is demonstrated at **Figure 2 - 4**, which highlights the existing building footprint, and the current front building line of 90 Lauderdale Avenue at each level in relation to the proposed front setback of the development.

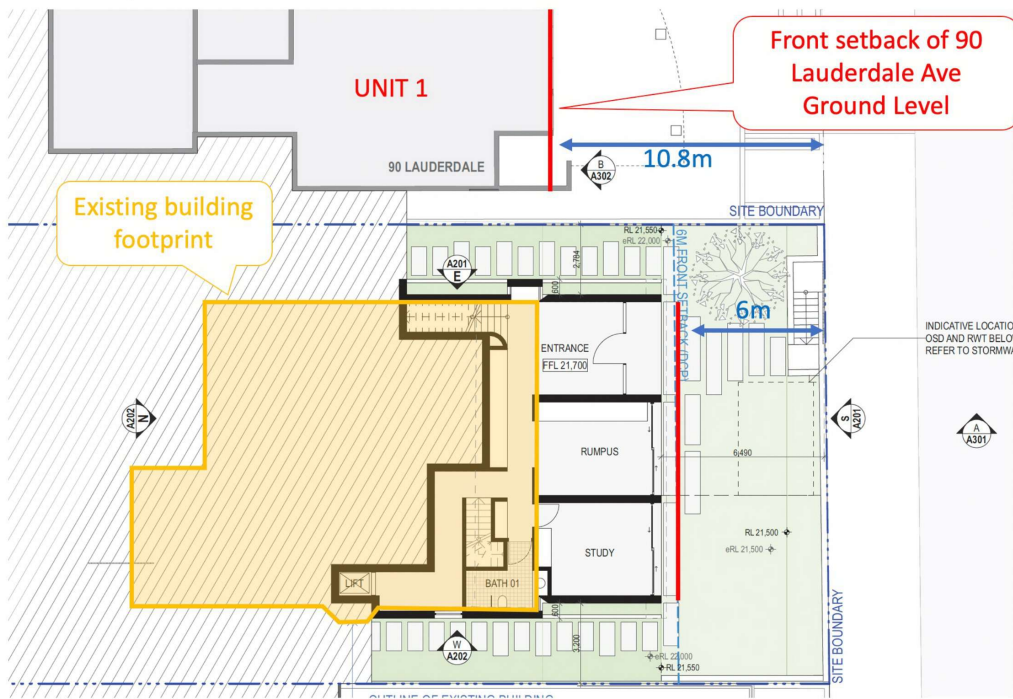


Figure 2 – Extract of the Lower Ground Floor Plan (Drawing DA-102 by Archer Office), showing the existing building footprint, proposed front building setback and the established building line of the adjacent property to the east

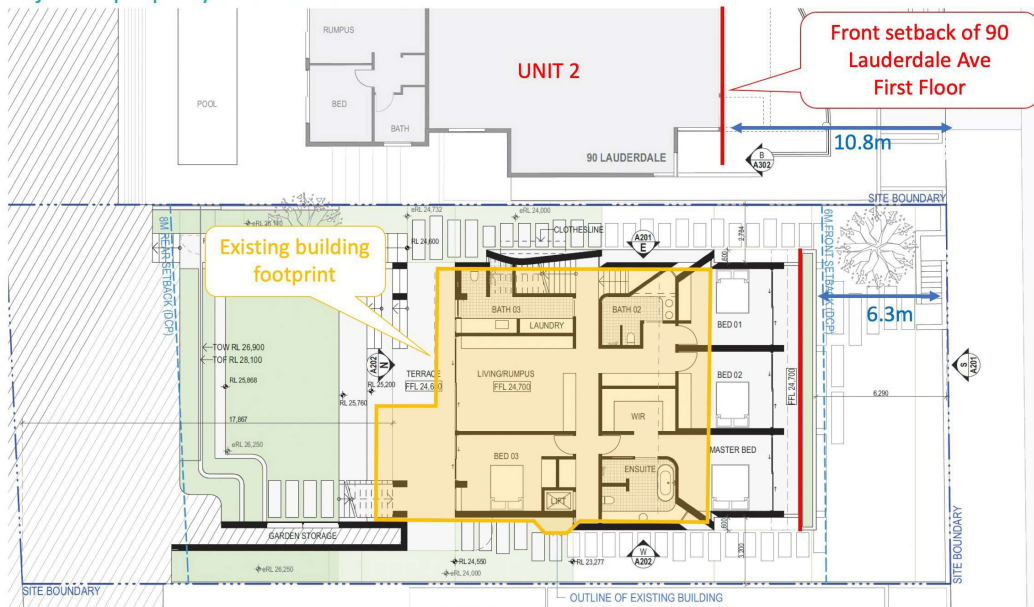


Figure 3 – Extract of the Ground Floor Plan (Drawing DA-103 by Archer Office), showing the existing building footprint, proposed front building setback and the established building line of the adjacent property to the east

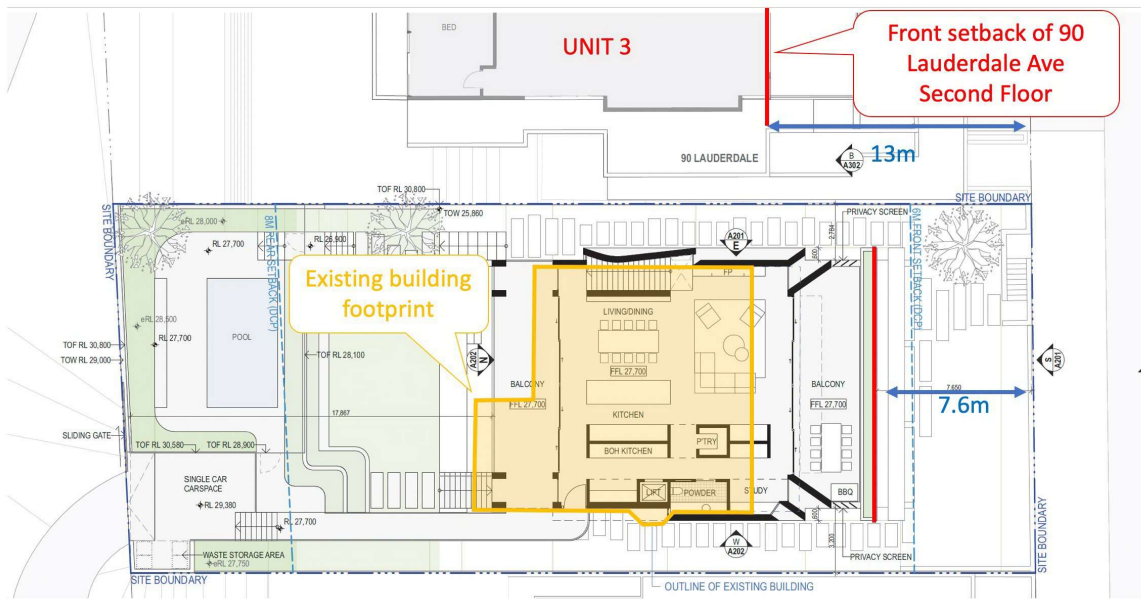


Figure 4 – Extract of the Level 1 Plan (Drawing DA-104 by Archer Office), showing the existing building footprint, proposed front building setback and the established building line of the adjacent property to the east

Side setback (east)

Part 4.1.4.2 Side Setbacks of Manly DCP 2013 sets the following provisions for the development site (using our emphasis):

- 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.*
- Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.*
- All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;*

.....

Response: The proposed new development is part two storey, part three storey. Where the dwelling is three storeys, it will have a maximum height of 8.5m and a maximum wall height of 8.5m.

As such, it does not satisfy the minimum side setback control, to the east with 2.78m proposed and 2.8m required (wall height 8.5m) and 2.1m proposed and 2.6m required (8m wall height).

The result is a development that does not provide any spatial relief between the proposed development and our client's property. It presents as a large, overbearing development due to its sheer wall height, limited articulation, in such close proximity to the eastern boundary. Further, due to the minimal side boundary setback provided, there is no opportunity to provide any deep soil to support landscaping along this shared boundary.

Given that the proposed development breaches the wall height control, number of storeys control front and side setback control, a greater setback is required to be provided to limit the bulk and scale of the proposed development and minimise its impacts on our clients' properties by way of building

bulk, and loss of solar access and to ensure suitable deep soil planting is provided along the shared boundaries.

B. Adverse solar access impacts

Pursuant to Manly DCP 2013 Control 3.4.1 Sunlight Access and Overshadowing the following provisions apply to the development:

3.4.1.1 Overshadowing adjoining open space

In relation to sunlight to private open space of adjacent properties:

- a) *New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at winter solstice*

3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties

In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties

....

- b) *for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June);*

The proposal has failed to demonstrate compliance with the provisions above.

Our client's units all face south (towards the view). There are no openings along the eastern elevation of the apartment complex (to protect the privacy of the adjacent site) and due to the steep nature of the site, Unit 1 and Unit 2 do not have any openings to the north, as such only receive sunlight from the western elevation openings to their living areas and rear bedrooms. Unit 3 on the second and third floor receives solar access from the north (rear) to the bedrooms and western (side elevation) to the living areas and again nothing from the east.

At the moment shadow diagrams have been prepared in plan form at 9.00am, 12.00 midday and 3.00pm. As required by Control 4.4.1.1 more than one third of sunlight must be maintained to the private open space of adjacent properties. At present compliance with the control has not been demonstrated for each of the units. Noting the full property boundary of 90 Lauderdale Avenue is not captured, and no consideration that the principle private open space for each unit located off the main living area is located to the front of the property to the south.

As required by Control 3.4.1.2 adjacent buildings facing north-south must receive at least 4 hours solar access from 9.00am to 3.00pm. At present compliance with the control has not been demonstrated for each of the units. Western elevation and sun view diagrams are required at hourly intervals mid-winter to examine the impact to the living room windows of each unit on the western elevation and to ensure 4 hours of sunlight is maintained.

Therefore, the solar studies submitted in support of the proposal are inadequate to complete a proper assessment of the impacts.

C. Loss of on street parking

The proposed development includes a new double driveway off Lauderdale Avenue, this will result in the loss of an additional critical off-street car parking space.

Parking in the area is at a premium and there is no justification for a double driveway. A single driveway should be maintained to ensure equitable on street car parking.

Submission

Application DA2022/1528 – 92 Lauderdale Avenue, Fairlight

28 October 2022

Conclusion

For the following reasons, DA2022/1528 should be refused consent in its current form:

- The proposal is an overdevelopment of the site, as a result of the following:
 - Non-complying wall height
 - Non-complying number of storeys
 - Non-complying front setback
 - Non-complying side setbacks
 - No complying on-site car parking with loss of on-street car parking

and as result of the above, has an adverse impact on our client's property by way of building bulk and scale, and solar access impacts.

- The proposed development is inconsistent with the objectives of Zone R1 - General Density Residential Zoning as a result of the non-compliances described above
- The proposed development does not provide a good precedent for development in the area.

To properly understand the objections detailed in this submission, you are invited to view the development site from our clients' properties.

To arrange a convenient time, please do not hesitate to contact the undersigned on [REDACTED]

We implore Council to consider this objection in its assessment of the application.

Yours faithfully



Kyeema Doyle
Senior Planner