
From: Peter Bakalidis
Sent: 16/11/2022 4:24:56 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: DA2022/1719 - Submission raising objection
Attachments: SUBMISSION - 152 Queenscliff.pdf;

Dear Ms Surtees

Please find attached submission raising objection to Development Application DA2022/1719
Lot 6 DP 8260 150 Queenscliff Road QUEENSCLIFF.

Kind regards

Peter Bakalidis
16 Nov 2022

16 November 2022

The Chief Executive Office
Norther Beaches Council
725 Pittwater Road
Dee Why NSW 2099

By email: council@northernbeaches.nsw.gov.au

**Submission raising objection to Development Application DA2022/1719
Lot 6 DP 8260 150 Queenscliff Road QUEENSCLIFF**

I write regarding the above Development Application to raise objection.

The Development Application seeks consent for alteration and additions to an existing three level primary residence, construction of a two-storey secondary dwelling on the southern end of the subject site (Aitkens Avenue) and construction of a concrete carport on the northern end of the subject site (Queenscliff Road).

Concrete carport structure

The Development Application proposes to construct a suspended concrete carport structure on the Queenscliff Road frontage. No objection is taken to this part of the development application.

Principal residential dwelling

The Development Application proposes alterations and additions to the existing three level principal residence.

The Statement of Environmental Effects (SEE) accompanying the subject Development Application acknowledges that the proposed development is non-compliant with Clause 4.3 of the Warringah LEP 2011 and non-compliant with the Warringah DCP controls B1-Wall Heights and B2-Side Boundary Envelope.

Furthermore, the SEE inaccurately states on page 16:

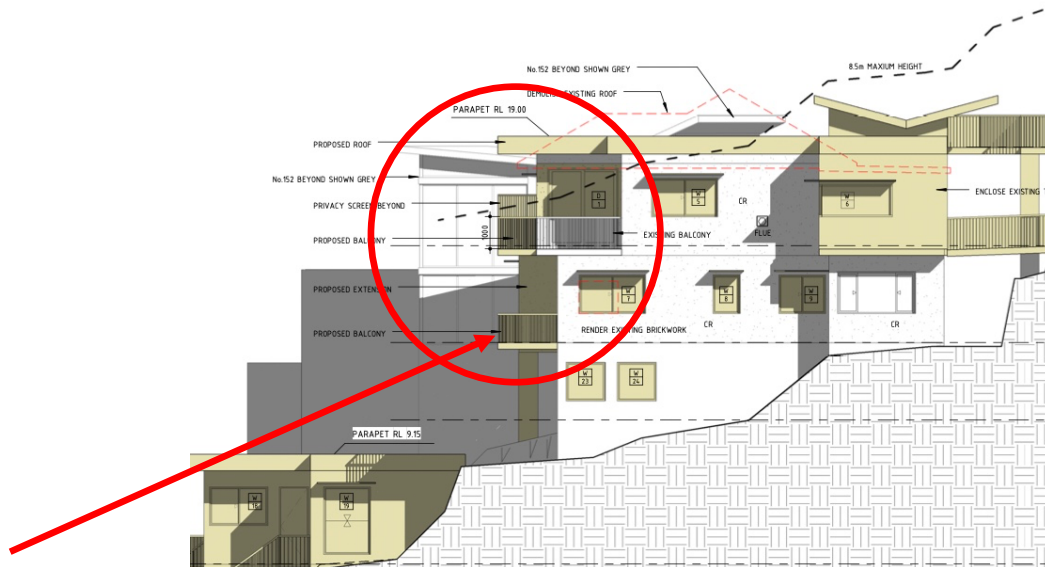
"The property to the west, No. 152 Queenscliff Road is an elevated multi level dwelling with views to the south and southeast. Of particular notes is the large floor to ceiling windows and terrace to the upper level. The proposed additions to the existing principal dwelling do not extend beyond the existing footprint, with the exception of an open balcony. This element does not extend to within the existing view lines of No. 152 and will not impact." (emphasis added).

As the Development Application CAD diagrams themselves clearly disclose the existing principal dwelling will be extended beyond the existing footprint by 1.2 meters. This will result in adverse impact on the amenity of my property, loss of view and privacy.

Nevertheless, given I was consulted by the applicant and had the opportunity to provide feedback, I do not have any in principle objections on these grounds, however non-compliance should be noted with regard to the loss of privacy assessment undertaken as part of this assessment.

D7 - Loss of view: I accept the Development Application has sought to restrict the loss of view from my property and in the spirit of reasonableness and co-operation, I do not take objection on this ground.

D8 - Privacy: The Development Application proposes to reduce the impact of loss of privacy with the erection of a privacy screen for the top floor balcony. The top floor balcony extrudes 1.2 meters from the building. A privacy screen is proposed to be erected along the 1.2-meter length extruding balcony to a height of 1.7 meters. This privacy screen would reduce the loss of privacy directly into our living area through the floor to ceiling windows and down into our main bedroom through the three-quarter length windows. This is best illustrated by the below CAD diagram taken from the subject Development Application.



However, contrary to the design of the top floor balcony, the second level bedroom balcony extrudes beyond the 1.2-meter building extension (refer CAD for GROUND FLOOR PLAN and LOWER GROUND FLOOR PLAN). This results in a direct line of sight into our main bedroom and up into our living space.

I propose as a reasonable condition to reduce our loss of privacy from the second level bedroom balcony directly into our main bedroom and up into our living area, that the bedroom balcony NOT EXTEND beyond the 1.2-meter building extension. That the second level bedroom balcony be restricted to the same 1.2-meter extension as the top floor balcony. Reducing the extension of the bedroom balcony would have little amenity impact on the development but would significantly reduce our loss of privacy.

Secondary dwelling

The Development Application proposes to construction of a two-storey secondary dwelling on the southern end of the subject site (Aitkens Avenue). It is unclear to me whether the proposed secondary dwelling is compliant with DCP controls dealing with B1-Wall Height; B3-Side Boundary Envelope; B7-Front Boundary Setbacks; etc. Non-compliance should be considered with regards to over-development of the site and loss of amenity assessment undertaken as part of this assessment.

D9 – Building Bulk

The proposed development constitutes an over-development of the site.

Building bulk impact on amenity of neighbouring occupiers:

The proposed development would impact on neighbouring amenity as a result of the over development of the site, which would be overbearing by virtue of its height, bulk and scale and would create an unacceptable level of loss of privacy and loss of access to sunlight.

Building bulk impact on the character of the area:

The surrounding development is predominantly made up of detached dwellings which are set back in a staggered layout from both the front and rear building line allowing each property to benefit from views, privacy, and access to sunlight. By virtue of the building bulk the secondary dwelling would adversely impact on such amenity. On Queenscliff Road 6 properties are dual frontage to Aitkens Avenue (146, 150, 152, 154, 156 and 158). In my view, 158 Queenscliff Road, is an appropriate recently approved development for comparison and precedent for appropriate design in this context.

Meeting objectives and requirement of D9

The proposed secondary dwelling fails to *minimise[s] the visual impact when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes*. The building height and scale needs to relate to topography and site conditions to meet the objectives of D9.

D6 – Access to Sunlight

As a direct result of the secondary dwelling there is a significant loss in access to sunlight to the enclosed private backyard open space of my home. Sunlight access to our landscaped private backyard is limited to the morning northeast sunlight to support planting. For much of the remaining day, sunlight is restricted by virtue of the mature *Ficus rubiginosa* (Port Jackson fig) towards the western boundary of the open space.

There are no shadowing diagrams concerning the shadowing produced by the secondary dwelling onto our private open space. However, given its building envelope abutting the western boundary, it is reasonable to conclude the loss of sunlight during the relevant morning period would be significant.

In *The Benevolent Society v Waverly Council* [2010] NSWLEC 1082 at 144, the LEC consolidated and revised planning principle on solar access in the following terms:

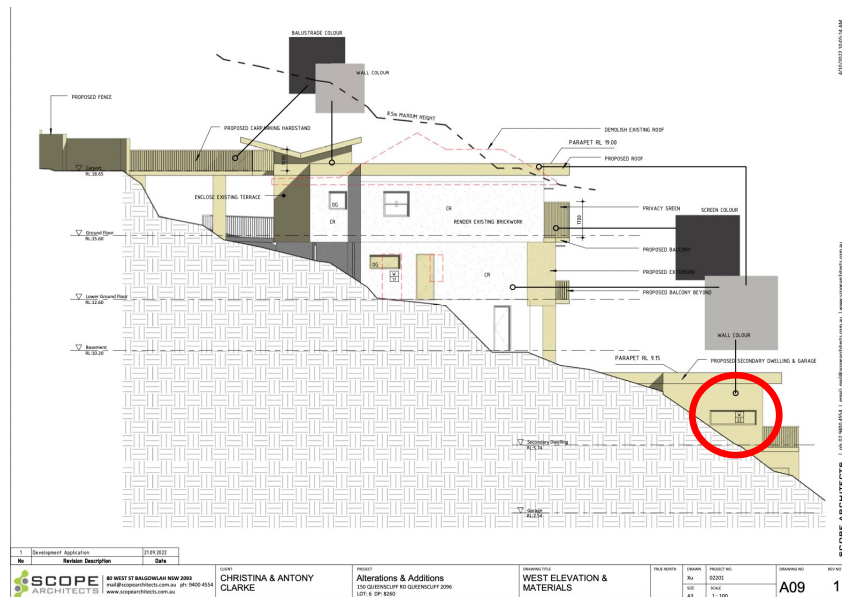
“Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal’s design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.”

The planning principle used in *The Benevolent Society v Waverly Council* to assess overshadowing for development is:

“The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.”

D8 – Privacy

The loss of privacy concerns the overlooking onto our enclosed private backyard open space from the secondary dwelling west-facing elongated window. The subject window is identified on the below CAD diagram:



As identified in the SEE accompanying the Development Application, the views from the subject site are to the south and east onto Manly Lagoon and Queenscliff Beach. The CAD diagrams for the secondary dwelling encompass large expansive windows and sliding glass doors to take advantage of these views and sunlight.

The relevant view to the west from the secondary dwelling is overlooking directly onto our private backyard space. This would remove any sense of privacy in the enjoyment of our enclosed backyard. Furthermore, from practically anywhere in our private space (as well as from our residence) you would be looking directly into the open living space of the secondary dwelling. Such loss of privacy, for both parties, is contrary to the objectives and requirements of DCP Control D8.

In *Meriton v Sydney City Council* [2004] NSWLEC 313 at [45] the LEC clarifies the scope of visual privacy in the context of residential design as: *the freedom of one dwelling and its private open space from being overlooked by another dwelling and its private open space*. This principle is the substance of this objection.

The proposed secondary dwelling fails to meet the objective *to ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours*. The proposed secondary dwelling fails to appropriately reflect the following requirements in achieving the objectives of D8:

1. *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*
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.*

The proposed design impacts on the freedom of privacy for both parties, which can be reasonably addressed with little consequence.

I propose as a reasonable condition to reduce the loss of privacy for both parties, that the elongated west facing window on the secondary dwelling be removed, or failing that, a requirement for obscured glass to be used.

CONCLUSION

This submission sets of my concerns regarding the proposed development under Development Application DA2022/1719.

I welcome any site visit required by Council to assess any of the concerns raised in this submission.

Should amended plans be submitted to try to overcome concerns raised in this submission letter, then I request the opportunity to submit an additional submission accordingly.

Thank you in advance for your consideration of the concerns raised in this submission

Kind regards,

Peter Bakalidis