
From: Joshua Smith
Sent: 6/06/2023 12:29:21 AM
To: Michael French
Cc: Council Northernbeaches Mailbox
Subject: DA2023/05609 - Lot 2 DP 1009503, 16 Gertrude Avenue, Newport - Submission
Attachments: 16 Gertrude Avenue Newport NSW 2106 050623.pdf;

Dear Michael

Please find attached submission in respect of the above DA at 16 Gertrude Avenue, Newport.

If you have any questions at all, please let me know.

Yours sincerely

Louise Smith and Joshua Smith [REDACTED]
14 Gertrude Avenue, Newport

> On 31 May 2023, at 10:05 am, Michael French <Michael.French@northernbeaches.nsw.gov.au> wrote:

>

> Good morning Joshua,

>

> Thank you for the update.

>

> Please, don't hesitate to contact should you have any questions for me.

>

> Kind regards,

>

> Michael French

> Student Planner

>

> Development Assessment Team

> t 02 8495 5114

> michael.french@northernbeaches.nsw.gov.au

> northernbeaches.nsw.gov.au

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> -----Original Message-----

> From: Joshua Smith [REDACTED]

> Sent: Tuesday, May 30, 2023 4:53 PM

> To: Michael French <Michael.French@northernbeaches.nsw.gov.au>

> Subject: DA2023/05609 - Lot 2 DP 1009503, 16 Gertrude Avenue, Newport - Submission

>

> Dear Michael

>

> Further to our discussions last week, I am writing to let you know that I have begun to develop a submission in relation to the above DA, which I will aim to have with you by the end of this week, but

certainly by early next week.

>

> I know from our discussions that this will work with Council's timing re assessment of this DA, but just wanted to give you a heads up.

>

> Do let me know if you have any questions.

>

> Kind regards

>

> Joshua Smith (and Louise Smith)

> 14 Gertrude Avenue, Newport NSW 2106

> [REDACTED]

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> Northern Beaches Council

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DA2023/0509 – Lot 2 DP 1009503, 16 Gertrude Avenue NEWPORT**Attention – Michael French, Planner**

Dear Sir

I wish to make a submission in respect of the above DA at 16 Gertrude Avenue, Newport (the **DA**).

I am the owner of 14 Gertrude Avenue, Newport, the site immediately adjacent and to the east of the subject site. The applicant and I share a common driveway, which is the only means of access and egress to our respective properties.

I **do not** support the proposed development in its present form. The applicant was made aware of my concerns on 17 October 2022.

I make the following comments in relation to the DA:

1. **Suboptimal Planning Outcomes** – the proposed secondary dwelling, swimming pool, spa and related development are to be connected to the main dwelling, resulting in suboptimal planning outcomes.
2. **Proposed Secondary Dwelling** – there is ample land available on the subject site for the proposed secondary dwelling to be located as a freestanding dwelling, disconnected from the main residence.
3. **Proposed Swimming Pool and Spa** – should be located at ground level, as is usual for swimming pools in the area, and not variously 1.55 to 2.85 metres above ground level, as is proposed along the eastern boundary. As a matter of good planning, swimming pools on a large site such as this should be located at ground level. There is ample near level land available on the subject site to achieve this outcome, which better maintains the amenity of the area, and provides an improved outcome for neighbouring properties.
4. **Front Building Line Setback** in the Newport Locality for land zoned R2 is 6.5 metres, or the established building line, whichever is **the greater**. The proposed secondary dwelling, swimming pool and spa is said to have a front setback of 3.41 metres (the established building line), far less than neighbouring properties, and properties in the general area, and well below the development standard (DCP 21).
5. **Off-Street Vehicle Parking Requirements** – the proposed development makes no provision for off street parking. DCP 21 requires a minimum of 1 additional parking space for a secondary dwelling. Parking in Gertrude Avenue is very limited. Most days, every evening and on weekends, Gertrude Avenue is parked out.
6. **Proposed Left Hand Masonry Pillar on Driveway** – this pillar is proposed to be located on the shared driveway and sits over a right of carriageway and easement for services. This easement, as with all easements, operates to restrict the use of property and remains with the land title. It is not legal to encroach or build a structure upon it.
7. **Noise / Acoustic Mitigation** – a pool filter is proposed to be located on the front / eastern boundary of the property, which is adjacent to the master bedroom and its 4 openable windows on my property. Any development consent should require that a filter

box should be located to the rear of the property, towards the northern boundary, where it is furthest away from neighbouring habitable rooms. Further, soundproofing should be certified to an appropriate acoustic standard. If Council determines to approve an elevated pool along the eastern boundary with my property, such as is proposed by the DA, the applicant should be required to install a minimum 2 metre high masonry wall to assist in the provision of acoustic and visual privacy.

8. **Rainwater Tank** – A 2000 litre rainwater tank is proposed to be located on the front / eastern boundary of the property. The size of roof capture (approximately 76 square metres) is significant for a tank of this size, especially given that no detention is proposed. I am concerned about the potential impact of overflowing, together with acoustic privacy to the master bedroom on my property as a result.
9. **Proposed Pedestrian Entry** – this should front the dwelling (at the line of the shared driveway), and not redirect pedestrian traffic down the eastern boundary between our two properties. While the proposed solid eastern entry / side masonry full height wall will undoubtedly provide noise and acoustic privacy to number 16 (as is expressed in the Statement of Environmental Effects), it will have the opposite effect to number 14.

The Proposed intercom, to be located approximately 1.5 metres within the subject site and adjacent to the front / eastern boundary with my property on the proposed masonry wall, will provide an unacceptable and unnecessary noise impact. Again, this should be located on the driveway line. The lighting for the proposed pedestrian access, also to be mounted on the proposed 2 metre side masonry wall, will also have an adverse impact, as will the proposed covered awning roof, which is inappropriate given it will be hard up against the boundary of my property.

10. **Site Survey** – I note that Council has requested a current site survey. This will assist in relation to the siting of new CDC building on the subject site, to enable assessment of the DA. The site survey of 9 August 2021 will assist Council in relation to contour and natural ground levels before the current CDC works were commenced, and as the applicant has suggested, should also be provided to Council.
11. **Additional Considerations and Conditions of Consent** – given the unique nature of the subject site, and that the applicant and I share a driveway, I ask that Council consider the following in assessing the DA, and in relation to any consent granted by it:
 - a. The applicant has been constructing a dwelling home on the subject site under CDC2022/0161 (**CDC**) since January 2022. That development is ongoing, and not likely to complete until late 2023, or beyond.
 - b. Given the ongoing development activity, and for the reasons outlined below, I request that **any consent granted by Council be subject to deferred commencement**. Not only to defer commencement until completion of the CDC build, but also to allow myself and my family some respite from building activity once the CDC development completes.
 - c. Access to the subject site is very tight. The applicant currently enjoys the benefit of several square metres of land abutting the driveway, and belonging to 14 Gertrude Avenue, to enable better site access. This required a fence realignment, under a “no consideration” agreement which will shortly expire, with the fence line to be reinstated.

- d. Although the applicant describes the impact of the proposed DA works as “minimal”, that has not been my experience in relation to the CDC construction of the main dwelling home (which remains ongoing).
- e. For the duration of the CDC construction, the private driveway (not the shared driveway) of 14 Gertrude Avenue has been regularly used, without consent, to move and realign vehicles, load, unload and deliver materials etc., which constitutes an infringement of properly rights. This has included lifting materials from the shared driveway inside my property line and across my property. Even more concerning, deliveries of certain materials, including steel framing, and timber supplies, have been lifted over the top of my home.
- f. The applicant and the CDC builder have been advised that the movement of materials in, on, or over, my property is not authorised. This is a serious matter. Among other things, there is no legal consent or air licence agreement, there are no indemnities, there is no insurance, there are crane safety issues, and there exists no safety management plan. This is in addition to breach of the law of trespass.
- g. Although this matter has been regularly raised with the applicant and the CDC builder, it remains an ongoing issue. Any future consent should expressly **prohibit the movement of materials or equipment in, on, or over, my property at 14 Gertrude Ave.**
- h. Additionally, any consent should state that the shared driveway is to be used for vehicular and pedestrian access and egress only. **Vehicles / trucks should unload and load within the subject site and be prohibited from loading and unloading on the shared driveway. Materials, equipment, and vehicles should be kept off the shared driveway at all times.**
- i. Similarly, any development consent should require that **a licenced and contracted builder, and / or an appropriately qualified and licenced foreman, to supervise the build and be onsite at all times.** Many of the challenges arising from the CDC build have occurred because there is rarely a licenced builder or foreman on site managing the build. This has led to outcomes which expose everybody – the applicant, the builder, contractors, suppliers and myself and my family. Again, I would ask that Council impose a condition of consent to address this issue.
- j. Prior to the commencement of any further building works, and prior to occupancy of the CDC dwelling home presently under construction, the applicant should **restore the shared driveway height** (which has been increased by up to 450mm for approximately 15 metres along the western half of the driveway) to the level at the base of the fence palings on my southern boundary, which abuts the shared driveway. Once the fill has been removed, the driveway surface should be compacted, removing the need for any further fill to be placed on the shared driveway in future. Presently, the southern boundary fence is being used as a retaining wall because of the fill introduced to prevent vehicular bogging. This is also damaging the fence.
- k. The applicant should be required to **make good all damage to the fence line along its front / eastern boundary, and the southern boundary (driveway) of 14 Gertrude Avenue**, which has occurred during the CDC building works.
- l. The applicant should also be required to **make good any fence and / or driveway damage on completion of works related to any DA**, and to **work with the owner**

of 14 Gertrude Avenue to reinstate a sealed concrete driveway surface along the full length of the driveway.

- m. The **c.4-metre galvanised steel services post** which sits on the southern boundary of my property, on the shared driveway, and was used to deliver power to 16 Gertrude Avenue, was decommissioned when the former dwelling on 16 Gertrude Avenue was demolished in January 2022, prior to the construction of the new CDC dwelling home. This post is now redundant. It is **a driveway encroachment which sits on an easement and should be removed.**

Thank you for considering the above. If you have any questions at all, please let me know.

Yours sincerely

Louise Smith (and Joshua Smith)
14 Gertrude Avenue, Newport
5 June 2023