
From: Patrick Meehan
Sent: 14/09/2023 11:42:57 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: DA2022/2134
Attachments: DA Submission MOD2023-0460 & DA2022-2134.pdf;

Dear Sir/Madam,

Please see the **attached** submission regarding application number DA2022/2134.

Kind regards,
Patrick Meehan
Unit 1, 27-29 Osborne Road, Manly, NSW, 2095



MOD2023/0460 & DA2022/2134 25 OSBORNE ROAD, MANLY, 2095

We refer to the above development application (DA) and associated modification application (MODA) in respect of 25 Osborne Road, Manly, 2095 (House).

We live in Unit 1 of the neighbouring apartment block to the House at 27-29 Osborne Road (Unit) (refer image at Item 1 of the Schedule to this submission). The DA has only just come to our attention due the MODA advertised by yellow pamphlet on the House.

We note that:

- we never received notification of the DA by post or any other means;
- we have, in the process of reviewing the MODA, accessed the Assessment Report in respect of the DA, which provides (in respect of notification) that:
 - the DA was **not** advertised in any way;
 - the DA was “notified” during the period of 28 December 2022 to 25 January 2023, being the Christmas holiday period and at a time in which we were in Queensland; and
 - revised plans for the DA entitled ‘Plans - Master Set - Amended’ (**Revised Plans**) were only published on 24 March 2023 (being outside the abovementioned “notification” window).

While the current submission relates to the MODA, we provide broader comments in respect of the DA materials generally, and the resulting assessment. We consider that this submission should be reviewed in the context of the broader development proposal for the House and as a matter of fairness particularly in light of the notification issues raised above.

1 Public Interest

The consent authority must be satisfied that a proposed development will be in the public interest. As set out on pages 14 and 15 of the Assessment Report, implicit in the ‘public interest’ assessment is consideration of any adverse impacts on the use or enjoyment of adjoining land. On this issue, the Assessment Report has reported:

The proposal is consistent with the numeric control under clause 3.4.1 Sunlight Access and Overshadowing and 3.4.2 Privacy and Security of the Manly DCP.

Section 3.1.1.1(c) of the Manly DCP provides that in higher density areas, including LEP Zones RI (which the House and Unit are situated) careful consideration should be given to minimising any loss of sunlight, privacy and views of neighbours. This statement is reinforced at section 3.4(a) of the Manly DCP.

1.1 Sunlight Access and Overshadowing

Section 3.4.1 of the Manly DCP sets out key objectives in respect of sunlight access and overshadowing. In particular, it requires an adequate allowance of sunlight to penetrate *private open spaces* and *windows* to the living spaces/habitable rooms of adjoining properties to the House, including our Unit.

‘Private open spaces’ is defined in the *Manly Local Environmental Plan 2013* as an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

The one and only balcony to our Unit, which is connected to our only living room, will be directly impacted by extension proposed in the DA (refer to the images at Items 2(A) and (B) of the Schedule to this submission).

The overshadowing diagram contained on page 17 of Revised Plans fails to depict the vertical shadow encroachment during the winter solstice between 12 to 3pm that would directly impact our Unit situated on level one of the apartment building. The diagram shows the existing shadows may touch the base of our apartment block, but it does not demonstrate any further vertical shadow encroachment caused by the proposed extension (refer images at Item 3 (A), (B), (C) and (D) of the Schedule to this submission).

The materials submitted in support of the DA provide no way for us to verify, for example, whether the development proposed under the DA will:

- eliminate more than one third of the existing sunlight accessing our private open balcony in breach of section 3.4.1.1(a) of the Manly DCP; and
- impact sunlight to our main bedroom window and living room window and whether that will breach the requirements in section 3.4.1.2 of the Manly DCP.

Currently, in winter, the sun is only just visible above the roof of the House when viewed from the balcony of our Unit. We believe that the DA for 25 Osborne Road is likely to entirely block the sun that hits our balcony and living room in the afternoon.

To summarise, we are particularly concerned that our Unit, with North Westerly facing rooms, windows and balcony will be adversely overshadowed by the prospective new addition to the House in a way which contradicts the requirements set out above, and the types of residential additions that the Manly DCP at section 3.4.1.2 has specifically depicted to “avoid” (refer to the image at Item 4 of the Schedule to this submission - it is noted the house in the example from the Manly DCP is North-Westerly facing. This is the exact same scenario as our Unit). As a bottom level apartment, there is no ability for us to receive additional solar light (including through skylights) so preserving existing sunlight access is of particular importance to us.

1.2 Privacy

Section 3.4.2 of the Manly DCP addresses privacy and security objectives in respect of development proposals which include minimising loss of privacy to adjacent and nearby developments such as our Unit by mitigating direct viewing between windows and/or outdoor living areas.

Based on page 20 of the Revised Plans, the development will introduce three additional windows to the House which will directly overlook our balcony and main bedroom window.

There appears to be no provision in the DA for the inclusion of sunlight to the House through a skylight or by other means (including front facing windows) which could minimise the number of proposed new windows which will look directly into our private open space and living room (among other things).

2 Request

For the reasons set out above we object to the DA, including the MODA.

Further, we respectfully request:

- further information to be provided in relation to the anticipated vertical overshadowing caused by proposed extension so that the impacts of the development on our Unit can be cross-checked against the requirements in the Manly DCP;
- further information in relation to the window design including the appropriateness of the introduction of three additional windows which will face and look into the Unit balcony, living room and main bedroom; and

- an opportunity to be consulted on further updates and materials that come to light in respect of the development proposal which impact the Unit.

Schedule

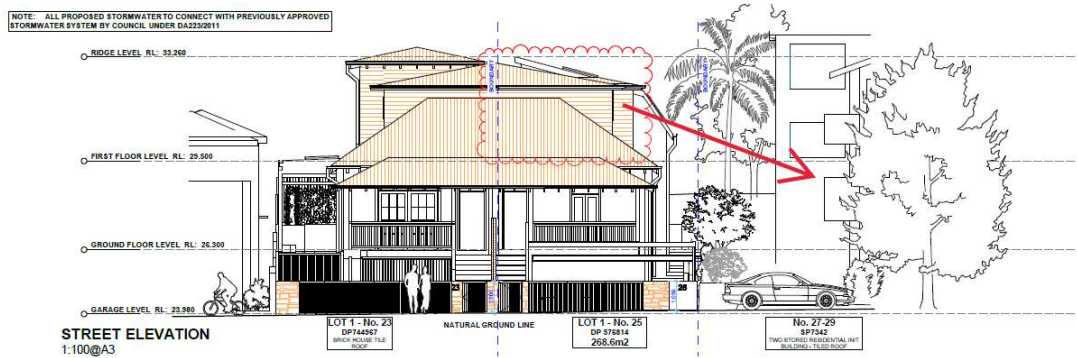
1 Unit

27-29 Osborne Road



Description: Red circle shows Unit, from the Streetscape Study Report submitted as part of the DA.

2 (A) Design Impact of House to Unit



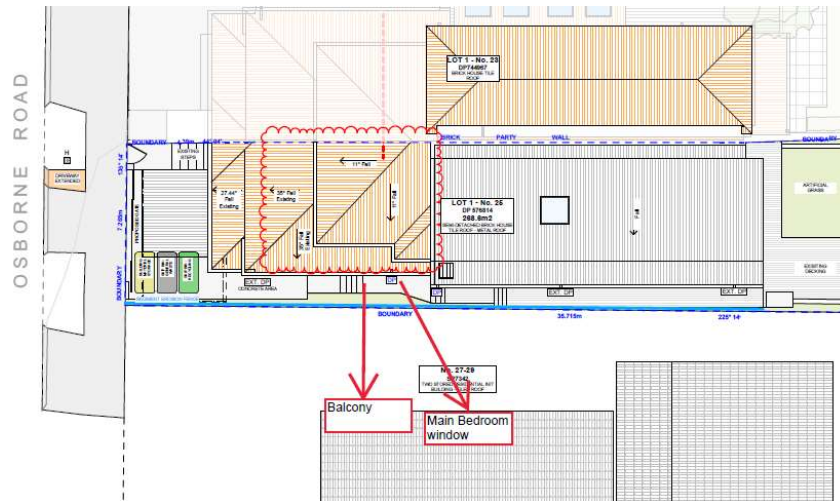
Description: Red arrow shows anticipated overshadowing to Unit balcony. Image taken from page 10 of the Revised Plans submitted as part of the DA.

(B) Unit level against existing House.



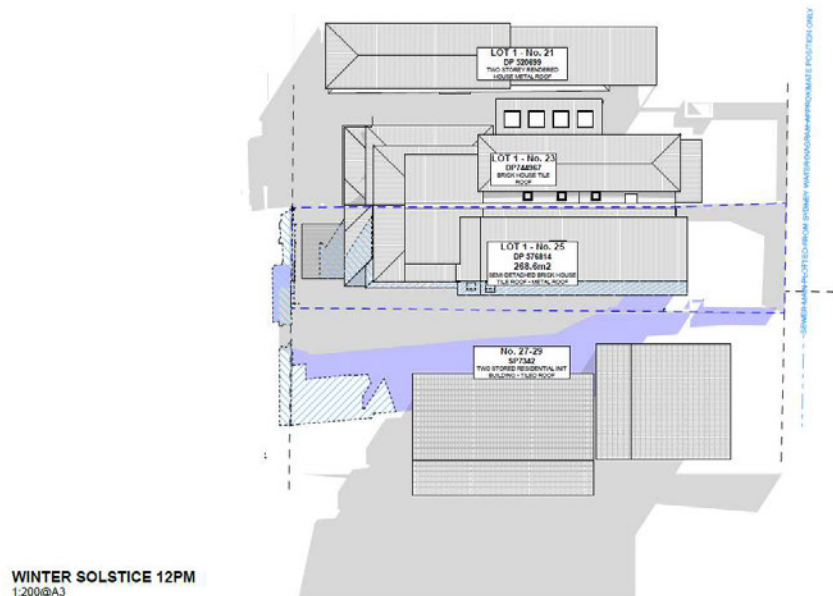
Description: Red arrow shows Unit one balcony with respect to the House. Image taken from page 4 of the Revised Plans submitted as part of the DA.

3 (A) Areas of Unit likely impacted by addition to House



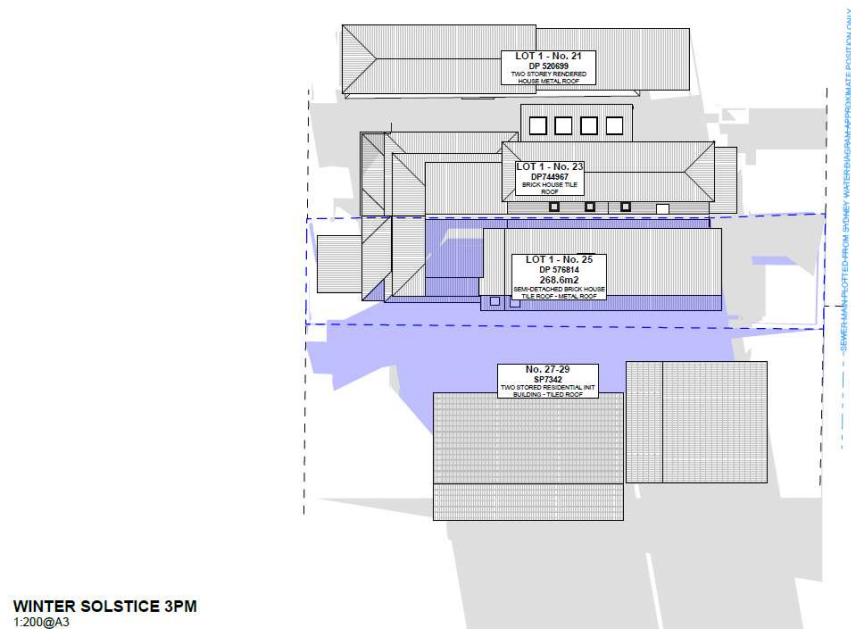
Description: Red arrows shows Unit one balcony and main bedroom window with respect to the proposed development. Image taken from page 5 of the Revised Plans submitted as part of the DA.

(B) Overshadowing Diagram 1



Description: Image shows existing and proposed shadows at 12pm on winter solstice taken from page 17 of the Revised Plans submitted as part of the DA.

(C) Overshadowing Diagram 2



Description: Image shows existing and proposed shadows at 3pm on winter solstice taken from page 18 of the Revised Plans submitted as part of the DA.

(D) Impact of vertical overshadowing on Unit balcony and living room



Description: Red lines shows differences in impact of overshadow on balcony which cannot be verified by the overshadow images included in the Revised Plans (and set out above).

4 Overshadowing depiction

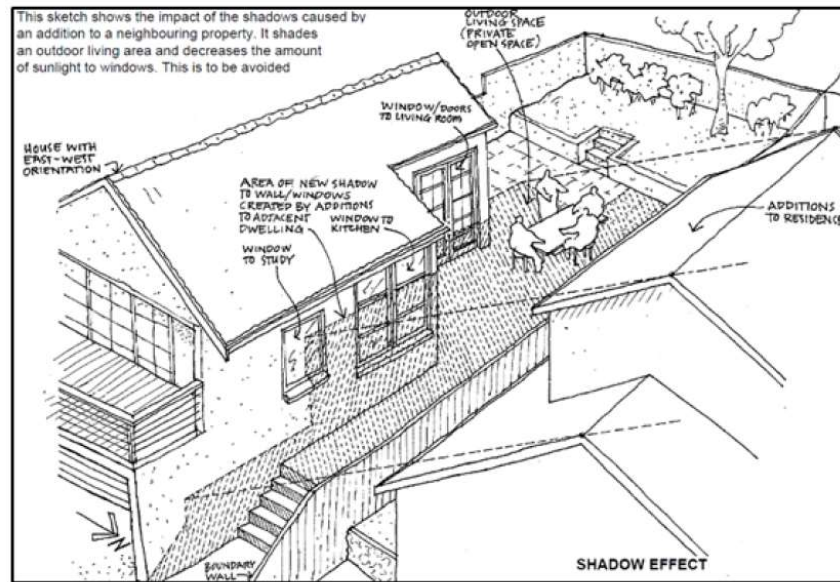


Figure 10 .

diagram.

Note: the building in this figure has an east/west orientation.

Description: Image extracted from the Manly DCP at section 3.4.1.2. Notation in left hand column indicates that this overshadowing “should be avoided”. It is noted the house in the example from the Manly DCP is North-Westerly facing. This is the exact same scenario as our Unit 1, 27-29 Osborne St.