

12th February 2025

The CEO
Northern Beaches Council
Po Box 82
Manly, NSW, 1655

Dear Sir,

Request for review - Development Application DA2024/1201
Request for review/ addendum Statement of Environmental Effects
Demolition works and construction of a dual occupancy and strata
subdivision
286 Sydney Road, Balgowlah

1.0 Introduction

On 16th December 2024 the subject development application was refused by Council under delegation as outlined in the notice of determination of the same date. The primary reason for refusal of the application was in relation to stormwater management.

This application seeks a review of the determination pursuant to section 8.2(1)(a) of the Environmental Planning and Assessment Act, 1979 (the Act).

Since determination of the application all reasonable avenues have been exhausted in relation to securing a stormwater easement through properties to the rear of the site with Transport for NSW confirming in correspondence dated 20 January 2025 that no objection is raised to stormwater been directed to the Sydney Road Street drainage system as detailed within the accompanying amended stormwater plans. This submission is to be read in conjunction with the following amended/additional documentation prepared by Richard Weber Engineer:

- S8.2 Engineering response dated 23 January 2025.
- Submission to TfNSW dated 27 Dec 24 (11 pages) Sect 1 Driveway Sect 2 Storm water drainage – Proposed discharge to Sydney Rd gutter.
- Submission to TfNSW 9 Jan 25 Storm water drainage – Proposed discharge to Sydney Rd gutter.
- Drawing: SW01 Rev F Stormwater Drainage Management.
- Drawing: SW02 Rev E(1) Stormwater Schematic.
- Drawing: C8 Rev A Driveway Plan and Sections.
- Drawing: C9 Rev A Driveway Details
- Images of 31 Boyle Street boundary conditions

We also attached the following additional information:

- TFNSW response dated 20 January 2025.
- Easement refusal letter 284 Sydney Road, Balgowlah

In relation to a potential easement through 31 Boyle Street we provide the following advice from our client:

In relation to 31 Boyle st from mid Dec 2024 and made numerous telephone calls to Danny Paris the owner of 31 Boyle st.

I spoke to his wife Tanya and explained the situation and she said she would respond.

On the 16 December I got an email from Danny to say he was busy before Xmas.

On the 9 January 2025 I received an email from Danny saying he would investigate.

I sent Danny an email on 23 January asking him how he was progressing however I have had no response.

We also confirm that 31 Boyle Street has building elements extending to its southern boundary physically preventing a stormwater easement from being created over this adjoining property as detailed in the images within the attachment prepared by Richard Webber.

Accordingly, we consider the alternative stormwater drainage regime proposed to be appropriate in circumstances where there is no reasonable ability to secure an easement through downstream stream properties and where TfNSW supports the proposal to drain stormwater to Sydney Road.

Given the nature of the amendments sought, which go directly to responding to the stated reason for refusal of the application, Council can be satisfied that the request for review is appropriately made pursuant to section 8.2(1)(a) of the Act.

2.0 Claim for review

Having regard to the stated reasons for refusal of the application we respond as follows:

- 1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.4 Stormwater Management of the Manly Local Environmental Plan 2013.**

Particulars:

- Council's Development Engineering team is not supportive of the proposed development due to issues with the proposal to discharge stormwater into an existing inter-allotment easement at the rear of the subject site, with inadequate information submitted to demonstrate that this inter-allotment easement exists in its entirety and connects to a Council system.

- Insufficient information has been provided with the application to demonstrate compliance with the Northern Beaches Council Water Management for Development Policy.
- Council cannot be satisfied that the proposed development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

Response: We rely on the accompanying documents to demonstrate that the proposed development will minimise any significant adverse impacts of stormwater run-off on adjoining properties, native bushland and receiving waters consistent with clause 6.4 Stormwater Management MLEP 2013.

This reason for refusal has been addressed.

- Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.7 Stormwater Management of the Manly Development Control Plan.**

Particulars:

- Council's Development Engineering team is not supportive of the proposed development due to issues with the proposal to discharge stormwater into an existing inter-allotment easement at the rear of the subject site, with inadequate information submitted to demonstrate that this inter-allotment easement exists in its entirety and connects to a Council system.
- Insufficient information has been provided with the application to demonstrate compliance with the Northern Beaches Council Water Management for Development Policy.
- The proposed development does not comply with the requirements or underlying objectives of this Clause in that the proposed development does not demonstrate compliance with the Northern Beaches Council Water Management for Development Policy.

Response: We rely on the accompanying documents to demonstrate that the proposed stormwater drainage regime is consistent with the provisions of clause 3.7 Stormwater Management contained within Manly Development Control Plan.

This reason for refusal has been addressed.

- Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.**

Particulars:

- The proposed development is contrary to relevant requirements of the MLEP 2013, MDCP and Northern Beaches Council Water Management for Development Policy. As such, the proposal will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

Response: We rely on our previous responses to demonstrate that the development provides for the appropriate disposal of stormwater having regard to the particular circumstances of this site and the ability to dispose of the majority of stormwater to Sydney Road as endorsed by TfNSW. Approval of the application would not be antipathetic to the public interest.

In this regard, we consider that the amended development the subject of this application comprehensively addresses the reason for refusal of the previous application and accordingly there is no statutory impediment to the granting of consent.

3.0 Conclusion

This submission demonstrates that the amended stormwater plans appropriately address the reason for refusal of the original application. Having given due consideration to the relevant matters pursuant to section 4.15(1) of the Act it has been demonstrated that the proposed development, as amended, succeeds on merit and is appropriate for the granting of consent.

Please do not hesitate to contact me to discuss any aspect of this submission.

Yours sincerely

Boston Blyth Fleming Pty Limited

A handwritten signature in black ink, appearing to read 'Greg Boston', is written over a horizontal line.

Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director