



northern  
beaches  
council

## MEMORANDUM

**DATE:** 21 June 2023

**TO:** Northern Beaches Local Planning Panel (NBLPP)

**CC:** Peter Robinson, Executive Manager Development Assessment

**FROM:** Danielle Deegan, external consultant

**SUBJECT:** Item No. 4.3 – DA2022/1905 – 48 Mactier Street, Narrabeen

**TRIM REFERENCE:** 2023/391349

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The purpose of this memo is to provide a response to the Panel in relation to a letter addressed to the Panel from Lisa Treble received on 20 June 2023.

The letter essentially reiterates issues raised in previous submissions and requests that these be addressed prior to the application being determined. The issues raised in the letter are addressed below:

- 1. I insist that a shadowing diagram be prepared and reviewed to alleviate my concerns of the loss of natural light over 1/3 to up to 1/2 to my private open space. Once the shadow diagram comes back and it shows exactly what I am referring to, as a suggested recommendation perhaps the applicant could review the plans and as an alternative propose that the dwelling is built at ground level, inline with the existing dwelling. It could be built at the immediate rear of the existing dwelling (where the existing concrete slab is) this may assist in any negative shadowing as well as privacy for other neighbours this regard. I note that a single level dwelling does not require a shadowing diagram, however due to the height of the building above ground (appears to be above the dividing fence line) I am extremely concerned about this and press on this matter being assessed.*

Response: Shadow diagrams are generally not required for single storey development. Given the proposed secondary dwelling is below the maximum building height any minor additional overshadowing is not unreasonable. There is sufficient information to determine that the proposal satisfies the requirements of Clause D6 'Access to Sunlight'.

2. *The window on the western side of the subject property I request that this is either removed or as a minimum that external fixed privacy shutters are installed to stop residents and their guests looking into my private open space and home.*

Response: The western window is relatively narrow and provides access to daylight for the entry area. This window will not result in unacceptable overlooking.

3. *There is a comment on the recommendation that the site is largely devoid of significant vegetation. This is correct, the land owner had a large amount of vegetation including a large tree which were all completely removed from the subject site around the 27th December 2022.*

Response: It is understood that the vegetation removed from the site comprised of exempt species.

4. *The Landscaping seems to be overlooked in the recommendation. This needs to be reviewed in more careful detail. How can Council support or believe these plans with a few minor amendments only? I noted this in my previous submission, these are misleading. The plans show grassed areas where grass will not grow. The other doubtful thing is that from the plans the outdoor area directly from the new dwelling appears to have grass straight out from the doors. There are no dwellings which have grass immediately outside the doors. This makes me believe that this is not being reviewed correctly and questions why this point is not being addressed? It is clear that is part is not compliant and will be even more so when the areas shown on the plans as grass are not growing or replaced with hard surfaces.*

Response: The proposal documents 40% of the site as landscaped open space which essentially includes all parts of the site not covered in hard surfaces (driveways, paved areas, roofed areas, car parking, stormwater structures, decks, etc) and areas with a dimension of less than 2 metres. Recommended condition 2 requires the submission of an amended landscape plan.

5. *The neighbouring properties would like to know where the second Water Gum is going to be located to determine what negative effects this may have on their properties. Once known from the plan, we request that we have the right to review this. By allowing the applicant the ability to go over their landscaping ratio at the neighbouring properties negative expense seems counter intuitive and questions why the neighbours have to suffer for the applicants non-compliance?*

Response: A recommended condition of consent requires the planting of only one Water Gum in the front yard. The second Water Gum is to be deleted. This is in keeping with the recommendation of Council's Landscape Officer who requires the planting of one canopy tree.

6. *The Land stability is not addressed appropriately. I have noted serious concerns around sink holes in the surrounding land. I note that a dilapidation report is to be prepared prior to the building work. Exactly who should the surrounding properties be pursuing as liable should there be any movement, damage or significant damage following the works being approved?*

Response: The Geotechnical Report submitted in support of the proposal and consent conditions 7, 11, 12, 13, 17, 19 and 26 adequately addresses land stability issues. Recommended condition 7 requires that the recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report are incorporated into the construction plans. Recommended condition 11 requires that all retaining walls be designed and certified by a Structural Engineer. Recommended condition 13 requires the

preparation of dilapidation reports for surrounding properties to assist any action required to resolve civil disputes over any damage arising from the works.

7. *It must be noted that further amended plans were put up on council website recently and only people who objected previously were notified via email only. It must also be noted that the yellow notification card was put on display on the subject property after the most recent lot of submissions had closed and was only on display for circa 10 days. This may not have been enough time for any other negatively affected neighbours to be made aware of the change plans.*

Response: I am advised by Council staff that notification letters were sent to neighbouring properties on two occasions, in accordance with the Community Participation Plan, and that the notification requirements as set out in the Community Participation Plan were fulfilled.

8. *It is noted that the class of building has now been addressed in this agenda. Are all the other documents for this development going to be reviewed under the correct class?*

Response: The applicant will be required to demonstrate compliance with the Building Code of Australia prior to the issue of a Construction Certificate.

9. *Allowing this DA to proceed as per the current plans this is going to have negative social impacts on the neighbouring properties. It will also have a negative effect of the quality of life of the immediate neighbours with so many compromises to the neighbouring properties. The immediate properties will also experience significant negative valuation impact to their properties. Even more so if the issues being raised through these objections are ignored.*

Response: The proposed secondary dwelling is fully compliant with all relevant built form controls. It is consistent with surrounding development which is characterised by a mix of detached dwelling house and medium density development. Valuation impacts are not a matter for consideration under section 4.15 of the Environmental Planning and Assessment Act.

## **Recommendation**

That the Northern Beaches Local Planning Panel approve the application in accordance with the recommendation of the Officers assessment report.