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Amy Watson

C/- Amber Nehal

Amber.nehal@planning.nsw.gov.au

NSW Dep Planning, Housing and Infrastructure

REF: : APPLICATION NO. SSD-47105958
At : 24A KINGSCLIFF STREET, KINGSCLIFF, NSW 2487
Subject : PUBLIC SUBMISSION & DOCUMENTATION REVIEW COMMENTS

Further to the above noted SSD application, I would hereby like to formally submit my public submission and objection to the proposal as submitted. My submission is my assessment and review of the application and documentation and reports made publicly available on the NSW planning portal. My assessment outlines my concerns with the proposal based on my knowledge of the requirements and guidelines in which the proposal has been based as well as the proposal in its surrounding context and public domain.

This includes a review of the following:

- Traffic Impact Assessment prepared by PTC
- Green Travel Plan prepared by PTC
- Architectural Plans prepared by PLUS
- Landscape Plans prepared by Urbis
- Consultation Report prepared by Ethos Urban
- Access Report prepared by Purple Apple Access
- Infrastructure Report prepared by ADP
- Visual Impact Report prepared by Ethos Urban
- View Loss Assessment prepared by Ethos Urban
- Flooding Assessment Report prepared by Venant Solutions
- EIS Prepared by Planit Consulting.

I am a local resident and in close proximity to the proposed development. We will be both directly and indirectly impacted by this proposal and I would like to raise the following key points of concern.

1. **Bulk, scale and height of the development proposal.**
2. **Density and use of 4-storey-built form in this location**
3. **Privacy Impacts of the proposal**
4. **Solar impacts and shading**
5. **Traffic, Flood, Noise & Light Pollution Implications**

1- Bulk, Scale & Height of the Development Proposal.

The development as proposed is grossly over scaled, height and bulk in the direct surrounding context in which is proposed. The proposal seeks a for a variation to modify the maximum height set out in the TLEP. Surrounding each boundary of this property are low-set residential dwellings or smaller scale multi-dwelling townhouses of 2 storey average effective height. The proposal will completely 'dwarf' these homes, doubling their height. The large-scale footprints of each of the proposed building will significantly add longitudinal scale, with an extremely large unbroken façade and building length, comparatively to all other development at close proximity to the site. Even the larger multi-residential unit blocks that have been built in the Kingscliff locality, all comply with the TLEP 2014 height limits and have much smaller scale building footprints and lengths/width of façade, which a breakup of scale of development allowing for much more visual breaks within building form and passive solar breaks throughout. This is greatly attributed to the smaller site size of all other multi-residential land. Personally the views of the skyline and afternoon sunsets will be all but lost due to proposed height of the development which will have a significant impact on quality of amenity to my family and street as a whole. The front deck was intentionally designed with a westerly aspect for afternoon sun and passive surveillance of the street and skyline beyond.

The proposal:

Clause 4.6 Environmental Planning Grounds

The Clause 4.6 is seeking to leverage the need to fill the site to comply with flood requirements and that a building height bonus would apply under SEPP (Housing) 2021 if not for a technicality as reasons to vary the development standard. The Clause 4.6 then goes on to attempt to justify the variation based on the objectives of the building height standard being met notwithstanding the variation.

It's very clear the primary driver of the need to vary the development standard is resulting purely from the development yield being sought and the fact that the development is seeking to achieve this yield by using four storey-built form. Attaining development yield is not sufficient environmental planning grounds on which to vary a development standard. The need to fill the site is a development constraint that must be factored into the potential yield of a development when dealing with building height. The lands constraints ultimately dictate what can be achieved. Four storeys are not as of right on the site and if a reduced height (max three storey height) was adopted, the development inclusive of the filling would comply with the height limit.

Further, the Clause 4.6 in my opinion has not satisfactorily address the objectives of Clause 4.3 of the TLEP 2014, particularly objective (b), objective (e), objective (f) and objective (g). The objectives of Clause 4.3 are provided below for reference. The proposal has not satisfactorily addressed or provided documentation to clearly demonstrate appropriate privacy, solar access and built form character.

4.3 Height of buildings

(1) *The objectives of this clause are as follows—*

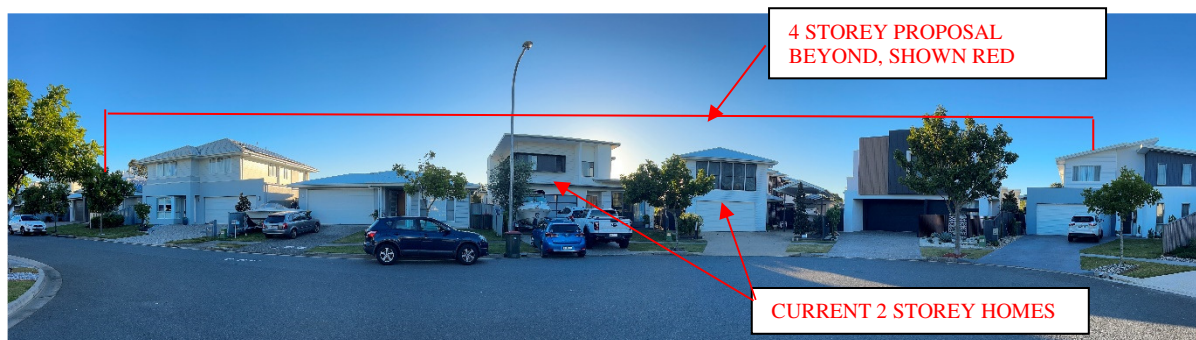
- (a) *to establish the maximum height for which a building can be designed,*
- (b) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
- (c) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
- (d) *to encourage greater population density in less car-dependant urban areas,*
- (e) *to enable a transition in building heights between urban areas comprised of different characteristics,*
- (f) *to limit the impact of the height of a building on the existing natural and built environment,*
- (g) *to prevent gross overshadowing impacts on the natural and built environment.*

Furthermore the information provided to justify the increased height variation is manipulated or incorrect to either directly or indirectly mislead the true bulk and scale of the development. This information includes but is not limited to:

- The photo angles presented for the photomontages at different angles for the before and after or taken from behind buildings with no current view of the proposed location, some angles are taken from behind trees that are being removed for the proposal or at lower close up angles to give the illusion that the proposal will not be a dominate feature in the landscape.
- The architectural documentation has incorrect RL's and natural ground lines shown on cross sections of the true lower height of ground lines to neighbouring build up land.
- As designed basement levels will be above the existing natural ground heights, prior to filling and in some locations after filling the site. This is considered and takes the number of proposed storeys to 5.
- Sections do not continue through to correctly demonstrate the height difference between the existing dwelling living spaces and the proposed ground levels.
- The architectural documentation does not show how the proposed fill and **all** areas of the development will interact with neighbouring property boundaries, such as cut/fill and retaining heights and how these are intended to be built or any adverse impacts on the properties in which they abut.

In my opinion this information should be re-reviewed and provided in a more practical easy to review format that truly reflects the proposal in context and impacts to all directing neighbouring boundaries.

For your reference a panoramic view from our street (Drift Court) Looking North, have been provided to demonstrate the current contextual setting.



2. Density and use of 4-storey-built form in this location

The development as proposes a greatly increased density in a low or low-medium density setting. The proposed density is not suitable in this location and is considered a complete overdevelopment and overidentified development on a site not suitable for the proposal.

The density proposed will put substantial pressure on surrounding infrastructure and neighbouring homes, streets and community setting. These pressures include, increased noise, traffic demands, light pollution, pedestrian movement and flood pressures. Current Infrastructure do not facilitate a development of this scale within the locality.

The proposal:

Justification of Proposed Building Density and Built Form

The EIS appears to selectively focus on the elements of planning controls that would seem to indicate a four-storey outcome is ok in this location, while ignoring the provision which would indicate a built form of less than 4 storeys would be more appropriate. I'm most interested in the assessment of the proposal against the Seniors Housing Design Guide 2023.

SEPP (Housing) 2021 at Clause 97 – Design of in-fill self-care housing requires the following:

97 Design of seniors housing

(1) *In determining a development application for development for the purposes of seniors housing, a consent authority must consider the Seniors Housing Design Guide, published by the Department in December 2023.*

(2) *Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.*

Within the EIS, a detailed consideration of the entirety of the Seniors Housing Design Guide 2023 does not appear to be present. For example, at page 91 of the EIS, Table 4-2: Part 5 Compliance table provides the following single line commentary 'The Uniting Kingscliff Development has been designed in accordance with the Seniors Housing Design Guide 2023', while in other locations through the EIS document it references assessment of the Seniors Housing Design Guide 2023 as being contained within the Architectural Design Report within Appendix C of the EIS. A review of the Architectural Design Report only reveals a broad consideration of Part 2 - Guidance Chapter and no consideration of Part 3 Density and Related Design Principles is included.

Part 3 of the Seniors Housing Design Guide 2023 deals with how to identify an appropriate development density and building heights. These provisions have not been assessed or discussed anywhere that I can see within the documentation. This could be an oversight or possibly a purposeful omission as Part 3 of the Seniors Housing Guide 2023 would appear to indicate a medium density outcome (3 storey or less) rather than a high-density outcome (more than 3 storey) would be more in keeping with the requirements of the Seniors Housing Design Guide in this location.

Overall justification of the built form outcome is significantly pinned on a need to meet a broad need for seniors housing places. Such a requirement is not in my opinion sufficient justification to simply push aside the need for such a development to ensure an appropriate built form outcome that meets building height limits, does not result in overlooking of adjoining properties, achieved compliant solar access to adjoining properties.

3. Privacy Impacts of the proposal

The development as proposed in its locality and to the height and scale proposed will have a significant detrimental impact on the liveability to surrounding residential homes and residences. The development proposed extremely large 4 storey structures, a mere 9m from the rear boundary of the adjoining properties, with little consideration of privacy impacts to these properties. The height of the proposal and orientation of windows and balconies will result in a complete overlooking into neighbouring yards and private open space.

The proposal:

The EIS appears to contain little actual analysis for overlooking. It seeks to rely simply on the setbacks provided and the odd planter box to some balconies as measures to stop the third and four levels of the buildings from looking into adjoining properties. This is insufficient, especially when the proponents are relying on the claim the development provides an appropriate privacy outcome as part of the justification of the height of the development. I think the view loss assessment provides the best example, the images provided in this document, where the development is being super imposed into existing photos clearly shows floor to ceiling windows and balconies with glass balustrades all with clear uninterrupted views into peoples back yards and windows and private open spaces.

The design is not appropriate from a privacy perspective and is not responding to the atypical

constraints of this site which sees a significant number of low-density residential properties interfacing nearly all property boundaries.

There is no architectural documentation with assessment of privacy demonstrating sight lines or visual representation of a persons view from the correct RL's of the balconies at eye height down into neighbouring back yards. This should be done from each balcony at several angles to demonstrate they can achieve compliance.

4.Solar impacts and overshadowing

The development as proposed in its locality and to the height and scale proposed will have a significant detrimental impact on the liveability to surrounding residential homes and residences. The development proposed extremely large 4 storey structures, a mere 9m from the rear boundary of the adjoining properties, with little consideration of overshadowing impacts to these properties. The height of the proposal and rear setbacks to neighbouring boundaries will create significant overshadowing to the subject properties private open space. A number of the adjoining open space has been designed to the North or North West or North East orientation with the rear yard and open space receiving sunlight throughout a majority of the day to maximimise passive solar design. The overshadowing will create a significant reduction in the sunlight received and have an impact on a number of private open space and objectives of the DCP, ADG and LEP with respect to passive solar design.

The proposal:

Solar Access Analysis – Adjoining Properties.

As the Apartment Design Guide applies to the site, the following controls are applicable in terms of solar access required to adjoining properties. Solar access to adjoining properties is to be consistent with 4A Solar Access and Daylight Access of the Apartment Design Guide. This is established by Objective 3B-2, Design Guidance 1. See screenshot below

Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid winter
Design guidance
Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access
Solar access to living rooms, balconies and private open spaces of neighbours should be considered
Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%
If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy
Overshadowing should be minimised to the south or down hill by increased upper level setbacks
It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development
A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings

4A Solar Access and Daylight Access of the Apartment Design Guide of the apartment design guide requires as follows

Objective 4A-1	
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	
Design criteria	
1.	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas
2.	In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter
3.	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter

Design Criteria 2 is the provision to which the proposal should be working to and demonstrating compliance against.

The solar access documents provided are simply not detailed enough to demonstrate compliance with Design Criteria 2, nothing that the control would require the location of living rooms and private opens spaces of each adjoining dwelling to be identified and then detail provided to demonstrate the 3 hours is being achieved to these areas.

The proposed landscape plans show large scale mature trees to be planted between the proposed structure and neighbouring fence lines to create privacy requirements, these have been omitted from the shadow diagrams, however will have a significant impact and create large overshadowing on the neighbouring properties.

It would be suggested that each of the impacted dwellings be correctly modelled and shadow diagrams demonstrate compliance. This may be accurately demonstrated with a large scale plan (1:200) or similar with roof of dwelling removed to show angle of shading or elevations on the adjoining façade to show the shadow impacts on windows or the like. The shadow diagrams should accurately depict the current levels, height difference and proposed land heights.

5.Traffic, flood, Noise & Light Pollution Implications

The development as proposed will put significant pressure on an already pressured low density neighbourhood.

Traffic

The current Beach Street roundabout and beach street is a very busy intersection and main throughfare for lower Kingscliff area. During peak times (which photos in the traffic study do not depict) is very busy street with residents parking on the side of street and also it being a main bus route. The proposed traffic for the added residents, as well as staff and services vehicles is going to greatly increase the number of vehicles coming into not only Beach Street access handle but Kingscliff in general. The current roads and infrastructure will not handle this amount of daily traffic and it will put significant pressure and busyness to the adjoining streets and neigh hood, making in dangerous and not suitable for the locality.

Flood

During the recent major flood event, the site in which this was proposed as well as Beach Street and neighbourhood streets- Drift Court and the like were severely impacted by the flood waters. The low set topography of the site acted as a refuge or flood storage area for flood waters. The proposal is to fill the site which results in, the water being dispersed elsewhere, likely surrounding dwellings which is of great concern to these property owners as well as surrounding homes that were near rising flood waters in the previous floods.

The proposal does not adequately propose to deal with those flood waters in the event of a major flood, only deal with stormwater generated by the development.

Noise & Light

Based on the increased density of the proposal will come increased noise & light from residents, staff and services. A majority of the open space from the proposal is on balconies and around the rear boundaries adjoining neighbours' properties. This will result in balcony lighting, security lighting, noise from residents using these spaces directly affecting the amenity of the existing residences' private space and bedrooms. The services vehicles and staff will also add noise given the proposal size, scale and requirements to service the site and man hours of staff doing shift work. There will likely be heavy noise and vehicle pollution at all hours of the day for staff parking, deliveries, refuse trucks etc.

Thank you for the opportunity to make this submission, and trust that is clearly understood and is met favourably.

Yours faithfully

Mr Joshua Jardine
Resident- Drift Court, Kingscliff