

SUBMISSION

a written submission by way of objection

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Director
DA Objection Pty Ltd

prepared for

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3 NOVEMBER 2025

MINISTER FOR PLANNING AND PUBLIC SPACES
THE DEPARTMENT OF PLANNING, HOUSING AND INFRASTRUCTURE [THE
DEPARTMENT]
4 PARRAMATTA SQUARE,
12 DARCEY STREET,
PARRAMATTA NSW 2150

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RE: **SSD-76220734**
156 OCEAN STREET, NARRABEEN NSW 2101
INDIGO BY MORAN
SENIORS HOUSING
WRITTEN SUBMISSION: LETTER OF OBJECTION
SUBMISSION: TULLOCH

Dear Sir/Madam,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

I have been instructed to prepare an objection to this SSDA.

Key issues and supporting documentation requested from the SEARS's Planning Secretary's Environmental Assessment Requirements, dated 20 December 2024, have not been adequately meet:

- Statutory Context
- Engagement
- Design Quality
- Built Form and Urban Design
- Environmental Amenity
- Visual Impact
- Transport
- Noise and Vibration
- Trees and Landscaping

These matters will be addressed within this Submission.

There are many inaccuracies within the documents provided.

There is a major concern in the Community that a proper Community Engagement has not occurred on this SSDA. My clients inform me, that the earlier presentations by the applicant appear to be mainly marketing exercises, aimed at finding buyers to the proposed apartments.

I have critically reviewed the plans and documentation prepared in support of the above development application and to provide advice in relation to policy compliance and potential residential amenity impacts.

Having considered the subject property and its surrounds and the details of the development application currently before The Department, I am of the opinion that the proposal, in its present form, does not warrant support. In addition, I am of the view that amendments would need to be made to the development proposal before The Department is in a position to determine the development application by way of approval.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on neighbouring property.

SEPP (Housing) 2021 Chapter 3, Part 5 of this SEPP pertains to housing for seniors and people with a disability.

Development consent may not be granted unless:

- the development satisfies certain development standards;
- satisfies design requirements at Schedule 4 Pre-existing conditions to of the SEPP;
- satisfies Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004 (including the relevant sections of the Apartment Design Guide as outlined in the SH Design Guide);
- Design Principles in Schedule 8.

I strongly disagree that the proposal meets the required outcomes in respect to:

- Design Quality
- Built Form and Urban Design
- Environmental Amenity
- Visual Impact
- Transport

The major concerns:

- Solar Access
- Neighbourhood Amenity & Streetscape
- Visual & Acoustic Privacy

In this Submission, I offer a Preferred Solution. That design solution is detailed within Section 2.1, on page 9.

The main numerical non-compliances are:

- **HEIGHT OF BUILDING:**

The proposed building height of 21.1m represents an 8.8m or 71.5% departure from the Development Standard with Bonus Provisions [8.5m + 3.8m]. This is totally unreasonable in an 8.5m LEP HOB zone. The proposal is approximately 8,586sqm GFA in excess of HOB control, representing 39% of the proposed GFA, and representing 58 Apartments of the proposed 149 Apartments

- **SETBACKS**

The main impact concerns are:

- OVERDEVELOPMENT & VISUAL BULK;
- SOLAR ACCESS;
- VISUAL PRIVACY;
- ACOUSTIC PRIVACY;
- TRAFFIC, PARKING AND ACCESS.

There is inadequate information provided with the application to enable The Department to make a proper assessment of the application, to define compliance to the DCP:

Provide amended existing and proposed view from the sun solar diagrams, schedule window by window the outcomes, and amended plans to deal with the following matters:

150 - 152 OCEAN STREET NARRABEEN has not been adequately assessed by the Applicant.

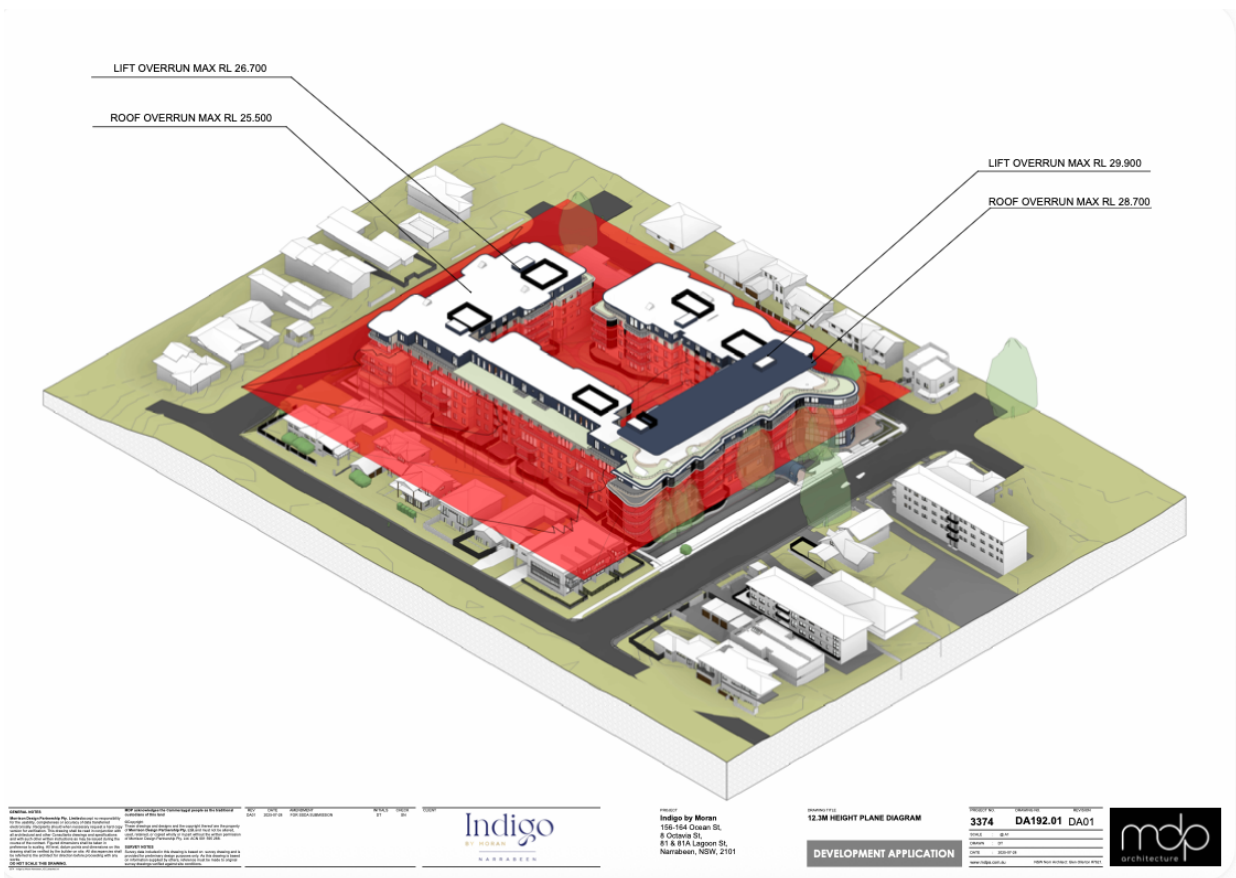
- RICHARD & DEBORAH INKSTER, UNIT 4, 150 - 152 Ocean Street NARRABEEN
- KAREN RICHARDS, UNIT 8, 150 - 152 Ocean Street NARRABEEN

My clients north facing living, dining, kitchen and bedroom windows, face the subject site. These windows have existing Winter Solstice solar access removed by the proposed non-compliant development.

The main living, dining, kitchen windows receive less than one hour in the early morning, and less than one hour in the late afternoon.

The proposal has not setback the balconies to the full 6m and 9m SEPP controls, that face these windows.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask The Department to REFUSE this SSDA.



The above diagram shows the massive non-compliances within the proposal. The proposed building height of 21.1m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], and this massive non-compliance causes the proposed development to be inconsistent with all SEPP, LEP & DCP standards and controls, and fails all objectives. The proposed SIX STOREY MASSIVE DEVELOPMENT adjacent 8.5m HOB zones with predominantly ONE to TWO STOREYS is plainly unacceptable.

I ask that the Height Blanket be checked, so that the base levels accord with the Registered Surveyors Drawing.



A SIX STOREY, 22m high built form set immediately adjacent a community that has restricted themselves to accord with the 8.5m LEP HOB standard is unreasonable and unacceptable.

Most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment.

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1. EXECUTIVE SUMMARY

The design of the proposed development does not ensure that the existing high levels of amenity to the neighbouring property are retained.

Having reviewed the documentation prepared in support of the application and determined the juxtaposition of adjoining properties I feel compelled to object to the application in its current form.

The bulk, scale, density and height of the proposed development is excessive and inconsistent with the established and desired future streetscape character of the locality.

There is no reason, unique or otherwise why a fully compliant solution to Development Standards and Controls cannot be designed on the site.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on neighbouring property.

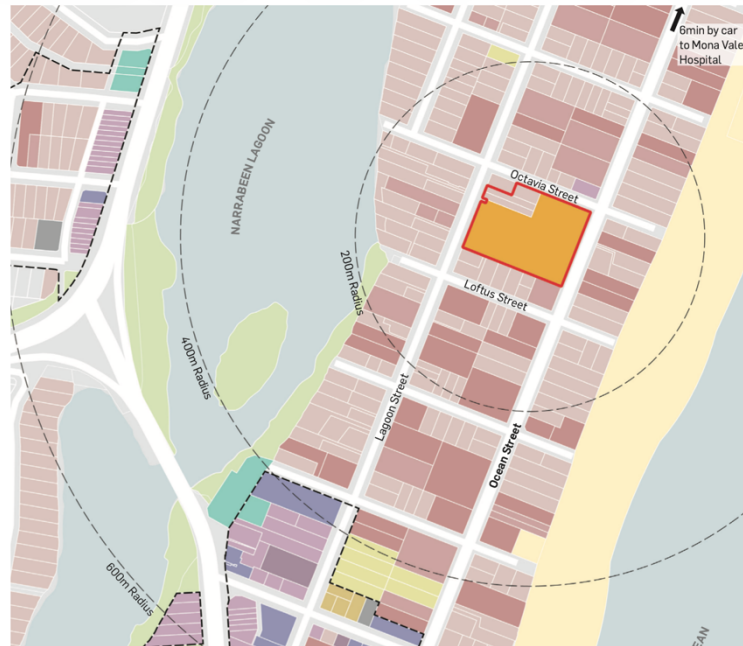
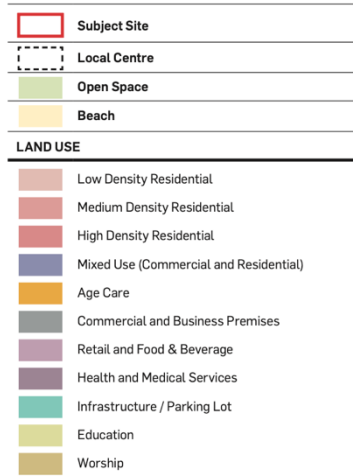
There is considerable amenity loss to multiple neighbours.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask The Department to REFUSE this SSDA.



The proposed building height of 21.1m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m]. This is totally unreasonable in an 8.5m LEP HOB zone.

4.4 Land Use and Amenity



The Applicant has confirmed that the site is surrounded by Low-Density Residential development. The proposed 21m+ HOB proposal fails the NSWLEC character test.

In *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, NSW LEC considered character:

"...whether most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment".

I contend that the proposed development represents *offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment,*

2. AMENDED PLANS

My clients make a request for amended plans to be submitted to better address impacts upon their property.

I ask The Department to seek modifications to this SSDA as the proposed development does not comply with the planning regime, by non-compliance to standards and controls, and this non-compliance leads directly to neighbouring property amenity loss. A compliant building design would reduce the amenity impacts identified.

The proposal fails when assessed against the matters raised in this submission.

Amenity impacts on the surrounding locality, including view loss and view sharing, solar access, visual privacy, and other impacts must be addressed. A high level of environmental amenity for any surrounding residential land uses must be demonstrated.

If a consent is granted my client requests for the Terms and Reasons for Conditions as found within the Appendix to be imposed.

Amend the proposed development as set out on the following sections.

2.1 REDUCTION OF BUILT FORM:

PREFERRED SOLUTION:

- HEIGHT: 12.3m HOB maximum, with lift over runs, and limited roof plant screens, setback from the boundary, the only non-compliance;
- RECESSIVE TOP FLOOR: Recessive top floor setback 4m from the floor below, all under 12.3m HOB;
- ABOVE TWO STOREY: the additional storeys above two storey are set back within planes that project at an angle of 45 degrees inwards from all side and rear including the southern boundary of the site.
- STREET SETBACKS: 6.5m min street setbacks, free of balconies;
- SOUTHERN SETBACK: Substantial Setbacks to the Southern, Eastern & Western Pavilions to provide solar access to ALL neighbours, including enhanced setback at upper level to 20m+;
- SENIORS TERRACE: Terrace to be contained within 12.3m HOB zone, at the upper floor level of the Eastern Pavilion;
- BASEMENT: Basements restricted to be under the Pavilions, to ensure deep soil planting to all boundaries, to allow 10m high canopy trees to surround the built form;
- VERY LIMITED ROOF PLANT, positioned towards inner courtyard from lift cores. No Roof Terrace that removes solar access or creates privacy issues.
- PAVILIONS: Four Pavilions, with improved articulation, to break up the visual bulk.
- NEW TREES: To be located 6m from the southern boundary, to reduce amenity impacts to neighbours

2.2 SOLAR ACCESS

Provide amended existing and proposed view from the sun solar diagrams, schedule window by window the outcomes, and schedule the private open space, and amended plans to deal with the following matters:

150 - 152 OCEAN STREET NARRABEEN has not been adequately assessed by the Applicant.

RICHARD & DEBORAH INKSTER, UNIT 4, 150 - 152 Ocean Street NARRABEEN
KAREN RICHARDS, UNIT 8, 150 - 152 Ocean Street NARRABEEN

My clients north facing living, dining, kitchen and bedroom windows, face the subject site. These windows have existing Winter Solstice solar access removed by the proposed non-compliant development.

The main living, dining, kitchen windows receive less than one hour in the early morning, and less than one hour in the late afternoon.

The proposal has not setback the balconies to the full 6m and 9m SEPP controls, that face these windows.

2.3 VISUAL PRIVACY

Provide amended plans to deal with the following matters:

- Non-compliance to SEPP ADG Objective 3F-1, as Habitable Rooms & Balconies are within the required separation distances as defined in the ADG schedule.
6m setback to 4-Storey + 9m setback above to side and rear boundaries where Habitable Rooms & Balconies are proposed.

2.4 ACOUSTIC PRIVACY

I ask The Department Engineers to check these matters.

Provide amended plans and updated Acoustic Report to deal with the following matters:

- Procurement of 'quiet' plant or plant with 'silent' night operating modes;
- Strategic positioning of roof and balcony plant equipment away from sensitive neighbouring;
- Maximising the intervening shielding between the plant and sensitive neighbouring premises;
- Installation of commercially available silencers or acoustic attenuators for air discharge and air intakes of plant acoustically lined and lagged ductwork;
- Provide acoustic screens and/or acoustic louvres between plant and sensitive neighbouring premises;

- Provide sound absorptive lining to reflective surfaces around plant;
- Provide partially enclosed or fully enclosed acoustic enclosure over plant;
- All mechanical plant shall have their noise specifications and proposed locations checked prior to installation;
- Mechanical plant from roof to basement;
- Car park exhaust and supply fans – lined and vented to roof;
- Garbage exhaust fans – lined and vented to roof;
- Switch Room exhaust fans – lined and vented to roof;
- Commercial Kitchen Exhaust Fans – fitted with silencer;
- Residential AC Fans 10pm to 7am – night mode;
- AC outdoor condenser units on multiple rubber mounts;
- Carpark entry/exit to be fully enclosed and acoustical lined to absorb sound;

2.5 TRAFFIC, PARKING AND ACCESS

Provide Amended Plans and updated Traffic Report to deal with the fact that LOFTUS STREET is too narrow to support Demolition, Construction, or future Development Traffic. Loftus Street residents wish for maintaining on-street parking near their properties:

- NO DEMOLITION OR CONSTRUCTION TRAFFIC in LOFTUS STREET;
- TRAFFIC CALMING MEASURES in LOFTUS STREET prior to demolition
- MAINTAIN BUS STOP in current location in Ocean Street



A SIX STOREY built form set immediately adjacent a community that has restricted themselves to accord with the 8.5m LEP HOB standard is unreasonable and unacceptable. Most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment.

3 DESIGN OF THE PROJECT

The proposed development has not been designed to adequately respond to the streetscape.

The proposed development does not present a built form that will improve the quality and amenity of the public domain.

The proposed development has adverse impacts on the amenity of the surrounding area, including severe impacts to my client's property.

The proposed development fails when assessed against the matters raised in this submission:

The design of the proposed development is required to be reduced in built form to accord with standards & controls, and for the built form to be further reduced to deal with the Environmental Impacts contained in this submission, such as view or solar.

4.9 Built Form Interface

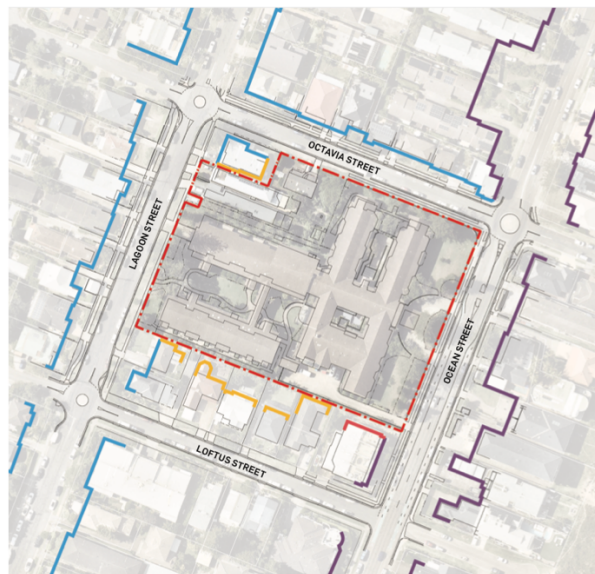
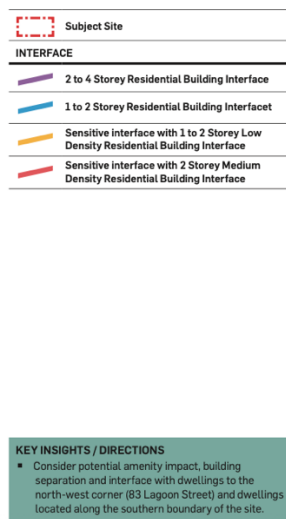


Figure 25 Interface with Surrounding Sites

Prepared by Urbis for Centurion Group Pty Ltd 31

The built form should respect the built form interface, and present similar two/three storey development facing Loftus Street dwellings, Octavia Street and Lagoon Streets.

4 COMPLIANCE WITH STATUTORY REQUIREMENTS

4.1 SEPP (HOUSING) 2021 CHAPTER 3, PART 5

SEPP (Housing) 2021 Chapter 3, Part 5 of this SEPP pertains to housing for seniors and people with a disability.

Development consent may not be granted unless:

- the development satisfies certain development standards;
- satisfies design requirements at Schedule 4 Pre-existing conditions to of the SEPP;
- satisfies Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004 (including the relevant sections of the Apartment Design Guide as outlined in the SH Design Guide);
- Design Principles in Schedule 8.

I contend that the proposed development fails to meet the above criteria.

I disagree that the proposal meets the required outcomes in respect to:

- Design Quality;
- Built Form & Urban Design

The numerous requirements do substantially overlap, so I address a summary of the main problems.

- *Neighbourhood Amenity & Streetscape* outcomes are severely impacted by built form that is over 12m higher than what is existing, with inappropriate setbacks;
- *Visual & Acoustic Privacy* outcomes are poor, driven by the excessive height and built form in the 6m/9m setback zones;
- *Solar Access* to the neighbours to the south is highly compromised, again drive by non-compliant HOB and inadequate setbacks.

The proposed development is inconsistent with the design principles relating to:

- *Design Principle 1: Context & Neighbourhood Character*
- *Design Principle 2: Built Form and Scale*
- *Design Principle 3: Density*
- *Design Principle 6: Amenity*

The proposed development is inconsistent with the relevant aims and considerations in relation to:

- *2A Primary Controls;*
- *2B Building Envelopes;*
- *2C Building Height;*
- *2F Building Separation;*
- *2G Street Setbacks;*
- *2H Side & Rear Setbacks.*

The proposed development is inconsistent with the relevant objectives and design guidance of Part 3 of the Apartment Design Guide, in particular to neighbour's residential amenity.

- *3A Site Analysis;*
- *3F Visual Privacy;*
- *3H Vehicle Access;*

Particular concern is raised to non-compliance to 3F Visual Privacy Objective 3F-1, in providing adequate building separation distances, and shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. I refer to the ADG table below. Concern is raised that the proposed development does not accord with Objective 3F-1, PRIVACY:

Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy														
Design criteria														
1.	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:													
	<table> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	
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up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)														
Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties														

Concern is raised that the proposed development does not accord with Objective 3B-2, OVERSHADOWING:

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

The proposed development has not achieved compatibility with the desirable elements of character of the local area or the desired future character of the precinct as required by the Design Requirements.

The bulk and scale of the proposal, proximity to side boundaries, lack of response to the lower scale development surrounding the site and the extensive site coverage of the application results in a built form that is overly dominant in the streetscape and to

neighbouring properties with insufficient landscaped setbacks to soften the significant scale discrepancy between the proposal and adjacent development.

The exaggerated monolithic form exacerbates the scale of the building with insufficient articulation to moderate the building.

Design Review Panel considerations would surely identify:

- The non-compliance to HOB is beyond excessive;
- The proposal does not provide an urban design analysis demonstrating the susceptibility to change under the Housing SEPP of the adjacent lots or within the block;
- Inadequate built form and scale compatibility and inconsistency with building separation distances to the side boundaries;
- Inadequate side setbacks where less than 6m for the first 4 levels and 9m for the remaining floors;
- The overly assertive character of the upper floors of the building, the excessive massing due to less than required ADG separation distances;
- The proposal does not achieve better built form and aesthetics as the treatment to the entire building does not alleviate or moderate the major scale difference between the low scale existing setting that dominates the streetscape and the proposed multi-storey height of the development;
- The application does not maximise the amenity of the residents in the development or the community due to the proximity of the building to the side boundaries. The proximity of the development to boundaries in some locations, positions massing of far greater height in locations with a high degree of exposure to the adjoining properties;
- The proximity of the building to the side boundary creates potential visual and acoustic privacy issues;
- The upper levels of the building increase the setback but also position habitable room windows relying on screens closer to the side boundaries than required by the ADG.

4.2 SEPP (TRANSPORT AND INFRASTRUCTURE) 2021

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 this SEPP.

My clients request:

- NO DEMOLITION OR CONSTRUCTION TRAFFIC in LOFTUS STREET;
- TRAFFIC CALMING MEASURES in LOFTUS STREET prior to demolition
- MAINTAIN BUS STOP in current location in Ocean Street

4.3 CONTRARY TO LEP ZONE OBJECTIVES

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the objectives of the zone of the LEP.

- *To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*
- *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

4.4 CONTRARY TO AIMS OF LEP

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the aims under the LEP:

- (d) *in relation to residential development, to*
 - (i) *protect and enhance the residential use and amenity of existing residential environments, and*
 - (ii) *promote development that is compatible with neighbouring development in terms of bulk, scale and appearance*

4.5 INCONSISTENT WITH THE PROVISIONS OF CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

The submitted written variation request under cl.4.6 of the LEP seeking to justify the contravention of the development standard is not well-founded.

The proposed building height of 21.1m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], causes the proposed development to be inconsistent with these provisions.

Development consent must not be granted to development that contravenes a development standard unless The Department is satisfied the applicant has demonstrated that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

The proposal is inconsistent with the objectives of the FSR Development Standards and fails the Clause 4.6 Exceptions to Development Standards provisions.

I contend that:

- The development compromises amenity impacts on neighbours;
- The development does not minimise visual impact;
- The impacts are not consistent with the impacts that may be reasonably expected under the controls;
- The proposal's height and bulk do not relate to the height and bulk desired under the relevant controls;
- The area has a predominant existing character and the planning controls are likely to maintain it;
- The proposal does not fit into the existing character of the area;
- The proposal is inconsistent with the bulk and character intended by the planning controls;
- The proposal looks inappropriate in its context.

The variation of the standard would not be in the public interest because it would set a precedent for development in the neighbourhood, such that successive exceedances would erode the views enjoyed from other similar properties.

The proposed development is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on neighbouring property.

5 BUILT FORM AND OVERDEVELOPMENT

5.1 BUILDING FORM & MASSING

The proposed development should be refused due to its excessive bulk and scale and its failure to comply with the numerical standards and controls.

The main issues of concern:

- **MASSIVE NON-COMPLIANCE:** The proposed building height >21m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], causes the proposed development to be inconsistent with an acceptable outcome in respect to the building form and massing.
- **UNACCEPTABLE LOSS OF VISUAL AMENITY:** The application will result in an unacceptable loss of visual amenity from adjoining private properties, and from the public domain, due to the excessive bulk and scale of the proposed development;
- **BREACHES OF THE BUILDING ENVELOPE:** The breaches of the building envelope will result in an adverse visual impact when viewed from private and public domains;
- **CUMULATIVE IMPACT:** The numerical non-compliances result in a cumulative impact, that increases the built form, resulting in an overdevelopment of the site;
- **NOT REPRESENTATIVE:** The proposal will present excessive bulk and scale that is not representative of the type of development anticipated by the zone or the applicable controls. The density is at a level perhaps three to four times that of neighbouring developments.;
- **ARTICULATION:** The proposal does not provide adequate articulation of the built form to reduce its massing;
- **GOOD DESIGN:** The proposal fails to encourage good design and innovative architecture to improve the urban environment;
- **ADJOINING PROPERTIES:** The proposal fails to minimise the visual impact of development when viewed from adjoining properties and streets.

5.2 CHARACTER & STREETSCAPE

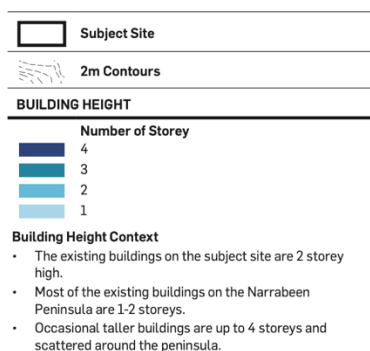
The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate streetscape outcome.

The main issues of concern:

- DESIRED FUTURE CHARACTER: The proposed building height of >21m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], causes the proposed development to be inconsistent with these provisions. The future character of the area are buildings that accord with an 8.5m HOB. The proposed development is inconsistent with the provisions relating to the desired future character. The proposal is visually dominant. The development presents an inappropriate response to the site. The design of the proposal does not recognise or complement the desirable elements of the subject site's current character. The proposal offers little visual relief of the resultant building bulk. Such building bulk is not compatible in scale with adjacent and surrounding development. The proposal will present as a large building with insufficient building articulation and landscaping to break up and visually reduce the building bulk. The proposal will not appear as a density that relates to the zone and, therefore, does not achieve consistency or compatibility with the general built form within the locality or the zone. The height, form and massing of the development is not complimentary and not compatible with that established by adjoining development generally within the site's visual catchment. The height, bulk and scale of the development will give rise to many adverse streetscape impacts and will detract from the scenic amenity of the area when viewed from surrounding public and private land;
- IMPACT ON THE AMENITY OF ADJOINING PROPERTIES: The proposal, due to its excessive visual bulk, its impact on the amenity of adjoining properties and users of the public domain, its poor relationship with the subject property and the environment is inconsistent with the objectives of the desired future character provisions of the locality. The development does not maintain appropriate levels of privacy, sunlight or view sharing to surrounding development as detailed in this Submission;
- LANDSCAPED SETTING: The proposal is excessive in scale, has adverse impacts on the visual amenity of the environment, does not positively contribute to the streetscape in terms of an adequately landscaped setting. The development does not have sufficient building separation and areas of landscaping;
- NON-COMPLIANT BUILDING ENVELOPE: The non-compliant building envelope will lead to unacceptable visual bulk impact to neighbours. The multiple non-compliances arising from the proposed upper floor levels and the non-compliant setbacks indicates that the proposed development cannot

achieve the underlying objectives of this control, resulting in an unacceptable building bulk when viewed from adjoining and nearby properties.

4.6 Building Height in Storeys



The Applicant has confirmed that the prevailing height in the catchment area of the subject site is predominately ONE to TWO storey and not SIX storeys as the proposal calls for.

5.3 HEIGHT OF BUILDING

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to comply with the building height Development Standards.

The proposed building height of 21.1m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], causes the proposed development to be inconsistent with these provisions.

The proposed development should be refused due to its excessive height and failure to comply with the *Height of Buildings Development Standards*, and in particular:

- to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality;
- to ensure that buildings are compatible with the height and scale of surrounding and nearby development;
- to minimise any overshadowing of neighbouring properties;
- to allow for the reasonable sharing of views;
- to encourage buildings that are designed to respond sensitively to the natural topography;

- to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The submitted written variation request under cl.4.6 of the LEP seeking to justify the contravention of the height of buildings development standard is not well-founded.

Development consent must not be granted to development that contravenes a development standard unless The Department is satisfied the applicant has demonstrated that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

The proposal is inconsistent with the objectives of the Height of Buildings Development Standards and fails the Clause 4.6 Exceptions to Development Standards provisions.

The exceedance in height within the proposed development results in:

- the portion of the building above the maximum height is not minor;
- the objectives of this clause have not been achieved;
- non-compliance with the land use objectives;
- nothing provided for in this development that seeks to minimise the adverse effects of bulk and scale of the building.

The exceedance in height within the proposed development:

- results in excessive bulk and scale;
- is inconsistent with the desired future character of the area;
- presents unacceptable dominance of built form over landscape;
- results in excessive visual impact and impacts on the character of the locality; adjoining properties and the surrounding environment;

In *Veloshin*, [*Veloshin v Randwick Council* 2007], NSW LEC considered Height, Bulk & Scale. *Veloshin* suggest that Council should consider:

“Are the impacts consistent with impacts that may be reasonably expected under the controls? For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.”

The impacts are not consistent with the impacts that would be reasonably expected under the controls.

In *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, NSW LEC considered character:

"...whether most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment".

The non-compliant elements of the proposed development, particularly caused from non-compliant excessive heights would have most observers finding *'the proposed development offensive, jarring or unsympathetic'*.

In this instance I am not convinced that there are strong environmental planning grounds to justify a contravention of the scale proposed. The proposed development should be refused due to its excessive bulk and scale and its failure to comply with the development standard.

5.4 SETBACKS

The proposed development should be refused as it is significantly non-compliant with setback of the DCP.

- Excessive non-compliance to SEPP ADG Objective 3F-1, as Habitable Rooms & Balconies are within the required separation distances as defined in the ADG schedule. Amend scheme to ensure 6m setback to 4-Storey + 9m setback to 8 Storey to side and rear boundaries where Habitable Rooms & Balconies are proposed.

The proposed development does not provide appropriate setbacks. This leads to inconsistency with the character of the area and unreasonable amenity impacts.

The proposal is inconsistent with the objectives:

- To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street;
- To ensure and enhance local amenity by providing equitable access to light, sunshine, privacy, views and air movement;
- To defining and adding character to the streetscape;
- To allow deep soil planting.

The proposed development results in an encroachment beyond the prescribed building envelope. This non-compliance is indicative of an unacceptable built form and contributes to the severe amenity loss.

The design fails to comply with the building envelope measured at the side boundary. A significant proportion of the upper levels of the proposed development falls outside this building envelope. Together with the breach of the height limit, the building envelope breach will result in view loss, excessive bulk and scale, and significant visual impact.

The proposed building height of 21.1m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], coupled with the non-compliant setbacks, causes the proposed development to be inconsistent with these provisions.

The proposed development control is unable to do so because:

- The design cannot achieve the desired future character as demonstrated earlier in this submission;
- The width and height of the design is significantly overbearing in relation to the spatial characteristics of the natural environment, and is not sensitive to this important visual catchment;
- By virtue of the unmitigated height breach and extensive building envelope breach, it is not possible to say that the bulk and scale of the built form have been minimised;

The proposal will result in an unsatisfactory scale of built form that will be disproportionate and unsuitable to the dimensions of the site and neighbouring residential development.

The height and bulk of the development will result in unreasonable impacts upon the amenity of neighbouring properties with regard to visual dominance.

The excessive built form of the proposal results in a development where the building mass becomes visually dominant and imposing, particularly when viewed from the visual catchment of neighbouring properties

The cumulative effect of the non-compliances with setback and other development standards results in an over development of the site with the site being not suitable for the scale and bulk of the proposal.

6 ENVIRONMENTAL IMPACTS

6.1 SOLAR ACCESS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to solar access and excessive overshadowing by the non-compliant built form.

The proposed building height of 21.1m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], causes the proposed development to be inconsistent with these provisions. Non-compliant height causes excessive solar loss.

Concern is raised that the proposed development does not accord with Objective 3B-2, OVERSHADOWING:

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

The proposal is inconsistent with the objectives of the DCP.

The proposed development presents unacceptable amenity impacts to adjoining properties by way of solar access impacts that arise because of the excessive bulk and scale of the proposal and numerical non-compliance.

The Applicant has not provided adequate Solar Access Diagrams, at half hourly interval, in plan and elevation of the neighbour's property, to assess the loss of solar access at mid-winter, of the neighbouring properties windows, private open space, and the location of existing or future PV Solar Panels to accord with DCP controls and NSWLEC planning principles.

To fully consider the impacts, provide a solar access analysis of the overshadowing impacts of the development within the site, on surrounding properties and public spaces (during summer and winter solstice and spring and autumn equinox) at half hourly intervals between 9am and 3pm, when compared to the existing situation.

Further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for the Department's reasonable assessment.

Shadow diagrams have not included the additional shadow cast by the non-complaint envelope, in plan and elevation. The elevational shadow diagrams must show the position of windows on adjoining properties.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of adjoining properties, specifically with regard to overshadowing.

The proposed development will result in unreasonable overshadowing of the windows of the neighbour's property and the private open space of the neighbour's property, resulting in non-compliance with the provisions of DCP.

A variation to the DCP is not supported as the objectives of the clause are not achieved.

In *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 the LEC consolidated and revised planning principle on solar access is now in the following terms:

"Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours."

I contend that the overshadowing arises out of poor design. The design does not respect envelope controls, and must be considered 'poor design'.

The Applicant has not submitted half hourly solar diagrams to fully assess the solar loss. I ask The Department to obtain these diagrams.

The loss of sunlight is directly attributable to the non-compliant envelope.

The planning principle *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 is used to assess overshadowing for development application. An assessment against the planning principle is provided as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

The density of the area is highly controlled. Building envelope controls have been exceeded.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

The solar diagrams are not complete, but what has been provided shows that the proposed development will overshadow the adjoining dwellings. The amount of sunlight that will be lost will only be able to be fully considered once solar elevational drawings are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

The proposed development has been designed without considering the amenity of the neighbouring properties. It is considered that a more skilful design, with a compliant envelope control, could have been adopted that would have reduced the impact on the neighbouring properties. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5o or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area*

should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.

This can only be fully assessed once elevational solar drawings at half hourly intervals are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

There is no major overshadowing as a result of vegetation

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

The area is not currently undergoing change, the LEP and DCP controls have not altered for many years.

The assessment of the development against the planning principle results in the development not complying with the solar access controls and therefore amended plans should be requested to reduce the overshadowing impact on the adjoining neighbour. It is suggested that a more skilful design of the development, with a compliant envelope control, would result in less impact in regard to solar access. It is requested that the Department seek amended plans for the development to reduce the impact of the development, and these matters are addressed elsewhere in this Written Submission.

I object to solar loss to the neighbour's private open space, and to the neighbour's windows that fails to allow mid-winter solar access into highly used room by non-compliant development controls.

6.2 VISUAL PRIVACY

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual privacy.

Particular concern is raised to non-compliance to 3F Visual Privacy Objective 3F-1, in providing adequate building separation distances, and shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

I refer to the ADG table below. Concern is raised that the proposed development does not accord with Objective 3F-1, PRIVACY:

Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy														
Design criteria														
1.	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:													
	<table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>		Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)														
Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties														

The proposal is inconsistent with the objectives of the DCP.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of the neighbour's property, specifically with regard to visual privacy.

The proposed development will result in unacceptable overlooking of the adjoining dwelling and associated private open space, resulting in inconsistency with the provisions of the DCP and the objectives of the DCP.

The location and design of the proposed balcony and terraces at the upper floor levels and the excessive glazed windows facing the side boundary will result in unacceptable visual and acoustic privacy impacts to adjoining properties.

The Applicant has not provided an adequate Privacy Impact Analysis which details the extent to which privacy at the neighbour's property will be adversely impacted by the proposal.

The proposed development should be refused because it will result in unacceptable visual privacy impact contrary to the DCP:

- The proposal is inconsistent with the DCP as it does not use appropriate site planning with respect to the location and design of windows and balconies,

such that it results in unreasonable visual privacy impacts to the dwellings of neighbouring properties;

- The proposal does not comply with requirement set out in the DCP as it is not designed to optimise privacy for the occupants of the neighbouring dwellings
- The proposal does not comply with requirement set out in the DCP as it does not orientate living areas, habitable rooms, and windows to limit overlooking;
- The proposal orientates the living areas and main private open space to neighbours
- The floor level of the upper levels, would result in looking over and beyond. The difference in levels will result in direct viewing into the private open spaces of neighbour's dwellings;
- The proposal includes raised private open spaces to the rear, increasing opportunity for overlooking to neighbours;
- The proposal relies on landscaping to the rear to assist with privacy, which should not be used in place of good design, as per the planning principle set by *Super Studio v Waverley Council [2004] NSWLEC 91*;
- The proposal is not consistent with the following objective of the DCP, to ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.

The proposed building height of 21.1m represents an 8.8m or 71% departure from the Development Standard with Bonus [8.5m + 3.8m], causes the proposed development to be inconsistent with these provisions. Proposed windows and decks are positioned much higher than would be expected, causing additional concern.

An assessment of the privacy impact against the planning principle *Meriton v Sydney City Council [2004] NSWLEC 313* follows:

Principle 1: The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.

Response: The development is located in a low-density area.

Principle 2: Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)

Response: The proposed development results in a privacy impact with the proposed windows facing neighbours without sufficient screening devices being provided, considering the proposed windows are directly opposite the neighbour's windows and balconies.

Principle 3: The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.

Response: The windows in question are windows of the main circulation zones and living areas, it is considered that the living areas will result in an unacceptable privacy breach. The proposed windows and decks face the rear private open spaces for the neighbouring dwelling and will result in an unacceptable level of privacy impact.

Principle 4: Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the Applicant at no additional cost, has a reduced impact on privacy.

Response: The proposed development is a new development and the proposed windows have been designed without any consideration to the privacy of the neighbouring property.

Principle 5: Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.

Response: It is considered that the private open space of the neighbouring dwellings could be better protected. I ask The Department to consider the most appropriate privacy screening measures to be imposed on windows and decks facing the neighbour's property, including landscaping

Principle 6: Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.

Response: As mentioned above, the use of privacy devices would reduce the impact of the dwelling.

Principle 7: Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.

Response: Additional landscaping may assist in addition to privacy devices.

Principle 8: In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.

Response: The area is not undergoing change that would warrant privacy impact such as the one presented.

Comment: As the development is considered to result in an unacceptable privacy impact due to the design, it is requested that the proposed development be redesigned to reduce amenity impact on the neighbouring properties.

In the context of the above principles, the application can be considered to violate the reasonable expectation that the habitable rooms and private open space at the neighbour's property will remain private. It is therefore reasonably anticipated that the application does not comply with the DCP.

The above non-compliance will give rise to unreasonable amenity impacts upon the adjoining properties. In this instance, the proposal is not considered to achieve compliance with this control.

6.3 ACOUSTIC PRIVACY

The applicant has not provided appropriate measures to resolve acoustic privacy matters. My clients ask for the outcomes contained within section 2.

6.4 TRAFFIC, PARKING AND ACCESS

The applicant has not provided appropriate measures to resolve these matters. My clients ask for the outcomes contained within section 2.

6.5 TREE PROTECTION

The proposed development will remove 24 High Category Trees, and severely affect 7 other High Category Trees. This is unreasonable. Protection of existing trees within the 6.5m setback zones to each boundary must be the priority.

7 INSUFFICIENT INFORMATION

The application lacks sufficient detail to make an informed assessment particularly with respect to determining the extent of the following matters and the relationship and impact to adjoining neighbours.

RICHARD & DEBORAH INKSTER, UNIT 4, 150 - 152 Ocean Street NARRABEEN
KAREN RICHARDS, UNIT 8, 150 - 152 Ocean Street NARRABEEN

- NO SOLAR ASSESSMENT – dwelling to the south of the subject site must be scheduled by window, of the amount of solar existing and proposed at mid-winter. The Applicant has not included existing 'View from the Sun' diagrams to allow a comparison and full assessment to be made.

8 CONCLUSION

The proposed development is not consistent with the intent of the LEP standards and DCP controls as they are reasonably applied to the proposal.

The variations to LEP standards and DCP controls are considered unreasonable in this instance. The cumulative effect on these non-compliances causes considerable amenity loss to the neighbour's property.

The development will not sit well within the streetscape with non-compliance to LEP standards and DCP controls causing considerable concern. In this regard, the proposal is considered excessive in bulk and scale and would be considered jarring when viewed from the public domain.

Commissioner Moore revised the NSWLEC planning principle for assessing impacts on neighbouring properties within *Davies v Penrith City Council* [2013] NSWLEC 1141

"The following questions are relevant to the assessment of impacts on neighbouring properties:

- *How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*
- *How reasonable is the proposal causing the impact?*
- *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*
- *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*
- *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?"*

I contend that the proposed development severely impacts the neighbour's property, and in terms of amenity, there is excessive sunlight, view or privacy loss. The loss is unreasonable. Neighbours' property is not vulnerable to the loss that is presented. The loss arises out of poor design, either through non-compliance to envelope controls or poorly located built form.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this SSDA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development;

- The proposed development is incompatible with the existing streetscape and development in the local area generally;
- The proposed development will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties;
- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements;

It is considered that the public interest is not served.

The proposed development does not follow the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are multiple matters which would prevent The Department from granting consent to this proposal in this instance.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts all of which would result in adverse impacts on the neighbour's property. Primarily,

- The development compromises amenity impacts on neighbours;
- The development does not minimise visual impact.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with SEPP (Housing) 2021 Chapter 3, Part 5;
- Inconsistent with Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004;
- Inconsistent with Apartment Design Guide;
- Inconsistent with Design Principles in Schedule 8;
- Inconsistent with SEPP (Transport & Infrastructure) 2021;
- Inconsistent with the zone objectives of the LEP;
- Inconsistent with the aims of the LEP;
- Inconsistent with the objectives of the DCP;
- Inconsistent with the objectives of the relevant Legislation & Environmental Planning Instruments;
- Inconsistent with the objects of the EPAA1979.

The proposed development does not satisfy the appropriate controls. Furthermore, the proposal would 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, and is therefore not in the public interest. The proposal therefore must be refused. It is considered that the proposed

development does not satisfy the appropriate controls and that all processes and assessments have not been satisfactorily addressed.

I ask that if The Department in their assessment of this application reveals unsupported issues, which prevent The Department from supporting the proposal in its current form, and writes to the Applicant describing these matters, I ask for that letter to be forwarded to my client.

I trust that The Department will support this neighbour's submission and direct the proponent to modify the SSDA plans, as outlined above. I ask The Department to inspect the development site from neighbour's property so that The Department can fully assess the SSDA.

It is requested that The Department inform my client, of any amended plans, updates or Panel meeting dates.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask The Department to REFUSE this SSDA.

Yours faithfully,

Bill Tulloch

Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA Assoc RAIA
Director
DA Objection Pty Ltd
PO Box 440 Mona Vale NSW 1660

9 APPENDIX

The Department to consider a full range of conditions of consent to better protect neighbour's amenity:

General Conditions

- Approved Plans & Documentation
- Compliance with Ausgrid, TfNSW, WaterNSW
- Approved Land Uses
- Prescribed Conditions
- General Requirements

Before CC

- Amended Architectural Plan
- Amended Landscape Plan
- Amended Geotechnical Report
- Boundary Identification Survey
- Building Components & Structural Soundness
- Car Parking
- Car Parking Standards
- Compliance with Standards
- Compliance with the Acoustic Report
- Construction Pedestrian Traffic Management Plan
- Construction Traffic Management Plan
- Detailed Design of Stormwater Treatment Measures – Major
- Demolition, Excavation and Construction Noise and Vibration Management Plan
- Emergency Response
- Fencing
- Flood Effects caused by Development
- Floor Levels
- Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans
- Landscape Maintenance Plan
- Mechanical Plant and Equipment
- On Slab Landscape Works
- Pedestrian Conflict Management
- Pedestrian Sight Distance at Property Boundary
- Removal of Redundant Driveways

- Services and Fire Hydrant Enclosure
- Shoring of Council's Road Reserve
- Site Consolidation
- Storage of Goods
- Stormwater Disposal
- Submission of Engineering Plans
- Sydney Water Tap In
- Tanking of Basement Level
- Transport for NSW Requirements
- Tree Protection Specification and Protection Plan
- Utilities Services
- Vehicle Access and Parking
- Waste and Service Vehicle Access (8.8m Medium Rigid Vehicle)

Conditions which must be satisfied prior to the demolition of any building or construction

- AC Units be to located away from the neighbouring property.
- Acoustic Certification of Mechanical Plant and Equipment
- Adjoining Buildings Founded on Loose Foundation Materials
- All Solar Panels and PV systems are to be treated with antireflective glass. Solar glass is to be stippled and light-trapping, with photon-absorbent solar cell attached to the rear side. Angle of reflectivity to neighbours must be considered within final detailed design at construction certificate stage, considering the view from neighbours to the subject site.
- Arborists Documentation and Compliance Checklist
- BASIX Commitments
- Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principle Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)
- Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water
- Compliance with Building Code of Australia and insurance requirements
- Construction Certificate Required Prior to Any Demolition
- Demolition Traffic Management Plan
- Demolition, excavation and construction noise and vibration management plan. A site-specific noise management plan must be submitted to Council for comment and approval prior to issue of any construction certificate.
- Dewatering
- Dilapidation Reports for Existing Buildings: A photographic survey and dilapidation report of adjoining property detailing the physical condition of

the property, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of any Construction Certificate. A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works.

- Electric vehicle circuitry and electric vehicle charging point requirements
- Engineer Certification
- Engineer's Certification of Plans
- Erosion and Sediment Controls – Installation
- Establishment of Boundary Location, Building Location and Datum
- Establishment of Tree Protection Zone (TPZ) Fence
- Geotechnical and Hydrogeological Design, Certification and Monitoring
- Geotechnical Report.
- Ground Anchors
- Hazardous Building Materials Survey
- Home Building Act 1989
- Identification of Hazardous Material
- Landscape of the site. a landscape design documentation package and technical specification for construction by a registered landscape architect, must be submitted to and approved by Council's area coordinator planning assessments / area planning manager prior to the issue of a construction certificate.
- Light and Ventilation
- No Underpinning works
- Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant
- Noise Control - Swimming pool/spa pool pumps and associated equipment [if consented]
- Notification of excavation works or use of high noise emission appliances/plant. The immediately adjoining neighbours must be given a minimum of 48 hours' notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.
- Notification of Home Building Act 1989 requirements
- Parking Facilities
- Payment of Long Service Levy, Security, Contributions and Fees
- Pre-Construction Dilapidation Reports
- Professional Engineering Details

- Project Arborist
- Public Road Assets Prior to Any Work/Demolition
- Reflectivity. Prior to issue of the Construction Certificate the Registered Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.
- Road and Public Domain Works
- Road Occupancy Licence (ROL) from Transport for NSW
- Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection
- Sediment and Erosion Controls
- Site Signs
- Soil and Water Management Plan – Submission and Approval
- Stormwater Management Plan
- Structural adequacy & Excavation work
- Swimming and Spa Pools – Backwash [if consented]
- Swimming and Spa Pools – Child Resistant Barriers [if consented]
- Toilet Facilities
- Tree Management Plan
- Utility Services Generally
- Ventilation - Internal Sanitary Rooms
- Waste Storage – Per Single Dwelling
- WaterNSW General Terms of Approval
- Work Zones and Permits
- Works (Construction) Zone – Approval and Implementation

Conditions which must be satisfied during any development work

- Acid Sulfate Soils
- Asbestos Removal Signage
- Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- Classification of Hazardous Waste
- Compliance with Australian Standard for Demolition
- Compliance with BCA and Insurance Requirements under the Home Building Act 1989
- Compliance with Geotechnical / Hydrogeological Monitoring Program
- Compliance with Preliminary Site Investigation Report
- Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works,
- Condition of Trees
- Critical Stage Inspections

- Disposal of Asbestos and Hazardous Waste
- Disposal of Site Water During Construction
- Dust Mitigation
- Erosion and Sediment Controls – Maintenance
- Footings in the vicinity of trees
- Hand excavation within tree root zones
- Hours of Work –Amenity of the Neighbourhood
- Implementation of Construction Traffic Management Plan
- Implementation of Demolition Traffic Management Plan
- Imported Fill
- Installation of stormwater pipes and pits in the vicinity of trees
- Level changes in the vicinity of trees
- Maintenance of Environmental Controls
- Maintenance of Sediment and Erosion Controls
- Notification of Asbestos Removal
- Off-site Disposal of Contaminated Material
- Off-site Disposal of Contaminated Soil – Chain of Custody
- Ongoing Management of Road Reserve
- Placement and Use of Skip Bins
- Prohibition of Burning
- Protection of Existing Street Trees
- Protection of Sites of Significance
- Public Footpaths – Safety, Access and Maintenance
- Removing, Handling and Disposing of Asbestos
- Replacement/Supplementary trees which must be planted
- Requirement to Notify About New Acid Sulfate Soils Evidence
- Requirement to Notify about New Contamination Evidence
- Requirement to Notify about New Evidence
- Road Reserve
- Road Works and, Work within the Road and Footway
- Site Contamination
- Site Contamination – Acid Sulfate Soils
- Site Cranes
- Site Waste Minimisation and Management – Construction
- Site Waste Minimisation and Management – Demolition
- Staff and Contractor Parking
- Support of Adjoining Land and Buildings
- Survey Certificate
- Survey. All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls

in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work. Reason To ensure the development does not encroach onto neighbouring properties.

- Tree and Vegetation Protection
- Tree Preservation
- Vibration: Monitoring Construction Vibration. Vibrations associated with demolition, excavation and construction works are limited to a tolerance of 3mm/s PPV (peak particle velocity) at the property boundaries (or at sea cliff or cliff adjacent to the subject property). Vibration monitoring equipment is to be installed by a registered Geotechnical Engineer throughout the site and along the boundaries to verify that vibration is within the limits of the maximum tolerance. The vibration monitoring equipment must include a light/alarm, so the site foreman and equipment operator are alerted to the fact that vibration limits have been exceeded. Where the vibration tolerances have been exceeded, works shall cease until a change in construction / excavation methodology are implemented to ensure compliance. It also must log and record vibrations throughout the excavation and construction works so that compliance may be verified. Any monitoring devices are to be installed at the footing level of any adjacent structures.

Conditions which must be satisfied prior to any occupation or use of the building:

- Acid Sulfate Soil Management Confirmation
- Acoustic Design Recommendations
- Allocated Parking Spaces (Retail/Commercial)
- Amenity Landscaping
- Approval
- Building Components and Structural Soundness
- Building Height & FSR: Registered Surveyors Certification
- Building Number(s)
- Certification for the Installation of Stormwater Treatment Measures
- Certification of Civil Works and Works as Executed Data in Accordance with Roads Act
- Certification of Electric Vehicle Charging System
- Certification of Works as Executed
- Commissioning and Certification of Public Infrastructure Works
- Commissioning and Certification of Systems and Works
- Compliance with the acoustic report prior to construction and or occupation certificates
- Condition of Retained Vegetation
- Construction of Works in Road Reserve

- Disabled Parking Spaces
- Encroachments – Neighbouring Properties. No portion of the proposed structure shall encroach onto the adjoining properties.
- Fulfillment of BASIX Commitments – clause 154B of the Regulation
- Geotechnical Certification Prior to Occupation Certificate
- Kitchen Design, Construction and Fit Out of Food Premises Certification
- Landscape Completion
- Landscaping
- Letter Box
- Loading and Delivery Management Plan
- Mechanical Ventilation Certification
- Occupation Certificate (section 6.9 of the Act)
- Positive Covenant and Works-As-Executed Certification of Stormwater Systems
- Positive Covenant for the Maintenance of Stormwater Pump-out Facilities
- Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures
- Post-Construction Dilapidation Report
- Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with the consent, to the satisfaction of the Principal Certifier. Reason. To ensure the constructed development complies with the approved height.
- Registration of Food Business
- Removal of Ancillary Works and Structures
- Road Works (including footpaths)
- Shared Zone Bollard
- Signage and Line-marking – Internal
- Stormwater Disposal
- Stormwater Treatment Measures Operation and Maintenance Plan
- Street Tree Planting
- Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters [if consented]
- Swimming Pool Fencing [if consented]
- Sydney Water
- Works as Executed Drawings – Stormwater Treatment Measures

Conditions which must be satisfied during the ongoing use of the development

- 'No Entry' Signage
- Deliveries and Waste/Recycling Collection
- Flood Emergency Response Procedure
- Hours of Operation

- Implementation of Loading Dock Management Plan
- Landscape Maintenance
- Maintenance of BASIX Commitments
- Maintenance of Stormwater Treatment Measures
- Noise Control
- Noise from mechanical plant and equipment, including swimming pool plant
- Ongoing Maintenance of the Onsite Stormwater Detention (OSD) System, Rain Garden and Rainwater Tank
- Ongoing Noise Management
- Ongoing Operation
- Outdoor Lighting – Residential
- Outdoor Lighting – Roof Terraces [if consented]
- Parking Enclosure
- Parking Spaces
- Swimming and Spa Pools – Maintenance [if consented]

Advising

- Asbestos Removal, Repair or Disturbance
- Builder's Licences and Owner-builders Permits
- Building Standards - Guide to Standards and Tolerances
- Commonwealth Disability Discrimination Act 1992
- Criminal Offences – Breach of Development Consent and Environmental Laws
- Dial Before You Dig
- Dilapidation Report
- Dividing Fences
- Lead Paint
- NSW Police Service and Road Closures
- Pruning or Removing a Tree Growing on Private Property
- Recycling of Demolition and Building Material
- Release of Security
- Roads Act 1993 Application
- SafeWork NSW Requirements
- Workcover requirements