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**Sent:** 15/07/2020 5:41:15 PM

**Subject:** ATTN: Gareth David Avalon Preservation Association Inc. Submission re Revised DA 2020/0318 48 The Serpentine

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**Subject:** DA 2020/0318 48 The Serpentine

Dear Gareth

The Avalon Preservation Association submits the following Submission in respect of the Revised DA 2020/0318

### **Development Controls**

#### **The Pittwater Foreshore Area:**

**Natural scenic views from the Bicentennial Walkway will be preserved.**

**Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.**

The proposed garage will impede views. The encroaching hard stand and garbage bin store are located on the public reserve.

The driveway crossing and retaining walls inhibit safe pedestrian/cycle access.

As this property is on the proposed Coast Walk the DA needs to be assessed in line with proposed plans for the Coast Walk.

**B6.3 Off-street Car Parking Requirements The controls seek to achieve the outcomes: Safe and convenient parking (En, S) This clause requires two off street parking spaces for dwellings with two bedrooms or more. The proposal includes the construction of a double garage to service the dwelling.**

This property -**Bilgola Beach Front House** is listed on **Stayz .com** as a 4 bedroom house accommodating 8 adults. The DA proposes additional bedrooms.

Existing property has parking space for 2 cars within the boundary and a hard stand encroaching on the public reserve.

NBC needs to formulate a Policy for properties used for holiday accommodation to cater for off-street parking.

**C1.3 View Sharing The controls seek to achieve the outcomes: A reasonable sharing of views amongst dwellings. (S) Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S) Canopy trees take priority over views. (En, S)**

The proposed extensions and garage will adversely impact this from the street and surrounding neighbours.

As consequence of the site slope and the location of the existing development, relative to the eastern boundary the proposal will have a breach of the building envelope control.

**C1.6 Acoustic Privacy The controls seek to achieve the outcomes: Noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited. (S) Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or recreation areas (S) The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources.**

Holiday lettings can have significant Impact on the surrounding locality in terms of acoustic privacy.

**D3.6 Front Building Line The controls seek to achieve the outcomes: Achieve the desired future character of the Locality. (S) Equitable preservation of views and vistas to and/or from public/private places. (S) The amenity of residential development adjoining a main road is maintained. (S) Vegetation is retained and enhanced to visually reduce the built form. (En) Vehicle manoeuvring in a forward direction is facilitated. (S) To enhance the existing streetscapes and promote and scale and density that is in keeping with the height of**

**the natural environment. To encourage attractive street frontages and improve pedestrian amenity. To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment**

The proposal is subject to a minimum front setback of 6.5m. The proposed garage will be sited between 600m and 1900mm from the front boundary, resulting in a non-compliance with the setback control.

Notwithstanding, clause D3.6 permits a variation to the front setback where car parking is provided on steeply sloping sites, while all other structures must achieve a minimum 6.5m setback.

The existing hardstand car parking satisfies the variation. The proposed garage does not.

### **3.9 Building Envelope**

As noted in the submitted elevations, the proposal will present a variation to the building envelope control to the north-eastern elevation and the south-eastern extremity of the south-western elevation.

The required controls require a minimum landscaped area of 60%. The revised proposal provides a landscaped area of 330.9m<sup>2</sup> or 46.2%, which does not comply with the control.

### **D3.15 Scenic Protection Category One Areas**

The controls seek to achieve the outcomes: To achieve the desired future character of the Locality. Achieve the desired future character of the Locality. (En, S) To preserve and enhance the visual significance of district and local views of Pittwater's natural topographical features such as, ridges, upper slopes and the waterfront. (En, S). Maintenance and enhancement of the tree canopy. (En, S) Colours and materials recede into a well vegetated natural environment. (En, S) To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape **with built form being a secondary component**. (En, S) To preserve and enhance district and local views which reinforce and protect the Pittwater's bushland landscape and urban form to enhance legibility. To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping. To ensure sites are designed in scale with Pittwater's bushland setting and encourages visual integration and connectivity to natural environment. **Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.**

The case for variation to the front setback, eastern elevation building envelope control and landscaped area controls are not convincing. Alternative solutions, where the site conditions results in a challenge to designing for new development which fully respects the front setback and landscaped area criteria need to be developed.

**7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.** It is considered that the proposal, which seeks consent for proposed construction of alterations and additions to an existing dwelling including new double garage, will impact upon the amenity of adjoining properties and upon the character of the surrounding area.

**Background Pittwater LEP 2014 – Clause 4.3 prescribes a maximum building height for the subject site of 8m in this portion of Bilgola Beach. This control is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.** The south-eastern extremity of the proposed low pitch skillion roof which has been included in the revised design will provide a height of 8.45m above natural ground level which exceeds Council's maximum building height by 0.450m or 5.6% and therefore does not comply with this control. The controls of Clause 4.3 are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

We do not agree that a case to exceed the Height Controls has been made nor is in the Public Interest. We do not agree variations that support precedents which render the LEP invalid.

The applicants consultant sites legal arguments for varying this control, which demonstrates the danger of agreeing to precedents ie

**20. A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: *Wehbe v Pittwater Council* at [47]. 21.**

**The E4 Environmental Living Zone contemplates low density residential uses on the land within an area that has special ecological, scientific or aesthetic values.**

While bed and breakfast accommodation is approved with consent in E4 zones, if the intent of a development is to increase the scope for commercial accommodation activity in a residential zone then we do not consider it to be in the Public interest to vary the Development Controls.

We expect NBC will strictly enforce all Development Controls applying to this application.

Regards

Ros Marsh for the

Management Committee

Avalon Preservation Association Inc.