
Sent: 4/10/2019 2:44:38 PM
Subject: RE: Submission - DA 2019/0904 - 2035 Pittwater Rd, Bayview - sau.pit203b
Attachments: sau.pit203b3_objection_TGPLB_031019.pdf;

Dear Jordan,

Thanks for getting back to me, much appreciated.

I herewith attach our opposing submission for the DA2019/0904, 2035 Pittwater Rd, Bayview.

Please acknowledge you have received this opposing submission document.

Thank you,
Kind Regards,

Tia Gao
BA (UTM), M Plan (UNSW)
Town Planner



TOWN PLANNERS

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From: Jordan Davies <Jordan.Davies@northernbeaches.nsw.gov.au>
Sent: 4 October, 2019 11:57 AM
To: Tia Gao <tia@turnbullplanning.com.au>
Subject: RE: Submission - DA 2019/0904 - 2035 Pittwater Rd, Bayview - sau.pit203b

Hello Tia,

Apologies for the delayed response.

I have requested the applicant erect height poles and provide confirmation by a registered surveyor. I have given the applicant 14 days (from today) to undertake this.

Therefore, I am happy to accept a late submission following the erection of the height poles. Once they have been put up, I will you.

Please don't hesitate to contact me should you need to discuss.

Kind Regards,

Jordan Davies

Planner

Development Assessment

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From: Tia Gao <tia@turnbullplanning.com.au>

Sent: Thursday, 26 September 2019 10:17 AM

To: Jordan Davies <Jordan.Davies@northernbeaches.nsw.gov.au>

Subject: Submission - DA 2019/0904 - 2035 Pittwater Rd, Bayview - sau.pit203b

Importance: High

Dear Jordan,

I hope this email finds you well.

My name is Tia GAO, a town planner from Turnbull Planning International Pty Ltd.

We act on behalf of the owner of No 2035 Pittwater Road, Bayview and we are writing to you about DA 2019/0904.

We have recently visited our clients property to assess impacts and we have formed the opinion that there will be a significant view loss caused by the proposed development, amongst other impacts. As such we are currently preparing a submission by way of objection on behalf of our client, relating to the DA.

To assist generally, would it be possible for height poles to be erected, particularly as regards the westerly extension of the proposed building footprint?

Thank you,
Kind Regards,

Tia Gao

BA (UTM), M Plan (UNSW)

Town Planner




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Northern Beaches Council

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3 October 2019

Chief Executive Officer
Northern Beaches Council
PO Box 882
MONA VALE NSW 1660

BY EMAIL AND POST

Dear Chief Executive Officer

**DEVELOPMENT APPLICATION DA 2019/0904
CONSTRUCTION OF A DWELLING HOUSE, SECONDARY DWELLING
AND SWIMMING POOL AT NO 2033 PITTWATER ROAD BAYVIEW**

We are consultant town planners and act on behalf of Mr Mark Saul ('our client'), the owner of No 2035 Pittwater Road Bayview ('our clients' property').

PURPOSE OF THIS DOCUMENT

This document is a submission by way of objection to Development Application DA 2019/0904 (the 'development application') relation to No 2033 Pittwater Road Bayview (the 'subject property').

INTRODUCTION & BACKGROUND

The council is currently considering a development application in respect of the subject property.

The development application seeks consent for demolition of the existing dwelling house, and construction a new dwelling house, secondary dwelling and swimming pool (the 'proposed development' or 'proposal').

Our client's property is directly adjacent to, and to the south of the subject property. Our clients property is accessed off Pittwater Road via an existing hatchet handle.

As mentioned above, this submission constitutes an objection to the development application as lodged.

SITE LOCATION AND DESCRIPTION

The subject property is legally described as Lot 1 in Deposited Plan 562577 and is known as No 2033 Pittwater Road Bayview.

The property is some 1002 sqm in area. It is a single parcel of land located on the southern side of Pittwater Road. The slope gradually increases from the road frontage towards the rear boundary.

Currently situated on the subject property is a part single and part two-storey building (comprising a dwelling house) constructed of brick and with a metal roof.

The site is surrounded by residential development consisting of one and two-storey dwelling houses.

Annexure 1 provides a location plan showing the spatial relationship between the subject and our client's property.

Annexure 2 provides a photographic palette containing a number of photos showing the site, our client's dwelling house and other surrounding properties.

THE DEVELOPMENT PROPOSAL

The development application proposes the demolition of the existing structure and construction of a new two storey dwelling with attached upper level 'secondary dwelling' and a swimming pool. The proposed dwelling house is to be located towards the rear of the site where the views looking north towards Pittwater are greater than the lower parts of the site.

NATURE OF SUBMISSION

In preparing this submission we have considered the following legislation, regulations and other statutory instruments and documents:

- *Environmental Planning and Assessment Act 1979 ('EPAA');*
- *Environmental Planning and Assessment Regulation 2000;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- *Pittwater Local Environmental Plan 2011 ('PLEP');* and
- *Pittwater 21 Development Control Plan 2014 ('PDCP').*

We have reviewed the development application and the various reports, plans and other documents accompanying or otherwise associated with the proposal.

We have also undertaken an inspection of our client's property and the area in which the subject property is located.

During that inspection we were able to gain appreciation of the impact of the proposed development on our client's property and the use and enjoyment by our client of his own land.

Having considered the subject property and its surrounds and the details of the development application currently before Council, it is our opinion that the proposal, in its present form, does not warrant support.

As mentioned above, this submission constitutes an objection to the development application as lodged (refer to Page 2).

This submission details the various ways the proposed development lacks finesse and a reasonable consideration for the amenity of the land itself, the local environment, surrounding properties, and in particular, our client's property.

The objection is based on various grounds detailed in the following paragraphs.

STATUTORY AND PDCP PROVISIONS

The relevantly applicable local statutory environmental planning instrument is PLEP, with the subordinate control being PDCP. The subject property is identified as being within the Church Point and Bayview Locality.

The subject property is zoned E4 Environmental Living under the *Pittwater Local Environmental Plan 2014* (PLEP).

The erection of a 'dwelling house with attached secondary dwelling' is permissible development with consent in the E4 zone and subject to the exercise of discretion by Council as the consent authority. This is based on an assessment of the scheme under the various development controls, the zone objectives, the development standard objectives, and on merit.

The E4 zone is a zone in which any development must respond sensitively to environmental constraints including both ecological and aesthetic issues and is intended to accommodate low-impact residential development.

The proposed development is a two-story dwelling house with an attached secondary dwelling at the top level. By virtue of PLEP, the maximum permissible height of a building that may be erected on the site is 8.5m. To assist generally, we request that Council ask the applicant to erect height poles, particularly as regards the westerly extension of the proposed building

footprint. The applicant should also augment the drawing set with suitable sections of the building to allow an easy understanding of height above NGL.

Details of non-compliances with controls are provided in the paragraphs below.

SOLAR ACCESS

The proposed development results in overshadowing to our clients' north facing private open space and some of our clients living space on June 21st at 9:00 am (refer to the architectural plan, DA-1601). In this case, there is no doubt that the impacts arise from the height of the proposed development, notwithstanding its purported compliance with the height control. We request that Council carefully take into consideration the impacts of the proposed building height resulting in solar access impacts.

SETBACK & BUILDING ENVELOPE

The proposed development results in non-compliances with control D4.6 of PDGP Side and Rear Boundary building line, which requires a 6.5m rear setback for built structures including pools and parking structures, other driveways, fences and retaining walls for all land in E4 zone.

The development fails to comply with the building envelope control at D4.8 of the PDGP.

A deck located at the rear of the proposed building, has a setback of only 2.3m (refer to the architectural plan, DA-1002). There is also excavation close to the rear boundary of the property. The submitted SEE, acknowledges the excavation but fails to provide information as to the distance this will be from the common boundary. We note the depth of excavation is some 2.2m. On the architectural plans, the setback of the deck and the setback of the excavated area are not detailed sufficiently to permit a proper assessment. The active space provided by the deck may lead to acoustic privacy impacts. It will also itself be overshadowed by the new building. As such the proposal fails to achieve the outcomes of 'ensuring a reasonable level of privacy, amenity and solar access'. We also note that the excavation proposed should be additionally detailed. A dilapidation report should have accompanied the development application.

We request that the Council carefully take into consideration the non-compliance with the rear setback control, and the extent and proximity of excavation to the common boundary.

LANDSCAPED AREA

The proposed development results in a non-compliance with control D4.10 of PDCP Landscaped Area – Environmentally Sensitive Land, the subject property is identity Area 1, the total landscaped area on land zoned E4 Environmental Living is required to be 60% of the site area.

The proposal results in 50.05% of the site comprising landscaped area. The submitted SEE has made comment that the proposal provides for a landscaped area of 501.6 m² (50.05%), with the pathways and impervious landscaped areas included this is increased to 549/9 m² (54.9%).

The above gross non-compliance represents a serious deficiency in the proposal particularly given the fact that two dwellings are proposed for the site.

VIEW SHARING

The proposed development will result in a loss of views to the north from our client's property.

The proposed new dwelling house, especially the bulk at the upper level where it extends to the west of the site, will result in significant view loss.

The submitted SEE has made a comment that 'It is noted that the northwest boundary adjoins an access handle. The setback provided in conjunction with the access handle ensure that a view corridor is maintained and that substantial view from No 2035 will be maintained'. With respect to the author or authors of the SEE, that is simply stretching the facts, and putting a gloss on the truth. It is a fact that the additional bulk of the building as it extends west, will significantly compromise existing views for our client. Indeed, this issue alone is a good reason for Council officers to thoroughly investigate the level of view loss which will occur from our client's property and consider requiring the applicant to explore ways of increasing the westerly setback of the structure.

Three earlier decisions of the Land and Environment Court of NSW which focus on the issue of loss of view are considered relevant to an examination of this aspect of the matter in addition to the more recent 'planning principles' espoused in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 ('Tenacity'). The earlier decisions are *Stevens v North Sydney Council* No 10454 of 1989, *Jove Industries v North Sydney Council* No 10249 of 1992 and *The Presbyterian Church (NSW) Property Trust v Woollahra Municipal Council* No 10026 of 1994.

The earlier decisions relate, in significant part, to the question of view loss in respect of properties located in the immediate vicinity of the Sydney Harbour foreshore. In each of these cases, it is noted that the Court considered that the issue of views was critical in terms of determination of the relevant development application, one way or the other. The issue of view loss appears to have gained even greater prominence as being relevant and important with the effluxion of time, in terms of planning assessment generally.

In *Tenacity* the Court established a series of tests to be applied in relevant planning assessments. We will proceed to analyse the view loss that would be likely in this particular case, in the context of that which is proposed in the development application, and sequentially apply the four relevant tests that were enunciated by the Court. The following is a view assessment undertaken in accordance with the process adopted by then Senior Commissioner Roseth.

Test 1: View Assessment

'The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.'

The important view available to our client's properties is to the north and west towards Pittwater. North east views have already been eliminated by the existing building. The view includes an attractive vista towards Lion Island and Scotland Island (see **Annexure 2**). The views are valuable and dramatic and contain significant locally iconic features. The proposed development is likely to remove a significant part of the view of Pittwater.

Test 2: Location of Views

'The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic'.

Views from our client's property are to the north and west and are from living areas and outdoor recreational spaces. In this case the views are from the front property boundary of our clients land. The current views, both north

and west, are highly valuable. Views are obtained from both sitting and standing positions internally and externally.

Test 3: Extent of Impact

'The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.'

In our opinion, the view loss that would be experienced by our client would be assessed as moderate to severe. The assessment is based on a number of factors including the position of the respective dwelling houses relative to the existing view corridors, the degree of view loss in terms of the internal and external principal living spaces of those dwelling houses, the affect in terms of iconic elements and the fact that from those living areas our clients will almost completely lose their current 'highly valued' view. The proposed westerly extension of the building will result in a great deal of the view to Pittwater being lost. Although 'other' views may be retained, the extent of the impact is, in our opinion at the high end of moderate and the low end of severe.

Test 4: Reasonableness

'The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.'

The building height of the development proposal is such that it does cause a view loss impact of our client's property. The proposal will result in a dwelling house which is at the maximum height with intrusive elements projecting above and out of character with the locality. We note that our client does

accept that there will be some level of view loss as a result of the proposal, however the building massing needs to be altered.

CONCLUSION

Looked at individually, the environmental impacts of the proposed development as reflected in the numerical controls, in terms of how they would affect our client's property, might possibly be seen to be not of sufficient weight to render the proposed development completely unacceptable in an environmental context. However, in a 'cumulative sense', and bearing in mind the objectives of the PLEP and PDCP, the adverse consequences of this development lead us to conclude that the proposed development is unacceptable in its current iteration. In this context, the development proposal is not sufficiently sensitive to its surrounds, nor does it respond at an appropriate level to the character of the local area, so as to warrant a grant of development consent.

In our opinion, the proposal would require modifications the massing of the building to render it more acceptable.

On behalf of our client, we request that the Council give proper and genuine consideration to the various points made in this submission by way of objection.

Our client's reserve all of their rights and entitlements with regard to this matter.

Yours faithfully,

TURNBULL PLANNING INTERNATIONAL PTY LIMITED



Tia Gao

BA (UTM) M Plan (UNSW)

Town Planner

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Pierre Le Bas

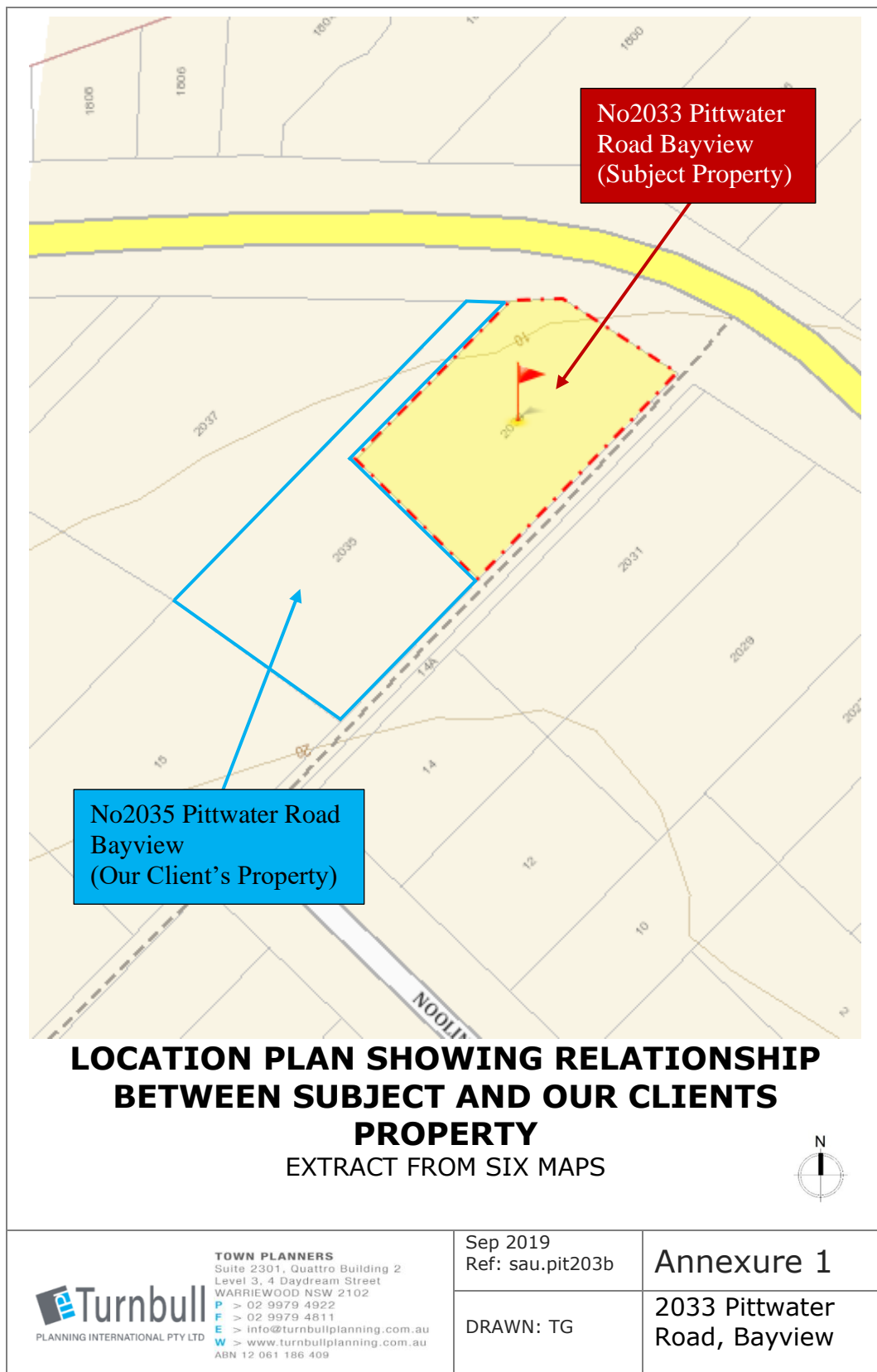
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ANNEXURE 1



ANNEXURE 2



PHOTOGRAPH 1 – Existing dwelling house on the subject property, with our client's property behind (right of frame)



PHOTOGRAPH 2 – View of the locality from street frontage



PHOTOGRAPH 3 – Looking at the view to the north west from our client's pool deck



PHOTOGRAPH 4 – View to the north that will be impacted by new building



PHOTOGRAPH 5 – View of the main private open space at the front of our client’s property



PHOTOGRAPH 6 – Looking over the existing dwelling house from upper level of our client’s property



PHOTOGRAPH 7 – Looking at the existing dwelling house from our client's bedroom



PHOTOGRAPH 8 – View from upper level living area of our client's property