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Subject: #1 Bilambee Lane, Bilgola Plateau DA 2020 1351 WRITTEN SUBMISSION:
LETTER OF OBJECTION #2 Submission: Garner & Sutherland

Attachments: Garner & Sutherland 031220.pdf;

SUBMISSION: GARNER & SUTHERLAND
a written submission by way of further objection to DA 2020/1351

Mr John Garner
112 Plateau Road
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6 December 2020

Chief Executive Officer
Northern Beaches Council
725 Pittwater Road
Dee Why
NSW 2099

Northern Beaches Council
council@northernbeaches.nsw.gov.au

Dear Chief Executive Officer,

Re:
#1 Bilambee Lane, Bilgola Plateau
DA 2020 1351

WRITTEN SUBMISSION: LETTER OF OBJECTION #2
Submission: Garner & Sutherland

This document is a written submission by way of objection to DA 2020/1351 lodged under Section 4.15 of the EPAA 1979 [the EPA Act]

In our earlier November 2020 Submission, we referred to the custom and practice of Council to generally refuse Shop Top Housing DA where they exceed the maximum building height. We stated:

We bring to the attention of Council previous refusals of Shop Top Housing DA, where similar non-compliant maximum building heights above controls were express reasons for refusal by Council.

- *DA 2019 0512, requested additional units above the maximum building height and that DA was refused by NBLPP on 1 April 2020.*
- *DA 2019 0845, requested additional units above the maximum building height and that DA was refused by NBLPP on 5 February 2020.*

- *DA 2019 0663, requested additional units above the maximum building height and that DA was refused by NBLPP on 27 November 2019.*

There is consistency within Council to refuse Shop Top Housing DA where they exceed the maximum building height, and in this particular DA the excessive height causes amenity harm. DA 2018 1870, and DA 2018 1669 are other recent refusals by NBLPP.

We bring to the attention of Council Officer's deliberation on another Shop Top Housing DA in Whale Beach, in a sensitive area, where strict adherence to the main height, setback and envelope controls is being enforced through amended plan submission:

- *DA 2020 0442; 231 Whale Beach Road Whale Beach*

Not only does the proposed development grossly exceed maximum building height in a sensitive zone, but it also exceeds density controls. We address that in the following section.

On these matters alone the DA must be REFUSED.

Since our Submissions were lodged, **DA 2020 0442; 231 Whale Beach Road Whale Beach** has been **formally refused by NBLPP** on 2 December 2020.

We need to correct the detail relating to this DA as noted within our Submissions, as Council will note that amended plans were not formally accepted by Council on that DA, and the submitted plans were determined by NBLPP, and refused.

It is important to note that *DA 2020 0442; 231 Whale Beach Road Whale Beach*, presented compliant Principle Development Standards including Height of Buildings and Density Controls.

This DA on this subject site, **DA 2020 1351; I Bilambee Lane, Bilgola Plateau** is presenting substantial non-compliance to both the Principle Development Standards including Height of Buildings and Density Controls.

DA 2020 0442; 231 Whale Beach Road Whale Beach was refused on 2 December 2020 for the following reasons:

1. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Flat Development and its associated Apartment Design Guide.*
2. *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 Clause 7.7 Geotechnical hazards of the Pittwater Local Environmental Plan 2014.*
3. *Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the Desired Future Character of the location and is an over-development of the site.*
4. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.3 View Sharing of the Pittwater 21 Development Control Plan.*

5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.1 Character as viewed from a public place of the Pittwater 21 Development Control Plan.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.6 Side and rear building line of the Pittwater 21 Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.14 Scenic Protection Category One Areas of the Pittwater 21 Development Control Plan.

Council has been consistent in ensuring that land zoned B1 that interfaces with low density residential development is a unique consideration, and must fully respect and comply with the criteria of the 'Apartment Design Guide' as required by SEPP 65, the LEP and DCP.

It is for this reason we contend the DA must be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Flat Development and its associated **Apartment Design Guide**.
2. 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 **Clause 1.2 Aims of the Plan** of the Pittwater Local Environmental Plan 2014.
3. 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 **Clause 4.3 Building Height** of the Pittwater Local Environmental Plan 2014.
4. 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 **Clause 4.5A Density Controls Building Height** of the Pittwater Local Environmental Plan 2014.
5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the **Desired Future Character of the location and is an over-development of the site**.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause C1.1 Landscaping** of the Pittwater 21 Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause C1.3 View Sharing** of the Pittwater 21 Development Control Plan.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause C1.4 Solar access** of the Pittwater 21 Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause C1.5 Visual privacy** of the Pittwater 21 Development Control Plan.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause C1.6 Acoustic privacy** of the Pittwater 21 Development Control Plan.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause C1.24 Public Road Reserve** of the Pittwater 21 Development Control Plan.

12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause C1.25 Plant** of the Pittwater 21 Development Control Plan.
13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause D3.1 Character as viewed from a public place** of the Pittwater 21 Development Control Plan.
14. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause D3.6 Front building line** of the Pittwater 21 Development Control Plan Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause D3.7 Side and rear building line** of the Pittwater 21 Development Control Plan.
15. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause D3.9 Building Envelope** of the Pittwater 21 Development Control Plan.
16. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of **Clause D3.15 Scenic Protection Category One Areas** of the Pittwater 21 Development Control Plan.

The six previous refusals of Shop Top Housing DA, referred to above, both by Council and NBLPP, give a very consistent approach in ensuring that land zoned B1 that interfaces with low density residential development is a unique consideration, and must fully respect and comply with the criteria of the 'Apartment Design Guide' as required by SEPP 65, the LEP and DCP, and above all must be *sympathetic and sensitive to the low-density environs*.

The Council Officer's Assessment Report on **DA 2020 0442; 231 Whale Beach Road Whale Beach** summarised the situation very well:

The proposed development has been conceived on the basis that the subject site is a unique site, being a single parcel of land zoned B1 that interfaces with low density residential development on all sides.

This site should be developed to some extent in a special manner with strong definition to the public roads and a built form that emphasizes its unique status, but this should be carried out in a manner which is sympathetic and sensitive to the low-density environs and sensitive Pittwater location of the site.

For the reasons stated above, and within our earlier Submissions, we ask Council to REFUSE this DA.

Yours sincerely,

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