

SUBMISSION

a written submission by way of objection

BILL TULLOCH BSC [ARCH] BARCH [HONS1] UNSW RIBA RAIA

prepared for

MICHAEL STILL AND MARIA MCCROSSIN

4 September 2023

NORTHERN BEACHES COUNCIL
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RE: DA 2022/1715
60 HUDSON PARADE CLAREVILLE NSW 2107
WRITTEN SUBMISSION: LETTER OF OBJECTION
AMENDED PLANS

Dear Sir,

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 by Maria McCrossin & Michael Still, 62 Hudson Parade, Clareville to prepare an objection to this DA.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, we ask Council to REFUSE this DA.

I refer to the submission dated 24 November 2022.

I refer to amended architectural plans dated 28 August 2023: Revision C.

The amended plans do not resolve the issues raised within the earlier submission.

- Partial Destruction of a notable Bruce Rickard Gem;
- Heritage Conservation Concerns – as raised within our 24 November 2022 submission;
- Unacceptable Character;

The subject site is zoned C4 Environmental Living under the LEP, and there is no reason, unique or otherwise why a fully compliant solution to LEP and DCP 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 our property.

- Unacceptable Adverse Solar Impacts, caused by excessive built form in the 2.5m southern side setback zone and side boundary envelope plane;
- Unacceptable Adverse Visual Privacy Impacts, caused by excessive glazed opening windows to the southern elevation;
- Unacceptable Adverse Visual Bulk and Scale Impacts, by the relentless 50m long southern façade;
- Unacceptable Adverse Landscape Impacts, by impacts to neighbour's trees by excavation and built form into the tree protection zones;
- Unacceptable Adverse Engineering Impacts, by excessive excavation in the southern 2.5m side setback zone. Incomplete geotechnical recommendations in Geotechnical Report.

The proposed development includes non-compliant built form in the southern side boundary envelope zone, and southern 2.5m side setback zone. The 2.5m side setback control must be allotted to the southern boundary to reduce solar impacts.

The proposed development represents an unreasonably large dwelling house design, for which there are design alternatives to achieve a reasonable development outcome on the site without having such impacts.

The proposed development does not satisfy the objectives of the zone or contribute to a scale that is consistent with the desired character of the locality and the scale of surrounding development.

The Applicant has not provided adequate protection to my clients' property from excessive excavation and potential land slip and damage to my clients' property, including excessive vibration limits, lack of full-time monitoring of the vibration, incomplete dilapidation report recommendations, incomplete attenuation methods of excavation, exclusion of excavation in the setback zone, exclusion of anchors under my clients' property, and incomplete consideration of battering in the setback zone. My clients ask for the Geotechnical Report to be updated to include these matters, and the recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report are to be incorporated into the construction plans.

I note that the intent of the proposal is to maintain the existing roof height at RL 16.00, however on Drawing DA 201 Rev C, there remains a note that the roof will be raised 350mm. This notation is required to be deleted.

My clients ask for further amendments to reduce the proposed development as follows:

1. Preserve & maintain the existing Bruce Rickard Dwelling, with no demolition of any zone. No extension of the existing Bruce Rickard Dwelling to the south. Maintain existing southern side setback as designed by Bruce Rickard. Heritage Report has not been completed by applicant.
2. New secondary pavilion of accommodation to the street, to be reduced in size and comply with 6.5m front setback control and 2.5m southern setback control.
3. Relocate the connecting 'Gallery' to a central location in the middle of the site, with a 5m side setback to the southern boundary, to avoid the 50m+ long relentless wall to the south. Use materials in dark tones to ensure the 'Gallery' recedes in view from the south. Failing that outcome, delete 'Gallery'.
4. Delete excavated drying area to southern elevation.
5. No excavation or fill in the southern 2.5m side setback zone.
6. Delete excessive excavation & built form in the Tree Protection Zones of Neighbours Trees I, J, K, & L. Root mapping has not been carried out. No updated Arborist Report submitted.
7. Increase planting height and density to the Internal Courtyard facing south, and to the Swale facing south, and to the complete southern boundary, to design landscape in height to match proposed wall heights.
8. New Windows to the south elevation are to have 1.65 high sills, measured from the internal FFL, as the proposed windows open and will cause privacy problems.

My clients ask for a complete set of Conditions to be included within any consent, including, but not limited to, the following:

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

- Acoustic Certification of Mechanical Plant and Equipment
- Arborists Documentation and Compliance Checklist
- BASIX Commitments
- Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water
- Construction Certificate Required Prior to Any Demolition
- Demolition and Construction Management Plan
- Electric vehicle circuitry and electric vehicle charging point requirements
- Engineer Certification
- Establishment of Tree Protection Zone (TPZ) Fence
- Geotechnical and Hydrogeological Design, Certification and Monitoring
- Ground Anchors
- Identification of Hazardous Material
- 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
- Parking Facilities
- Payment of Long Service Levy, Security, Contributions and Fees
- Professional Engineering Details
- Public Road Assets Prior to Any Work/Demolition

- Road and Public Domain Works
- Soil and Water Management Plan – Submission and Approval
- Stormwater Management Plan
- Swimming and Spa Pools – Backwash
- Swimming and Spa Pools – Child Resistant Barriers
- Tree Management Plan
- Ventilation - Internal Sanitary Rooms
- Utility Services Generally
- Waste Storage – Per Single Dwelling

Conditions which must be satisfied prior to the commencement of any development work

- Adjoining Buildings Founded on Loose Foundation Materials
- Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)
- Compliance with Building Code of Australia and insurance requirements under the
- Dilapidation Reports for Existing Buildings
- Erosion and Sediment Controls – Installation
- Establishment of Boundary Location, Building Location and Datum
- Home Building Act 1989
- Notification of Home Building Act 1989 requirements
- Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection
- Site Signs
- Toilet Facilities
- Works (Construction) Zone – Approval and Implementation

Conditions which must be satisfied during any development work

- 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 Council's Specification for Roadworks, Drainage and
- Compliance with Geotechnical / Hydrogeological Monitoring Program
- Miscellaneous Works, Road Works and, Work within the Road and Footway
- Critical Stage Inspections
- Disposal of Site Water During Construction
- Disposal of Asbestos and Hazardous Waste
- 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

- Installation of stormwater pipes and pits in the vicinity of trees
- Level changes in the vicinity of trees
- Notification of Asbestos Removal
- Maintenance of Environmental Controls
- Placement and Use of Skip Bins
- Prohibition of Burning
- Public Footpaths – Safety, Access and Maintenance
- Replacement/Supplementary trees which must be planted
- Requirement to Notify about New Evidence
- Site Cranes
- Site Waste Minimisation and Management – Construction
- Site Waste Minimisation and Management – Demolition
- Support of Adjoining Land and Buildings
- Tree Preservation
- Vibration Monitoring

Conditions which must be satisfied prior to any occupation or use of the building
(Part 6 of the Act and Part 8 Division 3 of the Regulation)

- Amenity Landscaping
- Certification of Electric Vehicle Charging System
- Commissioning and Certification of Public Infrastructure Works
- Commissioning and Certification of Systems and Works
- Occupation Certificate (section 6.9 of the Act)
- Letter Box
- Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters
- Swimming Pool Fencing

Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

- Fulfillment of BASIX Commitments – clause 154B of the Regulation
- Landscaping
- Positive Covenant and Works-As-Executed Certification of Stormwater Systems
- Removal of Ancillary Works and Structures
- Road Works (including footpaths)

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

- Maintenance of BASIX Commitments
- 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
- Outdoor Lighting – Residential
- Outdoor Lighting – Roof Terraces
- Swimming and Spa Pools – Maintenance

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
- 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

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 Council from granting consent to this proposal in this instance.

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

- 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 EPIs
- Inconsistent with the objects of the EPAA 1979

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.

My clients trust that Council will support my clients' submission and direct the proponent to modify the DA plans, as outlined above. My clients ask Council Officers

to inspect the development site from my clients' property so that Council can fully assess the DA.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, my clients' ask Council to REFUSE this DA.

Yours faithfully,

Bill Tulloch

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