
Sent: 30/06/2021 4:14:15 PM
Subject: 1102 Barrenjoey Road the fish shop.pdf submission
Attachments: 1102 Barrenjoey Road the fish shop.pdf;

Richard West



The Palm Beach & Whale Beach Association Inc.
www.pbwba.org.au | PO Box 2 Palm Beach NSW 2108

Mr Ray Brownlee
General Manager,
Northern Beaches Council
PO Box 82
Manly NSW 1655,

Dear Mr Brownlee,

1102 Barrenjoey Road, Palm Beach – The Fish Shop – Mod2021/0203

Mod2021/0203, the proposal to change the approval in 2014 (N0119/14) is fundamentally flawed in that it does not reflect the 2014 modification of the development consent of 2014 with its increased height, density, footprint, reduced setbacks, a longer and wider building. It needs to be redesigned and re-proposed as a new Development Application to reflect the community's expectations for a reasonable urban design result reflecting a context adjacent to Barrenjoey House, a 100 year old heritage building in the conservation precinct of Pittwater Park. The modification has no relevance to the original and must fail.

Density

The density issue is particularly important with a 50% increase contrary to Senior Commissioner Moore in Jacques Ave Bondi Pty Ltd v Waverly Council (No.2) (2004) NSWLEC relied upon Moto Projects in the determination, involving an increase to the number of units in this development by 5 to a total of 79. Moore concluded the degree of change did not result in a development which was not substantially the same, despite the fact that the case the changes included an overall increase in height of the building. Moore relied upon a quantitative and qualitative assessment of the changes as determined by the Moto test.

Using the above case as a benchmark (as the proponent has done) an increase from 4 to 6 units (a 50% increase) is commensurate with an increase from 74 to 79 units (6.7% increase). There is no serious comparison for the current mod2021/0203 against the original approval and the modification must fail.

Height:

The justification given for increased height is a need for an adjustment to height of rooms to accord with the Apartment Design Guide (ADG). This is a requirement as a result of the apartments being increased in number and not relevant in justifying the current modification.

Footprint:

The original approval was predicated on a flat site as evidenced by photos in the approval and did not rely on the adjacent sloping bank. The height limit was 8.5m without any variance for slope. The proposal has breached nominal height limit because of an increased footprint to accommodate larger apartments that required going into the bank at the back of the site with the need then to seek a variance. This wasn't required in the original modification and has resulted in a significant change that is not justified in the current proposal.

Length:

The length of the proposal has been increased and is dominant against both neighbours because of the increase apartments and built form. Again, this is a significant departure from the original approval and needs to be addressed in a new DA.

Setback:

The setbacks in the original modification have been based on a different envelope that did not require modification for 4 units. Setbacks from the street and at both ends, including according to the DCP have been breached because of the increased accommodation have changed the design beyond a modification of the original.

Urban Design:

We are alarmed at the statements repeatedly claimed in the Statement of Environmental Effects that the current proposal has anything to do with its context next to perhaps the most important building in Palm Beach, Barrenjoey House. In terms of appropriate built-form, density, Scale, envelope, footprint, massing, setbacks and excessive and oversized accommodation,... it has failed the community and the intent of the DCP to be a worthy part of the precinct.

Each of these issues demonstrate that the current modification is not a modification at all but a significant departure requiring a new Development Application. We respectfully request you to re-evaluate this important proposal on behalf of the community.

Yours Sincerely,

Prof. Richard West

President

Palm Beach and Whale Beach Progress Association