
From: BT
Sent: 13/01/2022 7:43:18 PM
To: Council Northernbeaches Mailbox
Cc: Maclin
Subject: RE: DA 2021 2362 1105 Barrenjoey Road Palm Beach WRITTEN
SUBMISSION: LETTER OF OBJECTION SUBMISSION: CLINTON
Attachments: CLINTON WS.docx;

SUBMISSION: CLINTON

a written submission by way of objection

William Clinton
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NSW

12 January 2022

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RE: DA 2021 2362 1105 Barrenjoey Road Palm Beach
WRITTEN SUBMISSION: LETTER OF OBJECTION
SUBMISSION: CLINTON

Dear Sir,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

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.

We are being assisted by a very senior experienced consultant in the preparation of this Written Submission.

CONTENTS

EXECUTIVE SUMMARY

FACTS

1. The Proposal
2. The Site
3. The Locality & Our Property
4. The Controls

CONTENTIONS THAT WARRANT THE REFUSAL OF THE APPLICATION

1. Lack of statutory power
2. Character
3. Building Height
4. Setback
5. Impacts Upon Adjoining Properties: Privacy
6. Impacts Upon Adjoining Properties: Excessive Bulk
7. Impacts Upon Adjoining Properties: Landscaping
8. Contentions that may be resolved by amended plans
9. Contentions that relate to a lack of information
10. Reasons For Refusal

CONCLUSION

EXECUTIVE SUMMARY

The design of the Shop Top Housing scheme does not ensure that the existing high levels of amenity to our property is retained in relation to visual bulk and privacy.

The proposal is considered to be inappropriate within the streetscape.

The subject site is zoned B2 Local Centre 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.

- Visual Privacy
- Excessive Bulk
- Unacceptable Landscape Provision

The proposed development fails to meet Council's planning controls, the objectives and the merit assessment provisions relating to:

- Building Height 10.96m proposed v 8.5m control [28.9% non-compliance]
- Front Setback 1.0m proposed v 3.5m control [350% non-compliance]

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

A compliant building design would reduce the amenity impacts identified.

We agree with Roseth SC in NSWLEC *Pafbum v North Sydney Council*:

"People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime."

The 'legitimate expectation' that we had as a neighbour was for a development that would not result in very poor amenity outcomes caused directly from the non-compliance to building envelope controls.

We want to emphasise the fact that we take no pleasure in objecting to our neighbour's DA.

We are objecting because the proposed DA has a poor impact on the amenity of our property, and the urban design outcomes within the streetscape, and this is caused by the DA being non-compliant to controls.

If the DA was fully compliant to all controls our amenity loss would be more reasonable.

It does seem unreasonable that the Applicant wishes to remove our amenity to improve his own, and is proposing non-compliant outcomes that would seriously adversely affect our amenity.

The proposal does not succeed when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this Submission, does not succeed on merit and is not worthy of the granting of development consent.

We ask Council to seek modifications to this DA as the proposed development does not comply with the planning regime, by non-compliance to development standards, and this non-compliance leads directly to our amenity loss.

If any Amended Plan Submission is made by the Applicant, and re-notification is waived by Council, we ask Council to inform us immediately by email of those amended plans, so that we can inspect those drawings on Council website.

FACTS

1. THE PROPOSAL

The development application seeks approval for the demolition of existing site structures and the construction of a multi storey shop top housing development incorporating 5 ground floor level retail tenancies with 3 x 1 bedroom serviced apartments. The upper levels comprise 8 x 3 bedroom apartments with a separate residential foyer providing access from ground level. The application also proposes basement car parking

2. THE SITE

The subject property is consolidating 43 Iluka Road and 1105 Barrenjoey Road, Palm Beach and is described as comprising parts of strata plan 87022 and 87024. The

property is a corner allotment with a primary frontage to Barrenjoey Road and secondary frontage to Illuka Road. The area of the site totals 1366.5m² with an eastern boundary of 39.25m, southern boundary 42.365m, western boundary of 40.51 and northern boundary of 25.97m. The site is generally flat and contains several trees generally confined adjacent to the Barrenjoey Road frontage.

3. THE LOCALITY & OUR PROPERTY

The site is located in the B2 Zone of the LEP.

The existing character of the local area, including the immediate visual catchment (generally within 150 metres of the site) is of a well-established neighbourhood, made up of a heterogeneous mix of dwelling types within domestic landscaped settings.

Our property is immediately across the road from the subject site.

4. THE CONTROLS

The following Environmental Planning Instruments and Development Control Plans are relevant to the assessment of this application:

- Environmental Planning and Assessment Act 1979.
- Environmental Planning and Assessment Regulation 2000.
- SEPPs
- LEP
- DCP

CONTENTIONS THAT WARRANT THE REFUSAL OF THE APPLICATION

1. LACK OF STATUTORY POWER

The development application should be refused as the proposal exceeds the building height development standard prescribed by the LEP and it has not been supported by an adequate request to vary pursuant to clause 4.6 of the LEP.

2. CHARACTER

The proposed development should be refused as it is inconsistent with the character of the local area contrary to the provisions of the LEP and DCP.

The proposal does not achieve the desired character of the locality.

The proposed development should be refused due to its excessive bulk and scale and impacts on the character of the locality, adjoining properties and the surrounding environment.

The form and massing of the proposal does not appropriately respond to the low-density character of the surrounding locality

The form and massing of development is also inconsistent with the provisions of the LEP and DCP which prescribe that new development should complement the predominant building form in the locality.

The proposed development is non-compliant to:

- Building Height 10.96m proposed v 8.5m control [28.9% non-compliance]
- Front Street Setback 1.0m proposed v 3.5m control [350% non-compliance]

The proposed development is outside the envelope controls.

The proposed development is higher and larger than the immediate neighbours.

The bulk and scale of the development is inconsistent with existing development in the visual catchment.

The proposal is not of a height and scale that seeks to achieve the desired future character, does not maintain or enhance local amenity, does not maintain the general dominance of landscape over built form, and does not satisfactorily minimise the adverse effects of bulk and scale of buildings. The proposal is excessive in height, bulk and scale; and does not have adequate regard for the maintenance of existing residential amenity.

The proposal would not be appropriate to the environmental constraints of the site and would not maintain the existing level of residential amenity. The proposal would not recognise, protect, or enhance the natural or visual environment qualities of the locality. The proposal would not protect or conserve the existing landform in order to maintain the landscaped amenity of the locality.

The proposal would not be of a height and scale which is in keeping with the context of the locality, and would not maintain a general dominance of landscape over built form. The proposal would not maintain or enhance local amenity or minimise the adverse effect on bulk and scale.

The external finish to the roof must have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours must not be permitted.

In *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, NSW LEC considered character:

“whether most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment”.

The non-compliant elements of the proposed development, particularly caused from non-compliant standards and controls would have most observers finding *'the proposed development offensive, jarring or unsympathetic'*.

There has a number of Shop Top Housing DA refused by NBLPP in the last 12 months.

Council will note that there has been a common theme of STH design that has not been supported by NBC Principal Planning Officers and refused by the NBLPP. These DA include:

- 2020 1351 Bilgola Plateau
- 2020 1453 Collaroy
- 2020 1425 Manly Vale
- 2020 1759 Forestville
- 2020 1733 Balgowlah
- 2020 0824 Manly Vale

The consistent reasons for refusal have been:

- Building Height, Bulk and Scale
- Street Setback
- Streetscape
- Public Domain Interface
- Visual Privacy
- Acoustic Privacy

The general design problem has been that Developers have attempted to position an additional floor level beyond the maximum building height standards, with insufficient street setback.

Case Study: DA 2020 1351 Bilgola Plateau

We bring to Council one such refusal by NBLPP at DA 2020 1351 at Bilgola Plateau. That DA was refused by the NBLPP, and was subject to a recent NSWLEC appeal.

The Developer it that NSWLEC Appeal submitted amended plans that resolved matters to NBC satisfaction.

The Bilgola Plateau DA 2020 1351 was also in a B2 Zone, controlled by 8.5m Building Height standard, and similar street setback control. It was of course, under the Pittwater LEP and DCP statutory planning framework. Low rise residential was set around the B2 Zone in not a dissimilar manner to this DA.

If anything, this DA in Palm Beach is set against a higher environmental zone, Zone Environmental Living , and considering the proximity to Pittwater.

The key considerations to the Bilgola Plateau DA 2020 1351 at the NSWLEC, was achieving a suitable street setback at the lower levels, and then a suitable setback at the non-compliant upper level. The design outcome at Bilgola Plateau was:

- Main Street Setback facing low rise residential 2.7m

- Upper Level Setback facing low rise residential 8.0m

By way of comparison, this DA at Palm Beach is proposing:

- Main Street Setback facing low rise residential 1.0m
- Upper Level Setback facing low rise residential 2.6m

Additionally, the landscape design outcome at Bilgola Plateau DA 2020 1351 was for 1.2m high on-slab planters with 1.8m high planting facing low rise residential at the Upper Level, and continuous tree planting in the main street setback zone. This DA does not offer any such a landscape solution. It is extremely poor in this respect.

We contend that the fundamental problem with this DA, is insufficient street setbacks at all levels, and a very poor landscape provision.

If there is to be a non-compliant 10.96m height considered on the side, the main Iluka Road setback must be a minimum 3.5m, and the non-complaint upper level facing Iluka Road must be 8.0m.

If this was the design outcome that was the acceptable outcome at Bilgola Plateau DA 2020 1351 in a B2 Local Centre Zone with 8.5m maximum building height control, we contend that this also must be the consideration on this DA in Palm Beach, when the standards and controls are exactly the same.



This DA in Palm Beach is proposing: Main Street Setback facing low rise residential at a minimum of 1.0m, with an Upper Level Setback facing low rise residential at 2.6m



BILGOLA PLATEAU NSWLEC CONSENT DA: Main Street Setback facing low rise residential 2.7m. Upper Level Street Setback facing low rise residential 8.0m

We contend that main street setback facing Iluka Road must be 3.5m, with an 8.0m setback to any residential wall zone at the upper level. Position 1.2m high landscaping planters with 1.8m high planting to all edge conditions. 10m high trees must be planted along Iluka Road to screen the proposed development.

3. BUILDING HEIGHT

The proposed development should be refused due to its excessive height and failure to comply with the *Height of Buildings* set out in the LEP which permits a maximum height of 8.5 metres.

The submitted cl 4.6 written request which seeks to vary the height of buildings development standard has not demonstrated that the proposed development is consistent with the objectives of the zone and the objectives that underpin the height of buildings development standard.

The failure of the submitted cl 4.6 written request to demonstrate the outcomes required by the LEP means that the variation cannot be supported and, therefore, by necessity, the development application should be refused.

The proposal is inconsistent with the objectives of the Height of Buildings development standard pursuant to LEP.

The submitted cl 4.6 written request is not well founded as it does not demonstrate that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case or that there are insufficient environmental planning grounds to justify its contravention.

The adverse impacts of the proposed development, including on the amenity of neighbouring property and public property, are directly attributable to the exceedance of the height of buildings development standard.

The failure of the submitted cl 4.6 written request to demonstrate the outcomes required by the LEP means that the variation cannot be supported and, therefore, by necessity, the development application should be refused.

The proposal is inconsistent with the LEP as there is a public benefit in maintaining the Height of Buildings development standard in this particular case.

The proposed portion of the building above the maximum height of 8.5m is not 'minor'. The building does not adequately step down the slope.

We contend that the proposal fails to adequately demonstrate that compliance with each standard is unreasonable or unnecessary nor that there are sufficient environmental planning grounds to justify contravening each of the standards. Variation of the development standards is not in the public interest because the proposed development is not consistent with the objectives of each development standard nor the objectives of the zone. The proposed development has not sought adequate variations to development standards. The proposal is excessive in bulk and scale, and is inconsistent with the desired future character of the area resulting in adverse impacts on the streetscape. The proposal results in an unacceptable dominance of built form over landscape. The proposal fails to minimise the adverse effects of bulk and scale resulting in adverse amenity impacts.



Figure 6 - Plan extract showing height non-compliance based on ground level (existing)

4. SETBACK

The proposed development should be refused as it is significantly non-compliant with street setback of the DCP. The development application proposes major non-compliances with the street setback on all street frontages.

The street setbacks must be increased to 3.5m at First Floor, and 8.0m at the upper level.

The proposed street setbacks to Iluka Road are unreasonable and unacceptable considering the proposed 10.96m building height:

- 2.6m setback to Iluka Rd Unit 203 Bed 1
- 4.2m setback to Iluka Rd Unit 202 Living
- 5.0m setback to Iluka Rd Unit 201 & 203 Living

The proposal will result in an unsatisfactory scale of built form that will be disproportionate and unsuitable to the dimensions of the site and neighbouring residential development.

The height and bulk of the development will result in unreasonable impacts upon the amenity of neighbouring properties with regard to visual dominance and privacy loss.

The excessive built form of the proposal results in a development where the building mass becomes visually dominant and imposing, particularly when viewed from the visual catchment of neighbouring properties

The cumulative effect of the non-compliances with setback and other development standard result in an over development of the site with the site being not suitable for the scale and bulk of the proposal.

5. IMPACTS UPON ADJOINING PROPERTIES: PRIVACY

The proposed development should be refused as it will have unacceptable impacts upon the amenity of our property, specifically with regard to visual privacy.

The proposed development will result in unacceptable overlooking of the adjoining dwelling and associated private open space, resulting in inconsistency with the provisions of the DCP and the objectives of the DCP.

The Applicant has not provided an adequate Privacy Impact Analysis which details the extent to which privacy at our property will be adversely impacted by the proposal.

The non-complaint elevated apartments will be positioned without adequate street setback, and will position the upper level apartments with minimal street setback, and no privacy measures to reduce the privacy impact.

We call for a full 3.5m street setback for the lower levels, 8.0m setback for the upper levels, 1.2m high on slab planter to all decks with 1.8m high planting. We call for privacy screens on all decks



Photo: The proposed non-compliant development would present new decks and living zones that would be positioned 1m from the street alignment, and an additional floor higher, that would look immediately and directly into our private open space and street facing windows.

An assessment of the privacy impact against the planning principle *Meriton v Sydney City Council* [2004] NSWLEC 313 follows:

Principle 1: The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.

Response: The development is located in a low-density area.

Principle 2: Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the

same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)

Response: The proposed development result in a privacy impact with the proposed windows facing neighbours without sufficient screening devices being provided, considering the proposed windows are directly opposite our windows.

Principle 3: The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.

Response: The windows in question are windows of the main circulation zones, decks and living areas, it is considered that these areas will result in an unacceptable privacy breach. The proposed windows and decks facing the neighbouring dwelling and will result in an unacceptable level of privacy impact.

Principle 4: Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.

Response: The proposed development is a new development and the proposed windows and decks have been designed without any consideration to the privacy of the neighbouring property.

Principle 5: Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.

Response: It is considered that the private open space of the neighbouring dwellings could be better protected. We ask Council to consider the most appropriate privacy screening measures to be imposed on windows and decks facing our property, including landscaping

Principle 6: Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.

Response: As mentioned above, the use of privacy devices would reduce the impact of the dwelling. We call for a full 3.5m street setback for the lower levels, 8.0m setback for the upper levels, 1.2m high on slab planter to all decks with 1.8m high planting. We call for privacy screens on all decks.

Principle 7: Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.

Response: Additional landscaping would assist in addition to privacy devices. We call for a full 3.5m street setback for the lower levels, 8.0m setback for the upper levels, 1.2m high on slab planter to all decks with 1.8m high planting. We call for privacy screens on all decks. We call for 10m high street trees to Iluka Road

Principle 8: In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.

Response: The area is not undergoing change that would warrant privacy impact such as the one presented.

Comment: As the development is considered to result in an unacceptable privacy impact due to the design, it is requested that the proposed development be redesigned to reduce amenity impact on the neighbouring properties.

In the context of the above principles, the application can be considered to violate the reasonable expectation that the habitable rooms and private open space at our property will remain private. It is therefore reasonably anticipated that the application does not comply with the DCP.

The above non-compliance will give rise to unreasonable amenity impacts upon the adjoining properties. In this instance, the proposal is not considered to achieve compliance with this control.

6. IMPACTS UPON ADJOINING PROPERTIES: EXCESSIVE VISUAL IMPACT

The proposed development should be refused due to its excessive visual impact and impacts on the character of the locality, adjoining properties and the surrounding environment.

The form and massing of the proposal does not appropriately respond to the low-density character of the surrounding locality

The form and massing of development is also inconsistent with the provisions of the DCP which prescribe that new development should complement the predominant building form in the locality.

The proposal would not recognise or protect the natural or visual environment of the area, or maintain a dominance of landscape over built form. The proposal has not been designed to minimise the visual impact on the surrounding environment.

7. IMPACTS UPON ADJOINING PROPERTIES: LANDSCAPING

We call for a full 3.5m street setback for the lower levels, 8.0m setback for the upper levels, 1.2m high on slab planter to all decks with 1.8m high planting.

We call for 10m high street trees to Iluka Road

An alternative design layout must be sought ensuring that proposed buildings are located at least 2 metres from trees to be retained. Should the plans be approved with the current layout, trees within 2m on the proposed works may all be removed without approval under the tree removal provisions.

The proposed development does not provide sufficient landscaping, including 10m high privacy planting facing our property

The built form is not softened by landscaping, and does not provide adequate tree replacement to soften the built form

The landscaped area as shown in the Landscape Plans proposes tree planting in areas considered to inadequately provide spatial dimensions to support long term tree growth.

The landscape component of the proposal is unacceptable due to the significant impacts of proposed works on trees to be retained, as well as insufficient canopy trees proposed to compensate for the scale of the development.

The landscape scheme, based on the architectural design layout, does not provide adequate landscape areas of deep soil that are not restricted by building proximity, to meet the requirements of the DCP.

There are significant impacts of proposed works on trees to be retained, as well as insufficient canopy trees proposed to compensate the removal of significant trees within the site.

The proposed development does not provide an adequate setback area which would permit the planting of appropriate vegetation which could offer visual screening.

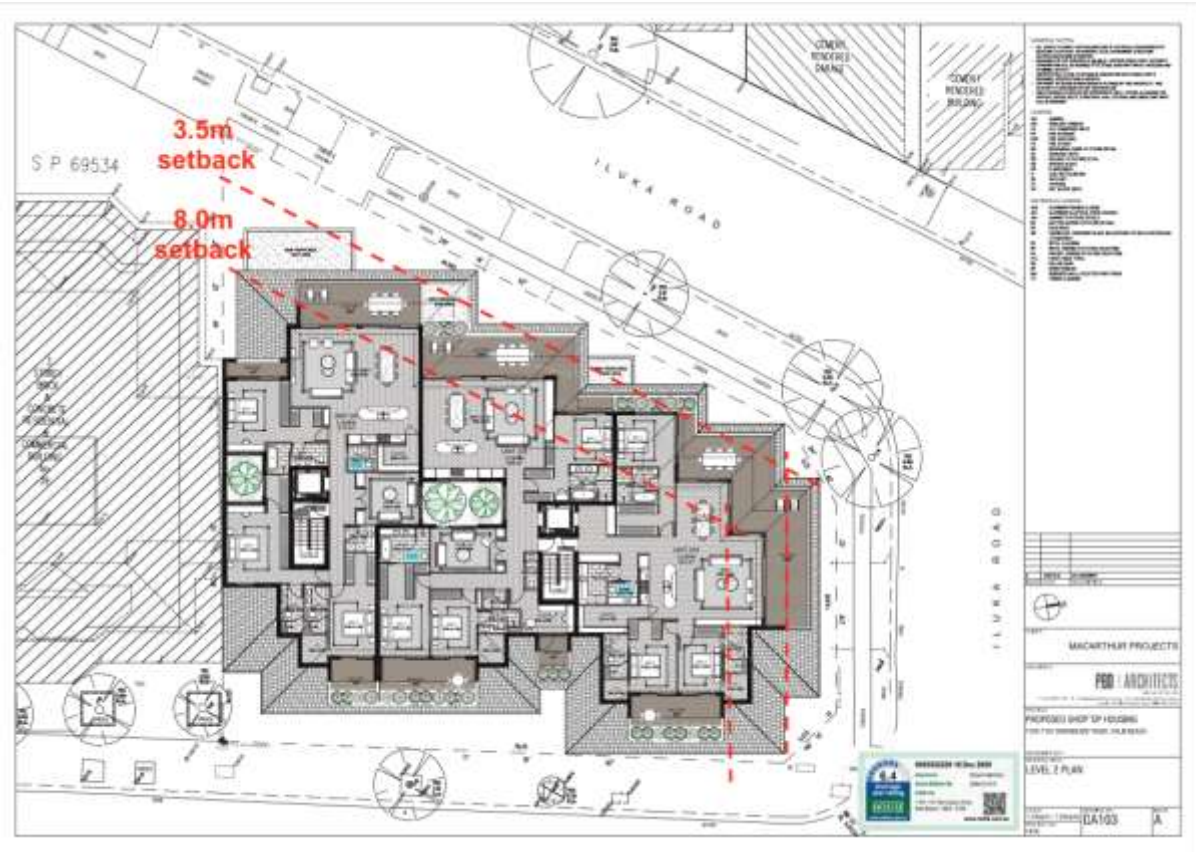
Excavation works and the proximity of existing trees to proposed building and structures will place ongoing issues with the arboricultural preservation of existing trees in the long term.

8. CONTENTIONS THAT MAY BE RESOLVED BY AMENDED PLANS: DESIGN ALTERNATIVES

A compliant building design would reduce the amenity impacts identified.

Reduce the proposed development as follow:

- 3.5m street setback for the lower levels facing Iluka Road,
- 8.0m street setback for the upper levels facing Iluka Road,
- 1.2m high on slab planter to all decks with 1.8m high planting, and a continuous planter at the upper level fronting the street.
- 10m high street trees to Iluka Road in 3.5m street setback zone
- Privacy: 1.8m privacy screens to all decks facing our property, shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.



Amended Plans: 3.5m street setback for the lower levels facing Iluka Road & 8.0m street setback for the upper levels facing Iluka Road. 1.8m landscape on leading edges of decks facing Iluka Road. 10m high trees to Iluka Road in street setback zone

9. CONTENTIONS THAT RELATE TO A LACK OF INFORMATION

Privacy Impact Analysis

The Applicant has not provided an adequate Privacy Impact Analysis, to accord with DCP controls and NSWLEC planning principles.

Visual Bulk Analysis

The Applicant has not provided adequate montages from our property to assess the visual bulk assessment from the proposed non-compliant envelope.

10. REASONS FOR REFUSAL

We ask Council to refuse the DA as the proposal is contrary to the Environmental Planning and Assessment Act:

Council is not satisfied that under clause 4.6 of the LEP seeking to justify a contravention of the development standard that the development will be in the public interest because it is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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 State Environmental Planning Policy 65 - Design Quality of Residential Flat Development. In particular for reasons of retaining streetscape character, public domain interface, visual privacy, acoustic privacy, and other matters.

The proposal is inconsistent with Section 4.15 (b) and (c) of the Environmental Planning and Assessment Act 1979 as the height, scale and bulk of the fails to transition to the adjoining low density residential area. As a result, the proposal will result in unreasonable visual impacts to surrounding properties and the streetscape and unreasonable impacts on residential amenity. All of these issues result in a proposed development that is an overdevelopment of the site.

The proposal is contrary to the relevant requirement(s) of SEPP 65, the LEP and DCP, including the height development standard and street setback control. The proposal will result in a bulk and scale that fails to transition to the surrounding low density residential area and will result in unreasonable impacts on neighbouring amenity. The proposal will create an undesirable precedent and be contrary to the expectations of the community. As such, the proposal is not in the public interest.

PITTWATER LEP

- 1.2 Aims of Plans
The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the aims (2a), (2b), (2g), (2i) and (2j) under the LEP.
- 2.3 Zone Objectives
The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the objectives of the zone of the LEP as it fails to provide for the housing needs of the community within a low-density residential environment.
- 4.3 Height of Buildings
The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to comply with the building height development standard under the LEP. 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 4.6 Exceptions to Development Standards of the Local Environmental Plan. In this regard, Council is not satisfied that the applicant's written request demonstrates there are sufficient environmental planning grounds to justify contravening the development standard. The Council is not satisfied that the development will be in the public interest as the development is not consistent with the objectives of the height of buildings development standard regarding compatibility with the height, bulk and scale of nearby developments and that the development will minimise visual impact of the top floor from the public domain and surrounding lands.

- 4.6 Exceptions to Development Standards
The written requests submitted pursuant to clause 4.6 of the LEP fails to justify contravention

PITTWATER DCP

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of DCP:

Building Setbacks (Top floor)

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 12.5 of the Development Control Plan. The upper floor is not sufficiently setback to minimise the visual impact of the upper level as viewed from the surrounding lands and public domain.

- A4.12 Palm Beach Locality
- B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land
- C1.1 Landscaping
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- D12 Palm Beach Locality
- D12.1 Character as viewed from a public place
- D12.5 Front Building Line
- D12.14 Scenic protection

The proposal is contrary to Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* in that there is insufficient information has been submitted to enable the assessment of the application

The proposal is contrary to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that it will have i) an adverse impact through its bulk, scale and siting on the built environment, (ii) through its potential use, adverse social impact in the locality and (iii) through lack of landscape provision, including there being no indigenous tree plantings, adverse impact on the natural environment.

The site is not suitable for the proposal pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* in that this area of the site is unsuitable for a development of such excessive bulk and scale.

The proposals are unsuitably located on the site pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

The proposal does not satisfy Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* in that the proposal does not adequately address the amenity of neighbours

The proposal is contrary to the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*. The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest.

CONCLUSION

The proposed development is not consistent with the intent of the LEP standards and DCP controls as they are reasonably applied to the proposal.

The variations to LEP standards and DCP controls are considered unreasonable in this instance. The cumulative effect on these non-compliances cause considerable amenity loss to our property.

The development will not sit well within the streetscape with non-compliance to LEP standards and DCP controls causing considerable concern. In this regard, the proposal is considered excessive in bulk and scale and would be consider jarring when viewed from the public domain.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this DA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development.
- The proposed development is incompatible with the existing streetscape and development in the local area generally.
- The proposed development will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties, particularly view loss, privacy, and excessive overshadowing.
- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements.

It is considered that the public interest is not served.

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.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts of which would result in adverse impacts on our property.

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.

Yours faithfully,

William Clinton
118 Iluka Road
Palm Beach
NSW