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**From:** Craig Boaden [REDACTED]  
**Sent:** Friday, 5 April 2024 11:56 AM  
**To:** Therese Edwell; Council Northernbeaches Mailbox  
**Subject:** Land & Environment Court Case No. 2023/242901. 1102 Barrenjoey Road, Palm Beach  
**Attachments:** Submission DA 1102 Barrenjoey Rd.pdf

**Categories:**

Dear colleagues,

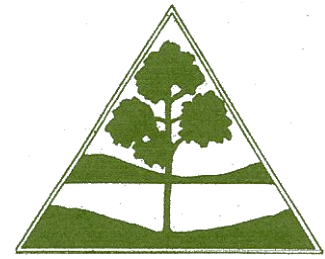
On behalf of I attach the submission relating to the above case at 1102 Barrenjoey Road Palm Beach.

Yours sincerely

Craig Boaden  
President  
Avalon Preservation Association

# Avalon Preservation Trust

incorporated as Avalon Preservation Association



5 April 2024

Northern Beaches Council

**Land & Environment Court Case No. 2023/242901**

**Asia Digital Investments Pty Ltd v Northern Beaches Council**

**Submission relating to the DA for 1102 Barrenjoey Road, Palm Beach**

## **HEIGHT, BULK AND SCALE**

1. The height, bulk and scale of this development are grossly inappropriate in this particular location.
2. The height breaches the height control set out in the Pittwater Local Environment Plan (PLEP) of 8.5 metres and no substantive justification for this breach is provided. The whole of the third floor breaches the height control and it should be removed.
3. The breach, from Drawing No. DA10 is 2.59 metres from ground level AHD2.66 to ridge AHD13.75 which equals a breach of 30.47%. This is not a minor breach and therefore it does not qualify for Clause 4.6 Request to accept non-compliance.
4. Most significantly, the development breaches the Pittwater Development Control Plan (DCP) in relation to **setback** from adjoining properties and the roadway. Because the development adjoins E4 a low-density residential zoning on part of its north side (against the historic Barrenjoey House), its whole east side (rear) and its whole south side, setback is required to be 9 metres, instead of 0-3 metres on the north, 0-5.5 metres at the rear and 0-2 or 3 metres on the south.
5. Excavation for the car park on the Barrenjoey Road frontage goes right to the boundary so that no landscaping is possible; the ground floor setback is 2 metres but Clause D12.5 of the DCP requires a setback at the ground floor level of at least 3.5 metres.
6. The height of the roof is 4 metres which is out of scale with the rest of the proposed building and with surrounding developments. This results in an unbalanced design which does not meet the objectives of the LEP, DCP and the Australian Apartment Design Guide.
7. These breaches demonstrate why the height, bulk and scale of the proposed development are unacceptable.

## **INTERFERENCE WITH VIEWS**

8. The development will interfere with the views from the pre-existing adjoining immediate residential neighbours at 1100 Barrenjoey Road, 1110A, 1110B and 1110C Barrenjoey Road and other properties on the eastern side of the proposed site.

9. The damage to views is exacerbated by the failure to relocate plant and equipment from the top of the roof of the development, despite requests to do so.

## **DENSITY**

10. The bulk and scale of the proposal breaches the DCP density control for a block of this size.

## **SHADOWING**

11. The development will cause substantial and completely unacceptable shadowing of the adjoining property at 1100 Barrenjoey Road.

## **SCALE**

12. The scale of the building is too large for this location: it is too high and it is too wide and it is too deep. If allowed, it will block views from the neighbouring houses behind it, some of which were built with knowledge only of the original DA. These changes from the original DA are excessive and should not be approved.

## **AMENITY**

13. For all these reasons, the development will cause damage to the amenity of the surrounding neighbourhood by totally changing its character.

## **LANDSCAPING**

14. The DCP requires planting of vegetation to minimise bulk and scale of the built form. It also requires canopy trees between the building and its front boundaries where the property faces a waterfront reserve as this does. The DA and modifications do not comply with the DCP in these respects.

15. The breaches of the setback requirements mean also that the development cannot meet the landscaping requirements of the DCP and is totally at odds with the nature of this iconic location.

## **COMPATIBILITY WITH NEIGHBOURHOOD**

16. The design of the building is not compatible with the design of the immediate surrounding area. It is located between Barrenjoey House, a heritage listed building, and 1100 Barrenjoey Road, a classic Palm Beach weekender, and opposite a number of classic houses. It should be rejected.

17. The DCP requires new developments to respond to, reinforce and sensitively relate to the spatial characteristics of the existing urban environment. The DA and modifications do none of these.

## **PARKING**

18. The provision of parking within the building does not comply with the requirements of the DCP, partly because the building is too big. The developer cannot use Pittwater Park South to make up the short fall. Redesign of the building to make it smaller would fix this problem.

## **COMMERCIAL SPACE**

19. The commercial space provided in the building fails to reach the required 25% of the total floor space, partly because the low ceiling heights in part of the “commercial” space are below the statutory minimum and cannot be counted.

## **CLAUSE 4.6 REQUEST**

20. The Clause 4.6 Request does not demonstrate why compliance with the planning controls is unnecessary or unreasonable. It has to show that the development meets the objectives of the relevant planning act and regulations, and it **fails to do so**.

## **HERITAGE**

21. The building is in the conservation precinct of Pittwater Park South and it is **grossly out of keeping** with the conservation principles or the precinct generally.

22. The building is beside the 100-year-old Barrenjoey House. Because of its increased height and width, it overwhelms Barrenjoey House which is an historic building. It should not be approved.

23. This part of Palm Beach is the central and historic heart of Palm Beach. It has a special character of low-scale buildings and informal design. The proposed building at 1102 Barrenjoey Road is completely out of character with this location and community and it would seriously and forever damage this special character.

## **GEOTECHNOLOGY**

24. Given that the proposed excavation is to a depth of 12.5 metres, well below any of the test drilling at 9 metres, and the nature of the underlying geology, sand, clay, extremely weathered sandstone and the underlying water flows, the risks of disturbance of the hillside to the east of the site is real and appears to be under-played in the JK Geotechnics report. The position regarding the rock shelf underlying the proposed driveway and the presence of the boulders (floaters?) on the boundary between 1100 and 1102 Barrenjoey Road appears also not to have been fully resolved. These dangers need to be much more fully resolved before the DA including Modifications can be approved.

## COMMUNITY INTEREST

25. The amended proposal is not in the community interest.

The Avalon Preservation Association urges Council to reject this development application as it is not suitable for this location and it is not in the public interest.



Craig Boaden  
President  
Avalon Preservation Association