
From: Anna Williams
Sent: 27/09/2023 7:27:47 AM
To: Council Northernbeaches Mailbox; Claire Ryan
Cc: garry ummer
Subject: TRIMMED: Submission objecting to DA2023/1245 at 212 Hudson Parade Clareville
Attachments: Submission 212 Hudson Parade Clareville.pdf;

Good Morning Claire,

Please find attached a submission objecting to the proposed development at 212 Hudson Parade CLAREVILLE on behalf of adjoining owners at No. 210 Hudson Parade.

Please feel free to contact me should you require any further information.

Regards,

Anna Williams, Director
Blackwattle Planning

E: [REDACTED]
T: [REDACTED]

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

Attention: Claire Ryan
claire.ryan@northernbeaches.nsw.gov.au

27th September 2023

Dear Sir/Madam,

RE: DA2023/1245 Demolition and construction of a new dwelling including swimming pool

We are advising the owners of No. 210 Hudson Parade Clareville and raise concerns regarding the impact of the above proposal on their amenity. Thankyou for the opportunity to respond to this matter.

Context

No. 210 Hudson Parade adjoins the subject site to the north west. It supports a dwelling over two and three levels with a north east to south west orientation. Land on the south west side (low side) of Hudson Parade falls away from the road and the locality is characterised by two and three storey dwellings stepping down the site and in a landscaped context.

Key amenity considerations for No. 210 Hudson Parade include maintaining the limited amount of direct sunlight available to the dwelling at midwinter, primarily through the glass facade of its northern elevation; maintaining views of Pittwater and the nearby foreshore areas; visual impact of bulk and scale as viewed from the Pittwater Waterway and from No. 210 Hudson Parade; maintaining appropriate treatment of the sensitive foreshore area.

Objections to the proposal

We have reviewed the Development Application documentation online and have undertaken a site visit at 210 Hudson Parade to understand the impacts upon our clients dwelling and overall property.

If additions were to be approved as proposed in the current plans, there would a significant loss of amenity for the residents of No. 210 Hudson Parade, particularly as it relates to visual impact arising from the non-compliant dwelling, both in relation to its height, and distance to the side boundary. The dwelling will result in loss of views, and may also reduce valued sunlight to the northern elevation of No. 210 Hudson Parade.

A range of matters are of concern and we ask that Council give consideration to the following issues in the assessment:

1. Insufficient information in relation impact upon sunlight

The application is unclear and lacks important detail in relation to the reduction of morning sun to the northern elevation of No. 210 Hudson Parade. We request that elevational shadow analysis be provided, and that such analysis also include existing shadows cast on the northern elevation by the garage structure on 210 Hudson Parade. We note that in order to understand impact of shadows accurately, the existing sunlight and the extent to which that is lost is a relevant matter.

2. Height of Buildings

The application seeks to vary the 8.5m height limit that is a development standard within Pittwater LEP 2014. No Clause 4.6 request to vary the development standard has been submitted because the applicant also relies upon Clause 4.3(2D), which permits development above 8.5m but below 10m where specific criteria are met. Clause 4.3(2D) is reproduced below, in italics:

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if—

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and

(b) the objectives of this clause are achieved, and

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

We maintain that it is not open to the applicant to utilise Clause 4.3(2D) which would allow consideration of the stated 9.17m maximum height because criteria (b), (c), and (d) above are not achieved. We demonstrate this non-compliance as follows:

Objectives of Clause 4.3 Height of Buildings - Criteria (b)

The proposed dwelling is not consistent with the following objectives of Clause 4.3:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment: The desired character of the locality is expressed within Pittwater 21 DCP at Control A4.1 Avalon Locality. The following relevant considerations in this regard are not achieved by the proposed design, as follows:

Desired Character

..The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.

.....

Comment: The proposed dwelling is clearly not consistent with this provision. At almost every point of measurement, the new dwelling will achieve three storeys. Whilst there are some three storey dwellings in the locality, they are generally stepped to ensure that predominantly structures are two storeys in any one place. It appears that the proposed has no intention of attempting to comply with this important aspect of the local character.

Importantly, this results in a vast and unrelieved three storey presentation to Pittwater, and to adjoining dwellings, which is clearly not consistent with the intentions of the DCP.

Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.....

Comment: The proposed dwelling makes no attempt to minimise bulk and scale as viewed from No. 210 Hudson Parade and importantly from the public water way. The design presents both excessive width and height at the south western elevation. Despite its fan shaped south western end, which provides larger setbacks to the side boundary, the proposed cannot comply with the building envelope control due to its excessive height and lack of modulation.

Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance...

The design offers no stepping of its form at all, and furthermore proposes significant levels of excavation to create a basement level, being in excess of 5m cut. We note that this massive excavation is proposed less than 2m from the shared boundary with No. 210 Hudson Parade. The clear insistency with this provision is obvious from the section drawing at Plan 11, reproduced below:

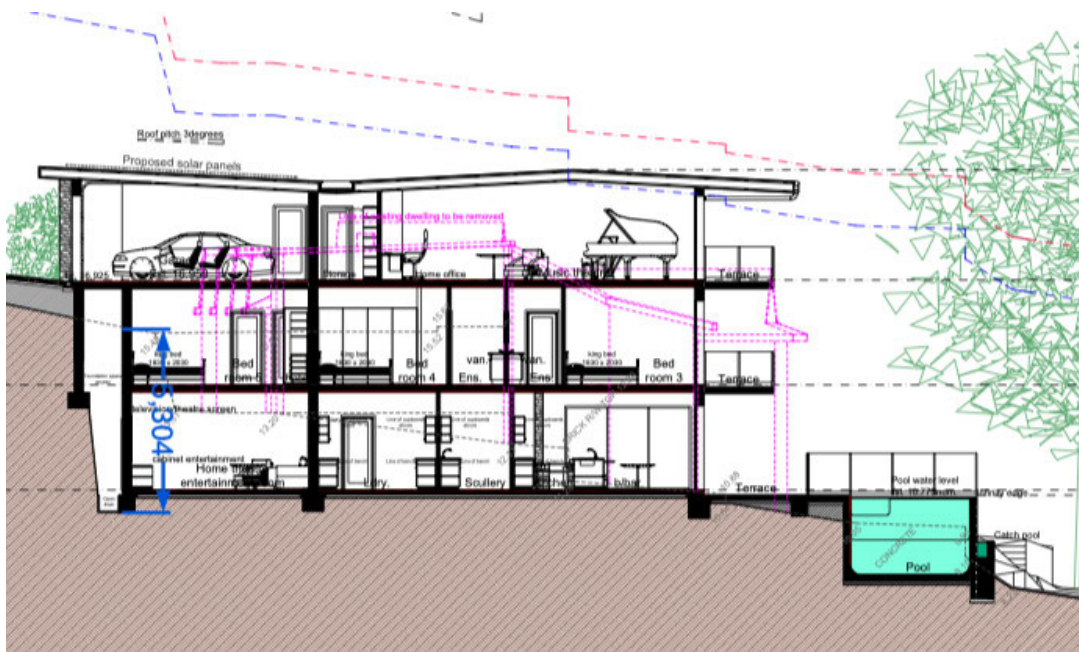


Figure 1: Section showing 3 storey development throughout the design, clear absence of stepping in the structure, and excavation in excess of 5m.

Source: RJP Design

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment: Scale of development is variable in the locality however, the lack of any stepping in the design, both horizontally and vertically to the extent proposed in this application is unprecedented in the nearby area. The height breach occurs across the full width of the upper level awning, and extends to the south eastern elevation. This exacerbates the perception of scale as it is presented both at the edges of the dwelling and across the whole expanse of the elevation facing the water.

Whilst other dwellings nearby are likely to have height breaches, they are in general experienced at isolated and centralised points, meaning that the height breach is generally further away from the observer and therefore less impacting. We see that the full height breach of this dwelling will be observed at many locations in the immediate area and as such the incompatibility of this dwelling in comparison to those around it will be confronting in the visual catchment.

(c) to minimise any overshadowing of neighbouring properties,

Comment: We are concerned that the shadow analysis has not taken into account the minimal sunlight currently received by the northern elevation of No 210 Hudson Parade, and therefore an appropriate assessment is not able to be made from the information provided. As outlined previously, elevations diagrams which include shadow from existing structures on No. 210 Hudson Parade should be modelled to accurately quantify

the sunlight to be lost in the context of the minimal sunlight actually received by this dwelling . Diagrams submitted infer that sunlight would be maintained to the northern elevation of 210 Hudson Parade beyond the morning period, however this is not the case once existing shadows (ie, shadows that will remain if the new dwelling were to be constructed) are taken into account.

(d) to allow for the reasonable sharing of views,

Comment: The height breach will remove views of the water and foreshore area to the south east, as viewed from the upper level of 210 Hudson Parade. One example of this view loss is highlighted below.



Figure 2: Likely view loss of water, foreshore and escarpment as viewed from the rear balcony of No. 210 Hudson Parade over the existing roof form, resulting from the non-compliant height of the proposed dwelling. **Source:** Blackwattle Planning

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

Comment: The extensive cut and fill proposed on this site cannot be considered a sensitive response to the natural topography. In addition to in excess of 5m of cut, the design requires significant fill at the driveway level, up to a depth of 1.5m. Cut and fill is used to allow floor levels to maximise volume and floor space, and to achieve height to maximise views. This comes at the expense of the topography, and the amenity of the neighbourhood.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

Comment: The wide and high south eastern elevation will be dominant and confronting in the landscape as viewed from Pittwater waterway, and this impact upon the natural environment is contrary to the objectives of the development standard overall.

In summary, as the proposed development is unable to demonstrate consistency with the objectives of the Height of Buildings Development Standard, Clause 4.3(2D) cannot be relied upon.

Building footprint not on a slope of >30% - Criteria (c)

To utilise Clause 4.3(2D), an application must demonstrate that the slope of the land under the building footprint is greater than 30%. We have made multiple calculations based upon the survey information provided by the applicant and cannot see how the proposed footprint meets this criteria. The calculations are demonstrated below:

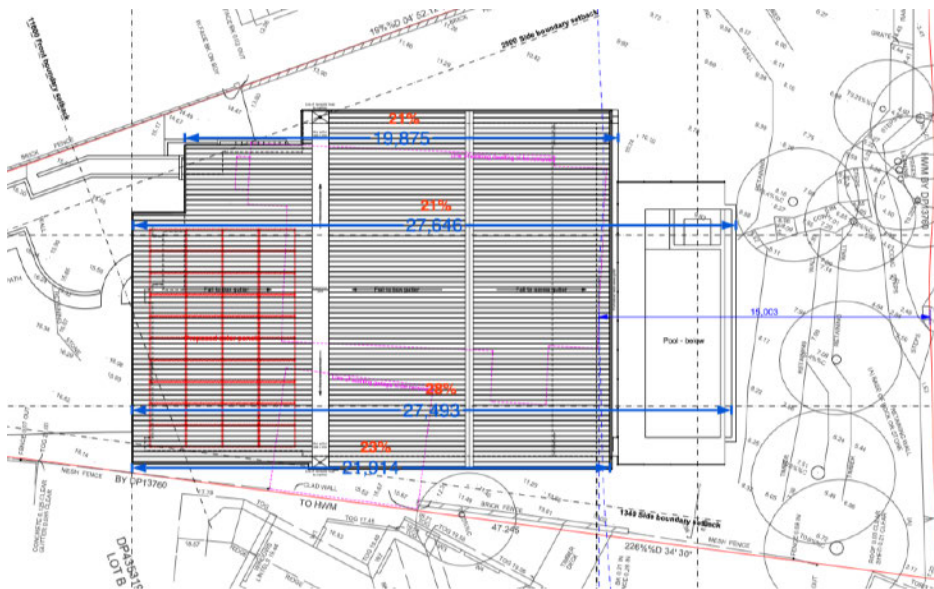


Figure 3: The above annotated roof plan showing survey levels has been used to calculate the maximum slope under the footprint of 28%. This is best case as the majority of the gradients are <25%. **Source:** RJP Design, Annotation by Blackwattle Planning

The design fails this test of Clause 4.3(2D) and cannot rely on this provision to justify its height above 8.5m.

Design to take into account the slope of the land, minimise cuts and fill, building to step down the slope - Criteria (d)

As evidence in previous Figure 1, the proposed design does not seek to work with the slope of the land and seeks to excavate and fill areas to create desired levels. There is no stepping of the structure, and the design cannot meet the above test.

Overall, Clause 4.3 (2D) cannot be utilised by the design to justify the height in excess of 8.5m. The applicant must make such request via Clause 4.6 of the LEP, however as meeting the objectives of the Heights of Buildings development standard are a pre-requisite for granting such a request, the failure to do so in this case would preclude the consent authority from granting such a request to this design.

It seems to us that a substantial redesign and including a significant reduction in the height of the building and amount of floor space proposed is required to bring this proposal into acceptable parameters.

3. Building Envelope

The design fails to comply with the Control D1.11 of Pittwater 21DCP, which prescribes a building envelope measured at the side boundary, from a point 3.5m above ground level and then projecting at a 45 degree plane into the site. The DCP requires that development be provided within this envelope to ensure reasonable amenity is maintained for neighbours, to ensure equitable views are maintained, and to minimise bulk and scale.

A significant proportion of the upper level of the proposed dwelling falls outside this building envelope. The point the envelope intersects the north western wall is shown below by the red dotted line:

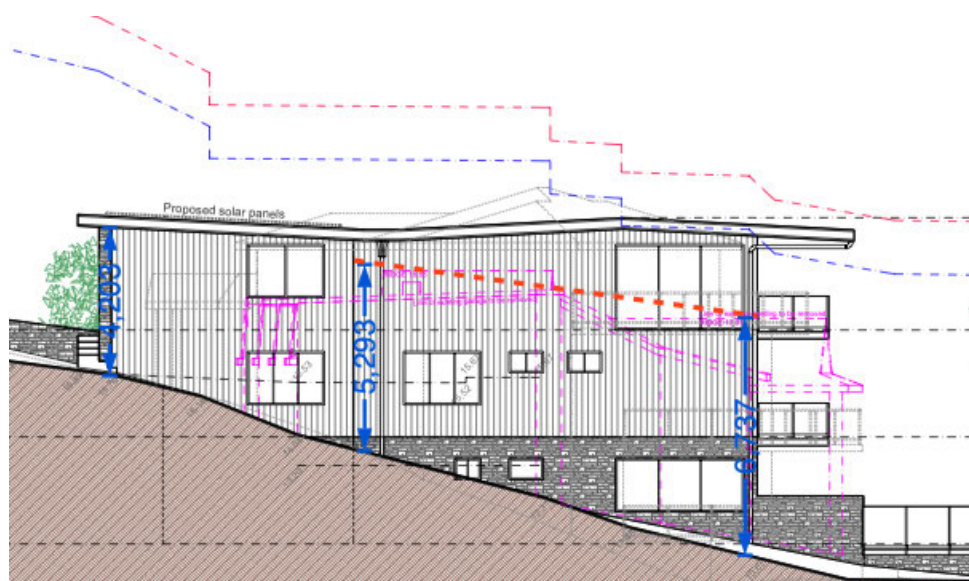


Figure 4: Breach of Building Envelope shown as the built form above the red dotted line. **Source:** RJP Design, Annotation by Blackwattle Planning

Together with the breach of the height limit, the Building Envelope breach will result in view loss, excessive bulk and scale, and significant visual impact as viewed from the waterway.

We note that the control considered that some flexibility in applying this control should be provided on land where the building footprint has a slope in excess of 30%. As demonstrated earlier, this site cannot meet the criteria for this variation. In addition, we note that any constraint of topography is ultimately overcome by the proposal given the significant cut of the land form proposed. Under these circumstances, it would be contrary to the policy and inherently unreasonable to allow such a departure from the control.

We note that flexibility in relation to DCP controls may be acceptable where the outcomes of the control are demonstrated to be achieved. In this case, the control is unable to do so because:

- The design cannot achieve the desired future character as demonstrated earlier in this submission; and,
- The width and height of the design is significantly overbearing in relation to the spatial characteristics of the natural environment, and the confronting presentation to the waterway is not sensitive to this important visual catchment.
- By virtue of the unmitigated height breach and extensive building envelope breach, it is not possible to say that the bulk and scale of the built form has been minimised.
- View loss results from the non-compliant design and a reasonable and equitable sharing of views is not achieved.

4. Development in the foreshore area

We note that the requirements of Pittwater LEP 2014 are that development forward of the foreshore building line, ie, in the foreshore area, is restricted to uses and structures listed in Clause 7.8 Limited development in the foreshore. In particular, permitted purposes in the foreshore area are limited to *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors)*.

We understand that Council's current practice is to limit development strictly to these purposes, and as such the proposed paving and stairs accessing the pool are not permitted in the foreshore area. Should they be considered ancillary to the dwelling, we note that the existing dwelling does not project into the foreshore area, and therefore Council has no power to approve the development in its current form.

In summary, we agree with our clients concerns regarding the significant impacts of the proposed design, the high level of non-compliance with Council's LEP and DCP provisions, and inadequate information provided within the application. There appears to be very likely adverse impacts associated with the proposal both as experienced by 210 Hudson Parade and as viewed in the wider locality and within the sensitive coastal location.

We are concerned that an approval of the current design would be contrary to the objectives of Pittwater 21 DCP, especially as they relate to residential amenity, view loss, and the character of development as viewed from the waterway.

We invite you to visit No. 210 Hudson Parade to inspect the likely impacts first hand and look forward to discussing the application with you.

Please feel free to contact us on [REDACTED] or at [REDACTED] should you require further information.

Regards,

Anna Williams,
Director

BLACKWATTLEPLANNING

anna@blackwattleplanning.com.au