



The Palm Beach & Whale Beach Association Inc.  
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Mr Chris Gough, Senior Partner

Storey & Gough, Lawyers

Dear Mr Gough

Thank you for keeping us up to date with developments in these cases. As we have discussed previously, development of these particular sites are of incredible importance to the community of Palm Beach and Whale Beach, and the level of submissions made in the earlier stages of the current D/A - over 110 up to early 2024 for 1102, for example,(with some multiple submissions) bears witness to this.

We have three concerns about the forthcoming court hearing for 1102 Barrenjoey Road; these are: -

- (1) The latest amended plans have only been made available to a very limited number of people who have expressed a strong interest in this D/A. The vast majority of those who lodged submissions in response to the public exhibition of earlier versions of the plans are not aware of the amended plans because they have not been put on public exhibition and have been given no public exposure. They have effectively been cut out of the normal process of consultation on an important D/A. We believe that is critically important to the administration of justice that all those who are currently disenfranchised be updated on recent developments and advised of the forthcoming public hearings and given access to the amended plans and the submissions made in respect of those plans..
- (2) It is also critically important that all submissions lodged in relation to this D/A be made available to and taken into consideration by the Court, whichever version of the plans they relate to. This is because all of those who made submissions in earlier stages were not given the opportunity to update their submissions for the latest version of the plans. If it were to emerge that the final Court decision were (i) made on a set of plans which were not made available for public scrutiny and (ii) without regard to the submissions made on earlier versions of those plans, it would, we suggest, be damaging to the reputation of the LEC and the Council.

- (3) You mentioned the possibility that the next stage in the LEC process might be held before a different commissioner from the one who presided over the S.34 hearing earlier this year. The new commissioner therefore will only have a limited knowledge of how the current position arose unless provided with all the submissions made in the earlier more public stages of the case.
- (4) It is possible to view the refusal to allow the community to see the amended plans as an attempt to avoid the normal process of community consultation enshrined in the Environmental Planning and Assessment Act, particularly Section 2.23(2)(a). The Court should not allow its rules and procedures to be misused in this fashion. It remains true that justice must not only be done but must be seen to be done.
- (5) How do we, as a concerned community organisation, put forward, through our speakers a reasoned factually-based case against a development proposal when we already know that the only plans we are allowed access to, are superseded but we and the rest of the community are not allowed to know what the new plans are?

As regards 1112 Barrenjoey Road, similar issues and difficulties are becoming apparent in relation to the development application for 1112 Barrenjoey Road, Palm Beach. However we at least have been able to see the SOFAC in this case and we strongly endorse the Council's contentions with this D/A.

We were only given the SOFAC document after permission was given by the NBC solicitor

It is a court document and I believe we cannot distribute it to our members. It will not be available automatically to people who submitted submissions and will not be available on the council website

However, we again understand that alternative plans do exist. However, if the do you developer has not given permission for the plans to be released to the public The tactic appears to be to produce them in the Court hearing, where the public can't be represented and has lost its voice.

The Palm Beach and Whale Beach Association will be making a submission to the on-site hearing on 24 July. It is impossible to make a sensible submission when we are not allowed to see the final plans which are before court

The change of practice recently adopted by the Council whereby D/A's which are the subject of a deemed refusal application to the LEC are not considered by the Northern Beaches Local Planning Panel, has deprived the community of an avenue of expressing its views at no cost, whereas, as we have previously discussed, the LEC seems determined not to provide the community with a voice and it is beyond most people's resources to challenge this. The LEC has also lost access to a valuable source of independent professional assessment of D/A's, as represented by the Panels, with their majority membership of qualified independent planning professionals plus a community representative.

We are happy to expand on any of these points if required.

Yours truly Richard West AM

President, Palm Beach & Whale Beach Association. Inc.