
From: Richard West
Sent: 21/11/2023 11:20:15 AM
To: Council Northernbeaches Mailbox; Louise Kerr; Andrew Johnston; Trish Chaney; Scott Phillips
Subject: TRIMMED: Submission DA 15 Ocean RdPalm Beach
Attachments: PBWBA DA2023-1532 Submission 15 Ocean Rd Palm Beach -.pdf;

Richard West



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NORTHERN BEACHES COUNCIL
PLANNING & DEVELOPMENT
ATT: ADAM CROFT

20th November 2023

Dear Adam

OBJECTION

DA 2023/1532 at 15 OCEAN RD PALM BEACH 2108

Demolition works and construction of a dwelling house including swimming pool

The main function of the Palm Beach & Whale Beach Association (PBWBA) is to "preserve and enhance the natural beauty of the area and protect its residential amenity".

We rely on the legislated planning instruments and Northern Beaches Council (NBC) to ensure that DAs comply with the current Pittwater LEP2014 and DCPs,

The property is located directly opposite the beach and next door to the well loved Art Deco styled "Palladium" building (16 Ocean Rd) which was a former dance hall, dining room/restaurant and shop built in the 1930's.

We have examined the documents and reports submitted by the applicant including the Statement of Environmental Effects (SEE) and masterset plans.

On the plans we note that no existing ground levels are shown, there is a general lack of dimensioning and that the north and south sections show only 10m height level, not 8.5m which is the control.

Additionally we believe the SEE is not of the required standard and should not be accepted. Its reasoning and claims are weak and unsubstantiated.

We are very concerned that this proposed DA appears to breach the LEP and DCP controls for the site in many categories particularly height, bulk, scale, view sharing, solar access, overshadowing, amenity, privacy, character, scenic protection and public interest.

We note this property is zoned C4 Environmental Living..

Objectives of this zoning are -

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for residential development of a low density and scale integrated with the landform and landscape.

We challenge the statement made on pg 19 of the SEE that *"The proposed development remains consistent with the relevant objectives of the zone in that it has been designed in response to the special ecological, scientific, and aesthetic values of the site. The proposed development is of an acceptable density and scale that is consistent with the landform, landscape, and character of the area."* We believe the proposed development is NOT consistent with these objectives.

Breaches of LEP & DCP controls.

Height

A Clause 4.6 height variation request has been submitted which we believe is unsubstantiated.

- The intent behind Section 4.6 of the LEP is "to provide an appropriate degree of flexibility in applying certain development standards" (including height) and "to achieve better outcomes for and from development". What is proposed in this DA is **not** an "appropriate degree of flexibility" - a 60% increase in height is not "flexibility" but abandonment of the standard. The land rises towards the rear of the block but not enough for the 10 metre height limit to apply. We believe 8.5 metres is the applicable standard for this block, however 13.6 metres height is proposed. This is a massive breach of the control. At minimum the proposed fourth floor must be removed from the plans and the building comply with the 8.5metre height control.
- As a precedent a 2010 DA for a dwelling at 13a Ocean Rd included a third storey but the Council at the time indicated they would refuse the DA due to this breach so the plans were amended and the third floor was deleted.
- On page 53, the 4.6 Report reviews the objectives of Clause 4.3(1) of the LEP in relation to height control but the proposed plans ignore them! These objectives are (a) to ensure that any building is by virtue of its height and scale, is consistent with the desired character of the locality; (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development; (c) to minimise any overshadowing of neighbouring properties; (d) to allow for the reasonable sharing of views; (e) to encourage buildings that are designed to respond sensitively to the natural topography; (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items. The desired character is stated in the DCP but the CI 4.6 Report selectively omits the references in the DCP to low-density housing and the two-storey limit for housing. It refers in particular mostly to nearby properties which have four storeys and omits reference to the majority of properties with three or fewer storeys. This proposal does nothing to minimise overshadowing (except that on p.52 it says that the overshadowing of 16 Ocean Road will not be adversely affected by the height breach!) and barely even mentions view sharing.
- The Council has to be satisfied that there are sufficient environmental grounds to justify contravening the development standard. What the Applicant wishes to include in this development is not an environmental ground. The absence of environmental harm is also not a sufficient ground for contravening the standard. Given that the height breach contravenes at least four of the six objectives of the height control mentioned above, it is hard to see how there are environmental grounds for agreeing to such a substantial breach of the height control or for arguing that the proposal meets the objectives of the control – quite the contrary. However the Applicant has to go further than that – he must satisfy the Council

that compliance with the standard is unreasonable or unnecessary and there is no attempt in the report to argue a case on this basis – i.e. there is no argument put forward to substantiate that enforcement of the control is unreasonable or unnecessary.

- Pg 53 states *“The elements which breach the height do so largely as a result of the site’s topography which as observed, displays a significant slope from the rear towards the street”*. Wrong – it is because of the inclusion of the fourth floor. *“Prior excavation of the site and the consequent distortion of the height of buildings plane over the site when compared to the topography is an environmental planning ground sufficient to justify contravening the development standard. The site’s topography and unusual characteristics distinguish this site from the more generic development for which a numeric standard of this kind must inevitably anticipate.”* No evidence of prior excavation is provided and would not justify contravention if it did.
- There are also no arguments put forward to substantiate environmental grounds for allowing the height contravention. Rather a series of statements are made which as can be seen above are either without evidence or at best are contentious without any attempt to substantiate the claims made.

Bulk, scale and building envelope

- Bulk and scale are out of proportion with most of the properties in the vicinity The property will loom over the single-storey Palladium site next door and will be visible from large stretches of lower Palm Beach Road, Ocean Road and even the end of Florida Road. This will result in privacy breaches in respect to a number of nearby properties.
- The property is well outside the building envelope standard (D.28, p.36 of SEE) but the extent of the breaches is not quantified. The reasoning to justify this is a claim that the areas of non-compliance do not have an unreasonable adverse impact on adjoining properties – highly disputable in relation to overshadowing and arguable in respect to views from the properties behind the development.

Building Design & Materials

- Articulation is required to avoid blank expanses of walls and there is no articulation on the north or rear walls and almost none on the street frontage which consists of unadorned concrete and floor to ceiling, wall to wall plate glass windows.
- The author of the SEE does not understand that “materiality” means “relevance” and has nothing to do with materials or finishes.

Front Fence

The Control states that front fences should not exceed a maximum height of 1 metre above existing ground level, be compatible with the streetscape character, and not obstruct views available from the road. The proposed front fence results in the provision of a front fence which ranges in height from 1.3m to 1.5m. This is clearly a breach of the control.

EPA

- Clause 5.1 – EPA Act Objectives. The proposal does not comply with (a), (b), (c) (d), (e), (f) or (g) and (i) does not apply.

BCA

- The SEE gives no indication as to why the Council should accept that the BCA requirements will be met – Clause 5.3.1.

Coastal Management

- Clause 5.4.1 – Coastal Management – there are twelve tests to determine whether a proposal protects the environmental aspects of the coast – perhaps one or at most two are met by this DA.
- Shadow diagrams are included in the Masterset Plans of the DA and disclose substantial shadowing effects on 16 Ocean Road, the historic Palladium. This is unacceptable.

View Sharing

- View sharing – there is no discussion about the effect of the building on views, in particular from 8, 10, 12 Sunrise Road located behind the proposed dwelling. The views from the buildings at the rear of the Palladium will be impacted.

Public Interest

- the SEE contains the astounding statement that *“the proposal has been designed with consideration of the adjoining residents’ amenity and the streetscape. The building has been designed to maintain neighbours’ and local amenity and contribute positively to the streetscape and local character”*. There is no indication of any evidence to back up this statement. In fact the proposal is contrary to the public interest because of the breaches of various planning standards and regulations and the disproportionate impact of the building on the local environment.

Palm Beach Locality - Character As Vewed From A Public Place

- The proposed development breaches this control - It does not achieve the desired future character of the Locality. Does not respond to, reinforce and sensitively relate to the spatial characteristics of the existing built and natural environment. Does not enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment. The built form is not softened by landscaping and vegetation. The proposed building dominates the streetscape.

Scenic Protection

- The proposed development does not minimise the visual impact on the natural environment when viewed from any waterway, road or public reserve, in this case Ocean Road, the beach itself and the ocean.

Conclusion

The application completely ignores the requirement that the proposed dwelling presents a “seaside village feel”, fits into the surrounding streetscape, has a bulk and scale that is not overbearing and jarring when viewed from a public place, and does not detract from the amenity of the surrounding C 4 zoned properties.

For these and all the other reasons referred to in this submission we submit that this application should be refused in its current form.

Prof Richard West AM
President