
Sent: 11/06/2024 5:28:07 PM
Subject: Submission Comments on Proposed Mod 2024/0251 DA 2019/0154
Attachments: Council Submission Mod 2024-0252.pdf;

Dear Planning Officer, Northern Beaches Council

We have received notice from the Council regarding the Proposed Modification 2024/0251 DA 2019/0154 for the development at 1955 Pittwater Road, Bayview.

We endorse the concerns raised by Gavin Rea posted on the council website and the attached submission by Peter Gorian & Toni Capel.

Regards

Kathryn Wheeler & Geoffrey Ross

83 Alexandra Crescent

Bayview

NSW 2104

To: Attention Planning Officer Northern Beaches Council
From: Peter Gorian and Toni Capel
60 Alexandra Crescent, Bayview, NSW, 2104
Subject: Comments on Proposed Mod 2024/0252 DA 2019/0154
Date: 10/June/2024

This development has already been the subject a E&V court ruling and a subsequent Notice of Determination for Modification of Development Consent in 26 September 2023. The relevant sections of the September Determination are listed below together with our comments and personal opinions.

G. Add Condition 28A (Access and Facilities for Persons with Disabilities) to read as follows:

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the recommendations contained in the Disability Access Report prepared by Inclusive Places , Reference No. P000737, dated 10/02/2023 are to be taken into consideration as part of the assessment of the Construction Certificate.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

It is unclear how access to the storage areas complies with these requirements. Please clarify.

I. Add Condition 28C (Amendments to the approved plans) to read as follows:

The following amendments are to be made to the approved plans:

- a) The proposed "ground floor " eastern facing window to the "Unit 3 ensuite" shall be fitted with obscured glazing
- b) The proposed "first floor "eastern facing window to the "Unit 4 ensuite" shall be fitted with obscured glazing
- c) The proposed "ground floor " western facing window to the "Unit 2 ensuite" shall be fitted with obscured glazing
- d) A privacy screen with a minimum height of 1.5 metres (measured from finished floor level) is to be erected for the entire length of the outermost north-western edge (of the trafficable section) of the "Unit 4 Roof Deck". The privacy screen 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.
- e) The proposed front fence as shown on the approved plans shall not exceed 1 metre in height from

existing ground level and shall be designed to step with the fall of the land. This fence shall be designed to be minimum of 50% open/transparent and constructed of dark-coloured, non-reflective materials.

f) The proposed side and rear boundary fencing shall not exceed 1.8m in height from existing ground levels and shall be designed to step with the fall of the land. This fencing shall be located wholly within the boundaries of the subject site and shall be constructed of dark-coloured, non-reflective materials.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

It is unclear from the submitted design information if the development complies with the above requirements. Please clarify.

O. Add Condition 72 (Plant Noise) to read as follows:

Any plant equipment associated with the development, including the passenger lift and air conditioning unit, must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997.

It is unclear from the submitted design information if the development complies with the above requirements. Please clarify and provide more detail on the location of the equipment and design steps to ensure compliance. Has an appropriate acoustics study been completed? This is particularly relevant in that part of the proposed design modifications call for the removal of a storage/equipment plant area. How and where has the associated plant equipment been relocated/housed?

Q. Add Condition 74 (Use of "Lower Ground Floor storage areas") to read as follows:

The "lower ground floor level" unit storage areas, labelled "UNIT 1 ST"; "UNIT 2 ST"; "UNIT 3 ST"; "UNIT 4 ST"; shall not to be used for habitable purposes and shall not to contain any cooking, bathroom/toilet or laundry facilities. The storage areas despite notation on the plan shall have not external openings or ventilation louvers.

The current modification would appear to be in violation of this determination and the original L&E court ruling that the building is restricted to a 2-storey front facing development and 1-storey rear facing development and associated GFA restrictions.

S. Add Condition 75 (Roof top screening & AC Units) to read as follows

The roof top screening is to be located around the Lift shaft only and not more than 1.0m from the lift shaft walls and no AC units shall be located on the roof.

The supplied design drawings indicate that this restriction has not been implemented or incorrectly interpreted. Please clarify.

The conclusion extract provided in the supporting documentation by the contractor's agent is provided below.

6.0 Conclusion

The test established in Moto requires both a quantitative and a qualitative assessment. In terms of the quantitative extent of the changes to the originally approved development, the modifications are contained within the approved building envelope such that the 3-dimensional form, streetscape appearance, car parking, drainage and landscape outcomes as approved are not compromised. Importantly, the spatial relationship of the proposal to adjoining development is maintained together with a complimentary and compatible streetscape presentation and appropriate residential amenity outcomes.

Can the council please advise on their position regarding the DA modifications compliance to the Moto test. It would appear that the requested modification does not meet this test in terms of the concerns primarily stated in Q above.

We would also appreciate the Council's review on the incremental DA approvals granted to date and previous submissions made. These, in our opinion, imply a desire to affectively expand the approved development to include a habitable 3rd floor. Please note our previous submission to the council in the formulation of the 26 September determination which expressly restricted the storage floor from habitable use. In particular our concerns expressed at that time; that the last DA sort an increase in the storage floor height to habitable levels and that this would potentially lead to subsequent requests such as this latest DA Modification. It would also appear that if the conclusions above are accepted then further DA modifications could be sort to incrementally expand habitable use of the remaining storage areas.

To quote Gavin Grants submission. We 'would seek Council advice on these issues prior to Council or L&E Court assessment of these proposed continuing Mod changes'.

Yours Sincerely

Peter Gorian and Toni Capel.