

20<sup>th</sup> September 2022

The General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

Attention: Mr Jordan Davies – Principal Planner

Dear Mr Davies,

**Development Application No. DA2022/0469**  
**Issues response/ Supplementary Statement of Environmental Effects**  
**Construction of shop top housing**  
**1102 Barrenjoey Road, Palm Beach**

Reference is made to Council's correspondence of 13<sup>th</sup> July 2022 in which a number of issues were raised and the subsequent discussions and email communications in relation to the final design detailing of the development. This submission details the highly considered response to the issues raised and is to be read in conjunction with the following amended/additional plans and documentation:

- Amended Architectural plans, dated 12<sup>th</sup> September 2022, prepared by RMA Architecture,
- Amended landscape plans, dated 9<sup>th</sup> September 2022, prepared by Fifth Season Landscapes,
- Heritage Impact Statement, dated 14<sup>th</sup> September 2022, prepared by Weir Phillips Heritage,
- Preliminary Acid Sulfate Soil Investigation, dated 1<sup>st</sup> December 2020, prepared by JK Environments,
- Geotechnical response to RFI letter and updated seepage analysis and geotechnical assessment prepared by JK Geotechnics,
- Waste Classification Report, dated 21<sup>st</sup> April 2022, prepared by Epic Environmental,
- Substation relocation and overhead line undergrounding plans prepared by DEP Consulting, and
- Updated clause 4.6 variation request – Height of buildings

The amended plans provide for the following built form changes:

### Basement

- Minor changes to the services area at the southern end of floorplate to accommodate the relocated booster assembly at ground level above.

### Ground Floor

- The relocation of the fire booster assembly from the publicly accessible forecourt to a location to the south of the driveway.
- The redesign of the publicly accessible forecourt areas to enhance accessibility and utility.

### First Floor

- A reduction in the northern extent of the west facing terrace adjacent to the main bedroom and kitchen.
- The reconfiguration of the west facing balconies to provide additional façade articulation.

### Second Floor

- The reconfiguration and reduction in floor space at this level to provide increased setbacks to the northern and southern boundaries and to enable the floor space to be located predominantly within a pitched roof form with dormer style projections to afford light and ventilation to the apartments at this level.

In relation to the issues raised in Council's correspondence of 14<sup>th</sup> March 2022 we respond as follows.

### **Acid sulfate soils**

Response: Please find attached the Preliminary Acid Sulfate Soil Investigation, dated 1<sup>st</sup> December 2020, prepared by JK Environments, which addresses clause 7.1 of Pittwater LEP 2014.

### **Geotechnical hazards**

Response: Please find attached a geotechnical response to Council's RFI letter and an updated seepage analysis and geotechnical assessment prepared by JK Geotechnics. These documents address the concerns raised in relation to referencing the most current architectural plans, the provision of details regarding the retention of the existing rock and shotcrete walls and the ability to carry out development without the need for rock anchors extending onto neighbouring properties.

## **Plan consistency and detailing**

Response: We confirm that the architectural and landscape plans have been coordinated to nominate landscaping and associated soil depths. The feature tree located within the front publicly accessible forecourt area is located in a raised integrated planter/seating structure to ensure sufficient soil volume and depth. The screen planting across the rear of the site will be located within a planter having a soil depth of 800mm.

## **Shadow diagrams**

Response: This submission is accompanied by updated shadow diagrams depicting the shadow cast by the proposed development at 9am, 12 noon and 3pm on 21<sup>st</sup> June with the dwelling house at No. 1100 Barrenjoey Road shown on each of these diagrams. The shadowing from a fully compliant building envelope has also been modelled to demonstrate that the non-compliant building height does not unreasonably contribute to shadowing impact.

In any event, the shadow diagrams demonstrate that at least 3 hours of unimpeded solar access will be maintained to the living room windows and adjacent private open space areas associated with the dwelling house at No. 1100 Barrenjoey Road between 12noon and 3pm on 21<sup>st</sup> June in strict accordance with the applicable DCP solar access provision.

## **Survey detail**

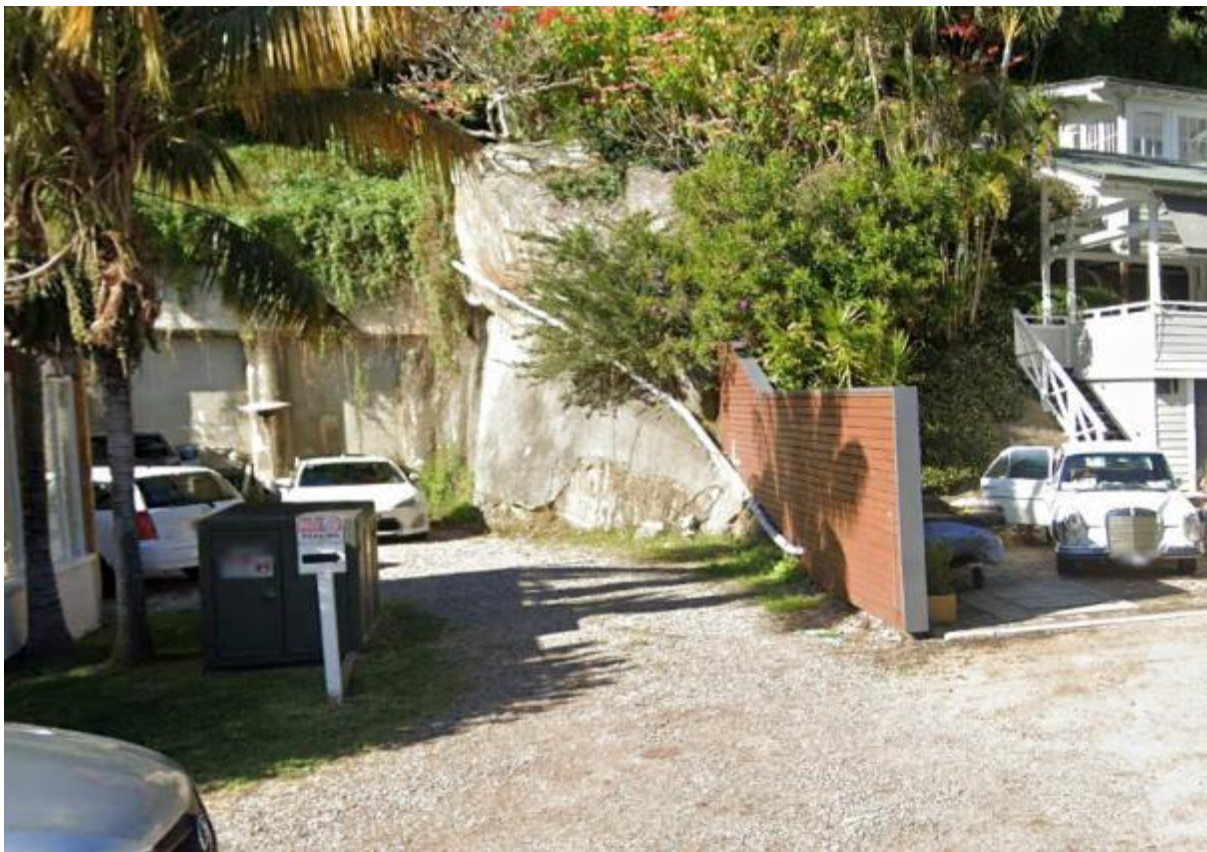
Response: We note that Council has recently adopted the interpretation of ground level (existing) as that established in the matter of *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582* where at paragraphs 73 and 74 O'Neill C found:

*73. The existing level of the site at a point beneath the existing building is the level of the land at that point. I agree with Mr McIntyre that the ground level (existing) within the footprint of the existing building is the extant excavated ground level on the site and the proposal exceeds the height of buildings development standard in those locations where the vertical distance, measured from the excavated ground level within the footprint of the existing building, to the highest point of the proposal directly above, is greater than 10.5m. The maximum exceedance is 2.01m at the north-eastern corner of the Level 3 balcony awning.*

*74. The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014.*

In this regard, the amended architectural bundle contains an 8.5 metre height blanket (DA.02c(B)) depicting the height of the development relative to ground level (existing) as defined in Merman and an 8.5 metre height blanket (DA02a(B)) based on an interpolation of undisturbed ground levels across the site. The clause 4.6 variation request for the proposed building height breach has been updated accordingly, with the previously disturbed ground levels across the site identified as an environmental planning ground in support of the variation.

In relation to the interpolation of undisturbed ground levels across the site, assistance has been obtained from survey information in relation to the undisturbed levels along the property boundaries. The photograph at Figure 1 below clearly depicts the extent of excavation which has occurred across the site relative to the undisturbed levels adjacent to the southern and eastern boundaries of the property.



**Figure 1** - Photograph towards the southern boundary of the property at its intersection with No. 1100 Barrenjoey Road showing the extent of excavation reflected by the retaining wall along the rear (eastern) boundary of the site and the shotcrete below the existing rock outcrop adjacent to its southern boundary

Having undertaken an inspection of the site, and made my own observations, I am satisfied that the interpolated undisturbed 8.5 metre height blanket is generally reflective of the undisturbed levels of the site which would have likely existed prior to any development on the land.

The clause 4.6 variation request in support of the building height breach has been updated accordingly.

### **Noise and water pump out**

Response: The accompanying updated geotechnical report indicates that temporary dewatering during construction will be necessary following installation of the shoring system. A dewatering licence will need to be obtained from the WaterNSW for all temporary dewatering activities with noise appropriately managed through the position of an appropriate condition of consent. The pump can be acoustically attenuated as necessary.

### **View impacts**

Response: A height pole has been erected in the north-western corner of the building as requested by Council.

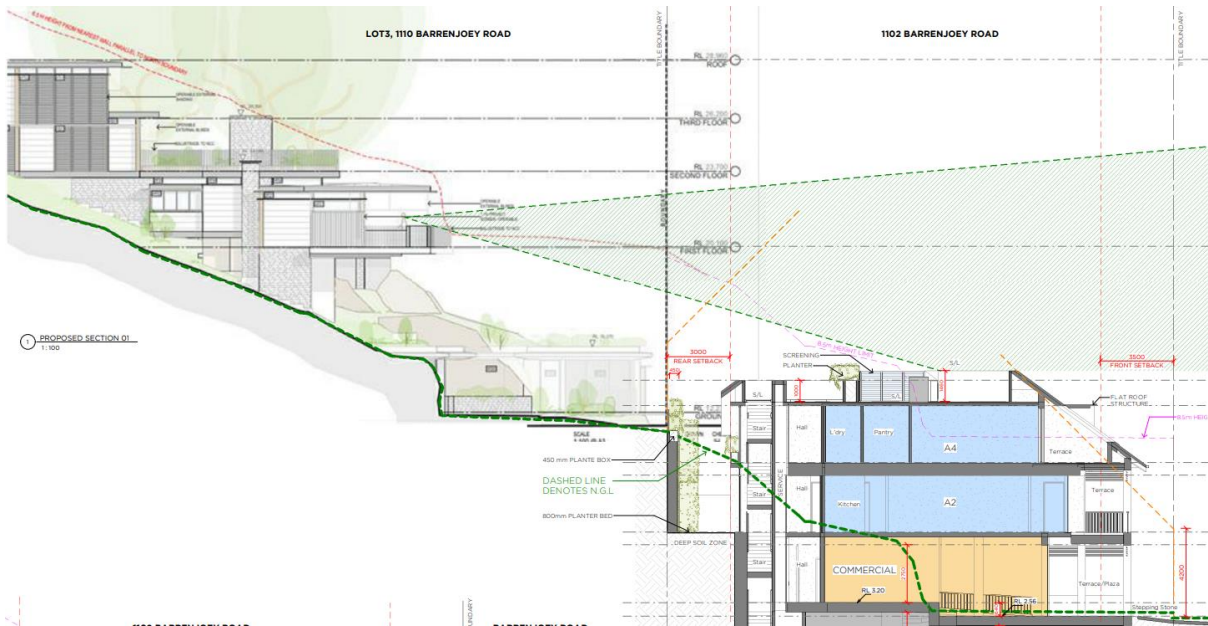
### **Second photomontage**

Response: This amended bundle is accompanied by a photomontage showing the proposed development as viewed from the south-west with a perspective image also submitted showing the building as viewed from the north-west of the site.

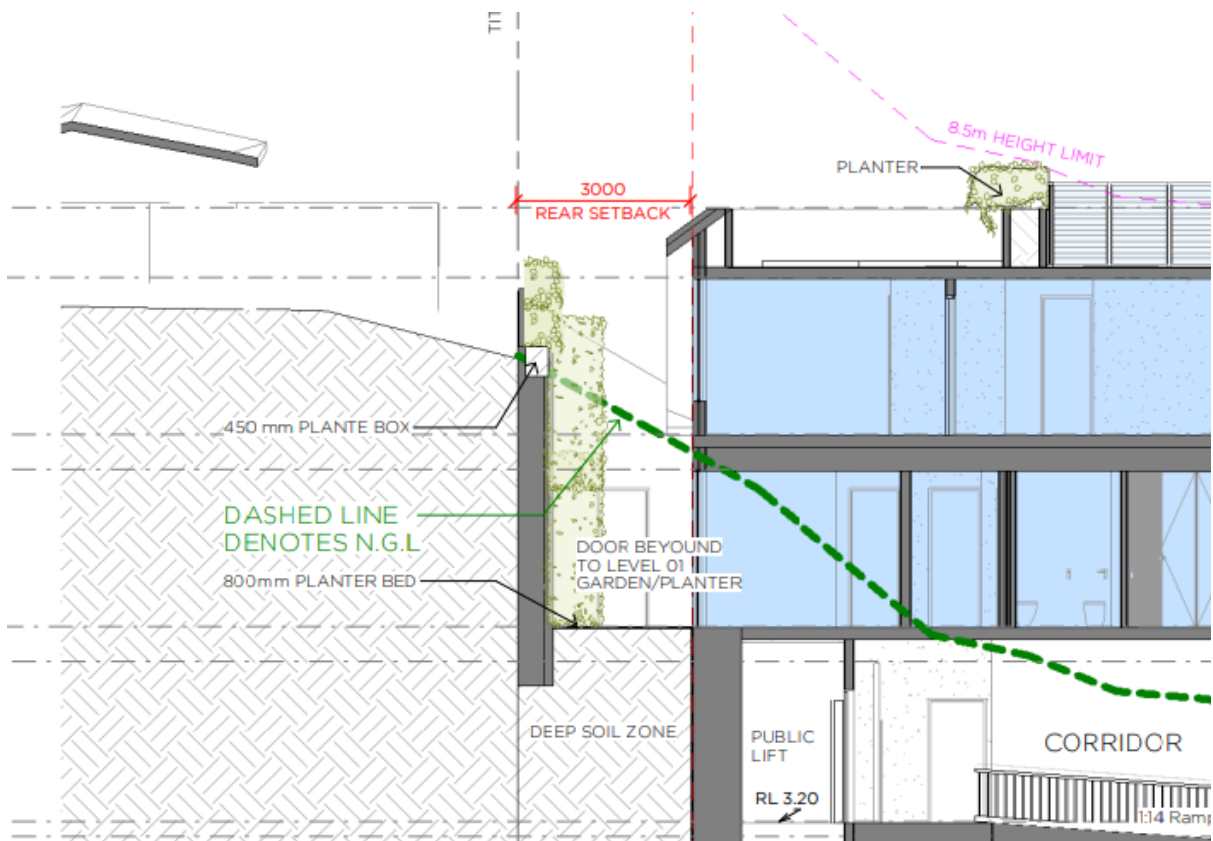
### **Rear boundary treatments and interface**

Response: The sections over page show the spatial relationship of the proposed Level 2 rear facing bedroom windows relative to the recently approved primary and secondary dwellings located on the adjoining property to the east No. 1110 Barrenjoey Road (DA2021/0200).





**Figure 2** – Plan extract depicting the spatial relationship of the proposed Level 2 rear facing bedroom windows relative to the recently approved primary and secondary dwellings on the adjoining property to the east No. 1110 Barrenjoey Road (DA2021/0200).



**Figure 3** - Plan extract depicting the spatial relationship of the proposed Level 2 rear facing bedroom windows relative to the recently approved secondary dwelling on the adjoining property to the east No. 1110 Barrenjoey Road (DA2021/0200).

These diagrams demonstrate that an appropriate level of privacy is maintained between adjoining development due to available view lines and intervening boundary fence and landscape elements with there being an ability for both property owners to supplement the level of privacy through an increase in the height any dividing fence to 1.6 metres. Such fencing would also address any safety concerns in relation to the depth of excavation adjacent to the common boundary.

These sections, when read in conjunction with the landscape plans, also demonstrate an ability to establish landscaping adjacent to the rear boundary which over time will soften and screen the rear of the development as viewed from adjoining properties.

### **Accessibility from public footpath**

Response: Accessibility has been addressed in the preparation of the amended Architectural and landscape plans.

### **Heritage Referral**

Response: The feedback from Council's heritage advisor has been incorporated into the final Architectural and landscape detailing in consultation with the applicant's heritage expert. In this regard, we rely on the detailed response commentary contained within the accompanying updated Heritage Impact Statement, dated 14<sup>th</sup> September 2022, prepared by Weir Phillips Heritage.

Council can be satisfied that, notwithstanding the building height breaching elements, that the proposal is consistent with the building height standard objectives and to that extent the amended clause 4.6 variation request is well founded.

### **Design Sustainability Advisory Panel (DSAP)**

Response: We respond to the summary of recommended DSAP amendments as follows:

*1. Relocate booster*

Response: The fire booster cupboard has been relocated from the public plaza at the northern end of the development to the southern side of the driveway entrance.

*2. Related to that the above- full electrification of the development, if the tenant is insistent on gas then cylinders in basement as a transitional strategy.*

Response: Whilst we appreciate the desire for the full electrification of the development, such outcome has not been adopted given the developments compliance with the applicable statutory state and local sustainability policy provisions and continuing market demand for certain gas appliances.

- 3. Redesign roof scape and consider green roof to screen rooftop plant (engaging with neighbours would be ideally part of this). Maximise the amount of PV on the roof noting that if pitch were reduced and the flat roof area also reduced that the panels would not even be visible from the street- there is quite a range of integrated options available*

Response: The roof scape has been redesigned to simplify its visual presentation from the rear with additional PV provided together with integrated rooftop planting as nominated on the accompanying landscape plans.

- 4. Redesign courtyard and paving treatment to be more usable and habitable*

Response: The courtyard and paving treatments have been redesigned to enhance accessibility, utility and the general amenity of the publicly accessible forecourt area of the development as nominated on the accompanying landscape plans.

- 5. Landscape needs more consideration, tree species and locations, paving and accessibility*

Response: The architectural and landscape plans have been further refined and resolved in terms of landscape outcomes and accessibility.

- 6. Consider a more 'urban' street edge condition- the area taken up by the garden beds is extremely valuable 'sidewalk dining'. This might also consider retractable awning that will be needed in summer.*

Response: The amended architectural and landscape detailing provide a more urban street edge as recommended with sidewalk dining opportunities maximised.

### **Traffic Engineering Referral**

Response: The amended plans continue to provide a total of 21 off-street carparking spaces being 10 residential, 2 residential visitor spaces and 9 commercial car spaces. Whilst a compliant quantum of residential and residential visitor spaces is provided, based on a total retail GFA of 371.9m<sup>2</sup> the proposal generates a commercial car parking requirement of 12.39 spaces representing a variation of 2.39 spaces (3 rounded up). We note that servicing and loading for the proposed commercial premises will occur on street within the existing signposted loading zone adjacent to the northern boundary of the property.



In relation to the requirement to provide 1 accessible commercial car space, we would raise no objection to a suitably worded condition requiring the conversion of commercial space C7 to an accessible space and the relocation of the adjacent vertical bicycle parking spaces potentially to the vehicular ramp wall adjacent to the southern lift.

The shortfall of 3 commercial car parking spaces is not, in our submission, determinative given the site's location immediately adjacent to the Palm Beach commuter wharf and associated public car parking whereby a significant number of persons utilising the future retail uses will be persons already parked in the public car park to utilise ferry services or the plethora of open space areas and scenic public walks available within immediate proximity of the site.

The proposal provides appropriately for servicing and off-street carparking.

### **Development Engineering Referral**

Response: The application is accompanied by detailed plans showing the relocation of the existing substation and long sections at both edges of the proposed access driveway showing compliant gradient in accordance with AS 2890.

### **Environmental Health (Contaminated Lands) Referral**

Response: This submission is accompanied by a Waste Classification report, dated 21<sup>st</sup> April 2022, prepared by EPIC Environmental which assesses the likelihood of contamination being present on the site with the report containing the following conclusion:

- *Laboratory analysis and field observations indicated that the subject soils are suitable for classification as General Solid Waste (non-putrescible)*

### **Landscape Referral**

Response: The accompanying amended landscape plans comprehensively address the concerns raised in relation to landscape outcomes and the detailing of the public plaza at the northern end of the development.

### **Waste Officer**

Response: The plans provide a temporary bin holding area adjacent to the frontage of the property for William will out waste collection by Council's contractors. Bins will be presented to this area for collection as detailed within the Waste Minimisation and Management Plan already submitted in support of the application.

We are of the opinion that the amended documentation, the subject of this submission, comprehensively responds to the issues raised and provides for an overall refinement in the detailing and design quality of the development. Having given due consideration to the matters pursuant to Section 4.15(1) of the Environmental Planning and assessment Act, 1979 as amended, it is considered that there are no matters which would prevent Council from granting consent to modification sought in this instance.

Please not hesitate to contact me to discuss any aspect of this submission.

**Yours faithfully**

Boston Blyth Fleming Town Planners

A handwritten signature in black ink, appearing to read 'Greg Boston', written in a cursive style.

Greg Boston

B Urb & Reg Plan (UNE) MPIA

B Env Hlth (UWS)

**Director**