
From: VC [REDACTED]
Sent: Monday, 10 April 2023 8:18 PM
To: Planning Panels - Northern Beaches
Subject: PBWBA Submission DA 2022/0469 1102 Barrenjoey Rd
Attachments: PBWBA FINAL submission DA 1102 Barrenjoey 10-4-23.pdf

Categories: NBLPP

Please see attached submission from The Palm Beach & Whale Beach Association.



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The Palm Beach & Whale Beach Association Inc.

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The Chairman
The Northern Beaches Local Planning Panel

Dear Sir

**Re: Application No. DA2022/0469 1102 Barrenjoey Road, Palm Beach
Construction of shop top housing**

SUBMISSION

The Community relies on the legislated planning instruments and Northern Beaches Council (NBC) to ensure that DAs comply with the current Pittwater LEP2014 and DCPs, particularly landscaping, preservation of tree canopy, privacy, **heritage, building height, bulk, scale and design which enhances the streetscape and complements the Palm Beach seaside village feel.**

NBC states its goal is to protect and enhance our natural and developed environment and to preserve our quality of life for future generations and that they do this by using appropriate development and planning controls. This statement is clear and unambiguous and we strongly support this goal.

The development at 1102 Barrenjoey Rd was, despite an overwhelming number of objections and multiple breaches of controls, recommended for approval by Northern Beaches Council and referred to the Northern Beaches Local Planning Panel (NBLPP) meeting on 15 February 2023. At this meeting the NBLPP, as the consent authority, deferred further consideration of the application due to concerns they had with the plans and requested the developer to submit amended plans which would address the following -

- 1) reduce the overall height, bulk and scale including removal of the mansard roof
- 2) set back the upper level and roof form to be more compatible with surrounding development particularly heritage listed Barrenjoey House
- 3) reduce the overly strong vertical influence of the balcony columns at the front and their impact on bulk and scale
- 4) redesign the mechanical plant enclosure to minimise the height of the screening and the provision of rooftop landscape screen.

Amended plans were submitted by the developer as requested by the NBLPP. The Panel held a closed meeting on 8 March 2023 to consider the requested design changes. The minutes of the non-public meeting of NBLPP are on the website but further confuse the procedure. It would appear that amended plans showing a flat roof design were submitted to the Panel showing some (but not all) of the amendments requested by the Panel at its 15 February meeting and were found to be unsatisfactory although on what grounds is unclear. What is clear is that some of Council's senior planning team were present including Louise Kerr and Peter Robinson plus Rod Simpson from DSAP and Robert Moore Council's Heritage Officer and they were able to advocate reverting to the "original" plans contrary to the Panel's decision of 15th February. What is genuinely disturbing is that Council's planning staff were able to advocate, in the absence of the public, for plans against which over 150 objections had been lodged by the public - plans which furthermore show a number of serious breaches of planning controls.

Turning to the planning controls, the Pittwater LEP imposes a height control for this site of 8.5 meters. We understand that the proposed development, even in amended form, still exceeds this by approximately 2.5 meters (refer to survey plan ground levels). This still breaches the control by **30%**. The fact that recommended ceiling heights for shop developments and the first floor of shop-top housing has been increased by the Australian Design rules is irrelevant - those rules do not operate to allow the developer to breach the height controls of the LEP.

The Pittwater DCP requires commercial developments to respect the “seaside-village” character of Palm Beach through building design, signage and landscaping (of which there appears to be very little on this site). Commercial developments in the vicinity of a heritage item should respect and complement the heritage significance in terms of building envelope, proportions, materials and building alignment. They should provide for a buffer zone between the heritage item and the development. This DA does **not** comply with any of these requirements (see technical appendix on pg 4 following).

We find the proposed development’s height, bulk and scale still jarring, overbearing and unsympathetic in the existing streetscape context, still has no regard to the built form characteristics of development within the site’s visual catchment and in particular still overwhelms its neighbour the heritage listed Barrenjoey House and does **not** make a positive contribution to the streetscape and the village.

Since 4 April 2022, approximately 150 submissions to Council regarding the DAs various plans and amended plans have been lodged which clearly demonstrates the significance of this development to the Community and how important it is to keep the building within the clearly stated LEP/DCP controls and respect the heritage of Barrenjoey House. Why are these submissions ignored?

The Community is very concerned and dismayed with continuing over-development and inappropriate development in the Palm Beach/Whale Beach area (and elsewhere in the LGA) and finds it extremely difficult to understand why the existing controls in both the LEP and the DCP and community opinion are so often ignored as demonstrated by this proposed development.


Only by ensuring that the Pittwater LEP2014 and DCP controls are enforced can we retain our ‘seaside-village’ feel and curb the push for over-large, overbearing and bulky developments which are destroying the streetscapes and amenity we treasure.

Should this DA be supported in its current form by the NBLPP it would further encourage others to disregard the Pittwater LEP and DCPs and pave the way for further non-compliant development particularly in other B1 and B2 zones in Palm Beach.

We believe that It is our responsibility - the Community’s responsibility, the Council’s responsibility and the NBLPP’s responsibility - to ensure that a building on such a significant site which adjoins the heritage building Barrenjoey House respects that heritage item, makes a positive contribution to the streetscape, the seaside village feel and the amenity of the area for current and future generations.

The minor amendments and the passage of time since this application was lodged some 12 months ago does not change the fact that this building was and still is totally unsuitable for this site and if approved would every day for decades to come dominate and disrespect Barrenjoey House and be a blight on the streetscape.

This application should be resoundingly refused.

Prof Richard West AM
President
10/4/23


APPENDIX (A) TO LETTER FROM PALM BEACH & WHALE BEACH ASSOCIATION OF 10 APRIL TO NORTHERN BEACHES LOCAL PLANNING PANEL RE D/A 2022/0469:

The detailed technical issues with the proposed D/A which would justify the Panel in rejecting the amended D/A are: -

(a) Height Control – the height control set out in Clause 4.3 of the LEP has the following relevant aims (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality; and (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development (there are other objectives which are not relevant to the present discussion). On any view of the proposed D/A, its height and scale are vastly greater than any of the surrounding or nearby developments. This is unarguable. It is difficult to be certain what the proposed final breach of the height control is but the figure in the amended Section 4.6 report from Boston Blyth Fleming is a height of 11.47 metres, 2.97 metres in excess of the height control of 8.5 metres, or 34.94%. A breach of this magnitude is far in excess of what Clause 4.6 was intended to achieve which was “an appropriate degree of flexibility”. To illustrate the magnitude of the increase in height, it allows an increase of close to 50% of the floor space of the building because it is equivalent to allowing a whole extra floor to be added to the building. The report does not provide any substantive justification for the breach nor does it argue satisfactorily that the breach is consistent with the objectives of the height control as expressed in Clause 4.3.

(b) Height Control Objectives. The objectives of the height control mentioned in the previous paragraph require the height to be consistent with the desired character of the locality. This is to be found in Sections A and D of the Pittwater DCP. Section A requires buildings within the commercial centres in Palm Beach and Whale Beach to be of “seaside-village character which does not describe the proposed D/A; Section D requires that buildings in residential areas (which describes the whole of Palm Beach and Whale Beach) must give the appearance of being “two-storey maximum”. So the extra gained by breaching the height control in the LEP also breaches the requirement of Clause 4.3 in being out of character with the locality. The second objective quoted above requires buildings to be compatible in height and scale with the surrounding and nearby development – this D/A is not compatible – it is substantially greater in height and scale than any other nearby or surrounding buildings.

(c) Section 4.6 Report. The requirements of a Section 4.6 report are that it demonstrates two factors - that compliance with the control is unnecessary or unreasonable in this case and that there are sufficient environmental planning grounds to justify contravening the development standard. As pointed out earlier, the proposed breach is of a magnitude far greater than the intent of the clause – it is not a case of providing for adequate ceiling height in a corner room – it allows an entire extra floor. It is impossible to argue that compliance is unreasonable in this case nor that the control is unnecessary in this case. There are no environmental planning grounds quoted in the report to justify the breach. The consent authority, the Panel in this instance, must be satisfied that the report adequately deals with these two requirements (and in our submission it does not) but it also must be satisfied that the proposed development is in the public interest because it is consistent with the objectives of the particular standard and the objectives for the zone in which it is located. Those objectives are to provide a measure of flexibility in administering the control and to secure a “better” outcome “for and from” the development – “better” is not defined but must include the public as well as the developer and “for and from” means that the interests of all those affected by the development must be considered. The massive volume of public submissions against this development suggests very strongly that it is not in the public interest and as pointed out above, the development is not consistent with the objectives of the standard nor the zoning.

(d) Heritage Controls – Section B1.2 of the DCP requires developments in the vicinity of a heritage item (Barrenjoey House) to provide “an adequate buffer zone” between it and the heritage item. There is no attempt to do this with the proposed D/A – there is nothing between the development and Barrenjoey House and the development is as close to the boundary. The setback on the boundary between the side wall of the development and Barrenjoey House is supposed to have been increased (by 300mm) but the roof line still almost reaches the boundary and there is only empty space between the two – there is no buffer at all. The DCP also requires the development to respect and complement the heritage significance in terms of building envelope, proportions, materials and building alignment – it does not.

(e) 45 Degree Envelope – the DCP (Section 12.8) requires the building envelope to be projected at 45 degrees above a height of 3.5 metres above ground level to the maximum height of the building. This D/A does not comply.