
Sent: 21/04/2023 3:34:25 PM
Subject: DA2023/0342 12 /14 Rock bath Rd
Attachments: PBWBA Submission DA 2023-0342 12-14 Rock Bath Rd April 2023.pdf;

Submission

Richard West AM

President Palm Beach & Whale Beach Assn



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Northern Beaches Council
Planning and Development
Att: Mr Adam Croft

21st April 2023

SUBMISSION - OBJECTION

We refer to DA2023/0342 at 12-14 Rock Bath Road, Palm Beach and submit our concerns regarding the Development Application lodged for this property.

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. We note this property is zoned C4 Environmental Living.

We are concerned that this proposed DA appears to breach the LEP and DCP controls for the site in several categories particularly Clause 4.3 of the Pittwater LEP2014 which requires the proposed dwelling

- to fit with the desired character of the locality
- to respond sensitively to the natural topography and
- to minimise the adverse visual impact on the natural environment

Additionally non compliance includes

- front set back from Rockbath Rd
- height - 25% (2.16m) breach - a clause 4.6 variation has been submitted
- 4 storeys when viewed from the water

We have several concerns after reading the Statement of Environmental Effects prepared by *aSquare planning* dated February 2023 -

- An astonishing claim is made that because the public land between the boundary and the road surface has been landscaped it is regarded by the public as part of the property and thus it should count towards setback and towards the 60% landscape requirement!
- The Statement of Environmental Effects is confused. On p.31 it thinks it is dealing with the Lane Cove LEP; on p.57, it thinks that the DA is for alterations and additions to an existing dwelling (under C1.9); on pg 61, it thinks the subject site adjoins Barrenjoey Road.
- It does not deal with stormwater drainage which looms as an unresolved issue.
- The Statement notes that the DCP requires the DA to have the appearance of a 2-storey dwelling when viewed from a public place and it certainly does so from the street but it is a 4-storey building from the other public place – the ocean.
- The DCP (C1.1) requires 2 canopy trees to be planted in the front yard and one in the rear yard but the landscape plan just talks about trees, not canopy trees of which the property has none.
- The DCP (A4.12) also specifies the desired character of the locality to be low impact seaside village-type housing – four storeys and 7 bedrooms, 9 bathrooms plus WC and 2 swimming pools is hardly low-impact.

We have major concerns with geotechnical issues on the site which appear to be treated lightly. The property sits on the edge of a 40-metre coastal cliff with a slope of 76 degrees from the horizontal – i.e. nearly vertical. It is Narrabeen sandstone which we know is softer and more prone to erosion than Hawkesbury sandstone.

There are two relevant reports with this DA – the first a coastal engineering report by Horton and the second a geotechnical report by Crozier. Horton has not reviewed the geotechnical report because he states he does not have geotechnical engineering expertise. Crozier says he is not a geotechnical engineer but an engineering geologist.

Horton reviews the possibility of erosion of the cliff over the 100-year expected life of the new development and comes to the conclusion from the literature that between 8 mm and 12 mm per annum is a reasonable expectation and this would not pose any risk to the new house. He comments on the loose rocks at the bottom of the cliff and accepts that they have fallen from the cliff face but he does not draw the obvious conclusion that steady 8-12 mm erosion each year is not what is likely to happen and that rock fall is the most likely type of erosion. He says that any rise in sea level is unlikely to affect erosion of the cliff. He makes no allowance for the additional loading on the cliff edge from the new much larger house or for the excavation of the site to build the new house.

Crozier's report is a more technical investigation of the topography and geology of the site but he only tests the soil to a depth of 80 cm to 1 metre or thereabouts. He says the bedrock is "very low strength bedrock" and does recommend some additional strengthening of the walls of the excavations as a result. He reports that weathering has eroded and "undercut" the cliff face but does not draw any conclusions from this. Given the history apparent at the foot of the cliff of previous rock falls we find this alarming. He reports uncontrolled stormwater flows from underneath the existing house and over the cliff edge but does not appear to think this is a risk.

The Council is required by Clause 7.5 of the LEP not to consent to a development in a coastal hazard area (which includes this cliff) unless it is satisfied that the development is not likely to cause detrimental increases in coastal risks to this or any other property and is likely to minimise effects from coastal hazards, particularly where the development is seaward of the immediate hazard line which the reports acknowledge this property is. Neither of these reports is adequate to provide the level of comfort that the Council should require.

Clause 7.8 of the LEP says that development consent must not be granted for development on land in the foreshore area (which this land is) except for the purpose of extension, alteration or rebuilding of a building wholly or partly in the foreshore area (it is wholly) but only if the development will not result in the footprint of the building extending further into the foreshore area – which this DA does.

The Council published a Geotechnical Review by Douglas late last year on "Have Your Say" as part of the LEP consolidation process. It recommends that the new LEP should contain a provision prohibiting development within 20 metres from the crest of bluff/coastal cliffs. This development would extend to about 2 metres from the crest of the coastal cliff – see the diagram on page 4 of the Horton Report. We believe that this should cause the Council officers to reflect very deeply about this proposed DA.

The subject site is shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014 and the relevant provisions of the Geotechnical Risk Management Policy for Pittwater and the B3.4 Coastline (Bluff) Hazard controls in P21 DCP will apply to proposed development of the site.

Part 7 Section 7.5 of the Pittwater LEP 2014: Coastal risk planning (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development— (a) is not likely to cause detrimental increases in coastal risks to other development or properties, and (b) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and (c) incorporates

appropriate measures to manage risk to life from coastal risks, and (d) is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and (e) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and (f) has regard to the impacts of sea level rise, and (g) will have an acceptable level of risk to both property and life, in relation to all identifiable coastline hazards.

Development must be designed and constructed to ensure that every reasonable and practical means available is used to remove risk to an acceptable level as defined by the Geotechnical Risk Management Policy for Pittwater (see Part B Appendix 5) for the life of the development. The development must not adversely affect or be adversely affected by geotechnical and coastal processes nor must it increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical and coastal processes

We believe the proposed DA in its current form should be refused by Council as it

- is an overdevelopment of such a sensitive site,
- breaches several controls
- adversely impacts the amenity and character of the area
- does not enhance the streetscape nor complement the seaside village feel
- does not maintain and enhance the natural environment of Pittwater as the proposed dwelling dominates the landscape and is not a secondary component
- is not designed in scale with Pittwater's bushland setting nor does it encourage visual integration and connectivity to the natural environment.
- does not minimise any visual impact on the natural environment when viewed from a waterway which, in this case, is the ocean.
- may adversely affect or be adversely affected by geotechnical and coastal processes and may increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical and coastal processes.

Prof Richard West AM
President