

26 March 2024

The General Manager
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

Objection to DA 2023/1469

Alterations and Additions to a Dwelling House at 955 Barrenjoey Road, Palm Beach

Attention: Jordan Davies

Gartner Trovato Architects has been commissioned by Matthew and Sharyn Doyle, the owners of the adjoining property 959 Barrenjoey Road, Palm Beach (959) to undertake a review of the development application for alterations and additions to 955 Barrenjoey Road, Palm Beach (955) in terms of compliance with council policies and impacts upon the dwelling at 959.

Our client's property is located to the north of the subject site and received notification of the Development Application through council after submission on 19 October 2023.

Our initial review of plans revealed significant non-compliance with council policies that had direct cause for amenity impacts upon 959. An initial objection was made by Matthew Doyle by email on 23 November 2023 identifying several concerns. Following submission of the email, the applicant Cadence & Co contacted our office in an attempt to resolve the issues.

A meeting was held on 30 January 2024 with representatives of Cadence & Co, their town planner Rebecca Englund, Matthew Doyle and Gartner Trovato Architects. The owner of 955 did not attend. Following this meeting Cadence provided 'without prejudice' amended plans on 28 February 2024 in an attempt to resolve the concerns. The plans did not achieve an agreement between the parties as the primary issues of impacts on privacy, views and bulk and scale remained as a consequence of the non-compliances with built form controls.

On 11 March 2024 the applicant submitted amended plans to council that we reviewed from the council website. These plans did not address any of the concerns and as such causes unacceptable impacts upon 959 due to the non-compliance with council built form controls. The proposal should be refused.

The details of the non-compliances with council LEP & DCP and the resulting unacceptable impacts are:

1. Zone Objectives and Land Use Table – PLEP 2.3

The land is zoned C4 with objectives that seek '*low impact residential development*', with '*ensure that residential development does not have an adverse impact*', and '*development of a low density and scale integrated with the landform and landscape*'.

The proposal fails to achieve 3 of the 4 objectives as the dwelling is not low impact with a monolithic robust 4 storey façade facing Pittwater and the top storey non-compliant with building height and front setback. The proposal has an adverse effect on the aesthetic and ecological values of the area as it has a jarring visual effect of 4 storeys above all surrounding 2 and 3 storey dwellings. The proposal is not low density and is of a scale that dominates the landform in contrary to integrating into the landscape.

There is no justification for the 4th storey as it fails to achieve this clause of the LEP in addition to non-compliance with height and setback. The proposal presents an unacceptable bulk and scale impact to adjoining lands. The application is inconsistent with the zone objectives and should be refused.



2. Height of Buildings – PLEP 4.3

The proposal is incorrectly described as Alterations and Additions to a Dwelling and does not pass the test (L&EC principles) with the amount of the existing dwelling being retained against the proportion of new build. The proposal therefore does not have any justification to exceed height due to the existing structure.

The height of the building fails to achieve the objectives of this clause. The proposal is not consistent with the desired future character of the locality which requires that *'dwelling houses in maximum of two storeys in any one place'*. The section drawings clearly identify the dwelling as 3 storeys and 4 storeys as connected by the lift at any one place, and a clear 3 storey in a line at the rear/waterfront elevation. The proposal is a significant departure from the Desired Future Character.

The proposal is not compatible with the height and scale of surrounding and nearby development, which are 3 storeys and the bulk and scale results in a loss of views due to breaches in height and envelope. The proposal does not achieve the objectives.

The proposal has a maximum height between 10.30m towards the north boundary and 10.62m toward the south boundary. This is calculated from the applicants plans and survey that show the top roof parapet at RL 24.350 and ground levels along the northern path below the western most point of the top roof at RL 14.06, and to the south at RL 13.73. The amended plans do not indicate a maximum height calculation, but rather show an inaccurate and 10m height plane in red dashed line that appears to be above the proposed dwelling, indicating that the dwelling is below the 10m height.

The plans are false and misleading.

Notwithstanding the inaccuracy on height, the plans have incorrectly calculated the slope of the land. Section A on DA13(B) shows the slope at 37.72% from top to bottom of land. The LEP clearly states under clause 4.3, (2D)(c) that the slope must be in excess of 30% **under the building footprint**. When this is calculated accurately, the slope is 29.0% from an RL 17.74 existing ground at the top of the garage to RL 11.19 at the bottom of Level 1 along the same northern boundary. The plans are misleading and inaccurate.

The utilisation of a height up to 10m under the LEP relies upon both a slope exceeding 30% and achieving the objectives. The application achieves neither of these standards and the height limit that should be applied is the 8.5m limit.

The 4th storey and any part of the building above 8.5m is therefore unjustified.

In addition, the 3rd storey exceeds the 8.5m limit due to the proposal extending the building footprint too far in a westerly direction towards the waterfront. The western wall of the living room needs to move a minimum of 2.5m towards the street to achieve compliance.

The impacts of the non-compliance with height have direct affects to a loss of privacy, loss of views and bulk and scale to 959, which are further detailed in this objection. The proposal should be refused on non-compliance with height and a resulting impact.

3. PDCP C1.3 – View Sharing

The property at 959 currently enjoys panoramic views to the west extending from Mackerel Beach to the northwest, through Portuguese Beach directly west, around to Stokes Point to the south and into the shores of Careel Bay to the southwest. The proposed dwelling at 955 will impact upon the views into Careel Bay.

Our analysis on view sharing is based on the *'Tenacity L&EC principles'*. Whilst these views form only a part of the whole view, the loss of these views is judged unreasonable because the part of the proposed dwelling resulting in the loss of views is non-compliant with multiple LEP and DCP built form controls and a more skilful design that complies with controls could readily maintain this view.

The proposal should be refused upon unreasonable loss of views.



4. PDCP C1.5 – Visual Privacy

The proposed location of the Terrace off the Living room is non-compliant with the DCP controls and objectives. The controls require that:

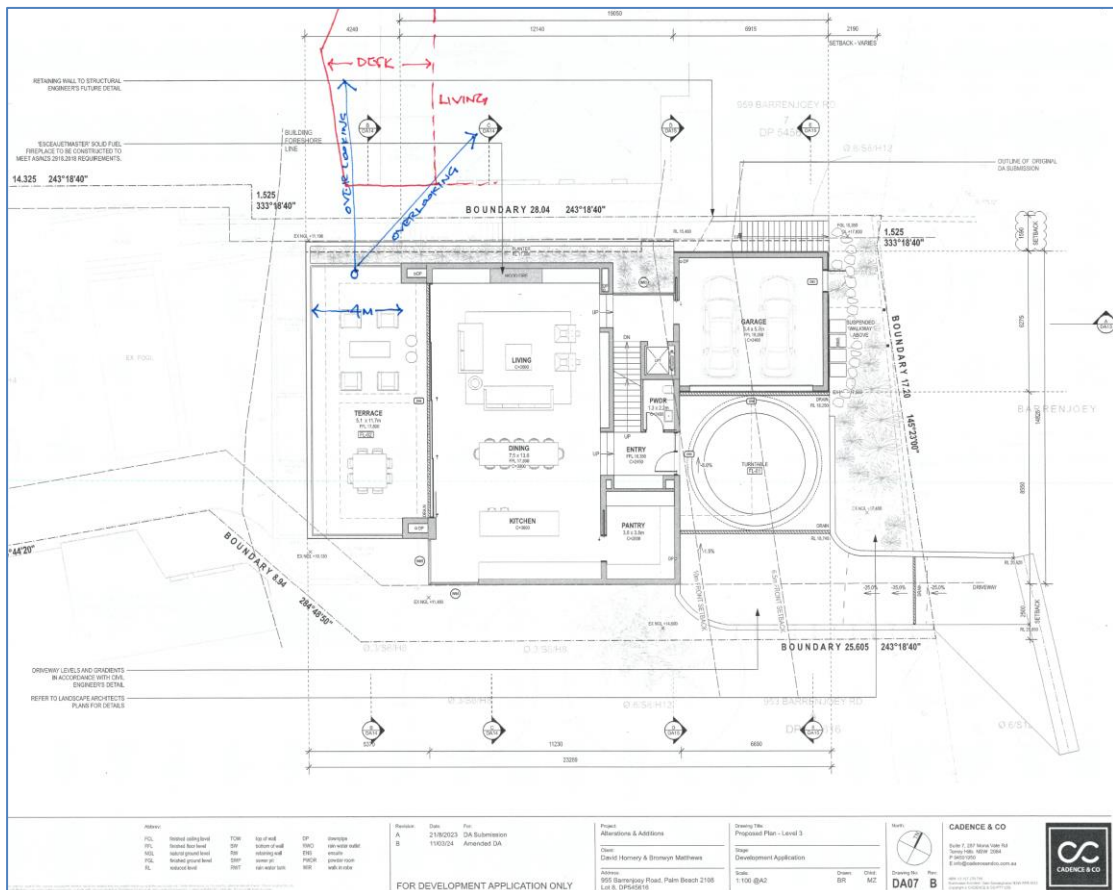
- *Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*
- *Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

The proposed terrace of 955 is 5.1m wide and directly overlooks the principle private open space of the Living room and deck off the living room of 959 with a separation distance of 3.5m. It also looks directly into the main bedroom, deck off the main bedroom and ensuite to the main bedroom on the upper floor. Refer image below. The terrace cannot rely upon proposed landscape in planters for privacy as the terrace is attempting to achieve NW views and therefore the planters will be kept at a low level. The Terrace of 955 is elevated above the living area and deck of 959 and does not propose any privacy screens and will overlook more than 50% of the private open space of 959.

The proposal fails to comply with 100% of the controls and the impact upon the privacy to 959 is unreasonable and unacceptable. The impact is exacerbated by the non-compliance with side boundary envelope to the terrace.

Attempts were made to suggest that the terrace be reduced in an easterly direction to align with the upper decks of 959, and fixed privacy screens added. These suggestions would achieve compliance with the policy but were rejected by the applicant.

The proposal should be refused for non-compliance with visual privacy.



5. PDCP D12.2 – Scenic Protection

The proposal does not minimise visual impact from the waterway as it presents a jarring 4 storey façade facing Pittwater with no opportunity for landscape screening of the built form due to the built out ature of the site down to the foreshore. The bushland landscape is dominated by the built form in direct opposition to the objectives and is not secondary to the visual catchment. The proposal does not achieve compliance with Scenic Protection.

6. PDCP D12.5 – Front Building Line

The DCP control requires a 10m setback to Barrenjoey Road. Whilst it is recognised that many properties in this locality exhibit parking structures within this 10m setback, it is not justified that any other part of the dwelling should be within the setback.

The entire level 4 should be deleted as it is non-compliant with Building Height, Building envelope and Front setback. The plans indicate an 'Entry' at Level 3 and the existing dwelling has a stair from the front boundary to access this level, if the driveway is not the primary source of access and therefore there is no justification to have any part of the dwelling at Level 4.

The impact of level 4 is excessive bulk and scale as presented to both the street and the waterfrontage, which is inconsistent with all adjoining properties.

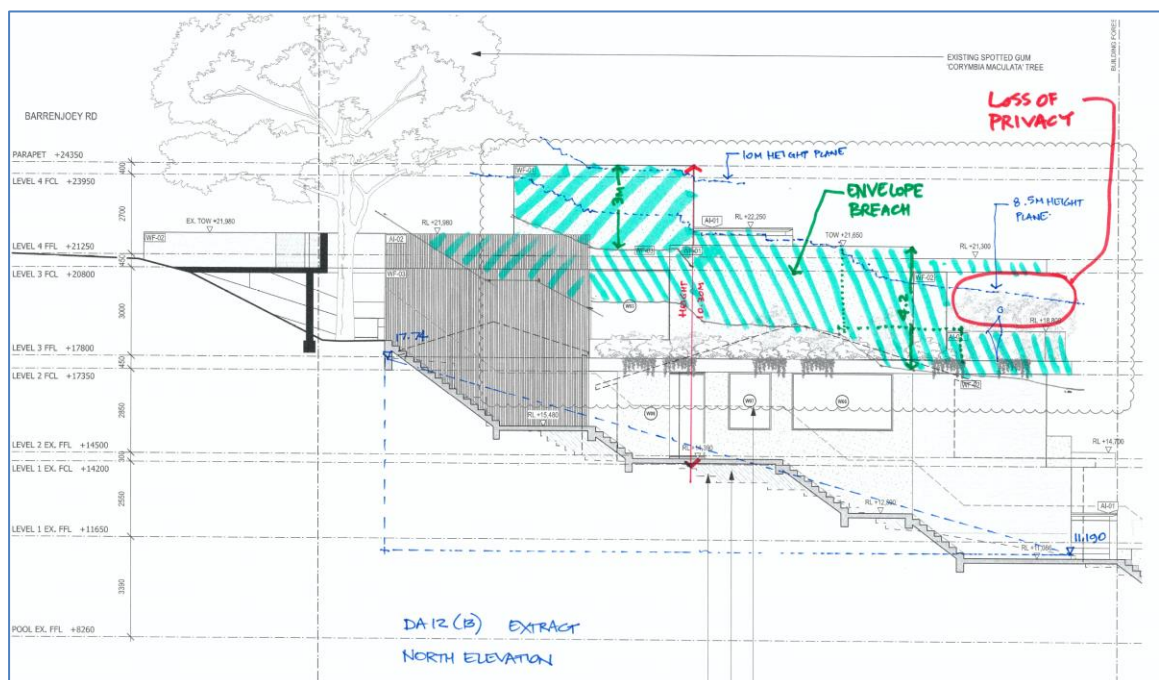
7. PDCP D12.8 – Building Envelope

The proposal exceeds the built form control of building envelope by a full storey along the entire northern façade facing 959 as shown in the image below.

The impact of this breach is a loss of amenity on several aspects including privacy, bulk and scale and view loss. The outcomes of the policy require that bulk and scale is minimised, equitable preservation of views is maintained, and a reasonable level of privacy is provided to neighbouring properties. The proposal fails all of these.

The impacts are created because the proposal seeks to extend the rear building line past that of 959 and therefore looks back into 959 and presents an unacceptable bulk and scale as viewed from 959 from its principle living and private open spaces.

The breach of building envelope is severe, and the application should be refused on that basis.



In summary, the application for the proposed redevelopment of the dwelling at 955 Barrenjoey road represents a significant over development of the site and the sites topography and surrounding development.

The plans are both inaccurate and misleading with regards to compliance with the maximum height and slope of land and have not considered the impacts upon adjoining properties despite attempts at mediation.

The multiple non-compliances with LPE and DCP controls that result in numerous and compounded unacceptable amenity impacts to the adjoining property, dictate that in its current form the application should be refused by council.

Regards,

GARTNERTROVATO ARCHITECTS



Sean Gartner

