
Sent: 14/10/2022 10:51:28 AM
Subject: DA2022/0469 - 1102 Barrenjoey Road, Palm Beach (Our Ref:21-131A)
Attachments: Submission Final - Oct 2022.pdf; Attachment - Submission Final.pdf;

Hello Jordan,

Please see attached submission with regards to DA2022/0469 - 1102 Barrenjoey Road, Palm Beach.

Kindly acknowledge receipt of the same.

Regards

Bob

BBC Consulting Planners

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14 October 2022

RJC:21-131A

The General Manager
Northern Beaches Council
P O Box 82
Manly NSW 1655

Attention: Mr Jordan Davies

email: council@northernbeaches.nsw.gov.au

Dear Jordan,

**Re: DA2022/0469 – AMENDED PLANS (“the Amended DA”);
Construction of shop top housing (“the proposal”);
1102 Barrenjoey Road, Palm Beach (“the development site”).**

We write in relation to the above Amended DA on behalf of Ms. Prue Rydstrand (“our client”) who is the owner and occupier of 1100 Barrenjoey Road, Palm Beach (“our client’s home”) which is located to the south of and which adjoins the development site.

As described in the Applicant’s Supplementary Statement of Environmental Effects (“SEE”) dated 20 September 2022, 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.”*

Our concerns with the original proposal were set out in our letter to Council dated 13 May 2022, a copy of which is attached hereto for your convenience.

In the time available we have been unable to adequately confer with our client and others on the Amended DA, so please accept this as an interim submission.

1. Geotechnical hazards

The updated seepage analysis and geotechnical assessment prepared by JK Geotechnics are being reviewed by an expert in this field and further comment will be provided to Council in due course.

2. Building Height

The supplementary SEE references the LEC decision in *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*. In that case, there was an existing building on the site. This is quite different to the subject case where ground level (existing) is obvious. In the circumstances of this case, the Applicant should not be able to place reliance on “the interpolated 8.5m height blanket” as being “generally reflective of the undisturbed levels of the site which would have likely existed prior to any development on the site”. In this regard, the Applicant’s Clause 4.6 variation request is flawed. We reiterate our comments in our prior submission (see attached) in relation to building height and the related impacts on our client’s home.

3. Issues with the plans

Section 4 is missing from the plans. Section 4 would help explain how there can simultaneously be a hedge along the common boundary with our clients home and a bin storage area. Can you please ask the Applicant to supply Section 4?

The south elevation now contains south facing bedroom windows on Level 2. The lower part of the windows is shown as opaque. No dimension is provided on the plans to identify to what height the opaque glazing extends. Can you please ask the Applicant to confirm the height above finished floor level to the top of the opaque glazing? High

sill height windows, in any event, should be preferred above opaque glazing in these bedrooms. The sill height should be at least 1.6m above finished floor level.

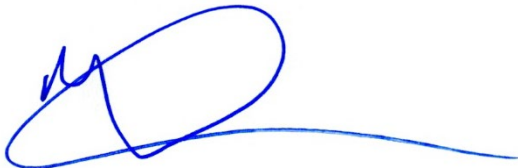
On Drawing DA 7.2B which is the solar access drawing, our client's home has been "greyed out" except on the 3.00pm image where it is shown in part. Could you please request the Applicant to include our client's home on this drawing and then provide it to us? The solar access drawing is of much greater utility than the shadow diagrams when interpreting the overshadowing impacts of the proposal.

4. Further action

We will respond further in due course but as soon as possible.

Thank you for taking the above matters into account in your assessment of the Amended DA.

Yours faithfully
BBC Consulting Planners



Robert Chambers
Director
Email bob.chambers@bbcplanners.com.au



13 May 2022

RJC:21-131A

The General Manager
Northern Beaches Council
P O Box 82
Manly NSW 1655

Attention: Mr Jordan Davies

email: council@northernbeaches.nsw.gov.au

Dear Jordan,

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We write in relation to the above DA on behalf of Ms. Prue Rydstrand (“our client”) who is the owner and occupier of 1100 Barrenjoey Road, Palm Beach (“our client’s home”) which is located to the south of and which adjoins the development site.

As described in the Applicant’s SEE, the proposal is as follows: -

Proposal

“Basement Plan

- *Driveway access is provided from Barrenjoey Road to basement car parking accommodation for 21 vehicles incorporating 9 commercial, 10 residential and 2 residential visitor spaces. The basement also incorporates bicycle parking, 5 electric vehicle (EV) charging points, residential storage, commercial and residential bin storage and mechanical plant areas.*
- *Separate residential and commercial lift and stair access is provided to the levels above.*

Ground Level Floor Plan

- *The existing substation located in the south-western corner of the property is relocated to accommodate the proposed double width driveway entrance.*

- *This floor plate incorporates 2 x commercial tenancies having a total combined floor area of 387.5m².*
- *A publicly accessible Plaza is located in the north-western corner of the property with a colonnade providing weather protected outdoor seating adjacent to the commercial tenancies.*
- *A shared foyer provides disabled access to the rear of the commercial tenancies which are located at the Flood Planning Level (FPL) with bathroom facilities and a residential foyer located towards the rear of this floor plate.*

Level 1 Floor Plan

- *This floor plate accommodates 1 x 2 and 2 x 3 bedroom apartments. The apartments have open plan kitchen, living and dining areas opening onto west facing terraces. The bedrooms associated with the 3 bedroom apartments open onto rear facing terraces.*

Level 2 Floor Plan

- *This floor plate accommodates 2 x 4 bedroom apartments. The apartments have open plan kitchen, living and dining areas opening onto west facing terraces. The main bedrooms also open onto west facing terraces.”*

We make the following submission on the proposal on behalf of our client.

1. The development site is not adequately described in the DA documentation

The Statement of Environmental Effects (“SEE”) submitted in support of the DA does not describe the development site and instead relies on a description of the development site in a prior (now superseded) Heritage Impact Statement. The consequence of not describing the development site (and of including photo’s in the SEE of its prior condition, before the buildings that used to be on the development site were demolished) is that there is no reference to the existing ground levels on the development site. Existing ground level is the level from which height needs to be measured for the purpose of applying the development standard relating to height (i.e. 8.5m) in Pittwater LEP 2014 (PLEP 2014). Similarly, the site survey dates from 2020 and was last updated in February 2021. It shows buildings and site levels which have subsequently been removed/ altered.

2. The building height is non-compliant with the 8.5m height standard in Pittwater LEP 2014 and is excessive

Neither the DA plans nor the Clause 4.6 variation request submitted in support of the non-compliance with the height limit shows or describes the existing ground level of the development site. The height limit which applies to the development site has to be measured from existing ground level. Instead, however, the DA plans and the Clause 4.6 variation request show/ rely on an interpolated existing ground level that has no bearing on or relationship to the actual existing ground level. In order for the DA to be properly addressed the survey needs to be re-done to plot the existing ground levels

across the site. The Clause 4.6 variation request then needs to be re-written so that it references and relates to the existing ground levels.

The proposed building height is excessive. The redevelopment already approved on the development site (which the Applicant says has been physically commenced as a result of geotechnical investigations having been carried out) exceeds the 8.5m height limit in PLEP 2014 by 1.655m or 19.4%. The new proposal exceeds the 8.5m height limit by approximately 3.0m or 35%.

In addition to being non-compliant with the building height limited in PLEP 2014, the proposal is out of character with the surrounding area, and is incongruous in height, scale and bulk when compared to our client's property (and to Barrenjoey House).

The Applicant's Clause 4.6 variation request is not well-founded. As detailed above, the Applicant's Clause 4.6 variation request is based on site conditions different to those which currently exist. This is a consequence of the DA documentation not properly describing the development site.

3. The proposal gives rise to unacceptable geotechnical risks

The JK Geotechnics report from November 2020 refers to upper and lower boulders on the southern boundary. Both of these boulders extend onto our client's property.

The common boundary condition between the development site and our client's home is shown on the photographs in the geotechnical report submitted with the DA: see below: -





Photos extracted from report prepared by JK Geotechnics

The geotechnical report says that “portions of the existing boulders and shotcrete (and possibly mesh and bolts) at the southern end of the site will be removed during excavation of the proposed excavation footprint) (Section 7.1.3, page 19, JK Geotechnics report).

We understand this to mean that the part of the boulder above the excavation will be removed/ cut. Our understanding is reinforced by reference to Section 7.3.3 on page 26 of the JK Geotechnics report which states:

“Following removal of the required section of the sandstone boulder along the southern boundary, excavation and support of the underlying siltstone bedrock must be completed with care.”

We do not understand these statements to suggest or imply that the large boulder is somehow to be retained in situ as both the DA and landscape plans suggest. Please

can you ask the Applicant to clarify what is proposed in relation to the large boulder on the boundary and to re-submit plans consistent with the actual engineering intent?

The geotechnical report further states that the proposal involves the use of rock anchors into adjoining properties. Our client's consent has neither been requested nor obtained by the Applicant for the installation of rock anchors on our client's property.

Our client has not been asked for, and has not therefore given, consent to the carrying out of any works by the Applicant on our client's property. It would appear from the geotechnical reports that partial removal of the boulders which are on the common boundary by the Applicant may necessitate remedial works on our client's property. Such work has not been consented to.

The combination of the building footprint extending eastwards and southwards into the existing land form and the presence of the boulders referred to above which are partly on the development site and partly on our client's property is of great concern to our client. Council is urged (if it has not already done so) to obtain independent geotechnical advice to peer review the submitted geotechnical reports. In this regard, we note that on page 19 the geotechnical report states: -

- *“Our risk assessment has considered Hazards A, B and C to have been previously engineered and certified during construction.*
- *While we observed that some remedial works have been carried out from our site inspection, the design and as-built records were not available to confirm the design and construction details.*
- *According to the D.F. Dickson report they have been involved during the construction period and have certification of these elements. In this regard we recommend that the D.F. Dickson reports, design drawings and as-built records are obtained so that our assessment of the likelihood of instability of these Hazards can be confirmed. If these records cannot be obtained, we recommend further investigation for Hazard C be carried out as discussed further in Section 7. We understand that Hazard B will be demolished during construction and that Hazards A and D can be managed during construction.”*

Clearly, further geotechnical analysis is needed. Similarly, the geotechnical report states on page 19 that in the absence of built records for the rear wall on the site further investigation is required. This is because “if the rear wall is not engineered it is prone to failure without warning.”

We also raise concern about construction and excavation impacts on our client's home. Page 22 of the geotechnical report states: -

“Harder rock” excavation techniques may consist of percussive or non-percussive techniques. Percussive techniques comprise the use of rock hammers, while non-percussive techniques comprise rotary grinders, rock saws, ripping, rock splitting etc. Where percussive excavation techniques are adopted there is the risk that transmitted vibrations may damage nearby

movement sensitive structures such as the ‘Barrenjoey House’ building to the north and the residential building to the south.” (our emphasis)

4. The proposal is non-compliant with the parking requirements in Pittwater DCP

The proposed development includes 21 parking spaces in total, including 10 residential, 2 visitor and 9 retail spaces. This falls short of the requirements of Clause B6.3 in the Pittwater DCP which requires a total of 24 spaces for the proposed development, comprising 10 residential spaces, 2 visitor spaces and 12 retail spaces. This represents a shortfall of 3 parking spaces which is unacceptable in a location of such high parking demand.

The traffic report submitted with the DA says it has been prepared for a Section 4.55 application rather than for a new DA. It also refers to “the existing development” notwithstanding that there is no “existing development” as the site is vacant. References to “existing car parking shortfall” are therefore of no utility to Council’s assessment of the parking demands of the proposal (i.e. there can’t be said to be a parking demand from something that’s not there).

Although 9 parking spaces are to be provided for the non-residential component of the proposal these are not to be made available to customers of the retail uses in order to limit vehicle movements across the footpath. The justification for placing the customer component of the non-residential parking demand on the existing supply of off-site spaces is the “existing car parking shortfall”. Therefore, not only is the proposal deficient in the number of spaces it provides, the spaces it does provide for the non-residential use are not to be available to patrons.

5. The landscape plans and architectural plans are inconsistent

The landscaping plans shows the exposed rock boulder which staddles the common boundary with our client’s home being retained (see Drawing LCP-02 Rev D), however, the land on the site beneath the boulder is being excavated for the driveway so there is no prospect of the exposed rock being retained. The architectural plan shows the same thing (see Drawing DA07 Rev A).

The landscaping on the first floor slab adjacent to the common boundary with our client’s home includes a note which says “Architectural feature planting alongside windows”, however, the south elevation on Drawing 11 Rev A doesn’t show any windows, just a blank wall. Please request the Applicant to clarify whether or not there will be windows in the south elevation.

The same south elevation shows a landscape planter on the second floor, however, that planter does not appear either on the plan for the second floor (see Drawing DA 08 Rev A) or on the landscape plan for the second floor (see Drawing LCP-03 Rev C). Please request the Applicant to clarify whether or not there is to be a planter on the second floor level on the south elevation.

The landscape planter on the south elevation on Level 1 does not appear on the section on Drawing DA 16 Rev A so the soil depth for planting is not apparent. It also does not appear on the eastern elevation on Drawing DA 11 Rev A. Please request the Applicant

to provide amended plans showing the detail of the planter, what the soil depth will be, how it is to be maintained and who by and an accurate representation of how it will appear from our client's home.

In short, the DA is very unsatisfactory insofar as it purports to detail the landscaping along the south elevation which of course is the elevation that our client will be exposed to permanently if the DA is approved.

6. The shadow analysis contained in the DA plans is inconsistent

The set of DA drawings provides shadow diagrams for 9.00am, midday and 3.00pm in mid-winter (see Drawing DA 50-52 Rev A). The set also includes a solar access analysis of the proposal at hourly intervals between 9.00am and 3.00pm in mid-winter (see Drawing DA 72 Rev A). Reference to the latter shows our client's home visible on only the 3.00pm diagram. If these are 'views from the sun' they either contradict the shadow drawings on sheets DA 50-52 or simply omit our client's home. Please ask the Applicant to add our client's home to the solar access analysis on each sheet. Please also ask the Applicant to prepare a "Solar Access Analysis – Existing" so a comparison between the two (i.e. existing and proposed) can be provided.

Additionally, the Applicant should identify how much of the additional shadow is associated with the non-compliant height of the proposal.

7. Concern regarding noise from pumping of the ground water

At page 17, the geotechnical report submitted with the DA states that the predicted daily water extraction rate required to keep the basement in a dry condition will be 10,700 litres/ day although this may be 4,130 litres/ day or 23,600 litres/ day depending on the permeability of the soil and rock mass (i.e. the volume of a pump out depends on which assumption is correct). Our client's are concerned about noise from the pump and also seek clarification to where the pumped water will be discharged. Could you please request the Applicant to clarify this aspect of the proposal?

8. View Impact

The Architect's design verification statement says that the proposal has no view impact on our client's home. It is self-evident that a building of the size, scale, height and bulk, as proposed when compared to buildings previously erected on the site will have an adverse impact on northern views and the northern outlook from our client's home.

In this regard, please see below the northern outlook from our client's home in which the vegetated hillside character of this part of Palm Beach is readily apparent. The Applicant needs to identify what adverse view impact arises from the non-compliant height of the proposal. It is clear, contrary to what is stated in the DA documentation that there will be an adverse view impact from our client's home.



9. Further action

We anticipate that you will want to visit our client's home to see for yourself the relationship it has to the development site. In this regard, our client can be contacted by email at the following address: prydstrand@gmail.com.

Thank you for the opportunity to make this submission.

Yours faithfully
BBC Consulting Planners

Robert Chambers
Director
Email bob.chambers@bbcplanners.com.au