
From: Prue Rydstrand
Sent: 12/04/2024 3:51:25 PM
To: Therese Edwell; Chris Gough; Council Northernbeaches Mailbox
Cc: Stephanie Vatala
Subject: Re: Objection - [REDACTED] 1102
Barrenjoey Road
Attachments: Rydstrand 1102 objection.pdf;

Sorry didn't attach properly

Sent from my iPhone

> On 12 Apr 2024, at 3:49 pm, Prue Rydstrand [REDACTED] wrote:
>
> Hi Council, Chris and Therese, please find my personal objection. Stephanie Vatala will be providing the legal, town planner and geotechnical submissions ASAP today.
> Please confirm receipt.
> Regards,
> Prue
>

Dear Council,

I ask that you provide this submission to your experts and to the Court.

As the owner of the immediately adjoining residential property at 1100 Barrenjoey Road, Palm Beach, I write to convey my extreme disappointment that the amended plans provided by Council on 28 March 2024 are considered to be favourable by the Council's experts.

Increased Non-Compliance

The proposal is by far the most non-compliant it has ever been in the various iterations of the design. Further, the amended plans completely fail to address the concerns raised by the Northern Beaches Planning Panel when the panel refused the original application. I set out below an extract of the proposal rejected by the NBPP and what is now proposed, for comparison. I also refer to and rely upon the matters set out in Mr Chambers' submission on my behalf.

To remind the Council, the NBPP requested the following changes to the original design (amongst others):

- *Amended plans that reduce the overall height, bulk and scale including removal of the mansard roof to reduce the massing created by the proposed roof form. Consideration should be given to materiality, upper level set back and the form of the roof to achieve a upper level which is more recessive and an overall compatible development with surrounding development particularly Barrenjoey House.*

A: Plans rejected by the NBPP after factoring in the above request (among others) 30% height non compliance



B: Plans as Council recommended for Approval to NBPP – 36% height noncompliance



C: Plans currently proposed – 30% height non compliance



The current amended plans are very similar to those rejected by the NBPP. Importantly, there has been NO height reduction and the issue of bulk and scale has been made worse by the current plans. There is no obvious consideration of materiality, no upper level set back that is recessive. Instead, the bottom 2 levels have actually been brought forward and the development is more non-compliant overall with no setbacks.

To remind the Council, the NBPP refused the application for the following reasons:

o The clause 4.6 written request does not adequately address the provisions of clause 4.6(3) to demonstrate that compliance with the Building Height development standard under clause 4.3 of Pittwater Local Environmental Plan 2014 is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to deviate from the standard.

- o *The proposal has not demonstrated that the development is compatible with desired future character of the zone and Palm Beach locality.*
- o *The proposed development exhibits unreasonable height, bulk and scale that would dominate the streetscape and in particular heritage listed Barrenjoey House.*
- o *Insufficient information submitted to satisfactorily demonstrate compliance with clause 7.7 of the LEP in relation to geotechnical impacts.*

I struggle to see how the new plans have addressed the issues raised by the NBPP. I can only conclude that the Council is overlooking the concerns raised by the NBPP and seeking to reach agreement with the developer because it does not wish the developer to pursue the existing approval. With respect, that is not a proper basis for agreeing to the current design.

Failure to address clause 7.7 of the Pittwater LEP

Even more concerning is the fact that the Applicant has failed to address clause 7.7 of the Pittwater LEP and there are serious geotechnical risk to my property as detailed in Mr Davies' submission lodged on my behalf.

Summary of my concerns

In summary, my concerns are as follows:

- o **The amended design is non-compliant** with the height control (30% exceedance) and setback controls, resulting in a bulkier building closer to my boundary which is completely out of context with the my property and Barrenjoey House. **This will result in adverse privacy impacts (both visual and acoustic), potential additional overshadowing (I refer to Mr Chambers' comments that this does not appear to have been properly modelled), and obscuring of my northern outlook.**
- o **View losses over Pittwater Park, the heritage listed Norfolk Pines and the ferry wharf** vs prior designs which had a view corridor due to the previous more compliant setbacks.
- o **Significant shadowing issues which are conveniently not detailed**, the design hems my property in and towers over it.
- o **Development Neighbours now have a line of sight directly into our backyard spa** through different viewpoints via the louvres, and it's unacceptable.
- o The landscaping along the boundary with my property appears to have been deleted, resulting in a hard boundary interface with the proposed development rather than what should be a soft landscaped interface, given the zoning of my property and the proximity of the proposed development.

- **The potential damage to my property arising from excavation of some 12.5m along my boundary and removal of the large boulder which straddles the boundary with my property.** No information has been provided on how the excavation will be carried out so as to mitigate adverse impacts on my property. This is despite this issue having been raised several times by me, my geotechnical engineer and my lawyer. Given the development site is identified as being a geotechnical hazard under the Council's LEP, I am at a loss to understand how the Council and the Court can approve the amended design. It would be a gross breach of Council's obligations, in my view, for Council to agree to an approval being granted without proper information being provided so that the risks of the proposed excavation and removal of the boulder, including measures to mitigate the risks on my property, can be properly considered and assessed. Indeed, I have been advised that the Court has no power to approve the application in the absence of this information.
- **No consideration has been given AT ALL by the Applicant to the impact of the proposed excavation on the Sydney Water sewer pipe and storage asset which sits on my land** and runs along the boundary with no. 1102, located approximately 50cm to 1m from the boundary with 1102. This pipe and asset, provides connection to the sewer main on Barrenjoey Road for the properties uphill.

I am also concerned that the developer keeps suggesting (and Council appears to have accepted) that the current approval will be continued with if this new DA is not approved. The Council and the Court must assess the current application on its own merits, not having regard to the existing approval. Whether or not the developer proceeds with the existing approval is a matter for the developer. I draw the Council's and Court's attention to the decision in *Forest Apartments Pty Ltd v Northern Beaches Council [2023] NSWLEC 1042* for a shop top housing development at 1105 Barrenjoey Road which was refused because of the gross exceedance of the height control (amongst other reasons). It seems to me the only difference in that case was that there was no pre-existing approval. Council's position should be consistent and not informed by whether or not there is an existing approval. Presumably the fact the Applicant has sought consent for a new application means it does not believe the existing approval is appropriate or capable of being built.

My Request

I ask that the Council requires the Applicant to amend its proposal so that:

- There is compliance with the height control.
- The setback to my property is significantly increased – Mr Chambers has recommended a set-back of no less than the 4.4m (first floor) and 4.6m (second floor), which were provided in the prior scheme.

- The front setback in the south-western corner should be increased to at least 6.0m measured to the balcony line, so as to lessen the bulk and scale and ensure my northern outlook is not obscured.
- The large balcony off the main living area of Apartment 03 should be deleted and the windows in the southern façade fixed with opaque glass so as to mitigate against privacy impacts to my property.
- Further detailed information is provided on how the proposed excavation and removal of the boulder will impact my property and what measures will be implemented to protect my property.

Direct Southern Neighbour, Prue Rydstrand 1100 Barrenjoey Road Palm Beach