
From: Prue Rydstrand [REDACTED]
Sent: Monday, 13 February 2023 4:41 PM
To: Planning Panels - Northern Beaches
Cc: warwick.davies [REDACTED]; Nicholas Sproats; Stephanie Vatala; Bob Chambers
Subject: DA 2022/0469 - 1100 owners personal submission and Geotechnical attached
Attachments: NBPP Submission P Rydstrand.pdf; Geotechnical review - EI Australia.pdf

Hi Council,

Please find attached our 1) personal submission, and 2) Geotechnical submission for the NBPP's consideration.

Note the Geotechnical submission is watermarked draft as we are having technical issues. Warwick our Geo (cced) will send through a version without the draft watermark, yellow highlight and a signature once we fix the issue but the content will not change so please accept this submission.

These 2 documents are in addition to submissions sent separately from: 1) our Town Planner - Bob Chambers (BBC Planning) and 2) our Lawyer - (Dentons, sending shortly).

Please confirm you have all 4 submissions pls.

I will send a separate email to register Warwick to speak at the panel meeting.

Cheers, Prue

Sent from my iPhone

Dear NBPP,

We are the immediate neighbours to the South of this proposal, at 1100 Barrenjoey Road and share a boulder stack on the boundary to 1102. Our key issues have been consistent throughout the DA process, mostly around: 1) the bulk, height and scale of the proposed DA and 2) Geotechnical concerns.

Height, bulk, scale significantly breaches controls

Despite a proposed height breach of 35%, and 42% non-compliance from the front boundary, council has suggested this is ok on a merits basis. Notwithstanding that Dentons (see the recent submission) argues that key environmental planning grounds have not been satisfied to justify this breach, the council suggests this DA achieves a better outcome than the approved DA.

What exactly is a better outcome?

Throughout the DA process, the internal referrals made concluding comments that elements of the proposal are superior to the approved DA. This has been used as a way to overturn the initial refusals, which were based on key concerns with the DA (I.e traffic, design panel comments, and landscaping), and contravened the requirements. In most cases, the developer did little to nothing to satisfy the initial concerns of the referrals, yet received approvals on the basis of a “better outcome”.

Notwithstanding the fact each new DA should be assessed on its own merits, we don't see how or on what basis this DA can be considered better than the approved DA. It has just c.9% extra retail but almost c.50% more residential area and now a non-compliant number of car spots in a key summer hotspot. The public doesn't seem to benefit from the larger size either - just the developer's apartment yield. From our perspective, **the DA is bulkier and bigger in general vs approved DA, we receive less solar, more restricted views from less setback, less privacy due to the new windows, more parking headaches, and increased risks to our land from greater excavation/cutting our rocks.** From a “public benefits” perspective, there has been just 1 supporting submission out of almost 100 community submissions.

If council's stance is that this DA is better than the original (and assuming this is a sufficient environmental planning ground), we believe an: 1) enforcement of the 3.5m front set back and the 2) 35% non-compliant top level set back substantially off the road, is arguably an even better outcome than the proposed DA and vs the original DA. While it means the oversized 3 and 4br apartment sizes are smaller on the top level, it softens the height breach/facade, allows for more landscaping and has less impacts on the amenity of our property. The developer has been able to go back another 4 metres vs the original, so it's hard to see how a breach of front boundary should be justified and why a further setback of the top level isn't achievable.

This situation seems like the NB Council doesn't like the DA approved by Pittwater Council and is making too many allowances for the developer without substantial basis. We believe there needs to be due process and some give and take. We think a height breach (if allowed) can only be approved through a diminished floor area and substantial set back of the top level.

3 stories vs 2 storey preferred in the PB locality statement

Despite the council's report relying on 1105 shops as an example of nearby 3 storey development (where the Palm Beach locality statement prefers a 2 storey), we note the recent LEC case (**Forest Apartments Pty Ltd v Northern Beaches Council [2023] NSWLEC 1042**) to rebuild it was **refused** mostly due to the unfounded height breach of only 29% (vs 35% proposed here) as well as a breach of the 3.5m front set back. That existing building is currently substantially smaller

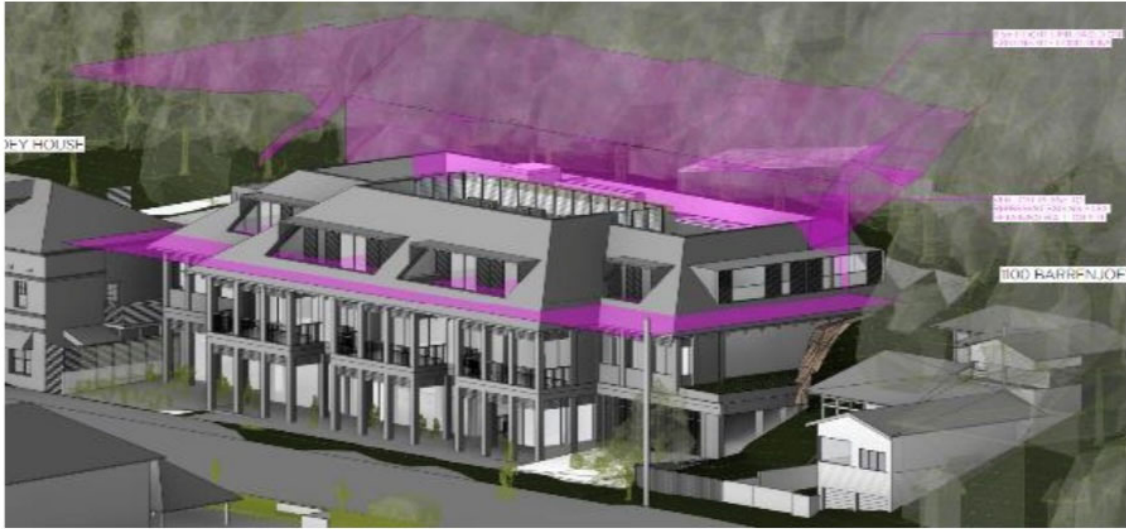
than the proposed 1102 development, so the comparison seems futile. Rather, what the comparison illustrates is that you can achieve 3 stories with a lower ceiling height, despite the flood zone element. The judge found *“the scale of the height contravention, as proposed, was well in excess of the other referenced buildings. As a result, the development would have an inappropriate and jarring height massing in the streetscape.”* Other referenced buildings were also of a smaller 3 storey height! so it’s hard to argue how the 1102 Proposed development at 35% breach next to a 2 storey Barrenjoey House and our smaller 2 storey home wouldn’t have a jarring height massing in the street scape too?

The proportionate footprint of the building contravening the height standard was considered. The proportion of the site occupied by building height in excess of the standard was 58% - visual comparison suggests the 1102 DA is far more than that.

1105 Barrenjoey Road dismissed proposal



Proposed DA 1102 Barrenjoey Road



Front greenery limited, oppose installation of large trees on southern boundary

1102's LEC case also found the tree planting zone in the front was too small (due to breach of setbacks) to enable the installation of mature trees to soften the height breach. The same can be said of this 1102 DA, and to offset this, Council has suggested the installation of some tall trees "in the southern planting zone". It's not clear where this is exactly, but we have serious issues with the proposal to plant 8x 5-15m high trees on the southern boundary, which would block our water views from the balcony. Adherence to the 3.5m setback would solve these issues.



5-10m tall height



15-m tall height



Geotech detail remains grossly insufficient

Please see Warwick's Geo submission for detail. Our lawyer finds clause 7.7 cannot be satisfied due to lack of Geo detail and hence Council doesn't have authority to approve the DA in its current form. We are extremely disappointed with the treatment of Geotech issues in this process. I have repeatedly spoken to Jordan about these valid concerns and provided expert opinion throughout. We have been very accommodating with the applicant's Geo, our Geo met them on site and explained the issues and lack of specifics and we granted them exploratory access (which they didn't take up). Our explicit concerns were only superficially addressed in the recent report, still avoiding the key issue of site stability. They need to be specific with their intentions and plans before an approval is considered.

Again: We object to the cutting of the Southern Boulder stack entirely (it extends under the footings of our house and was retained in the approved DA), and it was only after probing that plans to cut that portion came to light. We have not provided consent to the use of anchors (as is casually and loosely proposed as 1 option and would involve separate consultation and review by our lawyer). Once again, we ask for a proper design, drawings and specifics, so our Geo can ascertain the likely impact to our land. This is a basic Geotech requirement. The absence of details creates grave future implications for our house and land and should be provided before an approval is considered.

We also wish to confirm that you've received and read the 3 related expert submissions to the panel from Dentons, El Geotech and BBC Planners.

In conclusion, we are not anti development, we simply believe that a building that better complies/aligns with the LEP/DCP/Palm Beach Locality statement can be built in this location - critically, given it is next to a heritage item in a special coastal hamlet.

Thanks for your time and consideration.

Prue Rydstrand & Nic Sproats

