
Sent: 15/08/2022 11:55:09 AM
Subject: DA Objection - 2022/0947 - 5-7 Richard Road, Scotland Island
Attachments: Objection - 5-7 Richard Road, Scotland Island.pdf;

To whom it may concern,

Please find attached the detailed objection letter for the above mentioned development application on behalf of the adjoining neighbour.

Kind regards,

Josh Taylor

Principal Planner

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Objection Report to DA2022/0947

5-7 Richard Road,
Scotland Island, 2105

Objection Report

DA2022/0947
5-7 Richard Road, Scotland Island, 2105

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1 Introduction

Outlook Planning and Development have been engaged to review the application for alterations and additions to an existing dwelling to provide a boat house and extension to an existing jetty at 5-7 Richard Road Scotland Island. Our review of the DA has been based on the information that is available from Council's website.

2 Background

2.1 Site Description

The applicant's statement of environmental effects provides the following site description:

The sites are located on the southern side of Scotland Island immediately west of Carols (Public) Wharf. The sites rise at a grade of 30deg from a levelled area behind stone seawalls on, or just seaward of, the Mean High Water Mark (MHW by Title). The sites contain no boat sheds at present. The sites share an existing jetty, which is located on the common boundary.

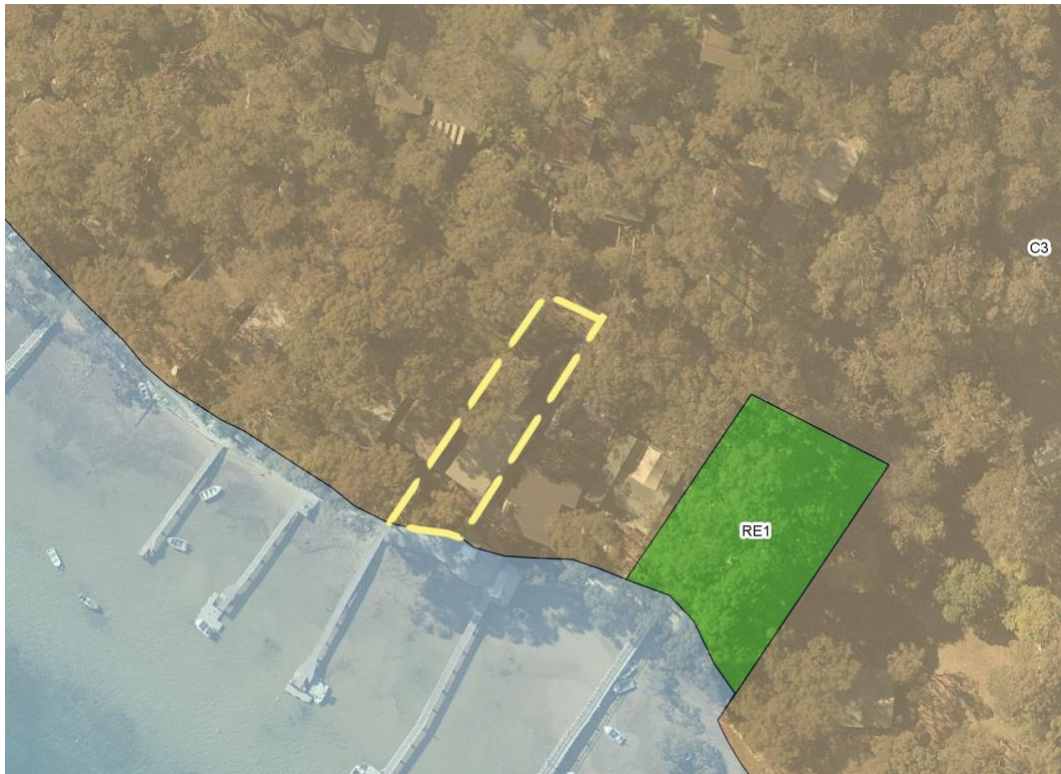
The estuarine planning level advice sets a level of 2.69m AHD. All boat shed construction below this level shall be resistant to inundation.

Existing two storey timber framed dwellings stand on both sites above the MHW. The dwellings are permanently occupied by the applicants.

To the south-east of No.5 is residence on Lot 49 DP 12749 known as 3 Richard Rd. with its own seawall, boat shed and jetty.

To the north-west of No.7 is a residence known as No.9 Richard Rd. on Lot 46 DP 12749 with its own seawall, boat shed and skid ramp, and jetty.

A detailed survey plan of the site and foreshore has been prepared for the boat shed and skid ramp, and jetty addition, identifying topography, trees paths and adjacent built structures, as well as showing relevant seabed levels



The subject site is zoned C3 under the Pittwater Local Environmental Plan.

Zone C3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To provide for residential development of a low density and scale, integrated with the landform and landscape and not visually prominent.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.
- To ensure the continued viability of ecological communities and threatened species.

2 Permitted without consent

Home businesses; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Community facilities; Dwelling houses; Environmental protection works; Health consulting rooms; Home-based child care; Home industries; Jetties; Oyster aquaculture; Pond-based aquaculture; Roads; Tank-based aquaculture; Water recreation structures

4 Prohibited

Industries; Local distribution premises; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

2.2 Proposed Development

The proposed development is described by the applicant in the statement of environmental effects as the following:

The application is for a new boat shed and skid ramp partially on Crown Land at No.5-7 Richard Road, Scotland Island, with a public access walkway deck and steps on Crown Land below the Mean High Water Mark, and extensions to the existing shared jetty with No.7 Richard Road.

The jetty addition and boat shed proposal are set out in plans prepared by Stephen Crosby & Associates Pty. Ltd.- comprising the following drawings:

- 2151-DA 01 Site Plan
- 2151-DA 02 Boat Shed Floor Plan
- 2151-DA 03 Section & Elevations
- Additional supporting documents:
- Site survey drawing Prepared by CMS Surveying, Ref 9948A detail covering both sites foreshore & jetty area.
- Estuarine Planning Level advice from Northern Beaches Council.
- Clause 4.6 Variation Request to Clause 4.3 Height of Buildings control prepared by Stephen Crosby & Associates.
- Geotechnical Report and Form 1 prepared by Ascent Geo dated 27 April 2022.
- Estuarine Risk Management Report prepared by Salients dated 24/05/22.
- Bushfire Risk Assessment prepared by Bush Fire Planning Services dated 26/04/22.
- Aquatic Ecology Assessment prepared by Marine Pollution Research dated 22/09/21.
- Acid Sulphate Soils Report prepared by Marine Pollution Research dated 01/06/22.
- Land Owners Consent letter and Stamped Plans from Crown Lands dated 29/03/22.
- DPI Fisheries Consent dated 3/11/21.
- TfNSW Maritime Consent dated 8/10/21.
- Waste Management Plan.

3 Planning Assessment

3.1 Integrated Development

The Act provides the following clause:

8A Application for development consent for nominated integrated development or threatened species development

(1) Minimum public exhibition period for an application for development consent for nominated integrated development or threatened species development—28 days.

(2) In this clause—

nominated integrated development means integrated development that requires an approval (within the meaning of section 4.45) under—

(a) a provision of the Heritage Act 1977 specified in section 4.46(1), or

(b) a provision of the Water Management Act 2000 specified in section 4.46(1), or

(c) a provision of the Protection of the Environment Operations Act 1997 specified in section 4.46(1).

threatened species development means development to which section 7.7(2) of the Biodiversity Conservation Act 2016 or section 221ZW of the Fisheries Management Act 1994 applies.

Comment:

The proposed development under the Act is considered to be Nominated Integrated development as it requires general terms of approvals under the Water Management Act due to the extension of the existing jetty and the construction of the slipway.

As the development is considered to be nominated integrated development, a integrated development referral is required and additional integrated development fees are required under the Regulations. Additionally, as the development is considered to be nominated integrated development it is also considered to be advertised development and therefore a 28 day notification period is required as well as other advertising fees and implications.

It is requested that the development is withdrawn and resubmitted so that the correct fees can be paid to Council and the correct notification procedure is enforced.

3.2 Foreshore Building Line

7.8 Limited development on foreshore area

(1) The objectives of this clause are as follows—

(a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,

(b) to ensure continuous public access along the foreshore area and to the waterway.

(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,

(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—

(a) the development will contribute to achieving the objectives for the zone in which the land is located, and

(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and

(c) the development will not cause environmental harm such as—

(i) pollution or siltation of the waterway, or

(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or

(iii) an adverse effect on drainage patterns, or

(iv) the removal or disturbance of remnant riparian vegetation, and

(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and

(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.

(4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following—

(a) continuous public access to and along the foreshore through or adjacent to the proposed development,

(b) public access to link with existing or proposed open space,

(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,

(d) public access to be located above mean high water mark,

(e) the reinforcing of the foreshore character and respect for existing environmental conditions.

(5) In this clause—

foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody shown on the Foreshore Building Line Map.

foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.

Comment: The proposed development provides a boathouse, decking and skid ramp and are considered not to comply with the development standard.

Comment:

Boat House

The design of the boat house does not appear to be entirely for marine recreational purposes as shown with the proposed glass wrap around doors. On face value the proposed building appears like a cabana or an entertainment building for the purpose of providing a space on the foreshore to hold dinner parties or the like as evident through the use of sliding glass doors. It is therefore considered that the boat house wouldn't comply with the clause as it wouldn't be considered a boathouse for boating purposes.

Decking

The proposed decking is considered excessive for the purpose of marine activities and should be reduced as per the development standard.

Slip Way ramp

The practicality of the slip way is questioned in the current location due to the location of the local mean high water mark. It is considered, based on experience, that the water will not reach the skid ramp and therefore the boathouse and slipway are not practical.

3.3 Character of the area

It is considered that the proposed development does not comply with the streetscape and character of the locality. The statement of environmental effects provides minimal assessment in regard to the impact of the development on the character of the area and in particular the character of the foreshore area.

The proposed development is considered to not be compatible with the surrounding development. The Planning Principle, *Project Venture Developments Pty Ltd v Pittwater Council* 2005, provides a clear assessment path to determine whether a development is compatible with the surrounding development. The principle establishes the following two questions to be answered to determine whether a proposal is compatible with its context:

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

An assessment against the planning principle follows:

1. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

As mentioned in this assessment, the development has substantial impacts on the surrounding developments with impacts on the bulk and scale and the amenity of the neighbouring properties

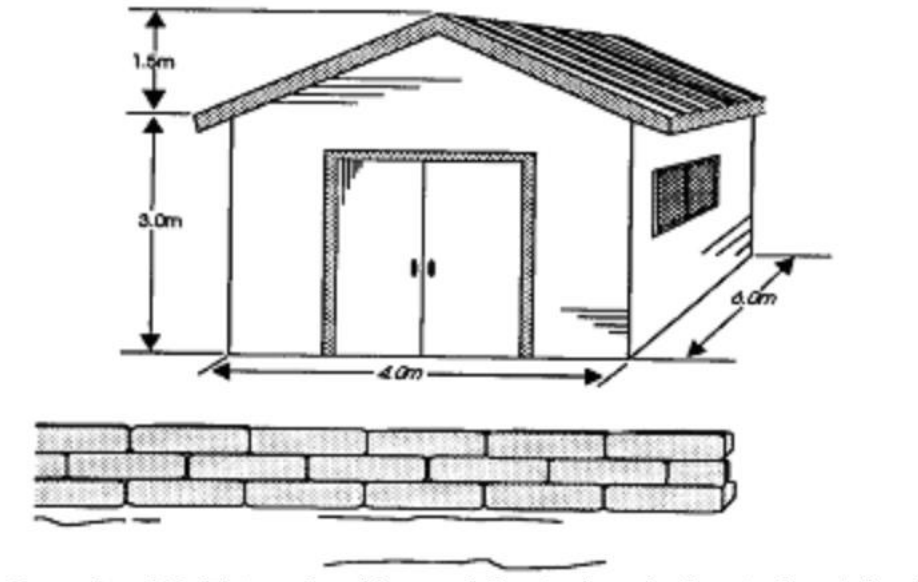
2. Is the proposal's appearance in harmony with the buildings around it and the character of the street (waterways)?

This report addresses that the development is out of character of the foreshore area due to the size and position of the development. The proposed development is considered to be not in accordance with the surrounding development as it results in substantial view loss impacts for neighbouring properties and doesn't comply with the boathouse design requirements under the DCP. A redesign should be requested to reduce the bulk and scale of the development.

The proposed development is considered to be out of character for the area and particularly out of character considering the surrounding foreshore development.

3.4 Boatshed Design

Diagram 4: Design Guidelines for Boatsheds



c) Boatsheds

Boatsheds shall meet the following criteria:

- i. Boatsheds shall be located above mean high water mark on freehold land, where practicable. Where this cannot realistically be achieved, as much of the proposed boatshed as is practical must be located above mean high water mark to minimise encroachment onto the littoral zone below mean high water mark.
- ii. Boatsheds shall be one storey and no greater than 4.5 metres in building height above the platform on which it is built, 4.0 metres in width and 6.0 metres in length, as illustrated in Diagram 4. The use of lofts or similar design concepts shall not be permitted.
- iii. Boatsheds shall not prevent or hinder public foreshore access. Alternative access must be provided where a proposed boatshed is likely to make existing foreshore access below mean high water mark difficult.
- iv. Boatsheds cannot be used for any other purpose than the storage of small boats and/or boating equipment. The incorporation of any internal kitchen facilities, habitable rooms, shower or toilet facilities shall not be permitted. Roof areas of boatsheds shall not be used for recreational or observational purposes.
- v. Boatsheds shall be constructed of low maintenance materials that are of a tone and colour which is sympathetic to the surrounding setting. Structures proposed along the western foreshores, McCarrs Creek, Horseshoe Cove, Salt Pan Cove, Refuge Cove, Clareville and Careel Bay are to have specific regard for the natural landscaped character of the area. Reflective materials and finishes for private boatsheds shall not be permitted.
- vi. The minimum floor level for proposed boatsheds shall be in accordance with the B3 Estuarine Hazard controls for foreshore development around the Pittwater Waterway.
- vii. Boatsheds shall be able to be entirely enclosed. Boatsheds which either partially or wholly do not incorporate appropriate wall cladding shall not be permitted, as such structures tend to become visually obtrusive when viewed from the waterway.

- viii. All electrical equipment and wiring shall be water tight below the designed flood/tidal inundation level.

Boatsheds which cannot meet these criteria are considered out of scale and character with the type of residential foreshore development that exists around the Pittwater Waterway. Boats which cannot be accommodated in the recommended size boatshed are considered inappropriate and should be accommodated using alternative facilities.

Comment:

The proposed boathouse results in a major departure from the control with the boathouse not complying with the size restrictions for foreshore boathouses

It is noted that boat sheds within the Pittwater waterways shall be for use as boating facilities and not for habitation or for entertainment purposes. It is noted that the proposed boathouse is shown to provide timber operable doors as shown on the plans. It is questioned whether these doors are required for a boat house that will be used exclusively for the storage of boats and other maritime equipment. Doors such as this would create a security issue for the boat house considering the public access within the foreshore area.

It is also noted that the proposed boat slip way is impractical due to the average water level and it is questioned whether this area has been added on to justify the need for a boat house.

It is recommended that the Council seek the applicant to revise the design to comply with the DCP control.

3.5 Statement of environmental effects

The development provides a statement of environmental effects that provides some information in relation to the developments compliance with the relevant development standard but does provide an adequate assessment of the development against the relevant clauses of the LEP or the relevant controls of the DCP. It is recommended that additional information is requested by Council to seek an amended statement of environmental effects to provide an adequate assessment of the development against the relevant legislations.

3.6 Clause 4.6 variation

It is noted that a clause 4.6 variation to the development standard report is provided with the development application. The report does not provide adequate details as required under clause 4.6 and therefore is not valid. It is noted that the report does not provide the details of the development standard that needs to be varied nor does it provide an adequate assessment of the non compliance with the development standard. On reflection it is questioned whether clause 4.3 is the correct non compliant development standard. It is recommended that additional information be requested for the applicant to provide

3.7 View Loss

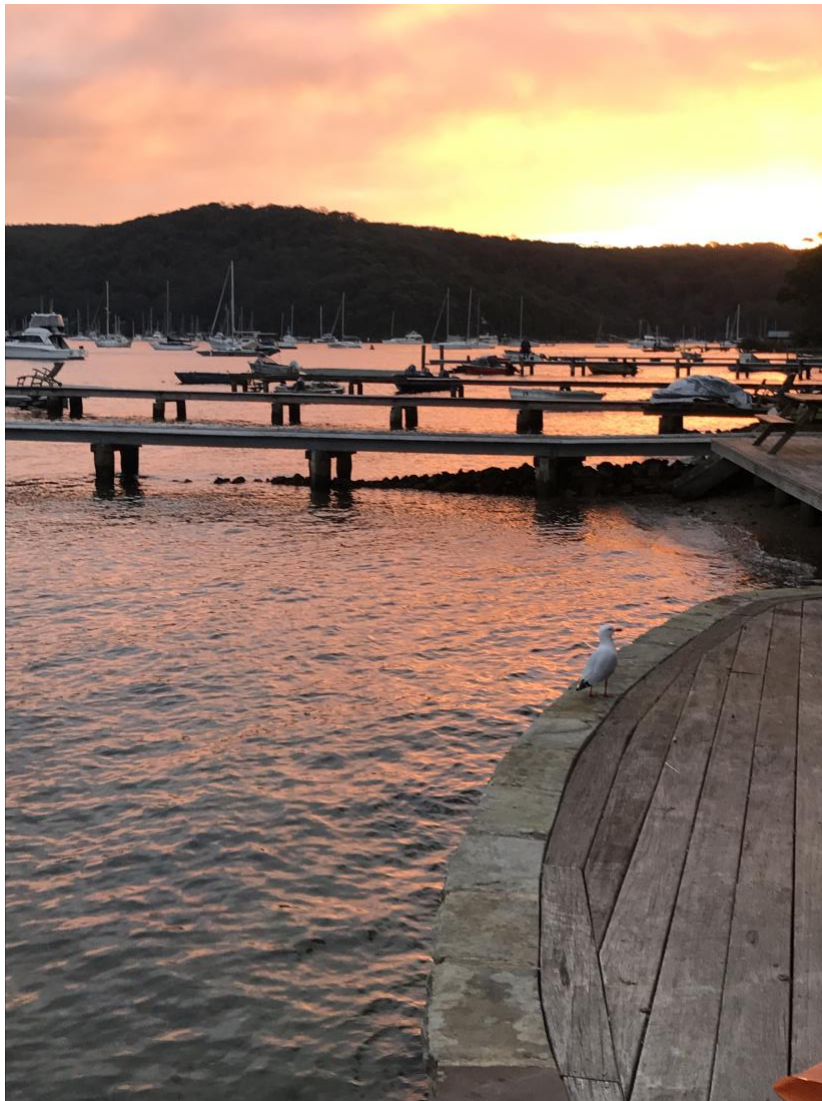
The proposed development seeks consent for a boat shed within the foreshore building area of the site. This objection letter raises concerns regarding the design of the boat house development

particularly in relation to view sharing. It is noted that a view loss assessment has not been provided to Council using the relevant planning principle and no height poles have been erected to show the extent of the impact of the boat house.

An assessment of the view loss against the Planning Principle Tenacity V Warringah Council is provided below:

- *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The views currently enjoyed by the neighbouring property is of the afternoon sunset when viewed from the decking of the jetty. It is noted the neighbouring property currently enjoys water views that will be retained, however the sunset over the water is an iconic view for the area and considered highly valuable from an intrinsic perspective.



- *The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

As mentioned above, the views are obtained from the neighbouring deck and boathouse from a sitting and standing position.

- *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

The neighbouring property is noted to retain water views however the intrinsic view of the sunset over the water view is considered their most valuable view and will be obliterated as a result of the development.

- *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The proposed development is considered to be unreasonable as it is still considered that a more skillful design of the development would result in a reduced impact on the view of the neighbours. It is noted that if the boat house was modified to be setback and the length decreased but increasing the width of the boathouse that the views could be retained. Additionally, it is noted that the development results in several non compliances in relation to DCP controls and has been designed to be out of character for dual occupancies within the locality.

It is requested that prior to a view loss assessment as part of the development assessment that **height poles be erected** to show the height of the proposed dwelling to allow the adequate assessment of view loss.

4 Conclusion

It is noted that the neighbouring residents are not anti-development on this site however they feel that any development occurring on site should be designed with a good neighbour approach and impacts, particularly around the character of the development and the visual impact of the development should be reduced or removed.

The view impacts of the development are of a particular concern to the residents who feel that the boathouse is an over development of the foreshore area and should be scaled back to a size that is more realistic and fitting for the site and area.

As the development results in a number of non compliances that impact the amenity of the adjoining residents and does not adequately address major issues with the design and impact, we request that Council refuse the application.