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**Sent:** 4/08/2021 2:39:03 PM  
**Subject:** Mod2021/0203 - 1102 Barrenjoey Road, Palm Beach (Our Ref:21-131)  
**Attachments:** L-NBC-Davies-210804-Final.pdf;

Hello Jordan,

Please see attached submission with regards to 1102 Barrenjoey Road, Palm Beach.

Kindly acknowledge receipt of the same.

Regards

Bob

*Bob Chambers*

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4 August 2021

RJC:21-131

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

**Attention: Mr Jordan Davies**

email: [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Dear Jordan,

**Re: Mod2021/0203 (“the Modification Application”);  
Modification of Development Consent N0119/14 for the demolition of all existing  
structures and construction of a Shop Top Housing development comprising 3  
retail tenancies, four residential units and underground parking (“the original  
consent”)  
1102 Barrenjoey Road, Palm Beach (“the development site”);**

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

In this regard, you might recall our Alice Steele contacted you on 26 July 2021 to discuss the lodgement of a submission on behalf of our client, and your assistance in that regard is appreciated.

We note that the Applicant has claimed and Council has accepted that although the original consent dates from 13 November 2014 (lapsing within 5 years of that date in the absence of physical commencement) that physical commencement has occurred via the carrying out of geotechnical investigations immediately prior to the lapse date.

We further note that the modification of the original consent for which the Applicant is seeking consent via the Modification Application relate to both design changes and changes to conditions. These proposed changes to the approved scheme are as follows (as described in the Applicant’s SEE): -

## **Proposed Design Modifications**

### ***“Basement Plan***

- *The approved basement and access driveway are reconfigured / augmented to facilitate a double width driveway entrance and the provision of the required quantum of carparking and residential storage in accordance with the ADG. A 3 metre deep soil zone is maintained to the rear boundary. Bin storage remains in the basement in accordance with the original approval.”*

### ***“Ground Level Floor Plan***

- *The 3 approved retail tenancies are consolidated into 2 with the residential entrance relocated to a central location on the site. An access ramp is provided from the front boundary to the retail and residential entry podium level to achieve the necessary level of accessibility with the floor level and driveway crest established by the required flood planning level. Additional deep soil landscaping is provided adjacent to both immediately adjoining properties.”*

### ***“Level 1 Floor Plan***

- *This floor plate is reconfigured to accommodate 1 x additional 3 bedroom apartment. The previously approved setbacks are generally maintained to both immediately adjoining properties with the floor plate extended towards the rear of the site whilst maintaining a 3 metre deep soil landscape zone to the rear boundary.”*

### ***“Level 2 Floor Plan***

- *This floor plate is reconfigured to accommodate 1 x additional 3 bedroom apartment. The previously approved setbacks are generally maintained to both immediately adjoining properties with the floor plate extended towards the rear of the site whilst maintaining a 3 metre setback to the rear boundary. We note that additional skylights are provided to the roof together with mechanical plant and solar panels located along its rear edge where they will not be visually discernible as viewed from outside the site.”*

In summary, the Modification Application proposes: -

- an additional 2 apartments;
- an increased building depth;
- a significant increase in GFA both residential and retail;
- additional balconies with additional privacy impacts;
- a widened driveway access adjacent to our client’s property;

- an increase in glazing, including in the elevation facing our client's property;
- extensive modification of the front elevation;
- increased building height; and
- a quite different design.

### **Proposed Modifications to Conditions**

The modifications to the conditions of consent which are proposed by the Modification Application are as follows: -

- *“Condition 5 to be modified to reference a Flood Planning Level of 3.2m AHD.*
- *Condition 32 to be deleted based on the design outcomes achieved by the modified plans.*
- *Condition 16 to be modified to reflect the current contribution plan.*
- *Condition 20 to be deleted based on the design outcomes achieved by the modified plans.*
- *Condition 21 to be deleted based on the design outcomes achieved by the modified plans.*
- *Condition 22 to be deleted based on the design outcomes achieved by the modified plans.*
- *Condition 23 to be deleted based on the design outcomes achieved by the modified plans.*
- *Condition 24 to be deleted based on the design outcomes achieved by the modified plans.*
- *Condition 25 to be deleted based on the design outcomes achieved by the modified plans.”*

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

- 1. The proposed modification, if approved would render the development as modified is no longer “substantially the same development” as the development originally approved.**

The number of units is increasing from 4 to 6 (an increase of 50%), the residential GFA is increasing from 755m<sup>2</sup> to 1,100m<sup>2</sup> (an increase of 46%), and the retail GFA is increasing from 327 to 410m<sup>2</sup> (an increase of 25%). The maximum height is also increasing from 10.155m to 10.972m (an increase of 817mm).

We agree with the advice given to the Applicant by Council officers at the pre-lodgement meeting for the Modification Application that the modifications are so substantial as to render the development as modified not substantially the same as the development approved by the original consent.

In this regard, we note that the Modification Application was considered by Council's Design and Sustainability Advisory Panel Meeting on 24 June 2021 and that the Panel described the design modification as a "great departure from the current approved drawings". We agree with the Panel. The Modification Application fails the relevant test and the Applicant should submit a new DA.

**2. The modified design is not in keeping with the character of the area**

We also agree with the Council's Design and Sustainability Advisory Panel that the concrete forms, solid balustrades, strong horizontality and hanging gardens/ horizontal planter style of development are not in keeping with either the "seaside village feel" or the desired aesthetic expected by the Palm Beach Locality Statement in Pittwater DCP.

**3. The building height is non-compliant with the 8.5m height standard in Pittwater LEP 2014**

The proposed building height is excessive. The development approval by the original consent exceeds the 8.5m height limit in PLEP 2014 by 1.655m or 19.4%. The amended design in the Modification Application increases the non-compliant approved height by 0.817m to 10.972m which is 29% over the height standard in the LEP.

In addition to being non-compliant with the Pittwater LEP, the building height is out of character with the surrounding area, as many of the surrounding buildings are 2 to 3 storeys. In this regard, the 3 dimensional studies which form part of the Modification Application clearly illustrate the incongruity in height, scale and bulk when compared to our client's property (and to Barrenjoey House).

**4. There is too much glazing and the privacy impacts are unacceptable**

We agree with the comment of Council's Design and Sustainability Advisory Panel that the façade glazing which is proposed is more akin to the glazing expected in certain curtain wall glazing of commercial office towers, and is inappropriate and out of character in this seaside setting.

Whatever internal privacy devices are proposed on the extensive south-facing windows (i.e. the windows facing our client's property) there will remain the potential for overlooking and the permanent perception of being potentially overlooked.

**5. The proposed design modifications give rise to new and unacceptable geotechnical risks**

There are two geotechnical reports referenced in the Modification Application: one prepared by JK Geotechnics dated November 2020 and another, earlier geotechnical report, prepared by Witt Consulting dated November 2019.

The JK Geotechnics report refers to upper and lower boulders on the southern boundary. Both of these boulders extend onto our client's property. Parts of these boulders on the development site are proposed to be removed and excavation is proposed which will remove part of the support.

In this regard, the report says: -

*“Excavation and removal of support will need to be completed with care so as not to de-stabilise the existing boulders or cause instability of the material below the large boulder.”*

The combination of the increased building footprint extending eastwards 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.

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.

## **6. The proposal is non-compliant with the parking requirements in Pittwater DCP**

The proposed development includes 23 parking spaces in total, including 14 residential, 2 visitor and 7 retail spaces. This falls short of the requirements of Clause B6.3 in the Pittwater DCP which requires a total of 28 spaces for the proposed development, comprising 12 residential spaces, 2 visitor spaces and 14 retail spaces. This represents a shortfall of 5 parking spaces which is unacceptable in a location of such high parking demand.

## **7. The proposal crowds the view of and unreasonably impacts on Barrenjoey House**

By increasing the building footprint at the north western corner (replacing a plaza area) the proposal encroaches on an existing view corridor of Barrenjoey House, an iconic local structure.

The proposal, in its scale, bulk, size, form and design is unsympathetic and out of character with Barrenjoey House (and with our client's home).

## **8. Further action**

Noting the present COVID-19 restrictions on movement it will, we expect, be difficult for you to visit our client's home to see for yourself the privacy impacts (in particular)



which are anticipated. In this regard, if you would like us to co-ordinate provision to you of photos of or from our client's property, please let us know and we will arrange for this to happen.

Thank you for the opportunity to make this submission.

Yours faithfully

**BBC Consulting Planners**

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a long, horizontal tail stroke.

**Robert Chambers**

**Director**

**Email [bob.chambers@bbcplanners.com.au](mailto:bob.chambers@bbcplanners.com.au)**