
From: TM VC
Sent: 23/10/2023 2:11:59 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: Objection DA 2023/1289 1112 - 1116 Barrenjoey Road Palm Beach
Attachments: Objection 1112-1116 Barrenjoey Rd Palm Beach Final 231023.docx;

Hi Gareth

Please see attached my letter of objection to DA 2023/1289 at 1112 – 1116 Barrenjoey Road Palm Beach.

Kind Regards
Tony Mattox

NORTHERN BEACHES COUNCIL
PLANNING & DEVELOPMENT
ATT: GARETH DAVID
22nd October 2023

OBJECTION: DA2023/1289 1112-1116 BARRENJOEY RD PALM BEACH 2108
CONSTRUCTION OF SHOP TOP HOUSING

My property is located at 1110B Barrenjoey Rd Palm Beach, which abuts the southern boundary of the subject site.

I am very disappointed to note that the applicant has not given any consideration to the impacts on my DA approved residence and that it has not even been shown on any of the plans or referred to in any of the submitted documentation.

I have reviewed the currently approved DA NO 102/10 comprising 5 residential units, ground floor commercial space and kiosk, with basement carparking for 22 cars.

I have studied the documents and reports submitted by the developer and town planner including the notes and recommendations from Council Officers at the Pre Lodgement Meeting and the Design and Sustainability Advisory Panel meeting. I have read the Pittwater LEP2014 and DCP21 planning instruments and controls and SEPP 65 - Apartment Design and the Apartment Design Guide (ADG) both of which apply to this development and have the force of law. I understand they can vary any local LEP or DCP as necessary to achieve their objectives.

I note that the Master Plans have very few dimensions marked. There are no north south sections and existing ground level lines are not shown on sections 01, 02 and 03 which makes it difficult to accurately assess the submitted information. The Master Plans should be upgraded to include at least two north south sections and the other additional information.

I rely on Council to ensure that this proposed development complies with all of these planning instruments.

The site at 1112 -1116 Barrenjoey Rd, which is Zoned E1, is iconic, significant and at the centre of the "hub" of Palm Beach Wharf, Pittwater Park which is public open space, Pittwater waterway and the heritage listed Barrenjoey House. Any development located here is required to make a positive contribution to the streetscape, seaside village feel and the amenity of the area now and in the future. It should provide an engaging and active streetfront for the public. The proposed development fails to achieve these objectives.

The Pittwater DCP requires commercial developments to respect the "seaside-village" character of Palm Beach through building design, signage and landscaping. Commercial developments in the vicinity of a heritage item should respect and complement the heritage significance in terms of building envelope, proportions, materials and building alignment. I contend that the proposed development's height, bulk and scale is jarring, overbearing and unsympathetic in the existing streetscape context, has no regard for the built form characteristics of development within the site's visual catchment and in particular overwhelms its neighbour the 100 year old heritage listed Barrenjoey House and does not make a positive contribution to the streetscape and the village.

I believe the proposed development breaches multiple LEP and DCP controls as follows –

Zone E1 (B1) Local Centre

I believe that the proposed DA -

- Does **not** provide a range of small-scale retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- Does **not** encourage investment in local commercial development that generates employment opportunities and economic growth.
- Does **not** enable residential development that contributes to a vibrant and active local centre and is not consistent with the Council's strategic planning for residential development in the area.
- Does **not** encourage business, retail, community and other non-residential land uses on the ground floor of buildings. The two retail spaces are specifically designed as "non-food" and have enormous "storage" areas towards the rear of the retail space. Is this a storage centre or retail?
- Does **not** ensure that the new development provides a diverse and active street frontage to attract pedestrian traffic and does **not** contribute to a vibrant, diverse, and functional street and public space.
- Does **not** create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.

HEIGHT

I maintain that the 8.5m height plane as shown on DRG No A0430 diagram 1 does not accurately represent the real extent of the proposed building's breach of the 8.5 metre height limit as adjusted for the flood planning level where applicable.

It appears that the height plane has been established using either the NGL + the flood planning level of RL 3.120 as shown on sections 01, 02 and 03 or some other unknown criteria. However, I have been advised by my architect, my town planner and a Council planning officer that the height plane should be established by using the existing ground levels as shown on the submitted survey plans and further that the requirement of 4.3(2A)(b) of the PLEP should be applied which states that
“(2A) *Despite subclause (2), development on land -*

(a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and

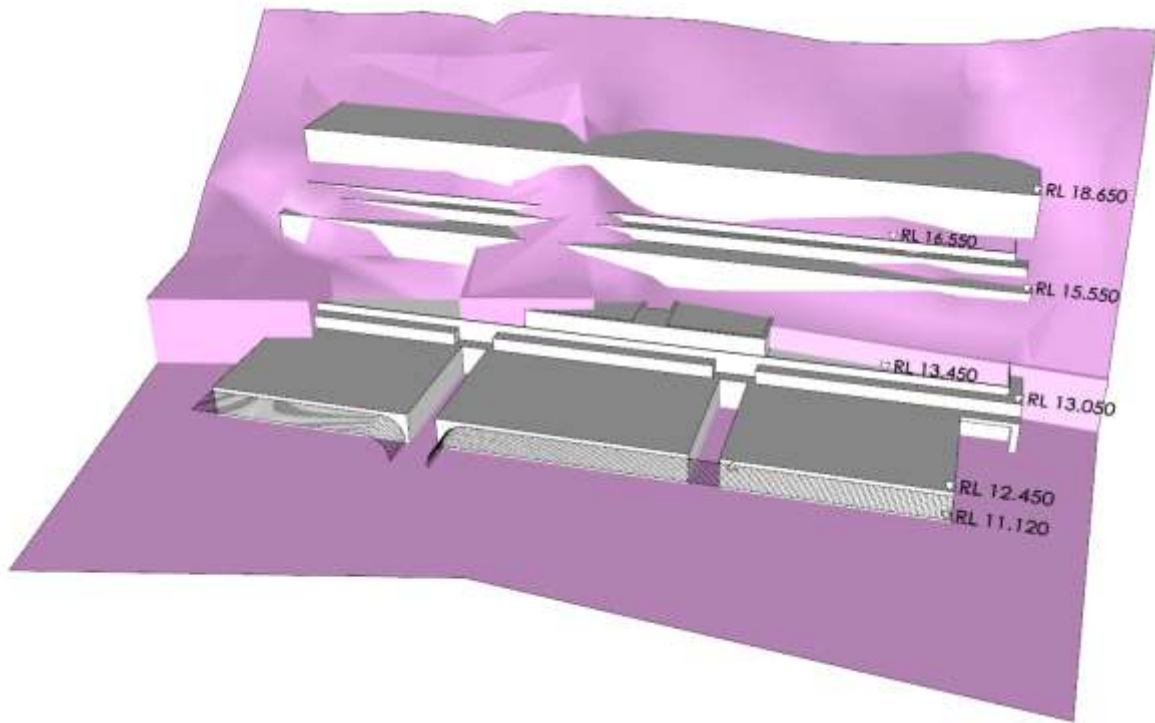
(b) that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map,

may exceed a height of 8.5 metres, but not be more than 8.0 metres above the flood planning level.

This would limit the height plane above the flood plane level in the flood effected areas of the site to RL 11.120.

I believe that figure 1 below represents a more accurate image of the proposed building's breach of the 8.5 metre height limit plane.

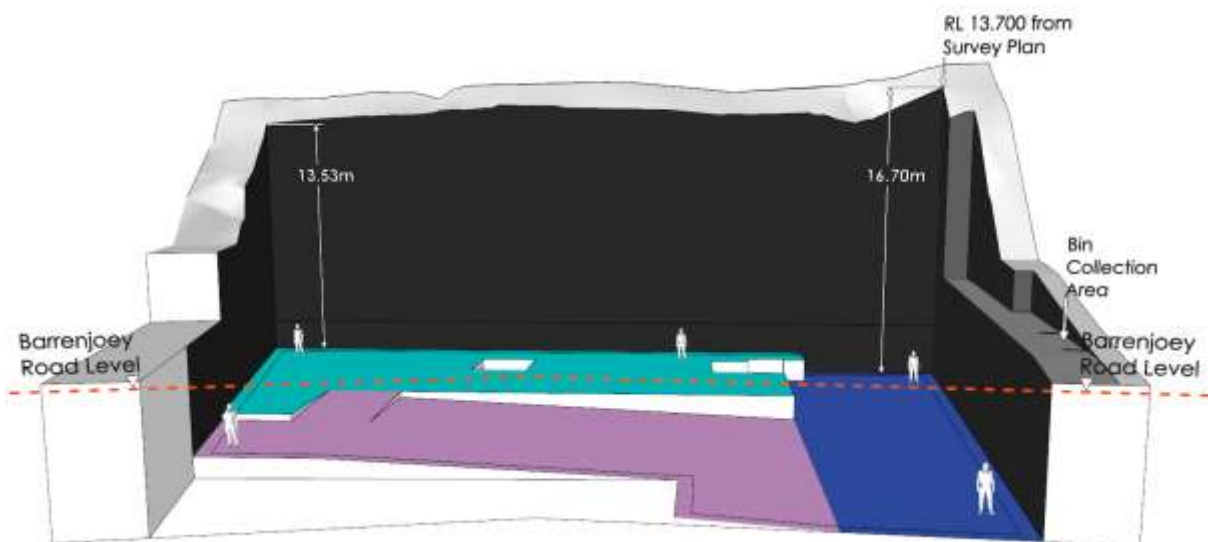
Figure 1 – 8.5metre height plane breach



EXCAVATION

The application requires extensive additional excavation both horizontally and vertically when compared to the currently approved building. The currently approved building has a basement floor level of RL 0.400 while the proposed building would have the entry basement floor level at RL -1.220 (Light blue) and the lower floor level of RL -2.400 (Dark blue) with a 1:20 ramp connecting the two levels (Pink)).

Figure 2 – Proposed excavation (human figures are scaled to 1.8m height)



The additional excavation required below RL 0.400 will be approximately 1900 cubic metres. Additionally the Eastern face of the excavation is to be moved further East than what is currently approved by 2.8 meters which will require approximately a further 1270 cubic meters to be removed which would be a total of 3170 cubic meters (more than 6000 tonnes).

This would increase the excavation by at least 70% more than what is currently approved.

My neighbours and I are extremely concerned with the risk this extensive excavation poses to our properties given that the subject site and our properties are in the highest rated slip zone (H1).

CI 4.3 (2D)(c) 30% Gradient.

I question that the 30% gradient has been correctly represented on the section drawings 01, 02 and 03 in the Master Set Plans. I understand that the footprint of a building should include the foundations of that building and as such should include the perimeter walls which surround car parking space no's 20, 21, 22 and 23 and the associated columns which support the suspended driveway which provides access from Barrenjoey Road. Consequently, I believe that the 30% slope gradient plane should be repositioned to commence at the western boundary line of sections 01 and 02 as shown in figure 3a and 3b below.

Further I suggest that the substantial "awning" on the Western side of the ground level which has vertical wall sections extending down to ground level does not qualify as an awning and should be considered as part of the building footprint also.

Approximately half of the subject site is flat and, as can be seen from figures 3a, 3b and 3c below, the existing ground level is, except for a small area at the eastern end of Section 3c below and in most areas, substantially below the 30% gradient plane.

Figure 3a. 30% gradient

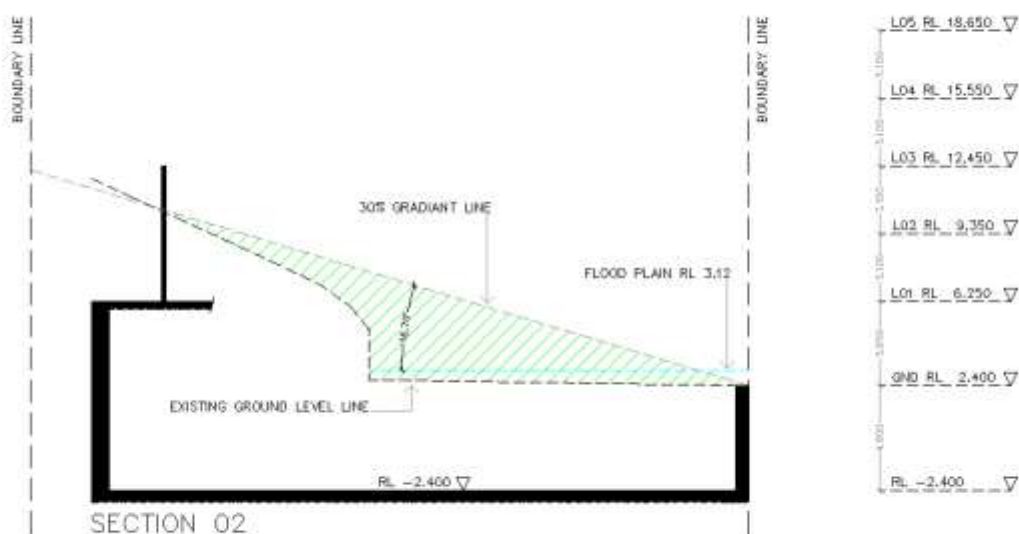


Figure 3b. 30% gradient

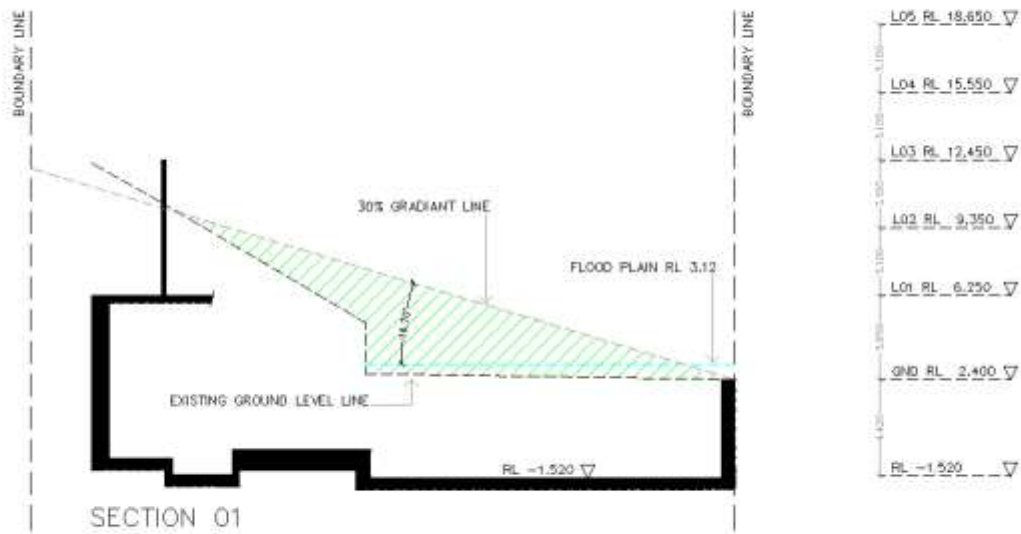
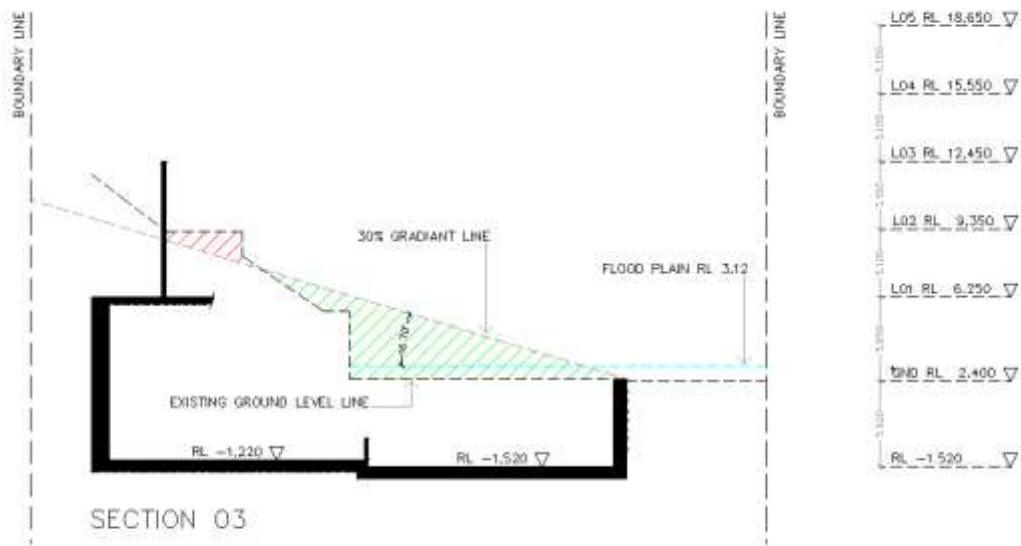


Figure 3c. 30% gradient



CI 4.3 (2D)

The applicant seeks to use Clause 4.3(2D) which would allow consideration for minor parts of the proposed building to exceed the 8.5 meter height to a maximum of 10 meters provided that the objectives of this clause are achieved.

I contend that the application does not satisfy the objectives of clause 4.3 as detailed here –

LEP PITTWATER 2014 cl 4.3 Height of buildings

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

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
- (c) to minimise any overshadowing of neighbouring properties,
- (d) to allow for the reasonable sharing of views,
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

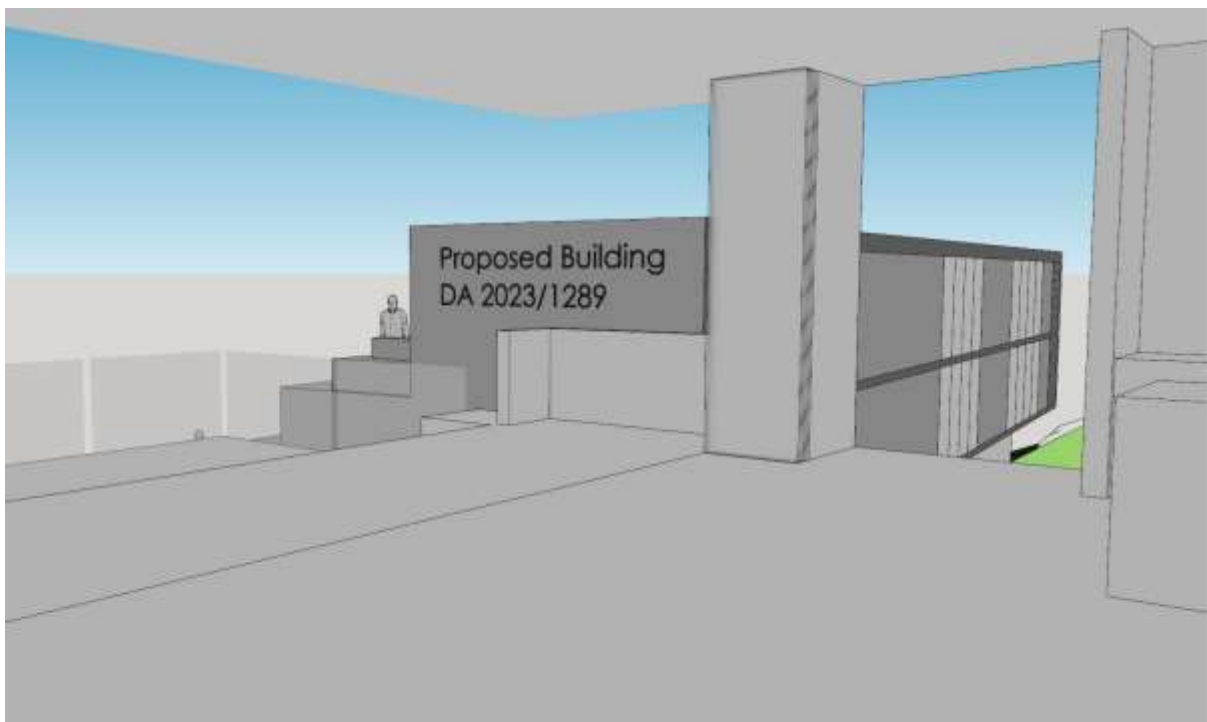
I further contend that as can be seen in figure 1 on page 3 the breaches over 3 levels of the 8.5 metre height plane are certainly not minor as required under C4.3(2D)(a).

The increase in excavation by more than 70% does not minimise the need for cut and fill as required under CI 4.3(2D)(d).

I also contend that the application does not satisfy CI 4.3 (2D)(b) as required.

ADVERSE IMPACTS ON MY PROPERTY

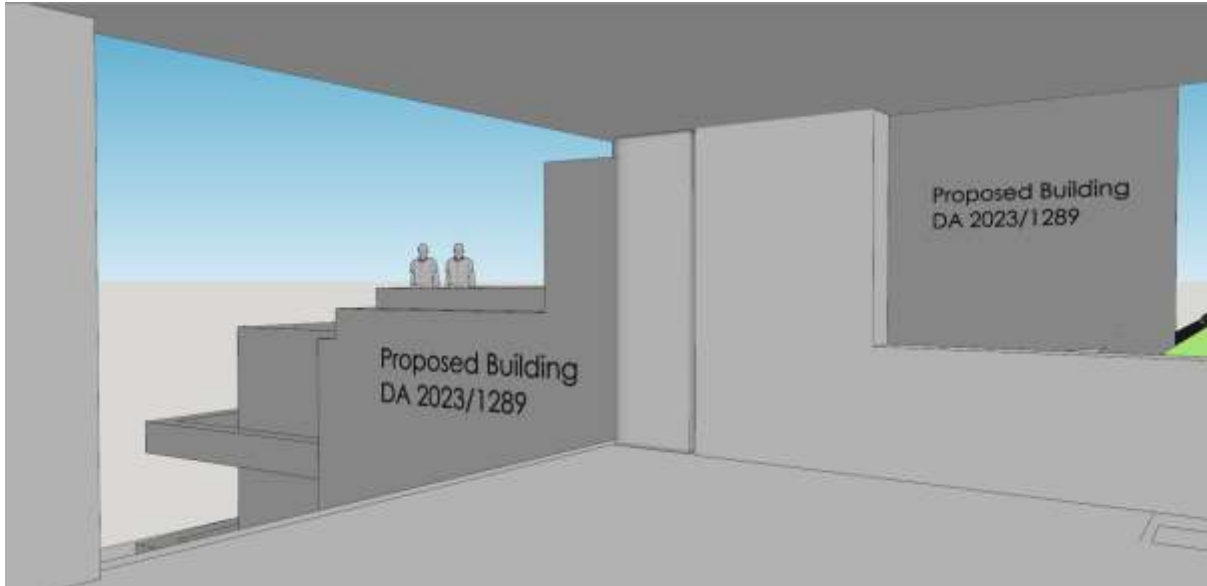
In addition to all the breaches and comments referred to throughout this submission I point out the specific impacts on my DA approved residence as an immediate neighbour particularly ADG part 2F - Building separation, CI 4.3 height breach and impact on amenity, acoustic and visual privacy and private view loss.



View loss and privacy impact of the proposed building on my kitchen, living and dining room.

The ADG requires 12 metres of separation between habitable rooms and balconies. The proposed building does not comply with this.

The two storey apartment (apt 301) located on levels 3 and 4 including the balconies seriously impacts the amenity of my main living/lounge area, kitchen and entertaining deck and on my habitable studio on the lower level by way of loss of private water views, loss of privacy, potential noise impact and visual impact.



View loss and privacy impact of the proposed building on my ground level studio.

I note that DSAP calls for a reduction of one storey. This has been completely ignored by the developer.

I maintain that the proposed two storey apartment (apt 301) on level 3 and 4 which breaches the 8.5. height control should be removed completely and the 12 metre separation required by the ADG enforced.

BULK & SCALE

The bulk and scale of the proposed building is overwhelming, jarring, overbearing and unsympathetic to the existing streetscape context. It dwarfs the neighbouring dwellings including heritage listed Barrenjoey House next door.

DESIRED FUTURE CHARACTER

The proposal's bulk, scale and height certainly does not reflect "a seaside village" feel.

GEOTECH

As stated above my neighbours and I are extremely concerned about the risk that the proposed extensive excavation poses to our properties and therefore we have engaged a Geotech Engineer to peer review and report on the applicant's geotechnical documents. This peer report will be submitted to Council separately.

PALM BEACH LOCALITY - DCP12

CHARACTER AS VIEWED FROM A PUBLIC PLACE - CI D12.1

The proposed development breaches this control -

Does not achieve the desired future character of the Locality.

Does not respond to, reinforce and sensitively relate to the spatial characteristics of the existing built and natural environment.

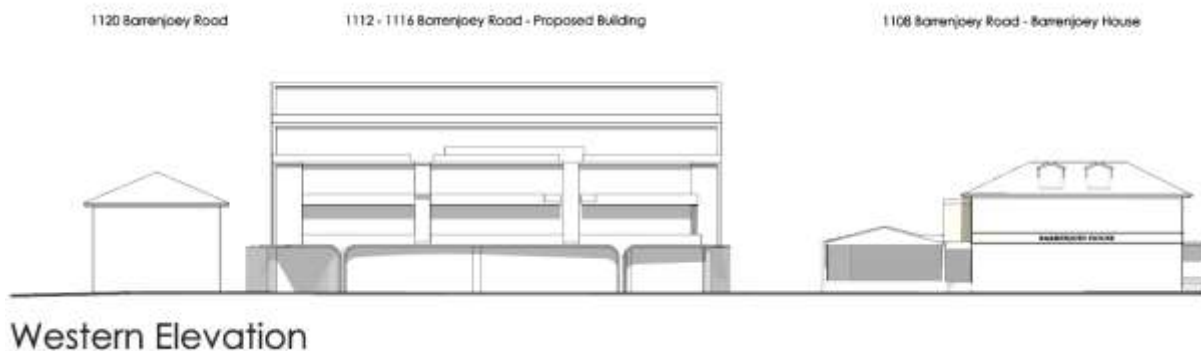
Does not enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.

The built form is not softened by landscaping and vegetation.

The proposed building dominates the streetscape and is not at 'human scale'

SCENIC PROTECTION - D12.2

The proposed development does not minimise the visual impact on the natural environment when viewed from any waterway, road or public reserve, in this case Pittwater Park, the Palm Beach Wharf precinct and the Pittwater Waterway.



STREETSCAPE

DSAP requested that a high quality space be provided at the streetfront to create a destination or place of respite with robust street furniture and landscaping. This has not been achieved and I see no evidence of the street furniture and note little landscaping is provided.

TRAFFIC & PARKING

I question the traffic and parking modelling submitted by Varga Consulting P/L which I believe underestimates the real traffic and parking impacts of the proposed seven large apartments which are additional to the modest residence and the three small scale shops which operated on the site for many, many years.

There is a shortfall of required parking. Visitor parking is short by one space (no rounding up has been factored in as required by the control) and should be three spaces not two. The visitor parking spaces are labelled "small" which is not suitable.

There is a shortfall of six retail spaces. The total should be twelve. Of the six provided they are stacked parking. The DCP requires that parking spaces for retail premises be accessible to the public and stacked parking would make this impossible so is therefore inappropriate and contrary to the DCP.

The DCP also requires that retail premises provide accessible parking spaces for people with disabilities at the rate of 3% of the required spaces, with a minimum of 1 space. I find one accessible space to be shared by the residential and the retail unacceptable.

One service bay is provided but this is suitable only for vans, wagons and utes etc. The control clearly states that provision must be made for garbage collection, removalist vans and emergency vehicles.

B6.3 Off-Street Vehicle Parking Requirements

TABLE 1: Onsite Car Parking requirements

Development Type	Minimum Number of. Car Spaces	
Multi Dwelling Housing, Residential Flat Buildings and Shop-Top Housing:	1 bedroom dwellings	1 space per dwelling
	2 or more bedroom dwellings	2 spaces per dwelling
	Adaptable Housing in accordance with control C1.9 of the Pittwater 21 Development Control Plan.	1 space per dwelling in accordance with AS 4299-1995: Adaptable Housing.
	The provision of parking for people with disabilities must be provided at a rate of 3% of the required parking spaces, excluding parking required for Adaptable Housing.	
	Separate visitor parking is to be provided at a rate of 1 space per 3 dwellings rounded up.	
Provision must be made for garbage collection, removalist vans and emergency vehicles.		

The developer proposes that the shortfall of six retail spaces can be managed because of the location of Council's public car park "Pittwater Park (Carpark South)", which is located directly opposite and that visitors and customers can park there.

Pittwater Park is Crown Land and there is a Plan of Management for the Park. In 2017 the Pittwater Park Parking Demand Strategy was developed and a Parking Study was undertaken by Bitzios Consulting. The Palm Beach Wharf/Pittwater Park precinct was identified as "ground zero" for parking. Pg 8 of the Bitzios Study states that Pittwater Park North & South are practically full most of the weekend and that issues raised by the Community included "there is clear "tension" between the parking needs of Palm Beach residents, off-shore residents and Central Coast visitors." Strategies developed and adopted by Northern Beaches Council ensure parking availability for local residents, recreational users and visitors to the area, observing

Crown Land conditions of use. Crown Land **cannot** be used to provide parking to cover a shortfall of required parking spaces in this proposed development. I refer to the Memorandum at the end of the PoM particularly point 2.

I note that under TfNSW guidelines stops should be placed on the downstream side of a pedestrian crossing to reduce the risk of passengers crossing the road in front of a stopped bus and that requirements of the elderly; the mobility, vision and hearing impaired; people with young children, strollers and prams; people with large or heavy luggage or shopping are a priority. Pedestrian safety is of the utmost important and the bus stop should **not** be relocated to satisfy the whim of the developer.

LANDSCAPING

The proposed dwelling is not softened by the proposed landscaping and vegetation. Shallow planter boxes on the balconies are a supposed feature of the development but given the western facing aspect and the minimal volume of soil I don't believe the plants will survive the fierce sun and westerly winds. I do not believe that these planter boxes should be included in landscape area calculations.

As recommended by the ADG the side and rear boundaries should be increased to allow for more landscaped area between the E1 zone and the neighbouring E4 zoned properties.

BIN COLLECTION AREA (southern boundary side)

Along the southern boundary an extremely long hard-surface path is proposed to lead from the rear of the building to Barrenjoey Rd with an external garbage bin collection area adjacent to the garage roller shutter door. This long hard-surface path and the bin storage area is unsightly and significantly reduces the already inadequate 3 metre landscaping buffer between the proposed building and the adjacent E4 zoned land. A more suitable location for the bin rooms and the bin collection area should be found.

SET BACKS

As recommended by the DSAP the building setbacks should be increased on the eastern, northern and southern boundaries to 6m as recommended in the ADG. This will allow significant native planting between buildings and ensure the development contributes to the desired future character of the Palm Beach locality. This has not been addressed.

PRIOR TO DA LODGEMENT (refer to PLM notes point 10)

All weed and waste from the rear slope and undercover was to be removed. At the time of writing this has not been done and Council should require this to be done ASAP.

RETAIL COMPONENT

CI 4.2.3 Shop Top Housing. Pursuant to clause B2.6 the commercial/retail component of the development must be a minimum of 25% of the gross floor area of the building. The stated objectives of this control are as follows: "An appropriate mix of residential and commercial development is provided, ensuring the functionality of commercial centres." "Meet the economic and employment needs of Pittwater Community."

Only 22.2% is achieved which is a breach of the control.

The internal retail floor areas below the FPL extend over the allowable 5m from the front of the building. This is not acceptable. Refer control C7 - B3.11 of the Pittwater DCP.

The retail area is actually only for two fairly small non-food shops and the rest is storage. How does this contribute to a vibrant local economy and provide for the needs of locals and visitors alike?

SEPP65

In general, an apartment development is required to contribute to their context which is the key natural and built features of an area, their relationship and character they create when combined. The ADG requires that well-designed buildings respond to and enhance the qualities and identity of their area. I believe that this development fails to achieve these objectives.

IN CONCLUSION -

In the process of trying to squeeze a 5th storey on the currently approved four storey building the applicant has greatly marginalised the ground floor shops to the point that approximately two thirds of the non-compliant 378-sqm area is storage space which makes a mockery of the intent and purpose of "Shop Top Housing".

The application also completely ignores the requirement that the building presents a "seaside village feel", fits into the surrounding streetscape, has a bulk and scale that is not overbearing and jarring as viewed from a public place and respects the heritage listed Barrenjoey house, is in the public interest, complies with the ADG and does not detract from the amenity of the surrounding E 4 zoned properties.

For these and all the other reasons referred to in this submission I submit that this application should be **refused**.

Thank you for your consideration of the concerns that I have raised in this submission.

Tony Mattox