

27th March 2018

Mr Tyson Ek-Moller
Principal Planner
Development Assessment
Northern Beaches Council

Dear Tyson,

**DEVELOPMENT APPLICATION REFERENCE N0516/17
CONSTRUCTION OF A FOUR (4) UNIT SENIORS LIVING DEVELOPMENT WITH
BASEMENT CAR PARKING, LANDSCAPING AND STRATA SUBDIVISION
701-703 BARRENJOEY ROAD, AVALON BEACH**

1.0 INTRODUCTION

This letter responds to the matters raised in Councils letter dated 8th March 2018, specifically with respect to the calculation of gross floor area and the resultant Floor Space Ratio (FSR) pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and the side boundary setback control with respect to the proposed northern side boundary setback, pursuant to the Pittwater DCP 2014. These matters are addressed in turn below.

Gartner Trovato Architects have provided amended plans and responded to design matters as raised in Councils letter separately.

2.0 DENSITY AND SCALE (FLOOR SPACE RATIO)

Clause 50(b) of the SEPP (Housing for Seniors or People with a Disability) 2004, requires a floor space ratio of 0.5:1 or less. It should be noted that the FSR requirement under the SEPP is not a development standard pursuant to Clause 40, but rather a “*standard that cannot be used to refuse development consent for self-contained dwellings*”. On this basis, a formal Clause 4.6 Request to Vary a Development Standard does not apply to varying the FSR standard pursuant to Clause 50 of the SEPP.

Gartner Trovato Architects have re-calculated the gross floor area of the development pursuant to the definition of gross floor area contained in the SEPP, which differs from the

standard definition of gross floor area contained in the Pittwater LEP 2014. It should be noted that the development is compliant with the FSR standard, as calculated under the gross floor area definition pursuant to the LEP.

The revised gross floor area calculations are demonstrated on drawing A.12 revision B and results in a total gross floor area of 563.98sqm, resulting in an FSR of 0.527:1, which exceeds the FSR standard by 29.48sqm (2%). A minor variation to the FSR control is therefore sought. It is considered that strict compliance with the standard is unreasonable and unnecessary for the following reasons:

- The proposed development accords with the development standards pursuant to Clause 40 of the SEPP.
- The height, bulk, scale and floor space proposed development are entirely consistent with the built form characteristics established by the sites prominent corner location, adjoining development and development generally within the sites visual catchment.
- It has been determined that the floor space ratio proposed will not give rise to any adverse residential amenity impacts in terms of view loss, overshadowing, privacy or visual bulk. The proposal provides for the sharing of public and private views.
- The height of the dwelling complies with the maximum permissible height limit pursuant to the SEPP and Clause 4.3 of the PLEP 2014.
- Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the height of the proposed development offensive, jarring or unsympathetic in a streetscape context nor the built form characteristics of development within the sites visual catchment. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings when viewed from the harbour, foreshore areas, public domain and surrounding properties.
- Having regard to the matter of Veloshin v Randwick City Council [2007] NSWLEC 428 this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.
- The proposal accords with the matters for consideration pursuant to Section 4.15 (previously S79C) of the Environmental Planning & Assessment Act 1979.

The design is of high design quality which responds appropriately to the site's prominent corner location, constraints and opportunities identified through detailed site and context analysis whilst maintaining appropriate levels of amenity to the adjoining and nearby residential properties. The building form responds to the sites context, particularly in relation to the building height and scale. The proposal has been designed to reflect the predominant character of the local area.

For the reasons as listed above, favourable consideration of a minor variation is sought with respect to the proposed FSR of the development (0.527:1).

3.0 NORTHERN SIDE BOUNDARY SETBACK

It is acknowledged that the proposed development is not conformant with the Pittwater DCP 2014, Part D1.9 (Avalon Beach Locality) northern side boundary setback requirement for multi-dwelling housing/residential flat buildings. The DCP requires a northern side boundary setback calculated in accordance with the formula as detailed in Part D1.9. Based on the formula and varied wall heights as proposed to the northern side boundary, the average setback requirement would be 4 metres (varying from 3.85 metres to 4.2 metres). The proposed development provides an average side boundary setback of 1.5 metres to the northern side boundary.

The outcomes of Part D1.9 are detailed as follows:

- *To achieve the desired future character of the Locality.*
- *The bulk and scale of the built form is minimised.*
- *Equitable preservation of views and vistas to and/or from public/private places.*
- *To view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*
- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*
- *Flexibility in the siting of buildings and access.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *A landscaped buffer between commercial and residential zones is achieved.*

With respect to the objectives detailed above, a variation to the side boundary setback control is sought for the following reasons:

- The site is constrained in terms of its triangular shape, with two street frontages, the primary street frontage to Barrenjoey Road and secondary street frontage to Kevin Avenue. The site has a 10 metre setback requirement to Barrenjoey Road, which has been strictly adhered to in the proposed development, with a stepped and varied setback proposed to Kevin Avenue in excess of 3 metres. To then comply with a setback requirement of 4 metres to the northern side boundary would result in the loss residential units and render the development unviable.

- The proposed building is considered to be appropriately proportioned given the shape of the allotment and provides for a variation in terms of the side boundary setbacks, which provides for articulation and visual interest to the side elevations.
- The development provides for compliant levels of landscaped open space (50.7% deep soil landscaping) with significant areas of deep soil planting within all boundary setback areas, including to the northern side boundary setback area.
- The proposed northern side boundary setback does not significantly contribute to the overall bulk and scale of the building which is considered to be well resolved and articulated in context to surrounding dwellings.
- The proposed setbacks do not translate into unreasonable amenity impacts to neighbouring properties in terms of overshadowing, privacy, visual outlook and view impacts. Balconies and window positions have been appropriately located to the front and rear of the site and screened where necessary.
- The design of the development has sought to tie into the character and style of housing within the immediate locality, through the creation of a two storey development. The design takes advantage of its prominent corner location, with the layout of the development is east/west in its orientation.

For the reasons as detailed above we consider that a variation to the northern boundary side boundary setback control is entirely appropriate, given the site circumstances.

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a FSR and side boundary setback variations in this instance.

Please don't hesitate to contact me should you have any questions.

Yours Sincerely



Kate Fleming
BBF Town Planners
Director