
Sent: 14/10/2018 10:08:31 AM
Subject: DA2017/1274 - Amended Plans
Attachments: SM submission on 2nd DA.docx;

For attention: Ms Lashta Haidari

Please find attached submission re DA2017/1274 – Amended Plans prepared on my behalf by James Colman, B.Arch, Dip.TP;m.Sc.Soc;FPIA FAIA.

Yours faithfully
Sandra Murdock



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BAYVIEW GOLF CLUB – WATERBROOK : NORTHERN BEACHES COUNCIL DA 2017/1274
SUBMISSION re AMENDED PROPOSAL : ADDENDUM TO ORIGINAL SUBMISSION DATED 10
FEBRUARY 2018

1. Introduction

This submission has been prepared for, and is lodged on behalf of Ms Sandra Murdock of 1/19 Annam Road Bayview. It consists of an Addendum to her earlier submission dated 10 February 2018 which was lodged in response to Development Application 2017/1274 by Waterbrook Bayview Pty Ltd. That application – dated 19 December 2017, sought the consent of the Northern Beaches Council for a seniors’ housing complex to be developed within Bayview Golf Course on lands adjoining Ms Murdock’s residence. The application was recommended for refusal by the Council and was subsequently determined by way of unconditional refusal by the Sydney North Planning Panel, acting in its role as consent authority. The Panel’s Determination and Statement of Reasons was dated 8 August 2018 and the Council’s Notice of Determination was dated 17 August 2018.

On 21 August, Waterbrook Bayview Pty Ltd lodged an appeal to the NSW Land and Environment Court and the matter has been set down for hearing on 21-25 January 2019. A conciliation conference is scheduled for 21 November. In the interim the company sought and was granted leave by the Court to prepare amended plans and these plans were placed on public exhibition for 3 weeks commencing on 22 September. It is understood that the revised plans were prepared in response to issues raised by the Sydney North Planning Panel in its determination of 8 August.

This present submission responds to the amended scheme as recently exhibited. Its preparation involved scrutiny of the amended plans and supporting documents; review of relevant Council and state government documents, and perusal of the grounds of refusal filed by the Council and the Panel. Notwithstanding the recent design changes, it concludes by reiterating Ms Murdock’s original submission that the subject proposal be unconditionally refused for the reasons outlined earlier and below.

2. Resume of conclusions from original submission

Key issues raised in Ms Murdock’s submission of 10 February 2018 included

- the failure of the proposal to serve the public interest;
- the proposal’s failure to comply with objectives and strategies of the Greater Sydney Region Plan 2017, and with the draft NSW government Greener Places Policy (2017);

- significant non-compliance with relevant provisions of the Environmental Planning and Assessment Act, the Seniors' SEPP, the Northern Beaches LEP and DCP;
- the scheme's inability to guarantee that there will be no adverse impacts on threatened species and fauna corridors;
- highly inappropriate architectural and landscaping proposals for a 'virgin' open space site which has hitherto seen no development;
- significant loss of trees;
- the proposal's incompatibility with local urban character;
- inadequate and unconvincing information relating to mitigation of damage to the site's environment;
- the proposition that the viability of the Golf Club should not be a matter for consideration in the determination of the proposal; and
- the site's unsuitability for seniors' housing.

As will be discussed further below, it is submitted that the amended plans now on exhibition do not adequately address the above concerns. Ms Murdock further submits that the amended plans must be seen as minor cosmetic changes to a scheme which has twice been refused after thorough assessment by highly competent public bodies. For her the scheme remains unacceptable in all fundamental respects and in the wider public interest it should not be allowed to proceed.

3. Summary of proposed changes to original development proposal, with comment and points of submission

At page 29 of the Addendum to the Statement of Environmental Effects prepared by Ethos Urban and dated 11 September 2018, the applicant identifies the following amendments to the original plan.

- i. A reduction in the length of the buildings and the removal of the ground floor units connecting Blocks A and B, C and D, and E and F.*

Comment:

When viewed from the north, a long elevation of the entire development (as delineated at Marchese plan DA 2.04 dated 29 /11/2017) indicates a linear strip of built form approximately 220 m long – from Block A to Block D. The same long elevation on the amended plan LEC2.04 dated 29/8/2018 measures approximately 220m. – **i.e. no change**. Removal of ground floor links has created gaps between blocks which have introduced a degree of articulation when viewed at close quarters but such gaps are typically lost in long oblique views, leaving the impression of a 220m long single built form. Elevation LEC3.01 is deceptive in that it assumes the viewer is in a normal (i.e. 90 degree) relationship to every block, with the 'gaps' being clearly visible. In the real world that will not be the case.

In the light of these observations it is submitted that the claim of a 'reduction' in building length is deceptive if not patently untrue. It is further submitted that what reads as a continuous built form some 220m long is entirely out of character with the 'built form and scale of development in the locality' as claimed in the Addendum of 11 September (foot of p.14). In the entire Bayview neighborhood there are few if any buildings of similar length. The 'reduction in the length of the buildings' is seemingly claimed as an improvement over the original. That claim is refuted on the evidence.

Any assessment of built form must necessarily take into account footprint and envelope elements. Drawing LEC1.05-1 (28/8/18) show the very extensive basement envelope as a single 'plane' which corresponds almost exactly with the Bulk Earthworks Plan dated 10/9/18. These plans demonstrate that the project must necessarily be seen as involving the construction of a single large subterranean parking structure topped by 6 residential apartment blocks and the facilities building. In no sense can it be properly described as a building enjoying some kind of harmony with other buildings in the neighborhood.

At section 4.1 of the SEE addendum (p.8) it is stated that the 'overall development footprint...has been reduced'. That appears to be the case, but to a very minor extent. In the light of the above discussion it is submitted that the minor changes to footprint now proposed will bring no environmental improvements to the scheme above or below ground, and will be imperceptible to the un-informed observer. They cannot in any way be seen as addressing relevant issues raised by the SNPP in its Determination and Statement of Reasons, and by the NBC in its separate Determination.

- ii. *A reduction in the level of site excavation arising from changes to the basement car parking design.*

Comment:

At p.39 of the original SEE it is claimed that site works will somehow be 'minimised'. This is a meaningless statement unless we are told from what level the reduction will be measured. Reference to Marchese Engineering Bulk Earthworks Plan indicates that approximately 90,000m³ of bulk excavation will be involved in site preparation. It is strongly submitted that to claim this as a 'reduction' is an absurd proposition.

A selective comparison of the Bulk Earthworks Plan for the amended scheme with related architectural sections shows (for example) that bulk excavation beneath Block E will be down from contour RL 21 to RL 12.5 – a cut of 8.5m at basement level. A comparison of plans DA4.02 (original) and LEC4.02 (amended) shows an apparent increase in cut for Block A from basement RL 6.2 to RL 5.2. These figures suggest that overall, the amended scheme (in some locations) may involve deeper excavation than did the original despite the change from 4 storeys to 3. It is submitted that the excavation plan and relevant architectural drawings should be carefully checked by an expert to ascertain if in fact this is the case. Notwithstanding this uncertainty, the applicant has failed to show how such a level of below-ground excavation for the amended scheme will result in an improved environmental impact or an improved urban design outcome.

With regard to the changed basement parking layout, this has clearly been marginal, with 25 spaces being eliminated out of the original total of 186. This reduction brings absolutely no change to the physical appearance of the development above ground; and even below ground the structural changes are minimal (as can be seen at Drawing LEC1.05-2, for example). In this regard, it is noted that on p.13 of the Addendum SEE it is claimed that 'as a result of the reduced basement extent ...' the design has benefited by way of increased landscape areas on the surface. Again, it is submitted that such changes are marginal and cannot be judged as bringing significant environmental improvements.

In short, the implication that a reduced excavation load and a reduction in parking will bring beneficial improvement to the original scheme above ground must be rejected.

- iii. *Removal of the 4th storey from Blocks E and F to ensure that no building will be higher than 3 storeys. AND*
- iv. *Reduction in the overall building height to ensure entire compliance with the 8.5m building height control.*

Comment:

The amended scheme will now comply with the Pittwater LEP height standard of 8.5m and will therefore be a positive response to the SNPP's reason for refusal No 6. The applicant has provided an environmental planning assessment which claims that the amendments will bring a reduction in adverse environmental impacts on the site and locality. It is also claimed that the up-dated design 'provides for a development that is consistent with the Certificate of Site Compatibility (CSC).

Inspection of Schedule 2 of the CSC shows a 'requirement' has been imposed to the effect that the 'final layout...will be subject to the resolution of issues relating to form, height, bulk scale, ...etc'; but no specific design requirements or criteria are offered by the CSC. It is therefore submitted that the applicant's claim of 'consistency' cannot be verified. However, the SNPP was very clear in its unanimous view that the proposed development is an overdevelopment of the site. The Panel recorded its concern about building height (inter alia), and took the view that the proposal will result in a 'built form which is incompatible with the existing and desired future character of the area'. The Panel's position on this matter is fully supported.

Further on the matter of height, reference is made to Ms Murdock's original submission of 10 February 2018. At page 9, it was strongly submitted 'that an objective merit-based assessment (of the subject site) would see the height debate closed with a single self-evident proposition: on an environmentally valued site in a green recreational setting, **no building (of whatever height) should be permitted.**' For the purposes of the present submission, Ms Murdock's strongly held position on the matter remains unchanged.

4. Other matters

i. Built form and scale:

The Addendum SEE (p.12) claims that the amended scheme ...provides a design response which 'draws upon the key attributes which make the area a desirable location to live' and that 'it more closely resembles the built form and scale of development in the locality'.

Comment:

At Figure 2, p. 8 (original SEE dated December 2017) a plan of the 'overall site' is shown. Within the limited area covered by that image are approximately 460 detached single family dwellings on generously sized lots. Outside that area to the north and south there are many more such dwellings. There is considerable variety in architectural design; but overall the dominant building typology is that of single or 2-storey houses with adjoining landscaping, car storage, pools and other features including pitched and gabled roof forms. Other than the Golf Clubhouse and the 3 existing seniors' housing projects at Aveo Minkara, Bayview Gardens, and Aveo Peninsula, there are virtually no large residential buildings in the entire Bayview neighbourhood.

The applicant's claim at p.12 (Addendum SEE) that 'local context and neighbourhood character' were key influences in design must be seriously questioned. Instead of free-standing domestic-scale detached dwellings in traditional brick or timber construction, the scheme involves multi-story

blocks of 8 or more units constructed with reinforced concrete frames, stone-clad masonry walls and RC slab roofs. Private gardens are nowhere to be seen. Architectural variety is replaced by bland assembly-line built form and a repetitious urban quality at odds with its green setting. A complex tangle of ramps and paths fills the common area within the complex. It is therefore strongly submitted that contrary to the claims quoted above, *the subject proposal has no 'compatibility with the surrounding context'* (ref Amended SEE top page 12). Nor does it comply with the desired future character of Bayview as being low density detached dwellings on large lots. For these reasons it is submitted that no weight should be placed on the Lamb contention that 'the development is compatible with the form, scale and surrounding residential ...visual context' (RLA report p.28).

ii. Project viability

It was strongly submitted in Ms Murdock's original submission that project viability and the poor financial position of the Golf Club are not relevant merit matters, and that they should be set aside in any assessment. That submission is repeated herein.

iii. Site suitability

The CSC (Certificate of Site Compatibility) of 27 May 2017 described the site as being 'suitable for more intensive development' without giving reasons. It is again submitted that it would be difficult to find a less suitable site in this area for the following reasons:-

- Utility services are not immediately available
- Shops and urban services are 2.5km distant
- Terrain is unsuited to elderly residents
- A green and attractive environment will be replaced by strongly urban built forms
- A recognized wildlife corridor will be threatened if not seriously fragmented
- Access to public transport is poor
- The LEP zoning does not permit residential development.
- The completed project will read as an isolated urban enclave, disconnected from its setting in a predominantly low density residential neighborhood.

The amended scheme fails to meet any of the above planning criteria. The site remains unsuitable for the proposed use.

iv. Golf Course up-grade and related matters

This submission supports the proposed golf-course up-grade by way of a Plan of Management and a Conservation Management Plan. Concern remains as to if and when such plans will be implemented. The proponent places considerable faith in the proposed landscaping and conservation works as a means of mitigating adverse environmental impacts. The Lamb Report takes the same position with the claim that 'any residual visual impacts would be successfully mitigated by a range of mitigation measures (not specified) assisted by the landscape scheme'. It is submitted that this position lacks substance: nowhere in the project documentation can be found any evidence of an unconditional commitment to the undertaking of such 'mitigation measures'.

v. Density and zoning

Assuming a site area of 18,633 m², the amended proposal will involve a net residential density of 47 dwellings per ha. This can be compared to typical densities in the nearby residential zones of around 10-15 dwellings per ha. A density of 47d/pha is self-evidently a totally inappropriate metric for a

development which is located in the RE2 Private Recreation zone. Residential development is not a consent use in this zone; and none of the zone objectives contemplate residential uses.

The applicant's response to this issue at p.17 of the Addendum SEE (top of page) attempts to conflate residential use with recreational use on the basis that 95% of the golf course site 'will remain as an 18-hole course'. It is submitted that this is a spurious argument which ignores the simple reality that an 85-unit residential apartment complex is to be inserted into a recreational zone without a single direct connection or common boundary with any adjoining residentially zoned land.

The third objective of the RE2 Zone is 'to protect and enhance the natural environment for recreational purposes'. Despite massive site disturbance, tree loss, and the creation of a senior's 'village' within the zone, the applicant claims compliance with this objective (3rd dot point, p.17, Addendum SEE). That claim is strenuously refuted on the facts. Further to this point, the applicant's claim that there will be no conflict between the character of the proposal and the recreational use of the course is unacceptable to this submitter.

vi. Biodiversity

The proposed Vegetation Management Plan for the amended scheme is supported. However it remains a long-term plan; not a committed program. It is submitted that in the event of project approval a condition be attached which requires a firm financial and operational plan to be signed off before any work commences on site.

vii. Compatibility

At p.21 of the Addendum SEE the proponent claims that the appearance of the development will be 'in harmony with the buildings around it and the character of the street.' It should be noted that there are no 'buildings around it' and the development does not front a street. On the matter of visibility, the proponent claims that because of existing and proposed vegetation, the development will be barely 'read' from external viewpoints. It is submitted that this is a spurious claim. It will take many years for new vegetation to mature; and the existence of an 85-unit residential complex on a prominent site with associated roadworks, lighting, traffic movements and servicing can never be hidden from public view.

viii. Public interest

Ms Murdock confirms her strongly held view that despite recent amendments the subject proposal fails the public interest test for the reasons set out in her original submission of 10 February 2018.

ix. Response to SNPP's report Item 6

The report referred to concerns held by panelist Sue Francis. Comments follow.

- *Reduction in the length of the built forms with consequential increase in the 'gaps between buildings'.*

Comment: The amended plans show virtually no reduction in the overall length of the total built form; and the increase in separation distances between blocks will bring little if any benefit to the overall amenity and visual impact of the design. [See earlier discussion above].

- *Reduction in the extent of excavation for basement parking, and reduction in parking.*

Comment: Subject to earlier comments on this point, the amended plans show a very small reduction in the area to be excavated, with little or no environmental benefit given a footprint similar to the original. A 25-unit reduction in parking brings no benefits to the above-ground visual environment.

- *Reduction in height – maximum 3 storeys*

Comment: See earlier discussion. The reduction does nothing to alter the overall architectural statement which is characterized by a typical apartment-building typology which is alien in this predominantly low-rise single family home neighbourhood.

5. Conclusions

In the light of the above facts and observations, Ms Murdock submits that the amended scheme is an inadequate response to her concerns and to the reasons for refusal recorded by both the NBC and the SNPP. She re-iterates her strongly held view that the subject proposal as amended should again be rejected unconditionally by an appropriate consent authority.

End: James Colman, B.Arch, Dip.TP; M.Sc.Soc; FPIA FAIA

12 October 2018

On behalf of Sandra Murdock, 1/19 Annam Road Bayview