
From: Sean Gartner
Sent: 18/07/2024 4:31:50 PM
To: Stephanie Gelder
Cc: Council Northernbeaches Mailbox; mattd@braeton.com.au
Subject: TRIMMED: Objection to REV2024/0020 - 955 Barrenjoey Road, Palm Beach
Attachments: 2403_objection to 955 Barrenjoey(REV2024-0020).pdf;

Hi Stephanie

I had previously represented my client the owners of 959 Barrenjoey in the refusal that Jordan Davies handled. As such, please find attached a further objection to the current section 8.2 application for review.

Most importantly, we submit that the applicant does not prove that the site has a slope exceeding 30% under building footprint. We can assist in showing on the survey where this has been incorrectly shown on the applicants drawings, as this has a large bearing on the height control, envelope, bulk and scale and privacy impact on amenity.

If you'd like to discuss further or arrange a site visit from my clients property at 959 Barrenjoey, please don't hesitate to contact me.

Regards
Sean Gartner

GARTNER TROVATO ARCHITECTS



18 July 2024

The General Manager
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

Objection to REV2024/0020

Alterations and Additions to a Dwelling House at 955 Barrenjoey Road, Palm Beach

Attention: Stephanie Gelder

Gartner Trovato Architects has been commissioned by Matthew and Sharyn Doyle, the owners of the adjoining property 959 Barrenjoey Road, Palm Beach (959) to undertake a review of the **Section 8.2 (1A) Review of Determination** of the refused DA2023/1469, for alterations and additions to 955 Barrenjoey Road, Palm Beach (955) in terms of compliance with council policies and impacts upon the dwelling at 959.

Our review of plans REV2024/0020 confirms the only changes are the removal of the 4th floor, and the pergola to the western side of Level 3. The proposed amendments in our opinion do not substantiate a reason to approve the review, as the proposed development remains significantly in breach of council policies, with direct impacts upon 959.

An initial objection was made 26 March 2024 to the original application, and the majority of issues remain.

The Section 8.2 review should be refused on the following basis:

1. Height of Buildings – PLEP 4.3

The proposal is incorrectly described as Alterations and Additions to a Dwelling and does not pass the test (L&EC principles) for qualitative and quantitative changes. The original dwelling will be unrecognisable in the proposed new build. There is no evidence that the minimal amounts of the existing structure that are shown as being retained, will be capable of supporting the proposed development. There is no supporting engineering evidence, and from our experience we would suggest that the entire existing dwelling will be demolished to cater for the new proposal.

The applicant fails to substantiate that the works are Alterations and Additions.

The classification is relevant to the determination of compliance with height, as the proposal seeks to utilise the existing external walls and floor levels to determine height.

Whilst the proposal may be considered compatible with the general height and scale of surrounding and nearby development in terms of the overall RL's, is is entirely inconsistent with the location of the height within the site, resulting in an extreme breach of building envelope and unwarranted bulk and scale in the positioning of the proposed new Level 3.

Therefore, the proposal does not achieve the objectives.

The proposal indicates a maximum height between 10.00m for the western portion of Level 3. The breach of the 8.5m height relies upon Clause 4.3(2D) of the PLEP 2014 where the variation requires a slope of land exceeding 30% under the building footprint. We have demonstrated in diagrams below that the slope does not exceed 30% and therefore that the variation is unwarranted.

2. PDCP C1.5 – Visual Privacy

There has been no change from the refused development application to the current s8.2 review. The location of the Terrace off the Living room is non-compliant with the DCP controls and objectives. The controls require that:

- Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).
- Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.
- Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The proposed terrace of 955 is 5.1m wide and directly overlooks the principle private open space of the Living room and deck off the living room of 959 with a separation distance of 3.5m. It also looks directly into the main bedroom, deck off the main bedroom and ensuite to the main bedroom on the upper floor. The s8.2 has removed that previously proposed landscape in planters for privacy and fails to recognise the DCP requirements above.

The design of the proposed terrace is attempting to achieve NW views at the expense of privacy to 959. The Terrace of 955 is elevated above the living area and deck of 959 and does not propose any privacy screens and will overlook more than 50% of the private open space of 959.

The proposal fails to comply with the controls and the impact upon the privacy to 959 is unreasonable and unacceptable. The impact is exacerbated by the non-compliance with side boundary envelope to the terrace.

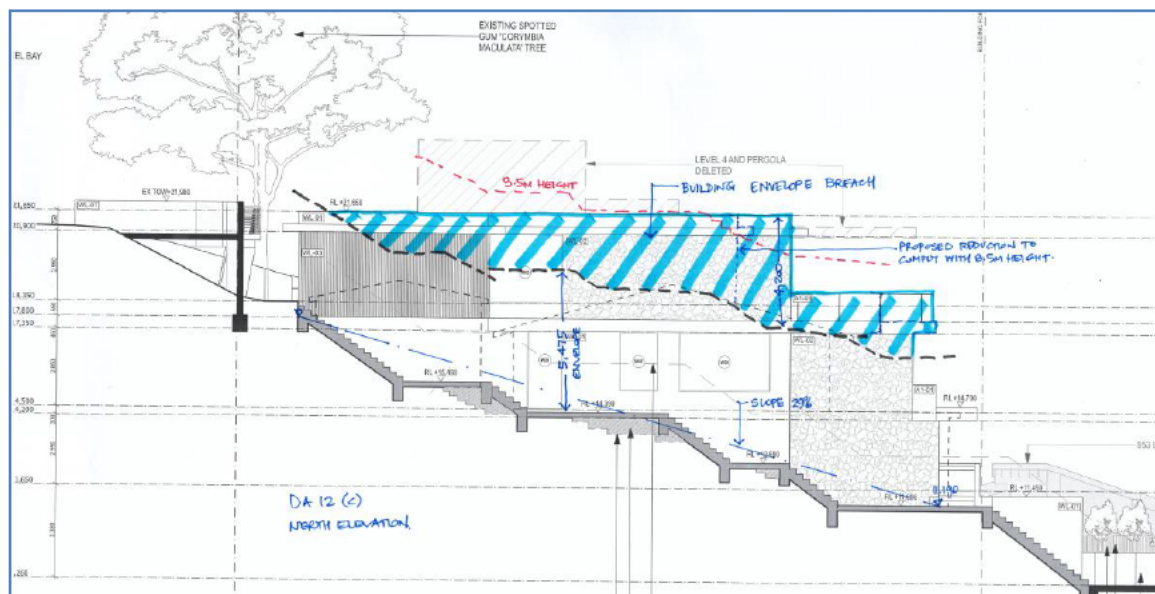
The proposal should be refused for non-compliance with visual privacy.

3. PDCP D12.8 – Building Envelope

The proposal significantly exceeds the built form control of building envelope along the entire northern elevation.

The impact of this breach is a loss of amenity on several aspects including privacy, bulk and scale and view loss. The outcomes of the policy require that bulk and scale is minimised, equitable preservation of views is maintained, and a reasonable level of privacy is provided to neighbouring properties. The proposal fails all of these.

The impacts are created because the proposal seeks to extend the rear building line past that of 959 and therefore looks back into 959 and presents an unacceptable bulk and scale as viewed from 959 from its principle living and private open spaces. The breach of building envelope is severe, and the application should be refused on that basis.



In summary, the amendments made to the application as presented in the Section 8.2 review to the proposed redevelopment of the dwelling at 955 Barrenjoey road, still represents a significant over development of the site in respect of the site's topography and surrounding development.

The plans are both inaccurate and misleading with regards to compliance with the maximum height and slope of land to justify exceeding the 8.5m height limit and have not considered the impacts upon adjoining properties.

A simple relocation of the Level 3 western façade and deck by 2m towards the road, will achieve compliance with height, reduce non-compliance with envelope and provide adequate privacy.

Without any further amendments as suggested above, the multiple non-compliances with LPE and DCP controls that result in numerous and compounded unacceptable amenity impacts to the adjoining property, dictate that in its current form the application should be refused by council.

The owners Matthew and Sharyn Doyle are prepared to join council in defending any appeal to the NSW Land & Environment Court that may be initiated by the owners of 955 Barrenjoey Road, to seek an outcome of compliance with height, reduction of bulk and scale and acceptable privacy.

Regards,

GARTNERTROVATO ARCHITECTS



Sean Gartner

