
From: [REDACTED]
Sent: 13/11/2025 12:46:52 PM
To: Council Northernbeaches Mailbox
Cc: Emma Tonkin
Subject: TRIMMED: RE: DA 2025/1570; 290 LOWER PLATEAU ROAD, BILGOLA PLATEAU WRITTEN SUBMISSION: LETTER OF OBJECTION SUBMISSION: TULLOCH
Attachments: 290 LOWER PLATEAU WS.pdf;

Kind regards,

Bill Tulloch BSc[Arch]BArch[Hons1]UNSW RIBA Assoc RAIA
DA Objection Pty Ltd
Director
[REDACTED]

SUBMISSION

a written submission by way of objection

BILL TULLOCH BSC [ARCH] BARCH [HONS1] UNSW RIBA Assoc RAIA
Director
DA Objection Pty Ltd

prepared for

EMMA TONKIN, 286 LOWER PLATEAU ROAD, BILGOLA PLATEAU

13 NOVEMBER 2025

CEO
NORTHERN BEACHES COUNCIL
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RE: DA 2025/1570
290 LOWER PLATEAU ROAD, BILGOLA PLATEAU
WRITTEN SUBMISSION: LETTER OF OBJECTION
SUBMISSION: TULLOCH

Dear Sir/Madam,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

I have been instructed to prepare an objection to this DA.

I have critically reviewed the plans and documentation prepared in support of the above development application and to provide advice in relation to policy compliance and potential residential amenity impacts.

Having considered the subject property and its surrounds and the details of the development application currently before Council, I am of the opinion that the proposal, in its present form, does not warrant support. In addition, I am of the view that amendments would need to be made to the development proposal before Council is in a position to determine the development application by way of approval.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on neighbouring property.

The site is zoned C4 (Environmental Living) under the *Pittwater Local Environmental Plan 2014* ('PLEP') and is located within a broader context of C4 zones.

Newport Heights Reserve which is zoned RE1 is located immediately above the subject site.

The site is undeveloped and in a natural undeveloped state, covered in native bush, shrubs, grasses and various canopy trees as detailed in the Arborist Report by Urban Arbor. The site has never been built upon, and the tree canopy is exceptional.

There is an exceptional rock outcrop on the subject site that will be destroyed by the proposed built form.

I urge the Case Officer to immediately inspect the subject site, and the neighbouring site, with NBC's Landscape and NBC's Biodiversity Officers.

The main consideration for Council is how should a dwelling be designed for this environmentally sensitive site.

The main objectives of the Zone describe the outcomes to be achieved:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for residential development of a low density and scale integrated with the landform and landscape.

There is inadequate information provided with the application to enable Council to make a proper assessment of the application, to define compliance to biodiversity and other matters.

Unless the Applicant submits Amended Plans and Reports to resolve all of the adverse amenity impacts raised within this Submission, I ask Council to REFUSE this DA.

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1. EXECUTIVE SUMMARY

The design of the proposed development does not ensure that the existing high levels of amenity to the neighbouring property are retained.

Having reviewed the documentation prepared in support of the application and determined the juxtaposition of adjoining properties I feel compelled to object to the application in its current form.

The design of the proposed development is excessive and inconsistent with the established and desired future streetscape character of the locality.

There is no reason, unique or otherwise why a fully compliant solution to Development Standards and Controls cannot be designed on the site.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on neighbouring property.

My client is significantly concerned that the proposal has not been sensitively designed to retain more Cat A Trees.

There is an exceptional rock outcrop on the subject site that will be destroyed by the proposed built form and excavation.

The Applicant is requesting 24 trees to be removed to accommodate the development works.

The Applicant identifies that 9 trees are Cat A Trees that are required to be removed to accommodate the development works including:

- Tree 13: 9m *Angophora costata* [Smooth Barked Apple]
- Tree 15: 9m *Angophora costata* [Smooth Barked Apple]
- Tree 25, 9m *Angophora costata* [Smooth Barked Apple]
- Tree 26, 9m *Angophora costata* [Smooth Barked Apple]
- Tree 27, 9m *Angophora costata* [Smooth Barked Apple]
- Tree 31, 8m *Corymbia gummifera* [Red Bloodwood]
- Tree 35, 9m *Corymbia gummifera* [Red Bloodwood]
- Tree 59, 7m *Angophora costata* [Smooth Barked Apple]
- Tree 62. 7m *Angophora costata* [Smooth Barked Apple]

There are 2 further trees that appear to been categorized incorrectly, and perhaps should be within the Cat A Trees list:

- Tree 30, 7m *Angophora costata* [Smooth Barked Apple] Z1 – young, but no defects
- Tree 33, 6m *Corymbia gummifera* [Red Bloodwood] Z1 – no defects

The Applicant is requesting a further 12 Trees to be removed for Z1, Z6, Z10 & Z12 reasons. Council will need to assess these matters to ensure that Council's Officers agree with the assessment:

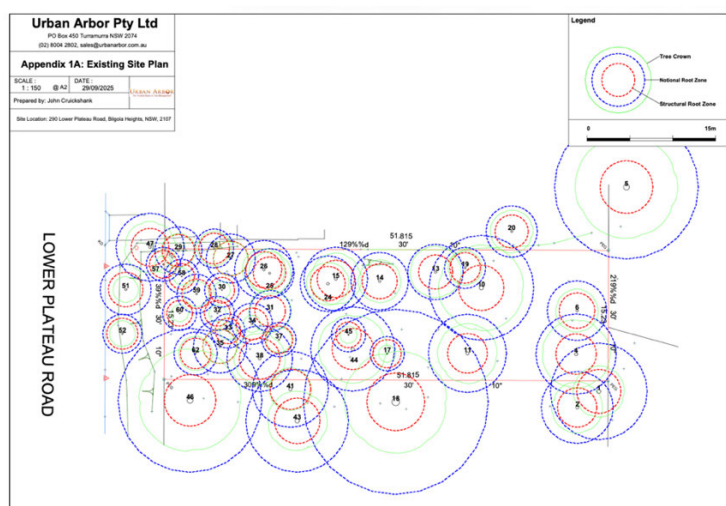
- Tree 14: 7m *Eucalyptus resinifera*, [Red Mahogany] Z4 – dieback, termites
- Tree 17: 8m *Allocasuarina littoralis* [Black She Oak] Z10 – crown shape
- Tree 24, 9m *Angophora costata* [Smooth Barked Apple] Z10 – crown shape
- Tree 32, 8m *Corymbia gummifera* [Red Bloodwood] Z1 -suppressed
- Tree 34, 8m *Allocasuarina littoralis* [Black She Oak] Z4 – poor condition
- Tree 37, 7m *Corymbia maculata* [Spotted Gum] Z1 – crown shape
- Tree 38, 8m *Eucalyptus haemastoma* [Broad Leaved Scribbly Gum] Z10 - stem
- Tree 44, 9m *Angophora costata* [Smooth Barked Apple] Z10 – crow, leader
- Tree 45, 6m *Elaeocarpus reticulatus* [Blueberry Ash] Z11 - crown
- Tree 51, 3m *Allocasuarina littoralis* [Black She Oak] Z6 - root plate
- Tree 52, 7m *Angophora costata* [Smooth Barked Apple] Z10 - lean
- Tree 60, 6m *Angophora costata* [Smooth Barked Apple] Z1 - lean

There are three large neighbour's trees that are badly affected.

- Tree 18, 16m *Angophora costata* [Smooth Barked Apple]
- Tree 46, 16m *Eucalyptus haemastoma* [Broad Leaved Scribbly Gum]
- Tree 41, 13m *Corymbia gummifera* [Red Bloodwood]

Tree 18, 16m *Angophora costata* [Smooth Barked Apple] is a magnificent older tree.

The Arborist has very carefully plotted the Cat A Tree's Location, Size, Tree Crown, Notional Root Zone, SRZ & TPZ onto drawing Appendix 1A: Existing Site Plan:



The Arborist's *Existing Site Plan* identifies the zones to be considered within the 11 Cat A Trees to enable a sensitive '*house amongst the canopy*' design solution to emerge. A dwelling that '*lightly touches the ground*', whilst retaining as many Cat A Trees as possible, would be the most appropriate design solution. The Arborist has done his job very well.

Unfortunately, the design of the proposal has simply ignored the location of 11 no. Cat A Trees and *bulldozed* a design solution of a very deep basement, along with inappropriate siting of built form, that would require the total destruction of all 11 no. Cat A Trees and put in harms way significant trees on the neighbouring property.

Tree 18, 16m *Angophora costata* [Smooth Barked Apple] – the magnificent older tree will potentially have roots severed. The tree could be 200 years old! No root investigation has occurred.

The subject site appears to have been recently cleared of the under storey.

The Applicant is requesting 24 trees to be removed to accommodate the development works, and only provides four new native replacement trees on the subject site, one *Angophora costata* to the rear and three *Elaeocarpus reticulatus* [Blueberry Ash] planted under the canopy of the larger existing trees. Two *Angophora costata* are proposed within Council's verge.

12 *Angophora costata* [Smooth Barked Apple], 3 *Corymbia gummifera* [Red Bloodwood], 3 *Allocasuarina littoralis* [Black She Oak], *Corymbia maculata* [Spotted Gum], *Eucalyptus resinifera*, [Red Mahogany], *Eucalyptus haemastoma* [Broad Leaved Scribbly Gum], *Elaeocarpus reticulatus* [Blueberry Ash], and other species are all removed.

There is ample opportunity to build within a '*Framed Solution supported by Ground Screw or Piled Foundation*' method, to eliminate all excavation on the subject site. This would eliminate deep excavation around the trees to be protected. There is ample opportunity to build around the most impressive of the 11 no. Cat A Trees to avoid the carnage that is proposed.

This untouched double block is alive with native wildlife that inhabit the 24 existing trees to be removed, the ground under, and the remainder of the site, yet the Applicant has not bothered to submit Ecological Site Assessment (ESA), Biodiversity Impact Assessment (BIA), or Ecological Sustainability Plan (ESP) Reports to define the outcomes. Wildlife corridors will be severed.

The design solution is not what it should be – the concept should aim at protecting as many of the Cat A Trees as possible, whilst deleting all excavation and fill.

The design solution is to excavate deep into the terrain, forever removing most of the ecosystem on the site.

Considering the unique nature of the site, Council should consider requesting the Applicant to provide:

- Ecological Site Assessment (ESA);
- Biodiversity Impact Assessment (BIA);
- Ecological Sustainability Plan (ESP).

Considering the unique nature of the site, Council should also consider requesting the Applicant to provide:

- Aboriginal Cultural Heritage Assessment

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask Council to REFUSE this DA.

2. AMENDED PLANS

My clients make a request for Amended Plans to be submitted to better address impacts and maintain the majority of the main 11 no. Cat A Trees on the subject site, that are proposed to be removed, and to retain all other Cat A Trees, and to remove all excavation into neighbours' trees TPZs.

I ask Council to seek modifications to this DA as the proposed development does not comply with the planning regime, by non-compliance to biodiversity and built form controls, and this non-compliance leads directly to neighbouring property amenity loss. A compliant building design would reduce the amenity impacts identified.

Provide Amended Plans & Reports to deal with the following matters:

1. Delete all excavation and fill save for an entry ramp from the road to the existing levels on the subject site.
2. Retain the Rock Outcrop.
3. Complete a redesign to create above ground pavilions, on a '*Framed Solution supported by Ground Screw or Piled Foundation*' system, avoiding the main 11 no. Cat A Trees, to retain all other Cat A Trees, and to completely remove all excavation into the TPZ of neighbours' trees;
4. Remove all excavation or fill into the TPZ zone of Tree 18, 16m Angophora costata [Smooth Barked Apple] – the magnificent older tree;
5. Non-destructive Root Investigations to complete detailed investigations to determine root impacts from proposed major NRZ encroachment, PRIOR to the design being completed, to identify the limited zones where built form can be placed. The root investigations should identify roots greater than 40mm in diameter that are located along the edge of the potential structure's footprint or in the location of footings. Root investigations must be carried out using non-invasive methods (manual excavations). The consulting arborist should prepare a root map/report, identifying the findings of the investigations, including photographs as supporting evidence in the report – as advised by the Arborist;
6. Increase landscape areas to DCP controls;
7. Further measures protecting native fauna and flora; Further measures protecting the ecological processes necessary for their continued existence; Further measures encouraging the conservation and recovery of native fauna and flora and their habitats.
8. Complete Ecological Site Assessment (ESA)
9. Complete Biodiversity Impact Assessment (BIA)
10. Complete Ecological Sustainability Plan (ESP)
11. Complete Aboriginal Cultural Heritage Assessment (ACHA)

3. STATUTORY CONTEXT

3.1 EPAA 1979

The Proposal is inconsistent with the relevant Objects of the Act as listed under Section 1.3 of the EP&A Act and will result in unjust or significant environmental impact, in respect to severe environmental amenity impacts to subject site.

3.2 LEP

The proposal is contrary to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to satisfy the aims under the LEP and fails to satisfy the objectives of the zone of the LEP.

The site is zoned C4 (Environmental Living).

The proposal fails the Objectives:

The objectives of the C4 zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

LEP Part 7 Cl 7.6 applies to the subject site

7.6 Biodiversity

(1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by—

- (a) protecting native fauna and flora, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

(2) This clause applies to land identified as “Biodiversity” on the Biodiversity Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—

- (a) whether the development is likely to have—*

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
 - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

I contend the proposal has not gone far enough to meet the expectations of this clause.

The development has not been designed nor sited to avoid the significant adverse environmental impact to the Cat A Trees and the very impressive older species: Tree 18, 16m *Angophora costata* [Smooth Barked Apple] adjacent to the subject site.

NBC's DRAFT LEP

Under *Bushland and Biodiversity Land*, NBC states:

The clause aims to protect and conserve native fauna and flora on specific land identified on the Terrestrial Biodiversity Map across the LGA.

The key objectives of the clause are to:

- Protect native fauna and flora and the ecological processes necessary for their continued existence.
- The clause aims to protect and conserve native fauna and flora on specific land identified on the Terrestrial Biodiversity Map across the LGA.

NBC continues to support these measures, and NSW Government have responded positively, requesting more detailed ground analysis.

Considering the potential destruction of this site, I request that Council immediately inspect this site and the neighbouring site, and consider that both of these sites are immediately included in the LGA's Terrestrial Biodiversity Map.

3.3 DCP

The proposal is contrary to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to satisfy the controls set out within the DCP, significantly relating to desired future character, streetscape character, design quality, built form, urban design, landscape, tree canopy, and environmental amenity that is identify within this Submission.

I ask Council to consider the Natural Environment controls carefully:

- B4.1 Flora and Fauna Conservation Category 1 Land
- B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor
- B4.6 Wildlife Corridors

Outcomes

The long-term viability of locally native flora and fauna and their habitats in the Pittwater Local Government Area.

Controls

Development shall not directly negatively impact on threatened species, endangered populations or endangered ecological communities; Development shall retain and enhance habitat for locally native species, threatened species, endangered populations or endangered ecological communities; Development shall result in no significant onsite loss of canopy cover and no net loss in native canopy trees; Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of core bushland and not include environmental weeds.

The DCP refers to *The Bilgola Locality*

The Bilgola Locality includes vegetation areas, threatened species, or areas of natural environmental significance. Land affected in the Bilgola Locality is shown on the Natural Environment Map held in the offices of Council. Endangered and vulnerable species of fauna exist within the Bilgola Beach Amphitheatre, such as the Squirrel

Glider, Glossy Black Cockatoo, Powerful Owl, Koala, Long-nosed Bandicoot, Pigmy Possum and Common Bent-wing Bat.

The local community state they may have witnessed many of these birds on the subject site, as the site is original and untouched – the native animals and birds have a safe home in this untouched environment.

3.4 SEPP (BIODIVERSITY AND CONSERVATION) 2021

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the SEPP. The proposal is unsatisfactory with regard to the relevant planning provisions contained in the SEPP.

The proposed development fails:

- *to protect the biodiversity values of trees and other vegetation in non-rural areas of the state;*
- *to preserve the amenity of non-rural areas of the state through the preservation of trees and other vegetation.*

The site is mapped as Local Terrestrial Biodiversity given the natural and undeveloped nature of this C4 zoned site.

Council should request a full set of Biodiversity Reports to cover:

- Complete Ecological Site Assessment (ESA)
- Complete Biodiversity Impact Assessment (BIA)
- Complete Ecological Sustainability Plan (ESP)

The Reports must cover the key objectives of the *Bushland and Biodiversity Land* clause that are to: *Protect native fauna and flora and the ecological processes necessary for their continued existence; and The clause aims to protect and conserve native fauna and flora on specific land identified on the Terrestrial Biodiversity Map across the LGA.*

4.0 DESIGN QUALITY, BUILT FORM & URBAN DESIGN

4.1 BUILDING FORM & MASSING

The proposed development should be refused due to its excessive bulk and scale and its failure to comply with the numerical standards and controls.

The main issues of concern:

- Unacceptable Loss of Visual Amenity: The application will result in an unacceptable loss of visual amenity from adjoining private properties, and from the public domain, due to the removal of 11 Cat A Trees
- Breaches of the Building Envelope: The breaches of the building envelope will result in an adverse visual impact when viewed from private and public domains;
- Cumulative Impact: The numerical non-compliances result in a cumulative impact, that increases the built form, resulting in an overdevelopment of the site;
- Landscaping: The proposal does not allow for enough landscaping to suitably reduce the bulk and scale of the development;
- Good Design: The proposal fails to encourage good design and innovative architecture to improve the urban environment;
- Adjoining Properties: The proposal fails to minimise the visual impact of development when viewed from adjoining properties and streets.
- Unsafe Street Access: on the blind bend

4.2 CHARACTER & STREETSCAPE

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate streetscape outcome.

The main issues of concern:

- Desired Future Character: The proposed development is inconsistent with the provisions relating to the desired future character. The proposal is visually dominant. The development presents an inappropriate response to the site. The design of the proposal does not recognise or complement the desirable elements of the subject site's current character.
- Impact on the Amenity of Adjoining Properties: The proposal, due to its excessive visual bulk, its impact on the amenity of adjoining properties and users of the public domain, its poor relationship with the subject property and

the environment is inconsistent with the objectives of the desired future character provisions of the locality.

- Landscaped Setting: The proposal is excessive in scale, has adverse impacts on the visual amenity of the environment, does not positively contribute to the streetscape in terms of an adequately landscaped setting. The development does not have sufficient building separation and areas of landscaping;
- Non-Compliant Building Envelope: The non-compliant building envelope will lead to unacceptable visual bulk impact to neighbours. The multiple non-compliances arising from the proposed upper floor levels and the non-compliant setbacks indicates that the proposed development cannot achieve the underlying objectives of this control, resulting in an unacceptable building bulk when viewed from adjoining and nearby properties.

4.3 SETBACKS

The proposed development should be refused as it is significantly non-compliant with setback of the DCP.

- Inclined Plane;

The proposed development does not provide appropriate setbacks. This leads to inconsistency with the character of the area and unreasonable amenity impacts.

The proposal is inconsistent with the objectives of the DCP.

- To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street;
- To ensure and enhance local amenity by providing equitable access to light, sunshine, privacy, views and air movement;
- To defining and adding character to the streetscape;
- To allow deep soil planting.

The proposed development results in an encroachment beyond the prescribed building envelope. This non-compliance is indicative of an unacceptable built form and contributes to the severe amenity loss.

The design fails to comply with the building envelope measured at the side boundary. A significant proportion of the upper level of the proposed development falls outside this building envelope. Together with the breach of the height limit, the building envelope breach will result in view loss, excessive bulk and scale, and significant visual impact.

I note that flexibility in relation to DCP controls may be acceptable where the outcomes of the control are demonstrated to be achieved. In this case, the control is unable to do so because:

- The design cannot achieve the desired future character as demonstrated earlier in this submission;
- The width and height of the design is significantly overbearing in relation to the spatial characteristics of the natural environment, and is not sensitive to this important visual catchment;
- By virtue of the unmitigated height breach and extensive building envelope breach, it is not possible to say that the bulk and scale of the built form have been minimised;
- View loss results from the non-compliant design and a reasonable and equitable sharing of views are not achieved.

The proposal will result in an unsatisfactory scale of built form that will be disproportionate and unsuitable to the dimensions of the site and neighbouring residential development.

The height and bulk of the development will result in unreasonable impacts upon the amenity of neighbouring properties with regard to visual dominance.

The excessive built form of the proposal results in a development where the building mass becomes visually dominant and imposing, particularly when viewed from the visual catchment of neighbouring properties

The cumulative effect of the non-compliances with setback and other development standards results in an over development of the site with the site being not suitable for the scale and bulk of the proposal.

4.4 LANDSCAPE

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate landscape amenity.

Concerns are raised on:

- Preservation of Trees or Bushland Vegetation.
- Landscaping Design;
- Open Space and Landscaping;

The proposal does not provide for adequate landscape area according to the controls. Variations to the controls cannot be allowed as the proposal does not meet the objectives of the clause. The combined footprint of the proposed development

prevents the inclusion of adequate deep soil area and volume for substantial planting to assist in mitigating the bulk and scale of the proposal, maintaining the character of the locality and minimising impacts to adjoining properties.

The proposed development is inconsistent with the provisions of biodiversity protection, flora and fauna habitat enhancement, and wildlife corridor. There is insufficient information provided to ensure that the proposal will not detrimentally impact native vegetation and habitat.

The proposal fails:

- To enable planting to maintain and enhance the streetscape;
- To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife;
- To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low-lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building;
- To enhance privacy between buildings;
- To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants;
- To facilitate water management, including on-site detention and infiltration of stormwater.

Council's DCP with respect to the locality, requires that development respond to the natural environment and minimise the bulk and scale of buildings. The proposed development in its current form does not achieve this and provides inadequate pervious landscaped area at ground level.

The main issues of concern:

- Major incursion into the SRZ & TPZ of Neighbours Trees. The proposed structure is likely to result in a significant loss of root volume of this tree, potentially making these trees unviable for retention;
- Major incursion into the SRZ & TPZ of Trees to be retained. The proposed structure is likely to result in a significant loss of root volume of this tree, potentially making these trees unviable for retention;
- Majority of plant species as they are not characteristic of the ecological community;

The proposal is inconsistent with the objectives of the DCP. The proposal removes numerous trees as defined by the Arborist Report. I contend that there is insufficient arboriculture reason to remove a number of these trees.

The proposal also builds into the SRZ and TPZ of the multiple trees, including potentially the neighbouring properties trees.

The Applicant has not provided adequate tree root mapping by non-destructive measures, on the TPZ of the retained trees on the subject site, nor neighbour's existing trees where the neighbour's trees TPZ extends under the proposed development. The location and distribution of the roots must be demonstrated and consideration that the trees will survive the development. This has not been provided.

5. INSUFFICIENT INFORMATION

The application lacks sufficient detail to make an informed assessment particularly with respect to determining the extent of the following matters and the relationship and impact to adjoining neighbours.

- Complete Ecological Site Assessment (ESA)
- Complete Biodiversity Impact Assessment (BIA)
- Complete Ecological Sustainability Plan (ESP)
- Complete Aboriginal Cultural Heritage Assessment

6. CONCLUSION

The proposed development is not consistent with the intent of the LEP standards and DCP controls as they are reasonably applied to the proposal.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this DA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development;
- The proposed development is incompatible with the existing streetscape and development in the local area generally;
- The proposed development will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties;
- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements;

It is considered that the public interest is not served.

The proposed development does not follow the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are multiple matters which would prevent Council from granting consent to this proposal in this instance.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts all of which would result in adverse impacts on the neighbour's property.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the zone objectives of the LEP;
- Inconsistent with the aims of the LEP;
- Inconsistent with the objectives of the DCP;
- Inconsistent with the objectives of the relevant Legislation & Environmental Planning Instruments;
- Inconsistent with the objects of the EPAA1979.

The proposed development does not satisfy the appropriate controls. Furthermore, the proposal would result in a development which will create an undesirable

precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community, and is therefore not in the public interest. The proposal therefore must be refused. It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have not been satisfactorily addressed.

I ask that if Council in their assessment of this application reveals unsupported issues, which prevent Council from supporting the proposal in its current form, and writes to the Applicant describing these matters, I ask for that letter to be forwarded to my client.

I trust that Council will support this neighbour's submission and direct the proponent to modify the DA plans, as outlined above. I ask Council to inspect the development site from neighbour's property so that Council can fully assess the DA.

It is requested that Council inform my client, of any amended plans, updates or Panel meeting dates.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask Council to REFUSE this DA.

Yours faithfully,

Bill Tulloch

Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA Assoc RAIA
Director
DA Objection Pty Ltd
PO Box 440 Mona Vale NSW 1660

APPENDIX

Council to consider a full range of conditions of consent to better protect neighbour's amenity:

General Conditions

- Approved Plans & Documentation
- Compliance with Ausgrid, TfNSW, WaterNSW
- Approved Land Uses
- Prescribed Conditions
- General Requirements

Before CC

- Amended Architectural Plan
- Amended Landscape Plan
- Amended Geotechnical Report
- Boundary Identification Survey
- Building Components & Structural Soundness
- Car Parking
- Car Parking Standards
- Compliance with Standards
- Compliance with the Acoustic Report
- Construction Pedestrian Traffic Management Plan
- Construction Traffic Management Plan
- Detailed Design of Stormwater Treatment Measures – Major
- Demolition, Excavation and Construction Noise and Vibration Management Plan
- Emergency Response
- Fencing
- Flood Effects caused by Development
- Floor Levels
- Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans
- Landscape Maintenance Plan
- Mechanical Plant and Equipment
- On Slab Landscape Works
- Pedestrian Conflict Management
- Pedestrian Sight Distance at Property Boundary
- Removal of Redundant Driveways

- Services and Fire Hydrant Enclosure
- Shoring of Council's Road Reserve
- Site Consolidation
- Storage of Goods
- Stormwater Disposal
- Submission of Engineering Plans
- Sydney Water Tap In
- Tanking of Basement Level
- Transport for NSW Requirements
- Tree Protection Specification and Protection Plan
- Utilities Services
- Vehicle Access and Parking
- Waste and Service Vehicle Access (8.8m Medium Rigid Vehicle)

Conditions which must be satisfied prior to the demolition of any building or construction

- AC Units be to located away from the neighbouring property.
- Acoustic Certification of Mechanical Plant and Equipment
- Adjoining Buildings Founded on Loose Foundation Materials
- All Solar Panels and PV systems are to be treated with antireflective glass. Solar glass is to be stippled and light-trapping, with photon-absorbent solar cell attached to the rear side. Angle of reflectivity to neighbours must be considered within final detailed design at construction certificate stage, considering the view from neighbours to the subject site.
- Arborists Documentation and Compliance Checklist
- BASIX Commitments
- Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principle Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)
- Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water
- Compliance with Building Code of Australia and insurance requirements
- Construction Certificate Required Prior to Any Demolition
- Demolition Traffic Management Plan
- Demolition, excavation and construction noise and vibration management plan. A site-specific noise management plan must be submitted to Council for comment and approval prior to issue of any construction certificate.
- Dewatering

- Dilapidation Reports for Existing Buildings: A photographic survey and dilapidation report of adjoining property detailing the physical condition of the property, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of any Construction Certificate. A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works.
- Electric vehicle circuitry and electric vehicle charging point requirements
- Engineer Certification
- Engineer's Certification of Plans
- Erosion and Sediment Controls – Installation
- Establishment of Boundary Location, Building Location and Datum
- Establishment of Tree Protection Zone (TPZ) Fence
- Geotechnical and Hydrogeological Design, Certification and Monitoring
- Geotechnical Report.
- Ground Anchors
- Hazardous Building Materials Survey
- Home Building Act 1989
- Identification of Hazardous Material
- Landscape of the site. a landscape design documentation package and technical specification for construction by a registered landscape architect, must be submitted to and approved by Council's area coordinator planning assessments / area planning manager prior to the issue of a construction certificate.
- Light and Ventilation
- No Underpinning works
- Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant
- Noise Control - Swimming pool/spa pool pumps and associated equipment [if consented]
- Notification of excavation works or use of high noise emission appliances/plant. The immediately adjoining neighbours must be given a minimum of 48 hours' notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.
- Notification of Home Building Act 1989 requirements
- Parking Facilities
- Payment of Long Service Levy, Security, Contributions and Fees

- Pre-Construction Dilapidation Reports
- Professional Engineering Details
- Project Arborist
- Public Road Assets Prior to Any Work/Demolition
- Reflectivity. Prior to issue of the Construction Certificate the Registered Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.
- Road and Public Domain Works
- Road Occupancy Licence (ROL) from Transport for NSW
- Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection
- Sediment and Erosion Controls
- Site Signs
- Soil and Water Management Plan – Submission and Approval
- Stormwater Management Plan
- Structural adequacy & Excavation work
- Swimming and Spa Pools – Backwash [if consented]
- Swimming and Spa Pools – Child Resistant Barriers [if consented]
- Toilet Facilities
- Tree Management Plan
- Utility Services Generally
- Ventilation - Internal Sanitary Rooms
- Waste Storage – Per Single Dwelling
- WaterNSW General Terms of Approval
- Work Zones and Permits
- Works (Construction) Zone – Approval and Implementation

Conditions which must be satisfied during any development work

- Acid Sulfate Soils
- Asbestos Removal Signage
- Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- Classification of Hazardous Waste
- Compliance with Australian Standard for Demolition
- Compliance with BCA and Insurance Requirements under the Home Building Act 1989
- Compliance with Geotechnical / Hydrogeological Monitoring Program
- Compliance with Preliminary Site Investigation Report
- Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works,

- Condition of Trees
- Critical Stage Inspections
- Disposal of Asbestos and Hazardous Waste
- Disposal of Site Water During Construction
- Dust Mitigation
- Erosion and Sediment Controls – Maintenance
- Footings in the vicinity of trees
- Hand excavation within tree root zones
- Hours of Work –Amenity of the Neighbourhood
- Implementation of Construction Traffic Management Plan
- Implementation of Demolition Traffic Management Plan
- Imported Fill
- Installation of stormwater pipes and pits in the vicinity of trees
- Level changes in the vicinity of trees
- Maintenance of Environmental Controls
- Maintenance of Sediment and Erosion Controls
- Notification of Asbestos Removal
- Off-site Disposal of Contaminated Material
- Off-site Disposal of Contaminated Soil – Chain of Custody
- Ongoing Management of Road Reserve
- Placement and Use of Skip Bins
- Prohibition of Burning
- Protection of Existing Street Trees
- Protection of Sites of Significance
- Public Footpaths – Safety, Access and Maintenance
- Removing, Handling and Disposing of Asbestos
- Replacement/Supplementary trees which must be planted
- Requirement to Notify About New Acid Sulfate Soils Evidence
- Requirement to Notify about New Contamination Evidence
- Requirement to Notify about New Evidence
- Road Reserve
- Road Works and, Work within the Road and Footway
- Site Contamination
- Site Contamination – Acid Sulfate Soils
- Site Cranes
- Site Waste Minimisation and Management – Construction
- Site Waste Minimisation and Management – Demolition
- Staff and Contractor Parking
- Support of Adjoining Land and Buildings
- Survey Certificate
- Survey. All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall

construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work. Reason To ensure the development does not encroach onto neighbouring properties.

- Tree and Vegetation Protection
- Tree Preservation
- Vibration: Monitoring Construction Vibration. Vibrations associated with demolition, excavation and construction works are limited to a tolerance of 3mm/s PPV (peak particle velocity) at the property boundaries (or at sea cliff or cliff adjacent to the subject property). Vibration monitoring equipment is to be installed by a registered Geotechnical Engineer throughout the site and along the boundaries to verify that vibration is within the limits of the maximum tolerance. The vibration monitoring equipment must include a light/alarm, so the site foreman and equipment operator are alerted to the fact that vibration limits have been exceeded. Where the vibration tolerances have been exceeded, works shall cease until a change in construction / excavation methodology are implemented to ensure compliance. It also must log and record vibrations throughout the excavation and construction works so that compliance may be verified. Any monitoring devices are to be installed at the footing level of any adjacent structures.

Conditions which must be satisfied prior to any occupation or use of the building:

- Acid Sulfate Soil Management Confirmation
- Acoustic Design Recommendations
- Allocated Parking Spaces (Retail/Commercial)
- Amenity Landscaping
- Approval
- Building Components and Structural Soundness
- Building Height & FSR: Registered Surveyors Certification
- Building Number(s)
- Certification for the Installation of Stormwater Treatment Measures
- Certification of Civil Works and Works as Executed Data in Accordance with Roads Act
- Certification of Electric Vehicle Charging System
- Certification of Works as Executed
- Commissioning and Certification of Public Infrastructure Works
- Commissioning and Certification of Systems and Works
- Compliance with the acoustic report prior to construction and or occupation certificates

- Condition of Retained Vegetation
- Construction of Works in Road Reserve
- Disabled Parking Spaces
- Encroachments – Neighbouring Properties. No portion of the proposed structure shall encroach onto the adjoining properties.
- Fulfillment of BASIX Commitments – clause 154B of the Regulation
- Geotechnical Certification Prior to Occupation Certificate
- Kitchen Design, Construction and Fit Out of Food Premises Certification
- Landscape Completion
- Landscaping
- Letter Box
- Loading and Delivery Management Plan
- Mechanical Ventilation Certification
- Occupation Certificate (section 6.9 of the Act)
- Positive Covenant and Works-As-Executed Certification of Stormwater Systems
- Positive Covenant for the Maintenance of Stormwater Pump-out Facilities
- Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures
- Post-Construction Dilapidation Report
- Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with the consent, to the satisfaction of the Principal Certifier. Reason. To ensure the constructed development complies with the approved height.
- Removal of Ancillary Works and Structures
- Road Works (including footpaths)
- Shared Zone Bollard
- Signage and Line-marking – Internal
- Stormwater Disposal
- Stormwater Treatment Measures Operation and Maintenance Plan
- Street Tree Planting
- Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters [if consented]
- Swimming Pool Fencing [if consented]
- Sydney Water
- Works as Executed Drawings – Stormwater Treatment Measures

Conditions which must be satisfied during the ongoing use of the development

- 'No Entry' Signage
- Deliveries and Waste/Recycling Collection
- Flood Emergency Response Procedure

- Hours of Operation
- Implementation of Loading Dock Management Plan
- Landscape Maintenance
- Maintenance of BASIX Commitments
- Maintenance of Stormwater Treatment Measures
- Noise Control
- Noise from mechanical plant and equipment, including swimming pool plant
- Ongoing Maintenance of the Onsite Stormwater Detention (OSD) System, Rain Garden and Rainwater Tank
- Ongoing Noise Management
- Ongoing Operation
- Outdoor Lighting – Residential
- Outdoor Lighting – Roof Terraces [if consented]
- Parking Enclosure
- Parking Spaces
- Swimming and Spa Pools – Maintenance [if consented]

Advising

- Asbestos Removal, Repair or Disturbance
- Builder's Licences and Owner-builders Permits
- Building Standards - Guide to Standards and Tolerances
- Commonwealth Disability Discrimination Act 1992
- Criminal Offences – Breach of Development Consent and Environmental Laws
- Dial Before You Dig
- Dilapidation Report
- Dividing Fences
- Lead Paint
- NSW Police Service and Road Closures
- Pruning or Removing a Tree Growing on Private Property
- Recycling of Demolition and Building Material
- Release of Security
- Roads Act 1993 Application
- SafeWork NSW Requirements
- Workcover requirements