

11 July 2025



Mark Baxter
8/21 Sydney Road
MANLY NSW 2095

Dear Mr Baxter

Development Application No: DA2025/0580 for Demolition works and construction of a dwelling house at 316 Hudson Parade CLAREVILLE.

An assessment has been undertaken of your application. The assessment has found that it is unsatisfactory in its current form for the reasons identified below:

- **Insufficient information**

The following information/documentation is required to complete the assessment of the application:

1. Subject site – The PAN form includes lot 2 DP827733 as being part of the subject site. Lot 2 is owned by Council and owner's consent has not been submitted from Council. Two separate emails from Baxter and Jacobson architects, dated 14 May and 18 June 2025, have confirmed that all work is within lot 1 and no work is proposed in lot 2. To address this inconsistency please submit a letter to clarify the correct address of the site as lot 1 DP827733 excluding lot 2 DP827733.
2. Landscape Plan – The landscape plan prepared by Dapple Design dated 13/12/2023 is inconsistent with the landscape plan in the Arborist Report prepared by Naturally Trees dated 19 May 2025 in respect of tree removal. In addition, the landscape plan includes an area of planting between the eastern most retaining wall and pavilion which is noted to be a pond on drawing DA.1212 - Level 2 of the architectural master set. Please update the landscape plan to ensure consistency with all documents.

In accordance with *Clause C1.1 of the PDGP* a soil depth of 300mm is required for lawns, 600mm for shrubs and 1m for trees. To demonstrate compliance with this control please submit sections for the following areas of landscaping:

- (a) The store area to the immediate west of the studio / gym
- (b) The landscape strip to the south of the studio / gym
- (c) The areas above the underground den to the north of the gym / studio and
- (d) The area between the eastern retaining wall and pavilion.

Note: these areas amount to a LOS of 47.4m².



Landscape plan- further details required on areas A - D

3. Construction Traffic Management Plan (CTMP) – In accordance with *Clause B8.6 of the Pittwater DCP* a CTMP is required for excavation greater than 100m³.
4. Schedule of material and colours – Please submit a schedule of materials and colours as per the DA lodgement requirements.
5. North elevation of the garage / gym – Please submit this elevation.
6. Den – Please submit further details on the intended use of the den with conformation of the number of cars expected to be stored in the underground space.

• **Issues**

The following is a list of the issues and concerns identified in the assessment that cannot be supported:

1. Excavation – The proposal seeks approval of 2500m³ of excavated material to a depth of 8.5m with a nil setback to the southern boundary. Drawing DA.1211 – Level 1 provides details of the construction of a new 444.3m² den / underground parking area with car lift, storeroom and rainwater tank. The subterranean level exceeds the floor area of the level 2 (ground level) living area. Furthermore, DA2025/0581, which is being assessed concurrently, proposes an additional 250m³ of excavation for the construction of a new swimming pool.

The SEE notes that the design is essentially the same as the substantially commenced works under DA2020/1591. However, the extent of earthworks and excavation is substantially different as the DA2020/1591 only approved 30m³ of backfill for the retaining walls and a pond compared to the 2500m³ proposed. It is



acknowledged that some **minor** additional excavation was approved under Mod2022/0643.

The proposal increases the amount of car parking approved under the 2021 (4 spaces within 2 double garages). In addition to the four-car parking spaces, it is expected that a considerable number of cars will be stored in the underground den.

Due to the excessive amount of excavation, especially when compared with that approved under DA2020/1591, and Mod2022/0643 the proposal is assessed as being inconsistent with the following objective of the *C4 Environmental Living zone*.

-To provide for residential development of a low density and scale integrated with the landform and landscape.

In addition, the proposal is inconsistent with *Clause 7.2 (h) Earthworks of the Pittwater LEP* which seeks to avoid, minimise or mitigate the impacts of the development. This requirement is echoed in *Clause 7.7 (4) (b) (Geotechnical Hazards of the Pittwater LEP* which requires the consent authority to be satisfied that

- (i) *the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (ii) *if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
- (iii) *if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

In summary of this issue, the excessive underground den for the storage of cars is not supported.

2. Landscape Open Space.

The control requires 1141m² 60% of landscape open space (LOS). Using the survey submitted with the DA Council calculates that the site currently provides a LOS of 906.6m² (47.66%), 1020.72m² (53.66%) when allowing for a 6% variation of 114.12m² for impervious areas. Note: the applicants LOS calculations differ from Council's calculations and do not include the existing turfed area around the swimming pool.

The proposal retains 771.8m² (40.57%), 885.8m² (46.57%) when including the 6% variation. This is subject to clarification that the areas of landscaping above the den and on structures have sufficient soil depth, see above.

The proposal results in a net loss of 134.8m² LOS compared to the current arrangement and **a net loss of 121.3m² LOS compared to mod2022/0643** which approved 893.1m² (47%) landscape area. In addition, it is noted that there is a further net loss of LOS when considering DA2025/0581 for the large swimming pool.

Council will not support any additional loss of LOS compared to the existing non-compliant LOS as approved under mod2022/0643.



In support of the variation the applicant includes lot 2 in the LOS calculations. As above, owner's consent has not been submitted from Council to include this lot in the development site, as such, lot 2 cannot be counted as LOS.

3. Side building line – *Clause D3.7 of the Pittwater DCP* requires a 2.5m side setback to one side and 1.0m to the other side for built structures including pools and parking structures other than driveways, fences and retaining walls.

The proposal is inconsistent with the side setback requirements as follows:

- Basement den - nil setback to the south (100% breach) and a minimum of 1.5m (50% breach) setback to the north.
- Level 2 - nil to the pump room (north), 1.9m to the pavilion and 0.9m to the south.
- Level 3 - 0.9m to the gym / studio south

The extensive basement is inconsistent with the side setbacks and is not supported, refer to discussion above.

The increased in the footprint of the dwelling (level 2 pavilion and pump room) / the reduced northern side setbacks is not supported. The increase in the footprint of the dwelling reduces the quantity of LOS.

Summary of issues

Council typically requires full compliance with the built form controls for a new dwelling. In this instance, except for the reduced northern side setbacks of level 2 (the pavilion and pool pump), the above ground levels of the proposed new dwelling are generally consistent with the design deemed acceptable, approved and activated under DA2020/1591 and mod2022/0643. The below ground level is substantially different to that approved and the 2500m³ of excavation for the construction of a den to store cars is not supported.

Subject to there being no increase in the extent of excavation, footprint of the dwelling or reduction in the landscape open space compared to that approved no issues are raised with respect of the inconsistent with the side setback of the level 3 gym / studio. Likewise, no issues are raised in respect to the breach of the height control which is the same as that approved, and the building envelope to the southern wall of the studio, which is also the same as that approved.

Note: The application requires determination by the NBLPP, and the Panel may have a different opinion.

• **Other matters**

Aboriginal Heritage Officer - Please be advised that the referral from the Aboriginal Heritage Officer is outstanding. I will endeavour to send this referral to you should any new issues be raised.

• **Objector's concerns**

One submission has been received which raises a concern about storm water and hill side water that may be diverted to the adjoining property as a result of the new retaining walls and concrete piles deflecting water.



You are encouraged to review the submission that has been lodged in relation to the application and consider any design solutions that may resolve relevant concerns.

Submissions that are available online in accordance with the Northern Beaches Community Participation Plan can be viewed on Council's website at the following link, using the application number as a reference:

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Public/XC.Track/SearchApplication.aspx>

Options available to the Applicant

Council is providing you with two (2) options to progress your application:

1. Prepare and submit further supporting information/amendments to address the above issues. Please carefully read the below advice if you choose this option.
2. Request that the current proposal proceed to determination in its current form, which may result in refusal of the application.

Please advise of your selected option by responding **within 7 days of the date of this letter** by email sent to council@northernbeaches.nsw.gov.au marked to the attention of the assessment officer. Should Council not receive your response by this date, Council will determine the application in its current form.

Submitting further information/amendments

Council will offer **one** opportunity to provide feedback on conceptual amendments addressing the issues raised in this letter. We strongly request that you contact the assessment officer directly for a 'without prejudice' discussion on your proposed resolution of the issues and the submission requirements **before** lodging any documentation on the NSW Planning Portal.

Conceptual amendments must be provided to Council for feedback **within 14 days of the date of this letter**. If conceptual amendments are deemed sufficient, we will then provide you with a timeframe upon which an amended application is to be lodged on the NSW Planning Portal (generally 14 days).

Please ensure that the amended/additional information submitted on the NSW Planning Portal is a genuine attempt to resolve the issues as Council will generally not seek any further information/amendments after that point. Council will proceed to assess and determine the application based on the submitted information without further consultation. Whilst we will provide feedback on your conceptual amendments in good faith, this cannot guarantee the approval of the amended application.

As part of any amended application, it may be necessary to update your supporting documentation (e.g., BASIX certificate, bushfire report, geotechnical report, etc.). Failure to do so may affect Council's ability to determine the application favourably.



Please ensure that any amendments are accompanied by a summary/schedule of amendments cover sheet.

Council reserves its right under section 37 of the *Environmental Planning and Assessment Regulations 2021* not to accept any information/amendment if it is not considered to be a genuine attempt to resolve the issues. In which case, Council will inform you that the changes have not been accepted and the application will proceed to be determined.

This process has been established to ensure an efficient and responsible level of service which meets the requirements of the Department of Planning and Environment's *23A Guidelines on withdrawal of Development Applications 2023*, Ministerial Orders *Statement of Expectations 2021* and the *Development Assessment Best Practice Guide 2017*.

As per the requirements of section 36 of the *Environmental Planning and Assessment Regulation 2021*, you are advised that this application was accepted on 4 June 2025 and 36 days in the assessment period have now elapsed.

This letter will be released on Council's webpage as part of the application's documentation.

Should you wish to discuss any issues raised in this letter, please contact Anne-Marie Young on 1300 434 434 during business hours Monday to Friday.

Yours faithfully

Anne-Marie Young
Principal Planner