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## MEMORANDUM

**DATE:** 20 September 2022

**TO:** Northern Beaches Local Planning Panel (NBLPP)

**CC:** Peter Robinson, Executive Manager Development Assessment

**FROM:** Kye Mile, Planner

**SUBJECT:** Item 4.1, DA2022/0329 - 85 FLORIDA ROAD, PALM BEACH

**REFERENCE:** Late submission from – Tony Moody

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Dear Panel Members,

The purpose of this memo is to advise the Panel that a late submission has been received from Tony Moody on behalf of the owners of No. 87 Florida Road, which raises the following matters:

- Public interest,
- Breaches of planning controls,
- Inadequate landscaped area,
- Excessive excavation,
- Previous application.

### **Public interest**

The received submission raises concern that the proposal is contrary to the Public Interest, as the works will give rise to adverse visual impact when viewed from the street. For the reasons discussed in detail in the assessment report, the proposal has been adequately articulated and modulated to mitigate any unreasonable visual impact on the streetscape. Overall, the proposal promotes the orderly and economic use and development of the land and is within the public interest for this reason.

### **Breaches of planning controls**

The detailed considerations of non-compliance are completed in the report under the relevant sections of Pittwater LEP 2014 and Pittwater DCP. The applicant has submitted a written request pursuant to Clause 4.6 of Pittwater LEP 2014 to justify the contravene of the building height standard. The assessment report finds the applicant's written request adequately demonstrates that it is unreasonable to apply strict compliance with the development standard and that there are sufficient environmental planning grounds to justify contravening the development standard. In addition, Section 4.15(3A)(b) of the Environmental Planning and Assessment Act 1979 requires Council to be flexible in applying provisions within a Development Control Plan and allow reasonable alternative



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solutions that achieve the objectives of those standards. In this case, flexibility is permitted to this constrained sight, as the outcomes of the relevant built form controls are achieved, notwithstanding the numeric non-compliance. Therefore, flexibility is afforded in this circumstance.

### **Inadequate landscaped area**

The submission raises concern that the proposal provides inadequate landscaped area. In addition, a landscape assessment has been prepared by Narelle Sonter, Landscape Architect, which raises concerns with the assessment report's calculation of landscaped area.

The detailed consideration of the landscaped area non-compliance is completed in the report under P21DCP D12.10 Landscaped Area - Environmentally Sensitive Land. In summary, despite the numerical non-compliance the proposal maintains adequately sized landscaped areas to visually reduce the built form, while introducing a high quality landscape design to enhance the site's natural features.

The calculation of the landscaped area is in accordance with LEP definition of landscaped area;

*landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.*

In addition, Part C1.1 Landscaping of P21DCP stipulates the minimum soil depths required to be counted as landscaping. The proposed green roof and planter boxes were amended such that it complies with the minimum soil depths prescribed under Part C1.1 Landscaping of P21DCP and therefore been included within landscaped area calculations.

### **Excessive excavation**

It is noted that substantial excavation works are proposed under this application. However, the intent of this design is to preserve No. 87 Florida Road's southern garage wall that encroaches the subject site's northern boundary, by siting the proposal further west upslope. In addition, the proposal's green roof has been amended from a terraced design to better reflect the natural topography and provide additional deep soil areas.

### **Previous application**

Concern is raised that the subject application conflicts with the assessment conducted for the previous Modification Application, being MOD 2020/0547, as the proposal will remove deep soil landscaping within the eastern portion of the site. On balance, the proposal retains adequately sized landscaped areas for the establishment of vegetation that is of a size and scale to suitably screen the built form. In addition, the proposal involves slightly increasing the site's landscaped area by 0.6% (4.0m<sup>2</sup>).

### **Recommendation**

The Panel note the submission.

No changes required to the recommendation or conditions contained in the assessment report