
Sent: 17/03/2020 2:21:40 PM
Subject: 3 Bakers Road, Church Point - Attn: Mr Thomas Burns - DA2020/0193 - Objection Letter
Attachments: Objection Letter - 3 Bakers Road, Church Point.pdf;

Dear Mr Thomas Burns,

Please accept the attached objection letter regarding the alterations and additions at 3 Bakers Road, Church Point under DA2020/0193.

This letter has been prepared on behalf of the residents at 1 Bakers Road which adjoins the development site to the north-east and will be subjected to loss of amenity by the subject proposal.

Please do not hesitate to be in touch if you require any further clarification or had any questions.

Thank you.

Kind regards,
Emma Rogerson

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17 March 2020

The General Manager
Northern Beaches Council
59A Old Barrenjoey Road
Avalon Beach NSW 2107

Dear Sir/Madam,

**Submission in regards to DA2020/0193 Development Application
3 Bakers Road, Church Point**

“Alterations and Additions to a Dwelling House”

Corona Projects has been engaged by Ms Pip Hurley, the property owner of 1 Bakers Road, Church Point to undertake an assessment of DA2020/0193 and provide a submission to Council on their behalf. 1 Bakers Road adjoins the development site to the east. This assessment is based on a review of the development application plans and documents available for inspection on Northern Beaches Council’s website and a site visit.

1. Introduction

The alterations and additions to a dwelling house proposal at 3 Bakers Road raises considerable concerns regarding overlooking of private open space, bulk and scale. Consequently, it will pose an unacceptable impact on the privacy and character of the locality, specifically to 1 Bakers Road.

2. Visual Privacy

The property at 3 Bakers Road has an irregular lot shape and unusual existing building orientation. As shown in figures 1 and 2, whilst the lot has a north-facing street frontage to Bakers Road, the existing dwelling is oriented towards the north-east to obtain a view of Pittwater. This north-east orientation faces directly towards the dwelling and principal private open space (POS) of its neighbour at 1 Bakers Road and already poses adverse privacy and overlooking issues due to the slope of land, orientation and small setback between the existing first floor balcony of 3 Bakers Road and the POS of 1 Bakers Road. Figures 2 and 4 show the existing view of the balcony at 3 Bakers Road from the POS of 1 Bakers Road, highlighting the close proximity at present which already allows the occupants of 3 Bakers Road to have a clear view of the neighbouring swimming pool space.



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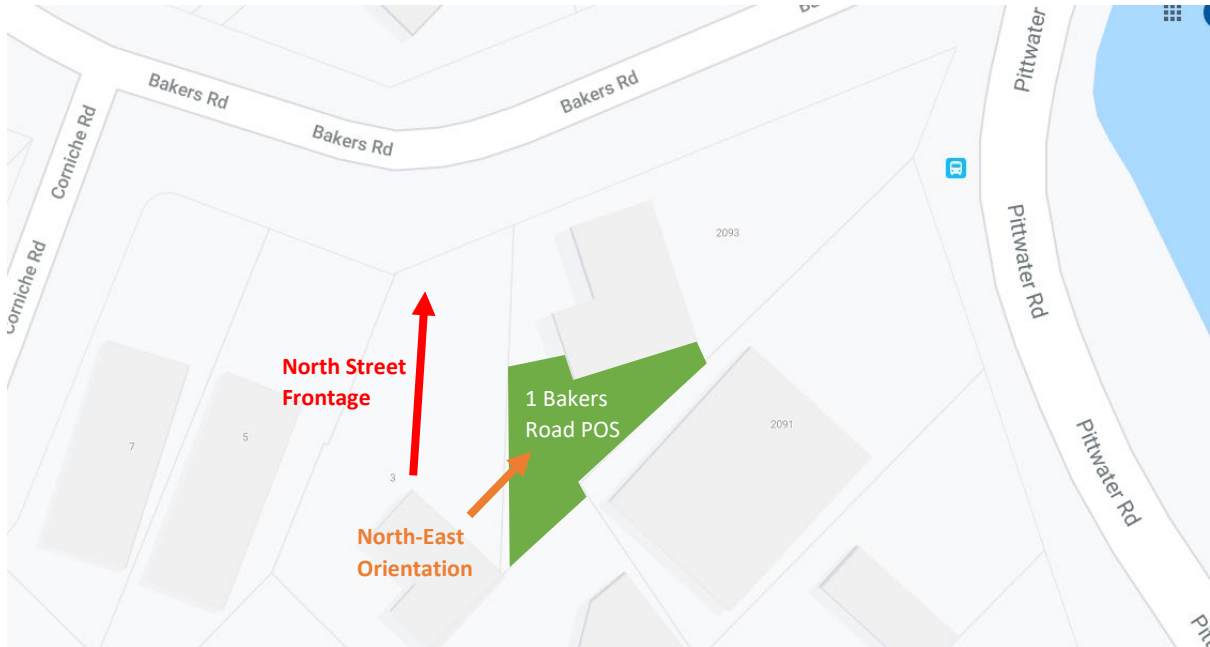


Figure 1 – Existing Orientation Diagram (Corona Projects, 2020)

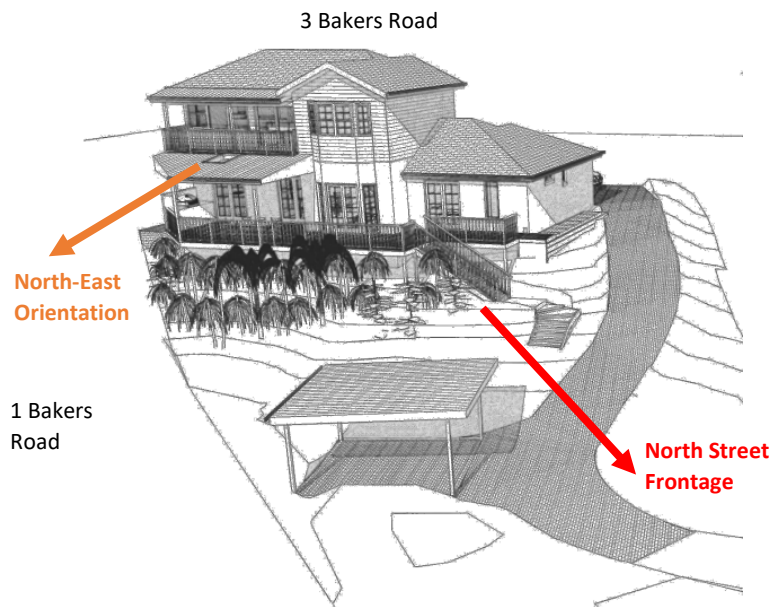


Figure 2 – Proposed Orientation Diagram (Corona Projects, 2020)



Figures 4 & 5 – Existing close view of 3 Bakers Road from 1 Bakers Road POS (Corona Projects, 2020)

The proposal under DA2020/0193 significantly reduces this existing distance between the principal private open space at 1 Bakers Road and any habitable area at 3 Bakers Road even less with its north-eastern extension. This produces unacceptable overlooking from the new entertaining area under DA2020/0193 into the principal private open space of its neighbour as exemplified within figure 3. As the rear garden of 1 Bakers Road includes a swimming pool, the need to maintain heavy visual screening between neighbours is intensified as the privacy of persons using the pool in swimming costumes is at risk too.

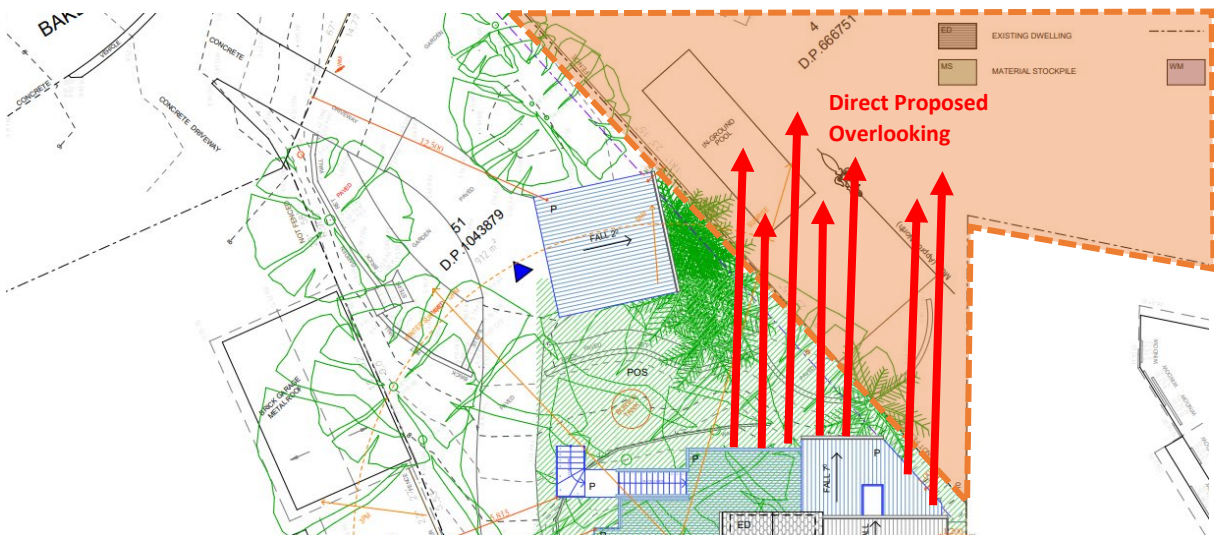


Figure 6 – Blue proposal in relation to orange 1 Bakers Road POS (Northern Beaches Designs, 2019)

It is also important to note that in the context of 3 Bakers Road, the proposed extension is comparable to that of a roof terrace development as the height of the ground floor development is comparable to the roof of 1 Bakers Road. Therefore, the findings and planning principles discussed by Senior Commissioner Dr John Roseth within *Super Studio v Waverley* [2004] NSWLEC 91 have



relevance. Roseth SC provides an example of proposed overlooking imposed by a roof terrace development whereby;

"The worst affected property is No 466 [a neighbour], whose outdoor living area in the rear yard is within clear view from the proposed roof terrace. While there is some distance between the properties, when I stood in the relevant location during the site visit, I could see the rear yard of No 447 with complete clarity. In addition, two-bedroom windows of No 447 can also be seen from the roof terrace."

This situation is identical to the relationship between the outdoor living area of 1 Bakers Road and the proposed entertainment area extension at 3 Bakers Road, as the swimming pool space, outdoor seating area and rear yard at 1 Bakers Road can be viewed with complete clarity. The indoor principal living room and first floor windows of the neighbouring property can also be seen.

Roseth SC continues by finding that;

"In my opinion, the combination of overlooking and the added potential for noise disturbance makes the impact of the proposed roof terrace unacceptable. The approved and partially constructed building already appears higher and bulkier than its neighbours. The objectors perceive it as having considerable impact on them. It would not be reasonable to compound the approved impact by adding another disturbing element. The roof terrace is therefore excluded from the approved proposal".

Similarly, the existing approved dwelling at 3 Bakers Road already poses significant privacy impact issues upon its north-eastern neighbour which the residents of 1 Bakers Road perceive as having a considerable impact on them to the extent that they are uncomfortable utilising their principal outdoor private open space. It is therefore not reasonable to add another disturbing element, the extension of the overlooking facilitator, the raised deck, under DA2020/0193 and as such, the proposal under DA2020/0193 should not be supported in its current form.

Any future development should protect the privacy of neighbours by significantly increasing the screening between the existing adjoining lots and not encroach any further into the north-eastern setback.

3. Acoustic Privacy

The acoustic privacy of 1 Bakers Road is also at risk under DA2020/0193 as the extended entertainment area proposed will be utilised as the primary open space area and the lack of screening and noise buffers of any kind between the new development and the existing open space at 1 Bakers Road will result in all noise from either space imposing on both parties. The residents at 1 Bakers Road cannot mitigate the noise by themselves due to the topography of the land preventing them from being able to increase their existing fence height enough or to grow mature trees themselves that will buffer the noise adequately.



The occupants of 3 Bakers Road should assist to buffer noise by planting thick landscaping for screening, retaining the existing north-eastern setback and extending in a north-western direction instead.

The same consideration should be taken concerning the proposed carport which will cause an increase in vehicular activity and noise next to the rear garden of 1 Bakers Road. Setting the carport further away from the north-eastern boundary and increasing vegetative screening should be undertaken to assist to mitigate additional acoustic impacts.

4. Setbacks

Whilst the proposed side setback satisfies the numerical side setback controls stipulated under *Part D4.6 Side and Rear Building Line* of the Pittwater Development Control Plan 21, the existing raised nature of the development site in relation to its north-easterly neighbour contributes to the ability to overlook and renders any numerical boundary setback compliance inadequate as a measure of design merit. The outcomes of *Part D4.6 Side and Rear Building Line* under the Pittwater DCP 1 are additionally not achieved by DA2020/0193 as demonstrated in table 1, highlighting the inappropriateness of the design for the subject site. The proposal should therefore be refused in its current form.

Table 1 - Part D4.6 Side and Rear Building Line Non-Compliance

Outcomes	Comment	Compliance?
To achieve the desired future character of the Locality – <i>“The Church Point and Bayview locality will remain a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape”.</i>	The development does not maintain the landscaped setting as it creates an obtrusive dwelling envelope that does not seamlessly integrate with the landscaping as far as practical. The development already appears as a 4 storey building due to the slope and the proposal does not assist to hide this further.	NO
The bulk and scale of the built form is minimised.	The bulk and scale of the built form is enhanced by DA2020/0193 as the dwelling is significantly more visible from 1 Bakers Road and does no longer blend seamlessly with the surrounding vegetation.	NO



Equitable preservation of views and vistas to and/or from public/private places.	Views are not obstructed for 1 Bakers Road by the proposal due to their lower location on the sloping terrain.	YES
To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.	The existing view of Pittwater is not enhanced by the proposal for 3 Bakers Road and the development obstructs the thick landscaped view for 1 Bakers Road.	NO
To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.	Acoustic and visual privacy is not provided between the adjoining properties. Items 2 and 3 of this letter.	NO
Substantial landscaping, a mature tree canopy and an attractive streetscape.	A 1m setback is not adequate to support the growth of a mature tree canopy along the north-eastern boundary.	NO
Flexibility in the siting of buildings and access.	The development does not reflect flexibility in its design. The site provides opportunity for north-western extensions, and doing so would celebrate the unusual site and evoke creativity.	NO
Vegetation is retained and enhanced to visually reduce the built form.	Vegetation is not retained nor enhanced by the proposal. Refer to Part 6 of this letter.	NO
To ensure a landscaped buffer between commercial and residential zones is established.	N/A	N/A

5. Pittwater Local Environmental Plan 2014 Non-Compliance

The proposal does not satisfy DCP requirements, and nor does it satisfy the requirements of the Pittwater Local Environmental Plan 2014, specifically the objectives of the E4 Environmental Living zone. Whilst the development type, a dwelling house, is permissible with consent, the proposed development does not meet the objectives of the zone as detailed within table 2. The proposal should therefore be refused in its current form.



Table 2 – Land Use Zone Objective Non-Compliance

Zone Objective	Comment	Compliance?
To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.	<p>The aesthetic values of</p> <ul style="list-style-type: none">Seamless integration of the built form with the natural environment; andEnsuring that landscaping dominates development <p>is being prevented by the subject application.</p> <p>The proposal does not celebrate the surrounding natural environment as it reduces the ability for mature trees to grow along a portion of the north-eastern boundary and allows the dwelling house to visually dominate when viewed from neighbouring sites and the streetscape.</p>	NO
To ensure that residential development does not have an adverse effect on those values.		NO
To provide for residential development of a low density and scale integrated with the landform and landscape.		NO
To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.		NO

6. Lack of Vegetative Screening

During February 2020 the removal of numerous mature trees along the north-eastern side boundary of 3 Bakers Road was undertaken. The development fails to acknowledge the removal of these trees as the survey and development plans were both prepared prior to their removal, and as such do not accurately display the proposed context. It is unknown if this removal was undertaken illegally or if it was classified as Exempt Development. Regardless, prior to the removal of these trees, they provided adequate visual and acoustic screening between the development site and 1 Bakers Road. They were also considered to be of substantial landscaping value due to their canopy size whether they were native or not.

It is clear that even at present, prior to the development of DA2020/0193, the removal of this significant landscaping is to the detriment of the privacy of 1 Bakers Road and it should therefore be reinstated within any future development on site. Not only is the privacy of the private open space of 1 Bakers Road at risk from the tree removal, direct overlooking between the first-floor bedroom and bathroom of 1 Bakers Road and the living space at 3 Bakers Road is now facilitated.



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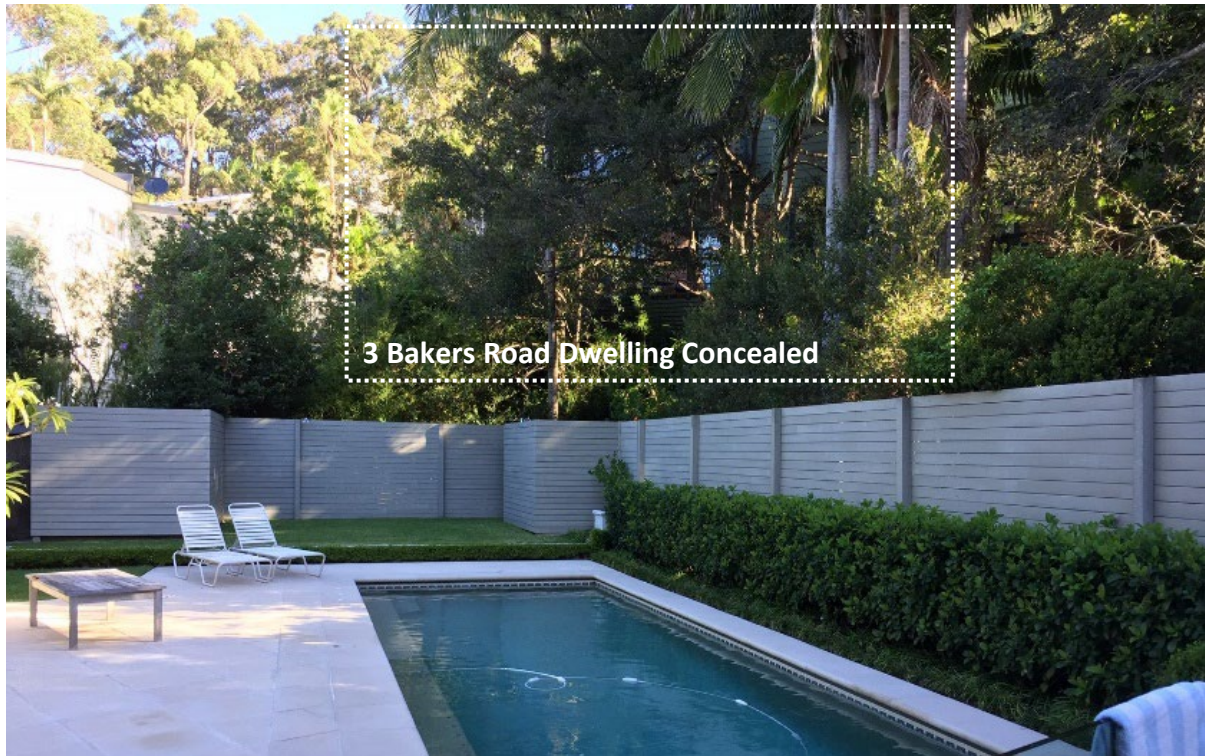


Figure 7 – Vegetation prior to removal in 2020 (Occupants of 1 Bakers Road)



Figure 8 – Current view post vegetation removal (Corona Projects, 2020)



Figure 9 – Current view post vegetation removal (Corona Projects, 2020)

7. Bulk and Scale

The proposal under DA2020/0193 furthermore produces an obtrusive visual bulk and inappropriate scale for the existing dwelling house on site. Articulation and bulk reduction can be achieved by further setting back development from sensitive boundaries, specifically the north-eastern side boundary within the subject site. By retaining the existing setback distance, and extruding in a direction away from the north-east, the visual outcome for the current and future residents at 1 Bakers Road will be protected and maintained. The visual appearance of any future development at 3 Bakers Road can furthermore be enhanced by the introduction of more landscaping between the properties to reduce the obtrusive nature of the existing development which facilitates overlooking too.

The proposed carport poses risk of appearing bulky too due to the slope of the terrain positioning it significantly higher than the rear garden at 1 Bakers Road. Additional vegetative screening should be included to shield the structure from clear view.



8. Misleading Information

The Statement of Environmental Effects report prepared by Vaughan Milligan Development Consulting Pty Ltd dated February 2020 states on page 8 that the proposal “will not see the removal of any significant vegetation”, however, there is no information regarding what is considered “significant” and no further clarification on whether any “insignificant” vegetation is being removed. The landscaping on the plans does not accurately represent what is there now and there is concern that the remaining tree between providing a minor amount of screening between the two dwellings (1 Bakers Road and 3 Bakers Road) is not being protected or retained during the development. A revised survey should be prepared depicting the site in its current form, and the plans should clearly detail what elements of landscaping, no matter how significant or insignificant, are being further removed. Protection and retention measures for all remaining landscaping should be detailed too, with the engagement of a suitably qualified Arborist.

9. Unnecessary Development

Roseth SC states under *Super Studio v Waverley [2004] NSWLEC 91* that when considering a development which may pose overlooking concerns;

“...the acceptability of an impact depends not only on the extent of the impact but also on reasonableness of, and necessity for, the development that causes it”.



Figure 10 – Existing Water View (realestate.com, 2019)

The need to extend in a north-easterly direction is unnecessary as the existing dwelling already has access to high quality water views as depicted in figure 10, taken from the current first floor balcony.



The additional amenity of the property being sought for under DA2020/0193 by way of increased outdoor decking can be achieved via a more skilful design, comprising of an extension in a north-westerly direction instead. A north-eastern extrusion poses unacceptable impacts on the current and future occupants of 1 Bakers Road and should thus not exceed its current setback in this direction.

Furthermore, the existing habitable and private open spaces at 3 Bakers Road can facilitate at present numerous recreational activities and accommodate for the functional and comfortable use of living space for the residents of the property. It can therefore be concluded that in accordance with *Super Studio v Waverley [2004] NSWLEC 91*, there is no reasonable need to undertake alterations and additions as proposed under DA2020/0193 and the development is thus; unacceptable.

Conclusion

We have strong concerns regarding the proposed development under DA2020/0193 and believe it cannot be supported in its current form. The development will have an adverse impact on the privacy and overall amenity of its neighbour at 1 Bakers Road. A development of this scale and orientation cannot be supported on this site. It is therefore requested that the proposed development in its current form be refused or significantly reduced in scale, mitigating all of the issues raised within this letter. Any future development on the site should ensure compatibility with the local area, enhance the privacy of its neighbours and address the issues raised in this submission.

Kind regards,

Emma Rogerson
Bachelor of Architecture and Environments (USYD)
Town Planner