
Sent: 24/04/2023 6:40:48 PM
Subject: Group Principal Objection – DA2023/0246, No. 18 Hillcrest Ave, MONA VALE
Attachments: OBJ21-A2(GPO) Hillcrest Ave 18_final(sml).pdf;

Attn: Olivia RAMAGE

Dear Olivia,

Thank you for the opportunity to submit a late planning submission concerning **DA2023/0246** at **No. 18 Hillcrest Ave, MONA VALE**.

Please find the attached group objection prepared on behalf of four neighbouring properties, per each of the associated property owners listed below:

- Mr Geoff WEBSTER & Mrs Ruth DOWNES - Owners of **No. 12 Hillcrest Ave**
- Ms Margaret SCOTT - Owner of **No. 14 Hillcrest Ave**
- Mr Angelo AURICCHIO - Owner of **No. 16 Hillcrest Ave**
- Ms Wendy ROONEY - Owner of **No. 154 Barrenjoey Rd**

Upon receipt, I kindly request that Council respond by acknowledging receipt of this submission, and likewise for any subsequent correspondence.

Finally, I look forward to discussing this matter with you in detail if and when required, along with learning of any updates as the DA progresses through assessment.

Sincerely,

Matthew Powell

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Ref: OBJ21-A2(GPO) Hillcrest Ave 18

24 April 2023

The The General Manager

C/O: Ms Olivia RAMAGE

Northern Beaches Council

PO Box 82

MANLY NSW 1655

RE: Group Principal Objection – DA2023/0246, No. 18 Hillcrest Ave, MONA VALE

Dear Olivia,

Thank you for the opportunity to submit a planning submission concerning **DA2023/0246** at **No. 18 Hillcrest Ave, MONA VALE**. I note the DA proposes alterations and additions, involving construction of a secondary dwelling.

This group planning submission has been prepared on behalf of four neighbouring properties, per each of the associated property owners listed below:

- Mr Geoff WEBSTER & Mrs Ruth DOWNES (Main Contact) - Owners of **No. 12 Hillcrest Ave, MONA VALE**
- Ms Margaret SCOTT - Owner of **No. 14 Hillcrest Ave, MONA VALE**
- Mr Angelo AURICCHIO - Owner of **No. 16 Hillcrest Ave, MONA VALE**
- Ms Wendy ROONEY - Owner of **No. 154 Barrenjoey Rd, NEWPORT**

Preliminary evaluation against relevant state and local planning controls found numerous issues that will likely lead to negative impacts upon my Clients' amenity. This formal objection thus provides detailed commentary based on the following planning grounds:

1. Local Character and Scenic Protection
2. View Loss
3. Privacy
4. Landslip
5. Foreshore Building Line
6. Access and Parking
7. Zoning and Secondary Dwelling Controls
8. Other

Group Principal Objection:

DA2023/0246

Submission Details

| | |
|-------------------|--|
| DA Address: | 18 Hillcrest Ave, MONA VALE |
| DA Reference | DA2023/0246 |
| Clients: | <p>Mr Geoff WEBSTER & Mrs Ruth DOWNES (<i>Primary Objector</i>) Owners of: No. 12 Hillcrest Ave, MONA VALE</p> <p>Ms Margaret SCOTT Owner of: No. 14 Hillcrest Ave, MONA VALE</p> <p>Mr Angelo AURICCHIO Owner of: No. 16 Hillcrest Ave, MONA VALE</p> <p>Ms Wendy ROONEY Owner of: No. 154 Barrenjoey Rd, NEWPORT</p> |
| Proposed Services | <ul style="list-style-type: none">• Stage 1: DA Deficiency Audits (Individual)• Stage 2: Principal Objection (Group) |
| DA description: | Alterations and additions to residential development – construction of a secondary dwelling. |

1. Local Character and Scenic Protection

DCP A4.9 Mona Vale Locality

DCP D9.1 Character as viewed from a public place

DCP D9.2 Scenic protection - General

In seeking to balance the significance of natural landscapes with that of built forms, DCP D9.2 Scenic Protection seeks the following outcome for development:

Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment.

The associated control requires that development minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.

The proposed secondary dwelling, being perched on the edge of a highly visible headland bluff framing Bungan Beach, will fundamentally alter the natural vista presented by North Mona Vale Headland. By adding a built form over a vegetated bluff, the proposal will visually dominate the natural features of the landscape, when viewed from Bungan Beach and beyond. Being close to the rear boundary, the structure will also appear overbearing and top-heavy to the neighbour at No. 154 below. The proposal thus assailing the surrounding visual catchment, the DCP outcome cannot be achieved.

Headland Character Analysis

North Mona Vale Headland is generally characterised by a reluctance to build vertical structures close to the bluff edge. At the approaches to the Beach (from the subject site down to No. 154 Barrenjoey Road), a green corridor holds pride of place in the land-to-water interface.



Figure 1: View across subject site from No. 12 (Source: iObject 2023)



Figure 2: Bungan Headland's built form (Source: iObject 2023)

Bungan Headland (on the northern end of Bungan Beach) is similarly typified by significant rear setbacks from the cliff edge (see Figure 2). This creates a green corridor sloping down to the beach, providing ample curtilage and effective scenic protection of the cliff edge and associated rock features. Similarly,

The siting of the proposed secondary dwelling, compared to the general pattern of headland development is regarded as being in opposition to typical rear setback patterns. The new structure will thus become the dominant feature when viewed from Bungan Beach and the Ocean, plus being highly visible from the Bungan Headland.

Detached secondary dwellings are not evident within the established rear setback pattern of surrounding properties (i.e. along the eastern edge of North Mona Vale Headland). A tendency to step-down sloping sites is also the local custom when faced with a sloping site, as demonstrated by No. 12. In contrast, the proposed secondary dwelling seeks a large undercroft space beneath the elevated rear deck, which will likely cause an aesthetic detracting from the scenic values described.

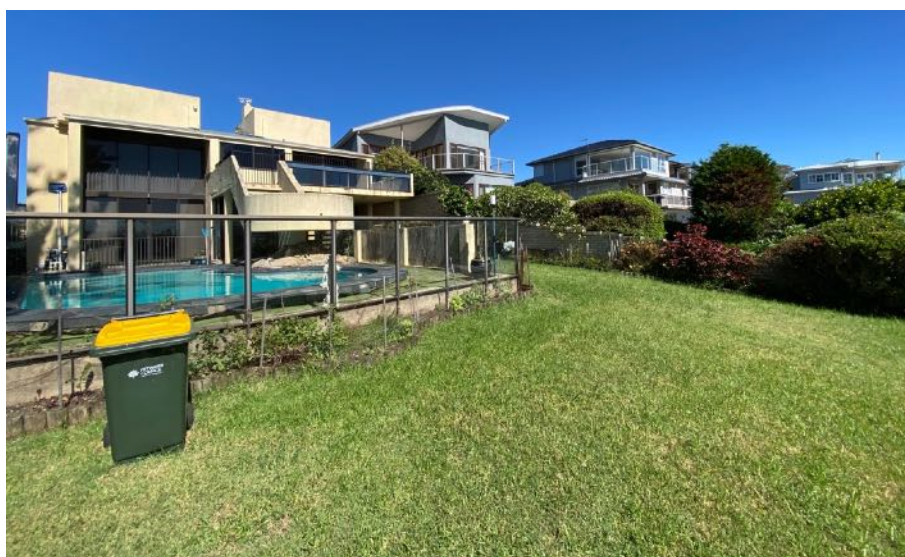


Figure 3: Existing rear setbacks - No. 16 (left), No. 14 (centre) (Source: iObject 2023)



Figure 4: View from first floor balcony of No. 14 across the subject site (Source: iObject 2023)

Desired Character for Mona Vale

The Desired Character for the Mona Vale location, as stated in DCP A4.9 reads:

Existing residential areas will remain...integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations.

The proposal clearly does not meet the desired future character controls, owing to its proven lack of integration with the landform and landscape. The DCP-stipulated desired outcome of providing affordable housing is also unfortunately lost to this example, given the multi-million-dollar property will likely not benefit those in the target socio-economic demographic. And the new dwelling neither appears compact in comparison to archetypal secondary dwelling development.

A vastly different approach is thus needed to offer a compliant development scenario. This might instead involve a secondary dwelling attached or detached from the main dwelling – however adjacent, to provide greater accessibility, without negatively impacting upon neighbourhood amenity.

The proposal in and of itself cannot be discounted completely, as there may still be an opportunity to locate a secondary dwelling on-site. However, the detrimental scenic impact posed by the DA in its current form, being out-of-step with surrounding development leads to the conclusion that the structure is proposed in an inappropriate location. By locating on such a prominent ridgeline, the elevated structure will alter the headland natural vista, upsetting the delicate scenic balance between the built and natural environments.

Proposed Solution: Ensure any amended plans fully reflect the type and nature of development evident within the street, taking into consideration scenic protection values emblematic of Bungan Beach and its headlands.

2. View Loss

DCP C1.3 View Sharing

DCP Subsection C1.3 states: 'All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.'

View Impact Analysis

As the proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing, a summary review of *Tenacity Consulting v Warringah* [\[2004\] NSWLEC 140](#) is offered below:

1. Assessment of views to be affected

Based on an inspection of all three neighbouring sites in combination with a review of submitted plans, No.s 12, 14 and 16 Hillcrest Avenue currently enjoy views to the north-east and/or east across the subject site, accordingly:

- **Main view:** Bungan Beach (significant)
- **Secondary views:**
 - Pacific Ocean
 - Bungan Headland (district and surrounds)

Bungan Beach is considered a significant view, capturing the land-to-water interface. All three sites have generally unobscured views of all or large sections of Bungan Beach. These views across the subject site are considered whole and thus of high value compared to a situation where dense vegetation partially-obscures the view (which does not occur in this case). These views will be appreciably affected by the proposal, with No.s 14 and 16 having their main view partly-obstructed, and No. 12's view of the Pacific Ocean chiefly affected (along with some restricted access to their main view).



Figure 5: View across subject site from rear boundary of No. 16 (Source: iObject 2023)

2. From what part of the property the views are obtained?

No. 16

Views to be affected are obtained chiefly from the following viewpoints at No. 16, ranked by view capture value:

1. First floor rear terrace
2. First floor entertainment room and kitchenette
3. Rear patio and garden
4. Ground floor kitchen/living room

No. 12

Views to be affected are obtained chiefly from the following viewpoints at No. 12, ranked by view capture value:

1. Ground floor living room (upper and lower)
2. First floor master bedroom (window and balcony)
3. Eastern side deck areas (upper and lower)
4. Eastern windows of studio/home office

No. 14

Although not the primary concern for the owner of No. 14, views to be affected are obtained chiefly from the following viewpoints, ranked by view capture value:

1. First floor rear balcony
2. First floor study
3. Rear deck and garden
4. Ground floor kitchen/living room

It is noted that all the viewpoints noted above are derived from the standing position.



Figure 6: View across subject site from No. 12's lower ground floor living room (Source: iObject 2023)



Figure 7: View across subject site from No. 14's rear living room (Source: iObject 2023)

3. Extent of the impact

The proposed view impacts will likely be extensive, as many of the view capture points are either living room/work areas (eg. study) or outdoor private open spaces, where people spend so much of their time. The location of the building and its breadth, when viewed from the western and southern elevations will cause the structure to visually replace or intrude upon the views mentioned.

4. Reasonableness of the proposal

Potential view impacts from the proposed development seem to partly arise from non-compliance with the FBL LEP control and DCP controls described in this submission. Given the alternative siting options available for a secondary dwelling, the proposed new building cannot be justified as having been designed as a building with minimal visual bulk and massing, as compared to many other existing buildings in the area.

The proposed development will severely restrict views from the existing dwellings at No. 12, 14 and 16. The siting and height of the proposed secondary dwelling therefore cannot be reasonably justified against the Land and Environment Court's planning principles for view sharing.

Summary of View Impacts

Based on examination of the evidence provided, the DA as it stands will cause a major obstruction to the majority of our Clients' main views. It can be concluded therefore that the proposal has not been designed to allow for view sharing, and thus does not comply with DCP Subsection, nor its Objectives.



Figure 8: View across subject site from No. 16's main first floor balcony (Source: iObject 2023)

Proposed Solutions:

- It is requested that a Tenacity Assessment occur in relation to the serious view loss concerns raised in accordance with the NSW Planning Principle based on *Tenacity Consulting v Warringah [2004] NSWLEC 140*.
- Removal of the proposed secondary dwelling from the rear of the site.

3. Privacy

C1.5 Visual Privacy

The Principal Private Open Space (PPOS) of No. 12 is located at the north-east of the site, being the lower outdoor deck (entertainment area). The PPOS is directly accessible from the lower ground floor living room, which contains several window openings facing east. It appears the proposed rear deck will allow for overlooking of both these critical areas, posing unreasonable risks to neighbouring privacy. The location and extent of the broad open expanse of elevated deck will allow a person standing at the western side to view the adjacent PPOS and into the lower living room windows at No. 12.



Figure 9: No. 12's lower ground floor living room (Source: iObject 2023)

On the other hand, the siting, elevation and extent of the proposed rear deck may also allow for overlooking of No. 154's eastern garden area (PPOS), although more detailed investigation is required. Despite tall vegetation along the tiered slope between the PPOS and the subject site, common planning practice suggests vegetation cannot be considered a permanent or reliable form of screening. Hypothetical overlooking from the rear edge of the proposed new elevated deck will therefore likely prove severe, owing to the height and location of the structure.



Figure 10: Eastern elevation of No. 154 (Source: iObject 2023)

C1.6 Acoustic Privacy

The siting and layout of the proposed rear elevated entertainment space will likely cause incursions to the privacy of adjacent bedroom and living room windows of No.s 12 and 154. The proposed new elevated deck is of significant size, providing greater opportunity for outdoor parties that may lead to noise complaints. The new elevated PPOS hence poses undue risk to neighbouring acoustic privacy, owing to its proximity to habitable rooms.

The scale of the elevated entertainment space, both in terms of length and depth is considered unwarranted, given sufficient open space exists at ground (between the main dwelling and the proposed) to accommodate a large entertainment space for this purpose, to a lesser impact. Compounded by the likely introduction of a BBQ and/or music, the proposed height and size of the balcony will have a detrimental impact on acoustic privacy, and therefore does not comply with DCP C1.6.

Proposed Solution: Relocation of the secondary dwelling to a more appropriate location. Otherwise, reduce the width and depth of the proposed rear elevated deck, along with appropriate screening devices.

4. Landslip

LEP 7.5 Coastal risk planning

DCP B3.4 Coastline (Bluff) Hazard

The objectives of this LEP Clause 7.5 are as follows:

- (a) to avoid significant adverse impacts from coastal hazards,***
- (b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,***
- (c) to enable the evacuation of land identified as coastal risk in an emergency,***
- (d) to avoid development that increases the severity of coastal hazards.***

The subject site is identified as 'Geotechnical Hazard H1' on the Geotechnical Hazard Map and 'Bluff/Cliff Instability' on the Coastal Risk Planning Map. Local advice received regarding at least two landslips on North Mona Vale Headland in the last 12 months alone warrant further investigation and are matters of public record. For example, the bluff on the upper side of No. 154 sustained a recent landslide, after heavy runoff from the subject site (above) descended below.

In accordance with DCP B3.4:

Development must not adversely affect or be adversely affected by geotechnical and coastal processes nor must it increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical and coastal processes.

Subclause (3) of LEP 7.5 also states: 'Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—'

(a) is not likely to cause detrimental increases in coastal risks to other development or properties, and

(b) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and

(c) incorporates appropriate measures to manage risk to life from coastal risks, and

(d) is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line,

Building a heavyweight structure in a coastal hazard zone may present an unnecessary landslide and coastal erosion risk. Recent cases of coastal inundation on the Northern Beaches (eg. Collaroy) have shown that coastal processes and the exposure to coastal hazards, particularly in severe weather events, could cause catastrophic damage to property seaward of the hazard line.

Corroboration of the Applicant's claim that the proposal will unlikely cause detrimental increases in coastal risks to other development or properties may not be upheld by other geotechnical and coastal hazard experts. The location of the proposed new structure seems to discount specific design principals for Coastline (Bluff) Hazard sites (DCP B3.4), thus greater weight needs to be applied to ensuring a measured response is applied in reducing the risk and costs of landslip.

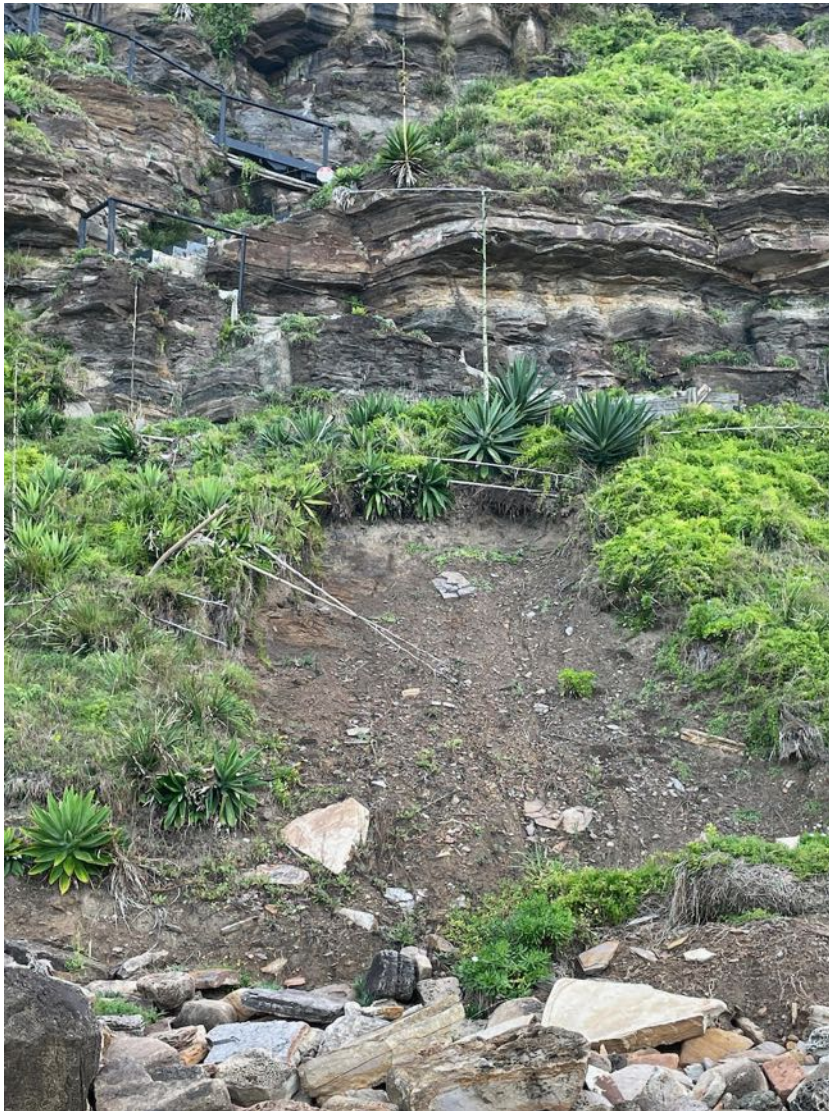


Figure 11: Base of the Beach Track with evidence of landslip below (Source: iObject 2023)

Given the topography and history of the site, together with the configuration and weight of that proposed, concern is raised the building may in fact increase the level of landslide risks to No. 154 Barrenjoey Road below, as well as No. 12 adjacent. Evidence of local cracking and movement highlights this possibility, offering a clear picture of the tenuous soil structure under which the development is proposed (see **Figure 12**).



Figure 12: Evidence of retaining wall cracks below subject site and crossflow debris at No. 154 following a severe weather event (Source: iObject 2023)

Proposed Solution: Enforce a 10-metre rear building setback from the bluff edge, consistent with surrounding development patterns.

5. Foreshore Building Line

LEP 7.8 Limited development on foreshore area

The proposed building footprint surpasses the LEP Foreshore Building Line (FBL) at several locations, with a Clause 4.6 application seeking departure from this development standard. The objectives of Clause 7.8 are as follows:

- (a) To ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,***
- (b) To ensure continuous public access along the foreshore area and to the waterway.***

Contrary to the Clause 4.6 Application seeking to vary the standard by exceeding the FBL at several points. Exceedance of the control will in fact create additional building mass which may unreasonably impact upon natural foreshore processes and/or be detrimental to the scenic protection of the headland area, as well as private amenity.

It is noted also that the FBL on DA-lodged plans do not appear to align with the LEP-approved FBL, requiring further scrutiny.

As described in other sections of this objection, the proposal has been proven to be incompatible with the desired future character of the Mona Vale locality, and in particular, the scenic qualities inherent to the protection of this headland location. The onus of proof thus cannot be met to allow a Clause 4.6 variation in this case, due to the proposal's following performance against these two key tests:

- Compliance with the development standard is considered reasonable and necessary
- Sufficient environmental planning grounds do not exist to justify contravening the development standard.

As already noted, the implication of this non-compliance on the delicate coastal hazard zone may further compound natural coastal process of erosion and recession following severe weather events.

Proposed Solutions: Any revised footprint must be reduced or further setback back from the bluff, to comply with the standard.



Figure 13: View across subject site from No. 12's first floor master bedroom balcony (Source: iObject 2023)

6. Access and Parking

DCP B6.2 Internal Driveways

B6.3 Off-Street Vehicle Parking Requirements

DCP B6.2 stipulates an internal driveway must be provided for in:

- ***development where additional car parking spaces and/or garages are required by Council's plans or policies;***
- ***any alterations and additions where the sum of the additional Gross Floor Area (GFA) of the dwelling exceeds 30 m² ; and***

The proposal qualifies for mandatory internal driveway provision under both control provisions. However, the absence of a driveway means the proposal does not provide safe and convenient access to the secondary dwelling – a key outcome of DCP B6.2.

Off-Street Vehicle Parking Requirements described in DCP B6.3 are as follows:

For a Secondary Dwelling a minimum of 1 space is required in addition to existing requirement for the principal dwelling (based on number of bedrooms in principal dwelling).

Based on a cursory view from the street, it is understood the principal dwelling contains two (2) off-street parking spaces in the form of two single garages incorporated into the main dwelling. It appears this dwelling already contains two or more bedrooms – thus, in accordance with this Control, two spaces (minimum) must be provided, as per existing. Hence, the total number of spaces that must be provided for the entire site under the development scenario is three (3) spaces. Subsequently, a DCP numeric non-compliance of one space (-1) would prevent the proposed from going ahead in its current form.

This non-compliance would likely add further pressure to on-street parking demand, which is already facing local pressure, as well as from visitors to the coastal heritage walk that traverses Hillcrest Avenue. With inadequate parking unable to meet the demands generated by the development, the proposal thus cannot be justified on merit.



Figure 14: Corner of subject site's dog leg, as viewed from No. 16 (Source: iObject 2023)

Proposed Solution: Reconfiguration of the proposal by integrating the secondary dwelling into the design of existing main dwelling (eg. via attached additions), where acceptable parking and driveway provision can occur.

7. Zoning and Secondary Dwelling Controls

LEP Zone C4 Environmental Living

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.*

Although a secondary dwelling is permissible within the C4 Zone, the proposal is considered to fall short of certain Zone objectives to warrant approval, as outlined:

- The proposal does not adequately enhance foreshore vegetation by reinstating native flora essential to the local ecosystem. The site has been in long need of bush rehabilitation – and planting side setback landscaping will do little to remedy the situation.
- The aesthetic values of the North Mona Vale Headland have not been properly considered in the design and siting of the building, as discussed already. Nor is the design integrated with landform or the landscape.
- The proposal has not been evaluated 'low-scale', as enumerated below.

DCP C1.11 Secondary Dwellings and Rural Worker's Dwellings

DCP C1.11 regulating Secondary Dwellings permits only one storey. Due to high ceiling height and split-level design (with high undercroft), the proposal will appear as one to two-storey in scale, when viewed from the north and north-west. This arrangement really tests the limits of the control, as the definition of 'one-storey' may not have extended to a broad split-level structure on a slope, as intended by the original strategic planners who compiled Pittwater DCP.

An analysis of the proposed development found that the visual bulk and scale of the development does not fit in with surrounding development, as detailed above. The footprint of the development on the site has not been restricted (as required), given its FBL exceedance, as well as causing unnecessary privacy impacts.



Figure 15: Existing rear setback landscaping at the subject site (left) and No. 16 (right) (Source: iObject 2023)

Proposed Solution: Ensure any amended plans are strictly of single-story scale and meet all relevant Zone objectives.

8. Other

DCP C1.2 Safety and Security

In the interests of ongoing safety and security of the Northern Beaches Community, the Residents represented within this submission wish to attention Council to historic fatalities occurring on the subject site. The previous owner of No. 12 tragically fell to her death whilst using the steep bush track at the rear of the subject site that proceeds down to the Beach. In addition, local advice also claims that over 35 years ago, another resident fatality occurred when he was using the same track.



Figure 16: Bluff edge of the subject site at the commencement of the Beach Track (centre), as viewed from No. 12 (Source: iObject 2023)



Figure 17: Condemned Beach Track over the bluff face (Source: iObject 2023)

The beach track was at some point condemned by Council, and on both occasions, Council staff took measures to further prevent use on safety grounds, such as asking the owners to dismantle or render the track inaccessible.

Safety concerns relating to illegal works by the Applicant to reinstate the condemned track however persist. It is evident from our site visit that the previously installed fence preventing access has been removed for the purposes of illegal private use, necessitating a renewed call for Council intervention.

Proposed Solutions:

- That Council's Compliance Team investigate the matter urgently as a matter of public safety.
- That any future approval on the subject site conditions a continuous fence with no opening at the entry of the condemned track.

Conclusion

Based on the above preliminary evaluation of **DA2023/0246** the proposal as it stands does not merit approval in my professional opinion. Significant non-compliances occur that require addressing in relation to Local Character and Scenic Protection, View Loss, Privacy, Landslip, Foreshore Building Line, Access and Parking, Zoning and Secondary Dwelling Controls, and Safety.

I look forward to having a discussion on the proposal's planning impacts when the time comes. For any questions in relation to this Principal Objection, please feel free to phone me on: 0431 141 707 or email: matthew@iobject.com.au.

Yours sincerely,



Matthew Powell

BPlan (UNSW), RPIA (No. 79157)

PRINCIPAL TOWN PLANNER

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