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**From:** Anna Williams  
**Sent:** 5/06/2024 4:32:38 PM  
**To:** Council Northernbeaches Mailbox; Maxwell Duncan  
**Cc:** Jeff Annesley  
**Subject:** TRIMMED: Submission objecting to amended plans 89 Marine Parade Avalon  
**Attachments:** Submission Amended plans Annesley 89 Marine Parade Avalon.pdf;

Good afternoon Max,

Further to my previous email please find attached a submission objecting to the amended plans lodged for 89 Marine Parade Avalon.

Feel free to contact me directly if you would like any further information.

Anna Williams,

Director  
Blackwattle Planning

E: [REDACTED]  
T: [REDACTED]

The CEO  
Northern Beaches Council  
council@northernbeaches.nsw.gov.au

Attention: Max Duncan  
maxwell.duncan@northernbeaches.nsw.gov.au

5 June 2024

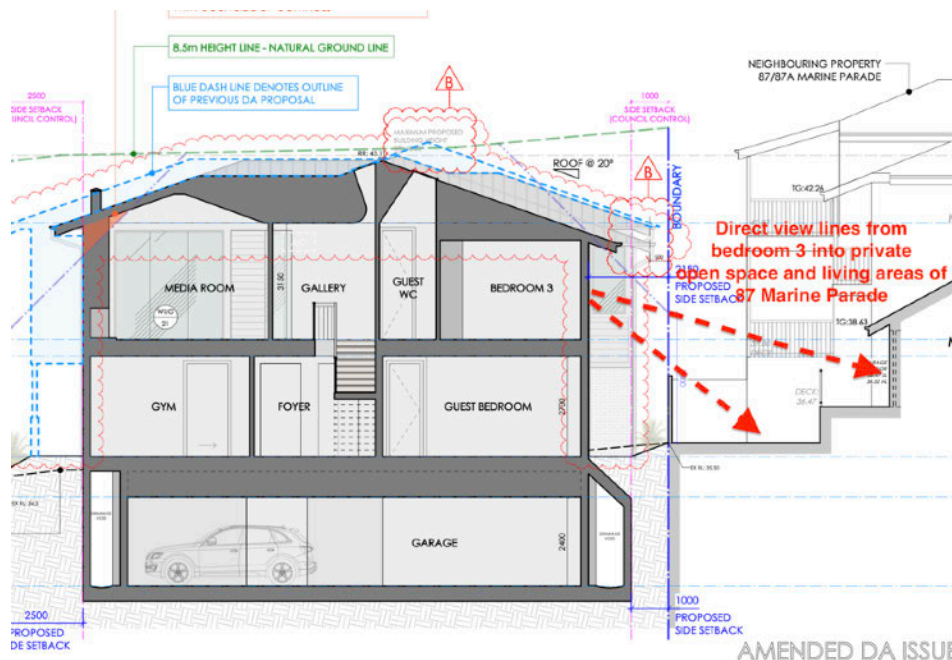
Dear Sir,

**RE: DA2023/1780 New Dwelling and swimming pool at 89 Marine Parade Avalon**

We are assisting Jeffrey and Leonie Annesley, owners of 87 Marine Parade. We refer to our submission made in February 2024 and thank you for the opportunity to further respond to the amended plans recently submitted. We are concerned that a number of impacts upon No. 87 Marine Parade remain unresolved.

**Visual Privacy**

We appreciate the removal of the previously proposed balcony on the southern elevation. The window to bedroom 3 however remains a substantial overlooking impact upon the private open spaces and living area of No. 87 Marine Parade. WUG-6 will have direct view lines into this highly used area of No. 87 Marine Parade, as demonstrated below:

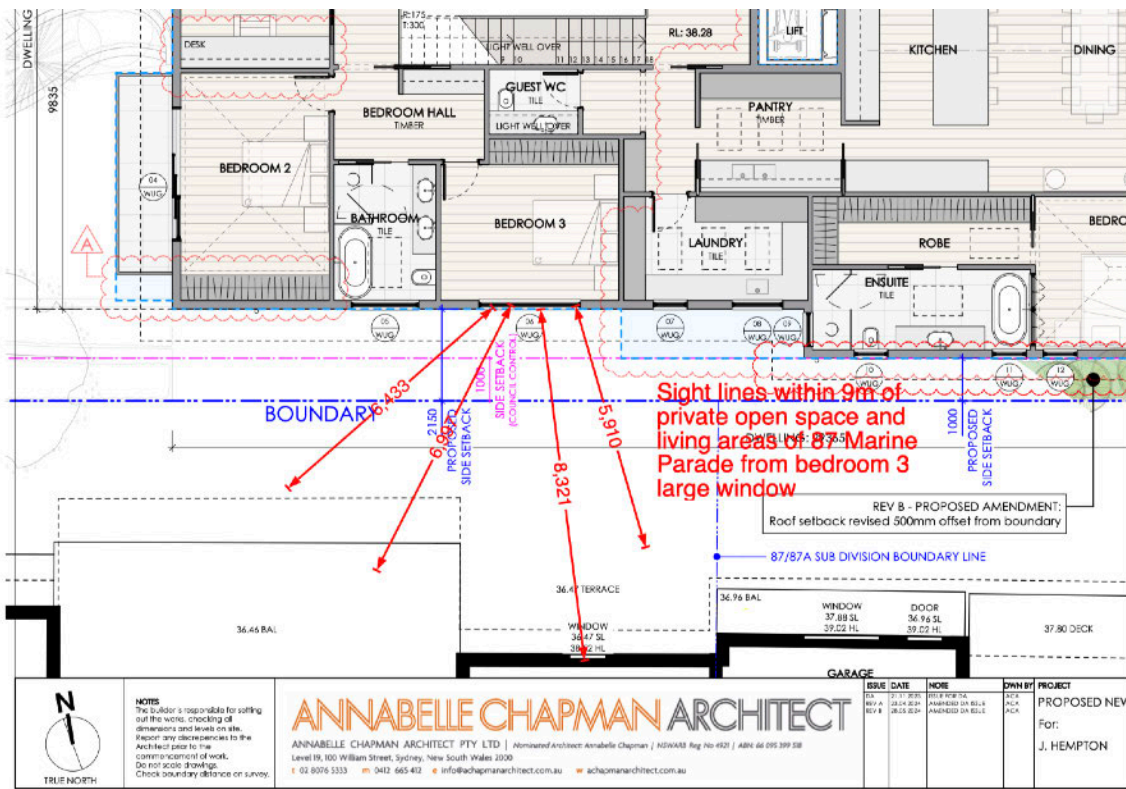


**Figure 1:** Section shows the relationship between bedroom 3 and the principal indoor and outdoor living areas of No. 87 Marine Parade, which will be substantially overlooked by the bedroom 3 window. **Source:** Annabelle Chapman Architect  
**Annotation:** Blackwattle Planning

Control C1.5 of Pittwater 21 DCP states:

*Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).*

The annotated excerpt of the plans below demonstrates that this control is not achieved by the placement and size of WUG-06 to bedroom 3.



We object to the screen planting in the form of the proposed *Eleocarpus Eumundii* as appropriate in these circumstances to overcome the impact. We note that within the Sydney Region this species is known for its slow growth rate. The species chosen would need to be at over 80% of its design height before providing any meaningful intervention of site lines from bedroom 3.

In any event, and as previously outlined, it is a well established planning principle (*Super Studio v Waverly Land and Environment Court Planning Principle*) that landscaping should not be relied upon as the only mitigation of overlooking. In particular, Senior Commissioner Roseth states the following:

*'..where proposed landscaping is the main safeguard against overlooking, it should be given minor weight. The effectiveness of landscaping as a privacy screen depends on continued maintenance, good climatic conditions and good luck. While it is theoretically possible for a council to compel an applicant to maintain landscaping to achieve the height and density proposed in an application, in practice this rarely happens.*

Noting the above, and in accordance with P21DCP, we request that screening measures (other than landscaping) to a height of 1.65m above finished floor level be applied to WUG-06 of bedroom 3 to resolve the substantial impact.

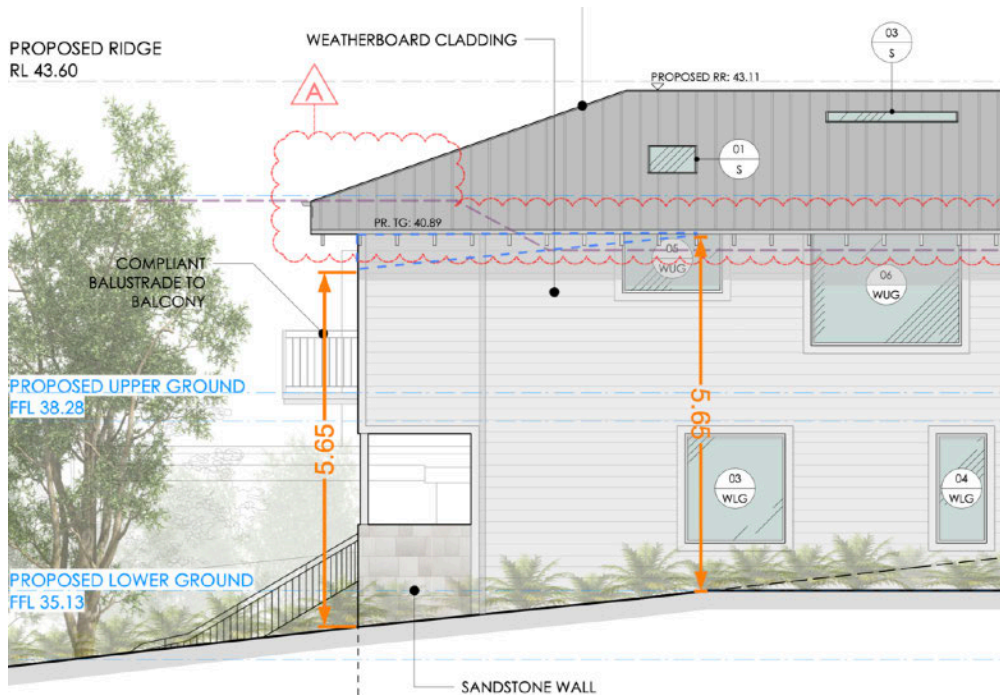
### **Visual bulk and scale**

As the primary outlook of No. 87 Marine Parade is to the north towards the proposed development, the visual bulk of the southern elevation is of significant importance. We note that the applicant's amended statement of environmental effects claims that a minor reduction in the roof form at the southern elevation has eliminated the previous building envelope breach.

We cannot agree, and note that no sectional information is provided through the western end of the proposed dwelling where the building envelope breach is greatest. Our own calculation of the remaining building envelope breach is demonstrated at Figure 3 below.

The building envelope breach remains at the point on the southern elevation where the additional bulk will be readily apparent from the primary internal living and principal outdoor living areas of 87 Marine Parade.

As previously stated, there appears to be no justifiable reason why full compliance cannot be achieved on a site with an area in excess of 1000sqm and a width of 18m+. Any design challenge relating to sloping land has been overcome entirely with the extensive excavation proposed and topographical conditions present no barrier to a complying development.



**Figure 3:** Extent of Building Envelope breach outlined in blue dotted.

**Source:** Annabelle Chapman Architect

**Annotation:** Blackwattle Planning

Objectives of Control D1.11 of Pittwater 21 DCP include the following:

*To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment*

And,

*The bulk and scale of the built form is minimised.*

We maintain that the above objectives are still not met by the proposed. As a minimum, the design should be amended to comply with the required building envelope.

### **Overshadowing**

We believe that the new dwelling proposed will continue to unreasonably impact the amount of sunlight enjoyed by 87 Marine Parade. Shadow diagrams accompanying the amended plans indicate that shadows are cast onto No. 87 Marine Parade from the non-compliant portion of the proposed dwelling where the breach of the building envelope occurs.

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In accordance with the NSW Land and Environment Court Planning Principles relating to sunlight access, we believe that demonstrating a reasonable amount of sunlight access to a neighbouring dwelling should be established through a consider ratio of the amount of sunlight lost as well as that which remains. It should also consider whether any overshadowing is caused by a non-compliant element of the building.

Additionally, we remain unconvinced that more cannot be done to lower the overall height of the dwelling in the circumstances where the basement floor to ceiling height is at 3.1m.

In the circumstances of the proposed design, which fails to comply with the building envelope control or objectives, we believe these considerations should lead Council to a conclusion that the application should not be supported.

### **Conclusion**

Overall, we are concerned that the application has not resolved the unwarranted building envelope breach, and that this leads directly to continuing impacts of overshadowing and visual bulk. We request that Council require the applicant to make further amendments to address these matters. Additionally, that appropriate screening measures be applied to window of bedroom 3 to secure the privacy of the indoors and outdoor living areas at No. 87 Marine Parade.

Please feel free to contact us on [REDACTED] or at [REDACTED]

Regards,

Anna Williams,  
Director

**BLACKWATTLEPLANNING**

[REDACTED]