
From: Ben T
Sent: 20/02/2025 2:26:19 PM
To: Council Northernbeaches Mailbox
Subject: Formal Objection DA2024/1806 26A Lakeview Parade Warriewood
Attachments: 26a Lakeview Parade Warriewood objection submission DA2024-1806 for submission.pdf;

Dear Madam,

Please find the attached formal objection to the proposed development at 26a Lakeview Parade Warriewood under DA2024/1806.

Kind Regards

Ben Tuszynski

6b Elimatta Road Mona Vale

19 February 2025

Attention: Anne-Marie Young
Planning and Development
Northern Beaches Council



Matsuplan Planning Services

Mobile: [REDACTED]

Email: [REDACTED]

ABN: 58275045214

RE: Objection Submission DA2024/1806
26A Lakeview Parade, Warriewood NSW 2102

1. Introduction

This submission is prepared for the consideration of the Planning and Development section of Northern Beaches Council, regarding Development application DA2024/1806 for a proposal for Demolition works and construction of a garage and secondary dwelling. This objection is prepared on behalf of the owners of 6B Elimatta Road, Mona Vale.

We have reviewed the plans and documentation provided on Council's Development Application tracker and write to articulate the following concerns raised with the proposal tendered to Council particularly the siting, bulk and scale of and potential view impacts of the proposed garage demolition and reconstruction and first floor secondary dwelling proposal.

This submission raises concerns relating to the following.

- Potential view impact to water and district views afforded from the premises.
- Bulk/Scale, reduction to amenity
- Rear setback non-compliance. No eaves (minimum 450mm required)
- Garage is detached from existing dwelling non compliant with LEP/DCP.
- National Construction Code non compliances.

2. Submitter's site condition

The subject objectors site is identified as Lot 8 DP1233223 or 6B Elimatta Road, Mona Vale. This site lies on the northern side of the site which is the subject of the development application (26a Lakeview Parade, Warriewood). The submitter's site is a battle-axe allotment accessed from Elimatta Road. The site which is the subject of the application of concern lies directly south/south east of the site. Please see the aerial view below:



Figure 1: Submitters site below and site the subject of the application indicated.

The submitters site currently has a two-storey dwelling with attached garage. The dwelling has outlook to the north, east and south of the site. The layout of the first floor is provided in figure 2 below with potentially impacted view outlooks.

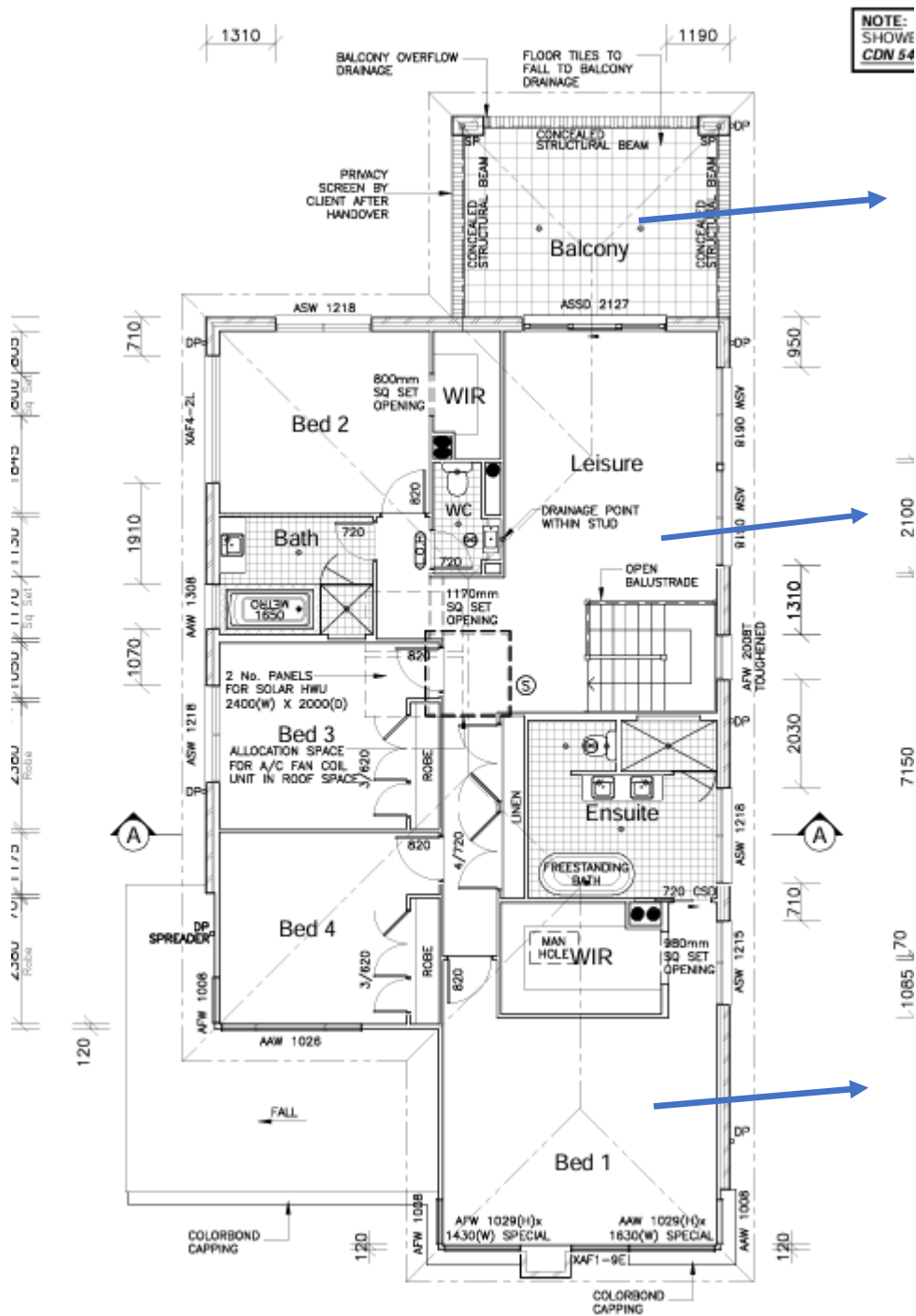


Figure 2: 3B Elimatta Road, Mona Vale. Potential View outlook corridors impacted by proposal indicated.

3. Documentation relied upon

The documentation relied upon for this submission is obtained from <https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Public/XC.Track/SearchProperty.aspx?id=413793>

4. Concerns with subject proposal

View Loss

The associated Statement of Environmental Effects (SEE) prepared by GAT and Associates Pty Ltd acknowledges that the proposal has the potential to impacts views (Page 29) however only notes views being available to the east to Warriewood Beach from the existing balcony. The statement also acknowledges the master bedroom but does not attempt to engage in any analysis of the potential impact of the proposal in particular the newly proposed secondary storey secondary dwelling component of the development, in particular engages in no analysis of the potential impact versus the long established land and Environment Court principles *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

The submitters site benefits from district views from this acknowledged room and is articulated in the figures below. Please note Figures 3 and 4 are taken from the first floor living room of the dwelling and Figures 5 and 6 are taken from the master suite on the western side of the first floor of the dwelling:



Figure 3: View from first floor living room window over roof of existing garage to Long Reef Headland. Note water view and clear delineation of significant features.



Figure 4: View from First floor living room window over roof of existing garage to Long Reef Headland. Note water view and clear delineation of significant features.



Figure 5: View from first floor master bedroom window over roof of existing garage to Long Reef Headland. Note water view and clear delineation of significant features.



Figure 6: View from first floor master bedroom window over roof of existing garage to Long Reef Headland. Note water view and clear delineation of significant features.

As is clear discernible, high amenity views are afforded from the first floor living room and master bedroom and should the first-floor addition be overlaid the existing garage, the view will be obliterated. This will result in further impacts to the occupant's enjoyment of the rooms but also ground level private open space at the rear of the dwelling due to the proximity and bulk and scale of the building. These are detailed further in the following headings. Relevantly though, clearly there is impact and this has not been adequately discussed and or analysed against relevant court principle and sections C1.3 View Sharing of Council's DCP. As a minimum, Council should be requesting the applicant to engage in a proper analysis of the impact including view loss diagrams and analysis of the impact against the Court Principles and DCP to enable Council to properly be informed and assess potential impact of the development. Additionally, view can be obtained from main living rooms and not just bedrooms.

Bulk and Scale

Similar to view loss impact, the submitted SEE has not sufficiently detailed or analysed the potential impacts to of the development. The SEE identifies on page34 under D14.1 – Warriewood Locality the control "The bulk and scale of buildings must be minimised" but has not identified how this has been achieved in the development. This is particularly vital for battle axe sites where buildings are located within the mid-block of a normal suburban. Typical conventional planning consideration of development of mid-block sites is normally to promote single storey development to minimise potential impact. Two storey is typically considered where adequate separations exist to ensure visual impact, bulk and scale, privacy overshadowing and amenity impacts are kept to a minimum. 6B

Elimatta Road, Mona Vale principle private open space is located on the southern side of the site. The proposal will introduce new bulk and scale which would directly impact the residents amenity and enjoyment of their property through the introduction of a significant solid blank two storey wall with no articulation within a mid-block site in close proximity to an adjacent existing dwelling. This will directly impact sense of space and outlook from the primary outdoor space. This is a direct result of the failure of the development to properly consider bulk and scale of the proposal and having reasonable regard for the siting of the proposal.

Rear Setback

The applicant via the SEE has requested variation to the rear setback requirements of D14.8 of the Warriewood Locality statement controls which require 6.5 metre rear setback. The application proposes total demolition of the existing garage with reconstruction of the garage and new secondary dwelling over. The primary justification provided is that the garage and new secondary dwelling over is located further away than the existing garage. Similar to the issues for views and bulk and scale raised above, the SEE has not analysed the non-compliance against the “Outcomes” expected within the control, three of which are directly relevant to the concerns noted in this submission and reproduced as follows:

- *The bulk and scale of the built form is minimised.*
- *Equitable preservation of views and vistas to and/or from public/private places.*
- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

As the Statement has not considered the “Outcomes” and in the absence of a proper analysis of the impacts of the development against relevant outcomes, Council should not be supporting any variations to the requirements, particularly in relation to the unresolved (and currently unjustified) outcomes to which the concerns raised in this submission relate.

Detached Garage / Secondary Dwelling

Clause C1.11 Secondary Dwellings and Rural Workers Dwellings applies to the development and has the following outcome requirement:

- *Limitation of the visual bulk and scale of development.*

Three of the controls are relevant to the concern raised.

- *Where the secondary dwelling or rural worker's dwelling is separate from the principal dwelling, only one storey will be allowed.*
- *Where the secondary dwelling or rural worker's dwelling is located within, or is attached to the principal dwelling (including the garage) the maximum building height is to be in accordance with the height controls contained within Pittwater Local Environmental Plan 2014.*
- *A secondary dwelling above a detached garage is not supported.*

It is noted the garage on the ground floor is separated from the dwelling however in order to “comply” with the control the secondary dwelling is attached to the building at the first-floor level. With regards to the “outcomes” the clear intent is that two storey secondary dwelling (or in this case located over a garage) are only supportable where they are integrated with the main dwelling and not as a detached structure. The secondary dwelling presents as a wing and is not integrated with the dwelling, only proposing a tokenistic attachment to the main dwelling (with no attachment at the garage level). It is submitted that this has primarily been done in order to interpret the control which allows the second storey. The SEE however has not considered the greater outcome objectives which prohibit secondary dwellings over a garage and provided any sound reasoning against why a secondary dwelling is normally not permitted over a detached garage. Provisioning of the northern side landscaping strip is not considered to overcome the bulk and scale issues which impact the residents of 6b Elimatta Road, Mona Vale.

Control D14.13 requires for C4 *Environmental Living* zoned sites 60% of the site to be landscaped area. The reconstructed garage and new secondary dwelling will provide for 39% site landscaping post development and represents a significant departure from the requirements. In addition, the secondary dwelling exceeds the standard requirement of 60 m² by applying the provisions of Clause 5.4(9) of Pittwater LEP 2014 but is calculated using proposed area of the ground floor footprint of the proposed garage. Whilst the LEP 2014 allows a concession to the size of the secondary dwelling where the existing dwelling has significant floor area however given the bulk and scale, setbacks and landscaping area non-compliances, Council should not be considering concessions to the overall size of the dwelling. It is also submitted that were a greater rear setback provided to the new additions, some driveway area could be reduced, and a better landscaping area and setback outcome could be achieved. This however would still not resolve view impact concerns.

Private Open Space

Whilst the C1.7 Private Open Space encourages a share arrangement for private open spaces, it is noted the secondary dwelling has no direct access to any private open space area. The entry point leads straight to the driveway and does not provide for convenient access to any of the private open space of the main dwelling.

Eaves

C1.23 *Eaves* requires 450 mm eaves, in part to minimise energy consumption to provide shading to the roof. No eaves are provided to the secondary dwelling.

National Construction Code

The Council’s Building Surveyors comments have been uploaded to the Council’s DA tracking which notes the construction is class BCA/NCC 2-9. A class 2 building is typically a form of multi unit/residential flat building form of development. Neither of these development types are a form of permitted development in the zone.

8. Conclusion

For the reason detailed, it is submitted that the rebuilt garage and new secondary dwelling has tangible impacts to the existing available views and general amenity for the residents of 6B Elimatta

Road, Mona Vale which have not been adequately discussed or justified with objectively review in the submitted SEE against the stated outcomes and controls of the DCP. Additionally, the proposal exhibits significant non compliances to the rear setback and landscaping controls and accordingly, should not currently be supported by Council. Even should amendments be made with regard to landscaping and setbacks, these will not resolve the view concerns which stem primarily from the proposed second level secondary dwelling component of the proposal. It is submitted that the proposal should be amended to be single storey only (being either the garage or secondary dwelling only)

It is further submitted that should Council pursue further information and or amendments to the proposal, the development should be re-notified to enable the landowners of 6B Elimatta Road, Mona Vale to comment further on the new information and amendments.

We trust that the landowner's comments will be taken into consideration prior to the determination of this rezoning proposal. Should you have any questions regarding this submission, please contact Kim Rothe, Director of Matsuplan Planning Services Pty Ltd, on 0408 950 080.

Yours sincerely

A handwritten signature in black ink, reading 'Kim Rothe', written in a cursive style.

Kim Rothe
Director – Matsuplan Planning Services Pty Ltd