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**From:** Simon Nelson  
**Sent:** 3/06/2024 3:52:49 PM  
**To:** Council Northernbeaches Mailbox  
**Subject:** TRIMMED: DA2023/1395 Pittwater Road Collaroy  
**Attachments:** DA2023 1395 Pittwaer Road Objection.pdf;

Sirs

Please find attached a letter of objection regarding the above DA application

Sincerely

**Simon Nelson**  
RAIA, MSc.Man, BDes, March  
Registered Architect NSW ARB10634

**SEED**  
studio for the exploration of evolutionary design

Shop 6, 1000 Pittwater Road  
Collaroy NSW 2097



## **Northern Beaches Council**

### **Re: DA2023/1395 – 1012-1014 Pittwater Road Collaroy**

Dear Sirs

Further to the updated application for the above DA, and as the owners of 14 Cliff Road Collaroy which directly adjoins the site to the east, we wish to object to the development on the following basis.

#### **Rear Setback**

Our primary objection remains the proposed rear setback. In simple terms, it ignores the requirement for an overall setback of 9.m, as stipulated in the Apartment design Guide (ADG). It is a principal of the ADG that if the guide applies to some of the site, such as in the case of a shop top development, it should apply to the whole site. As such, the ground floor needs to comply with this 9m setback rather than the 6m proposed. This breach has two impacts. First, it brings the building bulk closer to our boundary than needed and imposes bulk on our outlook that is not allowed. Secondly, on the next level, the roof area of the non compliant lower floor is being used for both planting, which adds extra bulk and also is being used as balcony for the apartments. The ADG setback includes balconies, and as such, the proposed balconies are a breach. By allowing the balconies to encroach on the 9m setback, it reduces the privacy we enjoy to both our garden and internal living areas.

On the subject of that privacy, the applicant implies that their planting will mitigate against the loss of privacy. This justification cannot be allowed because planting can be removed or die just as easily as it can be added. An extended absence from an apartment occupant, leading to no watering or tending of roof planting which would then die, would mean the privacy screen would be lost. It is therefore a normal requirement to show breaches in matters such as setbacks can be shown as to not impact others without planting being considered.

#### **Height Breach**

With regard to the height breach to the northern end of the development, being a roof structure to provide shade to the communal area, we object to this because, after much analysis, it is clear that we will have a straight line of sight to this from our garden, living room and bedroom. This is not clear from an initial look at the drawings provided, due to the positions chosen for the provided section, which suggest that the roof will be hidden by lower floors. However, those floors are not present when considering a line of sight from our property as the building is further set back in that area.

This roof adds bulk to the building which increases the overbearing nature of the development. We note comments in the clause 4.6 variation request and fully concur with the sentiments regarding when such a breach should be allowed. However, it is clear that the request is, at best, selective in its conclusions. The writer ignores any impacts that the breach will have to anybody other than those on Pittwater Road itself, while it is clear it will impact those on Cliff Road and Ocean Grove, conveniently forgotten. In addition, it chooses to compare the proposal with a development (Collaroy Street) which is over 600m away, not in line of site and in an area of the suburb with a very different character and which therefore cannot be allowed to be used as a precedent. It is also clear that one of the conclusions drawn in the variation request is wrong – the resultant development is compatible with the height and scale of surrounding and nearby development – because the chosen “nearby” development is anything but nearby and the proposed variation would make this building significantly higher than the surrounding built form.

### **Height of Wall to Southern Boundary**

We note that on the southern boundary, the applicant proposes to build a high wall which extends over 4m above the immediate balconies of the adjacent building. We object to this wall in the strongest terms and believe that it cannot be justified in any way. We also note that the applicant doesn't attempt to justify this wall.

It is our belief that the condition on this boundary has not been anticipated by legislation, namely having balconies and windows facing in the direction of the next door development in the manner that they do, no doubt because they would not be allowed under current rules. However, that doesn't mean they can be ignored and it is our belief that any proposal that affects those balconies and windows need to be decided on a merit basis. As such, it is impossible to find any merit in a high wall directly next to a balcony. A wall that removes all sunlight from windows and living areas in the apartments adjacent.

Besides the visual imposition of the wall, it is clear that this wall will lead to significant shading. Unfortunately, the supplied drawings and diagrams make it impossible to draw conclusions as to the true impact of the wall. We would expect to see proper presentation of size and position of glazing on the walls for the adjacent apartments and some record of the types of room that they serve (living, bed, kitchen etc). The layout of the rooms is also required. However, knowing these apartments from personal experience, I have concluded, using my professional experience as a Registered Architect and based on the available information, that the adjacent apartment to the west will lose all sunlight between the hours of 9.00am and 3.00pm on 21<sup>st</sup> June to the main living room while the eastern apartment will only receive about 45 minutes to their living room. The applicant

has made zero attempt at undertaking a proper and worthwhile analysis and as such, their drawings cannot be relied on.

The reason this is relevant to our property is that any scheme of merit would resolve the problems of bulk to the southern end, and this southern end bulk can be seen from our property.

#### Threat to Tree 12

Further to our submission of 5/12/2023, we have undertaken further investigations into the threat then proposed development presents to tree 12. We repeat the information already provided as we see no evidence that this has been considered and as can be seen below, this is likely lead to catastrophic consequences.

First, it is important to understand that the arborist's report submitted by the applicant presents demonstrably incorrect information and as their conclusions are based on incorrect information, the report cannot be relied on because it leads to incorrect conclusions. The incorrect information that the arborist uses for the report is as follows

- The diameter of the tree trunk is incorrect as evidenced by the survey. It should be noted that we have confirmed the survey data by way of direct measurement. This inaccuracy leads to the calculated Tree Protection Zone (TPZ) being incorrect.
- The arborist uses the incorrect position for the excavation works. The report uses the measurement of the rear wall of the ground floor when it should have considered the position of the retaining wall for the basement, which is 500mm nearer to the tree.

The net effect of these mistakes is that contrary to what is stated in the arborists report, the encroachment into the TPZ is over 23% and this doesn't take into account other stormwater works which pushes the total up to over 25%. AS4970, which the arborist report rightly quotes, states that for this level of intrusion into the TPZ, only hand digging is allowed, which the geotechnical report excludes as a possible construction method due to the waterlogged nature of the ground.

Having taken expert advise, if a DA is granted and the current construction method is approved, the viability of this tree will be significantly compromised and it is likely to lead to instability and probably toppling. The risk of toppling presents very significant risk to both people and property. Council must not allow this possibility to eventuate and must ensure that no mechanical excavation takes place with the TPZ.

## **Stormwater Easement**

We would like to further raise the issue of the proposed stormwater easement, which is proposed to go through 24 Ocean Grove. While we generally support the notion put forward by the applicant that such an easement can be conditioned and is not needed at this stage, what is needed is the development of a viable scheme. The proposed concept of a 1m wide easement does not comply with the minimum requirements of council, something the applicant must be well aware of. We therefore believe that council must insist on the applicant developing a scheme that is compliant before a DA is granted, even if the final legal easement is enacted. Our real concern is as follows. We believe there is a high chance that the applicant has an alternative scheme for removal of the stormwater which they do not want to make public, because it will lead to significant local opposition and that by conditioning the stormwater scheme, it effectively silences all local objections.

We would also draw your attention to the points already raised in previous objections which have not been covered by this letter.

In summary, the revised scheme ignores planning instruments and fails to provide adequate information to assess and justify variations from said instruments. There is also a lack of information to allow a fair determination of merit based decisions.

Sincerely

Simon Nelson

RAIA, MScMan, BDes, March

Registered Architect NSW ARB 10634

On behalf of

Simon Nelson and Ginette Porteous

Owners of

14 Cliff Road COLLAROY