
From: Felicity Crocker
Sent: 4/02/2025 10:42:58 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: Submission re: DA2024/1814 at 20 McDonald St Freshwater
Attachments: Submission re 20 McDonald Street Freshwater DA 2024-1814 Crocker.docx;

Dear Development Assessment Team

Please find attached our submission regarding the proposed development at 20 McDonald Street Freshwater 2096. The application number is **DA2024/1814**.

If you require any clarification on our submission or would like to arrange to attend our property in person to assist with your assessment, please don't hesitate to contact us via email [REDACTED] or phone [REDACTED].

Thank you for considering our submission.

Yours faithfully,
Felicity and Peter Crocker
(Owners and residents of 18 McDonald Street Freshwater 2096)

**Northern Beaches Council
PO Box 82
Manly NSW 1655**

**18 McDonald Street
Freshwater NSW 2096**

4 February 2025

**Re: Submission for proposed works at 20 McDonald Street Freshwater
(Application number DA2024/1814)**

Dear Council Development Assessment Team,

We are the owners and residents of 18 McDonald Street Freshwater and are writing with regards to the proposed development at 20 McDonald Street Freshwater. This submission specifically addresses concerns regarding the non-compliance with wall height, envelope and building height controls under the Warringah Local Environmental Plan (LEP) 2011 and its Development Control Plan (DCP).

Our property at 18 McDonald Street is located to the west of 20 McDonald Street. A pool is located at the rear of our property adjacent to the boundary between 18 and 20 McDonald Street. Below is a photograph that shows our current view of 20 McDonald Street (looking east) from our rear deck.



The submitted plans propose a building height of 8.814m, which exceeds the LEP height control of 8.5m. Additionally, the wall heights and building envelopes are inconsistent with the requirements for compliance from existing ground level. These non-compliances are inappropriate and have significant impacts on the amenity of the property at 18 McDonald Street Freshwater, and the surrounding neighbourhood.

Summary of comments on objectives and noncompliance.

The plans provided confirm that proposed works do not meet several of the objectives and numerical compliance requirements of the councils DCP and LEP, with a non-compliance with the mandatory LEP Building height restriction with potential non-compliances with the NCC.

These are as follows:

WLEP2011.

- Building height.
 - Non-compliance with height restrictions along North, South and East facades. The approx. maximum height of 8.814m to the NE corner of the proposed third floor, 314mm over the maximum height allowable.

WDCP.

Elements non-compliant with council objectives of the DCP.

- Front set back. Non-Compliant
- Rear set back. Non-Compliant
- Side envelope. Non-Compliant
- Wall heights. Non-Compliant
- Landscape open space. Non-Compliant
- Bulk and scale. Does not meet objectives
- Articulation of walls. Non-Compliant
- Privacy. Does not meet objectives
- Shadows. May not meet objectives

NCC.

- Fire rating to new walls and roof within 900mm of boundary
- Garage access stairs to the eastern elevation

Building Height Issue.

The height of the proposed third storey addition is well over the Warringah Local Environmental plan limit of 8.5m and does not meet the objectives of clause 4.3 WLEP 2011.

The submitted plans show a height of 8.814m in the NE Corner of the property, with the Northern and Eastern elevations of the proposed upper floor over the 8.5m height restriction. (Ref Figure 1&2).



Figure 1: Height non-compliance.



Figure 2: Height non-compliance.

As a result of the max building height non-compliance, a wall height non-compliance has been created to the North, East and West elevations (Figures 3, 4 & 5). This has also added to non-compliance with the building envelopes of the Eastern and Western elevations. This creates a design that has excessive bulk and a scale that is not consistent with WLEP (Ref; WLEP Clause 4.3 Objective below) and the neighbouring properties, impacting the amenity and creating privacy issues at 18 McDonald Street Freshwater and surrounding neighbours.



Figure 3: Wall Height non-compliance.

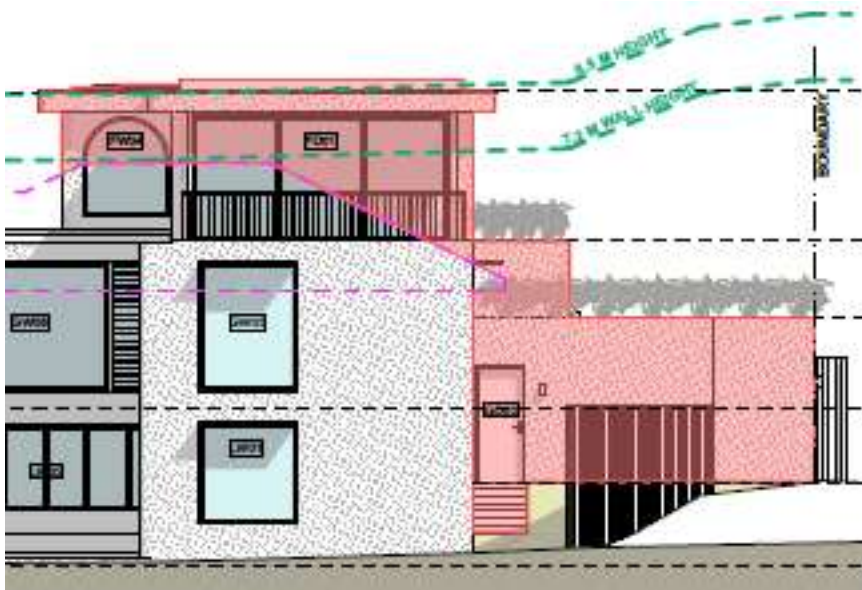


Figure 4: Wall Height non-compliance.

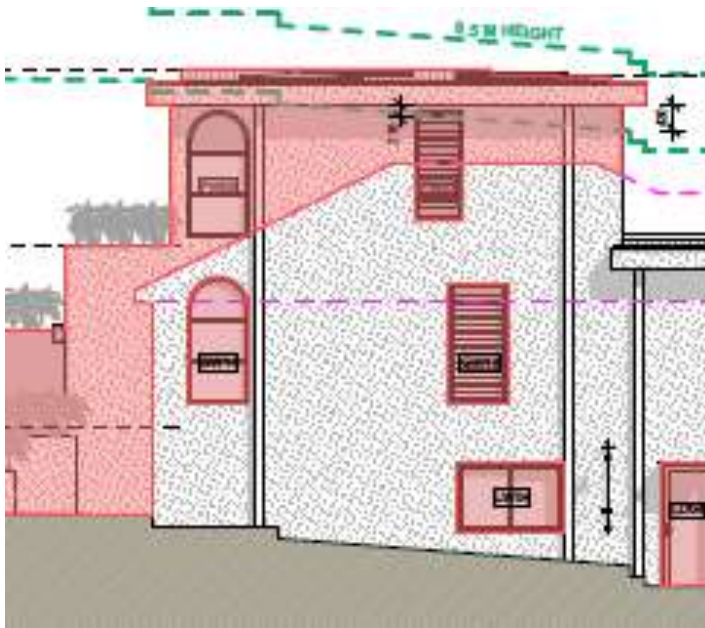


Figure 5: Wall Height non-compliance.

While a clause 4.6 has been submitted the reasoning is not well founded as the existing ground levels have been used to extrapolate the non-compliant height calculations. Using the Natural ground levels to the western elevation to extrapolate a higher level due to the slope of the site would decrease the non-compliance. While this may be correct, it would also have a reverse effect on the northern and eastern elevation as the natural slope of the block would increase the non-compliance as the land falls away.

Given the third storey addition and the size of the over development, which has several non-compliances with the WLEP2011 and WDCP, the design has produced a proposal that is not in accordance with the Bulk and Scale of the surrounding neighbourhood and not in keeping with the adjacent building to ensure compatibility.

WLEP 2011

4.3 Height of buildings

(1) The objectives of this clause are as follows—

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Wall Height and Building Envelope.

The proposed development presents excessive wall heights largely non-compliant to the South, East and West elevations and building envelopes non-compliant to the East and West elevations, creating an overall bulk and scale that are not consistent with the established and desired built form for the locality (Ref B1 and B3 Objectives below). The disproportionate scale of the building, particularly the

height and massing of its facades, results in a visually dominant structure that is out of character with the surrounding residential context.

The excessive wall heights exceed the numerical controls established in the Warringah Development Control Plan (WDCP) B1, which are in place to:

- Minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes
- Ensure development is generally beneath the existing tree canopy level
- Provide a reasonable sharing of views to and from public and private properties
- Minimise the impact of development on adjoining or nearby properties
- Ensure that development responds to site topography and to discourage excavation of the natural landform
- Provide sufficient scope for innovative roof pitch and variation in roof design

The wall heights also exceed the numerical controls established in the Warringah Development Control Plan (WDCP) B3, which are in place to:

- Ensure that development does not become visually dominant by virtue of its height and bulk
- Ensure adequate light, solar access and privacy by providing spatial separation between buildings
- Ensure that development responds to the topography of the site

The proposed height creates a sense of enclosure and dominance, negatively impacting both the immediate streetscape and the adjoining properties by creating visual dominance and significantly reducing their privacy, and open sky views.

The proposed built form does not appropriately transition in scale to surrounding properties, leading to an overdevelopment of the site. The excessive bulk and scale create:

- A visually intrusive structure that disrupts the established streetscape rhythm
- A lack of proportion relative to the site area and surrounding dwellings
- Overbearing impacts on adjoining properties, reducing their sense of openness and amenity

The development fails to meet the objectives of the DCP, which explicitly aim to ensure that new buildings are designed to integrate seamlessly within the existing residential fabric. The design does not demonstrate appropriate articulation, modulation, or stepped elements to break down the overall mass, further exacerbating its intrusive presence.

The prevailing character of the area is defined by well-articulated, appropriately scaled residential buildings that respect the established development pattern. In contrast, the proposed development introduces a built form of three storeys (Figure 6) that lacks architectural modulation to mitigate its apparent mass, and facades that do not provide adequate variation in depth, materials, or design to soften their visual impact.



Figure 6: Section showing 3 storeys.

To achieve compliance with council planning controls and maintain the integrity of the built environment, it is suggested the overall height and wall heights be reduced to comply with the LEP and DCP controls. This would reduce the bulk and scale of the development to better align with the surrounding streetscape.

Wall Heights B1 Objectives

Applies to Land

This control applies to all land identified on the Warringah Local Environmental Plan 2011 - Land Zoning Map as:

RU4 Primary Production Small Lots. Issue.

R2 Low Density Residential

E3 Environmental Management

E4 Environmental Living

and to which an 8.5m maximum height of building control applies under LEP 2011.

Objectives

- To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.
- To ensure development is generally beneath the existing tree canopy level.
- To provide a reasonable sharing of views to and from public and private properties.
- To minimise the impact of development on adjoining or nearby properties.
- To ensure that development responds to site topography and to discourage excavation of the natural landform.
- To provide sufficient scope for innovative roof pitch and variation in roof design.

Requirements

1. Walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).

Exceptions

This control may be varied on sites with slopes greater than 20% within the building footprint (measured at the base of the external walls), provided the building:

- Does not exceed the 8.5 metre height development standard;
- Is designed and located to minimise bulk and scale; and
- Has a minimal visual impact when viewed from the downslope sides of the land.

Side Boundary Envelopes. B3 Objectives

- To ensure that development does not become visually dominant by virtue of its height and bulk
- To ensure adequate light, solar access and privacy by providing spatial separation between buildings
- To ensure that development responds to the topography of the site.

Boundary Envelopes.

B3 Side Boundary Envelope

Both the East and West elevations of the proposed third floor addition confirm the non-compliance with the WDCP Clause B3. Under this clause, buildings must be sited within a building envelope determined by projecting planes at 45 degrees from a height above ground level (existing) at the side boundaries. The proposed upper floor is outside envelope on the East and the West elevations for the entire horizontal length of the proposed third floor (Figure 7 & 8).

Whilst the West elevation is also over the envelope to a lesser extent, the East facade is over two metres above the maximum building envelope for the entire third floor, an argument that is also made within the Clause 4.6 Request to vary the height development standard, and to the incompatible bulk and scale, with the visual presentation of these elevations dominating the adjoining properties. Thus, reflecting the significant bulk and scale, that does not meet the objectives of this Clause.



Figure 7: East façade envelope non-compliance.

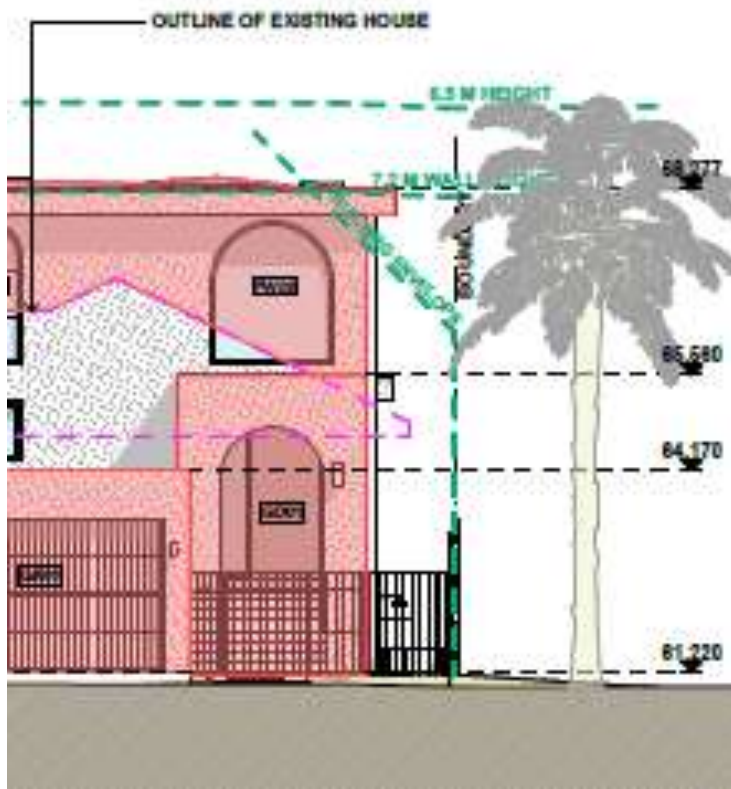


Figure 7: East façade envelope non-compliance.

Privacy and Overshadowing.

The proposed development fails to adequately address privacy concerns for adjacent properties due to the excessive bulk and scale of the proposal which include a third storey addition. This raises significant issues regarding overlooking into neighbours' private open space and overshadowing of the adjacent properties, both of which result in negative impacts on the residential amenity of neighbouring dwellings. These deficiencies contravene the objectives of the Warringah Development Control Plan (WDGP) D8 and D6.

Privacy impacts are a major concern due to the placement of the third floor and orientation of upper-level windows, which create direct sightlines into the private open spaces and habitable rooms of adjoining properties. Of particular concern to 18 McDonald Street are windows FW08 (clear glass and looking directly into our rear garden and upstairs bedroom and not required for light capture given the proposed skylight directly overhead), GW14 (clear glass with line of sight directly into our property), FW07 (louvred window – schedule does not indicate if clear or privacy glazed) and GW13 (louvred window with clear glass that looks directly into our property). The design does not incorporate adequate privacy screening, obscured glazing, or sufficient setbacks to mitigate these impacts, leading to a loss of privacy for surrounding residents. It is also noted that several of the proposed windows are louvred, which when open do not provide any privacy. The non-compliant building envelopes and setbacks bring habitable areas closer to neighbouring dwellings than what is considered reasonable under council controls. Additionally, the positioning of outdoor entertainment areas and balconies on upper levels increases the potential for noise and visual intrusion.

The development also raises concerns regarding solar access and overshadowing, particularly for properties to the South and West. The excessive height and bulk of the proposed structure contribute to overshadowing, which is likely to reduce the amount of direct sunlight reaching key indoor and outdoor living areas of adjoining dwellings.

To mitigate these impacts, it's suggested the proposal be amended to reduce the overall building height, modify the rooflines or upper-level setbacks, and incorporate a design that transitions more sensitively to neighbouring dwellings. A comprehensive shadow analysis should be conducted to demonstrate compliance with solar access requirements.

Applies to Land

Objectives

- To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours
- To encourage innovative design solutions to improve the urban environment
- To provide personal and property security for occupants and visitors.

Applies to Land

This control applies to land to which Warringah LEP 2011 applies.

Objectives

- To ensure that reasonable access to sunlight is maintained
- To encourage innovative design solutions to improve the urban environment
- To promote passive solar design and the use of solar energy

The proposed development lacks sufficient articulation along the non-compliant western facade, resulting in an unrelieved façade that exacerbates the perception of bulk and scale. The Warringah Development Control Plan (WDCP) D9 emphasizes the importance of articulation in reducing the dominance of structures, ensuring that new developments integrate harmoniously with their surroundings rather than imposing an overbearing presence on the streetscape and adjacent properties.

In this case, the development does not incorporate key articulation elements such as stepped building forms, varied materials, recesses, projections, and horizontal and vertical breaks (Figure 9). The absence of these design features results in a monolithic and overly dominant built form that lacks visual relief. Without appropriate modulation, the façade appears excessively bulky, with no transitional elements to soften its impact on the public domain or adjacent properties. This is particularly concerning given the non-compliance with height, setbacks, and bulk controls, which already contribute to an imposing structure.

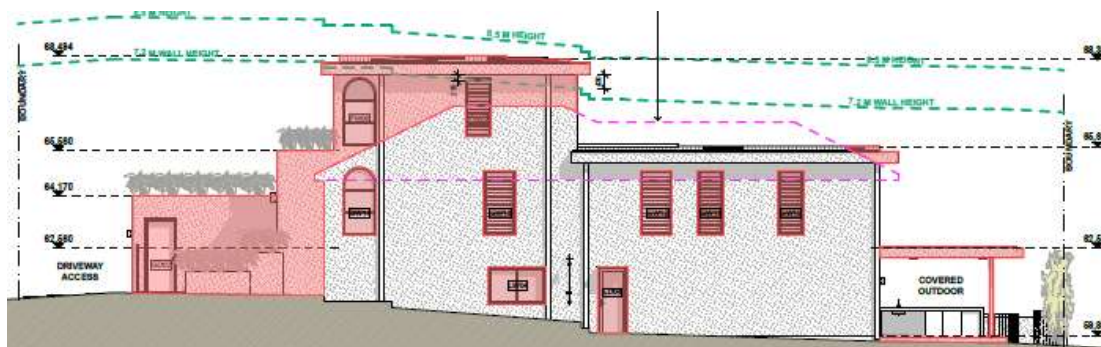


Figure 9: Non articulated western elevation.

Large, uninterrupted vertical and horizontal planes contribute to an overpowering and visually dominant structure that does not align with the intended character of the locality and creates non-compliance with both Wall Heights (B1) and Building Envelope (B3) controls.

To comply with the WDCP objectives, it is suggested the design include appropriate articulation techniques that break down the apparent mass and bulk of the building.

Landscaped Open Space

The proposal does not meet the minimum landscaped open space requirements, leading to a loss of greenery and reduction in environmental and aesthetic quality (Figure 10). Landscaped open space is a fundamental requirement in residential developments as it enhances urban amenity, promotes biodiversity, and improves stormwater management. The shortfall in landscaped areas in this proposal is inconsistent with the Warringah Development Control Plan (WDCP) objectives, which seek to maintain a balance between built form and natural elements.

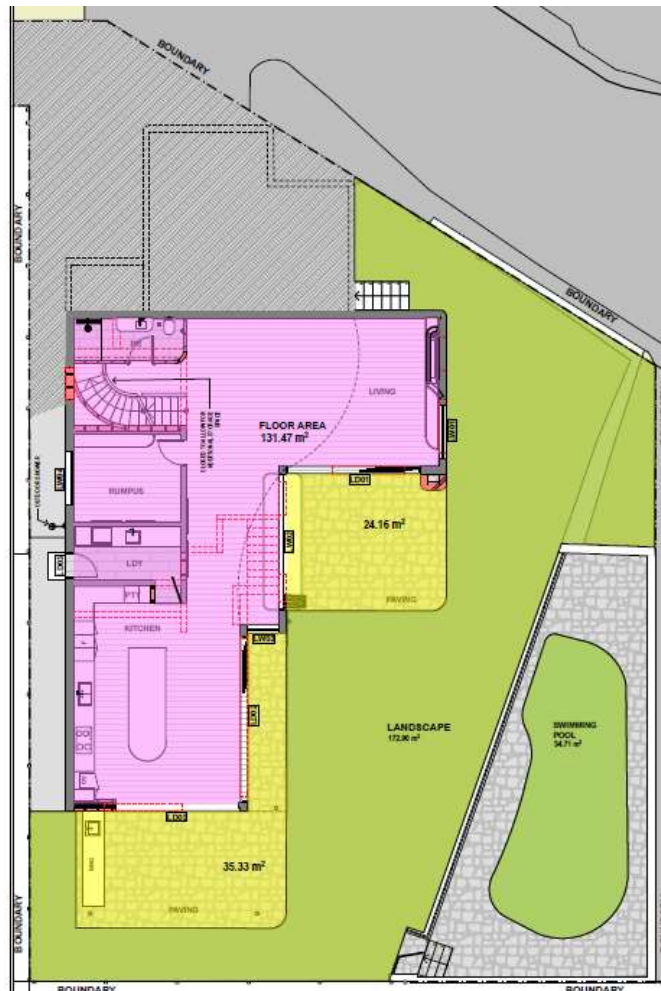


Figure 10: Landscape Plan.

The absence of adequate greenery compromises privacy screening, making neighbouring properties more susceptible to overlooking. Furthermore, the insufficient provision of permeable surfaces contributes to stormwater runoff issues, increasing pressure on local drainage infrastructure.

Conclusion

The proposed development at 20 McDonald Street, Freshwater (DA2024/1814) doesn't meet key planning objectives and significantly deviates from the established controls set out in the Warringah Local Environmental Plan (WLEP) and Warringah Development Control Plan (WDCP). We believe the non-compliances with height, bulk, scale, setbacks, privacy, articulation, and landscaping result in an overdeveloped site that is incompatible with the surrounding residential character and detrimental to the amenity of neighbouring properties.

The proposal's building height and non-compliant setbacks create an imposing structure. The lack of articulation exacerbates the perception of bulk, while the non-compliant side and rear setbacks reduce privacy, increase overshadowing, and diminish the amenity of adjoining residences.

The insufficient solar access and privacy concerns undermine the fundamental principles of good urban design. Without substantial modifications, the proposal does not satisfy the objectives of the LEP and DCP, and approving such a development would set an undesirable precedent for future applications in the area.

Given the extent of non-compliances and potential impact on surrounding residents, we respectfully request that the proposal be reconsidered and adjusted to address the identified concerns. Our hope is that this will lead to a design that balances the needs of both the applicant and their immediate neighbours.

We would welcome the opportunity for the Council's Assessing Officer to visit our property in person to assess this submission.

Yours faithfully,

F & P CROCKER

Appendix:

Plans/reports suggested to help to address impacts.

Stormwater Plans

- A Stormwater Management Plan for the proposed development as it involves new buildings or alterations and additions to an existing building.

Arborist Report. Clarification of Trees to be removed or impacted

- An Arboricultural Impact Assessment Report, prepared by a qualified AQF5 (or higher) arborist, must be submitted when works are proposed within 5m of a tree irrespective of property boundaries, or a tree is proposed for removal. No Arborist Report is required for trees and species within the development site that can be removed without approval (i.e. Exempt Tree Species and trees under 5m in height).
- The garage works appear to be within close proximity to some existing trees on the adjoining lot.

Excavation and fill plans.

- Plans locating the proposed excavated or filled areas including volume of spoil.