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**From:** Zack Wilson  
**Sent:** 5/09/2024 12:30:07 PM  
**To:** Council Northernbeaches Mailbox; Megan Surtees  
**Cc:** [REDACTED];  
**Subject:** TRIMMED: RE: DA2024/0534 - Submission - Addendum Letter of objection  
**Attachments:** DA2024-0534 Letter of Objection (Addendum).pdf;

Hi Megan,

Please find attached an addendum submission following the submission of revised documents.

Kind regards

**Zack Wilson (PIA Assoc.)**  
**Senior Town Planner**



A Gadigal Country | Level 12, 70 Pitt Street Sydney NSW 2000  
P GPO Box 5013 Sydney NSW 2001  
T (02) 9249 4116  
W [glnplanning.com.au](http://glnplanning.com.au)

If you receive an email from me outside of your core working hours, it's because I'm sending it at a time that suits me. I do not expect you to read it, or, reply to it, outside of your normal working day.



Our cities exist on the unceded lands of the many nations of Indigenous Australia. I acknowledge and pay my respects to the Traditional Owners and Custodians of Country on whose land I walk, work and live and the continuation of cultural, spiritual and educational practices of First Nations people. Always Was, Always Will Be.

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**From:** Zack Wilson  
**Sent:** Friday, 21 June 2024 4:47 PM  
**To:** council@northernbeaches.nsw.gov.au; Megan Surtees  
[REDACTED]

**Subject:** DA2024/0534 - Submission - Letter of objection

Good afternoon, Northern Beaches Council,

**Attention:** Megan Surtees

Please find attached our letter of objection in relation to DA2024/0534 at 14 Bassett Street, Mona Vale.

If you have any questions, please do not hesitate to contact me.

Kind regards

**Zack Wilson (PIA Assoc.)**  
**Senior Town Planner**



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4 September 2024

Our Ref: GLN12209\_DA2024/0534 Addendum submission.docx

Scott Phillips  
Chief Executive Officer  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

Attention: Megan Surtees

Dear Megan,

**RE: Development Application 2024/0534 Addendum submission**  
**Property: Lot 23 Section B Deposited Plan 6195; 14 Bassett Street, Mona Vale NSW 2103**

We write on behalf of the registered owners of Lot 1 in Deposited Plan (DP) 1049663, Lot 24 Section B DP 6195, Lot A DP 355312 and Lot 3 DP 530220; 16, 12 & 24 Bassett Street and 25 Grandview Parade, Mona Vale NSW 2103 in relation to development application (DA)2024/0534 submitted 8 May 2024 for *alterations and additions to residential development – Alterations and additions to a dwelling house* (the **Proposal**) over Lot 23 Section B DP 6195; 14 Bassett Street, Mona Vale NSW 2103 (the **Site**). The purpose of this letter is to provide supplementary information in response to our submission dated 21 June 2024 in relation to the above DA.

The preparation of this addendum submission letter has arisen from further review of all relevant documents associated with the amended Proposal obtained from Northern Beaches Council's (Council) Property Search website. This addendum submission letter should be read in conjunction with the originally submitted submission.

## 1 Matters for Consideration

### 1.1 Pittwater Local Environmental Plan 2014

Table 1. Assessment against the Pittwater Local Environmental Plan 2014

| Section                   | Requirement                                                                                                                           | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Part 1 Preliminary</b> |                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.2<br>Aims of Plan       | The relevant aims of this Plan are as follows—<br><i>a. to promote development in Pittwater that is economically, environmentally</i> | <ul style="list-style-type: none"> <li><b>Context and neighbourhood character</b></li> </ul> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-</p> |

| Section | Requirement                                                                                                                                                                                                                                                                                                                                                                                                           | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|         | <p><i>and socially sustainable,</i></p> <p><i>b. to ensure development is consistent with the desired character of Pittwater's localities,</i></p> <p><i>f. to encourage a range of housing in appropriate locations that provides for the needs of the community both now and in the future,</i></p> <p><i>j. to protect and promote the health and well-being of current and future residents of Pittwater.</i></p> | <p>designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p> <p>The Proposal seeks to convert the existing non habitable / non trafficable rooftop by introducing a new upper level to create a three-storey building character that comprises 138m<sup>2</sup> of habitable floor area plus external entertaining area. Further, we are concerned the majority of the third storey habitable area cannot achieve compliance with the National Construction Code without exceeding the 8.5m height of building development standard and is therefore not in keeping with the natural topography of the immediate location. We contend any proposal shall remain below the existing tree canopy level of the surrounding Norfolk Palms in accordance with Section A3.2 "Desired character of Pittwater" of the Pittwater 21 Development Control Plan (DCP) .</p> <p>Therefore, Council cannot be satisfied the exceedance of height and bulk of the Proposal is consistent with the desired character of the locality, provides a socially sustainable outcome and will protect the well-being of neighbours, especially the presentation of a three-storey wall along the western elevation which is not suitable in a low-density residential character.</p> <ul style="list-style-type: none"> <li>• <b>Built form and scale</b></li> </ul> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> <p>As previously stated, we are of the opinion the Proposal negatively impacts the appearance of the building and by way of excessive height, bulk, scale and incompatibility of design in the locality. We contend no part of the Proposal, any permanent or temporary structure installed, or furniture placed on it shall exceed the 8.5m maximum height of building development standard established by the LEP at any time.</p> <p>In this instance, the Proposal's breach of the height of building development standard does not relate to minor elements comprising lift overruns, plants rooms or awning structures associated with the roof top terrace, but new habitable floor area in addition to the existing 5 bedrooms and 4 bathrooms and cannot be considered in the public interest in accordance with Section 4.15(1)(e) of the <i>Environmental Planning and Assessment Act 1979 (EP&amp;A Act)</i>.</p> <ul style="list-style-type: none"> <li>• <b>Amenity</b></li> </ul> |



| Section | Requirement | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|         |             | <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</p> <p>The Proposal suggests direct overlooking to the eastern neighbour has been mitigated through the inclusion of a 600mm parapet / awning. However, opportunities for direct overlooking to the western neighbour have increased as a result of the Proposals removal of the third storey BBQ area and recessed nib wall and pushing back the trafficable area to align with the dwellings western façade. This location has potential to directly overlook the main living space and master bedroom of the western neighbour. Further, the revised documentation no longer shows a nib wall at the top of the external staircase landing which will result in direct overlooking to the western neighbour's private open space.</p> <p>We are also concerned for the dwelling presenting to the eastern and western neighbours which will experience the full scale and height of the third storey from their internal living spaces, back yards and private open space. This would not reasonably be anticipated in the R2 Low Density Residential zone for our clients with regards to visual impact, solar access and overall amenity.</p> <p>Although the existing dwelling casts shadows over both the eastern and western neighbours due to the orientation of the lots, no comparison of the Proposal against a compliant scheme has been provided to demonstrate the differing impacts, noting the Proposal will cast additional shadow over the eastern neighbour's front terrace and forward bedroom window and western neighbours master bedroom balcony and eastern main living area window that currently receives direct solar access when not in shadow from the existing dwelling.</p> <ul style="list-style-type: none"><li>• <b>Aesthetics</b></li></ul> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of well-designed residential development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p> <p>We contend the bulk and scale of the Proposal (height and visual presentation of the western elevation) is not in character with the R2 Low Density Residential zone and continues to breach a number of key controls which guide building bulk and scale, in addition to being non-compliant with the <i>State Environmental Planning Policy (Exempt and Comply Development Codes) 2008 (Codes SEPP)</i> which the dwelling</p> |

| Section | Requirement | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|         |             | <p>was constructed (i.e. the maximum building height under the Codes SEPP is 8.5m above ground level (existing)) (CDC0043/16). Hence, the creation of a third storey which exceeds the height of building development standard by introducing new habitable floor area (especially when viewed from the western neighbour) is not supported.</p> <p>The proposed third storey further reduces the visual and acoustic amenity enjoyed by the neighbouring residents and will be visually obtrusive when viewed from the public domain (Bassett Street, Surfview Road &amp; Basin Beach Reserve) by way of overall height, scale and materials and contrary to Section 4.15(1)(e) of the EP&amp;A Act.</p> <p><b>Public interest</b></p> <p>The assessment of a development's merits requires consideration of the public interest under Section 4.15 of the EP&amp;A Act.</p> <p>According to Chris Wheeler (Deputy NSW Ombudsman in 2016) <i>The 'public interest' is a term for which there is no single precise and immutable definition. The answer to the question "what is the public interest?" depends almost entirely on the circumstances in which the question arises. However, as a general concept it has been described as referring to considerations affecting the good order and functioning of the community and government affairs for the wellbeing of citizens. It has also been described as the 'common good'. Equivalent concepts to the public interest have been discussed since at least the time of Aristotle (common interest), including by Aquinas and Rousseau (common good) and Locke (public good).</i></p> <p>Two elements of this passage provide useful context for this Public Interest Framework.</p> <p>Firstly, it points out there is no single definition of the public interest, that it depends on circumstance. A public interest perspective in a particular matter might vary from a local area compared to the state or national level. The public interest perspective is also likely to vary across generations (concern for the natural environment has shifted through time for example).</p> <p>Secondly, it critically aligns public interest with 'government for the wellbeing of citizens' and the 'common good'. This makes the ultimate and obvious point that public interest planning and decision-making is distinct from that which predominantly aligns with sectional, narrow or private interests.</p> <p>Weighing up the private good against the public good is part of Council's consideration. This exercise was undertaken in the New South Wales Land and Environment Court (<b>Court</b>) case of <i>253 Spit Road Pty Ltd v Mosman Municipal Council</i> [2016] NSWLEC 127.</p> <p>The Court considered the test set out in an earlier decision of the Court in <i>Addenbrooke Pty Ltd v Woollahra Municipal Council</i> [2008] NSWLEC 190 which determined that the provision of public benefits was insufficient to satisfy the relevant SEPP and that public benefits had to outweigh other</p> |

| Section                                           | Requirement                                                                                                                                                                                                                                                                                                                                                                                                             | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>considerations. Positive elements of a proposal will not be enough.</p> <p>In doing so, the Court found that neither the aims of the SEPP nor the objectives of the W5 zone were achieved by the development.</p> <p>As such, we request Council weigh up the Proposals suitability in the context to the locality and submissions made in accordance with the EP&amp;A Act, when considering the breach of the height of building development standard, excessive bulk and scale and impacts to neighbouring properties.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Part 2 Permitted or prohibited development</b> |                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.3<br>Zone objectives and Land Use Table         | <p>The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p> <p>The relevant objectives of the R2 Low Density Residential zone are as follows—</p> <ul style="list-style-type: none"> <li><i>To provide for the housing needs of the community within a low density residential environment.</i></li> </ul> | <p>Justification for the third storey is considered under the Section 4.6 written variation request and whilst portions of the three storey elements may be acceptable, the exceedance of the height of building development standard and three storey presentation in to the eastern and western neighbours is considered excessive and out of character for the R2 Low Density Residential zone, with the western façade failing to achieve a number of the built form controls in the LEP (building height) and Pittwater 21 Development Control Plan (DCP) (building envelope).</p> <p>Although architectural devices such as translucent glazing and awnings potentially mitigate visual privacy between the Proposal and the adjoining neighbours, the visual bulk and scale of the new third storey is beyond what would be reasonably be expected within the R2 Low Density Residential zone.</p> <p>The relevant objectives of the R2 Low Density Residential zone and prescribed development standards establish a clear planning framework without undermining the local character of the immediate neighbourhood, Mona Vale locality and greater Pittwater area.</p> |
| 2.7<br>Demolition requires development consent    | The demolition of a building or work may be carried out only with development consent.                                                                                                                                                                                                                                                                                                                                  | <p>The resubmitted documentation still does not accurately address the extent of demolition of the existing parapet.</p> <p>Concern is also raised with the revised documentation no longer showing a nib wall at the top of the external staircase landing which will result in direct overlooking to the western neighbour's private open space.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Part 4 Principal development standards</b>     |                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4.3<br>Height of buildings                        | 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.                                                                                                                                                                                                                                                                                             | <p>9.87m (existing lift) (variation of 1.37m or 16.11%)</p> <p>Although elements of the Proposal have been removed to reduce the overall maximum building height, the Proposal still relies on the existing lift access to justify adding an additional storey that contributes additional bulk to the existing dwelling, as well as introducing new habitable and trafficable floor area, leading to what is essentially a three-storey dwelling, sited in an elevated location, and within a low-density residential environment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| Section                                    | Requirement                                                                                                                                                                                                                                                                                                                                                                                                                            | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                        | As previously stated, we contend the Proposal results in the creation of a new third storey that has complete disregard for the height of buildings development standard established by the LEP and fails to adequately address issues relating to excessive height, bulk, scale, visual privacy issues, amenity and noise related impacts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 4.6<br>Exceptions to development standards | <p>Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—</p> <p><i>a. compliance with the development standard is unreasonable or unnecessary in the circumstances, and</i></p> <p><i>b. there are sufficient environmental planning grounds to justify the contravention of the development standard.</i></p> | <p>As previously stated, the additional quantum of floor area introduced is substantially more than what exists on the Site and introduces a new residential and recreational component which increases opportunity for amenity impacts of neighbours due to the deficient building separation to the side boundaries of a similar scaled building (i.e. low rise residential flat building).</p> <p>We are of the opinion the Section 4.6 written variation request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as required by Section 4.6(3)(a). Further, although the Court (at [74]) in <i>Merman Investments Pty Ltd v Woollahra Municipal Council</i> [2021] NSWLEC 1582 accepted that there is an ‘environmental planning ground’ that <b>may</b> [emphasis added] justify the contravention of the height development standard when prior excavation of the site distorts the maximum building height plane, it is considered the environmental planning ground provided are not considered sufficient to warrant a departure from the development standard, in particular where the Proposal breaches the extrapolated height plane.</p> <p>Therefore, we contend a 16.11% variation extended over new created residential habitable and trafficable floor area for a significant length of the eastern and western elevation of the existing dwelling represents a major variation and would not reasonably be anticipated within the R2 Low Density Residential zone.</p> |

1.2 Pittwater 21 Development Control Plan

Table 2. Assessment against the Pittwater 21 Development Control Plan

| Development Control       | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| D9.9<br>Building envelope | <p>Elements of the Proposal still encroach the side boundary envelope to both the eastern and western neighbours. These elements are introduced as a direct result of the Proposal that seeks to construct a new third storey comprising 138m<sup>2</sup> of habitable floor area with additional external entertaining terrace built to the existing western facade and in breach of the height of building development standard.</p> <p>We contend the length of the Proposal is over 22m long and although efforts have been made to reduce the encroaches, no real attempt has been made to step back the newly introduced third storey, with architectural finesse only occurring to the new skillion roof. Further, it is considered the Site is relatively flat following the excavation and construction of the existing dwelling, so there is no real site constraint that makes compliance unreasonable or hard to achieve. As such, the Proposal is considered too visually dominant for the R2 Low Density Residential zone.</p> |

| Development Control | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                     | <p>Separately, neighbours to the east and west will experience a three-storey wall from their properties and is not consistent with what would reasonably be expected in the R2 Low Density Residential zone in accordance with the planning controls.</p> <p>Having regard to the above, it is concluded that the Proposal is inconsistent with the relevant objectives of the DCP, and the objectives specified in Section 1.3 of the EP&amp;A Act. Accordingly, we consider the Proposal cannot be supported by Council in this particular instance and the encroachment of the building envelope development control should form part of the reason for refusal of the Proposal.</p> |

## 2 Conclusion

We have reviewed the available documentation and determined that there remains a number of issues that warrant the refusal of the DA in its current form. The Proposal involves substantial variations to a number of planning controls and development standards and would result in an outcome that is inconsistent in the R2 Low Density Residential zone. These potential impacts have been outlined above and in our previous submission.

### 2.1 Recommendation

That Council recommend REFUSAL to the Northern Beaches Local Planning Panel for DA2024/0534 submitted 8 May 2024 for alterations and additions to residential development – Alterations and additions to a dwelling house over Lot 23 Section B DP 6195; 14 Bassett Street, Mona Vale NSW 2103.

Yours faithfully

**GLN PLANNING PTY LTD**



**ZACK WILSON**  
**SENIOR TOWN PLANNER**