

30 May 2024
Phoebe Brosnan and Miles Goodman
12 Bassett Street
MONA VALE NSW 2103

Att: Megan Surtees
Northern Beaches Council

Dear Ms Surtees

Re: Objection to Development Application Number: DA2024/0534,
14 Bassett Street, Mona Vale.

We write to object to the proposed alterations and additions to the property next door. Our objections can be summarised as follows:

1. Building height
2. Impact on visual privacy
3. Bulk and scale
4. Overshadowing
5. Acoustic privacy
6. Existing non-compliant construction

We have as yet been unable to acquire the original development application and plans. We will submit further comments when this is forthcoming from our GIPA request.

1. Building Height

We refute the applicant's 4.6 Variation submissions that *"the objectives of the development standard are achieved notwithstanding noncompliance with the standard."* This proposed third story extension does not achieve the stated objectives contained in the Pittwater Local Environment Plan 2014 or the Pittwater 21 Development Control Plan.

Objectives of the Building Standard

In the Pittwater Local Environment Plan 2014, 4.3 it states the objective of the building standard:

4.3 (1)

- (a) *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development..."*

The desired character of the locality is spelt out in the Pittwater 21 Development Control Plan, D9.1 which states the development should *"give the appearance of being two-storey maximum".* The Pittwater DCP also states that the development should *"enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment."* *"... not dominate the streetscape and are at 'human scale..."* *"The bulk and scale of buildings must be minimised."*

Contraventions of the Objectives of the Building Standard

a) Proposed building height is excessive.

The proposed development exceeds the maximum permissible building height. Clause 4.3 of the Pittwater Local Environment Plan 2014 specifies a maximum building height of **8.5m** in this Low-Density residential area (R2) of Mona Vale. The plans show the proposed development is **10.17m** above the extrapolated ground level. That's over **1.6 metres taller** than permissible, even without accounting for the excavation on the site. The applicant seeks to use an illegal roof structure to inflate the existing height measurement.

b) Development will not appear two storey

It cannot be argued that this proposal maintains the appearance of a two-storey building. It is in a prominent location and will be seen from many vantage points, with the third storey clearly visible. These photos shows that the new third floor will be clearly seen from the street and from elsewhere and will be even more obvious and intrusive from the neighbours' perspective. It is impossible to maintain that the extension "*will not be readily distinguished*".





c) Height and scale not compatible with surrounding development

This block is at a high point in the street so the third storey addition will tower over the surrounding two-storey residences. A three-storey building is not consistent with this section of Bassett Street. Our home at number 12 is typical of the street, with a single living level and a garage underneath. Bassett Street also has many single-storey properties. Even before the proposed third floor extension, 14 Bassett Street is a big and imposing house. As it is, 14 Bassett Street is already noticeably out of scale to the surrounding properties, and the proposed extension will significantly exacerbate this problem. If the DA is approved, Bassett Street will have a three-storey house towering over many single storey houses, such as number 12, 10 and 8 Bassett Street. In our submission, allowing the DA would change the cohesion and charm of Bassett Street, and possibly encourage other residents to build large and imposing residences.



d) Compliance is both reasonable and necessary

We do not agree that compliance with the height limit is unreasonable or unnecessary.

The existing home is substantial with high ceilings on both floors. There are already apparently three separate accommodation areas: a downstairs 1 bedroom flat, the main 3 bedroom house and additional accommodation in a secondary dwelling in the backyard. In total the *existing* accommodation is 5 bedrooms, 4 bathrooms, two kitchens, a “wetbar” and a four car garage.

On top of this there is another – unapproved - construction, which is described variously as a “chicken house” and a “rendered shed”, though it has a pergola, windows and other features which belie this description, including a lack of chickens. We note that when the backyard flat was retrospectively approved in 2022 this was marked on the plans as “to be removed”. Two years later, it’s still there.

We contend that the proposed, significant third floor extension represents an overdevelopment of a low-density residential site. It would result in 6 bedrooms, 5 bathrooms, 2 kitchens, and 2 “wetbars” along with very large living, entertaining and deck areas.

We believe a calculation of the existing and proposed floor area of all the accommodation on site, as well as the erection of height poles would reveal the inappropriate scale and height of this extension.

2. Privacy

The proposed development grossly impinges upon our privacy at no 12.

Visual Privacy Planning Principals and Guidelines

In *Meriton v Sydney City Council* [2004] Senior Commissioner John Roseth states

“When visual privacy is referred to in the context of residential design, it means the freedom of one dwelling and its private open space from being overlooked by another dwelling and its private open space”.

“At low densities there is a reasonable expectation that a dwelling and some of its private open space will remain private.” “...in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards...”

*“The **use** of a space determines the importance of its privacy...” “overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.”*

Roseth SC also states that the privacy of private open space adjoining living rooms should have greater protection:

“...the part adjoining the living area of a dwelling should be given the highest level of protection.”

The Pittwater Council 21 Development Control Plan C1.5 states:

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

*Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the **front or rear of the building**.*

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.”

There are many objectionable privacy aspects to this proposed third story:

a) The existing roof is not an approved roof terrace

In an attempt to justify this intrusive third floor the applicants claim that the existing flat roof is a roof terrace.

- The roof has never been used as a terrace and we believe a roof terrace was not part of the originally approved plans.
- The stairs to the roof were constructed without development approval.
- A length of glass balustrading was recently installed, again without consent.
- There is an illegal “temporary structure” on the roof. After complaints to Northern Beaches Council, we are informed that the applicant describes this as a temporary “cover” to protect a lift overrun. This structure has never been approved yet they use this to claim that the building is currently 9.87m.

- The photo of the roof does not indicate this is an existing roof terrace, and the Council should not be misled.



b) Replacing the parapet with glass balcony railings will impact privacy

The proposed removal of the solid parapet wall would have a significant impact on our privacy allowing overlooking of our private open space, living room and all three bedrooms from a side-facing terrace 15 metres long. These photos show how the extension would look directly into our beds.



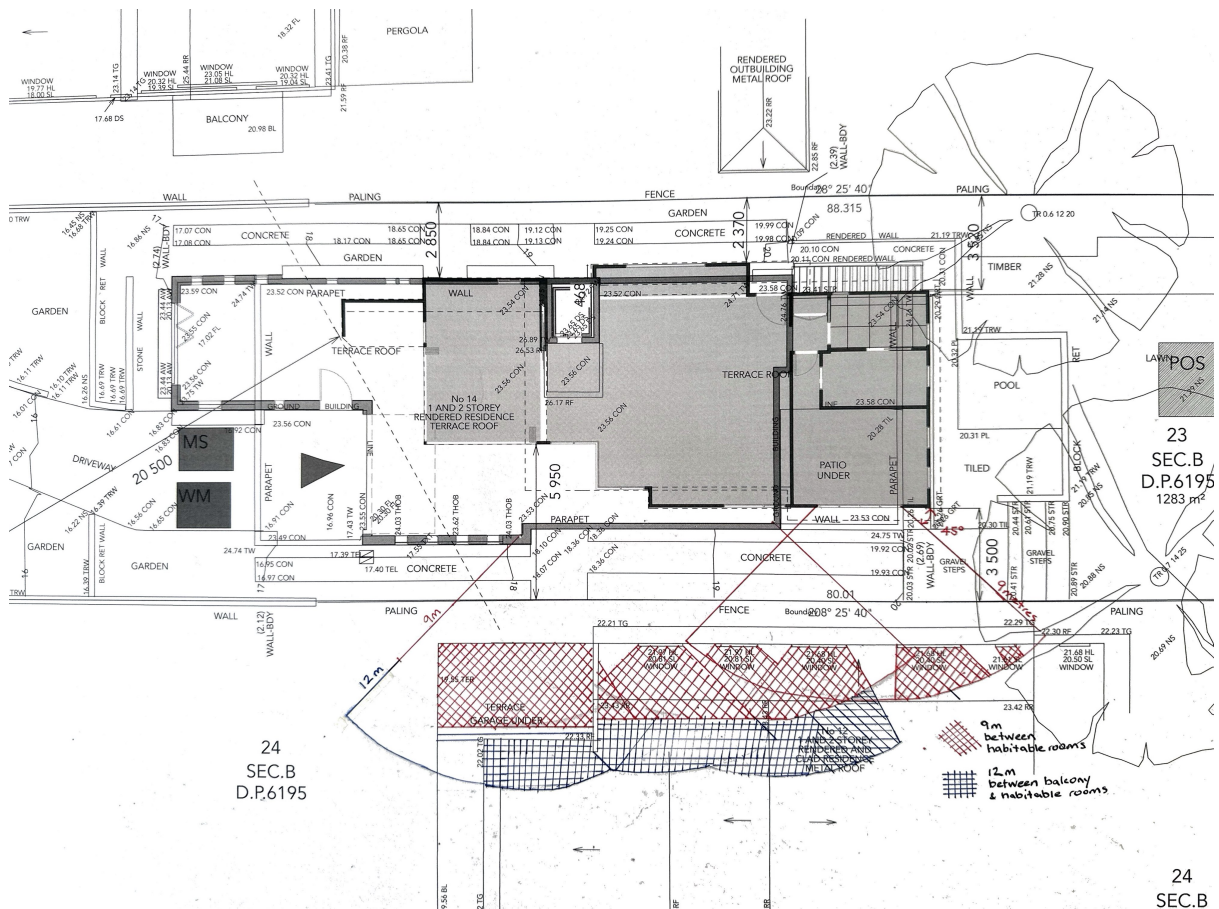


c) Floor-to-ceiling windows are side facing

The new development includes a large living room and bedroom windows facing the side boundary. All the windows overlook our living room, bedrooms and private open space.

d) Spatial separation is inadequate

This privacy diagram shows the roof terrace and windows of habitable rooms are significantly closer than the 9 metre minimum.



AMCORD recommends a separation of 9m between habitable rooms. For buildings up to three storeys, it suggests 12m between habitable rooms and balconies, 9m between a habitable and non-habitable room, and 6m between non-habitable rooms.

e) Proposed terrace and living room are not designed for “little use”

The application seeks to falsely minimise the impact on our privacy by suggesting the rooms are “*little used bedroom and parents retreat*”, yet it is clear from the artist’s rendering that this is an area meant for entertaining: barbeque, bar, sun lounges, TV and sofas. The scale of the area belies its description: the living area on the proposed third level measures roughly 9 metres by 9 metres, with a nearly 6 metres long wet bar. The adjoining roof terrace is about 9.5 metres across the front and 15 metres along the side. To give an idea of the scale, using the standard guidelines to calculate event space allowing 2 - 2.5m² per person, you could have a party for 70 -90 people in this entertainment area. This additional third floor “parent’s retreat” and terrace is a living area and should be judged as such in terms of privacy.

Further, we submit that it would be illogical for Council to approve such an imposing dwelling, which threatens the harmony and charm of the area, when the applicants themselves claim that the terrace and living room are designed for ‘little use’. It would be extremely unfair and unjust to residents of Bassett Street to have to live with such an imposing dwelling, and lose their privacy and sunlight, for rooms that apparently will be rarely used.

f) Private open space adjacent to our living room would be completely exposed

Our front verandah is immediately adjacent to our living room and is important private open space. This space would be completely exposed, and there would be a direct view into our living room closer than 9 metres. Well over 50% of this private open space would be compromised, as seen these photos.



g) Privacy screening has been removed from side facing windows on 2nd floor

We were forced to erect our own privacy screen when the screening on the side windows was removed without consent. We believe this screening was required after windows were built considerably larger than the approved plan. The proposed third floor would make our screen ineffective.

h) Third floor will overlook our backyard

The development application includes a photograph of the view of our backyard from the new bedroom. This photograph is misleading as the windows that allow overlooking are closer than this photograph shows. The photo taken from the northeastern corner of the roof is a more accurate representation of the view into our backyard from the proposed third-floor bedroom.



a) Habitable rooms are overlooked

The new terrace and living area would have a view directly into our three bedrooms and living room.



3. Bulk

The existing building is already bulky and out of character when viewed from the street and from the perspective of neighbours' homes. The existing building exceeds the building envelope on both boundaries and the proposed third floor extension further exceeds the building envelope on both sides of the block.

In *Veloshin v Randwick Council* 2007 Senior Commissioner John Roseth states that

The diagram illustrates a cross-section of a building facade with the following features and labels:

- Envelope line:** A red line representing the building's envelope, sloping downwards from left to right.
- Boundary:** A vertical line indicating the building's boundary.
- Interpolation ground line:** A dashed red line representing the ground level.
- Dimensions:**
 - 8.5m Height line to external wall ground line (top left)
 - 8.5m Height line to excavation ground line (top right)
 - 3.500 (vertical dimension on the left)
 - 8.500 (vertical dimension on the left)
 - 3.500 (vertical dimension on the right)
 - 8.500 (vertical dimension on the right)
- Labels:**
 - 6, 10, 7, 2, 4, 1, 5, 11, 8, 12, 12

The proposed additional bulk exceeds Council's guidelines and objectives regarding bulk. The building envelope exists for a reason, and this proposed building is bulky throughout.

The proposed third floor extension will have an impact on the sun that reaches our front veranda and bedrooms. Also, we question the accuracy of the shadow diagrams. To achieve accurate shadow studies Revit True North must be rotated to True (Solar) North not Magnetic North. Do these studies adjust Magnetic North for the deviation appropriate to the site?

This is achieved by siting

“Noise-sensitive rooms, such as bedrooms, ... away from noise sources, including ... living areas and communal and private open space areas and the like.”

The development application fails to account for the likely additional noise from the proposed large rooftop terrace and entertaining area. This new development is likely to generate additional noise for the adjacent master bedroom in particular. It is not adequate to dismiss this concern as they do in the Statement of Environmental Effects:

“Given the residential nature of the works, it is suggested that there will not be any significant change to the existing site conditions.”

We believe the sizable rooftop terrace, entertaining and barbeque area, does pose a significant additional acoustic burden on the bedrooms in our house less than 6 metres away.

6. Existing non-compliant constructions

The Council is being asked to consider further construction on this site, while previous Council guidelines and rulings have been disregarded.

- a. Illegal shed constructed on roof
- b. Unapproved “chicken house” construction has not been removed
- c. Stairs to roof constructed illegally
- d. Balcony railing on roof erected without approval
- e. Windows on 2nd floor do not match approved plans
- f. Privacy screening to these windows removed without consent

These non-compliant constructions should be addressed before any further construction is considered. The applicant has shown a willingness to disregard the need for building approvals, and Council should take a dim view of these flagrant contraventions.

As noted above this initial objection is likely to require further elaboration once we can obtain the originally approved plans for the existing development at 14 Bassett Street.

Sincerely

Phoebe Brosnan & Miles Goodman
Owners and residents,
12 Bassett Street, Mona Vale