



northern
beaches
council

MEMORANDUM

DATE: 09/04/2024

TO: Development Determination Panel (DDP)

FROM: Dean Pattalis

SUBJECT: Item 3.2 - DA2023/1043 - 21 Battle Boulevarde SEAFORT

The purpose of this memo is to advise the Panel that a further submission has been provided by the adjoining property owner at No.23 Battle Boulevard which raises the following concerns:

- **Disputing the findings and conclusions of the view loss assessment within the assessment report, including impact of privacy screening recommended via condition**

Comment: It is noted the objector's response disagrees with the findings of Council's view loss assessment. However the merits of the proposal in the context of Tenacity Consulting vs Warringah Council [2004] are considered to be sufficiently addressed in the assessment report and supportable. The objector has raised concern regarding view loss impacts of the privacy screens recommended via condition on the eastern and western elevations of the first floor balcony. Whilst is considered by the assessing officer that there is no impact to view sharing upon No.23 resulting from these privacy screens, it is recognised that both the owners of No.23, as well as the owners of the subject site via separate correspondence, have expressed an objection to the privacy screen on the western elevation. It is therefore recommended that the western privacy screen be removed (see below).

- **Proposed photomontage considered by objector to be inadequate**

Comment: It is contended by the objector that the photomontage provided with the application is inadequate for the purposes of the development assessment. In response, it is advised that the photomontage has not been relied upon as an essential material for this assessment but has rather been provided as a supporting document by the applicant. The recommendations and conclusions of the assessment are not contingent or dependent on this photomontage.

- **Proposed variation to Clause 4.3 Height of Buildings considered by objector to be unreasonable**

Comment: The objector maintains that design amendments are available to reduce the proposed variation to the height of building development standard, including reducing floor to ceiling heights and slab thickness. Whilst this may be possible, the assessment under Clause 4.6 within the assessment report considers the height variation, as proposed, to possess sufficient environmental planning grounds including being contextually consistent with the character of adjoining development.

The floor to ceiling heights as proposed are considered to provide a high level of amenity to the property owner whilst not resulting in an unreasonable outcome under Clause 4.6.

- **Proposed variation to Clause 4.3A Special height provisions under MLEP 2013 not addressed under Clause 4.6**

Comment: The objector considers that the proposed driveway crossing/landing area represents a variation to Clause 4.3A MLEP 2013. The assessment has not considered the level of the proposed driveway to be relevant to Clause 4.3A, but rather the dwelling proper or 'building' as stated within the clause.

- **Proposed variation to Clause 4.4 Floor Space Ratio under MLEP 2013 not addressed under Clause 4.6**

Comment: The objector considers the proposal to be non-compliant with Clause 4.4 Floor Space Ratio, citing that the landing to the staircase on the ground floor level as well as the walls surrounding the lift shaft have been incorrectly excluded. In response, it is considered that the landing to the staircase as well as the walls surrounding the lift shaft are necessary parts of those structures which serve their function and are therefore reasonably excluded from the calculation as per the dictionary definition for Gross Floor Area under MLEP 2013.

- **Incorrect number of submissions being recognised in the assessment report**

Comment: The assessment report correctly states that objections have been received from two unique objectors, being the owners of No.19 and No.23 Battle Boulevard. Multiple objections from the one property owner do not qualify as additional submissions.

- **Light nuisance created by headlights from vehicles utilising the new driveway access**

Comment: The impact of light nuisance from vehicle headlights has been addressed within the submissions section of the assessment report, stating the vehicle headlights in this context are not considered to be an unreasonable amenity impact within a residential setting.

In addition, the applicant for the DA has also submitted correspondence to Council for amendments to Condition 15. Amendments to the approved plans, including deleting the requirement for a privacy screen on the western elevation as well as attaching a privacy screen to window W14 rather than raising the sill height. As stated above, given the adjoining property owner to the west has also expressed no desire for this privacy screen and requested it to be deleted, a change to the condition is therefore considered to be reasonable. It is also considered that a privacy screen on window W14 will result in a similar privacy outcome in comparison to raising the sill height.

The requested amendments to Condition 15 by the applicant are therefore considered reasonable.

Recommendation –

Condition 15. Amendments to the approved plans shall be amended to read as follows:

The following amendments are to be made to the approved plans:

- *A 1.5 metre privacy screen (measured from finished floor level) is to be erected along the eastern elevation of the first floor balcony located off the living/dining room as shown on the approved plans. The screen shall be 2 metres in length commencing from the external wall of the living/dining room. The privacy screen shall be of fixed panels or louver style construction*

(with a maximum spacing of 20mm), in materials that complement the design of the approved development.

- *A 1.5 metre privacy screen (measured from finished floor level) is to be affixed to window W14 on the western elevation of the first floor dining room. The privacy screen shall be of fixed panels or louver style construction (angled 45° and with a maximum spacing of 20mm), in materials that complement the design of the approved development.*
- *The eastern wall of the external staircase which runs along the eastern boundary on the lower ground floor and lower yard plan shall result in a height of no greater than 2.7m above existing ground level at any point.*
- *The plant schedule of the approved Landscape Plan prepared by Ecodesign shall be amended to not include any new plantings or species possessing a mature height of greater than 5m.*

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.