

MEMORANDUM

To: Northern Beaches Local Planning Panel

From: Peter Robinson, Executive Manager Development Assessment

Date: 29 April 2024

Subject: DA2024/0111 - 13 Coles Road FRESHWATER

Record Number: 2024/308236

Council received a letter dated 29 April 2024, from the owners of the subject site raising concerns in relation to recommended conditions in Council's assessment report which amends the driveway and car parking structures and the proposed rear stair. The relevant conditions are numbered 7, 13 and 17.

1. Proposed Amendments to the Driveway and Garage

The letter claims that the recommended conditions will result in a breach of point (2) of the Terms of Discontinuance in NBC vs Nicholas Herbertson (2023/92452), which reads as follows (bold emphasis added):

"2. The Respondent undertakes to lodge a development application with the Applicant seeking consent to amend the development approved by Complying Development Certificate 2021/045/04Mod ("CDC Mod 4") to do the following:

a. Inclusion of a roof area that will include a pitch of 3 degrees such that it cannot be used as an unlawful roof terrace; and

b. Amendments to the driveway and garage such that it is compliant with the access and area requirements for parking structures."

Presently, the existing driveway does not provide vehicular access to the existing garage, due to a step in the driveway slab and the existing garage width does not meet the minimum dimensions for an enclosed car space.

Condition 17 states:

1. The retention of the existing western wall of the garage and the use of the structure for storage is not approved.

And

3. The driveway levels indicated on drawing No. DA-13, Rev. B dated January 2024, shall be amended such that vehicular access may be gained to the carport approved through CDC No. 2021/045.

The approved CDC included the demolition of the southern and western walls of the existing garage to create a partially enclosed carport and enable the car space to meet the minimum required access width. The approved CDC plans also show the alteration of the existing driveway levels to enable vehicular access to the approved carport.

Condition No. 17 recommended in Council's Assessment Report requires the works to the existing garage and driveway to be undertaken as approved through the CDC. The outcome intended through the imposition of Condition No. 17 would be entirely consistent with the above Terms of Discontinuance, in that the driveway levels would enable vehicular access to the partially enclosed carport and the width of the car space would comply with the minimum required dimension.

If there is a further issue with the CDC approved carport that requires amendments to make the CDC carport compliant with access and area requirements, condition 17 can be further amended to achieve this. However this does not simply justify the conversion of the existing garage to a storage room and reduction of on-site parking.

With regard to the deletion of the proposed carport within the front setback, it is considered that the garage on the adjoining property, 11 Coles Road, is an anomaly within the streetscape. The carport was approved in 1989 with a flat roof and rebuilt in 1999 with a pitched roof. A factor in the assessment of the carport at 11 Coles Road was that no parking was capable behind the building setback.

Garage or carport structures forward of the building line are not prevalent within the visual catchment of the site. For the reasons discussed in the assessment report, the proposed carport is not supported.

2. The Setback of the Proposed Stair

The letter objects to the 1.4m eastern side stair setback required by Condition No. 13 on the basis that the existing privacy screening on the adjoining property and the screening provided by landscaping. The additional setback is considered necessary for the reasons set out in the Assessment Report, noting that landscape screening cannot be given substantial weight in providing privacy. It is also noted that the stair setback required by Condition No. 13 is consistent with the setback proposed at the time of lodgement of the development application.

Conclusion and Recommendation

The concerns raised in the letter do not alter the conditions or recommendation of the Assessment Report.