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MEMORANDUM

DATE: 25 May 2020
TO: Development Determination Panel
CC: Rodney Piggott, Manager Development Assessment
FROM: Claire Ryan, Principal Planner
SUBJECT: DA2019/1175 – 55 Wheeler Parade, Dee Why

Dear Panel,

Following publication of the Assessment Report for DA2019/1175 Wheeler Parade, Dee Why, the Applicant lodged a submission, raising the following concerns:

New Development vs Alterations and Additions

The Applicant disagrees that the proposed development should be considered new development. The Applicant notes a significant portion of floor space is retained. The Applicant notes that if the DA is rejected on this basis, they will pursue a complying development certificate application, or a building envelope complying with the WDCP 2011, thereby resulting in greater impacts to adjoining properties.

Comment:

The test for development being considered new or alterations and additions takes in to consideration more than proportion of floor space retained. The Assessment Report details the professional opinion of the Assessing Officer. The DDP may form their own opinion in this regard. The Applicant may exercise their lawful right to apply for a complying development certificate or new development application. This does not impact upon assessment of the current application.

View Loss from Height of Building

The Applicant disagrees that the height of the proposed development results in view loss to multiple properties, and notes the impacts on one property only (51A Wheeler Parade) due to a portion of development that is compliant with the height of buildings development standard.

Comment:

An assessment of the anticipated view loss is contained within the Assessment Report for the Panel's consideration.

Privacy

The Applicant disagrees with the reported impact on privacy and overlooking for adjoining properties.

Comment:

An assessment of the anticipated privacy (overlooking) impact is contained within the Assessment Report for the Panel's consideration.



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Overshadowing

The Applicant disagrees with the reported impact on overshadowing of the private open space of the adjoining property at 94 Headland Road.

Comment:

An assessment of the anticipated overshadowing impact is contained within the Assessment Report for the Panel's consideration.

View Sharing

The Applicant disagrees with the application of the view loss planning principle in the Assessment Report. The Applicant also notes that assessment of views was carried out outside of the period when height poles were erected, rendering the height poles an unnecessary expense.

Comment:

An assessment of the anticipated view loss with reference to the view loss planning principle is contained within the Assessment Report for the Panel's consideration.

Submissions

The Applicant claims a submission by Mr Conrad Martin was not made. The Applicant also notes that a submission made by McKees Legal Solutions on behalf of Mr Duane Anthony Lankow was listed separately and should have been noted in conjunction with the submission made by Mr Lankow himself. The Applicant claims this unreasonably lifts the number of submissions by two. The Applicant also notes other adjoining neighbouring properties did not make a submission.

Comment:

A submission by Mr Conrad Martin was received by Council on 14 December 2019. This submission was erroneously not placed online. This has since been corrected. However, this submission should have been noted in conjunction with the submission made by Mr David William Martin, as they are made by occupants of the same property. It is also noted that the submissions made by Mr Duane Anthony Lankow and McKees Legal Solutions should be considered in conjunction with each other, as they are made on behalf of the same property. This brings the total number of submissions to five, as follows:

1. Mariangela Agostino of 51 Wheeler Parade, Dee Why
2. David William and Conrad Martin of 51A Wheeler Parade, Dee Why
3. Sherif Victor Hanna of PO BOX 4336 North Curl Curl
4. Duane Anthony Lankow of 1 Burilla Avenue, North Curl Curl, and McKees Legal Solutions on behalf of Mr Lankow
5. Lisa Jane Comport of 96B Headland Road, North Curl Curl

The Panel may wish to make note of this in their review of the application. However, the number of submissions does not affect assessment of the application, and does not impact upon the level of determination required for this application.

Assessing Officer

The Applicant notes that Claire Ryan has not inspected the subject site or made herself known to the Applicant.

Comment:

The assessment of DA2019/1175 was carried out in full by a Council officer who passed away prior to publication of the Assessment Report. The Assessment Report is the professional opinion of that officer only. Given Ms Ryan has had no part in assessment of the application, her attendance at the subject site was not necessary. Ms Ryan is noted as the Responsible Officer in the Assessment Report to ensure there is a Council officer as point of contact in the original officer's absence. Mr Rod Piggott the supervising Manager visited the subject site and adjoining sites and concurs with the Recommendation in the assessment report.



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Surrounding Development

The Applicant disagrees that the predominant height of surrounding development is 8.5m, as noted in the Assessment Report. The Applicant also asserts that the subject site provides greater landscaping than surrounding development.

Comment:

This is a matter for the DDP to consider in their review of the development application and surrounding sites.

Note: This application is the subject of a current appeal before the NSW Land & Environment Court and an independent planning expert has been engaged to defend the appeal on Councils behalf.

Claire Ryan
Principal Planner
Planning and Place