

Memo

Development Assessment

To: Application Determination Panel

From: David Auster
Development Assessment Officer

Date: 26 November 2014

Subject: Further submissions in relation to MOD2014/0207

Record Number MOD2014/0207

Two further submissions have been received in relation to the ADP report. One submission was received dated 26/11/14 from the owners of 26 and 28 Carew Street. The applicant has also made a submission dated 26/11/14 in relation to the ADP report.

The following matters raised in the submission from the owners of 26 and 28 Carew Street are addressed as follows:

Privacy

Concerns are raised that the privacy impacts will not be reasonable.

The assessment has been undertaken in the context of Council's controls relating to privacy and the proposed modifications. As stated in the report, subject to conditions of consent, the proposal is considered reasonable in its context.

Concerns were raised that the proposed louvres are insufficient to protect privacy, and that absolutely no overlooking of the neighbouring properties should be permitted from the eastern facing windows.

As discussed in the report, it is considered that the addition of the louvres will prevent any unreasonable overlooking of neighbouring properties. The conditioned gaps of 25% of the width of the louvres will make downward viewing very difficult.

The upper level east facing windows are bedroom and bathroom windows, with the exception of W24, which is adjacent to a void. These windows have a relatively low privacy impact. As discussed in the report, subject to the recommended conditions of consent the proposal is not considered to result in unreasonable privacy impacts.

Solar Access

Concerns were raised that solar access has already been greatly compromised for 26 and 28 Carew Street, and any increase to the height of the building, no matter how small, would be unreasonable.

The development will impact on the afternoon sunlight of 26 and 28 Carew Street. However, as discussed in the report for the original application, the development



maintains solar access to neighbours in accordance with the requirements of the Warringah Development Control Plan 2011 (WDCP).

The proposed modifications will not alter this outcome, and the development will continue to maintain adequate solar access to neighbouring properties, as measured in accordance with Clause D6 *Access to Sunlight* in the WDCP.

As discussed in the report, the proposed modifications will have a negligible impact on the overall overshadowing caused by the development.

Height Increase

Concerns were raised that the development should not breach the 8.5m height limit.

It seems that some confusion has been caused by the sentence in the report that states: *"The building will continue to remain well below the 8.5 m height for the majority of the building"*.

To clarify, as a result of the proposed modifications, the highest point of the building will be 8.28m above ground level, as stated in the Principal Development Standards table in the report. The majority of the building will be at a lower height above ground level.

The building fully complies with the 8.5m building height limit.

Proposed modifications are major not minor

Concerns were raised that the proposed modifications should be considered major and not minor, particularly in relation to a detention pit and basement pump out tank currently being constructed on site.

The issue of whether the proposed modifications should be considered major or minor has been discussed in the report, and no change is made to that assessment.

The stormwater works do not form part of the proposed modifications being assessed as part of the current modification application.

Council's Development Engineers have approved a basement pump out tank as part of a stormwater plan approved under Section 68 of the Local Government Act 1993 and pursuant to the Environmental Planning and Assessment Act 1979 S 109C (1), 81A (3) and 81 A (4).

These plans were approved in accordance with the existing conditions of consent for the development. They are not relevant to the assessment of the proposed modifications under MOD2014/0207.

Mediation

The submission includes a heading "Mediation," however there is no request for mediation. No further action is required in this regard.

Further concerns are raised with the 'western boundary wall' and whether it will now be required to comply with the setbacks required under the DCP. It is assumed that this is the western wall of the existing garage. This wall was moved to comply with the 900mm side setback requirement under the original development application. No further modifications are proposed under the current application.

Further concerns were raised regarding the front setback. The proposed modifications do not alter compliance with the front boundary setback requirement. No further assessment is required in this regard.



Applicant Submission

The applicant has also written a further submission in relation to the ADP report.

The submission states that the applicants are generally happy to accept the recommended conditions. However, they believe the condition to require W8 to be opaque to a height of 1.65m above finished floor level is unnecessary. This is due to the intention to construct a minimum 1.65m high fence along the eastern boundary, and intention to plant screen planting in the eastern side setback.

It is suggested that Council could condition the fence.

There is currently no existing side boundary fence capable of providing adequate screening, and no fence is approved as part of the existing plans or proposed modifications. Boundary fences are generally left to private agreements between neighbours under the Dividing Fences Act 1991, and are not required as a condition of consent by Council.

Further to this, there are large rock areas in proximity to window W8, and there is no guarantee that screen planting would be able to grow to adequate levels or thickness.

As discussed in the report, W8 is a window to the primary living area of the dwelling, and looks directly over the rear private open spaces of the neighbouring properties to the east. The living room will maintain excellent outlooks and views to the north if W8 is made opaque as recommended.

No changes are recommended to the current conditions of consent in this regard.