
Sent: 18/03/2024 6:59:30 PM
Subject: Objection to proposed development DA 2024/0178
Attachments: DA2024_0178 Submission.pdf;

Dear Ms Harrison,
Thank you for taking the time to review our submission on the development application submitted for 22 Heather St, Wheeler Heights.

Attached is our submission letter detailing our objection to the application.

Should you wish to discuss our objection or arrange to visit our home to better understand the impact to 22A Heather St, please feel free to contact me through this email.

Kind Regards,
Siobhan Tapia-Smith

Dear Ms Brittany Harrison,

Thank you for the opportunity to comment on DA 2024/0178 at 22 Heather Street, Wheeler Heights.

The development application proposes modifications to an approved CDC 17/275, including a proposed deck to the family room (first floor, facing south).

In reviewing the Statement of Environmental Effects and submitted plans, I strongly object to the proposed deck to the family room (first floor, facing south) as it will adversely impact on our privacy at 22A Heather Street.

To address this concern, Council is requested:

1. To not approve the proposed deck to the family room (first floor, facing south).
2. To reinstate the approved structure at this location under the CDC 17/275, which is a timber pergola above the timber deck to the living room (ground floor).

The reasons for the objection are:

1. Non-compliance with Council's Development Application Lodgement Requirements

The submitted plans do not comply with Council's Development Application Lodgement Requirements, which require:

- Page 5 – the floor plans to show the 'location and levels of all buildings/structures on adjoining land (including any openings or decks/balconies facing the site)'.
- Page 5 – the elevations and cross-sections to show the 'location of all buildings/structures on adjoining land'.
- Page 8 – the boundary identification survey to 'show the position of existing structures on adjoining land within 3 metres of the boundary, including description, street number, floor level, ridge height, and window levels & locations in the walls closest to the side boundaries'.

The floor plans and cross-sections do not show the windows or private open space of the neighbouring house at 22A Heather Street, in order to show the adverse impacts the proposed deck will have on the visual privacy and acoustic privacy of 22A Heather Street.

2. Non-compliance with the Warringah Development Control Plan 2011 – Part B5

The objective to Part B5 (Side Boundary Setbacks) reads 'to provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained'.

While the proposed deck may numerically comply with the minimum setback, the siting and size of the proposed deck does not comply with the objective as it does not maintain a reasonable level of privacy to the living areas of 22A Heather Street. Landscaping and privacy screens should not be relied on as the sole protection against overlooking.

3. Non-compliance with the Warringah Development Control Plan 2011 – Part D8

The objective to Part D8 (Privacy) reads ‘to ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours’.

The proposed deck does not comply with the objective and requirements of Part D8 as:

- Clause D8(1) – The siting and size of the proposed deck does not optimise the privacy of occupants of adjoining properties.
- Clause D8(2) – The proposed deck is not orientated to face the principal private open space within the site to limit overlooking.

It is noted that the DCP refers to the NSW Land and Environment Court’s planning principles. In relation to visual privacy, the planning principle notes that at low densities, there is a reasonable expectation that a dwelling and some of its private open space will remain private. The planning principle does not accept the overlooking of neighbours that arises out of poor design.

There is an alternative design that provides better amenity to the applicant while complying with Part D8 of the Warringah Development Control Plan 2011, which is to relocate the deck to face the north of the site. This would provide the proposed deck with better solar access, while overlooking the new swimming pool in the principal private open space within the site.

Recommended changes to the development application

For these reasons, Council is requested:

1. To not approve the proposed deck to the family room (first floor, facing south).
2. To reinstate the approved structure at this location under the CDC 17/275, which is a timber pergola above the timber deck to the living room (ground floor).

As part of your assessment, I welcome the opportunity for you to visit our site to see the adverse impacts the proposed deck will have on our privacy.

I also welcome the opportunity to provide further comment should the applicant submit revised plans in accordance with Council’s Development Application Lodgement Requirements. The revised floor plans and cross-sections must show the position of our existing house and private open space, including floor levels, window levels and window locations.

Yours sincerely,

Siobhan Tapia-Smith and Brad Smith