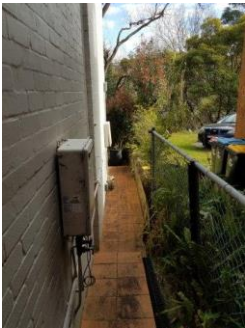


**DRAFT**

11<sup>th</sup> August 2022.

Response to Tara Voyce Submission Dated – 29<sup>th</sup> June 2022.

By Micheal Fountain Architect Pty Ltd.

Item No.	Item	Concern	Response
1	<b>Introduction</b>	I request that the applicant be required to reconsider and amend their development proposal to accommodate these concerns.	Our clients are willing to change the design to address the concerns of their neighbours.
2	<b>B3 Side Boundary Envelope</b>	Encroachment on the side boundary envelope.	<p>The design has been modified to reach compliance with this control.</p> <p>The staircase and upper bathroom roofs have been lowered and the roof eave reduced.</p> <p>The proposed side boundary envelopes now comply with the DCP</p>
3	<b>B5 Side Boundary Setbacks</b>	The side boundary setbacks do not comply with the requirements in a number of aspects.	<p>The design does comply with the side boundary setback controls.</p> 

			Existing configuration.
	<p><b>WDCP Excerpt.</b></p>	<p><b>Requirements</b></p> <p><i>“Development on land shown coloured on the DCP Map Side Boundary Setbacks is to maintain a minimum setback from side boundaries as shown on the map”.</i></p> <p>The setback required by the WDCP is 900mm.</p> <p><i>“Side boundary setback areas are to be landscaped and free of any above or below ground structures, car parking or site facilities other than driveways and fences”.</i></p> <p><i>“Land Zoned R2 All development: Screens or sun blinds, light fittings, electricity or gas meters, or other services infrastructure and structures not more than 1 metre above ground level (existing) such as unroofed terraces, balconies, landings, steps or ramps may encroach beyond the minimum side setback.”</i></p>	<p>The side boundary set back required by the controls is 900mm.</p> <p>The side boundary setback to the existing house is 1000mm.</p> <p>The side boundary setback to the proposed dwelling is 1500mm and 2900mm.</p> <p>Land Zoned R2, which this is, enjoys an exception for landing steps and ramps so long as those structures no not extend more than 1m above the existing ground level.</p> <p>The proposed steps and landing adjacent the northern boundary approximate the existing steps and landing.</p> <p>The proposed structures are at or marginally below the existing pathway and the neighbouring land.</p> <p>A services and drainage passage is located under the proposed landing and stair in compliance with the exception.</p> <p>The proposed northern wall of the new dwelling will be setback a further 500mm than the existing wall.</p> <p>The existing shared garden bed between the properties will be widened be 300mm on the subject site.</p> <p>The existing landscaping and trees to the front and rear of the subject property act together to provide ample green separation between the two properties to achieve the objectives of the DCP.</p>

			The proposed side boundary setback complies with the DCP.
3	<b>D7 Views</b>	<p>The DCP requires a reasonable sharing of views.</p>	<p>The proposed dwelling sits completely under the 8.5m height limit for the lot.</p> <p>As the proposed dwelling steps up the existing land slope, it will sit between 1.8m and 4.8 metres below the height plane at the eastern end of the house. Ref Section A</p> <p>The views enjoyed by the neighbouring property are of trees and sky in between the roofs of the existing house.</p>
		<p>The WDCP references the planning principles established by the following judgement.</p> <p>Tenacity Consulting v Warringah [2004] NSWLEC 140 Principles of view sharing: the impact on neighbours.</p> <p>25 The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.</p> <p>26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in</p>	<p>Response to the planning principles:</p> <p>25. The proposed development as illustrated in the neighbour's montage retains some of the existing views, as such the planning principles are invoked.</p> <p>26. The First Step The subject views are not iconic, they are partial and obscured.</p> <p>27. The Second step. Consider from what part of the property the views are obtained. <i>"The expectation to retain side views and sitting views is often unrealistic."</i></p> <p>It is unrealistic in this circumstance to expect that the side views of the subject property should be retained in their entirety.</p>

		<p>which the interface between land and water is visible is more valuable than one in which it is obscured.</p> <p>27 The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.</p> <p>28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss as negligible, minor, moderate, severe or devastating.</p> <p>29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered</p>	<p>28. The Third Step – Extent of Impact</p> <p><i>“This should be done for the whole of the property, not just for the view that is affected.”</i></p> <p>While the view loss from the referenced windows may be seen qualitatively as moderate, we assume that alternate views are available from the kitchen and living room such that the overall impact on the spaces will be minor.</p> <p>29. The Fourth Step – Reasonableness of the proposal.</p> <p><i>“A development that complies with all planning controls would be considered more reasonable”</i></p> <p>The proposal complies with the planning controls.</p> <p><i>“With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”</i></p> <p>The proposed dwelling is complying and it sits well below the 8.5m height plane.</p> <p>An alternate complying design could have seen the full occupation of the height plane which would have had a more onerous impact on the side view of No. 30.</p>
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		unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.	To this end a more skilful design that achieves the development potential of No.28 would not improve the side view impact on No.30 as such the complying development is considered acceptable and the view sharing reasonable.
4	<b>D8 Privacy</b>	The privacy impacts of the doors to the balcony that faces the neighbours lounge room and balcony.	The doors on both levels are noted to be glazed with translucent glass and a privacy screen has been proposed to prevent views from one deck to the other. A new tree is proposed to be planted in the area between the properties forward of the proposed stairs.
5	<b>D9 Building Bulk</b>	Impacts on the kitchen window, front and back deck views over the subject property.	This issue has been addressed in item 3.
5a		Appropriate techniques for bulk reduction, building footprint, side and rear setbacks increased with wall height. Roof encroaching on the building envelope.	Building bulk is addressed in item 5e Side and rear setback are addressed 5e. The main roof eaves have been amended to reduce their width. The extension of the roof outside the building envelope is permitted by the WDCP via the exception for land zoned R2. The eaves are permitted to extend to 0.675 to the boundary where as the proposed eaves will setback from the boundary by 2300mm <i>"Exceptions Land Zoned R2 or E4 or Zoned RU4 with frontage to The Greenway For all land zoned R2 or E4, or land zoned RU4 with frontage to "The Greenway", Duffy's Forest:</i>

			<i>Fascias, gutters, downpipes, eaves (up to 0.675 metres from the boundary), masonry chimneys, flues, pipes or other services infrastructure may encroach beyond the side boundary envelope."</i>
5b		Excavation concerns	<p>The development application is supported by a geotechnical assessment by J&amp;K Geotechnics.</p> <p>This assessment will be updated to include the amended dwelling design.</p> <p>The recommendation of the report will be adopted in their entirety and as such the stability of the site will be managed to an acceptable level.</p>
5c		Impacts of wrap around balcony, un necessary encroachment.	<p>The privacy impacts of the wrap around balcony have been addressed in item 4.</p> <p>The balconies do not encroach on the setback or envelope provisions of the WDCP.</p> <p>These elements are vital in the protection of the doors and windows beneath them as well as the provision of shade and reduction of the visual mass of the proposed dwelling.</p>
5d		Concerns regarding tree removal	<p>The vast majority of the trees on the subject site will be retained.</p> <p>The application is supported by an Arboricultural impact assessment.</p> <p>This assessment will be updated to include the design amendments and the replacement of two of the three trees that are required to be removed.</p>

5e		<p><i>WDCP Requirements:</i></p> <p><i>Requirements</i></p> <ol style="list-style-type: none"> <li><i>1. Side and rear setbacks are to be progressively increased as wall height increases.</i></li> <li><i>2. Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.</i></li> <li><i>3. On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:</i> <p><i>The amount of fill is not to exceed one metre in depth.</i></p> <p><i>Fill is not to spread beyond the footprint of the building.</i></p> <p><i>Excavation of the landform is to be minimised.</i></p> </li> <li><i>4. Building height and scale needs to relate to topography and site conditions.</i></li> <li><i>5. Orientate development to address the street.</i></li> <li><i>6. Use colour, materials and surface treatment to reduce building bulk.</i></li> <li><i>7. Landscape plantings are to be provided to reduce the visual bulk of new building and works.</i></li> <li><i>8. Articulate walls to reduce building mass.</i></li> </ol>	<ol style="list-style-type: none"> <li>1. The side setbacks as proposed are 1500mm at the proposed dwellings closest point to the boundary, 600mm wider than the setback required by the DCP. This setback increases to 2900mm, 2000mm wider than the setback required by the DCP. The existing house has a setback of 1000mm.</li> <li>2. There are no continuous wall plane on the northern elevation. The elevation is fully articulated in form, material and shade to provide visual relief.</li> <li>3. The amount of excavation has been minimised while still achieving the development potential of a complying design. The proposed dwelling does step down the hill and there will be no fill introduced or kept on the site. The proposed excavation is contained completely within the footprint of the existing structures on the site with little disturbance to the natural rock features and trees to the front middle and rear of the property.</li> <li>4. The proposed building height sits under the 8.5 metre height plane.</li> <li>5. The proposed dwelling is oriented towards the street; it occupies the full width of the Lot available to it while maintaining compliance with the development controls in the planning instruments.</li> <li>6. Colours, materials, textures are varied on all façade to reduce the bulk of the proposed dwelling.</li> <li>7. Existing landscaping to all boundaries is either retained, replaced or enhanced to reduce often the built form.</li> </ol>
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			<p>8. All wall planes are completely articulated via the use of steps in the form.</p> <p>The form is broken down into a series of composed elements that emphasise horizontal over the vertical</p> <p>The proposed dwelling in compliant with this control.</p>
6	<b>Geotec Concerns</b>		<p>The development application is supported by a geotechnical assessment by J&amp;K Geotechnics.</p> <p>This assessment will be updated to include the amended dwelling design.</p> <p>The recommendation of the report will be adopted in their entirety and as such the stability of the site will be managed to an acceptable level.</p>

End.