

Director City Planning Report No. CP75/17



Subject: 20 Dundas Street, Coogee (DA/150/2017)

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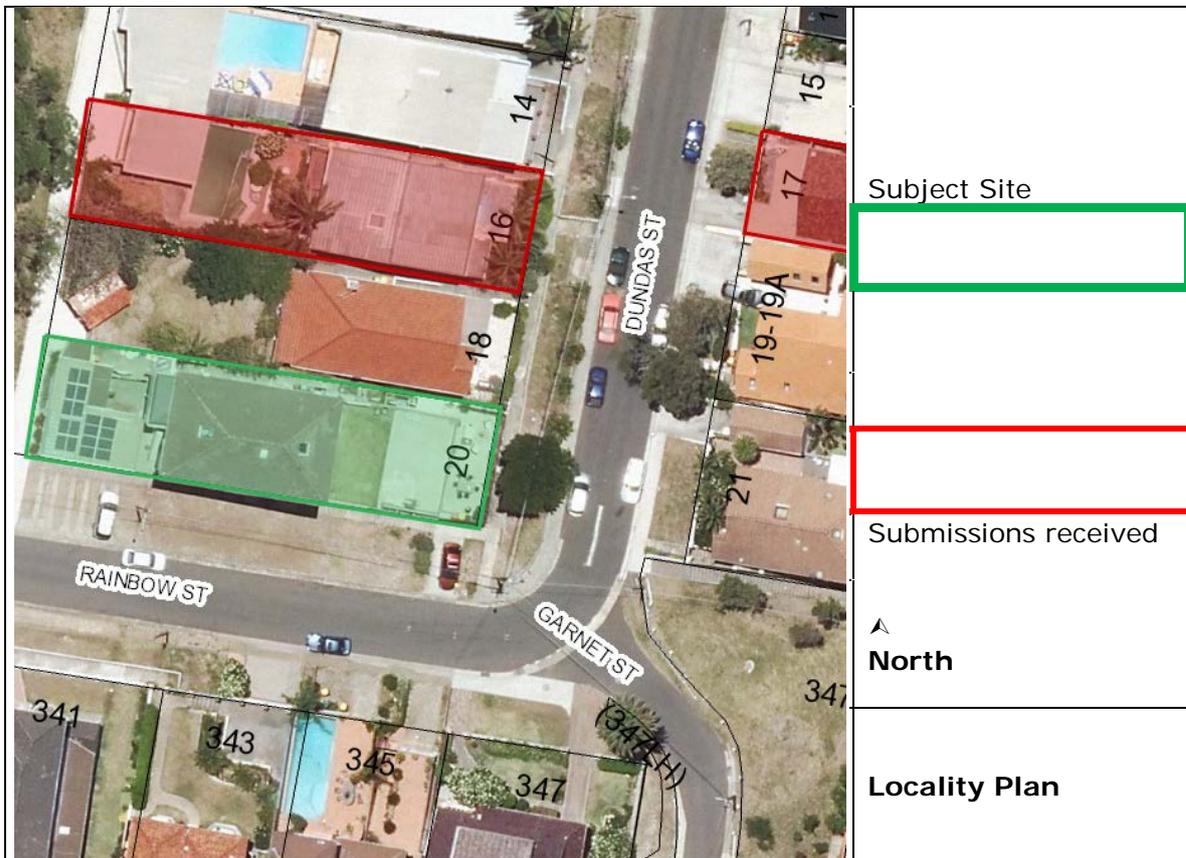
Proposal: Legitimise the use of the existing garage as a one bedroom dwelling.

Ward: Eastern Ward

Applicant: Mr D Taylor

Owner: Mr N Murray

Summary Recommendation: Refusal



Development Application Executive Summary Report

The application is referred to Council for determination as the Clause 4.6 exceedance is greater than 10%.

Proposal

The applicant proposes to legitimise the use of the existing garage as a one bedroom dwelling with a single car park and private open space area occupying the former driveway.

Revisions

The assessing officer requested the applicant to remedy the following deficiencies with their application:

- No section with floor-to-ceiling heights
- Discrepancies between the site plan and survey plan
- No private open space detailed
- No single dwelling BASIX certificate

The application subsequently responded to and generally addressed these issues.

The assessing officer requested the applicant make the following changes to the proposal:

- Additional side facing windows for cross ventilation and solar access
- The provision of a parking space on the driveway with associated vehicle entry gates
- Privacy screening to the northern side of the private open space area.

In response, the applicant:

- Proposed one additional window to the southern side of the dwelling
- Provided a parking space on the driveway
- Proposed a 1.6m high privacy screen to part of the northern boundary adjoining the private open space of the unit.

Further, the assessing officer requested the applicant to address the following matters:

- A laundry addition to the northern side of the garage building which appears to be unauthorised works
- The external form of garage appears larger than that approved under the previous DA
- Surveyed building setbacks were required.

In response, the applicant:

- Clarified that the laundry was unauthorised works
- Detailed the as-built size of the garage in relation to that approved
- Supplied surveyed building setbacks.

The changes did not require re-notification as the general built form and uses remain the same as notified.

Site

The subject site is located on the corner of Dundas Street and Rainbow Street. The site slopes steeply down towards the coast from its western boundary to its eastern boundary. The centre of the site contains a three storey residential flat building containing three residential units. A building containing three car spaces and laundry facilities is located within the west of the site.

A single story building, which is the subject of this application, is located close to the eastern boundary of the site and sits partly below ground level. The building was approved as a double garage in 2003 (ref: DA/983/2003 and associated amendments), however, minor dimensional differences exist (as detailed on the subject application plans) and an unauthorised laundry addition has been constructed to its northern side. It is unclear if the building has been used as a garage at any

point since its construction. Unauthorised works have now converted it into a one bedroom dwelling, with the approved driveway utilised as an outdoor living space.



Figure 1. Photograph of the subject site from the corner of Rainbow Street and Dundas Street. The unauthorised dwelling can be seen in the foreground, behind screen fencing.

Submissions

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. The following submissions were received as a result of the notification process:

16 Dundas Street

Issue	Comment
<ol style="list-style-type: none"> 1. The use of the garage as a dwelling is beyond the scope of existing use rights. 2. The development should be defined as a secondary dwelling, which is a prohibited use. 3. Even if lawful, insufficient information has been provided, the dwelling will be inconsistent with the low density residential character of the area, and it will set an undesirable precedent. 	<ol style="list-style-type: none"> 1. The application has now been amended with a revised Statement of Environmental Effects which seeks consent for a permitted activity, being the establishment of a single dwelling house. 2. The development is a permitted use as a single dwelling house. 3. The assessing officer requested additional information from the applicant. It is considered that the proposal will be inconsistent with the relevant objectives of the Low Density Residential Zone (see assessment below).

17 Dundas Street

Issue	Comment
<ol style="list-style-type: none"> 1. Feel that this type of development does set a dangerous precedent in the area. 	<ol style="list-style-type: none"> 1. The proposal is recommended for refusal (see assessment below). 2. The bamboo screens do not form part

<p>2. Bamboo fences erected around the boundary railings looks quite tatty but would have been done for privacy purposes.</p>	<p>of the proposal.</p>
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Key Issues

Section 79C Environmental Assessment

Clause 4.6 – Floor Space Ratio

The proposal would require a variance to a development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012).

Pursuant to Clause 4.4 of the RLEP 2012, the floor space ratio of the building must not be more than 0.65: 1 on the site. A floor space ratio of 0.891: 1 is proposed.

The variation is summarised in the table below:

	Floor Space Ratio
Development standard	0.65:1
Existing	0.796:1
Proposal	0.891:1
Excess above the standard	37%

Pursuant to Clause 4.6(3) of the RLEP 2012, development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant what seeks to justify the contravention of the development standard.

The applicant has not submitted a written request seeking to justify the contravention of the standard pursuant to Clause 4.6 of RLEP 2012: Exception to a Development Standard. Therefore, the Council must refuse the application. It is considered that even if the applicant had submitted a written request, the large non-compliance and poor residential amenity outcomes would make the floor space ratio non-compliance inconsistent with the relevant objectives of the RLEP 2012 and unsupportable.

Residential Amenity in Relation to the Proposed Dwelling

The proposal provides a poor standard of residential amenity for future occupants of the proposed dwelling. In particular, the proposal provides inadequate cross ventilation and solar access to the interior of the dwelling (a non-compliance with Sub-Section 5.2 of the RDCP 2013), provides an area of private open space 5m X 4.7m wide (where 7m X 7m is required by the RDCP 2013). The area of private open space will be overlooked by the residential flat building on the site and its common area.

In combination, the above deficiencies will result in a very poor standard of residential amenity for future occupants of the unit and will result in a development which is inconsistent with the objectives of the RDCP 2013. The unit will be partly below ground and will have to rely significantly on its eastern elevation for natural light and ventilation. Two small windows to the size elevations will be insignificant for ventilation and solar access purposes. The poor solar access will contribute to a sense of enclosure for occupants, especially given the building's position partly below ground level. The lack of internal amenity is not supplemented by a quality outdoor living area. The proposed "private" open space is, in-fact, overlooked by the existing

residential flat building and its communal area on the site and it lacks sufficient dimensions and landscaping to enable a range of outdoor activities. Further, the private open space is proposed to have a dual function as a driveway.

Side Setback – Sub-Section 3.3.2

The laundry has a minimum side setback of 65mm where a side setback of 900mm is required by the RDCP 2013.

The proposed non-compliance is considered to be inconsistent with the relevant objectives of the RDCP 2013 and results in significant adverse impacts in terms of the amenity values of the street. The setback is not respectful of the pattern of development along Dundas Street and non-compliance is highly visible due to its location close to the frontage of a corner site. The built bulk of the laundry will also be unreasonable when viewed from the adjoining site to the north, in part due to the significant ground level changes between the two sites.

Section 79C ‘Matters for Consideration’

Section 79C ‘Matters for Consideration’	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p><u>Randwick Local Environmental Plan 2012</u></p> <p>The site is zoned Residential R2 Low Density under Randwick Local Environmental Plan 2012 and the proposed single dwelling is permissible with Council’s consent.</p> <p>The proposal is not consistent with the specific objectives of the zone in that the proposed activity and built form will not provide quality housing to meet the housing needs of the community and will provide poor amenity for future residents who might occupy the dwelling.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. Non-compliances are discussed within the report below.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed external built form is consistent with the dominant residential character in the locality. However, the proposal will provide inadequate onsite residential amenity</p>

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
environment and social and economic impacts in the locality	and will therefore result in detrimental social impacts on the locality.
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 79C(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will result in any significant adverse environmental and social impacts. Accordingly, the proposal is considered to not be in the public interest.

Randwick LEP 2012

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.65:1	0.891:1	No
Height of Building (Maximum)	9.5m	No change.	N/A

Relationship to City Plan

The relationship with the City Plan is as follows:

- Outcome 4: Excellence in urban design and development.
- Direction 4a: Improved design and sustainability across all development.

Financial Impact Statement

There is no direct financial impact for this matter.

Conclusion

The proposal does not comply with the relevant assessment criteria and will result in substandard residential amenity and set an undesirable precedent.

The application is, therefore, recommended for refusal for the reasons listed under the recommendation below.

Recommendation

- A. That Council, as the consent authority, refuses development consent under Section 80 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/150/2017 for an application to

legitimise the use of the existing garage as a one bedroom dwelling, at No. 20 Dundas Street, Coogee, for the following reasons:

1. The proposal exceeds the maximum Floor Space Ratio standard under Clause 4.4 of the Randwick Local Environmental Plan 2012 (RLEP 2012) and no Clause 4.6 exception has been provided.
2. The proposed development is inconsistent with the relevant objectives of the R2 Low Density Residential zone under RLEP 2012 in that it will provide poor amenity for residents of the dwelling.
3. The proposed development fails to satisfy the relevant objectives and controls of the Randwick Comprehensive Development Control Plan 2013, in relation to the following:

Part B7 – Transport, traffic, parking and access

- 3.2 Vehicle parking rates

Part C1 – Low Density Housing

- 2.5 Private Open Space
- 3.1 Floor Space Ratio
- 3.3 Setbacks
- 5.2 Energy Efficiency and Natural Ventilation.

4. The proposal is unacceptable pursuant to the provisions of Section 79C(e) to the Environmental Planning and Assessment Act, 1979 in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instrument and a development control plan together with the public submissions received are not in the public interest.

Attachment/s:

Nil