Director City Planning Report No. CP74/15

Subject: 70 Dudley Street, Coogee (DA/803/2014)
Folder No: DA/803/2014
Author: Chahrazad Rahe, Assessment Planner
Proposal: Demolition of the existing dwelling house and construction of a new 3 storey residential flat building containing 3 dwellings and basement parking for 7 vehicles including associated site and landscape works
Ward: East Ward
Applicant: Brenchley Architects
Owner: Helen Byrnes
Summary Recommendation: Approval

Development Application Executive summary report

This matter is reported to Council as the estimated cost of development exceeds $2 million.
Proposal

The proposal involves the demolition of the existing dwelling house and construction of a new 3 storey residential flat building containing 3 dwellings and basement parking for 7 vehicles including associated site and landscape works.

The proposal as submitted incorporated extensive balconies to all levels at the front of the site which included a departure from the maximum building height for a small section of the uppermost balcony.

After a number of issues were raised with the applicant, amended plans were submitted incorporating a number of modifications, which are as follows:

- A reduction in floor area of the ground floor unit 01 from 166m² to 159m² by way of an additional setback from the streetscape of approx. 800mm.
- Provision of reduced balcony inclusions at the front of the site for units 02 and 03 to align more with the existing developments on adjoining properties and the streetscape.
- More detailed information on plans to enable verification of stated areas in relation to floor space, landscaping and deep soiled areas and a more accurate assessment of the privacy and overshadowing impacts.
- A revised view loss analysis having more specific regard to the provisions of the Tenacity principle and the provisions of Council’s DCP.

This report is prepared on the basis of the amended plans received by Council on 14 July 2015.

Site

The subject site is a regular shaped allotment having a frontage to Dudley Street of 12.19m, eastern and western side boundary depths of 42.67m and a total site area of 520.2m².

Existing on the site is a single storey dwelling house with 2 garages and terrace above located at the front of the site and a gazebo structure located in the rear yard area.

The site slopes steeply downward at the front of the site where the garages have been previously excavated and has a slope from the rear to the existing garages of approximately 2m representing a grade of approximately 5%. Additionally the site has a cross fall at the front of the site from west to east of about 16%.

To the east and west the site is adjoined by a part 1 and part 2 storey residential flat building and to the west by a 2 storey residential flat building, respectively. To the south is a pair of 2 storey semi-detached dwellings.

The locality is predominantly occupied by a mix of residential development comprising older and newer residential flat development, detached dwellings and semi-detached dwellings.

The site is approximately 500m from Coogee beach an approximately 5km from the Sydney CBD.
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:

66A Dudley Street, Coogee
66B Dudley Street, Coogee
Unit 1, 68 Dudley Street, Coogee
Unit 2, 68 Dudley Street, Coogee
Unit 4, 68 Dudley Street, Coogee
SP 4049 72 Dudley Street, Coogee
Unit 4, 10-18 Bay Street, Coogee
Unit 12, 10-18 Bay Street, Coogee
Unit 13, 10-18 Bay Street, Coogee
Unit 14, 10-18 Bay Street, Coogee
20 Bay Street, Coogee
20 A Bay Street, Coogee
22 Bay Street, Coogee
22A Bay Street, Coogee

<table>
<thead>
<tr>
<th>Issues</th>
<th>Comments</th>
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<tr>
<td>The proposed development does not comply with Council controls in relation to height, bulk, front and rear setbacks.</td>
<td>The amended plans include compliance with the height and floor space controls under the RLEP 2012 and height controls under the DCP 2013. Front setbacks including balconies are now consistent with the alignment of adjoining properties and the</td>
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<td>rear setback is well in excess of the minimum required setback.</td>
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<td>Excessive view loss to surrounding properties and does not satisfy the Tenacity principle.</td>
<td>The view loss associated with the amended plans in conjunction with conditions will further minimise view loss. See View Sharing in the Key Issues section of the Executive Summary.</td>
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<td>The proposed development fails to satisfy the objectives of the zone in that the ground floor of the proposed development does not recognize the consistent setback of existing buildings in the streetscape.</td>
<td>The amended plans include a front setback of 7.56m on the ground floor which aligns with the established setback of the neighbouring buildings to the east and west of the subject site. The setback of balconies at all levels is also consistent with the predominant front building line. As such the proposed development in its amended form satisfies the relevant zone objectives.</td>
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<tr>
<td>The earthworks associated with the proposed development have the potential to cause structural damage to the property at 70 Dudley Street. Recommendations in the structural engineers report prepared on behalf of the objector should be imposed as conditions of consent.</td>
<td>A preliminary geotechnical report has been submitted with the application which indicates that ground conditions are suitable for the proposed construction. Standard conditions are included in the recommendation which should ensure the protection of surrounding properties from excavation and construction.</td>
</tr>
<tr>
<td>The proposed development is not consistent with the design principles in SEPP 65 – Design Quality of Residential Flat Development. A more recent development at 66 Dudley Street is set further back to upper levels</td>
<td>As the proposed development contains only 3 dwellings the provisions of SEPP 65 do not apply to the proposed development. The stepping design referred to at No. 66 Dudley Street is achieved largely as the ground and first floor levels of this development and protrudes much further forward of the predominant building line in the streetscape. The setback incorporated into the amended plans in addition to further setbacks implemented to the uppermost balcony will ensure consistency with adjoining developments and the wider streetscape taking due account of associated view impacts.</td>
</tr>
<tr>
<td>The proposed development includes inadequate articulation of side elevations.</td>
<td>Whilst limited articulation is included in side elevations, the facades incorporate a wide variety of building materials and finishes which will provide an acceptable visual interface with adjoining properties. The acceptability in this regard is also by virtue of external wall heights of between approximately 1m and 3.5m below the maximum 10.5m allowable and maximum building heights between approximately 2.5m-5m below the maximum 12m</td>
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<td><strong>Issues</strong></td>
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<td>Allowable.</td>
<td>A standard condition of consent is included in the recommendation, requiring submission and approval of the proposed external finishes and materials which will ensure inclusion of appropriate tone.</td>
</tr>
<tr>
<td>External materials and finishes should be of a lighter tone to enable reflective light to enter living areas of No. 68 Dudley Street.</td>
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<td>Landscape design especially deep soil planting is severely deficient.</td>
<td>The provision for deep soil landscaped area is documented within the submission as being compliant; however, the calculations include small areas which should be strictly excluded in the calculations. A condition of consent is included in the recommendation requiring that such areas are to comprise permeable features.</td>
</tr>
<tr>
<td>The driveway access at 7.5m is excessive in width and the proposal is substantially lacking in visitor parking which need to be catered for in Dudley Street.</td>
<td>The proposed driveway width is approximately 4.6m wide and complies with the maximum allowable under the DCP. No visitor parking is required for development of less than 4 dwellings. The proposal nonetheless provides for 1 visitor space. The provision is acceptable.</td>
</tr>
<tr>
<td>Overshadowing impacts to No. 68 Dudley Street will be devastating and non-compliant.</td>
<td>The proposed setbacks to the western boundary are from 1.6 – 2m versus a requirement for a minimum of 2m under Council’s DCP. Notwithstanding the strict numerical non-compliance with the setbacks required under the DCP, shadow diagrams have been submitted with the application which confirms that the difference between the proposed shadow impacts and those related to a compliant form of development are not substantial. Given that the proposed development is well under the maximum allowable height controls, having regard to the constrained width of the site and the reasons mentioned under Solar Access and Overshadowing in the Key Issues section of the Executive Summary, the proposed development is considered acceptable in this regard. In addition to the above the setbacks of the proposed development commensurate with setbacks on adjoining properties and will allow for adequate visual and acoustic privacy between developments.</td>
</tr>
<tr>
<td>The visual and acoustic privacy impacts to 68 Dudley Street and surrounding</td>
<td>By way of further modifications to the depth of the front and rear balconies and window</td>
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<td>properties are unacceptable.</td>
<td>openings to the western façade as addressed under Visual and Acoustic Privacy in the Key Issues section of the Executive Summary, the visual and acoustic impacts associated with the development are considered acceptable.</td>
</tr>
<tr>
<td>The Statement of Environmental Effects does not describe accurately the adjoining development to the south as a pair of semi-detached dwellings.</td>
<td>The report has been assessed on the basis that the site is adjoined to the south by a pair of semi-detached dwellings.</td>
</tr>
<tr>
<td>Planting within the front building line should be of low shrubs so as not to reduce the views and amenity of adjoining owners.</td>
<td>To preserve substantial views from adjoining properties a condition is included in the recommendation limiting the maximum height of species used on the ground floor plan within the front building line to 1m above finished ground level and the type of species used to be noted in the landscape plan.</td>
</tr>
<tr>
<td>Current view line to Bondi Junction form the rear of the subject site will be impacted by the proposed 4 storey building.</td>
<td>The proposed building when viewed from properties immediately to the south will have a relative height of approximately 6m – 7m versus a maximum allowable of 12m under the RLEP. Given the overwhelming compliance with the maximum height and notwithstanding the district views lost the impact is considered sustainable. It is also noted the proposed development will have a minor to negligent impact on ocean views currently obtained from these properties.</td>
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<tr>
<td>The amended plans incorporate include a photomontage which erroneously depicts the impact of the proposed development in relation to the front sunroom/dining room of unit 4, 68 Dudley Street, Coogee.</td>
<td>Council does not rely on photomontages from an applicant unless it follows the practice directions established by the Land and Environment Court. With the benefit of site inspections carried out form adjoining properties including Unit 4/68 Dudley Street it is evident that further modifications to the amended plans addressed in the Key Issues section of this report will provide for a reasonable view sharing between developments.</td>
</tr>
<tr>
<td>The open stairs and lift tower adjacent to the eastern living and bedroom areas of 68 Dudley Street will result in noise impacts.</td>
<td>The vertical rise section of the stairs is enclosed. The landings to the stairs are inside a privacy screen. The lift is separated by 2 masonry walls with associated plant a basement and rooftop level which will provide adequate acoustic buffering. Given the low number of movements anticipated from such a small scale development no adverse acoustic impacts are anticipated.</td>
</tr>
<tr>
<td>The window locations of the adjoining</td>
<td>The View Impacts Analysis report prepared</td>
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<table>
<thead>
<tr>
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<tr>
<td>building at 68 Dudley Street are incorrectly located.</td>
<td>by Richard Lamb &amp; Associates appears to be correct, and the photomontages provided within this document and in this report in relation to photos taken by the assessing officer allow for an accurate assessment of the impact on view loss which is addressed in the View Sharing section of this report.</td>
</tr>
<tr>
<td>The revised plans continue to be non-compliant with maximum height control under the RLEP.</td>
<td>The amended plans in conjunction with the survey plan submitted with the application demonstrate the proposal is now well under the maximum height of building control standard allowable in the LEP.</td>
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**Key Issues**

**Randwick Local Environmental Plan 2013 (RLEP)**

The amended plans incorporate a floor space ratio of 0.85:1 (max. allowable 0.9:1) and a maximum height of approximately 9.6m (max. allowable 12m) and as such comply with the relevant development standards in RLEP 2012.

**Randwick Development Control Plan 2013 (DCP)**

Clause 2.3 of the DCP provides that:

Any proposals seeking to vary the numerical controls will be assessed against the following criteria:

1) Consistency with the general objectives of the LEP, and the general objectives and specific control objectives of this DCP.
2) The degree or numerical extent of variation from the control.
3) The presence of any existing site constraints rendering strict compliance difficult to achieve, such as:
   - Site topography
   - Site orientation
   - Allotment configuration
   - Allotment dimensions
   - Existing building structures to be retained
4) Potential impacts on the structural stability, visual amenity, solar access, privacy and views of the adjoining properties as a result of the variation.
5) Potential impacts on the public domain in terms of streetscape character, views and vistas and pedestrian amenity.
6) Whether strict compliance with the controls will or will not permit construction of a building with reasonable dimensions, internal amenity, open space provision and architectural character.

**Landscaped open space and deep soil area**

The objectives of the DCP in this regard are:

- To provide landscaped open space of sufficient size to enable the space to be used for recreational activities, or be capable of growing substantial vegetation.
- To reduce impermeable surface cover including hard paving.
- To improve stormwater quality and reduce quantity.
- To improve the amenity of open space with landscaped design.
The DCP requires 50% of site area as landscaped area and 25% of the site area as deep soil area. The proposal includes a total of 54.22% of landscaped area and 25.16% deep soil area. The calculations include the rear gazebo which is partially enclosed. If this was deducted from the calculation the total landscaped would be approximately 51% which will still meet the control.

In regard to the deep soil landscaped area small hard surfaced areas are included which do not satisfy the definition of deep soil area as contained within the DCP 2013.

An appropriate condition is included in the recommendation requiring that these areas be permeable.

The overall provision is satisfactory.

**Setbacks**

The objectives of the DCP in this regard are:

- To maintain or establish a consistent rhythm of street setbacks and front gardens that contributes to the character of the neighbourhood.
- To ensure the form and massing of development complement and enhance the streetscape character.
- To ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access.
- To reserve adequate areas for the retention or creation of private open space and deep soil planting.
- To enable a reasonable level of view sharing between a development and the neighbouring dwellings and the public domain.

**Front setbacks**

The original plans provided for a building bulk and balconies that protruded beyond the dominant front building setback of neighbouring buildings within the streetscape. The amended plans incorporate an additional setback to the ground floor level and to balconies at all levels to conform to the established setbacks of adjoining properties and that prevailing within the streetscape.

The following images in figure 5 to 7 demonstrate the consistency in this regard:

Figure 5: Amended ground floor plan. Note: The landscaped terrace at the front of the replaces and existing similar configuration and is consistent with numerous developments in the immediate streetscape as shown in the site photos.
It is noted that, as detailed in the view sharing section below, an additional front setback to the second storey balcony and a deletion of the planter box required to ensure an acceptable level of view sharing is maintained and provides for a staggering of the setback which will further enhance the presentation of the development to the streetscape.

**Side setbacks**

The DCP requires side boundary setbacks of 2m on site with a width of greater than 12m and less than 14m.

The proposed setbacks provide for the building are as follows:
- 1.6m -2m to the western boundary.
- 1.5m to the eastern boundary.

Despite the numerical departure, the proposed setbacks are considered acceptable for the following reasons:
• Shadow diagrams on elevation have been provided which demonstrate that the proposed building envelope will have minor additional impacts on window openings of the adjoining building to the west at no. 68 Dudley Street when compared to those incorporating a compliant setback. In relation to the development to the east at no. 72 Dudley Street the majority of the minor additional shadows fall on the roof area of the building.

• The setbacks of the proposed development commensurate with setbacks on adjoining properties and will allow for adequate visual and acoustic privacy between developments and solar access.

• The overall provision of private open space and deep soil planting is compliant and suitable to the site.

• The height of the proposed development above ground level for the majority of the building envelope is between approximately 5.8m and 8.4m in height. This height is more consistent with that allowable for a dwelling house notwithstanding the permissible maximum building height of 12m.

• The front section of the building to the western boundary is setback 2m to allow for reasonable morning sunlight access to the front first floor living room areas of the adjoining development at no. 68 Dudley Street.

Having regards to the above justifications the proposed side setbacks will satisfy the control objectives of the DCP.

**Solar access and overshadowing**

The objectives of the DCP in this regard are:

• **To ensure new dwellings and alterations and additions are sited and designed to maximise solar access to the living areas and private open space.**

• **To ensure development retains reasonable levels of solar access to the neighbouring dwellings and their private open space.**

• **To provide adequate ambient daylight to dwellings and minimise the need for artificial lighting.**

The DCP requires 3 hours of sunlight to living areas and at least 50% of open space areas within the development during the winter solstice. The proposed development satisfies the requirements of the DCP in this regard.

In relation to adjoining development the DCP provides that living areas of neighbouring dwellings receive a minimum of 3 hours access to direct sunlight to part of a window and at least 50% of landscaped areas of adjoining properties.

The Statement of Environmental Effects provides the following information in this regard:
Shadow diagrams have been prepared, in plan and elevational form, to show the impacts of the proposal on adjoining properties. The diagrams also show the impacts of a built form which complies with the minimum 2m side setback control.

8am on 22 June
At 8am on 22 June, the proposal and a compliant built form, have a commensurate level of impact in relation to No. 68 Dudley Street, overshadowing all of the east-facing windows on the building. Importantly, no additional windows are affected by the proposal when compared to a compliant setback form.

9am on 22 June
At 9am on 22 June, the proposal and a compliant built form, have a commensurate level of impact in relation to No. 68 Dudley Street, with the exception of the ground and first floor windows, towards the front of the building. Importantly, no additional windows are affected by the proposal when compared to a compliant built form.

10am on 22 June
At 10am on 22 June, the proposal and a compliant built form, have a commensurate level of impact in relation to No. 68 Dudley Street. The eastern elevation achieves solar access to the six (6) windows towards the front of the building at this time.
Importantly, no additional windows are affected by the proposal when compared to a compliant built form.

11am - 12pm on 22 June
At 11am-12pm on 22 June, the proposal overshadows the rear of the site.

1pm on 22 June
At 1pm on 22 June, the proposal and a compliant built form, have a commensurate level of impact in relation to the western elevation of No. 72 Dudley Street. The proposal overshadows one (1) additional window, compared to a compliant setback scheme at this time, however the window is understood not to be associated with a living room.

2pm on 22 June
At 2pm on 22 June, the proposal and a compliant built form, have a commensurate level of impact in relation to the western elevation of No. 72 Dudley Street. The proposal overshadows one (1) additional window, compared to a compliant setback scheme at this time, however the window is understood not to be associated with a living room.

3pm on 22 June
At 3pm on 22 June, the proposal and a compliant built form, have a commensurate level of impact in relation to the western elevation of No. 72 Dudley Street. No additional windows are affected by the proposal when compared to a compliant setback form.
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4pm on 22 June

At 4pm on 22 June, the proposal and a compliant built form, have a commensurate level of impact in relation to No. 72 Dudley Street. No additional windows are affected by the proposal when compared to a compliant built form.

Conclusions

On the basis of the preceding discussion, the overshadowing impacts of the proposal are considered to meet the intent of DCP 2013.

Having regard to the above analysis, the provision of solar access is considered reasonable in the circumstances for the following reasons:

- The site has a north south orientation resulting in the optimal circumstances in terms of minimizing impacts to adjoining side boundary properties.
- The proposed development has a maximum height above ground level of approximately 6m – 7m at the rear and as such will cast minimal shadows to properties to the south compared to those envisaged under the height controls in the RLEP and DCP.
- Additional shadow impacts caused by the non-compliant side boundary setbacks have been justified in the circumstances.
- The proposed development retains reasonable levels of solar access to the neighbouring dwellings and their private open space.
- Acceptable levels of ambient daylight to dwellings will minimise the need for artificial lighting and is consistent with those anticipated under the planning controls.

Overall the proposed development will satisfy the objectives of the control.

Visual and Acoustic Privacy

The objectives of the DCP in this regard are as follows:

Visual Privacy
- To ensure development minimise overlooking or cross-viewing to the neighbouring dwellings to maintain reasonable levels of privacy.
- To ensure new development is designed so that its occupants enjoy visual and acoustic privacy, whilst maintaining the existing level of privacy of adjoining and nearby properties.

Acoustic Privacy
- To ensure a high level of amenity by providing for reasonable level of acoustic privacy for dwellings and neighbouring properties.
- To ensure dwellings are designed so that its occupants enjoy acoustic privacy, whilst maintaining the existing level of privacy of adjoining and nearby properties.
- To ensure dwellings are designed to minimise impacts from significant exterior noise sources such as arterial roads, flight paths, industries and ports.
- To design buildings with adequate separation within the development and from adjoining properties.
Concerns have been raised in submission in respect to the following aspects of the proposed development:

- Visual privacy impacts in relation to window openings of the adjoining developments.

**Comment:**
The amended plans include details on elevation of window openings on adjoining developments. It has been pointed out in an objector’s submission that the relative height of the openings shown to the western neighbour appears to be incorrect and this is acknowledged. Notwithstanding, extrapolating from the survey demonstrates that the privacy interface by way of minimal openings and privacy screens to the central stair will be generally acceptable. An exception in this regard relate to the front kitchen windows which will have direct views into living areas of the adjoining development at no. 68 Dudley Street and a condition is included in the recommendation requiring that these windows to have a minimum sill height 1.6m above floor level, or alternatively be of obscured glazing.

In respect of the eastern neighbour, similarly by way of minimal window openings in the proposed development and side boundary fencing, the proposed development will not cause unacceptable privacy impacts to this neighbour.

- Visual and acoustic privacy impacts form the rear balcony areas in relation to living and open space areas of dwellings on properties to the east, west and south.

**Comment:**
The balconies to the rear are off bedrooms only and incorporate screens to the sides of the balconies, although are substantial in area which could give rise to unacceptable acoustic impacts in relation to their associated use. A condition of consent to reduce the depth of these balconies to a maximum of 1.5m coupled with a physical separation ensured by the existing gazebo structure and rear setbacks well in excess of those required under the DCP will ensure an adequate interface in this regard.

- The extensive nature of the central open stair adjacent to the western boundary will cause unreasonable noise impacts to the amenity of living and bedroom areas on the adjoining property at no. 68 Dudley Street.

**Comment:**
The vertical rise of the central stair has in fact a glazed window for the height of the building and it is only the landing areas that are open. Having regard to the minimal usage anticipated for a development of only 3 dwellings this inclusion is unlikely to cause unacceptable noise impacts.

**Sub-section 5.6 - View sharing**
Section 5.6 of the Randwick Comprehensive DCP Low Density Residential recognises that many dwellings within the Randwick City area enjoy views to the ocean, coastline, parks and distant CBD skyline, with some elements being recognized as prominent natural features, significant man made artefacts which carry scenic and iconic values.

The objectives of this section of the DCP seek to ensure that views from the public domain are protected and enhanced and that development is sensitively and skilfully designed to maintain a reasonable amount of views from the development, neighbouring dwellings and the public domain.
This concept of view loss has been defined in the Land and Environment Court by Senior Commissioner Roseth in *Tenacity v Warringah Council (2004)*.

The Commissioner in deciding whether or not view sharing was reasonable adopted a four step assessment as follows.

a) The value of the subject view i.e. water views are more valued than land views with iconic view such as the Opera House of North Head being more valued than views without icons and whole views are more valuable than partial views.

b) From what part of the property are views obtained, for example the protection of views across side boundaries is more difficult to maintain than views from front and rear boundaries, and in addition whether or not the view is enjoyed from a standing or sitting position is also relevant, with sitting views being more difficult to protect. The expectation to retain side and sitting views is often unrealistic.

c) Assess the extent of the impact from the property as a whole rather than just for the view affected, the impact on views from living areas are more significant than from bedrooms or service areas, then it is useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

d) The reasonableness of the proposal that is causing the impact and compliance with planning controls, with a development which satisfies planning controls being considered more reasonable than one that does not. With a complying proposal the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact upon 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.

The subject site is not located within the foreshore scenic protection area. However, a number of submissions have been received from neighbouring properties in relation to view sharing. Having regard to principles and controls above, the impact on view sharing of the neighboring properties at no.’s 66A & B & 68 Dudley Street, Units 12, 13 & 14/10 – 18 Bay Street, 20, 20A, 22 & 22A Bay Street, Coogee have been investigated and are assessed as follows:

a) Directions ‘A’ to ‘C’, in Figure 8 below indicates the views are obtained in a north and north easterly direction towards the ocean, Dolphins Point, Coogee Bay and wedding Cake Island. The views directly to the north are panoramic district views of Bondi Junction, Randwick, Coogee and Clovelly. Dwellings which are affected by view loss are located west of the development along the south and higher side of Dudley Street. The view corridor of the ocean in directions ‘B’ to ‘C’ to the neighbouring properties directly to the rear of the subject development along the west and south of Bay Street will be retained. Only minor district views will be lost as demonstrated in images 1 & 2 below and these are not considered to be valued iconic views. Given the views of the ocean will not be impacted by the proposed development a detailed view loss assessment is not further explored to these properties.

The assessment is based on the potential view loss and visual impacts for units located at no.’s 68 and 66 Dudley Street.
b) Views across no. 66A & B Dudley Street are obtained only from the front north eastern corner of the units whereas the views at no. Unit 2/68 Dudley Street are obtained from the front and across the side of the property. The existing views currently available to the neighbouring properties in question are described in detail below:

**Unit 2/68 & 66A Dudley Street, Coogee**

Unit 2/68 Dudley Street is located directly to the west of the subject site on the upper most level of the two storey residential flat building which contains 4 units across two floors. The basement carparking level is accessed from street level. Unit 2 fills the eastern side of the first floor level and has window openings along its north and eastern elevations. This unit is elevated relative to the ground and first floor levels of the proposed development and is similar in height to the second storey. Views are gained from each of the windows along the eastern elevation of the unit as identified in image 3 below. The views are extensive and run across the side boundary.
Image 3: South westerly view of the residential flat buildings at no. 68 & 66 Dudley Street. No. 68 Dudley Street is subdivided into 4 strata flats & no. 66 Dudley Street is subdivided into 3 strata flats.

The views to be affected include valued items of water, land-water interfaces and in relation to Wedding Cake Island, a potential icon.

Image 4: Site plan identifying views currently enjoyed from no.’s 66 & 68 Dudley Street, Coogee.

**Unit 2/68 Dudley Street, Coogee**

**Front terrace entry**

Views are obtained across the front northern and eastern boundaries in a standing and sitting position.

Figure 5: Standing views from front terrace entry.
### Front sunroom/dining room

| Image 6: Existing standing views from the front north eastern corner study/dining room windows looking in a north easterly direction above the front existing ridgeline of No. 70 Dudley Street. |

| Image 7: Standing views from the front eastern side facing study/dining room window looking across the subject site. Photomontage of the proposed development shown in green. |

Views are obtained across the front north eastern corner of the boundary in a standing and sitting position.

### Living & kitchen Area

| W1 – Window to top of entry hallway stairs and looks directly opposite the living area. |
| W2 – Window directly opposite the living area. |
| W3 – Window directly opposite the kitchen area. |

Image 8: Standing views from the east facing living and kitchen windows looking across the subject site.

Image 9: Closer standing views from the east facing living room window W1. (Refer to image 8 above).

Views are obtained across the eastern side boundary in a standing and sitting position over the roof top of the neighbouring and subject sites. The sitting views are not as extensive as the standing views.
<table>
<thead>
<tr>
<th>Bedroom 1</th>
<th>Views are obtained across the eastern side boundary in a standing position over the roof top of the neighbouring and subject sites. The view is partially obscured by vegetation.</th>
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<tbody>
<tr>
<td>Image 10: Standing view from east facing bedroom window. The green lines indicate the proposed building will block at this view.</td>
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<thead>
<tr>
<th>Bedroom 2</th>
<th>Views are obtained across the eastern side boundary in a standing position over the roof top of the neighbouring and subject sites. Some of the views are obscured by vegetation and are filtered views of the ocean.</th>
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<tbody>
<tr>
<td>Image 11: Standing view from east facing bedroom window. The green lines indicate the proposed building will block at this view.</td>
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<thead>
<tr>
<th>Secondary rear living room</th>
<th>Views are obtained across the eastern side boundary in a standing position over the roof top of the neighbouring and subject sites. Some of the views are obscured by vegetation and are filtered views of the ocean.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Image 12: Standing view from east facing secondary rear living room window.</td>
<td></td>
</tr>
<tr>
<td>Image 13: Standing view from east facing secondary rear living room window. Photomontage of the proposed development shown in green.</td>
<td></td>
</tr>
</tbody>
</table>
### Wall way windows

![Image 14: Standing view from east facing secondary living room window in a north easterly direction.](image)

Views are obtained across the eastern side boundary in a standing position over the roof top of the neighbouring and subject sites. Some of the views are obscured by vegetation and are filtered views of the ocean.

### 66A Dudley Street, Coogee

#### Front lounge room window

![Figure 15: Current standing views from front lounge room of no. 66A Dudley Street.](image)

Views are obtained across the front eastern corner of the boundary in a standing and sitting position.

![Figure 16: Standing views from front lounge room window of no. 66A Dudley Street. Photomontage of the proposed development shown in green.](image)

#### Front terrace area

![Figure 17: Standing views from front terrace.](image)

Views are obtained across the front eastern boundary in a standing and sitting position.
Summary: The analysis above shows that the views affected from both residences assessed are obliquely across the side boundaries. The effect on the view across the side boundary is identified as being more difficult to maintain.

c) The extent of the impact from the adjoining properties are assessed below:

<table>
<thead>
<tr>
<th>Location</th>
<th>Extent of impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front terrace entry</td>
<td>Image 5 above demonstrates that the existing views from the front terrace entry will be maintained and will not be impacted by the proposed development.</td>
</tr>
<tr>
<td>Front sunroom/dining room</td>
<td>Image 7 above demonstrates that a significant portion of the ocean view and the entire view of Wedding Cake Island will be lost. The severity of the views lost depends where you are positioned in the room. The land-water interfaces to Coogee Bay &amp; Dolphins Point will be retained from the north facing window within this room; however, the east facing window to this view depending where you are positioned or distant in the room could be moderately affected.</td>
</tr>
<tr>
<td>Living &amp; kitchen Area</td>
<td>Image 8 above demonstrates the north eastern and eastern views of the ocean, land-water interfaces to Coogee Bay &amp; Dolphins Point and district views from all 3 windows will be entirely lost. The views lost are considered to be severe and devastating.</td>
</tr>
<tr>
<td>Bedroom 1</td>
<td>Image 8 above demonstrates the eastern views of the ocean will be entirely lost. The view loss is considered to be minor to moderate.</td>
</tr>
<tr>
<td>Bedroom 2</td>
<td>Image 11 above demonstrates the eastern views of the ocean will be entirely lost. The view loss is considered to be minor to moderate.</td>
</tr>
<tr>
<td>Secondary rear living room</td>
<td>Image 13 above demonstrates that majority of the eastern views of the ocean will be lost. Minor filter views through the openings of the privacy screens could be retained.</td>
</tr>
<tr>
<td>Wall way windows</td>
<td>The view loss depends on where you are positioned in the hallway. Majority of the views to the south east end of the boundary will be mainatined. The views to the north east will be lost.</td>
</tr>
<tr>
<td>Front lounge room window</td>
<td>Image 16 above demonstrates the view loss is very minor to negligible.</td>
</tr>
<tr>
<td>Front terrace area</td>
<td>Existing views from the front terrace will be maintained and will not be impacted by the proposed development.</td>
</tr>
</tbody>
</table>

Summary: The analysis above shows that the views largely affected are across the side boundary to Unit 2/68 Dudley Street. The scenic features views to the front and north eastern corner of both affected properties will generally be maintained. The impacts to no. 66 Dudley Street are very minor to negligible.

d) The analysis above concluded that the view loss caused by the proposed development in respect of No.66A Dudley Street is negligible. In relation the property at Unit 2/68 Dudley Street, the impacts identified from this property as a result of proposed development bearing in mind the retention of side
views when assessed against the Land & Environment Court planning principle are acknowledged to be unrealistic to retain are considered to be moderate in the context of the remaining views available from this property.

The proposal complies with the maximum allowable FSR and is well under the Height of Building standards in the RLEP 2012. The architectural character, size and scale of the proposed building reflect Council’s built form controls for residential flat buildings in the locality. The bulk and scale of the proposed building is consistent with the desired future character of the locality in terms of built form.

The proposed built form complies with the front setback and external wall height controls in the DCP 2013. The front north-west corner of the development where the views can be retained complies with the side setback control in the DCP 2013 and therefore, the view impacts are not caused by the non-compliant setback situated to the remaining built form along the western side boundary.

Notwithstanding the above, minor modifications to the design could improve the views and reduce the severity of the impacts to the east facing front study/dining room window and rear secondary living room windows. It is therefore, recommended that the following modifications be made:

- The front planter box to Unit 03 is to be deleted and the terrace is to be reduced in depth by 1m from the north eastern and north western most points to align parallel to the current alignment. The privacy screen to the eastern edge of this balcony is to be reduced in depth to align with the northern most point of the kitchen to this unit.
- The depth of the rear balconies to units 02 and 03 is to be reduced in depth to a maximum of 1.5m. The planter boxes adjacent to the balconies are to be retained in the reduction.

Whilst the amended development has been carefully configured to achieve a satisfactory level of view sharing between the site and the neighbouring properties by reducing the floor area and increasing the front setback to align with neighbouring properties further design modifications as recommended above will provide a better view sharing outcome.

Provided the above design considerations are implemented the proposed development is acceptable and the resultant view loss impacts will satisfy the Tenacity principle and the view sharing objectives of the DCP 2013.

**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 site is located within Zone R3 - Medium Density Residential under Randwick LEP 2012. The proposed development complies with the building height and FSR control
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standards in RLEP 2012. The proposed development is considered to compatible with the height, bulk and scale of other residential flat building in the neighbourhood. Subject to conditions the relevant controls and objectives within Randwick DCP 2013 are satisfied and environmental impacts have been assessed as being acceptable. The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.

Subject to conditions the proposal will not result in significant adverse impacts upon the amenity of the surrounding properties in terms of solar access, view sharing and privacy. An adequate level of amenity will be retained for the surrounding residents and the public domain.

The proposed development satisfies the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as amended and the relevant legislation, State policies and local planning controls. The application is accordingly recommended for approval subject to proposed conditions of consent.

Recommendation

That Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/803/2014 for demolition of the existing dwelling house and construction of a new 3 storey residential flat building containing 3 dwellings and basement parking for 7 vehicles including associated site and landscape works at No. 70 Dudley Street, Coogee, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non standard conditions

2. The approved plans and documents must be amended in accordance with the following requirements and details are to be included in the Construction Certificate:

   a. The planter box to the front balcony of unit 03 shall be deleted from the consent.

   b. The front balcony to unit 03 shall be reduced in depth by 1m from the north eastern and north western most points in a parallel line to the proposed north edge of the balcony.

   c. The maximum height of plant species used within the front building line on the ground floor plan shall be 1m above finished ground level and the type of species shall be included in the landscape plan.

   d. The depth of the rear balconies to units 02 and 03 shall be reduced in depth to a maximum of 1.5m. The planter boxes adjacent to the balconies shall be retained in the reduction.

   e. All privacy screens indicated within the development must be constructed of metal or timber and the total area of any openings within the privacy screen must not exceed 25% of the area of the screen. Alternatively, the proposed privacy louvres shall be spaced appropriately and fixed at an angle to prevent overlooking into neighbouring properties or the privacy screens may be provided with translucent, obscured, frosted or sandblasted glazing in a suitable frame.

   f. The following windows must have a minimum sill height 1.6m above
floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:

- The kitchen windows to units 02 and 03 on the western elevation.

g. The eastern boundary masonry wall shall be reduced in height to a maximum of 2.2m at any one point.

h. The concrete entry stairs at the front shall be replaced with alternate stairs that satisfy the definition of deep soil planting area as contained within the Randwick Comprehensive Development Control Plan 2013.

i. As many of the existing sandstone blocks as possible shall be reused in the reconstructed front garage boundary wall. Other sandstone blocks not suitable for the boundary wall shall be either reused for the proposed retaining walls within the site or stored on site for future use.

j. The reconstructed boundary wall is to match as closely as possible the appearance and detail of the existing stonework including colour and pattern of stone, range of size and shape of blocks, and thickness and profile of capping in order to maintain continuity of the entire northern wall.

Amended plans demonstrating compliance with the requirements of conditions 2 a. – h. above are to be submitted to and approved by Council’s Manager of Development Assessment prior to issue of the construction certificate.

**Attachment/s:**

1. DA Compliance Report - 70 Dudley Street, Coogee  
   Included under separate cover