

PS ref: 9046

23 August 2024

Town of Cottesloe
PO Box 606
Cottesloe WA 6911

Attention: Jennifer Bender, Planning Officer

Dear Jennifer,

**LOT 5 (62) BROOME STREET, COTTESLOE
RESPONSE TO REQUEST FOR FURTHER INFORMATION**

Planning Solutions acts on behalf of MAEK, the proponent of the proposed development of Lot 5 (62) Broome Street, Cottesloe (**subject site**).

We provide this submission in response to the matters outlined in a request for further information (RFI) from the Town of Cottesloe (**Town**) dated 18 July 2024.

RESPONSE TO PLANNING ASSESSMENT

The Town's RFI correspondence outlined preliminary assessment outcomes with respect to the provisions of the Town's Local Planning Scheme No. 3 (**LPS3**) and Residential Design Codes Volume 1 (**R-Codes**).

The Town's RFI correspondence dated 18 July 2024 acknowledges responses to elements seeking discretionary consideration provided within the original development application (Element 5.2.4 Street Walls and Fences and Element 5.3.5 Site Works). The Town's correspondence does not seek further information on these variations.

This submission provides additional information in relation to two matters, lot boundary setbacks and solar access.

Lot Boundary Setback

Town Assessment

North: kitchen/scullery ground floor wall setback 1.96m in lieu of 2.4m.

Response

The variation is considered to meet the design principles, as follows:

- The section of wall adjoining the northern boundary is setback 1.96m from the lot boundary, providing adequate separation of built form to the adjoining property to mitigate the impact of bulk on the adjoining property to the north.
- The adjoining property has a lesser setback distance along the shared lot boundary and comprises a two storey form along the entirety of the building's length. The minor setback variation will not have any adverse bulk and scale impact on the adjoining property considering the massing and form of the existing development.
- The portion of wall comprises a mixture of material elements, openings to the ground floor areas and includes a curved building form on the western end of the wall. These architectural elements ensure the wall is not visualised as an unbroken solid mass.

- A 600mm wide landscape area is proposed along the northern boundary adjacent the wall to allow future landscaping treatments. These will assist in minimising the visible appearance of the wall from the adjoining property.
- As the wall abuts the southern boundary of the adjoining property, the wall has no overshadowing impact on the northern property.
- Openings to the kitchen and scullery are low level windows which will not permit overlooking of the adjoining property given the position of the openings relative to the boundary fence and future landscape screening.

Given the above, the variation is considered to achieve design principle P3.1, and warrant support accordingly.

Solar Access

Town Assessment

A maximum of 25% of the adjoining site may be overshadowed; the plans submitted show 40.5% overshadowing.

The Town is not satisfied that the relevant design principles have been adequately addressed. The Town is aware that plans have been provided to the adjoining affected property owners and they have advised the Town that they strongly object to the level of overshadowing proposed and the potential impact on their future home.

It is therefore recommended that the application be amended to reduce the level of overshadowing. You may wish to consider discussing your plans and their future plans with the adjoining landowners to ensure your proposal adequately protects their solar access.

Response

The proposed development seeks discretionary consideration in relation to overshadowing as more than 25% of the adjoining site is overshadowed at the winter solstice. In accordance with the R-Codes, once a variation is sought, the percentage of overshadowing is no longer the relevant consideration, and the applicant is to ensure the development demonstrates compliance with the design principles.

Commentary in response to the relevant design principles was previously provided in the original development application addressing the design principles of Element 5.4.2.

Further commentary on relevant considerations and responses to the Town's comments set out within the RFI are provided below.

Neighbour Engagement

In response to the Town's RFI correspondence, the project architect, MAEK, actively sought to engage with the adjoining landowner to discuss the proposed development and how this might be considered in the context of any future development at 60B Broome Street, Cottesloe.

Despite attempts to discuss this matter, the adjoining landowner has not sought to engage with MAEK or to discuss the future development intent of the adjoining site.

Subdivision of 60 Broome Street

As set out in the initial development application, the neighbouring property at 60 Broome Street originally comprised a single lot, approximately 944m² in site area and with a 21m street frontage. This property has since been subdivided into two equally sized smaller lots, comprising 472m² in area and a 10.5m street frontage.

Whilst these lots may have achieved compliance with site area requirements of the R-Codes, the subdivision has now resulted in creation of two narrow, long east-west lots. The resulting lots are therefore more likely to receive higher levels of overshadowing from an adjoining lot to the north through any form of development.

The local authority should acknowledge that through the approval and creation of these subdivided lots, future redevelopment of the subject site may result in impact to 60B Broome Street given the development standards that are applicable to the subject site, and the potential constraints of east-west lots.

Notwithstanding this, the proposed development has incorporated design considerations that seek to mitigate the impact of overshadowing to 60B Broome Street, including:

- Excavation across the site to lower the overall height of the development above existing natural ground levels (NGL) in lieu of a development that steps up to follow the existing NGL which rise along the southern lot boundary by 2.75m (from RL 30.63 to RL 33.38) from front to rear.
- All setbacks along the southern boundary meeting, or exceeding, the deemed-to-comply requirements.

Compliance with Design Principles

The proposed variation to Element 5.4.2 Solar Access has been considered with Design Principle P2.1 and P2.2 of the R-Codes. The design principles for Element 5.4.2 state:

P2.1 Effective solar access for the proposed development and protection of the solar access.

P2.2 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow existing:

- *outdoor living areas;*
- *north facing major openings to habitable rooms, within 15 degrees of north in each direction; or*
- *roof mounted solar collectors.*

In relation to design principle P2.1:

- The subject site is adjoined by a two storey multiple dwelling development to the north which extends a large proportion of the length of the common boundary. This building casts significant shadow along the subject site's northern boundary. The proposed development has been designed to achieve effective solar access to both indoor and outdoor living areas.

In relation to design principle P2.2:

- The neighbouring lot immediately to the south (60B Broome Street) is vacant.
- The design principle states development design to protect solar access to adjoining properties existing outdoor living areas, north facing major openings and roof mounted solar collected. There is no existing dwelling.

Design principle P2.2 is clear that development is to consider shadow to existing outdoor areas, openings or solar panels. These areas do not exist on the adjoining site to the south.

From engagement with the Town's planning officers, there is no current development approval or building permit issued for redevelopment of the adjoining site. Therefore, there is no approved design to which the proposed development can be considered against. It is noted that even if there was an approval, until such time as development occurred on the adjoining site, these areas would not 'exist'.

The overshadowing calculation is to be taken at midday on the winter solstice where the sun is at its lowest point. At other times throughout the year, access to natural light will be significant and the adjoining site will not be adversely impacted by shadow from the development.

Throughout the early and later parts of the year, when the sun angle is higher, shadow will be limited and will not adversely impact the use of potential future outdoor areas or north facing major openings. Additionally, the east-west lot orientation will still provide a potential future development access to morning and afternoon solar access from the east and west, respectively.

The proposed dwelling is compliant with building height limits of the Town's LPS3 and lot boundary setbacks requirements along the southern boundary. This demonstrates the built form aligns with the form and scale of development intended and provided for through the Town's local planning framework.

The variation is consistent with the relevant Design Principles and warrants favourable discretion accordingly.

CONCLUSION

The proposed variations are consistent with the relevant discretionary criteria as set out within the planning framework.

We respectfully request the application for development approval be considered on its merits and favourably determined at the earliest opportunity.

Should you have any queries or require further clarification in regard to our response, please do not hesitate to contact the writer.

Yours faithfully,



MATTHEW CAIN
ASSOCIATE