

The application has relied upon the existing vegetation on our property to justify that the development will not result in overlooking to our pool, outdoor open space and dwelling. The Planning Principle established in *Super Studio v Waverley Council* [2004] NSWLEC 91 identified that where *“landscaping is the main safe guard against overlooking, it should be given minor weight. The effectiveness of landscaping as a privacy screen depends on continued maintenance, good climate conditions and good luck”*. Much of the rear elevation of our property does not contain high planting and due to the height of the development combined with the slope of the land, the development will cause overlooking to our property which will greatly impact on our amenity. In accordance with the above Planning Principle, the development should not be relying on our plantings.

This DA is putting all of the onus on our property to maintain and enhance the planting in order to protect our privacy as well as reducing the visual bulk of the dwelling additions. This would not be necessary if the DA was designed to take into consideration our properties. We believe that the following amendments should be made to the development:

1. The additions should be single storey rather than two storeys;
2. All windows in the SW elevation should be obscure glazing or high sill windows;
3. Screen planting should be provided on the applicant's property between the additions and the boundary fence. This planting should achieve a minimum height of 2m at planting and be capable of achieving an overall height of between 4 to 5m.

No shadow diagrams have been made available to us. We are very concerned that our principle private open space will be overshadowed between 9am and 3pm during mid winter as well as during the equinox. We do not believe that the development will achieve the DCP requirements of 50% of unobstructed sunlight access to our principle outdoor space. The overshadowing is exacerbated by the steep slope of our property combined with the development being 2 storeys and constructed on poles. It is a reasonable expectation that our property will retain sunlight. The application has justified the extent of overshadowing due to the existing vegetation on our property already causing shadow. However as established in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082, overshadowing from vegetation should be ignored. The vegetation along the rear boundary cannot be considered as a dense hedge and should not be taken into account with the application.

From the architectural plans it is not possible to determine the setback to the SW boundary. This boundary should be considered as the rear setback as it adjoins our rear boundary and the DCP requirement of a 6m rear setback should be provided. It is estimated that the rear setback maybe 3.5m rather than the 6m. The reduced setback combined with the slope of our rear yard will add to the visual bulk and scale of the development. Although the development complies with the LEP height control, the slope of the land will contribute to the bulk and scale of the additions being out character with surrounding buildings and impacting on our amenity.

We believe that the development in its present form should be refused. A more appropriate development would be a single storey addition.