

**SUPPLEMENTARY REPORT - Item 2 - July IWLPP**

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| Application No. | DA/2022/0647 |
| Address | 26-36 Enmore Road NEWTOWN NSW 2042 |
| Proposal | Construction of a Woolworths Metro store, including associated signage, operating 7am-10pm, 7 days per week. |
| Date of Lodgement | 11 August 2022 |
| Applicant | Fabcot Pty Ltd |
| Owner | Fabcot Pty Ltd |
| Number of Submissions | 26 |
| Value of works | \$4,565,000.00 |
| Reason for determination at Planning Panel | Number of submissions |
| Main Issues | Traffic/vehicular access impacts Amenity impacts upon adjoining properties Land contamination Impacts upon the streetscape/heritage conservation area |
| Recommendation (amended) | Approved with Conditions |
| Attachment F | Submission from 24 Enmore Road prepared by Foresight Town Planning |

SUMMARY

This report concerns an objection made on behalf of the property owner at 24 Enmore Road prepared by Foresight Town Planning dated 9 September 2022. Whilst impacts to the ground floor meditation room have been addressed in the assessment report, the representation regarding the first-floor residential dwelling was not addressed in detail in the assessment report presented to the Panel. This supplementary report seeks to address this anomaly to ensure the issues raised have been considered in relation to the development application for the proposed construction of a Woolworths Metro store, including associated signage, operating 7am-10pm, 7 days per week, at 26-36 Enmore Road, Newtown.

1. Background

Council was informed by email on the 3 July 2023 that the representation from the town planner, who represents the owner of 24 Enmore Road prepared by Foresight Town Planning dated 9 September 2022, had not considered all matters raised in the presented submission.

The representation nominated the following issues:

- Visual bulk
- Solar access/overshadowing
- Views/outlook

The main concerns raised in the submission was regarding the impact to the western facing windows at the ground floor place of worship at 24 Enmore Road and first floor residence.



Figure 1: 24 Enmore Road

2. Submission

The following considers the matters raised in the submission lodged by 24 Enmore Road, Newtown that have not already been considered in the body of the original assessment report.

Visual bulk

Comment: Concerns surrounding visual bulk have been addressed in the body of the report under Section 5(c). In summary, the proposal is of an appropriate bulk and scale given that the proposal complies with the Floor Space Ratio and Height of Building development standards under the IWLEP 2022, along with the massing, setbacks and depth requirements under Part 5.1.4 of MDCP 2011.

Ground Floor

It is acknowledged that the ground floor meditation room is more susceptible to visual bulk and solar access impacts as a result of its location. Any reasonable ground floor development constructed in accordance with planning controls applicable to Business Centres which anticipate zero side setbacks would affect the subject windows, and by virtue of the setback of the meditation room window from the western boundary, and site orientation, these windows are difficult to protect. Notwithstanding, the previous petrol station located on the development site contained a masonry wall along the boundary and a single storey service station which would have obscured the outlook from the ground floor windows at 24 Enmore Road for many years prior to its recent demolition in late 2021, and the amenity which is sought to be maintained relies on the previous developments' demolition. (See image below of previous site improvements)



Images of 26-26 Enmore Road prior to demolition in late 2021

First floor

With reference to Figure 7 of the respondent's submission later in this report, the setback of the proposed first floor rear wall plate has been increased to be 5.1 metres from the rear boundary. Whilst it is acknowledged that the first-floor of the development will be visible from the windows of the first floor dwelling at 24 Enmore Road, the visual impacts are of an acceptable extent given that these windows are generally in line with the height of the first-floor additions. The height of the ridge when measured in line with the affected windows is approximately 41.18 RL, which is approximately 1.45 metres higher than the head of the first-floor windows that are shown on the submitted survey plan. As such, the height of the proposal is not unreasonable for a development in a business centre. Furthermore, the design of the first-floor of the proposed development will continue to facilitate outlook towards the site's rear due to the increased setback, which in turn will enable natural light, ventilation and maintain an appropriate level of amenity for occupants of the site.

Solar access/overshadowing

Comment: 24 Enmore Road provided an objection relating to overshadowing of windows and the balcony to the first-floor residence and ground floor meditation room that directly adjoin the development. The submission states that existing solar and proposed solar impacts have not been quantified, and that remaining solar access will be severely compromised, particularly in the afternoon.

The built form has been amended in a manner which has assisted in improving solar access for 24 Enmore Road. As discussed in the body of the report under Section 5(c), the amendments to the built form have resulted in no additional overshadowing to this property until 3pm on June 21. Due to the existing building's height, configuration and orientation, the solar access impacts upon the first-floor windows between 9am-2pm are caused by the subject site from self shadowing rather than the proposed development. The balcony does not experience any overshadowing as a result of the development between 9am-3pm on June 21.

The applicant has also submitted September equinox diagrams, which demonstrated that no solar access impacts would be caused by the development until 3pm.

Views/outlook

Comment: The submission states that the proposal will have severe impact on views (and amenity) enjoyed by residents from the first-floor kitchen, obliterating 2/3rds of the view and any views of trees and historic buildings enjoyed for over 150 years.

As discussed above, the plans have been amended (since originally notified) to increase the first floor rear setback of the building which assists in maintaining the views and outlook from these dwellings in comparison to the original proposal. The rear facing windows for the first-floor apartment does not possess views of the heritage significant buildings along Enmore Road, with views limited to vegetation within the rear yards of residential properties along Bailey Street and the mixed-use building at 359-361 King Street. These views are maintained as a result of the amended proposal, and as such, there are no significant views/vistas that are lost to these windows as a result of the proposal. Figures 6 and 7 from the submission have been included below in demonstration of the above point, however it is important to note that Figure 7 is predicated on the original proposal which proposed a nil side and rear setback at the first-floor of the development which has subsequently been amended.



Fig 6 – View from Apartments First Floor Kitchen



Fig 7– View from Apartments First Floor Kitchen with Woolworths wall superimposed

The side facing windows for the first-floor studios currently have outlook towards the following elements:

- The Hackberry and Pencil Pine trees within the development site;
- Vegetation within the rear yards of 26 & 28 Station Street;
- The rear wings of the contributory buildings at 38-44 Enmore Road; and
- The mixed-use development at 52-60 Enmore Road.

Conditions of consent have been provided to facilitate the removal of the Hackberry and Pencil Pine trees. As outlined in the *Tenacity Consulting v Warringah* [2004] NSWLEC 140 Planning Principle, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. As the views are considered to be outlook rather than significant views, it would be onerous to request the design to be amended as it complies with the FSR and HOB development standards under the IWLEP 2022, along with the massing, setbacks and depth requirements under Part 5.1.4 of MDCP 2011 in order to mitigate potential impacts to 24 Enmore Road.

Figures 8 and 9 from the submission have been included below in demonstration of the above point, however it is important to note that Figure 7 is predicated on the original proposal.



Fig 8 – View from Apartments Studio (first floor). The kitchen window is shown to the right



Fig 9 – View from Apartments Studios with Woolworths wall superimposed

Notwithstanding the above, it is noted that any views obtained from these windows has been reliant on the subject site remaining largely undeveloped, and it would be expected that any redevelopment of the site in accordance with the prescribed planning controls would have the potential to impact the outlook from the subject windows. It is noted that the proposed development is reasonable and considered sympathetic to neighbouring development and the wider HCA.

Having regard to the above, the amended proposal is considered to adequately protect the amenity of the neighbouring developments.