



northern
beaches
council

MINUTES RECONVENED

DEVELOPMENT DETERMINATION PANEL MEETING

WEDNESDAY 20 JANUARY 2021

Reconvened Minutes of a Meeting of the Development Determination Panel

held on Wednesday 20 January 2021

ATTENDANCE:

Panel Members

Andrew Pigott (Chairperson)	Executive Manager Strategic & Place Planning
Steven Findlay	Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

1.0 APOLOGIES AND DECLARATIONS INTEREST

Nil

DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2020/1094 - 72 BEATRICE STREET, BALGOWLAH HEIGHTS - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SECONDARY DWELLING AND SWIMMING POOL

PROCEEDINGS IN BRIEF

The Panel viewed the site and surrounds on 14th December 2020.

The Panel convened on 16th December 2020.

The Panel were addressed by three objectors and a representative of the applicant.

Concerns were raised inter alia, regarding the height and length of the proposed southern wall, overshadowing, privacy and amenity impacts, view loss, character, siting, non-compliance with rear setback requirements, dilapidation as a consequence of construction and noise associated with use of the proposed swimming pool.

The item was deferred to allow the Panel to undertake additional site visits of adjoining properties, **which was delayed due to COVID issues on the Northern Beaches**. The additional site visits occurred on 19th January 2021.

The Panel re-convened on 20th January 2021.

The Panel recognised that the assessing officer's report identified that the dwelling is fully compliant with all numerical built form planning controls apart from a minor non-compliance associated with the roof pitch of the secondary dwelling. The control requires a maximum pitch of 35 degrees whereas the proposed pitch is 39 degrees. The reasons for the numerical non-compliance provided in the assessing officer's report are accepted.

However, the Panel did not agree with the characterisation of the eastern boundary as a side boundary. The Panel recognised that, on balance, having regard for the layout and orientation of the site and predominant layout and orientation of surrounding sites, that the eastern boundary should be identified as the subject site's rear boundary. The Manly DCP requires a setback of 8.0m to the rear boundary whereas the dwelling is proposed to be setback 3.6m – 4.8m to the rear boundary.

Notwithstanding the numerical non-compliance with the rear setback control, it is recognised that the four battle-axe dwellings to the north of the subject site are also all non-compliant with the rear setback requirements, the only two storey element included in the rear building line encroachment is set back 3.17m from the southern boundary affording the opportunity for landscape screening, the main living areas and private open space area for the property at 30 Earnest Street are well separated and screened from the proposed development. Accordingly, the impacts of this non-compliance are not considered unreasonable and can be further mitigated via enhanced landscape and privacy conditions.

In relation to privacy and amenity concerns raised by the adjoining owners at 70 Beatrice Street, it was identified that additional landscaping should be included to satisfactorily address concerns.

The view loss objection from 68 Beatrice Street is noted and the Panel benefited from a site visit to the objector's property. The impact of the view loss is acknowledged however, the explanation provided in the assessing officers report, particularly in relation to the potential additional impacts associated with a fully compliant scheme, is accepted and the impacts are not considered unreasonable in the circumstances of the application.

Concerns were raised by the adjoining owners at 78 Beatrice Street regarding potential impacts on their property during construction. Accordingly, Condition 15 will be amended to include a requirement for a pre-construction dilapidation report to be prepared for this property.

The Panel received an email raising concerns regarding vehicular turning areas being provided on 72 Beatrice Street to benefit 70 and 74 Beatrice Street. There is currently no easement benefiting these properties and it is not considered appropriate to include one in the circumstances of this application.

Apart from where discussed above, the majority of the Panel concurred with the officer's assessment report and recommendation subject to some additional conditions as outlined below.

STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 subject to conditions.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the report and the meeting.

DECISION ON DEVELOPMENT APPLICATION

THAT Council as the consent authority grant **deferred commencement approval** Development Consent to DA2020/1094 for Demolition works and construction of a dwelling house including a secondary dwelling and swimming pool on land at Lot A DP 432384, 72 Beatrice Street, Balgowlah Heights, subject to the conditions outlined in the Assessment Report, subject to the following:

1. The amendment of the following conditions:

9. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- a) A 1.8m high privacy screen is to be incorporated along the eastern elevation of the upper floor balcony to restrict overlooking of the adjoining dwelling to the east.
- b) Window W25 in the southern elevation is to be frosted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure reasonable levels of privacy are achieved.

15. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation):

1. 70 Beatrice Street, Balgowlah Heights
2. 74 Beatrice Street, Balgowlah Heights
3. 78 Beatrice Street, Balgowlah Heights

The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items. The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining

owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

25. Landscape completion

Landscaping is to be implemented in accordance with the Landscape Plan A2, issue B, prepared by Landart, inclusive of the following conditions:

- i) Three (3) native canopy trees shall be planted within the site, selected in accordance with Schedule 4, Part B - Native Tree Selection, including two (2) located within the rear setback at the south east corner of the site,
- ii) The nominated *Cupaniopsis anacardioides* shall be deleted and replaced with a native canopy tree in accordance with Schedule 4, Part B - Native Tree Selection,
- iii) Tree planting shall be located within a 9m² deep soil area and be located a minimum of 3 metres from existing and proposed buildings,
- iv) Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views,
- vii) The landscape plan is to show the deletion of concrete paving along the southern boundary and the nominated *syzygium* hedge screening plants along the southern boundary shall be continued for the entire length of the southern boundary and along the western boundary to align with the entrance to the garage at densities matching the existing landscape plan.

Prior to the issue of an Occupation Certificate, a Landscape Report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the relevant conditions of consent.

Reason: Environmental amenity and softening and screening of the built form.

Vote: 2/1 – determined on 22 January 2021