



northern
beaches
council

MEMORANDUM

DATE: 14 June 2024

TO: Development Determination Panel (DDP)

CC: Rod Piggott, Manager Development Assessment

FROM: Nick Keeler, Planner

SUBJECT: Item No. 3.4 - DA2023/1317 - 76 Condamine Street BALGOWLAH

TRIM REFERENCE: 2024/428459

The purpose of this memo is to advise the Panel that view loss inspections at the objecting properties was undertaken on 14 June 2024.

The following is a supplementary view sharing assessment from each property in accordance with the objectives of Part 3.4.3 of Manly DCP.

3.4.3 Maintenance of Views

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment:

78 Condamine St

The view corridor of concern obtained by this site is achieved towards the east and southeast and consists of partial views of North Harbour Reserve and Wellings Reserve with land/water interface and distant view of North Head.

The view corridor is partially obstructed by the existing dwelling, vegetation and trees.



Image 1: View towards east from kitchen



Image 2: View towards east from centre of rear balcony

155 Condamine St

The view corridor of concern obtained by this site is achieved towards the east across the subject site. The corridor consists of partial views of North Harbour Reserve, the land/water interface and distant views of North Head. The view corridor is partially obstructed by existing vegetation and trees.



Image 3: View towards east from kitchen



Image 4: Zoomed view towards east from dining room



Image 5: View towards east from living room

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment:

78 Condamine St

The views outlined under Principal 1 are obtained from the rear living areas, kitchen and balcony of the dwelling. The corridor is obtained across the side and rear boundaries of the subject site.

155 Condamine St

The views outlined under Principal 1 are obtained from the front living areas of the dwelling. The corridor is obtained across the front and rear boundaries of the subject site. Views are also obtained across the southern adjacent property at 74 Condamine Street.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment:

78 Condamine St

The view of the southern portion of North Harbour Reserve and part of Wellings Reserve with land/water interface from the rear balcony of this dwelling is expected to be obscured by the proposed development, especially on the southern side of the balcony. Views from the northern side of the rear balcony will not be as greatly impacted, however this corridor is partially filtered by existing trees and vegetation at the rear of the site. Views from the kitchen and living area are very restricted and are vulnerable to loss due to the development controls that apply to the subject site. Overall view loss is considered to be **moderate**.

155 Condamine St

The view of North Harbour Reserve and the land/water interface from the front living areas of this dwelling is expected to be impacted by the proposed development. However, distant water views and views towards North Head are not expected to be impacted by the development. Overall view loss is considered to be **minor**.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on 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.

Comment:

Despite partial non-compliance with the building height and wall height at the rear of the proposed dwelling, the extent of view impact upon adjacent and nearby dwellings is considered to be reasonable, as outlined below.

78 Condamine St

The view corridor towards the southeast that is most impacted from this dwelling is caused by portions of the development that are numerically compliant and are less than what is permitted by the development controls. While the proposed development is expected to have moderate impact upon existing views from this dwelling, the approximate 20m rear setback of the dwelling is inconsistent with the prevailing rear setbacks of existing and the proposed development. It would be unreasonable to expect an increased rear setback of the proposed development to reduce the view impact from this site. Such a requirement would restrict the development potential of the subject site and surrounding sites and inconsistent with the development controls that apply to the subject site. This site has significant potential for future development to be built closer to the rear boundary and regain substantial portions of the view corridor impacted by the proposal.

155 Condamine St

The proposed development is expected to have a minor impact upon the views obtained from this dwelling. The existing view corridor is highly vulnerable due to the underdeveloped nature of the subject site. While the proposed development will obscure small parts of North Harbour Reserve and the foreground coastal interface, these views are already filtered through vegetation. Distant views of the water and North Head will not be impacted by the proposal. The proposal demonstrates a compliant building height at the western-most point of the upper roof ridge and the non-compliant portion towards the rear will not significantly contribute to additional view loss and will mostly obscure vegetation rather than water or coastal interface. The increased setbacks of the first floor relative to the lower floors ensures appropriate corridors to obtain views between buildings is maintained.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Recommendation

A. No change to assessment report recommendation.