

Memo

Development Assessment

To: Development Determination Panel (DDP)

Cc: Rodney Piggott
Manager, Development Assessment

From: Maxwell Duncan, Principal Planner

Date: 2 December 2024

Subject: DA2024/0635 - 20 Beatty Street BALGOWLAH HEIGHTS

Record Number: 2024/872552

The purpose of this memo is to advise the DDP that additional information has been provided by the applicant and to provide an addendum to the assessment report.

1. Additional Information

On 28 November 2024, the applicant uploaded an amended set of the architectural plans. The amended plans reduced the size of the first-floor rear terrace by 3.0m. No other changes are proposed.

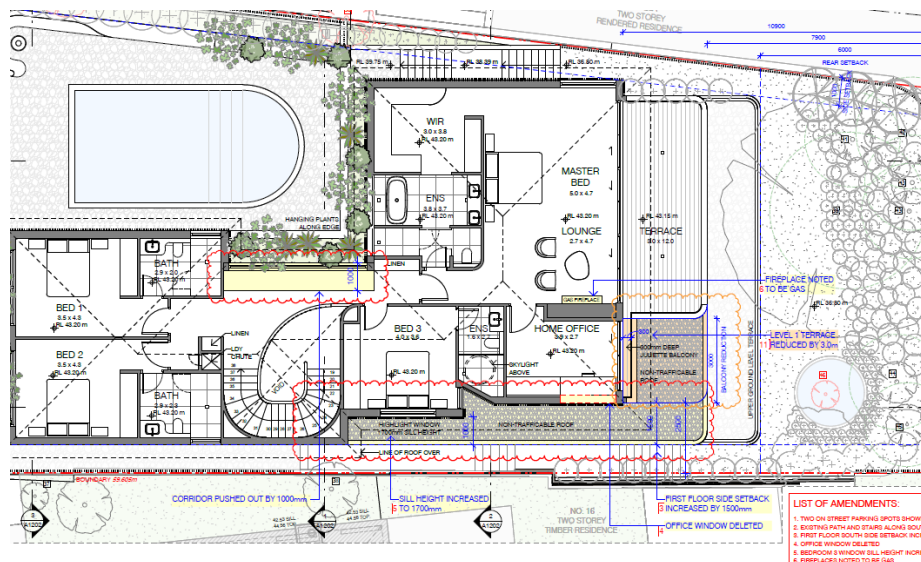


Figure 1 – Amended first floor plan

The proposed amendments will further reduce amenity impacts upon the neighbouring properties, by reducing the useability of the first-floor outdoor living area and increasing physical separation (proposed 5.5m setback) between the subject site and adjoining properties. Therefore, the proposed amendments are supported.

The proposed amendments will have a reduced environmental impact on the adjoining properties and public open space than the original proposal. The amended plans result in a reduced sized development. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan.

2. Addendum to Assessment Report

The assessment report did not include an assessment of Clause 4.1.2 (Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height) and Clause 4.1.4.4 (Rear Setbacks) of the Manly Development Control Plan (MDCP) 2013. An assessment of against these clauses of the MDCP 2013 is provided below:

Built Form Controls				
Built Form Controls - Site Area: 846.5sqm				
4.1.2.1 Wall Height	Requirement	Proposed	% Variation*	Complies
	North: 7.3m (based on gradient 1:7.5)	6.2m - 9m	23%	No
4.1.2.2 Number of Storeys	Requirement	Proposed	% Variation*	Complies
	South: 7.3m (based on gradient 1:7.5)	6.1m - 8m	4.2%	No
4.1.2.3 Roof Height	Requirement	Proposed	% Variation*	Complies
	2	3	50%	No
4.1.4.1 Street Front Setbacks	Requirement	Proposed	% Variation*	Complies
	Height: 2.5m	1.68m	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Requirement	Proposed	% Variation*	Complies
	Pitch: maximum 35 degrees	15 degrees	-	Yes
4.1.4.4 Rear Setbacks	Requirement	Proposed	% Variation*	Complies
	Prevailing building line/ 6m	Garage: 1.6m - 8.4m Dwelling: 19.8m	up to 74%	See comments below
4.1.5.1 Minimum Residential Total Open Space Requirements	Requirement	Proposed	% Variation*	Complies
	2.06m - 3m (based on northern wall height)	Ground floor: 1m - 1.9m First Floor: 1m - 2.1m	up to 51%	No
4.1.5.2 Landscaped Area	Requirement	Proposed	% Variation*	Complies
	2.03m - 2.66m (based on southern wall height)	Ground floor: 1m First Floor: 1m - 5.5m	up to 51%	No
4.1.5.3 Private Open Space	Requirement	Proposed	% Variation*	Complies
	Windows: 3m	1m - 2.5m	up to 66%	No
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Requirement	Proposed	% Variation*	Complies
	8m	Lower ground terrace - 7m Upper ground terrace - 6m First floor terrace - 7.3m	up to 25%	No
4.1.9 Swimming Pools, Spas and Water Features	Requirement	Proposed	% Variation*	Complies
	Open space 60% (507.9sqm) of site area	51.7% (437.8sqm)	13.8%	No
4.1.10 Fencing	Requirement	Proposed	% Variation*	Complies
	Open space above ground 25% of total open space	109.45% (86sqm)	-	Yes
Schedule 3 Parking and Access	Requirement	Proposed	% Variation*	Complies
	Landscaped area 40% (175.12sqm) of open space	56% 246.5sqm	-	Yes
	Requirement	Proposed	% Variation*	Complies
	3 native trees	3 trees (conditioned)	-	Yes
	Requirement	Proposed	% Variation*	Complies
	18sqm per dwelling	>18sqm	-	Yes
	Requirement	Proposed	% Variation*	Complies
	Maximum 50% of frontage up to maximum 6.2m	6.7m	8%	No
	Requirement	Proposed	% Variation*	Complies
	1m height above ground	Ground level	-	Yes
	Requirement	Proposed	% Variation*	Complies
	1m curtilage/1.5m water side/rear setback	1m, 2.8m	-	Yes
	Requirement	Proposed	% Variation*	Complies
	1m or 1.5m with 30% transparency	Wall - 1.8m	80%	No
	Requirement	Proposed	% Variation*	Complies
	Dwelling 2 spaces	2 spaces	-	Yes

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Description of non-compliance

Clause 4.1.2 Height of Buildings stipulates that walls are not to exceed 7.3m based on the slope of land. The northern and southern elevation contravenes the 7.3m control by up to 23% (1.7m).

Furthermore, in accordance with Clause 4.1.2.2 of the MDCP, buildings are restricted to a maximum of two storeys. The proposed development would result in three storeys.

Merit consideration

There are no underlying objectives of this control under which to consider the merits of this variation. This control instead relies on the objectives for the Height of Buildings at clause 4.3 in the Manly LEP 2013. The proposal has been assessed against these objectives under clause 4.3, within the assessment report. In summary, the variation is deemed to be reasonable and supported in this circumstance.

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

Clause 4.1.4.2 of the MDCP requires development be setback at least one third of the adjoining wall height. The development proposes multiple variations to the numeric requirement at the ground and first floor along both the northern

and southern elevations.

The clause requires the first-floor northern wall be setback 2.06m - 3m at the highest point. The application proposes a setback of 1.1m - 1.9m, non-compliant with the numeric control. This represents a 51% variation to the numeric control.

The clause requires the first-floor southern wall be setback 2.03m- 2.66m. The application proposes a setback of 1m - 5.5m non-compliant with the numeric control. This represents a variation up to 51%.

Clause 4.1.4.2 requires windows from habitable rooms of dwellings that face the side boundary to be setback at least 3m from side boundaries. The proposed window altered along the eastern setback 1m - 2.5m from the side property boundary, will be non-compliant with the numerical control.

Clause 4.1.4.4 requires development be setback 8m from the rear property boundary. The proposed development is setback 6m at the lower ground level, 6m at upper ground level and 7.9m at first floor level. This represents up to a 25% variation to the numeric control.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposal maintains the prevailing pattern of front setbacks in the street, with parking towards the frontage and the front of the dwelling aligning with the prevailing line of neighbouring dwellings. The proposal also involves an area of landscaping between the garage and dwelling as well as landscaping in front of the garage structure. This ensures the proposal provides for appropriate spatial proportions and suitable landscape character. The non-compliant rear setback will not be readily visible from the street and will not have any discernible visual impact.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposal provides suitable design for privacy with suitable physical separation and screening (subject to conditions). The proposal also complies with the solar access provisions under the DCP and provides open corridors to surround the development to assist in the provision of equitable amenity. The terraces to the rear of the property located in the rear setback area do not cause unreasonable direct overlooking to neighbouring properties as a result of the non-compliance.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

Flexibility to allow the numerical non-compliance with the setback controls is warranted given the complementary nature of the structure with the established character of the street, and the lack of unreasonable amenity impact including sufficient physical separation from neighbouring living spaces. Flexibility can be promoted in the rear setback as there are no unreasonable amenity impacts or bulk and scale impacts that result from the minor non-compliance.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

Adequate planting is provided across the site. Substantial open space is provided to the rear of the site to offset the scale of the development.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

The subject site is not located in a bush fire zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

RECOMMENDATION

As a result of the proposed revised plans, it is recommended that Condition 1 – Approved Plans and Supporting Documentation for DA2024/0635 be amended as follows:

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A1012	F	Site Plan	BJB Architects	28 November 2024
A1021	F	Demolition Plan	BJB Architects	28 November 2024
A1022	F	Erosion and Sediment Control Plan	BJB Architects	28 November 2024
A1023	F	Excavation Plan	BJB Architects	28 November 2024
A1102a	F	Lower Ground Floor Plan - Front	BJB Architects	28 November 2024
A1101b	F	Lower Ground Floor Plan - Rear	BJB Architects	28 November 2024
A1102a	F	Upper Ground Floor Plan - Front	BJB Architects	28 November 2024
A1102b	E	Upper Ground Floor Plan - Rear	BJB Architects	28 November 2024
A1103a	F	First Floor Plan - Front	BJB Architects	28 November 2024
A1103b	F	First Floor Plan - Rear	BJB Architects	28 November 2024
A1104a	F	Roof Plan - Front	BJB Architects	28 November 2024
A1104b	F	Roof Plan - Rear	BJB Architects	28 November 2024
A1201	F	Sections	BJB Architects	28 November 2024
A1202	F	Sections	BJB Architects	28 November 2024

A1301	F	East and North Elevation	BJB Architects	28 November 2024
A1302	F	West and South Elevation	BJB Architects	28 November 2024
A1303	F	Streetscape Elevation	BJB Architects	28 November 2024
A1601	F	West Management Plan	BJB Architects	28 November 2024
L-02	B	Site Plans	Site Design and Studios	9 May 2024
L- 04	B	Existing Tree Plan	Site Design and Studios	9 May 2024
L-10	B	First Ground Floor Plan - Rear	Site Design and Studios	9 May 2024
L-11	B	Planting Details	Site Design and Studios	9 May 2024
1/C	-	Stormwater Management Plan	Taylor Consulting	9 May 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Arboricultural Report	-	Jacksons Nature Works	10 May 2024
Geotechnical Investigation Report	-	Core Geotech	21 April 2024
BASIX Certificate No. 1746865S_03	-	Integreco Consulting	25 September 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.