

From: [Jan McDonald](#)
To: [City of Gold-Coast-MAIL](#)
Cc: [Division 14 - Cr Gail O'Neill](#)
Subject: OBJECTION to MCU/2023/15 Material Change of Use Impact Assessment Multiple Dwelling
Date: Monday, 8 April 2024 3:24:38 PM
Attachments: [Obiection to MCU239-241 Boundary St Coolangatta v4f162951.docx](#)

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Please find attached my objection to 239-241 Boundary St Coolangatta 4225.

Regards Jan McDonald

Sent from [Mail](#) for Windows

3 April 2024

Chief Executive Officer

City of Gold Coast

Via email: mail@goldcoast.qld.gov.au

Cc: Councillor Gail O'Neill

division14@goldcoast.qld.gov.au

Cc: Councillor Mark Hammell

division1@goldcoast.qld.gov.au

Dear sir,

OBJECTION to MCU/2023/15

Material Change of Use Impact Assessment Multiple Dwelling

239-241 Boundary St Coolangatta

I write in respect to the development application which seeks a development permit for a Material Change of use for a Multiple Dwelling development at 239-241 Boundary St Coolangatta.

Objection submission to Material Change of Use MCU/2023/15 for multiple Dwelling (34 units) at 239 to 241 Boundary Street, Coolangatta, 4225 Q

I wish to strongly object to this application for a number of reasons. I live at 243 Boundary St Coolangatta, in The Bay Apartments, next door to this application.

Locals and visitors have all witnessed to our distress, the damage caused to 235 Boundary St Laundromat and Holiday Flats (now all demolished) and neighbouring buildings by S&S Paul Geduon, Esprit development. Residents were evicted from Rainbow Flats Eden Av in May 2023, with 3hrs notice due to damage caused to the building by subsidence from Esprit 3 level carpark dig. Rainbow Laundromat also started to suffer damage from May 2023, which then caused it to become unliveable or unrentable. It has taken them more than 9mths to try to fix whatever problem has caused the destruction to adjoining buildings. When assessing this 239 Boundary application, it is expected that council would take into consideration the massive problems that have occurred at Esprit development and ensure it doesn't happen again with this 239 Development.

Long term owner and resident of the Rainbow Laundromat, has lost her family home and business of 3 permanent rental units and 1 commercial rental due to Esprit subsidence. It has all now been demolished and now the block is used by the builder, very convenient for them, whereas her future is uncertain until the cause is established and she is compensated. This application is for 239-241 Boundary St, demolition of Laundromat is at 235 Boundary St. Way to close to us at 243 Boundary St for us to have any confidence in this build not affecting us. All neighbouring properties on the Northern boundary of Esprit have all suffered damage to their structures. Rainbow Flats in Eden Av has been boarded up for 9mths. Because of this, all owners at The Bay and locals are greatly concerned that we will be the next ones to fall into another Pit. The GCCC flood map shows that our address 243 Boundary is situated over a water table that continues down past Esprit. It was common knowledge among long time locals, of the stream under Esprit and they were in total disbelief that it was ever allowed to have a 3 level basement underground carpark. 239 Boundary application also includes a 3 level basement carpark on top of a water table so we are urging the GCCC to learn from the Esprit disaster and not allow this application in it's present form. How far below sea level does the excavation go down?

The atrocious setbacks in their current form will greatly affect the residents at The Bay.

Applicant claims that The Bay situated beside this application, has no/limited permanent residences; fact is 50% (approx. more than 50 people) of our 36 units, which spans 243 -253 Boundary St, are permanently occupied. 7 of these units and the management business are directly adjacent within metres, and will be greatly affected by construction noise, loss of income and privacy and complete over shadowing.

Major disruption to traffic flow from Rockpool build Marine Pde, Esprit build Boundary St, Holm Eden Av, Greenmount Hotel Eden Av, 271 Boundary St , 239 Boundary St and 202 Marine Pde will make it an absolute nightmare for locals to move around. Already we are constantly being stopped daily and detoured due to Komune, Rockpool and Esprit constructions. People are losing their patience as their lives and livelihoods and mental stability are totally disrupted to satisfy a few. We understand the old buildings will be replaced, but smaller builds that are not as profitable for a developer, will not have such a significant impact on the amenity, shadowing, traffic, infrastructure and disruption to lives of Rainbow Bay.

Many longtime residents have lost their homes and businesses due to these developments and certainly cannot afford to buy into any of these multi-million dollar apartments that are catering for mostly rich interstate or overseas buyers and very few locals. Rentals are now scarce or unaffordable, so workers have had to leave the area, which then in turn leads to staff shortages in local businesses.

What is happening to Rainbow Bay is quite distressing to locals and visitors who have long enjoyed the amenity, quietness , open spaces and privacy. Daily reality for Rainbow is now bullying by real estate agents to sell properties to developers, fear of damage to properties caused by construction, damage to council roads, footpaths and infrastructure, removal of public rubbish bins and long established trees and shade, very noisy excavation machines, up to 10 double B or concrete trucks at a time parked in the street, loud diesel cranes, very frequent traffic stoppages and diversions, damage and destruction of people's homes and livelihood, asbestos removal with no building coverage, pollution of waterways, boarded up Holm Development and Rainbow Flats Eden Av condemned site that is constantly being inhabited by squatters, unapproved Developer advertising illuminated crane signs that shine into apartments and total disregard and consideration for locals by developers and builders. Rainbow Bay does not paint a pretty picture anymore and this is only the beginning.

The 239 -241 applicant exaggerates the height of The Bay 243 Boundary St (4 stories) to make it appear that his is not out of place beside it. He states that 271 Boundary St has been approved at 58.8 metres. Reality is decision is still pending in GCCC and is asking for 52.5 metres – another inaccuracy.

The older established buildings that he uses to compare to, were approved in the eighty's and all have a very large green space and trees around with large setbacks and no 3 level basement carparks.

The proposed building is situated on the corner where there is a pedestrian crossing. It is already a dangerous spot for pedestrians with the high volume of traffic. In Ward St it states there is a Yoga Studio, this is untrue.

Parking in Rainbow Bay is already out of control especially since the completion of Flow and Awaken, Pipi's restaurant and café, as many of their residents now park on the streets due to inadequate spaces in their new building or business. 3P parking is very rarely enforced here by GCCC. There is no public transport in Rainbow and the closest bus stop is at Tweed Mall NSW or Sebel Twin Towns NSW.

Once Cala Dei, Rockpool, Esprit, 271 Boundary St and 239 Boundary, Holm and Greenmount Hotel in one way Eden Av St are all occupied, there will be virtually no parking for locals. To go to the beach now, locals and visitors have to drop off their family and then go and find a park, sometimes as far as Coral St NSW. If the surf is up, this problem is

greatly increased. Many locals just don't come here anymore due to parking. The least GCCC could do is regularly police the parking.

Please consider the bigger picture and implications to Rainbow Bay of all these oversized applications and not approve 239-241 Boundary St Coolangatta in it's current form.

The Impact Assessable application has arisen as the building height exceeds the acceptable outcome of (38m) on the applicable Building Height Overlay Map (BHOM). This exceedance gives rise to non-compliance with City Plan because the overlay map is embedded in Overall outcomes 6.2.3.2(2)(d)(i) and Performance outcome PO3 of the High Density Residential Zone Code (**HDRZC**).

I contend the proposal is not consistent with the character and the applicant's plans clearly demonstrate this. I also identify other areas of noncompliance which when considered collectively demonstrate the proposal is an overdevelopment of the site, cannot be considered compliant with the specific outcomes of s.3.3.2.1(9) and warrants refusal.

Further, the building form is not consistent with the desirable height pattern and will have a negative impact because it does not protect the local character, scenic and residential amenity of the area.

The intent of the Residential High Density Zone is to provide for higher density multiple dwellings supported small scale services. The proposed development exceeds the density envisaged and does not provide for small scale services that would cater for local residents. Further, the form, scale, bulk and intensity of development is not appropriate at this location.

The proposed development does not maintain front, rear and side boundary setbacks, has excessive site cover and provides little landscaping at ground level. The proposed podium and land uses at the ground level will also detract from the residential character and amenity of the area.

Consequently, the proposed development is likely to have a significant impact upon the adjoining property to the east / south and the streetscape generally. From any broad review of the proposal against the scheme provisions, the proposed development does not meet the intent of development included in the Residential High Density Zone at this location.

The applicant selectively relies on the higher order strategic provisions of the planning scheme that apply city wide or at a sub-regional level to support the overdevelopment and high intensity redevelopment of a specific site blind of the balance of the planning scheme provisions.

I draw Councils attention to *Dajen Investments Pty Ltd v Anor & CoGC(Appeal No.918 of 2022)* noting the strong similarities between the facts and circumstances surrounding this multiple dwelling and that of the appeal. There is strong correlation in the reliance of the uplift provisions to support the proposal without due regard to the reasonable expectations on amenity and appropriateness of the built form. This again would clearly illustrate the development as proposed is not appropriate and should be refused.

The Proposal

North 2.93	Does not comply 0m setback to services cabinet
East 3.08	Does not comply(1.2m provided)
South (Boundary St) 2.73	Does not comply

West (Ward St) 3.12	Does not comply
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- Level 1 contains communal open space and 2 residential units (we note differing setbacks indicated between various sheets)

Setbacks (m)

North 2.93	Complies
East 3.0	Complies
South Boundary St) 2.73	Does not Comply
West (Ward St) 3.12	Deos not Comply

49% site cover

- Level 2 - 6 contains 3 residential units

49% site cover

Setbacks – we note differing drawings show differing setbacks (Setback analysis different from Elevations)

North 2.93	Does not comply above level 3
East 3.0	Does not comply above level 3
South Boundary St) 2.73	Does not comply for all levels
West (Ward St) 3.12	Does not comply for all levels

- Level 7-14 contains 2 residential units

48% site cover

Setbacks – we note differing drawings show differing setbacks (Setback analysis different from Elevations)

North 3.5	Does not Comply for all levels
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East 3.5	Does not comply for all levels
South Boundary St) 3.2	Does not comply for all levels
West (Ward St) 3.38	Does not comply for all levels

- Level 15 contains the penthouse unit

48% site cover

Setbacks – we note differing drawings show differing setbacks (Setback analysis different from Elevations)

North 3.5	Does not Comply
East 3.5	Does not comply
South Boundary St) 3.2	Does not comply
West (Ward St) 3.38	Does not comply

- Level 16 provides private open space for the penthouse

18% site cover

I would also like to correct the misrepresentation made in the planning report that The Bays Apartments has both short term/holiday accommodation as well as permanent residents. The continual reference to the building as a 'Hotel' seeks to diminish and distinguish between permanent v short term residents. Inferring the later are less concerned with or have less regard to amenity impacts from the proposal.

The setbacks for the development do not comply with the relevant acceptable outcomes in City Plan. The departure from the acceptable outcomes means approval is sought for an alternative solution demonstrating compliance with Performance outcome PO1 of the High Density Residential Zone Code

Elevations illustrate the solid nature of the built form and inability to provide effective landscape areas to side boundaries and frontage. This removes the ability for landscaping to soften the built form and assist in minimising its bulk and assist in providing privacy for adjoining dwellings.

The elevations illustrate the overbearing dominance of the building on both streetscape and adjoining residential properties. This is particularly so for the residential development to the east as little to no effective screening or landscaping is provided. The minor garden beds shown in the elevation, whilst incapable of sustaining any meaningful landscaping have no practical access for maintenance.

I note a high degree of glazing across all levels of the building which increases overlooking and impacts on amenity. This introduction of screens may alleviate this however this would further reduce the setbacks/perceived setbacks and exaggerate the bulk and scape for the built form.

High Density Residential Zone(HDRZ)

The proposal clearly by way of reduced setbacks, increase in height and absence of deep planting / effective landscaping results in a built form which is overbearing, bulky and detracts from the amenity of the streetscape for the general public. The proposal importantly detracts from the adjoining residential amenity.

The proposed built form does unreasonably impact on adjoining residential amenity through reduced setbacks which are not compliant in the zone and for that component of the building which seeks the 50% uplift are also non-compliant. The lack of deep planting and meaningful landscaped areas further accentuates the built form, its bulk and scale which towers over the adjoining residential area to the east having an unreasonable impact to amenity.

The design further impacts on residential amenity unreasonably by the orientation of bedrooms and glazing to the east looking into units and private open space areas. Whilst feature screens may be added this would contribute to reduced setbacks and the imposing-built form. The tower and that component which seeks to achieve a 50% uplift for height has an unacceptable impact on the amenity of neighbouring properties.

I also draw Councils attention to (2)(b)(ix) relating to natural hazard noting that the proposal includes a 3 level basement. Whilst not mapped on any coastal hazard or landslide hazard no geotechnical assessment of the site has been undertaken. I specifically raise this issue due to the sinkhole(s) which developed on the Espirit development immediately to the west on Boundary St.

This matter is raised as a concern and should be investigated now to ensure suitability of the site and its proposed basement and or impact which may arise outside the applications boundaries on neighbouring properties.

Strategic Framework

The proposal fails to reinforce identity and sense of place through the increase in height above that outlined in the Building Height Overlay Map. The proposed building does not through design reinforce a sense of place, the design is presents as a large, overbearing and bulky built form. The scale of which is not compatible with the sense of place.

The proposal does not contribute to the immediate character and sense of place. The proposed separation / setbacks proposed by the development to adjoining buildings and streetscape is also inconsistent with the character of the locality. The extra height of the building (over the height shown in the BHOM), whilst enabling a high rise and higher density does result in character and amenity impacts and thus does not reinforce local identity and sense of place.

As noted, the proposal contains no deep planting to adjoining residential properties and the streetscape this is not consistent with the local character and reasonable amenity expectations of nearby residents.

This is particularly the case to the eastern residential property where there is no deep plantings and small less than 500mm deep planter boxes. These are unable to support feature trees/palms and or even large shrubs. These do no soften the built form and do not provide any screening.

The streetscape plantings are also limited in area, width and depth. The majority of planting areas are less than 500mm high, and not sufficient to contain feature trees/palms or large shrubs.

The lack of landscaping and the lack of horizontal landscaped areas and suitably sized planters (i.e. Depth) do not diminish the scale and bulk of the built form and its dominance to the street and neighbouring properties. The extra height of the building (over the height shown in the BHOM) and its bulk is amplified by the lack of landscaped treatments.

Overshadowing Impacts and flawed assessment

The extra height of the building (over the height shown in the BHOM) also results in unacceptable overshadowing.

We note the proposal has based the drawings on the Code Assessable building height on the current tower. This as described has non-compliant setbacks to all levels and 'masks' the extent of the Code Assessable Shadow impacts.

This diminishes assessment of the proposed shadow impacts. The shadow impacts are thus greater than indicated in the drawings. The proposal clearly illustrates using the incorrect method of displaying shadows that private open space areas and roof top private open space areas of surrounding buildings and that of the adjoining building to the east are significantly impacts by shadow.

Privacy Impacts

The combination of the proposal reduced setbacks and lack of screening either by landscaping or physical screens results in the building having privacy impacts. The proposal is unable in its current form to address these privacy concerns without substantive changes.

A balance between the design and privacy expectations has not been achieved or demonstrated.

The extra height of the building (over the height shown in the BHOM) results in the building being overbearing particularly to the building to the east where there is a substantive height discrepancy.

Privacy impacts would be addressed by landscaping at lower levels which is not provided and screens with more substantive setbacks to higher levels and particularly those that extend to the top of the building above that shown in on the BHOM.

Interface Impacts

The interface of the proposal as indicated already is poor. At ground to the north carparks and acoustic fencing is provided with limited landscaping. The eastern boundary interface consists of acoustic fencing, services bike parking areas and effectively no landscaping. No deep planting is provided and no sufficiently wide or deep landscape planters are provided to accommodate 'deep' planting or enable more substantive and taller landscaped elements.

The streetscape is dominated by vehicle crossovers and views of carparking areas on Ward St. Services cabinets and pedestrian entry dominate the Boundary St interface. No deep planting is provided to either frontage and no substantive wide or deep landscaped areas are provided.

A series of narrow and shallow planters are provided that seek to soften the built form edge and interface. These due to the shape size and depth do not 'soften' the lower levels of the built form and do not assist in softening higher floors nor that above the height outlined in the BHOM.

This interface is overwhelmed, through reduced setbacks to all frontages, by the physical form and scale of the built form including that additional height above that permitted under the BHOM. The reduced setbacks and lack of landscaped elements do not soften the building edge or its overbearing form.

The interface to the adjoining neighbouring buildings is not 'well managed' as it does not address the differing scale between the adjoining buildings and would result in a sense of overbearing. The absence of landscaping and significant setbacks particularly for those levels of the building exceeding the height nominated in the BHOM result in the proposal having amenity impact and thus does not have a 'well managed interface nor relationship to the neighbouring properties.'

The proposed building does seek height above that identified in the BHOM. The increase in height does not contribute to this ordered local skyline. The proposed building height and bulky form of the building is more reflective of that desired in the centre zone/Coolangatta.

Council has sought a deliberate decrease in building height from the centre zone. The proposed increased height of the building combined with the bulky form would diminish the desired decrease in scale and intensity sought through overall reduced heights in Rainbow Bay from that in Coolangatta.

(9)(e) an excellent standard of appearance of the built form and street edge

The proposal fails on these grounds and as illustrated is overbearing with interface impacts. The built form lacks clear differentiation between the ground floor and tower above. Contributing to the bulk and scale of the proposal.

This lack of tower differentiation and particularly for that part of the tower above that permitted under the BHOM is reflected in through the reduced setbacks across all floors and minimal variation between floors. This also results in the non-compliance with the High Rise Accommodation Design Code (HRADC) specifically;

The proposed design through increased height and site cover result in a overwhelming built form that does not relate to adjoining buildings, protect amenity, is not slender or provide varied in setbacks in the tower.

Street Edge

As outlined the street edge is dominated by the vehicle crossover/carparking areas, services cabinets, pedestrian and bin access paths and minor linear landscaped planters. The later not providing 'deep planting' and not sufficiently sized or of depth to enable the provision of a medium for feature trees or small trees. This lack of landscaping results in the built form dominating the streetscape and result in a sense of overbearing.

An excellent street edge is thus not provided and this criterion is not met.

The proposed uplift would see the building having a height form and bulk more consistent with that which would be found in Coolangatta and diminishes the contrast desired by the scheme.

The extra height of the building (over the height shown in the BHOM) diminishes the strategic changes in building height sought to differentiate the urban neighbourhood' from the centres".

This evaluation and assessment clearly illustrates the proposal fails to meet numerous provisions and use of the uplift should not be allowed. Where the provisions of the uplift are unable to be used the noncompliance with the HDRZC prevails. The non-compliance with City Plan is significant and there are no exceptional "grounds" or other "relevant matters" relied on, to support approval.

As detailed the proposal does not comply with Specific outcome 9. The non-compliance with Specific outcome 9 manifests in: (1) adverse amenity and character impacts; and (2) non-compliance with the HDRZC and Multiple

accommodation code. The application should be refused. The extra height of the building (over the height shown in the BHOM).

Summary

This application seeks an Impact Assessable Multiple Dwelling development. The development as outlined is non-compliant with the Building Height Overlay Map and other provisions of the High Density Residential Zone Code.

The applicant seeks to rely on other approvals for buildings which have exceeded of the Building Height Overlay and design as justification for use of s3.3.2.1(9).

The proposal seeks a high rise development which diminishes the deliberate differentiation sought and results in a more bulkier building which may be delivered in the centre zone /Coolangatta.

The proposal results in a large and bulky design outcome which is above that outlined in the BHOM.

This design outcome and taller building has significant impacts to the adjoining residential properties amenity. These impacts to privacy and amenity are not able to be achieved through an alternate design or conditions.

The relationship of the built form with its immediate neighbours is one of disproportion; it is overbearing.

The proposal will not reinforce local identity and sense of place as required by Specific outcome 9(b). Rather, an approval would give rise to an adverse character and amenity impact. This would diminish the deliberate building height changes sought through the BHOM and taper in height.

I note the applicant seeks to utilise other approvals or 'emerging trends' as a reason when considering assessment of s.3.3.2.1(9) and approvals. We note again the s.3.3.2.1(9) is to be used only in ' limited circumstances and no overriding merit or public benefit has been put forward for use in this circumstance.

The design and levels of the building above that outlined in the BHOM does not reinforce a sense of place or local identity. The built form is bulky and visually overbearing for the neighbouring and nearby. The built form will also adversely impact on the streetscape character of the immediate locality.

The proposal through its reduced setbacks, lack of landscaping and lack of variation in the tower form does not result in a well-managed interface or relationship with nearby and adjacent development. Significant amenity impacts would be occasioned by the proposal and from those levels of the building above that outlined in the BHOM. These impacts are not reasonable nor expected.

The proposed increase in height above that stated on the BHOM does make a material difference to the perceived scale and bulk of the building. The scale and bulk of the building have a significant impact on neighbouring properties and resident's amenity and privacy.

The application as also outlined has not addressed the geotechnical risks associated with development of the site, through the proposed 3 levels of 100% site coverage basement. As noted, 'sink holes' developed on the nearby Espirit development immediately to the west on Boundary St. This 'risk' is required to be assessed as a hazard to development and has not. The large variation in basement depths between that proposed and adjoining developments and services in the street necessitates further investigation.

The submission clearly illustrates the proposal is non-compliant in various areas of the scheme. These areas of noncompliance result in a built form and building height inconsistent with outcomes sought by the City Plan impacting on amenity, privacy and character.

The proposed development should be refused.

Yours sincerely
Jan McDonald
243 Boundary St
Coolangatta 4225