



Guiding Principles on Deviations

from the Architectural and Landscaping Design Manual

Version 01 (2 February 2017)

Legal Status: Adopted as a rule according to the MOI by resolution of the board of directors by email circulation on 2 February 2017. It is provisionally binding 10 business days after filing and circulation to members until adopted, amended or rejected by a members' meeting.

Read first – ask first – then build!

I. Introduction

As architectural matters take up a substantial amount of the Board's time, the Board has formally reinstated the Architectural Committee. This committee will handle all architectural matters.

In addition the process of plans submission (to the Estate) and plans scrutiny will be more transparent for members and the roles of the different parties involved are clarified in the section "*Responsibilities and Procedures in Architectural Matters*" below.

The Architectural committee is made up of the Board Director holding the Architectural Portfolio, (who also chairs the committee) and the two Estate-appointed Control Architects. The Estate Manager attends committee meetings and takes minutes (but does not have a vote). The Board Chairperson and any other board member has the right to attend any meeting (without the right to vote.)

The committee holds regular meetings between scheduled Board meetings. It is recommended that these meetings be held at least every two months.

Decisions can be made via email circulation.

The guide for the procedures of the committee is the section "*Responsibilities and Procedures in Architectural Matters*" in this document.

2. Preamble

The BWE Design Manual is intended to provide a framework for the design of the individual houses in Bluewater Estate with the objective of facilitating a cohesive architectural character in the development, responding positively to the site context and surrounding suburban fabric. It is supplementary to the requirements of the Local Authority and the National Building Regulations.

The BWE Home Owners Association has the right to:

1. make amendments to the Manual in order to ensure that the original intention of the Manual is maintained (according to Policy on Addendums to the Architectural and Landscaping Design Manual)
2. interpret the Manual and approve plans at its own discretion.

In light of the large number of requests to the Board for deviations from the Manual, the Board has developed a Policy on deviations to assist in the decision-making process.

Deviations from the Design Manual will no longer normally be permitted. Should a deviation be required for practical reasons, the process for requests for deviations, and a list of criteria to be considered in making decisions on such requests is outlined in the table "*Responsibilities and Procedures in Architectural Matters*" below.

3. Process

Requests for deviations from the Design Manual may arise at a number of points in the planning/building process:

1. **During the planning process:** The Control Architects have the discretion to allow minor deviations at the planning stage, provided these do not conflict with the criteria outlined below. If the requested deviations are more significant, a clear written motivation addressed to the Control Architect is required. The Control Architect will make a decision. If the decision is to decline the request, the decision is final. If the intention is to allow the deviation, the Control Architect must make a motivated recommendation to the Architectural Committee, which will vote on the matter. **It should be noted that once BWE has signed off on the plans – including any deviations – the decision cannot and will not be reversed by BWE.**
2. **During the building process:** The builder may come across practical problems related to the plans during the build, or owners/prospective purchasers may request changes to the plans with consequential deviations. If these are requested, or picked up during an inspection, the Control Architect may, as above, allow or refuse the deviations. Should the deviations be allowed, the owner/builder must then submit a rider plan reflecting the changes. Should the deviations be refused, the owner/builder will be notified in terms of the *Policy on Building/Alteration and Non-Compliance Deposit*. The rules set out in this policy will apply.
3. **On completion:** In some cases, the deviation may only be picked up during the final inspection (although the inspections have been introduced with a view to avoiding such situations). The Control Architect must identify such deviations in the Completion Report and must include recommendations to the Architectural Committee in respect of each. The Committee must then make a decision. Should the decision be that the deviations must be rectified, the owner/builder will be notified in terms of the *Policy on Building/Alteration and Non-Compliance Deposit*. The rules set out in this policy will apply.

4. Criteria

4.1 Criteria to be taken into account by the Architectural Committee and Control Architects when considering requests for deviations at any of the above stages:

1. Will it detract significantly from the overall architectural character of the Estate?
2. Is it of inferior quality (eg. in the case of materials)?
3. Will it cause harm/ detract from the value of adjacent properties?
4. Does it have environmental or other benefits or risks?
5. Is there a valid, practical reason for the deviation?
6. Neighbours must be notified and given the opportunity to comment on deviation requests. Their comments must be taken into consideration, although neighbours will not have the right to veto the request unless building lines are transgressed or it is otherwise stipulated by law.

7. Precedent (particularly of historical deviations) must not be taken into consideration. Each case must be assessed individually.

4.2 List of significant deviations (non-exhaustive):

1. Height of buildings
2. Height of front boundary walls/fences and screens
3. Ratio of first floor to ground floor
4. Materials
5. Non-allowable materials eg (including but not limited to):IBR, facebrick, reflective glazing, vibracrete walls, glass bricks, etc
6. Colours
7. Coverage
8. Window shape and divisions
9. Door size (eg. large openings for folding/sliding doors)
10. Door style

4.3 NOTE: As a general rule, it is the responsibility of the owners (and their architect and builder) to comply with the Manual. In cases where deviations which have already been implemented are not approved, they must be rectified at the owner's cost.

5. Definitions

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| Architectural Committee | A sub-committee of the Bluewater Estate Board of Directors responsible for decisions relating to architectural matters on the estate. This committee is made up of: <ul style="list-style-type: none">• Board Director for Architecture (Chair)• 2 Control Architects• Estate Manager (non-voting) |
| Control Architect | The estate-appointed architect who will scrutinise plans submitted to the estate. The Control Architect is allocated to an erf by the Estate Manager. |
| Architectural Portfolio | The portfolio and board member responsible for all architectural matters on Bluewater Estate. |
| Design Manual | Bluewater Estate Architectural and Landscaping Design Manual. |
| Variation | A change to approved plans which is still compliant with the Architectural and Landscaping Design Manual. |
| Deviation | A change to approved plans which is <i>NOT compliant</i> with the Architectural and Landscaping Design Manual; or any element of a plan or building which is not compliant with the Design Manual. |
| Non-compliance | Any element of a set of plans or a building which is not in accordance with the Design Manual. |
| Renovation | An update to an existing building. |
| Alteration | A change to an existing building. |
| Addition | An addition/s to an existing building. |

6. Responsibilities and procedures in architectural matters

| | Level | Decision | Procedure |
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| PRE-CONSTRUCTION / CONSTRUCTION | LEVEL 1 Normal planning and design & unaltered implementation | Control Architect | Plans are submitted to the Estate-appointed Control Architect for scrutiny as per the <i>Procedure for Building</i> . <ul style="list-style-type: none"> • Approval of plans, once compliant. • Construction. • Four phased inspections by Control Architect. <p>Communication normally is between Member and Control Architect.</p> <p>The scrutiny fee includes 1 design change. Further design changes (which must be scrutinised by the Control Architect), will be for the owner's account.</p> |
| | LEVEL 2 Compliant variations from approved plans (before implementation) | Control Architect | Application to Estate-appointed Control Architect. |
| | | | A) If the variation applied for is <i>compliant</i> with the Design Manual, the Control Architect makes the decision and notifies the Committee. B) If the variation applied for is <i>non-compliant</i> with the Design Manual, it becomes a deviation (from the Design Manual) and the Control Architect makes the decision: |
| | | 1. If the deviation is declined, the decision is final and the Committee is notified. | 2. If the Control Architect intends to allow the deviation, the matter is escalated to the Architectural Committee (LEVEL 3) to be voted upon. The Control Architect responsible must submit to the Committee a motivation for allowing the deviation in the form of a Decision Briefing with all documentation attached. |
| | LEVEL 3 Proposed deviations from Design Manual (Not normally permitted) | Architectural Committee | Proposed non-compliant variations from approved plans constitute deviations (which have not yet been built) from the Design Manual. A recommendation to the Architectural Committee is made by the Control Architect. Architectural Committee votes. The decision is final. The decision is communicated to the member by the Estate Manager. All decisions must be communicated and recorded either in drawings or minutes/ letters. Decisions on applications for variations or on non-compliance and its rectification may take at least a week after receipt of full and correct documentation, particularly if the Architectural Committee needs to be involved, and substantially longer in holiday periods or complex cases. Members are to refrain from exerting pressure on the Control Architect or the Architectural Committee. |
| CONSTRUCTION | LEVEL 4 Non-Compliance (Built) | Architectural Committee | While anyone may report built non-compliance, including the member concerned, usually the Control Architect notifies Estate Manager of non-compliance. Estate Manager notifies owner of non-compliance and issues a notice to the owner in terms of the <i>Policy on Building/Alteration and Non-Compliance Deposit</i> and in terms of the MOI. The respective decision procedures of Level 2+3 apply. An additional scrutiny fee may be imposed by BWE at the Architects' hourly rates if additional work is caused for the Control Architect. In cases of member's persistent refusal to rectify non-compliant built elements: <ul style="list-style-type: none"> • Fines and other measures apply. • The Architectural Committee informs the Board of Directors at the following monthly board meeting. |
| | LEVEL 5 Appeals | Board | Board receives and reviews appeals monthly at board meetings. <ul style="list-style-type: none"> • Appeals can be made only in instances where the member can substantiate that he/she has been unfairly treated or if due process has not been followed by the Architectural Committee. • No appeals will be considered in cases where the member simply does not like the decisions of the Architectural Committee or of the Control Architect. |

7. Summary of roles in architectural matters

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| Member (incl. member's architect and contractor) | <ul style="list-style-type: none"> • Studies and adheres to Design Manual and all applicable BWE documents. • Communicates openly and early with the relevant parties and asks if in doubt. • Plans and designs according to Design Manual. • Delivers and collects plans and documentation to and from Control Architect/ Estate. • Builds according to approved plans. • Applies to Control Architect for variations from approved plans before implementing them. • Self-reports non-compliance of contractors. • Calls for inspections in time at the phases due. |
| Estate Manager | <ul style="list-style-type: none"> • Initial and most frequent port of call for Members. • Assigns Control Architect. • Communicates decisions on Level 2-5 to the Member. • Keeps a record of all decisions in the file of the Erf. • Takes minutes of Architectural Committee. |
| Control Architect | <ul style="list-style-type: none"> • Scrutinizes and approves plans. • Interacts directly with member and his/her architect on planning and design level. • Communicates decisions on Level 1 directly. • Regularly inspects build on site. • Receives applications for variations (Level 2) or deviations (Level 3). • Decides on accepting or declining of variations applied for. • Decides on declining of deviations applied for. • Recommends and motivates approval of deviations applied for. • Scrutinizes proposed rectification of non-compliance. • Votes in Architectural Committee. |
| Director of Architectural Portfolio | <ul style="list-style-type: none"> • Chairs Architectural Committee. • Votes in Architectural Committee. • Monitors decisions to ensure consistency and adherence to procedures and Design Manual. |
| Board of Directors | <ul style="list-style-type: none"> • Appoints and makes policies for Architectural Committee. • Receives reports from Architectural Committee. • Receives and reviews appeals. |