



northern
beaches
council

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held via Teleconference on

WEDNESDAY 13 DECEMBER 2023

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 13 December 2023

The public meeting commenced at 11.00am and concluded at 12.36pm.

The deliberations and determinations commenced at 1.00pm following the public meeting and concluded at 4.41pm.

ATTENDANCE:

Panel Members

Peter Biscoe KC	Chair
Brian Kirk	Town Planner
Oliver Klein	Town Planner
John Simmonds	Community Representative

The Panel have visited all sites personally, or electronically, and have had regard to the assessment report, all accompanying documentation, submissions from the public and any supplementary reports in determining all applications.

1.0 APOLOGIES AND DECLARATIONS OF INTEREST

Nil

In accordance with Section 4.9 of the NSW Government Code of Conduct for Local Government Planning Panels, all members have signed a declaration of interest in relation to each item on the agenda. No conflicts of interest were disclosed.

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 6 DECEMBER 2023

The Panel noted that the minutes of the Northern Beaches Local Planning Panel held 6 December 2023, were adopted by the Chairperson and have been posted on the Council's website.

3.0 CATEGORY 3 APPLICATIONS

Nil

4.0 PUBLIC MEETING ITEMS

4.1 DA2023/0868 - 37, 39, 41 & 43 HAY STREET, COLLAROY - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A SENIORS HOUSING DEVELOPMENT.

PROCEEDINGS IN BRIEF

The proposal is for demolition of existing dwellings and construction of a seniors housing development.

The Panel received a supplementary memo from Council dated 12 December 2023.

The Panel notes a clerical error in proposed reason number 8: "Section 79C" should read "Section 4.15"; and in reason number 11 "2" should be "36" and "28" should be "38".

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/0868 for the demolition of existing dwellings and construction of a seniors housing development on land at Lot 44 DP 10648, 39 Hay Street, Collaroy, Lot 45 DP 10648, 41 Hay Street, Collaroy, Lot 46 DP 10648, 43 Hay Street, Collaroy, Lot 43 DP 10648, 37 Hay Street, Collaroy for the reasons for refusal set out in the Assessment Report subject to correcting the clerical errors referred to above.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo.

Vote: 4/0

4.2 DA2023/0368 - 1/9-15 CENTRAL AVENUE, MANLY - FIT OUT AND USE OF THE COURTYARD FOR THE SEATING OF 100 PATRONS, OPERATING FROM 8.00AM TO 10.00PM (SAME AS EXISTING)

PROCEEDINGS IN BRIEF

The proposal is for fit out and use of the courtyard for the seating of 100 patrons, operating from 8.00am to 10.00pm (same as existing).

At the public meeting which followed the Panel was addressed by one speaker in support of the application and one representative of the applicant.

At the public meeting the applicant sought a deferral to enable it to address matters raised in Council's assessment report.

DECISION ON DEFERRAL APPLICATION

The Panel considers that they would be in a position to determine whether to approve the proposed works and 100 seats in the courtyard if the applicant provides a supplementary acoustic report addressing the acoustic issues raised in Council's assessment report and provides a further report from a qualified BCA consultant providing details of the ability of the proposal to satisfy the access (including but not limited to toilets) requirements of the BCA and the Disability (Access to Premises) Standards 2010, and if necessary additional or amended plans are to be submitted.

The applicant is to lodge any further reports, amended plans and further information with Council by 24 January 2024.

The matter is deferred for further public hearing by the Panel on 21 February 2024.

Vote: 4/0

4.3 DA2023/0342 - 12-14 ROCK BATH ROAD, PALM BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL.

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a dwelling house including swimming pool.

At the public meeting which followed the Panel was addressed by one neighbour, one representative on behalf of a neighbour, one representative of the applicant and the owner.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0342 for demolition works and construction of a dwelling house including swimming pool on land at Lot 289 DP 16362, 12 - 14 Rock Bath Road, Palm Beach, Lot 290 DP 16362, 12 - 14 Rock Bath Road, Palm Beach subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following condition:

Engineer's Certification of Plans

A structural design of the development shall be prepared, and each plan/sheet is to signed by a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional.

2. The addition of the following condition:

Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the adjoining coastal cliff and the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety

3. The addition of the following condition:

Construction Vibration

Vibrations associated with excavation and construction works are limited to a tolerance of 3mm/s PPV (peak particle velocity) at the property boundaries and at the sea cliff adjacent to the subject property. Vibration monitoring equipment is to be installed by a registered Geotechnical Engineer throughout the site and along the boundaries to verify that vibration is

within the limits of the maximum tolerance.

The vibration monitoring equipment must include a light/alarm, so the site foreman and equipment operator are alerted to the fact that vibration limits have been exceeded. Where the vibration tolerances have been exceeded, works shall cease until a change in construction / excavation methodology are implemented to ensure compliance. It also must log and record vibrations throughout the excavation and construction works so that compliance may be verified. Any monitoring devices are to be installed at the footing level of any adjacent structures.

Reason: To restrict vibration impacts.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report, subject to the above.

Vote: 4/0

4.4 DA2022/1530 - 171 FOREST WAY, BELROSE - DEMOLITION WORKS AND CONSTRUCTION OF HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY.

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of housing for seniors or people with a disability.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2022/1530 for the demolition works and construction of housing for seniors or people with a disability at Lot 9 DP 737255, 171 Forest Way, Belrose for the reasons for refusal set out in the Assessment Report, subject to the following:

1. The amendment of reason for refusal number 9 to read as follows:

9. Pursuant to Section 4.15(1)(b) the Environmental Planning and Assessment Act, 1979, the proposal fails to minimise the impact of the development on the biodiversity values of the site due to the extent of vegetation impacted by the proposal.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report, subject to the above.

Vote: 4/0

4.5 DA2023/0774 - 68A ELIMATTA ROAD, MONA VALE - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL AND CABANA.

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a dwelling house including a swimming pool and cabana.

At the public meeting which followed the Panel was addressed by one neighbour and one representative of the applicant.

The Panel received three late submissions dated 4 & 7 December 2023 and a supplementary memo from Council dated 12 December 2023.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0774 for alterations and additions to a dwelling house including a swimming pool and cabana at Lot 1 DP 717417, 68A Elimatta Road, Mona Vale subject to the conditions set out in the Assessment Report and supplementary memo.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo.

Vote: 4/0

4.6 DA2023/0379 - 107 IRIS STREET, BEACON HILL - TORRENS SUBDIVISION OF ONE LOT INTO FOUR LOTS.

PROCEEDINGS IN BRIEF

The proposal is for Torrens title Subdivision of one lot into four lots

At the public meeting which followed the Panel was addressed by the applicant.

The Panel received a late submission dated 12 December 2023.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/0379 for the Torrens title Subdivision of one lot into four lots on land at Lot 18 DP 19022, 107 Iris Street, Beacon Hill, for the following reasons:

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1 Minimum subdivision lot size and Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.

Particulars:

The Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case, and that there are sufficient environmental planning grounds to justify the contravention of the development standard in the circumstances of this case. This is because the proposal is inconsistent with objective 4.1(1)(g) of Clause 4.1 Minimum subdivision lot size of the Warringah Local Environmental Plan 2011, which provides "(g) to retain and protect existing significant natural landscape features".

This relates to natural features within proposed Lot 2, namely, a large mature tree and natural rock face. Insufficient information has been provided to establish that future development on this proposed allotment can be undertaken without adverse environmental impacts, given the resulting allotment would require a higher than usual level of design skill to accommodate development (considering the proposed allotment size and existing natural features). This is pursuant to the Planning Principle established within *Parrott v Kiama* [2004] NSWLEC 77.

REASONS FOR DETERMINATION

The Panel's reasons are as stated in the particulars above. Otherwise, the Panel disagrees with the reasons proposed in the Assessment Report.

Vote: 4/0

5.0 NON PUBLIC MEETING ITEMS

5.1 DA2023/0083 - 24 CABARITA ROAD, AVALON BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL AND BOATSHED.

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a dwelling house including swimming pool and boatshed.

The Panel received a late submission dated 7 December 2023.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of clause 7.8 Limited Development on Foreshore Area has adequately addressed and demonstrated that:
 - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Panel assumes the concurrence of the Secretary, Department Planning and Environment required under clause 4.6.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0083 for demolition works and construction of a dwelling house including swimming pool and boatshed on land at Lot 9 DP 17704, 24 Cabarita Road, Avalon Beach, Lot LIC 396153, 24 Cabarita Road, Avalon Beach, Lot LIC 631604, 24 Cabarita Road, Avalon Beach subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 17 to read as follows:

17. Amendments to the approved plans

The following amendments are to be made to the architectural plans and landscape plans:

- a) The proposed species of trees and plants are to be amended to ensure there are no species that have a mature height of more than 3 metres. The species are also to be endemic.
- b) The proposed privacy screen at the southern elevation Terrace 2 (level 4) is to be deleted.
- c) Maintain any planting on Terrace 2 (level 4) to a maximum 1.5 metres in height above the finished floor level.
- d) Reduce the depth of the eaves above Terrace 2 (level 4) to 2 metres.

Reason: To improve the views and amenity from the adjoining premises at number 26 Cabarita Road.

2. The deletion of condition 18

Reason: It duplicates condition 13.

3. The amendment of condition 13 to read as follows:

13.Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the adjoining coastal cliff and the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report, subject to the above.

Vote: 4/0

5.2 DA2022/2060 - 1 NIANGALA CLOSE, BELROSE - ALTERATIONS AND ADDITIONS TO AN EXISTING BUILDING INCLUDING THE INTERNAL FIT-OUT AND USE AS A CENTRE-BASED CHILD CARE FACILITY AND MEDICAL CENTRE.

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to an existing building including the internal fit-out and use as a centre-based child care facility and medical centre.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
 - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Panel assumes the concurrence of the Secretary, Department Planning and Environment required under clause 4.6.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/2060 for alterations and additions to an existing building including the internal fit-out and use as a centre-based child care facility and medical centre on land at Lot 92 DP 852750, 1 Niangala Close, Belrose subject to the conditions set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0

This is the final page of the Minutes comprising 13 pages numbered 1 to 13 of the Northern Beaches Local Planning Panel meeting held on Wednesday 13 December 2023.