

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held via Teleconference on

WEDNESDAY 3 APRIL 2024

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 3 April 2024

The public meeting commenced at 12.00pm and concluded at 12.36pm.

The deliberations and determinations commenced immediately following the public meeting and concluded at 1.57pm.

ATTENDANCE:

Panel Members

David Crofts	Chair
Deborah Laidlaw	Town Planner
Marcia Doheny	Law
Philip Young	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

No Apologies

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 20 MARCH 2024

The Panel noted that the minutes of the Northern Beaches Local Planning Panel held 20 March 2024, 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 DA2023/1128 - 27 REDMAN ROAD, DEE WHY - DEMOLITION WORKS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING.

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a Residential Flat Building.

At the public meeting which followed the Panel was not addressed by any neighbours or representatives of the applicant.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

1. The Panel is not satisfied that:

- a) 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:
 - i) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - ii) there are sufficient environmental planning grounds to justify the contraventions.
- b) 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.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/1128 for the demolition works and construction of a Residential Flat Building on land at Lot 73 DP 7413, 27 Redman Road, Dee Why for the reasons for refusal set out in the Assessment Report, for the following reasons:

1. **Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.**

Particulars:

i. The applicant's written request under clause 4.6 of the WLEP 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has not adequately addressed and demonstrated that:

- a) compliance with the standards is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify the contravention of the development standard

ii. Council is not satisfied the proposed development will be in the public interest because it is inconsistent with the objectives of the standard.

2. **Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with the provisions of Clause 4.3 Height of Buildings of the Warringah Local Environmental Plan 2011.**

Particulars:

The proposed development breaches the maximum building height development standard.

The proposed development is inconsistent with the objectives of clause 4.3 of Warringah Local Environmental Plan 2011.

3. **Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.**

Particulars:

The proposed development fails to protect residential amenity, has excessive building bulk and fails to manage environmental constraints.

4. **Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with the provisions of the R3 Medium Density Residential zone of the Warringah Local Environmental Plan 2011.**

Particulars:

The proposed development has not been designed to be harmony with the natural environment of Warringah and does not have a high visual quality presentation to Redman Road.

5. **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 State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development.**

Particulars:

i. The proposed development is not considered to satisfactorily meet the relevant Design Quality Principles of SEPP 65 as required by Clause 28(2) of the SEPP, in particular:

- Principle 1: Context and Neighbourhood Character;
- Principle 2: Built Form and Scale;
- Principle 4: Sustainability;
- Principle 5: Landscape;
- Principle 6: Amenity;
- Principle 8: Housing Diversity and Social Interaction and
- Principle 9: Aesthetics.

ii. In accordance with Clause 28(2)(c) of the SEPP 65, the proposed development is inconsistent with the design criteria detailed in the Apartment Design Guide in particular:

- 3A (Site Analysis);
- 3B (Orientation);
- 3J (Bicycle and Car Parking);
- 4K (Apartment Mix);
- 4M (Facades);
- 4O (Landscape Design);
- 4V (Water Management and Conservation) and
- 4X (Building Maintenance).

6. **Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following provisions of Warringah Local Environmental Plan 2011:**

- Clause 5.21 Flood planning
- Clause 6.2 Earthworks
- Clause 6.4 Development on sloping land

Particulars:

- i. The proposed development has not been designed to mitigate flood impacts to the subject site and adjoining land. The applicant has not provided adequate modelling to satisfy Council that the high hazard risk of flood and the severe risk to life has been appropriately reduced or addressed. In addition, the applicant has not provided sufficient information to enable a complete and proper assessment of the flood impacts on the site and adjoining properties.
- ii. The applicant has not provided sufficient information for Council to be satisfied that the earthworks will not result in adverse impacts to the watercourse and drainage patterns on the site and the impacts on adjoining properties.

7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the Warringah Development Control Plan (WDCP):

- Clause B3 Side Boundary Envelope
- Clause B5 Side Boundary Setbacks
- Clause B7 Front Boundary Setbacks
- Clause D6 Access to Sunlight
- Clause D9 Building Bulk
- Clause D10 Building Colours and Materials

Particulars:

- i. The proposed development fails to meet the numerical requirements of the front boundary setback, side boundary setback and side boundary envelope controls. The numerical non-compliances result in a cumulative impact, that increases the built form, resulting in an overdevelopment of the site.
- ii. The proposed development presents unacceptable amenity impacts to adjoining properties by way of solar access impacts that arise because of the excessive bulk and scale of the proposal and numerical non-compliance with Warringah Development Control Plan controls.
- iii. The proposed development includes a façade treatment based on a rendered finish in a light colour with a graphic pattern which is unrelated to its context and natural setting.

8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the Warringah Development Control Plan:

- Clause C2 Traffic, Access and Safety
- Clause C3 Parking Facilities

Particulars:

The proposed development does not provide a adequate number of off-street car and bicycle parking spaces. Additionally, the application has not demonstrated that the proposed driveway gradient and profile meets relevant Australian Standards.

9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the Warringah Development Control Plan:

- Clause C4 Stormwater
- Clause C6 Building over or adjacent to Constructed Council Drainage Easements
- Clause C7 Excavation and Landfill
- Clause C8 Demolition and Construction
- Clause E1 Preservation of Trees or Bushland Vegetation

- Clause E6 Retaining unique environmental features
- Clause E8 Waterways and Riparian Lands
- Clause E10 Landslip Risk
- Clause E11 Flood Prone Land

Particulars:

- i. The proposed development does not appropriately respond to the watercourse and open water channel that dissects the site, with unreasonable encroachment over and within the flow channel.
- ii. The proposed development has not been designed to appropriately mitigate flood impacts to the subject site and adjoining land. Additionally, the applicant has not provided sufficient information to enable a complete and proper assessment of the flood impacts on the site and adjoining properties.
- iii. Insufficient details have been provided for Council to be satisfied that the development will not result in adverse impacts to the watercourse and drainage patterns on the site and the effects on adjoining properties.
- iv. Insufficient details have been provided with the application in relation to construction and demolition processes to address natural constraints on the site and mitigate construction risks.
- v. The proposed development seeks to remove three trees identified as medium retention significance located within the eastern side setback which may otherwise be retained if the development was sited in accordance with the side setback control.

10. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not within the public's interest.

Particulars:

The proposed development is contrary to the provisions of relevant environmental planning instruments, development control plans and design guidelines. Notification of the development application has generated a number of submissions for residents in objection to the proposed development. The consent authority could not be satisfied that s.4.15(1)(e) of the Act has been satisfied.

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0

4.2 DA2023/0646 - 121 NARRABEEN PARK PARADE, MONA VALE - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE.

PROCEEDINGS IN BRIEF

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

At the public meeting which followed the Panel was addressed by two representatives of the applicant and two owners.

The Panel received a late submission dated 2 April 2024.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/0646 for the demolition works and construction of a dwelling house on land at Lot 1 DP 22672, 121 Narrabeen Park Parade, Mona Vale for the reasons for refusal set out in the Assessment Report, for the following reasons:

1. **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 2.11 (c) of State Environmental Planning Policy (Resilience and Hazards) 2021.**

Particulars:

The proposed development is considered to be inconsistent with the surrounding coastal and built environment, in relation to the bulk, scale and size of the proposal. The south-east elevation of the proposal will be of a scale that overly dominates the coastal environment, in a highly visually prominent area.

2. **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 Zone E4 Environmental Living of the Pittwater Local Environmental Plan 2014.**

Particulars:

The proposed development will not be of an acceptably low density and scale that is integrated with the landform and landscape and will have an unacceptable visual impact on the aesthetic values of the adjoining coastal foreshore.

3. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B6.1 Access driveways and Works on the Public Road Reserve of the Pittwater 21 Development Control Plan.**

Particulars:

The proposed vehicle crossing profile fails the required standard, specifically that profile referenced as Extra Low A4 3330/5 EL in Appendix 10 of Pittwater21 Development Control Plan.

4. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B6.2 Internal Driveways of the Pittwater 21 Development Control Plan.**

Particulars:

The proposed vehicular crossing fails to comply with Council standard for vehicle crossing profile Extra Low A4 3330/5 EL.

5. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B8.5**

Construction and Demolition - Works in the Public Domain of the Pittwater 21 Development Control Plan.

Particulars:

The proposed works in the adjoining road reserve will adversely affect pedestrian and vehicular safety and the efficiency of the road network for all road users, including pedestrians.

6. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.24 Public Road Reserve - Landscaping and Infrastructure of the Pittwater 21 Development Control Plan.**

Particulars:

The proposed works in the road reserve are not consistent with the design expectations of Council and should be removed or re-designed to be consistent with those expectations.

7. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following provisions of the Pittwater 21 Development Control Plan.**

- Clause D14.1 Character as Viewed from a Public Place,
- Clause D14.2 Scenic Protection General and
- Clause D14.18 Scenic Protection Category 1 Lands

Particulars:

The application will result in an unacceptable loss of visual amenity from both adjoining private properties, specifically: No.119 Narrabeen Park Parade; No.123 Narrabeen Park Parade; No.174 Narrabeen Park Parade; and No.176 Narrabeen Park Parade, and from the public domain including Narrabeen Park Parade and the coastal foreshore and walkway. The loss of visual amenity is due to the excessive bulk and scale of the proposed development.

8. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D14.11 Building envelope of the Pittwater 21 Development Control Plan.**

Particulars:

The breaches of the building envelope will result in both an adverse visual impact when viewed from private and public domains.

9. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D14.18 Scenic Protection Category One Lands of the Pittwater 21 Development Control Plan.**

Particulars:

The proposed development will have an adverse visual impact on the natural environment when viewed from the adjoining coastal foreshore, road and public reserve.

10. **Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.**

Particulars:

The proposed development represents numerous non-compliances and inconsistencies with State and Council policy. No circumstances exist that would justify the non-compliances and

inconsistencies with these policies.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report, and has a particular concern with the excessive bulk and scale of the proposed development and consequent impact on the visual amenity of neighbours and the public domain in this significant coastal locality.

Vote: 4/0

5.0 NON PUBLIC MEETING ITEMS

5.1 DA2023/1507 - 5/150-152, 6/150-152 & 8/150-152 OCEAN STREET, NARRABEEN - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING.

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a Residential Flat Building.

The Panel received a late submission dated 2 April 2024 and a supplementary memo from Council dated 2 April 2024.

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 standard is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standard 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. DA2023/1507 for alterations and additions to a Residential Flat Building on land at Lot 5 SP 77933, 5 / 150 - 152 Ocean Street, Narrabeen, Lot 6 SP 77933, 6 / 150 - 152 Ocean Street, Narrabeen, Lot 8 SP 77933, 8 / 150 - 152 Ocean Street, Narrabeen 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. The Panel notes that the amended shadow diagrams demonstrate all units will retain adequate access to sunlight.

Vote: 4/0

5.2 DA2023/1405 - 6/21 CAVILL STREET, QUEENSCLIFF - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING.

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a residential flat building.

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 standard is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standard 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. DA2023/1405 for alterations and additions to a residential flat building on land at Lot 6 SP 6539, 6 / 21 Cavill Street, Queenscliff 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 12 pages numbered 1 to 12 of the Northern Beaches Local Planning Panel meeting held on Wednesday 3 April 2024.