



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

Reconvened on

WEDNESDAY 23 JANUARY 2019

Minutes of a Meeting of the Development Determination Panel Reconvened on Wednesday 23 January 2019

ATTENDANCE:

Panel Members

Peter Robinson (Chairperson)	Executive Manager Development Assessment
Matthew Edmonds	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2018/1290 - 2 TOURMALINE STREET, NARRABEEN - ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING HOUSE

PROCEEDINGS IN BRIEF

The Panel received an amended request for variation of Building Height and an Arborist Report addressing the impacts on the Norfolk Pine.

In considering the written and verbal submissions to the Panel, the view has been considered and in relation to the non-compliance with the height, this has no impact on view loss, however the side building height envelope breaches do create an impact. In this regard, the first floor should be setback a minimum of 2.5m to the southern boundary, and 3m to the western boundary and this can be achieved through a condition of consent.

The Panel also considered that the development would not have a detrimental impact on the Norfolk Pine tree, subject to conditions based on Council's expert review of the Arborist Report.

The panel were concerned with the direct overlooking of the adjoining pool from the first floor window, W7 on the southern elevation. In this regard the sill height should be raised to address direct overlooking through a condition of consent.

The Panel is also satisfied that the proposal is not likely to cause increased risk of coastal hazard to the site or surrounding land.

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 of Planning and Environment required under clause 4.6.

DESICION

THAT Determination Application DA2018/1290 for alterations and additions to an existing dwelling house on land at Lot B DP 377414, 2 Tourmaline Street, Narrabeen be **approved** subject to the following conditions:

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Analysis Plan	21/07/2018	Micris Design Pty Ltd
Lower Ground, site and ground floor plan	09/11/2018	Micris Design Pty Ltd
First Floor and Roof Plan	09/11/2018	Micris Design Pty Ltd
Ground Floor Demolition Plan	09/11/2018	Micris Design Pty Ltd
Section 1, 2, and 3	09/11/2018	Micris Design Pty Ltd
East, North, South, West Elevation	09/11/2018	Micris Design Pty Ltd
North Streetscape	09/11/2018	Micris Design Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Coastal Engineering Advice for 2 Tourmaline Street	15 February 2018	Horton Coastal Engineering
Geotechnical Investigation Report	31 October 2017	Fusion Engineering Services
Arborist Report	20 December 2018	Naturally Trees

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
Private Open Space and Deep Soil Area	31 July 2018	Micris Design Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- The first floor is to maintain a minimum setback of 2.5 metres to the southern boundary
- The first floor is to maintain a minimum setback of 3.0 metres to the western boundary
- The sill height of window W7 is to be a minimum height of 1.5m above the finished floor level.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land. (DACPLB02)

3. Prescribed Conditions

- a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - C. the name of the owner-builder, and
 - D. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

4. General Requirements

- a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

- i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- j) Prior to the commencement of any development onsite for:
 - (i) Building/s that are to be erected
 - (ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - (iii) Building/s that are to be demolished
 - (iv) For any work/s that is to be carried out
 - (v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - 1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- 2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - 3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - 4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018 Contribution based on a total development cost of \$ 732,000.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 6,954.00
Section 7.12 Planning and Administration	0.05%	\$ 366.00
Total	1%	\$ 7,320.00

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council Contributions Plan 2018.

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

7. Project Arborist

A Project Arborist with minimum AQF Level 5 qualification in Arboriculture is to be appointed prior to commencement of works to supervise and certify works as identified in the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees.

All site works near existing Tree 1 shall be conducted under the supervision of the Project Arborist.

Details and certification of all works near Tree 1 are to be submitted to the Certifying Authority including compliance with works required and recommended in the Arboricultural Impact Appraisal and Method Statement, and in particular section 4.3, section 4.4, and section 4.5.

Tree protection fencing shall be installed as recommended in the Arboricultural Impact Appraisal and Method Statement, and as illustrated in appendix 4.

Trunk, branch and ground protection shall be installed as recommended in the Arboricultural Impact Appraisal and Method Statement, and as illustrated in appendix 5.

The Project Arborist is to provide details to the Certifying Authority that all components of this condition have been satisfied.

Reason: to ensure protection of vegetation is provided and maintained.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

8. Stormwater Disposal

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Tourmaline Street.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

9. Certification of Deep Foundation Piling

Construction details and specifications in accordance with Section 6 of the coastal engineering report prepared by Horton Coastal Engineering Pty Ltd(submitted with the application) shall be prepared by a suitably qualified coastal engineer demonstrating that the portion of the proposed development seaward of the minimum setback for development on conventional foundations is founded on deep piles. This certification is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure deep foundation piling is prepared by appropriately qualified professional. (DACNECPCC4)

10. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

11. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

12. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**13. Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

14. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

15. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

16. Existing Tree and Vegetation Protections

- a) Existing Trees and vegetation shall be retained and protected as follows:
 - i) all trees and vegetation within the site identified for retention, excluding exempt trees and palms within the site under the relevant planning instruments of legislation,
 - ii) all other trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation,
- b) Tree protection shall be generally undertaken as follows:
 - i) in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,
 - ii) removal of existing tree roots greater than 25mm is not permitted without consultation with the Project Arborist,
 - iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by the Project Arborist. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Certifying Authority,

- iv) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) within the TPZ of existing trees to be retained, no existing ground level changes are permitted,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by the Project Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with the Project Arborist,
- viii) should either or all of vi) and vii) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Certifying Authority,
- ix) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

17. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

18. Certification of Deep Foundation Piling

Prior to the issue of the Occupation Certificate, a suitably qualified coastal engineer is to provide written confirmation to the Principal Certifying Authority that the deep foundation piling has been constructed in accordance with Section 6 of the coastal engineering report prepared by Horton Coastal Engineering Pty Ltd (submitted with the application) and that the portion of the proposed development seaward of the minimum setback for development on conventional foundations is founded on deep piles.

Reason: To ensure the development has been constructed to the engineers requirements. (DACNEFPOC2)

19. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

20. Condition of retained trees and vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with a minimum AQF Level 5 qualification in Arboriculture shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, and in particular existing Tree 1 (Norfolk Island Pine), including the following information:

- a) compliance to Arborist recommendations for tree protection and excavation works
- b) extent of damage sustained by vegetation as a result of the construction works
- c) any subsequent remedial works required to ensure the long term retention of the vegetation

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**21. No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

22. Works to cease if item found

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.