



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

held in the Walamai Room, Civic Centre, Dee Why on

WEDNESDAY 24 APRIL 2019

**Minutes of a Meeting of the Development Determination Panel
held on Wednesday 24 April 2019
in the Walamai Room, Civic Centre, Dee Why**

ATTENDANCE:

Panel Members

Louise Kerr (Chairperson)
Ashleigh Sherry
Anna Williams
Anne-Maree Newbery

Director Place & Planning
Acting Executive Manager Development Assessment – Item 3.2
Manager, Development Assessment – Items 3.1, 3.3 & 3.4
Manager, Strategic & Place Planning

1.0 APOLOGIES AND DECLARATIONS INTEREST

Item 3.2 Anna Williams declared a conflict of interest with this matter and removed herself from the discussion and deliberation on this item. Ashleigh Sherry was a member of the Panel for this item.

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 10 APRIL 2019

The Minutes of the Development Determination Panel held 10 April 2019, were adopted by all Panel Members at the time of the meeting and have been posted on the Council's website

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2018/1725 - LOT 12 DP 839059, 319 HUDSON PARADE, CLAREVILLE - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

There were no registered speakers at the public meeting.

The Panel having reviewed the assessment report and viewing the site, agreed with the assessing officer's recommendation to support the clause 4.6 variation to the height development standard of clause 4.3 of Pittwater LEP 2014 and to approve the development subject to conditions and for the reasons contained in the officer's report.

The panel noted that incorrect prescribed conditions were included in the officer's recommendation. The panel noted that amendments are required to those conditions.

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 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.

C. The Panel support the applicant's request under clause 4.6 to vary the height development standard of clause 4.3 of Pittwater LEP 2014.

DECISION ON DEVELOPMENT APPLICATION

THAT Development Application DA2018/1725 for demolition works and construction of a dwelling house on land at Lot 12 DP 839059, 319 Hudson Parade, Clareville be **approved** subject to the conditions and for the reasons set out in the Assessment Report, subject to the following amendments/additions:

1. The amendment of condition 2 to read as follows:

2. Prescribed conditions:

- (a) 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);
- (b) 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 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
- (ii) 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.

- (c) 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:
 - A. the name of the owner-builder, and
 - B. 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.

- (d) 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.

Reason: Legislative Requirement (DACPLB09)

- 2. The addition of the following condition:

External Staircase Wall

The wall adjoining the proposed external staircase along the northern elevation is to be removed from the plan.

Reason: The visual impact of the wall to adjoining properties was unacceptable.

Vote: 3/0

3.2 DA2018/1857 - LOT 7, SECTION 57, DP4888, 189 OCEAN STREET, NARRABEEN - NEW TWO STOREY DWELLING WITH BASEMENT LEVEL PARKING

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by the applicant and the independent planning consultant who assessed the development application and prepared the assessment report and recommendation.

The Panel having viewed the site, considered all concerns raised in submissions, as well as the representation made by the applicant. The panel reviewed the assessment report and agreed to approve the application for the reasons provided in the assessment report, subject to conditions.

The panel in making this determination considered that the reduced side setbacks were acceptable on the basis that the northern side setback was articulated well with quite significant setbacks in sections and that the southern setback was 1.7 metres. The panel agreed that the proposed development would not result in any adverse view loss impacts. The panel did however form the view that the proposed fill in the rear yard was not reasonable and no valid reason had been provided for the fill. On this basis, the panel agreed to add an additional condition to require the removal of the fill.

The Panel notes that the property was incorrectly referred to as 187 Ocean St, Narrabeen on page 1 of the consultant's Assessment Report and in the agenda in two places, however the correct address of 189 Ocean St, Narrabeen was referenced throughout the assessment report and for notification purposes.

DECISION ON DEVELOPMENT APPLICATION

THAT Development Application DA2018/1857 for new two storey dwelling with basement level parking on land at Lot 7, Section 57 DP 4888, 189 Ocean Street, Narrabeen be **approved** subject to the conditions and for the reasons set out in the Assessment Report, subject to the following amendment:

1. The addition of the following condition:

Rear Yard Fill

The fill in the rear yard is not approved and existing natural ground level is to be retained.

Reason: To ensure that the natural topography of the site is retained and the interface with the adjoining beach is not altered.

Vote: 3/0

3.3 DA2018/1894 - LOT 46 DP 10571, 27 BELLEVUE PARADE, NORTH CURL CURL - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SWIMMING POOL

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by one neighbour and the applicant. The neighbour provided the panel with additional written representation.

The applicant during discussion with the panel advised that they would prepare an additional section drawing and submit it to the panel for their consideration.

The panel having considered the representations made by the applicant, the issues raised in the submissions, a review of the assessment report and an inspection of the site and surrounds, agreed to approve the development application with design amendments.

In particular, the panel were of the view that compliance with the height development standard was not unreasonable or unreasonable in the circumstances of the case and that the clause 4.6 variation was not supported. The panel agreed that a condition should be imposed to require the building height to be lowered to a maximum of 8.5 metres. The panel also agreed that privacy issues to adjoining properties would be minimised by changes to the design and configuration of the upper floor rear balcony; as well as changes to windows located along the side (western and eastern) elevations.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is not 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 Panel does not support the breach to the 8.5metre height control. A condition is to be included on the development consent that requires the building height to be reduced to comply with the maximum 8.5m height standard of Clause 4.3 of Warringah LEP 2011.

DECISION ON DEVELOPMENT APPLICATION

THAT Development Application DA2018/1894 for demolition works and construction of a dwelling house including a swimming pool on land at Lot 46 DP 10571, 27 Bellevue Parade, North Curl Curl be **approved** subject to the conditions and for the reasons set out in the Assessment Report, subject to the following amendments/additions:

1. The amendment of condition 1 to include BASIX Certificate as follows:

Reports / Documentation – All recommendations and requirements contained within:			
Report No. / Section No.	Page No. /	Dated	Prepared By
Preliminary	Geotechnical	27 November 2018	Ascent Geotechnical Assessment

Assessment		
Arboricultural Impact Assessment	1 November 2018	William Dunlop of <i>Temporal Tree Management Pty Ltd.</i>
BASIX Certificate	29 October 2018	Efficient Living Pty Ltd

2. The amendment of condition 3 to read as follows and renumbered to condition 4:

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:
 - A. the name of the owner-builder, and
 - B. 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

3. The amendment of condition 4 to read as follows and renumbered to condition 5:

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

4. The addition of the following condition:

2. Amendments to the approved plans

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

- Balcony 1 on the first floor is to be modified as follows:-
 - (a) Deletion of the eastern walkway portion of the balcony (adjacent to the kitchen, living room and stairs) and the installation of a roof section for a distance of 5m running south from the master bedroom;
 - (b) The balcony is to be stepped from the eastern side boundary by a minimum distance of 2.3m and by a minimum distance of 2.4m from the western side boundary; and
 - (c) A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the balcony located off the dining/lounge room (first floor level) as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- Windows modification as follows:-
 - (a) W300 and W301 on the first floor level are to be installed with highlight windows (minimum sill height of 1.5m above the finished floor level); and
 - (b) W204 is to be treated with obscured glazing and W205 is to be deleted on the ground floor.
- Roof modifications as follows:-
 - (a) The roof is to be modified to ensure compliance with Clause 4.3 Height of Buildings (maximum height of 8.5m above existing ground level) as defined within the Warringah Local Environmental Plan 2011.

Details demonstrating compliance with the above design modifications 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.

5. The addition of the following condition:

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.

6. The addition of the following condition:

12. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

7. The addition of the following condition:

22. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans and is not to exceed 8.5 metres.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans. (DACPLE01)

8. The addition of the following condition:

23. 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.

9. The addition of the following condition:

30. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)

10. The addition of the following condition:

31. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings. (DACPLF04)

Vote: 3/0

3.4 MOD2019/0013 - 31 VICTORIA PARADE, MANLY - ALTERATIONS AND ADDITIONS TO AN EXISTING FOUR 4 STOREY RESIDENTIAL FLAT BUILDING INCLUDING TWO 2 ADDITIONAL STOREYS COMPRISING OF FOUR 4 NEW UNITS

PROCEEDINGS IN BRIEF

The Panel viewed the site and surrounds.

The Panel heard representations from the applicant and a resident who objected to the proposed modifications. The applicant advised the panel that no construction had commenced on the site.

The panel having reviewed the assessment officer's report, hearing representation from both the applicant and objector agreed to defer consideration of the application to enable legal advice to be received. In particular, the panel were concerned that the development consent may have lapsed.

DECISION ON DEVELOPMENT APPLICATION

THAT Development Application Mod2019/0013 for alterations and additions to an existing four 4 storey Residential Flat Building including two 2 additional storeys comprising of four 4 new units on land at Lot CP SP 11799, 31 Victoria Parade, Manly be **deferred** for legal advice to be obtained.

The meeting concluded at 12.25pm

This is the final page of the Minutes comprising 13 pages
numbered 1 to 13 of the Development Determination Panel meeting
held on Wednesday 24 April 2019.