

**Resolution of the Northern Beaches Local Planning Panel approved in writing on 9 May 2019.**

**This resolution follows the Panel meeting held on Wednesday 6 March 2019 when a decision on the development application the subject of this resolution was deferred for amended plans.**

**Panel Members**

Paul Vergotis	Chair
Brian Kirk	Town Planner
Annelise Tuor	Town Planner
Nick Lawther	Community Representative

Vote: 3/1 – Brian Kirk against the decision

**Pursuant to Schedule 2, Part 5, Item 26 of the Environmental Planning and Assessment Act 1979 (NSW) the application was resolved as follows:**

### **3.0 DEVELOPMENT APPLICATIONS**

#### **3.4 MOD2018/0432 - 12A –12L MCDONALD STREET AND 25-27 COLES ROAD, FRESHWATER - MODIFICATION OF DEVELOPMENT CONSENT DA2016/0550 GRANTED FOR ATTACHED DWELLINGS TO INSTALL AIR CONDITIONING UNITS TO EACH DWELLING**

##### **PROCEEDINGS IN BRIEF**

A brief description of these proceedings appears in the Panel's minutes of meeting held 6 March 2019.

##### **DECISION ON DEVELOPMENT APPLICATION**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. MOD2018/0432 for modification of development consent DA2016/0550 granted for attached dwellings to install air conditioning units to each dwelling at Lots 1-14 DP 1226906, 12A–12L McDonald Street and 25-27 Coles Road, Freshwater subject to the following:

1. Pursuant to s 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (NSW) (**EPAA**) development consent no. 2016/0550 granted on 12 October 2016 is modified to permit the following development:
  - (a) the removal of the existing garage exhaust raised ventilation shaft cowling and replacement with a flat style cowling; and
  - (b) the relocation of the existing rooftop air conditioning condenser units from the roof to the terraces of unit Nos 1 to 14 inclusive.
2. Pursuant to s 2.20(8) of the EPAA, the Panel delegates to the Executive Manager Development Assessment of the Northern Beaches Council the function to issue the modification of development consent no. 2016/0550 with the imposition of conditions which give effect to 1(a) and (b) above.

**Statement of Reasons:** This modification application made under s 4.55 (1A) of the EPAA was initially presented to the Panel at its meeting held on 6 March 2019. At that time the Panel was addressed by the Applicant's representative who made oral submissions about the retention of the existing air conditioning condensers on the roof of the town house development.

Essentially the application seeks retrospective consent/approval to regularise the retention of the condensers which were not approved to be erected on the roof under the development consent. The other matter which required consideration by the Panel was the cowling on top of the ventilation shaft servicing the basement carparking area. Again, this structure was not approved by the development consent.

Collectively the location of the 14 air conditioning condensers and shaft cowling all protruding on the roof of the development attracted complaints from the neighbouring occupants on the western side of McDonald Street whom enjoy coastal views to the east.

The Panel carried out an inspection of the western side of McDonald Street and viewed the rooftop condensers from one of the affected properties.

After considering the assessment report, oral submissions made by the Applicant's representative, matters raised by the neighbours and with the benefit of the site view, the Panel (by majority) decided to defer the matter to allow the Applicant to submit amended plans which made provision for the 14 condensers to be relocated into the basement carparking area and the redesign the ventilation shaft cowling to accommodate a flat style cowling.

Amended plans were submitted by the Applicant which did not indicate the relocation of the condensers into the basement carparking area, but rather shows them to be relocated onto the individual terraces of the units. In support of this, the Applicant also submitted a letter from a building services consultant who recommends the relocation of the condensers on the terraces rather than within the basement for reasons related to heat build-up and noise.

The Applicant further relies on *State Environmental Planning Policy (Exempt and Complying Codes) 2008 (SEPP)* to justify the relocation of the condensers on the terraces as opposed to having them relocated into the basement, as the SEPP permits the erection of air conditioning units without the need for a development consent (see Part 2 Exempt Development Codes, Subdivision 3 of the SEPP).

With respect to the replacement of the exhaust ventilation shaft cowling, the Applicant has agreed to this being addressed with a flat style cowling which is an acceptable outcome to the Panel.

Having regard to the alternate relocation of the air conditioning condensers, it is necessary to assess whether such a relocation is acceptable in the context of s 4.55 (1A) of the EPAA which requires the Panel to be satisfied that the modification application:

- (a) has minimal environmental impact;
- (b) substantially the same development;
- (c) has been publicly notified; and
- (d) that any submission received by the public have been considered.

In response to the above matters, the modification application will have minimal environmental impact and is substantially the same development. In relation to the public notification and consideration of any submissions, the relocation of the condensers onto the terraces would amount to exempt development which would obviate the need to re-advertise or re-notify the relocation of the condensers onto the terraces. The redesign of the cowling to flat style arrangement is inconsequential.

Finally, in relation to the Panel's obligation to consider the relevant matters set out in s 4.55(3) and s 4.15(1) of the EPAA, the Panel, by majority, is satisfied that the proposed modification sought is acceptable and worthy of approval.

This is the final page of the Minutes comprising 4 pages numbered 1 to 4 of the Northern Beaches Local Planning Panel meeting