

# MINUTES

## **DEVELOPMENT DETERMINATION PANEL MEETING**

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

**WEDNESDAY 24 JULY 2019**

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

**ATTENDANCE:**

**Panel Members**

Steven Findlay (Chairperson)	Manager, Development Assessment	
Liza Cordoba	Manager, Strategic & Place Planning	Items 3.1, 3.2, 3.4 & 3.5
Rod Piggott	Manager, Development Assessment	Items 3.2, 3.3, 3.4 & 3.5
Matthew Edmonds	Manager, Development Assessment	Item 3.1

## **1.0 APOLOGIES AND DECLARATIONS INTEREST**

A Panel Member declared a non-pecuniary conflict of interest for Item 3.3 and was not present at the speakers or deliberations and was not involved in the decision making for this matter.

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 10 JULY 2019**

#### **RECOMMENDATION**

That the Minutes of the Development Determination Panel held 10 July 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 DA2019/0165 - 35 OCEAN ROAD, MANLY - ALTERATIONS AND ADDITIONS TO A SEMI-DETACHED DWELLING

##### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was not addressed by any speakers.

The Panel concurred with the Officer's assessment report and recommendation.

##### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio 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.

##### DECISION ON DEVELOPMENT APPLICATION

THAT Development Application DA2019/0165 for alterations and additions to a semi-detached dwelling on land at Lot 2 DP 536348, 35 Ocean Road, Manly be **approved** subject to the conditions and for the reasons set out in the Assessment Report.

Vote: 3/0

### 3.2 DA2019/0378 - 50 GRANDVIEW GROVE, SEAFORTH - SUBDIVISION OF 1 LOT INTO 2 AND THE CONSTRUCTION OF A NEW DWELLING ON PROPOSED LOT 235A (SOUTHERN LOT)

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was not addressed by any speakers.

The Panel received a supplementary memo from the assessing officer addressing the subdivision revisions of the Manly DCP.

The Panel resolves to condition a building envelope to protect the designated trees and provide for a reasonable size of a future dwelling via a section 88B restriction as to user in the form of a condition.

The Panel concurred with the Officer's assessment report and recommendation.

#### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 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.

#### DECISION ON DEVELOPMENT APPLICATION

THAT Development Application DA2019/0378 for subdivision of 1 lot into 2 and the construction of a new dwelling on proposed Lot 235A (southern lot) on land at Lot 235 DP 4889, 50 Grandview Grove, Seaforth be **approved** subject to the conditions and for the reasons set out in the Assessment Report, subject to the following:

1. The amendment of the following condition:

##### **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.**

Site Plan (Sheet 2)

Ground Floor Plan (Sheet

###### **Dated**

4 February 2019

12 March 2019

###### **Prepared By**

Clarendon Homes

Clarendon Homes

3)		
First Floor Plan (Sheet 4)	12 March 2019	Clarendon Homes
South Elevation - 1, East Elevation - 2 (Sheet 5)	12 March 2019	Clarendon Homes
North Elevation - 3, West Elevation - 4 (Sheet 6)	12 March 2019	Clarendon Homes
Section A-A, Home Theatre Detail (Sheet 7)	12 March 2019	Clarendon Homes
External Colour Selections	2 April 2019	Clarendon Homes
001 Plan of Subdivision	29 July 2019	Orion Consulting
003 Plan of Subdivision (Building Footprint)	27 June 2019 (as amended by Council on 24 July 2019)	Orion Consulting

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:

**Engineering Plans**

<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Construction Management Plan, Erosion and Sediment Control Plan (Sheet 2.2)	12 March 2019	Clarendon Homes
001 General Layout Plan, Noted & Legend	27 June 2019	Orion Consulting
100 Sediment & Erosion Control Concept Plan	27 June 2019	Orion Consulting
102 Sediment & Erosion Control Notes & Details	27 June 2019	Orion Consulting
200 Engineering Plan	27 June 2019	Orion Consulting
201 Proposed Dwelling Plan	27 June 2019	Orion Consulting
Stormwater Layout SH-1 Sheet 1 of 2	14 June 2019	Ibrahim Stormwater Consultants
Stormwater Layout SH-1 Sheet 1 of 2	14 June 2019	Ibrahim Stormwater Consultants

**Reports / Documentation – All recommendations and requirements contained within:**

<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate 1003345S_02	21 March 2019	Clarendon Homes
Arboricultural Impact Appraisal	1 April 2019	Naturally Trees
Preliminary Geotechnical Assessment	28 March 2019	White Geotechnical Group

**Landscape Plans**

**Drawing No.**

DA - Landscape Plan

**Dated**

25 March 2019

**Prepared By**

Riverview Landscape  
Designs

Schedule & Notes

25 March 2019

Riverview Landscape  
Designs

**Waste Management Plan**

**Drawing No/Title.**

Waste Management Plan

**Dated**

19 March 2019

**Prepared By**

Applicant

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. The deletion of the following conditions:

**10. Indicative Building Footprint Lot 235B**

Consent is not granted for the indicative building footprint on proposed Lot 235B. The indicative building footprint on Lot 235B is to be deleted from plans. Development on proposed Lot 235B is to be the subject of a future application. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure retention of Tree 1 Magnolia grandifolia, Tree 2 Magnolia grandiflora, and Tree 3 Glochidion ferdinandi (Cheese Tree).

**18. Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist with qualifications in arboriculture/horticulture, shall be submitted to the Certifying Authority, assessing the health and impact on existing trees required to be retained (T1, T2, and T3) as a result of the proposed development, including the following information:

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

Reason: To retain and protect significant planting on development sites.

3. The addition of the following conditions under the heading Conditions that must be Complied with Prior to the issue of any Strata Subdivision or Subdivision Certificate:

**Condition of Retained Vegetation**

Prior to the issue of a Subdivision Certificate, a report prepared by an AQF Level 5 Arborist with qualifications in arboriculture/horticulture, shall be submitted to the Certifying Authority, assessing the health and impact on existing trees required to be retained (T1, T2, and T3) as a result of the proposed development, including the following information:

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

Reason: To retain and protect significant planting on development sites.

### **Approved Building Footprint Lot 2352**

Lot 2352 is subject to the building envelope nominated on 003 Plan of Subdivision (Building Footprint). Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure retention of Tree 1 Magnolia grandifolia, Tree 2 Magnolia grandiflora, and Tree 3 Glochidion ferdinandi (Cheese Tree).

### **Restriction on Title**

A Restriction on Title under the provisions of Section 88B of the Conveyancing Act 1919, in accordance with the condition titled "Approved Building Footprint Lot 2352" is to be created within an 88B instrument. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure retention of Tree 1 Magnolia grandifolia, Tree 2 Magnolia grandiflora, and Tree 3 Glochidion ferdinandi (Cheese Tree).

### **Lot Numbering**

References to lot numbers on approved plans are to be amended as follows:

- Lot 235A is to be corrected to Lot 2351; and
- Lot 235B is to be corrected to Lot 2352.

Details demonstrating compliance with this condition are to be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure consistency with NSW Land Registry Services lot numbering requirements.

4. The amendment of the following condition:

### **Easement for Services and Maintenance**

An easement for services and maintenance of services (under the provisions of Section 88B of the Conveyancing Act) burdening Lot 2351 and benefiting Lot 2352 is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

5. The addition of the following condition under the heading "Conditions to be Complied with During Demolition and Building Work":

### **Stormwater Drainage Works**

The proposed stormwater drainage works shown on 001 General Layout Plan, Notes & Legend Revision G dated 27 June 2019 prepared by Orion Consulting are to be carried out during construction of the dwelling on Lot 2351.

Reason: To ensure adequate services for stormwater drainage to the proposed new lot.

Vote: 3/0



### **3.3 DA2019/0055 - 9 MINKARA ROAD, BAYVIEW - CONSTRUCTION OF A DWELLING HOUSE**

#### **PROCEEDINGS IN BRIEF**

The Panel viewed the site and the surrounds.

The Panel were addressed by three representatives of the applicant.

A member of the Panel advised that they had a non-pecuniary conflict of interest which meant they were unable to sit on the panel.

As there was no quorum, this matter shall be deferred to the next available meeting.

The Panel concurred with the Officer's assessment report and recommendation.

#### **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.

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

THAT Development Application DA2019/0055 for construction of a dwelling house on land at Lot 40 DP 28908, 9 Minkara Road, Bayview be **deferred** as there was no quorum to make a determination.

Vote: 3/0

### **3.4 DA2019/0060 - 8A TUTUS STREET, BALGOWLAH HEIGHTS - DEMOLITION WORKS AND CONSTRUCTION OF A NEW DWELLING HOUSE**

#### **PROCEEDINGS IN BRIEF**

The Panel viewed the site and the surrounds.

The Panel were addressed by representatives of the applicant.

The Panel were satisfied that the amended scheme which reduced height and floor space ratio satisfactorily addresses the issues raised by the residents including view sharing.

The Panel concurred with the Officer's assessment report and recommendation.

## DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio 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.

## DECISION ON DEVELOPMENT APPLICATION

THAT Development Application DA2019/0060 for demolition works and construction of a new dwelling house on land at Lot 11 DP 863364, 8A Tutus Street, Balgowlah Heights be **approved** subject to the conditions and for the reasons set out in the Assessment Report.

1. The addition of the following condition under the heading 'Prior to the issue of the Construction Certificate':

### **Boundary Survey**

A survey prepared by a Registered Surveyor shall be provided as evidence that all buildings are within the appropriate property, easement boundaries and rights of carriageway. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any construction certificate.

Reason: To ensure the accurate location of buildings in relation to boundaries, easements and rights of way.

2. The addition of the following condition under the heading 'Prior to the issue of the Occupation Certificate':

### **Height Survey**

A survey prepared by a Registered Surveyor shall be provided as evidence that all buildings are constructed in accordance with the approved RL's for each of the floor levels and roof ridge levels of the building. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any occupation certificate.

Reason: To ensure the dwelling and associated structures are constructed in accordance with the approved levels.

Vote: 3/0

### 3.5 DA2018/2051 - 135 RIVERVIEW ROAD, AVALON BEACH - DEMOLITION WORKS AND THE CONSTRUCTION OF A DWELLING HOUSE

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel heard from 3 resident objectors.

The Panel also heard from the applicants representatives.

The Panel were provided with a concept revised scheme by the applicant to address the requirements of Condition 25(a) in relation to the deletion of the void on the ground floor level.

The concept involved an envelope reduction as per the of current condition, however providing a pitched roof element in the deleted void section as opposed to a flat roof section. The Panel consider the applicants alternative will reduce the extent of non-compliance with the envelope, as well as overshadowing, visual bulk to an acceptable degree.

The applicant also agreed to increase the setback of the ground floor level deck to the southern boundary to 2.975m, whilst maintaining the privacy screening. The Panel consider this to be an acceptable outcome.

The applicant was requested to submit revised plans incorporating the above matters, which have been included in the set of approved plans, thus negating the need for a revised version of Condition 25(a).

Condition 25(b) is amended as the revised plans address the issue to the Panels satisfaction.

The residents' concerns relating to height, bulk, scale, visual appearance of the southern elevation, privacy, views, landscaping and over shadowing were considered and have been addressed to the Panels satisfaction via the amendments discussed above and the conditions.

#### DECISION ON DEVELOPMENT APPLICATION

THAT Development Application DA2018/2051 for demolition works and the construction of a dwelling house on land at Lot 1 DP 1135396, 135 Riverview Road, Avalon Beach be **approved** subject to the conditions and for the reasons set out in the Assessment Report, subject to the following:

1. The amendment of the following condition:

##### 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
Proposed Roof Plan & Garage	26 July 2019	Burley Katon Halliday

Plan A.01.01-D		Pty Ltd
Proposed First & Second Floor Plan A.01.02-D	26 July 2019	Burley Katon Halliday Pty Ltd
Proposed Ground Floor & Lower Ground Floor Plan A.01.03-E	26 July 2019	Burley Katon Halliday Pty Ltd
Structural Root Zone & Tree Protection Zone A.01.04-A	22 May 2019	Burley Katon Halliday Pty Ltd
Proposed North Elevation A.02.01-E	26 July 2019	Burley Katon Halliday Pty Ltd
Proposed South Elevation A.02.02-E	26 July 2019	Burley Katon Halliday Pty Ltd
Proposed East & West Elevation A.02.03-E	26 July 2019	Burley Katon Halliday Pty Ltd
Section A-A Longitudinal A.03.01-E	26 July 2019	Burley Katon Halliday Pty Ltd
<b>Landscape Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape Plan Cover Page 402_DA_01, issue C	22 May 2019	Myles Baldwin Design
Landscape Plan - Basement Level 402_DA_10, issue C	22 May 2019	Myles Baldwin Design
Landscape Plan - First Level 402_DA_13, issue C	22 May 2019	Myles Baldwin Design
Landscape Plan - Third Level 402_DA_14, issue C	22 May 2019	Myles Baldwin Design

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Stormwater Concept Plans D01A, D02A, D03A and D04A	17 December 2018	NB Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate 981643S_03	23 May 2019	BASIX Certification Centre
Flora and Fauna Impact Assessment Report	May 2019	Ecological Consultants Australia
Arboricultural Impact Assessment Report, revision D	14 June 2019	Martin Peacock Tree Care

Geotechnical Risk Management Report	3 December 2018	Jack Hodgson Consultants Pty Ltd
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b) Any plans and / or documentation submitted to satisfy the conditions of this consent. 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. The amendment of the following condition:

**Amendments to Approved Plans**

The Approved Architectural Plans, Approved Landscape Plans and Approved Engineering Plans referenced in Condition 1 of this consent are to be amended, as follows:

- a. The privacy screen along the southern edge of the ground floor rear deck is to be amended, as follows:
  - i. the western extent of the screen is to be reduced by 1.5m and replaced with 1m high metal balustrade,
  - ii. the setback between the screen and the southern boundary is to be increased by 1.5m,
  - iii. and
  - iv. the roof of the lower ground floor is to be non-trafficable between the privacy screen and the southern boundary and shall not contain any other structure, including planter boxes and the like.
- b. All services, including stormwater trenching, are to be located outside the Structural Root Zone of Trees 12 and 17.
- c. A 1m wide pathway/stairway is permitted along the southern boundary to connect the rear access stairs to the subfloor services area. The remainder of the southern setback is to be landscaped in accordance with the Approved Landscape Plans.
- d. the incorporation of drip irrigation around T12, in accordance with Section 9.13 of the Approved Arboricultural Impact Assessment Report referenced in Condition 1 of this consent.
- e. The elevated courtyard/BBQ area along the northern side elevation is to be setback a minimum distance of 1m from the northern boundary. A 1m solid balustrade is required along the northern elevation of the length of the courtyard.
- f. Windows W.2 and W.3 on the southern elevation of the Living Room are to comprise frosted/opaque glass.

These amendments are to be incorporated into any plans submitted to the certifying authority as part of the construction certificate application.

Reason: To minimise the environmental impact of the development.

3. The addition of the following condition under the heading 'Prior to the issue of the Construction Certificate':

**Boundary Survey**

A survey prepared by a Registered Surveyor shall be provided as evidence that all buildings are within the appropriate property, easement boundaries and rights of carriageway. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any construction certificate.

Reason: To ensure the accurate location of buildings in relation to boundaries, easements and rights of way.

4. The addition of the following condition under the heading 'Prior to the issue of the Occupation Certificate':

**Height Survey**

A survey prepared by a Registered Surveyor shall be provided as evidence that all buildings are constructed in accordance with the approved RL's for each of the floor levels and roof ridge levels of the building. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any occupation certificate.

Reason: To ensure the dwelling and associated structures are constructed in accordance with the approved levels.

Vote: 3/0

*The meeting concluded at 3.15pm*

This is the final page of the Minutes comprising 14 pages  
numbered 1 to 14 of the Development Determination Panel meeting  
held on Wednesday 24 July 2019.