



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

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

WEDNESDAY 5 FEBRUARY 2020

**Minutes of a Meeting of the Development Determination Panel
held on Wednesday 5 February 2020
in the Walamai Room, Civic Centre, Dee Why**

ATTENDANCE:

Panel Members

Peter Robinson (Chairperson)	Executive Manager Development Assessment
Steven Findlay	Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning

1.0 APOLOGIES AND DECLARATIONS INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 18 DECEMBER 2019

The Minutes of the Development Determination Panel held 18 December 2019, were adopted by all Panel Members and have been posted on the Council's website

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2019/1092 - 64 FAIRLIGHT STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING SWIMMING POOL

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel were addressed by two objectors and the applicant.

The Panel received a supplementary memo from the Assessing Officer addressing a late submission and an amended request to vary the development standards for building height and floor space ratio (Clause 4.6 variations).

An error in the assessment report was noted that the MDCP Build Form Controls table (page 22) indicated the proposal was 2 storey when it should have read 3 storey.

The Panel noted the number a variations to the built form controls within the Development Control Plan and was satisfied that the impacts would not have a detrimental impact on surrounding properties.

Concerns were raised with the application regarding the pool barrier fence and the ability to be compliant with the Australian Standard. In particular whether the proposed garden bed to the north of the bin storage area, and the bin storage area, which both form part of the barrier were complaint. Further whether the pool barrier fence parallel to the front boundary also was compliant. Assurances were given by the Applicant that these were considered and would be compliant. This is a matter for the Principal Certifying Authority at the Construction Certificate stage.

The panel were concerned that to ensure compliance with the requirements for pool barrier fences, there would be a direct impact on the proposed landscaping along the front boundary

The proposed schedule of plantings within the front setback is considered to positively enhance the streetscape and contribute to a partial offset to the increase in hard surfaces within the setback. However the location of the pool fence would require a 900mm exclusion zone from the top of the pool barrier fence of any elements that could be used to climb the pool fence. The location of the boughs of the proposed trees are within the 900mm exclusion zone.

In this regard, to maintain the landscape planting, the pool fence will need to be moved an additional 900mm from the inside edge of the proposed garden bed. The area between the pool fence and garden bed should be maintained at RL64.700 with soft landscaping consisting of grass or low level groundcovers. The additional 900mm setback shall extend the full length of the garden bed including the area adjoining the fire pit. The pool and fire pit shall be adjusted in size and shape to accommodate this soft landscaping.

Concerns were raised with the approval of a pool given the current water restrictions. Sydney Water requires a permit to fill a new pool under the current water restrictions. This is a matter for the owner to comply with Sydney Water requirements at the time the pool is to be filled.

Concerns regarding the fire pit were clarified by the applicant that the proposal was to be gas fuelled. A condition of consent has been applied to confirm this.

The landscape plan indicated a series of plantings on the road reserve across the frontage of the site. A condition of consent requires this to be deleted from the proposal as this is not located within the property.

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

STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 with any impacts resulting from variations considered to be minimal.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the report.

DECISION ON EXCEPTION TO DEVELOPMENT STANDARDS (FLOOR SPACE RATIO)

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 EXCEPTION TO DEVELOPMENT STANDARD (HEIGHT)

B. 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 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

THAT Council as the consent authority grant Development Consent to DA2019/1092 for Alterations and additions to a dwelling house including a swimming pool on land at Lot B DP 104229, 64 Fairlight Street, Fairlight subject to the conditions outlined in the Assessment Report and supplementary memo and the following changes:

The addition of the following conditions:**Front Setback Landscaping, Pool and Fire Pit.**

An additional 900mm wide landscape strip shall be provided along the full length of the pool/fire pit area adjacent the front boundary. The landscaping strip shall be maintained at RL64.700 with plantings such as groundcovers or turf. The location and setback of the pool, pool fence and fire pit area shall be adjusted in location, size and shape to accommodate the additional 900mm wide landscaping.

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

Reason: To ensure landscaping is not impacted by the pool fence and increase soft landscaping within the front setback

Landscape Plan

The proposed garden planting within Council's road reserve shall be deleted from the landscape plans.

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

Reason: Works are outside the proposed property and do not have owners consent.

Fire Pit (Gas Only)

The fire pit within the front setback shall be gas fuelled only. No solid fuels to be used.

Reason: Protect amenity to locality.

Parking Space

One parking space is to be maintained on site at all times in the location marked "Existing Paved Area" at the front of the site.

Reason: To ensure availability of off-street parking.

Vote: 3/0

3.2 MOD2019/0535 - 3 MOORE STREET, CLONTARF - MODIFICATION OF DEVELOPMENT CONSENT DA115/2016 FOR ALTERATIONS AND ADDITIONS TO EXISTING DWELLING HOUSE

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel were not addressed by any speakers.

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

STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 subject to conditions.

COMMUNITY CONSULTATION

There were no submissions received for this application.

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

THAT Council as the consent authority grant Development Consent to Modification Application No. Mod2019/0535 for Modification of Development Consent DA115/2016 granted for alterations and additions to an existing dwelling house on land at Lot B DP 418578, 3 Moore Street, CLONTARF subject to the conditions outlined in the Assessment Report.

Vote: 3/0

3.3 MOD2019/0199 - 33 TRUMAN AVENUE, CROMER - MODIFICATION OF DEVELOPMENT CONSENT DA2005/0168 GRANTED FOR ERECTION OF NEW THREE STOREY MIXED USE BUILDING TO CONTAIN 9 RESIDENTIAL UNITS AND 3 COMMERCIAL UNITS WITH BASEMENT PARKING

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel were addressed by two objectors.

The Panel received a supplementary memo from the Assessing Officer addressing the additional submission.

The Panel acknowledge the error in the report referencing the referral to the Northern Beaches Local Planning Panel.

The Panel can only address issues raised in regards to changes proposed in the modification, not the original consent. In this regard, the western elevation has not changed, although the setback has increased and the number of units on this elevation decreased. In this regard, any issues of privacy have been improved from the original consent. Although the basement configuration has changed the driveway remains unchanged.

The size of the commercial ground floor units has increased which may have an impact on volume of deliveries and commercial waste collection. Given the location of the proposal within a low density residential area, such available times should commence at 7.00am rather than the current 6.00am. Conditions 100, 100B and 101 have been amended to reflect this change

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

STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Warringah LEP 2011 and the Warringah DCP 2011 subject to conditions.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the assessment report.

DECISION

THAT Council as the consent authority grant Development Consent to Modification Application No. Mod2019/0199 for Modification of Development Consent DA2005/0168 granted for erection of New Three Storey Mixed Use Building to contain 9 Residential Units and 3 Commercial units with Basement Parking on land at Lot 35 DP 240298, 33 Truman Avenue, CROMER subject to the conditions outlined in the Assessment Report with the following changes:

1. Replace Condition No. 100 with the following condition:

100. Waste Collection

Waste and recyclable material, generated by these premises, must not be collected between the hours of 10.00pm and 7.00am on any day.

Reason: To protect the acoustic amenity of surrounding residential properties.

2. Replace Condition No. 100B with the following condition:

100B. Signage on Belmore Lane

Signage is to be installed on Belmore Lane to ensure no parking is permitted during the allocated period of waste collection, i.e. between the hours of 10.00pm and 7.00am, 7 days a week

Reason: To ensure both efficient collection of waste from the development and the proper function of the local road network.

3. Replace Condition No. 101 with the following condition:

101 Delivery Hours

No deliveries, loading or unloading associated with the commercial and residential premises are to take place between the hours of 10.00pm and 7.00am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

Vote: 3/0

3.4 DA2019/1084 - 31 THE CORSO MANLY - ALTERATIONS AND ADDITIONS TO THE EXISTING COMMERCIAL BUILDING, SIGNAGE AND CHANGES TO OPERATING HOURS AND DELIVERY HOURS OF AN EXISTING RETAIL USE

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel were addressed by one objector and by representatives of the applicant.

The Panel raised concerns with the possibility of exhaust venting to Market Lane causing an impact to pedestrians due to odour, temperature, volume, velocity and noise of air movement. Further, the illumination of the signage on Market Lane was also raised with the Applicant and further details were provided by the applicant and conditions have been applied to ensure these issues do not cause any nuisance to the public.

Concerns regarding deliveries, parking and unloading areas were raised and discussed. Amendments to the Plan of Management have been included to address the issues that can be managed by the applicant, including amending Condition 9 to reflect the hours in Condition 13.

In regards to the conditions of consent, Condition 12 "Outdoor Dining" was not considered relevant and has been deleted and Condition 10 for a "Construction Management Plan" was not considered necessary and has been deleted given the minor nature of the works proposed and that a condition for a Work Zone would sufficiently deal with any works to be undertaken from within Market Lane.

Subject to the above, the Panel concurred with the Officer's assessment report and recommendation.

STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 subject to conditions.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the assessment report.

DECISION

THAT Council as the consent authority grant Development Consent to DA2019/1084 for Alterations and Additions to the existing commercial building, signage and changes to operating hours and delivery hours of an existing retail use on land at Lot 910 DP 875567, 31 The Corso, MANLY, subject to the conditions outlined in the Assessment Report subject to the following changes:

1. The deletion of condition 12:

Outdoor Dining

Any application for outdoor dining must be made separately using the form "Outdoor Dining Area Approval Application". Please note that Council does not currently accept outdoor dining applications for The Corso, Manly.

Reason: To ensure compliance with the requirements of the *Roads Act 1993* and Council policy regarding outdoor dining.

2. Condition 14 to be amended:**Signage Illumination**

The sign at street level on Market Lane is to be internally illuminated only and to be of low lux level so as not to cause nuisance or light spill to surrounding pedestrians or land uses in Market Lane. All signage is to be illuminated for the approved hours of operation only.

Reason: Protection of amenity

3. The addition of the following condition:

Any exhaust vents or air handling systems discharging onto Market Lane is not to cause nuisance to pedestrians or surrounding land uses in Market Lane by means of odour, temperature, volume, velocity or noise.

Reason: Protection of amenity

4. The deletion of Section (m) of condition 3:

(m) 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 back wash 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.

5. Amended Condition No. 9 to read:**Amendments to the Plan of Management**

The Plan of Management (POM) is to be amended to address the following:

- a. Hours of Trading are to be amended to match those contained in Condition 13.
- b. Deliveries and waste collection are to occur via the Whistler Street loading zone if they can be completed in 15 minutes or less. Deliveries that take longer than 15 minutes are to occur via Market Place and between the hours of 5.00am and 8.00am.
- c. Deliveries and waste collection by trucks larger than 6.4m in length are to occur only between 5.00am and 8.00am.
- d. The following matters are to be provided in the Plan of Management:
 - Provision for Complaints Reporting and Management (including details of the contact person and phone number in respect to all enquiries and public complaints in relation to the POM or the operation of the premises, keeping of a "Complaints Register" to record details of any incident and outline methods for actioning/rectifying the incident). The Complaints Register to be available for viewing by Council officers at any time.
 - Provision for Review of the POM including; i) within 1 month of the first year anniversary of the stores operations and at any point in time as necessary, , ii) liaison with Northern Beaches Council and incorporation of any operational changes, iii) review of trading and delivery times to ensure they are still effective and relevant and, iv) provision of a copy of the draft POM as amended to Northern Beaches Council for any comments/recommendations being incorporated into the POM and endorsement prior to final adoption.

Reason: To ensure the Plan of Management is consistent with the approved hours for trade and deliveries, contains appropriate provisions for complaints reporting and periodic review and to minimise congestion and impacts in Market Lane from deliveries and waste collection.

The addition of the following conditions:

On-street Work Zone

The applicant shall lodge an application for a Work Zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.(DACTRCPC2)

Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares. (DACTRDPC2)

Vote: 3/0

The meeting concluded at 12.30 p.m.

This is the final page of the Minutes comprising 13 pages
numbered 1 to 13 of the Development Determination Panel meeting
held on Wednesday 5 February 2020