

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held via teleconference on

WEDNESDAY 1 JULY 2020

**Minutes of a Meeting of the Northern Beaches Local Planning Panel
held on Wednesday 1 July 2020
Commencing at 1.00pm**

ATTENDANCE:

Panel Members

| | |
|---------------|--------------------------|
| Lesley Finn | Chair |
| Steve Kennedy | Urban Design Expert |
| Brian Kirk | Town Planner |
| Lloyd Graham | Community Representative |

1.0 APOLOGIES AND DECLARATIONS OF INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING**2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 17 JUNE 2020**

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 17 June 2020, were adopted by the Chairperson and have been posted on the Council's website

3.0 DEVELOPMENT APPLICATIONS

3.1 MOD2019/0639 - 15 ADDISON ROAD, MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA2018/2027 GRANTED FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING HOUSE

PROCEEDINGS IN BRIEF

The proposed modification seeks the deletion of condition No. 8 and the amendment of condition No. 18. The intention of these changes to conditions is to allow the construction of the proposed sandstone wall and lift, and the addition of external doors to the existing boat shed.

Condition No. 8 presently reads as follows:

8. Proposed sandstone wall and elevator/lift

The proposed construction of the sandstone wall and elevator/lift are to be deleted.

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

Reason: To minimise the risk/impact of the development on the endangered Little Penguin population.

Condition No. 18 presently reads as follows:

18. Proposed boat shed works

All works to the existing boat shed, including refurbishment/remediation, are excluded from this consent.

All references to these works are to be deleted from the plans prior to the issue of a Construction Certificate.

Reason: To ensure no consent is granted for works undertaken illegally on the site.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by a representative of the applicant.

DECISION ON MODIFICATION APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. Mod2019/0639 for Modification of Development Consent DA2018/2027 granted for alterations and additions to an existing dwelling house at Lot C DP 316879, 15 Addison Road, Manly for the reasons set out in the Assessment Report and the Supplementary Memo as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. Specifically, the retention of condition Nos. 8 and 18 is required in order to maintain consistency with Clause 21 (relating to biodiversity, ecology and environment protection) of the SREP, as assessed under DA2018/2027.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Manly Local Environmental Plan 2013.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of Zone E4 Environmental Living of the Manly Local Environmental Plan 2013. Specifically, the development is not considered to provide for low-impact residential development in an area with special ecological, scientific or aesthetic values, and will result in adverse effects on the ecological and scientific values of the site.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.5 Terrestrial Biodiversity of the Manly Local Environmental Plan 2013. Specifically, Council remains dissatisfied that the development will not result in prescribed impacts to the Little Penguin habitat, including previously recorded nesting sites in the vicinity of the development.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.10 Limited Development on Foreshore Area of the Manly Local Environmental Plan 2013. Specifically, Council is not satisfied that the development will not cause environmental harm to surrounding flora and fauna habitat, consistent with 6.10(3)(c)(ii)
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 5.4.2 Threatened Species and Critical Habitat Lands of the Manly Development Control Plan.

Vote: 4/0

3.2 MOD2020/0113 - 43 BOORALIE ROAD, TERREY HILLS - MODIFICATION OF DEVELOPMENT CONSENT DA2016/0523 GRANTED FOR DEMOLITION WORKS CONSTRUCTION OF A SERVICE STATION AND SIGNAGE

PROCEEDINGS IN BRIEF

The proposal seeks approval to amend Condition No. 1B, which required the installation of a 500mm screen to shield the visibility of the soffit and lights of the existing service station canopy from the residential property to the south east. The alternative screen solution as proposed includes installing 250mm aluminium light screen boxes around each canopy down-light.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by one neighbour and a representative of the applicant.

DECISION ON MODIFICATION APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. MOD2020/0113 for Modification of Development Consent DA2016/0523 granted for demolition works construction of a service station and signage at Lot 1 DP 545812, 43 Booralie Road, Terrey Hills for the following reason:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12 Glare and Reflection of the Warringah Development Control Plan.

Vote: 4/0

3.3 DA2020/0090 - 20 WESTMINSTER AVENUE, DEE WHY - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE

PROCEEDINGS IN BRIEF

The proposal seeks consent for the following:

- Demolition of existing structures on the site and construction of a part three and part four storey, split-level boarding house building containing twenty-three (23) double rooms and basement level parking.
- Earthworks and excavation
- Associated civil infrastructure, including on-site stormwater detention and a new driveway centrally located on the boundary.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by two representatives of the applicant.

DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0090 for Demolition works and construction of a Boarding House at Lot 15 DP 9125 and Lot A DP 392346, 20 Westminster Avenue, Dee Why for the reasons set out in the Assessment Report.

The Panel was of the view that the proposed boarding rooms on level 3 were unacceptable because of their impacts on bulk, scale and amenity.

Vote: 4/0

3.4 MOD2020/0119 - 133-139 PITTWATER ROAD, MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA213/2017 GRANTED FOR DEMOLITION AND CONSTRUCTION OF A SERVICE STATION.

PROCEEDINGS IN BRIEF

The proposal seeks consent to extend trading hours from 7.00am - 10.00pm Sunday to Wednesday and 7.00am - 12.00am (midnight) Thursday to Saturday to 6.00am to 12 midnight (as amended from 24 hour trading) 7 days a week. In addition, the proposal seeks consent to remove the existing Colorbond fence to Smith Lane and construction of an acoustic wall 2.74m in height with a transparent 1.2m screen for a length of 25.22m along the western boundary to Smith Lane.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by four neighbours.

DECISION ON MODIFICATION APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. MOD2020/0119 for Modification of Development Consent DA213/2017 granted for demolition and construction of a service station at Lot 133 DP 1264470, 133-139 Pittwater Road, Manly subject to the conditions and for the reasons set out in the Assessment Report and Supplementary Memo as modified below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|-----------------|--------------------|
| Drawing No. | Dated | Prepared By |
| 19-083 DA01 Rev C Existing and Proposed Plans and Elevations | 4 December 2019 | MCHP Architects |

| Report No. / Page No. / Section No. | Dated | Prepared By |
|---|---------------|--------------------|
| Noise Assessment Extended Trading Hours BP Service Station 133-139 Pittwater Road, Manly Rev 1 | February 2020 | Atkins Acoustics |
| Noise Assessment Extended Trading Hours BP Service Station 133-139 Pittwater Road, Manly Additional Modelling | 16 June 2020 | Atkins Acoustics |

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:

B. Modify Condition 27 (6BS01) to read as Condition 27 (a) as follows:

- i. The hours of operation must be restricted to between 7.00 am to 10.00 pm Sunday to Wednesday and 7.00 am to 12 midnight Thursday to Saturday (midnight) seven days per week are subject to a trial period for 12 months from the date of the formal notification to Council's Environmental Health Unit of the date of the commencement of the trial hours.
- ii. The amended trial period hours of operation must not commence until such time as the proposed acoustic wall has been erected and painted with anti-graffiti paint.
- iii. A further application to Council must be lodged to continue the operating hours outlined in (i) above not less than 30 days before the end of the trial period. Council's consideration of the proposed continuation and / or extension of the trial will be based on, amongst other things, the performance of the operator in relation to compliance with all development conditions (as modified), any substantiated complaints received and any views expressed by the Police.

Note: The extended trading hours will be permitted to continue for a further 3 months from the date of registration of the new application. This will allow Council time to assess the new application for the continuation of extended trading.

C. Add Condition 27 (b) Trial period to read as follows:

The hours of operation 6am to 12 am (midnight) seven days per week are subject to a period of trial commencing 12 months from the commencement of this consent ("the trial period").

(1). 24 hours prior to commencement of this development consent, the applicant must notify the Executive Manager Development Assessment of Northern Beaches Council in writing of its intention to commence the modification consent so that the trial period may be calculated.

(2). During the trial period the applicant must engage a suitably qualified independent acoustic consultant to test and report on whether the noise at the nearest residential receptors meet the EPA Noise Policy for Industry maximum noise level event assessment noise levels of LAFmax 52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater.

The testing is to be conducted at the following testing locations:

- Outside of the rear first floor window at 141 Pittwater Road, Manly
- 148 Pittwater Road, Manly;
- 150 Pittwater Road, Manly;
- 152 Pittwater Road, Manly;
- 129 Pittwater Road;
- 10 Pine Street Manly, and
- 15 Pine Street, Manly.

In the event that access for undertaking the acoustic testing is denied by an adjoining owner, the Applicant must demonstrate, in writing to the Executive Manager Development Assessment of Northern Beaches Council that all reasonable steps have been taken to obtain access.

(i) The testing is to be conducted once each quarter (each 3 months) during the trial period with a final (fourth) test being conducted on the 12 month anniversary of the operation.

(ii) The results of each test are to be submitted to the satisfaction of Northern Beaches Councils Environmental Health Team within 48 hours after each respective test is conducted.

(iii) At the conclusion of the trial period if any two tests at a testing location fail to meet the EPA Noise Policy for Industry maximum noise level event assessment noise levels of LAFmax 52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater at the testing location, the applicant shall be deemed to have failed its period of probation and the hours of operation of the service station shall under this consent be as follows: 7 AM to 10 PM Sunday to Wednesday and 7 AM to 12 AM (midnight) Thursday to Saturday.

Reason: to ensure that the hours of operation of the use meet the EPA Intrusive Noise Targets.

C. Add Condition 27 (c) Plan of Management to read as follows:

(i) Prior to the issue of any Construction Certificate, a Plan of Management is to be prepared and submitted to the Executive Manager Development Assessment for review. The plan shall include details on the management and operation of the service station including hours of trading, delivery and waste collection and measures to maintaining amenity to the surrounding area including measures to address noise, illumination of lighting, fumes, odours and dust, security and safety, litter and graffiti (graffiti to be removed within 48 hours of application) and compliant resolution.

(ii) During the ongoing use of the development the use of the premises must be carried out in accordance with the Plan of Management.

(iii) A copy of the development consent and the approved Plan of Management shall be kept on site and be made available to Council Officers and the Police on request.

(iv) A copy of the approved Plan of Management shall be provided to the following properties:

- 141 Pittwater Road, Manly;
- 148 Pittwater Road, Manly;
- 150 Pittwater Road, Manly;
- 152 Pittwater Road, Manly
- 129 Pittwater Road, Manly
- 10 Pine Street Manly; and
- 15 Pine Street, Manly.

(v) The approved Plan of Management shall only be amended with the approval of Council and any amended Plan of Management shall also be provided to the properties listed in (iv) above.

Reason: To maintain a reasonable level of amenity to the area.

D. Add Conditions 27 (d) Light Impact Assessment to read as follows:

Prior to the issue of any Construction Certificate, a light impact assessment prepared by a suitably qualified person is to be prepared for the premises to the satisfaction of Councils Environmental Health Team. The report should include recommendations to limit the intensity of illumination to neighbouring properties particularly after 10pm at night and before 7am in the morning. Any operational recommendations are to be included in the Plan of Management.

The two high level lights adjacent to the tyre air pressure station on the western boundary shall be turned off when the station is not in use, i.e. between the hours 7am and 7pm, 7 days a week.

Reason: To maintain amenity of the surrounding area.

E. Add Conditions 27 (e) Measures to reduce noise to read as follows:

- (i) The three (3) car parking spaces nearest to the eastern boundary and the car parking space for the tyre air supply are to be signed as “no parking” from 10pm each day to 7am the following day. Parking in these spaces is to be restricted by way of lockable bollards which shall be placed in those spaces from 10pm each day to 7am the following day.
- (ii) The ice machine shall be relocated to the south-east corner or acoustically treated to reduce noise emission to at least 10db - 44dB;
- (iii) The metal grates in the driveway and the petrol tank caps are to be treated so that impact noise is not generated when cars pass over them;
- (iv) Activities must not detrimentally affect existing and future amenity of adjoining occupants and neighbours by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot waste water, waste products, oil, electrical interference or otherwise.
- (v) The use of the tyre air pressure station is to cease from 7pm nightly and may recommence the following morning from 7am.
- (vi) Deliveries including fuel and gas bottle deliveries and waste collection must only occur during the following hours:
 - Weekdays – 7:00am – 8:00pm
 - Weekends and Public Holidays – 8:00am – 8:00pm

Reason: To minimise noise disruption to neighbouring properties during early or late-night hours of operation.

F. Add Conditions 27 (f) Compliance with Plan of Management and Light impact Assessment to read as follows:

Prior to the issue of any interim / final occupation certificate, documentation is to be submitted to the satisfaction of the Principal Certifying Authority that all recommendations within the Light Impact Assessment and Plan of Management have been implemented.

Reason: To ensure any recommendations and the Plan of Management have been implemented in order to maintain amenity to neighbouring properties.

G. Add Conditions 27 (g) Acoustic Wall to read as follows:

The acoustic wall to be installed along the western boundary shall be amended as follows:

- (i) The last section of the wall (3.2m on the southern edge) shall not exceed 1.0 m in height to increase the visibility of road users on Smith Lane;
- (ii) The solid section of the proposed acoustic rated wall shall be reduced to 2440mm and increase the glazed upper section by 300mm with an overall height of 4.0m;
- (iii) screen planting shall be installed adjacent to the wall as per the the landscape plan approved in the original consent, and

(iv) Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a suitably qualified professional such as an acoustic engineer that the design and installation of the acoustic wall is effective in mitigating noise levels to the adjacent residences. Certification is to be submitted to the satisfaction of the Principal Certifying Authority and Councils Environmental Health Team.

(v) The acoustic wall shall be treated with an anti-graffiti coating.

Reason: In the interest of public amenity and safety and to preserve the overall character of the Pittwater Road Conservation Area and to ensure the impact of the proposal is minimised.

H. Add Conditions 27 (h) neighbourhood amenity to read as follows:

The Management shall ensure that the behaviour of customers entering and leaving the site do not detrimentally impact on the amenity of the neighbourhood.

Reasons: In order to protect residential amenity.

I. Add Conditions 27 (i) food trucks to read as follows:

Food trucks are not permitted to be located within the grounds of the service station.

Reasons: In order to protect residential amenity.

J. The addition of Condition 27 (j) to read as follows:

The canopy lighting is to be turned off within 30 minutes of the conclusion of operating hours.

Reason: To make the canopy lighting consistent with the hours of operation of the service station.

The Panel was of the view that the conditions being applied to the approved modification will have a beneficial effect on the amenity of adjoining and surrounding properties.

Vote: 3/1 – Lloyd Graham opposed the modification on the grounds that the proposed extension of trading hours commenced at 6am 7 days a week and allowing trading from 10pm-12pm on Sunday-Wednesday is not in the interest of the local community as it will cause a deterioration of the amenity of the immediate neighbourhood and establish an undesirable precedent elsewhere.

The meeting concluded at 4.22pm

This is the final page of the Minutes comprising 12 pages
numbered 1 to 12 of the Northern Beaches Local Planning Panel meeting
held on Wednesday 1 July 2020.