



northern  
beaches  
council

# MINUTES

## **NORTHERN BEACHES LOCAL PLANNING PANEL**

held via teleconference on

**WEDNESDAY 18 NOVEMBER 2020**

## **Minutes of the Northern Beaches Local Planning Panel held on Wednesday 18 November 2020**

The public meeting commenced at 1.00pm and concluded at 4.35pm.

The deliberations and determinations commenced immediately following the public meeting and concluded at 7.25pm.

### **ATTENDANCE:**

#### **Panel Members**

Paul Vergotis	Chair
Graham Brown	Town Planner (Chair item 3.3)
Marcus Sainsbury	Environmental Expert
Lloyd Graham	Community Representative

## **1.0 APOLOGIES AND DECLARATIONS OF INTEREST**

Item 3.3 - Paul Vergotis declared a conflict of interest and did not attend the site inspection and had no involvement in the public meeting, deliberation or determination of this item.

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 11 NOVEMBER 2020**

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 11 November 2020, were adopted by the Chairperson and have been posted on the Council's website

### 3.0 PUBLIC MEETING ITEMS

#### 3.1 DA2020/0147 - 14 & 16 ELLEN STREET CURL CURL AND 2 WYADRA AVENUE FRESHWATER - CONSOLIDATION OF 3 LOTS INTO ONE LOT AND RESUBDIVISION INTO 3 TORRENS TITLE LOTS

##### PROCEEDINGS IN BRIEF

The application seeks consent for the consolidation of the three (3) existing allotments 14 Ellen Street, 16 Ellen Street and 2 Wyadra Avenue and re-subdivision to create three (3) lots, retaining the existing two (2) dwelling houses and an indicative building envelope for a new two (2) storey dwelling.

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

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##### DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0147 for consolidation of 3 lots into one lot and resubdivision into 3 Torrens Title lots at Lot 101 & Lot 102 DP 1224100 and Lot 10 DP 14040 14 & 16 Ellen Street, Curl Curl and 2 Wyadra Avenue, Freshwater subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following condition:

##### **Positive Covenant**

A positive covenant (to be registered on the Title of the land to accompany the Subdivision Certificate application) requiring the proprietor of the land to comply with the building envelope restrictions for a dwelling house at 2 Wyadra Avenue, as shown on the stamped approved plans reference DA1 Amend 1-001, DA1 Amend 1 -200, DA1 Amend 1-301, DA1 Amend 1 -302, DA1 Amend 1 – 303 all dated 22 September 2020 and prepared by Peter Stutchbury Architects. The terms of the Positive covenant are to be prepared by a Legal Practitioner, pursuant to Section 88B of the Conveyancing Act 1919 with the restrictions applying to 2 Wyadra Avenue for a future dwelling house, including the heights and setbacks shown on the indicative sections, elevations and plans.

Northern Beaches Council shall be nominated as the only party able to release, vary or modify such covenant. Details are to be submitted with the Subdivision Certificate application.

Reason: To ensure built form is consistent with the pattern and scale of surrounding development in response to the site constraints and existing amenity

##### REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report and supports the agreement by the applicant and the adjoining property owners at 23-25 Loch Street, Freshwater to place a positive covenant on the title.

Vote: 4/0

### 3.2 DA2020/0431 - 1129-1131 PITTWATER ROAD, COLLAROY - DEMOLITION WORKS AND CONSTRUCTION OF A MIXED USE DEVELOPMENT COMPRISING COMMERCIAL UNITS AND A BOARDING HOUSE

#### PROCEEDINGS IN BRIEF

The proposal is for a mixed use development, including 2 commercial units and a 23 room boarding house with a caretakers apartment.

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

The Panel raised concern with the apparent lack of owners consent for the purpose of clause 49 of the Environmental Planning and Assessment Regulation 2000 having regard to the reliance on the right of carriageway to serve the subject site.

The Panel also expressed concerns in relation to the view loss caused by the non-compliant height of the building and the floor to ceiling heights of the boarding rooms being the minimum of 2400mm which is likely to adversely impact on the occupants amenity.

The Panel were advised the incorrect clause 4.6 report had been included in the business paper and provided to the Panel. The Panel have since reviewed the correct clause 4.6 report dated 20 October 2020 and was of the view that the updated report was not considered to be well founded.

#### 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 proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

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#### DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0431 for demolition works and construction of a Mixed Use Development comprising commercial units and a Boarding House at Lot 4 DP 7445 and Lot 1 DP 859613, 1129-1131 Pittwater Road, Collaroy for the following reasons:

1. Pursuant to Clause 49 of the Environmental Planning and Assessment Regulation 2000, the panel does not support the application due to the apparent lack of owners consent for the purpose of having regard to the reliance on the right of carriageway servicing the subject site.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 under Clause 4.6 of the Manly LEP, the written request is not considered to be well founded thus the prerequisite to the granting of development consent is not satisfied.

**REASONS FOR DETERMINATION:**

The Panel has formed the view that the proposed development will have an unacceptable impact on surrounding properties and does not have the requisite information to support the use of the carriageway.

Vote: 4/0

### 3.3 DA2019/1475 - 22 VICTORIA PARADE MANLY - DEMOLITION OF BUILDING AND CONSTRUCTION OF A NEW HOTEL

#### PROCEEDINGS IN BRIEF

The proposal seeks the demolition of the existing structures on site and construction of a new part four/part five storey hotel accommodation comprising 49 rooms, communal rooftop area including spa, ground floor café/restaurant, basement car parking with 22 car spaces and associated site and landscape works.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by one representative of an objector, two objectors and two representatives of the applicant.

#### 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 Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.3 Height of Buildings development standard and clause 4.4 Floor Space Ratio development standard has adequately addressed and demonstrated that:
  - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
  - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

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#### DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2019/1475 for demolition of building and construction of a new hotel at Lot 3 DP 86034, 22 Victoria Parade, Manly for the reasons for refusal set out in the Assessment Report.

#### REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report. The Panel was asked to defer the consideration of the development application as the applicants had only received formal notification of the meeting on the Monday prior to the meeting. The applicants argued that they had been unable to properly prepare for this meeting although Mr Elliott Oxley and Mr Peter Morson from Morson Group spoke at the meeting. The Panel decided not to defer the consideration given that the development application required substantial variations to development standards. As the Panel must determine the clause 4.6 written requests on the details provided in the requests, the Panel was of the view that the variations could not be supported on the written requests provided by the applicant and contained within the Council officer's report.

Vote: 3/0

### 3.4 DA2020/0552 - 181 ALLAMBIE ROAD ALLAMBIE HEIGHTS - DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS LIVING DEVELOPMENT

#### PROCEEDINGS IN BRIEF

The proposal seeks consent for the demolition works and construction of a seniors housing development, which consists of partial demolition works, site preparation works, the removal of trees and the construction of an 24 independent units in two separate blocks (known as Building A and Building B) to be occupied as seniors housing.

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

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#### DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0552 for demolition works and construction of a Seniors Living Development at Lot 2615 DP 752038, 181 Allambie Road, Allambie Heights for the following reasons:

1. The proposed development is contrary to the Environmental Planning and Assessment Act 1979 NSW having regard to s 4.15 (1)(b),(c),(d) and (e) given the insufficient information provided with the development application to address the likely impacts of the development on the adjacent natural environment, the suitability of the site and matters raised by the public with respect to the likely impacts that would be caused.

#### REASONS FOR DETERMINATION:

The Panel was of the view that the site is capable of Seniors Living Housing however given the lack of crucial information with respect to the intensification of the development and the likely impacts it would have on the adjacent Manly Warringah War Memorial Park and the recognised biodiversity values contained within the park and the Manly Dam Catchment the Panel is unable to grant a development consent to the proposal in the absence of the crucial information. The Panel encourages the applicant to engage in formal discussions with the Council with respect to the submission of an updated biodiversity development assessment report (BDAR) that addresses the current biodiversity values contained within the park and how those values interrelate with the requirements to provide an appropriate asset protection zone for bushfire risk mitigation.

Vote: 4/0



## 4.0 NON PUBLIC MEETING ITEMS

### 4.1 DA2020/0817 - 14 GLADSTONE STREET NEWPORT - SUBDIVISION OF AN APPROVED DUAL OCCUPANCY DEVELOPMENT

#### PROCEEDINGS IN BRIEF

The application seeks consent for the strata subdivision of a detached dual occupancy approved pursuant to DA2019/1338. The proposed strata subdivision will result in two 398.5m<sup>2</sup> lots, each containing one dwelling.

The Panel viewed the site and its surrounds.

#### 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 Pittwater Local Environmental Plan 2014 seeking to justify a contravention of clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones 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 standards and the objectives for development within the zone in which the development is proposed to be carried out.

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#### DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0817 for subdivision of an approved dual occupancy development at Lot 11 DP 10548, 14 Gladstone Street, Newport for the reasons for refusal set out in the Assessment Report.

#### REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report.

Vote: 4/0

This is the final page of the Minutes comprising 9 pages  
numbered 1 to 9 of the Northern Beaches Local Planning Panel  
held on Wednesday 18 November 2020.