



northern  
beaches  
council

# MINUTES

## DEVELOPMENT DETERMINATION PANEL MEETING

held on

**WEDNESDAY 9 DECEMBER 2020**

## **Minutes of a Meeting of the Development Determination Panel held on Wednesday 9 December 2020**

### **ATTENDANCE:**

#### **Panel Members**

Peter Robinson (Chairperson)	Executive Manager Development Assessment	
Lashta Haidari	Acting Manager, Development Assessment	Item 3.2 & 3.4
Rod Piggott	Manager, Development Assessment	Item 3.1 & 3.3
Liza Cordoba	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 1 DECEMBER 2020**

The Minutes of the Development Determination Panel held 25 November 2020, were adopted by all Panel Members and have been posted on the Council's website

### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

#### 3.1 DA2020/0884 - 129 UPPER CLONTARF STREET, SEAFORTH - ALTERATION AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

##### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel were addressed by an objector and the owner.

The site is highly constrained with a rock escarpments and steep topography. The Panel were not satisfied that the proposed pool and stairs was appropriate in the location given the impacts on the natural topography, the setback, height and elevated nature of the structure having an effect on the amenity of the adjoining property in regards to visual and privacy impacts.

##### STATEMENT OF REASON

The proposal was not appropriate in the context of the location on site or the impacts on the adjoining property.

##### COMMUNITY CONSULTATION

Issues raised in the submission have been taken into account in the report and the meeting.

##### DECISION ON DEVELOPMENT APPLICATION

THAT Council as the consent authority **refuse** Development Consent to DA2020/0884 for alterations and additions to a dwelling house including a swimming pool on land at Lot 189 DP 11162, 129 Upper Clontarf Street, Seaforth, for the following reasons:

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 3.4.2 Privacy and Security of the Manly Development Control Plan .
2. 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 4.1.8 Development on Sloping Sites of the Manly Development Control Plan.
3. 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 4.1.9 Swimming Pools, Spas and Water Features of the Manly Development Control Plan.
4. 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 4.4.5 Earthworks (Excavation and Filling) of the Manly Development Control Plan.

Vote: 3/0

### **3.2 DA2020/1359 - 12 EMMA STREET, MONA VALE - ALTERATIONS AND ADDITIONS TO A 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 Pittwater LEP 2014 and the Pittwater 21 DCP 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 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 Council as the consent authority **approve** Development Consent to DA2020/1359 for alterations and additions to a dwelling house on land at Lot 5 DP 230566, 12 Emma Street, Mona Vale, subject to the conditions outlined in the Assessment Report.

Vote: 3/0

### **3.3 DA2020/0842 - 16 MCDONALD STREET, FRESHWATER - 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 the owner and received a late submission from a neighbour and the owner.

The owner identified an error in the plans which elevated the finished level of the pool 700mm higher than intended and made a submission for the level; to be reduced from RL59.82 to RL 59.1. A request was made given the reduced height that condition 9 requiring the 3 metre setback be deleted. The Panel considered this request and in regards to privacy, requires the finished height of the pool deck/coping to be a maximum RL of 58.8 with condition 9 to be amended so that the trafficable deck maintain a 3 metre setback to the southern boundary. Also that landscaping along the boundary be installed prior to the pool being filled with species which will achieve a minimum mature height of 3 metres at maturity.

A request was made that condition 3 be amended to from a solid privacy screen to the use of louvres to provide privacy whilst maintaining light and ventilation. The Panel accepted that this could be achieved and an amended condition has been recommended.

In regards to Tree 12 on the adjoining site the Panel were satisfied that the works could be constructed with minimal disturbance to the tree subject to conditions.

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 submission have been taken into account in the report.

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

THAT Council as the consent authority **approve** Development Consent to DA2020/0842 for alterations and additions to a dwelling house including swimming pool on land at Lot 15 DP 22640, 16 McDonald Street, Freshwater, subject to the conditions outlined in the Assessment Report, subject to the following:

1. The amendment of the following conditions:

##### **8. Southern privacy screen**

A 1.8 metre high privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost southern edge of the balcony/deck located off the Ground Floor Level Bedroom 5 as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: To ensure no visual privacy for the neighbour.

### 9. Amendments to Pool

The pool coping/deck is to be reduced in height to a maximum RL58.2 with the trafficable deck setback a minimum to 3 metres to the southern boundary.

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

2. The addition of the following conditions:

#### Landscaping

Landscaping along the southern boundary is to be installed prior to the pool being filled with water. The species to have a minimum mature height of 3 metres

Reason: To protect the amenity of adjoining properties

#### Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist and is to be conducted in accordance with AS4970 – 2009 Section 4.5.4 *Root protection during works within the TPZ*, such that tree roots are not damaged or ripped beyond the point of excavation by site machinery. Where larger roots have been encountered they are to be referred to an independent Level 5 arborist for further advice.

For deep excavations exposed roots at the excavated cut face are to be protected with jute mesh, geotextile fabric or similar being secured in place to avoid drying of roots and the exposed soil profile.

The Project Arborist shall be in attendance and supervise all works as nominated in the rain Tree consulting Arboricultural Impact Assessment Report 22 October 2020.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be

pruned or removed.

- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: tree protection.

### **Excavation**

No trenching for services (hydraulics, electricity etc) shall be undertaken within 10.2 metres of Tree 10 or 7.2 metres of Tree 12.

Reason: Tree protection

### **Tree and vegetation protection**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees and vegetation within the site not approved for removal,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees and root zones,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970- 2009 Protection of Trees on Development Sites,
  - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
  - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373- 2007 Pruning of Amenity Trees,
  - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.



c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited.

Reason: tree and vegetation protection.

**Condition of retained vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- e) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- f) extent of damage sustained by vegetation as a result of the construction works,
- g) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: tree protection.

Vote: 3/0

### **3.4 DA2020/0936 - 11 BAREENA DRIVE, BALGOWLAH HEIGHTS - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SWIMMING POOL**

#### **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 ON DEVELOPMENT APPLICATION**

THAT Council as the consent authority **approve** Development Consent to DA2020/0936 for demolition works and construction of a dwelling house including a swimming pool on land at Lot 7 Sec 56 DP 758044, 11 Bareena Drive, Balgowlah Heights, subject to the conditions outlined in the Assessment Report.

Vote: 3/0

This is the final page of the Minutes comprising 10 pages  
numbered 1 to 10 of the Development Determination Panel meeting  
held on Wednesday 9 December 2020.