

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held by teleconference on

WEDNESDAY 9 DECEMBER 2020

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 9 and Thursday 10 December 2020

The public meeting commenced at 1.00pm and concluded at 4.27pm.

The deliberations and determinations commenced following the public meeting and concluded at 8.30pm. The deliberations resumed at 5.00pm on Thursday 10 December and concluded at 6.35pm.

ATTENDANCE:

Panel Members

Peter Biscoe QC	Chair
Steve Kennedy	Urban Design Expert
Robert Hussey	Town Planner
Ray Mathieson	Community Representative

1.0 APOLOGIES AND DECLARATIONS OF INTEREST

Item 3.6 - Ray Mathieson declared a reasonably perceived conflict of interest in this matter and did not participate in the site visit, deliberation and determination.

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 2 DECEMBER 2020

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 2 December 2020, were adopted by the Chairperson and have been posted on the Council's website

3.0 PUBLIC MEETING ITEMS

3.1 DA2019/1217 - 504-508 PITTWATER ROAD NORTH MANLY - DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF A SHOP TOP HOUSING DEVELOPMENT WITH BASEMENT CARPARK AND ASSOCIATED LANDSCAPING

PROCEEDINGS IN BRIEF

The proposal seeks consent to demolish the existing buildings and associated structures on the site and to construct a mixed use 3 storey building.

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 EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is 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.

B. The Panel assumes the concurrence of the Secretary, Department Planning and Environment required under clause 4.6.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, grants **deferred commencement approval** to Application No. DA2019/1217 for demolition of existing buildings and construction of a shop top housing development with basement carpark and associated landscaping at Lot A DP 228550 & Lot B DP 446493, 504-508 Pittwater Road, North Manly subject to the conditions set out in the Assessment Report and subject to the following:

1. The addition of the following deferred commencement condition:

Redesign of units

Units 7, 8, 19 and 20 are to be redesigned to the satisfaction of the Executive Manager, Development Assessment to achieve a minimum setback of 5 metres from the eastern boundary with no change to the setbacks to the southern boundary and to the internal courtyard.

The development consent is not to operate until the applicant satisfies council as to the matters specified in this condition within five (5) years after the grant of this consent.

Reason: To ensure reasonable amenity for the units.

2. The deletion of condition 8.

REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report, subject to the above.

Vote: 4/0

3.2 DA2020/0951 - 37-38 EAST ESPLANADE MANLY - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING

PROCEEDINGS IN BRIEF

The proposal seeks consent for alterations and additions to the existing building. Specifically the works incorporate the following:

- New roof terrace at level 8.
- Ninth floor addition to allow for new communal room.
- New roof and safety balustrade.
- Stair access.

The existing building is a mixed use development.

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

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0951 for alterations and additions to an existing building at Lot CP SP 3035, 37 - 38 East Esplanade, Manly.

REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report, except that the Panel disagrees with the conclusions in the report relating to the amenity of unit 25, including maintenance of views.

Vote: 4/0

3.3 DA2020/0634 - 396-400 SYDNEY ROAD & 402 SYDNEY ROAD BALGOWLAH - DEMOLITION WORKS AND CONSTRUCTION OF A SHOP TOP HOUSING DEVELOPMENT

PROCEEDINGS IN BRIEF

The proposal seeks the demolition of existing site structures and the construction of a multi storey shop top housing development, incorporating 3 x ground floor retail/business tenancies, basement car parking for 32 vehicles, and 12 apartments. The apartments proposed include 7 x 2 bedroom units, and 5 x 3 bedroom units, 2 of which are to be constructed over 2 levels.

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

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0634 for demolition works and construction of a Shop Top Housing Development at Lot A DP 85983 & Lot B DP 85983, 396-400 Sydney Road & 402 Sydney Road, Balgowlah.

REASONS FOR DETERMINATION:

The Panel considers the building to be of good design and has merit. But the building is not on a designated "important corner site" as set out in clause 3.1.3.1(b) and Schedule 2 - Map B - Balgowlah Local Centre of the Manly DCP. Therefore the Panel considers the proposed height exceedance of 5 metres to be excessive.

Vote: 4/0

3.4 DA2020/0008 - 3 CENTRAL ROAD AVALON BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS HOUSING DEVELOPMENT

PROCEEDINGS IN BRIEF

The proposal includes the demolition of the existing dwelling and construction of eight (8) units for Seniors Living over 3 storeys.

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

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, grant **deferred commencement approval** to Application No. DA2020/0008 for demolition works and construction of a seniors housing development at Lot 27 DP 9151, 3 Central Road, Avalon Beach subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of deferred commencement condition 1 to read as follows:

1. VPA for dedication of land to relevant roads authority

The developer shall enter into a Voluntary Planning Agreement (VPA) with council pursuant to s7.4 of the Environmental Planning and Assessment Act, 1979 (NSW) to dedicate to council, free of cost to council, land at least one metre wide adjoining the whole of the eastern boundary of the subject land adjoining Patterson Lane.

The development consent is not to operate until the applicant satisfies council as to the matters specified in this condition within five (5) years after the grant of this consent.

2. The deletion of deferred commencement conditions 2 and 3 and the paragraph immediately following deferred commencement condition 3.
3. The addition of the following condition under the heading 'Conditions to be Satisfied Prior to the issue of the Construction Certificate':

Amendments to Approved Plans

The applicant is to amend the approved plans to reflect the six sketch plans dated 9/12/20 attached to the Memo dated 9 December 2020 from Renee Ezzy, Principal Planner, to Northern Beaches Local Planning Panel.

4. The amendment of condition 43 to read as follows:

43. Footpath Construction

The applicant shall construct a 1.5 metre wide footpath along the eastern boundary of the subject land of which at least one metre will be over the land dedicated to council under deferred commencement condition 1 and the balance will be over the council's adjoining land. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Section 138 Roads Act approval for footpath.
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are

in accordance with Section 138 Roads Act approval for footpath.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

5. The amendment of condition 63 to read as follows:

63. Completion of Pedestrian Pathway

The pedestrian pathway referred to in the Footpath Construction condition above is to be installed by the applicant at the applicant's cost and certified by Council prior to the issue of an Occupation Certificate.

Reason: To ensure all infrastructure is complete and operational for the safety of all pedestrians using Patterson Lane.

6. The amendment of condition 70 to read as follows:

70. Pedestrian Signal Phasing - installation

The applicant is to engage with Roads and Maritime Services (RMS) regarding the inclusion of a pedestrian phase of the traffic signals at Barrenjoey Road and Central Road.

The applicant is to submit to Council copies of correspondence with RMS relating to the inclusion of the pedestrian phase.

All costs associated with any such upgrade shall be borne by the applicant if required by the RMS. The works shall be undertaken to the satisfaction of RMS prior to the issue of any Occupation Certificate.

Reason: To ensure safe connectivity for the Seniors and mobility impaired when accessing the bus stop on the east side of Barrenjoey Road.

REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report.

Vote: 3/1

Robert Hussey dissents and would refuse the application for the following reasons. Under the council's controls this is prohibited development. However the proposal is lodged under the provisions of SEPP HSPD but it exceeds the FSR, it exceeds the height limit by 1 metre and it does not comply with the common setbacks in this area. As such, it represents an overdevelopment of this site and does not satisfy the provisions of clause 33 of SEPP HSPD in respect of compatibility with the character of the area.

3.5 DA2020/0765 - 81 GRIFFITHS STREET & 46 BOYLE STREET BALGOWLAH - ALTERATIONS AND ADDITIONS TO A CHILD CARE CENTRE AND TO INCREASE IN THE NUMBER OF CHILDREN

PROCEEDINGS IN BRIEF

The proposal seeks alterations and additions to an approved and operating child care centre and to increase the capacity of the centre from 120 children to 150 children, which would result in an increase in staff from 40 to 50. The proposal involves a reduction in the approved onsite parking spaces from 27 to 24, the reduction of 3 being staff carparking spaces at ground level, and a reallocation of 5 of the 14 staff carparking spaces in the basement to parents/carers for drop off and pick up of children.

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

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0765 for alterations and additions to a child care centre and to increase the number of children at Lots 1, 2 & 3 DP 9860 and Lot 72 DP 9860, 81 Griffiths Street & 46 Boyle Street, Balgowlah.

REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report.

The Panel has carefully considered the applicant's offer of a 12 month trial period and a condition that it would be a term of enrolment of children at the centre that all drop offs/pick ups would be in allocated spaces in the basement and that this would be enforced by the centre. While that has some attraction, further and more extensive traffic and parking surveys, plus more extensive surveys and analyses of modes of travel of staff at this centre plus (if available) surveys and analyses of modes of travel of staff at other such centres, would be required before such substantial departures from the parking requirements of the Manly DCP and the RMS Traffic Generating Development Guidelines could be justified.

Vote: 4/0

3.6 DA2020/0962 - 0 WHARVES AND JETTIES MANLY - ALTERATIONS AND ADDITIONS TO MANLY WHARF IN ASSOCIATION WITH HUGOS RESTAURANT

PROCEEDINGS IN BRIEF

The proposal seeks consent for alterations and additions to Manly Wharf to facilitate additional seating/patronage for Hugos restaurant.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by five residents in support of the application and three representatives of the applicant.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0962 for alterations and additions to Manly Wharf in association with Hugos restaurant at Lot 1 DP 1170245, 0 Wharves And Jetties, Manly subject to the conditions set out in the Assessment Report, and subject to the following:

1. The addition of the following condition under the heading 'Development Consent Operational Conditions':

Compliance with requirements of Heritage NSW

Works Not Approved

- a) The proposed extension of the existing (triangular) upper deck to the north which incorporates a section of the lower western deck and the proposed straightening of the curvilinear lower deck is not approved.

Reason: To ensure that the proposed northern extension does not reduce the publicly accessible area of the lower deck and does not introduce insensitive additions to compensate for this loss. The proposed lower deck extension is unsympathetic to the curvilinear characteristic of Baldwinson design of the public space around the wharf.

- b) The new planters, both on the western lower deck and the southern promenade are recommended not to be approved.

Reason: The proposed lower deck planter box contributes to the visual separation between the lower deck and the upper triangular deck. It unnecessarily takes up the public space and highlights the physical and visual separation between the public and private space and are in contrast to the Baldwinson design that encouraged visual and physical openness along the promenade. The proposed planters to the south add to the clutter and unnecessarily divide the public promenade.

- c) The heaters as proposed are not approved. Heaters that can be removed and stored must be used.

Reason: The proposed heaters fixed to the deck are visually distracting and add significantly to the visual clutter.

Heritage Consultant

- d) A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice

conservation and ensure works are undertaken in accordance with this approval.

Site Protection

- e) Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

Photographic Archival Recording

- f) A photographic archival recording of the areas proposed to be modified must be prepared prior to the commencement of works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

Unexpected Historical Archaeological Relics

- g) The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

Compliance

- h) If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

Section 60 Application

- i) An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

2. The amendment of condition 8 to read as follows:

Amendments to the Approved Plans

The following amendments are to be made to the Approved Plans:

- a) The proposed deck extension is to be a cantilevered structure, supported by existing piles. No new piles are permitted by this development consent.
- b) The proposed northern extension of the existing outdoor seating area, shown to comprise four x four seat tables, and all proposed works to the north of this area are not approved by this consent and are to be removed from the plans.
- c) Deletion of all proposed planter boxes.
- d) Deletion of fixed heaters.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises environmental impacts.

3. The amendment of condition 27 to read as follows:

Plan of Management

A Plan of Management is to be prepared for the use of the outdoor areas associated with Hugos in accordance with the following:

- a) A maximum of **64** patrons are allowed within the western outdoor dining area at any given time.
- b) A maximum of 36 patrons are allowed within the southern outdoor dining area at any given time.
- c) All patrons within the western outdoor dining area and the southern outdoor dining area are to be seated.
- d) No amplified music or live entertainment is permitted at either the western or southern outdoor dining area.
- e) The outdoor areas are not to be used between the hours of 12am midnight to 11am.
- f) Management is to ensure that patrons departing the premises do so in an orderly manner to minimise noise impacts (especially after 10pm)
- g) Garbage and bottle disposal should be undertaken prior to 10pm and not before 7am.
- h) A register of any complaints and any actions made in response to such complaints is to be maintained on site and produced upon request from Council.
- i) Tables must be cleared in a timely manner so items are not blown into the waterway.
- j) Disposable items such as plastic or polystyrene cups, containers and straws are not to be used in outdoor dining areas.
- k) With the exception of candles, no external lighting is permitted.
- l) Hours of operation for the outdoor dining areas are limited to:
11:00am to 11:30pm on all days, with all restaurant services to cease and all customers to vacate within 30 minutes.
- m) A 1m wide service area is to be outlined on the ground immediately adjacent to the southern outdoor dining area, with staff servicing the southern outdoor dining area to be generally limited to this area.

The Plan of Management is to be submitted to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure appropriate management of outdoor areas to minimise impacts upon the surrounding environment

REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report, subject to the above amendments of conditions in order to achieve consistency with the general terms of approval issued by Heritage NSW dated 4 December 2020.

Vote: 3/0

This is the final page of the Minutes comprising 14 pages
numbered 1 to 14 of the Northern Beaches Local Planning Panel meeting
held on Wednesday 9 December and Thursday 10 December 2020.