



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

WEDNESDAY 28 APRIL 2021

Minutes of a Meeting of the Development Determination Panel
held on Wednesday 28 April 2021
Via Microsoft Teams

ATTENDANCE:

Panel Members

| | | |
|------------------------------|--|--------------------------|
| Peter Robinson (Chairperson) | Executive Manager Development Assessment | |
| Steven Findlay | Manager, Development Assessment | Items 3.1, 3.2 & 3.3 |
| Rod Piggott | Manager, Development Assessment | Items 3.4, 3.5 3.6 & 3.7 |
| Neil Cocks | 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 14 APRIL 2021

The Minutes of the Development Determination Panel held 14 April 2021, were adopted by all Panel Members and have been posted on the Council's website

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2021/0017 - 36 WEEROONA AVENUE, ELANORA HGHTS - CONSTRUCTION OF A SECONDARY DWELLING

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

There were no registered speakers

The application was referred to the Panel due to a conflict of interest in regards to an objection raised by a staff member of Council.

The Panel was concerned with potential privacy issues relating the elevated deck/alfresco area's proximity to the eastern boundary. A condition is proposed for a privacy screen and supplementary screen planting along the boundary.

The Panel concurred with the Officer's assessment report and recommendation subject to an amended condition for privacy.

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

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

DECISION ON APPLICATION

THAT Council, as the consent authority, **approves** Development Consent to DA2021/0017 for Construction of a secondary dwelling on land at Lot 18 DP 13152, 36 Weeroona Avenue, Elanora Heights, subject to the conditions outlined in the Assessment Report subject to the following change:

Amend condition 5 to read:

5. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- a) In order to improve design modulation and consistency, the eave overhang of the skillion, which sits above the clerestory windows is to be increased from 350mm to 450mm.
- b) To ensure compliance with the height of buildings development standard is maintained, the entirety of the building, including all floor levels, roof levels, and the like, is to be reduced in height by 130mm.
- c) To improve the street presence of the development, the sill height of W6 to Bed 1 is to be lowered to sit 1200mm above the finished ground floor level, such that the overall height of the window is 900mm.
- d) To improve privacy, a screen with a maximum 50% transparency is to be installed along entire the eastern elevation of the alfresco deck to a height of 1.6 metres.
- e) Additional planting is to be provided to supplement existing vegetation along the eastern boundary in the location adjoining the existing shed and to continue for a distance of 4 metres further to the north of the northern corner of the alfresco deck. Plantings are to achieve a minimum mature height of 3 metres and should be selected from Council's Native Plant Species Guide – Pittwater Ward.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

Vote: 3/0

3.2 DA2020/1621 - 62 CASTLE CIRCUIT, SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

There were no registered speakers.

The Panel noted the error on the first page of the report and acknowledged that a variation to the height of 22.3% was submitted.

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 LEP 2013 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 APPLICATION

THAT Council, as the consent authority, **approves** Development Consent to DA2020/1621 for alterations and additions to a dwelling house on land at Lot 51 DP 200638, 62 Castle Circuit, Seaforth, subject to the conditions outlined in the Assessment Report.

Vote: 3/0

3.3 REV2020/0030 - 7 EATON SQUARE, ALLAMBIE HEIGHTS - REVIEW OF DETERMINATION OF APPLICATION DA202020/1070 FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by one objector and a representative of the applicant.

The Panel noted that the proposal was compliant with the Built Form Controls with the exception of the carport.

In regards to view impact, an alternate roof design could achieve a level of view sharing, and the applicant has indicated this could be provided.

In regards to privacy the Panel was satisfied with the level of separation to surrounding properties, with the inclusion of a privacy screen on the northern elevation of the upper floor deck

DECISION ON APPLICATION

THAT Council as the consent authority **defers** REV2020/0030 for Review of Determination of Application DA202020/1070 for alterations and additions to a dwelling house including a swimming pool on land at Lot 7 DP 209550, 7 Eaton Square, Allambie Heights, to receive an amended roof design.

Vote: 3/0

3.4 DA2020/1695 - 77 FOAMCREST AVENUE, NEWPORT - CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by a representative of the applicant.

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

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

DECISION ON APPLICATION

THAT Council, as the consent authority, **approves** Development Consent to DA2020/1695 for construction of a Residential Flat Building on land at Lot 1 & 2 DP 22450, 77 Foamcrest Avenue, Newport, subject to the conditions outlined in the Assessment Report.

Vote: 3/0

3.5 DA2020/1571 - 54 FRANCIS STREET, MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by two objectors and a representative of the applicant.

The Panel recognises that the orientation of the allotments, the topography and the context and siting of existing buildings creates a challenging situation for development to occur on the subject site.

The primary living areas of 52 Francis Street are located on the northern elevation with the room having a reasonable depth in an east west orientation, the room benefits from both a northern and eastern aspect with large glazed openings on the eastern elevation.

The Panel were primarily concerned with the impact on solar access to the rear yard of the adjoining property at 52 Francis St. The potential combination of wall height, ceiling heights, setbacks and roof design contribute to an unsatisfactory level of impact to the solar access on the adjoining private open space. Incomplete shadow diagrams (which do not provide the whole of adjoining sites) creates further uncertainty in the exact impact, noting the assessment report indicates that more than 1/3 of the private open space will be affected.

Whilst any variation with wall height or setback may be acceptable, it is the impact on the solar access to the rear yard which makes such non-compliances unacceptable.

Privacy from elevated decks also cause concern and should be reconsidered.

A revised design focusing on the solar amenity and privacy would need to be crafted.

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

STATEMENT OF REASON

The proposal creates an acceptable impact in regards to solar access.

COMMUNITY CONSULTATION

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

DECISION ON APPLICATION

THAT Council, as the consent authority, **refuses** Development Consent to DA2020/1571 for alterations and additions to a dwelling house including a swimming pool on land at Lot 14 Sec E DP 4449, 54 Francis Street, Manly, subject to the reasons for refusal as outlined in the Assessment Report and subject to the following changes:

Delete reason for refusal 1

Vote: 3/0

3.6 DA2020/1441 - 2B FRANCIS STREET, DEE WHY - ALTERATIONS AND ADDITIONS TO AN EXISTING COMMERCIAL BUILDING AND CHANGE OF USE TO A BOARDING HOUSE

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

There were no registered speakers

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

STATEMENT OF REASON

The proposal is an overdevelopment of the site and is not compatible with the character of the surrounding area.

COMMUNITY CONSULTATION

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

DECISION ON APPLICATION

THAT Council, as the consent authority, **refuses** Development Consent to DA2020/1441 for alterations and additions to an existing commercial building and change of use to a boarding house on land at Lot A DP 345183, 2B Francis Street, Dee Why, subject to the reasons for refusal as outlined in the Assessment Report.

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the aims and requirements of SEPP (Affordable Rental Housing) 2009, in terms of the following:
 - The proposal is inconsistent with cl. 29 (b) (landscape area) as it does not respond to the characteristic or compatible with the surrounding landscape character.
 - The proposal is inconsistent with cl. 29 (c) (solar access) and (d) private open space.
 - The proposal is inconsistent with Clause 30A (Character of the local area) as the development does not respond to the character of Francis Street and Redman Road which consist of residential flat buildings setback at least 6m from the frontage in landscape settings.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following objectives of Zone R3 Medium Density Residential of the Warringah Local Environmental Plan 2011. Objective 4 which requires low density residential environments to be characterised by landscaped settings that are in harmony with the natural environment of Warringah. Objective 5 which requires medium density residential environments are of a high visual quality in their presentation to public streets and spaces.
3. The proposed development is inconsistent with the objectives at cl.A.5 (Objectives) of WDCP as it does not:
 - i. Respond to the characteristics of the site and the qualities of the surrounding neighbourhood, or
 - ii. Create a unified landscape, contribute to the street, reinforce the importance of pedestrian areas and create an attractive design outcome.
4. The proposal is inconsistent with the requirements and objectives of the following Clauses of the Warringah DCP 2011:
 - **Clause B3 Side Boundary Envelope.** Due to insufficient setbacks of the existing building and the new level two (2) addition the proposal breaches the envelope and is visually

dominant by virtue of bulk and scale which is out of character with the area.

- **Clause B3 Side Boundary Setbacks** which requires a 4.5m side setback. There is no setback of the building to any boundary at ground or first floor level and the additional floor (level 2) is set back a non-compliant 3m from the north and west boundaries. There is no opportunities for deep soil landscape areas that will allow for planting to reduce the bulk and scale of the development and provide for external amenity for future residents. Due to insufficient setbacks the proposal will result in unreasonable level of amenity to future residents in terms of privacy and solar access.
- **Clause B7 Front Boundary Setbacks** which requires a 6.5m front set back to the primary street and a 3.5m from the secondary frontage. There is no setback of the building to the primary or secondary frontage. As a direct result of the re-use of the building footprint of 100% site coverage the proposal fails to maintain the visual continuity and pattern of buildings and landscape elements in the surrounding area.
- **Clause C9 Waste Management**, the Waste Management Guidelines and Clause D14 Site Facilities. The waste bin storage area is not large enough to contain the required number of bins and the access doors to the waste bin storage room and bulky goods storage room swings inwards. There is no external service facilities such as clothes drying.
- **Clause C2 Traffic, Access and Safety and Clause D20 Safety and Security**. The turning path information does not demonstrate that all parking spaces within the development are able to be used by the B85 design vehicle and may result in vehicles having to reverse from the site into Redman Road. The visibility at the exit to the car park presents a significant pedestrian hazard and does not meet the requirements of standard AS2890.1 and presents a significant pedestrian hazard. The louvered screen along the Francis Street frontage of the area referenced as "private open space" raises concerns regarding personal and property security for occupants.
- **Clause D1 Landscaped Open Space and Bushland Setting**. The proposal fails to maintain and enhance the streetscape or provide space on site to enable sufficient planting to mitigate the bulk and scale of the building. There is no outdoor recreational opportunities provided or external space for service functions. The amenity for the future residents is assessed as inadequate.
- **Clause D3 Noise and D8 Privacy**. The bedroom windows to room 1 and 2 and area referenced as "private open space" all located at ground level front Francis Street. The internal amenity of these room will be compromised by virtue of potential acoustic and visual privacy issues. The level 2 windows are located 2.9m from the northern boundary and have the potential to overlook the windows and balconies of the neighbouring residential building. j **Clause D6 Access to Sunlight and Clause D22 Conservation of Energy and Water**.

5. There is inadequate planning to address cross ventilation and solar access to the majority of rooms and common circulation spaces within the development. The common room located within the south-east area of the ground floor does not achieve reasonable access to sunlight.

- **Clause D9 Building Bulk**. The proposed development will result in overdevelopment and unacceptable intensification of the site within the existing building footprint.
- **Clause D10 Building Colours and Materials**. The proposal includes the use of metal cladding which is not consistent or complementary to the predominant face brick and cement render evident in the surrounding area.

6. Pursuant to Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979 the proposal is not in the public interest.

Vote: 3/0

3.7 DA2020/1487 - 89 CUTLER ROAD, CLONTARF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

There were no registered 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

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

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 DCP 2013 seeking to justify a contravention of clause 4.3 Height of Buildings and 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 APPLICATION

THAT Council, as the consent authority, **approves** Development Consent to DA2020/1487 for alterations and additions to a dwelling house on land at Lot 2 Sec A DP 2610, 89 Cutler Road, Clontarf, subject to the conditions outlined in the Assessment Report.

Vote: 3/0

This is the final page of the Minutes comprising 11 pages
numbered 1 to 11 of the Development Determination Panel meeting
held on Wednesday 28 April 2021.