

# MINUTES

## **NORTHERN BEACHES LOCAL PLANNING PANEL MEETING**

held via teleconference on

**WEDNESDAY 16 JUNE 2021**

## **Minutes of the Northern Beaches Local Planning Panel held on Wednesday 16 June 2021**

The public meeting commenced at 12.30pm and concluded at 2.13pm.

The deliberations and determinations commenced immediately following the public meeting and concluded at 4.54pm.

### **ATTENDANCE:**

#### **Panel Members**

Peter Biscoe	Chair	
Brian Kirk	Town Planner	
Robert Hussey	Town Planner	
Ray Mathieson	Community Representative	Recused from item 3.3

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

Item 3.3 - Ray Mathieson declared a perceived Conflict of Interest and did not participate in the public meeting or deliberation and determination of this matter.

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 9 JUNE 2021**

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 9 June 2021, were adopted by the Chairperson and have been posted on the Council's website

### 3.0 PUBLIC MEETING ITEMS

#### 3.1 DA2020/1597 - 67 PACIFIC PARADE, DEE WHY - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE DEVELOPMENT

##### PROCEEDINGS IN BRIEF

The proposal is for the demolition of the existing dwelling and construction of a part three (3), part four (4) storey twenty-six (26) bedroom boarding house development, excavation to a depth of 9.9m and construction of three levels basement for thirteen (13) parking spaces (12 using car stackers) and associated landscaping.

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

The Panel decided to consider and determine this matter without regard to a large number of changes, reports and drawings served by the applicant yesterday, which are responsive to a section 34 conference on 22 April 2021 in the pending Land and Environment Court deemed refusal appeal, because they have been served too late to be properly assessed and notified to the public without adjourning the Panel's hearing for a substantial period and it is preferable in the circumstances that they be assessed in the context of the Court proceedings.

##### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/1597 for demolition works and construction of a boarding house development at Lot 25 DP 7002, 67 Pacific Parade, Dee Why for the following reasons:

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) (ARH) 2009, in terms of the following:
  - a) Insufficient information has been submitted to satisfy Clause 29(c) which required a minimum solar access to the common living room.
  - b) Insufficient information has been submitted to satisfy Clause 29(d) which requires at least 20sqm of private open space to be used by lodgers. Insufficient information has been submitted to confirm that the common open space at roof level will be available to all lodgers as required under the SEPP (ARH).
  - c) The proposal is inconsistent with Clause 29(e)(ii)(a) which required a total of fourteen (14) car parking spaces. Thirteen (13) car parking spaces have been provided, twelve (12) of which rely on car stackers.
  - d) The proposal is inconsistent with Clause 30A (Character of the local area) as the development does not provide sufficient side setbacks or articulated facades.
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 Warringah Local Environmental Plan 2011.
3. 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.

4. Pursuant to Clause 6.2 (3) (Earthworks) and Clause 6.4 (Development on sloping land) of the Warringah LEP the consent authority cannot grant development consent for the earthworks as insufficient information has been submitted to confirm that the earthworks will not impact on adjoining properties, drainage patterns and soil stability.

In addition, the proposal is inconsistent with Clause E22 Landslip Risk of the WDCP as insufficient information has been provided to ensure the development is geotechnical stable and will not impact on subsurface water flow and stormwater discharge.

5. The proposed development is inconsistent with the objectives at cl.A.5 (Objectives) of WDCP as it does not:
- a) Respond to the characteristics of the site and the qualities of the surrounding neighbourhood,
  - or
  - b) Create a unified landscape, contribute to the street and create an attractive design outcome.
6. The proposal represents over development and is inconsistent with the requirements and objectives of the following Clauses of the Warringah DCP 2011:
- a) **Clause B3 Side Boundary Envelope.** Due to insufficient side setbacks the proposal breaches the side building envelope and is visually dominant by virtue of bulk and scale which is out of character with the area.
  - b) **Clause B5 Side Boundary Setbacks.** The development is set back 2m from the east and west side boundaries which reduces opportunities for deep soil landscape areas to the side that would allow for planting to reduce the bulk and scale of the development and provide for external amenity for future residents. Due to insufficient side setbacks the proposal will result in unreasonable level of amenity to future residents in terms of privacy and solar access.
  - c) **Clause C3 Parking Facilities.** The proposal does not meet the numerical car parking requirements specified in the SEPP (ARH). Insufficient information has been submitted to address issues in relation to the operation and management of the car stackers.
  - d) **Clause D1 Landscaped Open Space.** The proposal fails to provide space on site to enable sufficient planting to mitigate the bulk and scale of the building along the side boundaries. There is no outdoor recreational opportunities provided at ground level. The development relies on the roof top common open space, however, access to the space will be restricted and not available to all residents. The amenity for the future residents in terms of access to open space is therefore assessed as inadequate.
  - e) **Clause D3 Noise.** The proposal has the potential to result in unreasonable acoustic impacts to surrounding neighbours. Insufficient information in the form of a revised Acoustic Report and Plan of Management have been submitted to assess impacts.
  - f) **Clause D6 Access to Sunlight.** The proposal will result in unreasonable impacts upon the amenity of the surrounding neighbours and poor amenity for future occupants in terms of access to sunlight.
  - g) **Clause D8 Privacy.** The siting of the development will have unreasonable impacts on the visual and acoustic privacy for occupants and neighbours.

- h) **Clause D9 Building Bulk.** The proposed development will result in overdevelopment due to its excessive bulk and scale and non-compliance with the built form controls including side setbacks and side boundary envelope.
- i) **Clause D22 Conservation of Energy and Water.** There is inadequate planning to address cross ventilation and solar access to the majority of rooms given that the side windows have obscure glazing and rooms in the centre of each block have only one window.

#### REASONS FOR DETERMINATION:

The Panel agrees with the following conclusion of Council's Design and Sustainability Advisory Panel:

*"The Panel does not support the proposal in the current form and considers it to be an overdevelopment of the site. A reduction in boarding house rooms and scale of the project is recommended to improve the amenity within the site and reduce the impacts on the adjoining residential flat buildings. The project has a number of other adverse impacts such as the streetscape treatment and façade compositions and these aspects should be considerably improved with the redesign of the project."*

The Panel also generally agrees with the Council Assessment Report.

Vote: 4/0

### 3.2 DA2021/0166 - 532 PITTWATER ROAD, MANLY - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE

#### PROCEEDINGS IN BRIEF

The proposal is for the construction of a part two/part three-storey Boarding House, (pursuant to SEPP (Affordable Rental Housing) 2009), containing 10 boarding rooms (including one accessible room).

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

The Panel notes a typographical error at page 81 of the Council Assessment Report has reference to "12 months" which should be "3 months".

#### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0166 for demolition works and construction of a Boarding House at Lot 40 DP 7027, 532 Pittwater Road, Dee Why subject to the conditions set out in the Assessment Report, subject to the following:

The amendment of condition 1 to read as follows:

1. Approved Plans and Supporting Documentation
  - a) The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
D-S-01 Site Plan *	May 2021	Miles Winter Pty Ltd
D-P-01 Lower Floor Plan *	May 2021	Miles Winter Pty Ltd
D-P-02 Upper Floor Plan	May 2021	Miles Winter Pty Ltd
D-P-03 Roof Plan - Loft Level	May 2021	Miles Winter Pty Ltd
D-P-04 Roof Plan	May 2021	Miles Winter Pty Ltd
D-E-01 Elevations 1	May 2021	Miles Winter Pty Ltd
D-E-02 Elevations 2	May 2021	Miles Winter Pty Ltd
D-E-04 External Finishes	May 2021	Miles Winter Pty Ltd
D-E-05 Site Sections	May 2021	Miles Winter Pty Ltd
D-D-01 Detailed Typical Lodger	May 2021	Miles Winter Pty Ltd
D-D-02 Detailed Typical Lodger Sections	May 2021	Miles Winter Pty Ltd
D-D-03 Detailed Accessible Lodger and Common Room	May 2021	Miles Winter Pty Ltd
D-D-04 Detailed Lodger 9-10	May 2021	Miles Winter Pty Ltd

\* The plans marked with an asterisk are amended in accordance with the Communal Terrace Plan D-S-0XX dated May 2021.

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
D-P-04 Stormwater Concept	27 May 2021	Miles Winter Pty Ltd

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Report 1096296M_03	19.5.2021	Building Sustainability Assessments
Plan of Management Boarding House	Feb 2021	Ali Mehfooz
BCA Access Compliance Report	19.2.2021	Lachlan Miles Design
Preliminary Landslip Assessment E24685.G02_Rev 1	1.3.2021	EI Australia
D-S-04 Site Accessibility Plan	May 2021	Miles Winter Pty Ltd

- 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>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
D-S-02 Landscape Plan *	May 2021	Miles Winter Pty Ltd

\* The plans marked with an asterisk are amended in accordance with the Communal Terrace Plan D-S-0XX dated May 2021.

<b>Waste / Construction Management Plan</b>		
<b>Drawing No./Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Demolition Waste Management Plan	18.2.2021	Ali Mehfooz
D-S-03 Site Waste Management Plan	May 2021	Miles Winter Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.  
(Note: "interim/final" allows a Certifier to select an appropriate time or work stage to satisfy requirements of the condition)

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

#### REASONS FOR DETERMINATION:

The Panel agrees generally with the Council Assessment Report subject to the inclusion in condition 1 of the Communal Terrace Plan D-S-0XX dated May 2021 to improve disabled access to the outdoor communal areas.

Vote: 4/0



### **3.3 PLANNING PROPOSAL - PEX2020/0009 - 150 DARLEY ROAD, MANLY (FORMER MANLY HOSPITAL)**

#### **PROCEEDINGS IN BRIEF**

The proposal seeks to amend Schedule 1 of the Manly Local Environmental Plan 2013 to allow the following additional permitted uses on the former Manly Hospital site to facilitate the development of a health and well-being precinct:

- Development for the purpose of a health services facility permitted with development consent on Lot 2728, DP 752038.
- Development for the purpose of a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite day care centre and seniors housing permitted with development consent on Lot 2619, DP 752038.

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

#### **RECOMMENDATION ON PLANNING PROPOSAL**

That the Northern Beaches Local Planning Panel:

- A. Recommends that Council endorse the Planning Proposal for 150 Darley Road, Manly (former Manly Hospital), and forward it to the NSW Department of Planning, Industry and Environment (DPIE) to seek a Gateway Determination subject to the recommendations in Part 7 of the GHD report of June 2021.
- B. Recommends consideration of all critical infrastructure including electricity and gas, not just water, as required by the strategic bush fire assessment under the Planning for Bushfire Protection.
- C. Recommends that Council request DPIE to require that additional information (Heritage and Bushfire) be submitted as a condition of, and prior to, any future Gateway Determination.
- D. Recommends, as a high priority, the development of a master plan and the submission of a traffic impact assessment report addressing the issues raised in the GHD report dated June 2021.
- E. Recommends that the master plan confirms the primary purpose and use of the site as a health services facility together with details of the associated subservient uses.
- F. Recommends that site specific provisions be included in the LEP for the primary purpose and use of the site as health services facility together with associated subservient uses.

Vote: 3/0

## 4.0 NON PUBLIC MEETING ITEMS

### 4.1 DA2021/0227 - 25 BATTLE BOULEVARDE, SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING WITHIN A DETACHED DUAL OCCUPANCY DEVELOPMENT, INCLUDING A SWIMMING POOL

#### PROCEEDINGS IN BRIEF

The proposal is for the alterations and additions to a dwelling that forms part of an existing dual occupancy.

The Panel viewed the site and its surrounds.

#### 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 4.3 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, **approves** Application No. DA2021/0227 for alterations and additions to a dwelling within a detached dual occupancy development, including a swimming pool at Lot CP, 1 & 2 SP 21645, 25 Battle Boulevarde, Seaforth subject to the conditions set out in the Assessment Report, subject to the following:

The addition of the following conditions:

##### **Geotechnical requirements**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans, and dilapidation reports, and vibration testing is to be carried out as per the recommendations.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

##### **Preconstruction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of

those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties:

- 23 Battle Boulevarde
- 27 Battle Boulevarde
- 29 Battle Boulevarde
- Sewer main

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

#### **Post-Construction Dilapidation Reports**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

#### **REASONS FOR DETERMINATION:**

The Panel agrees generally with the Council Assessment Report subject to the above.

Vote: 4/0

#### 4.2 REV2021/0015 - 89 WYADRA AVENUE, NORTH MANLY - REVIEW OF DETERMINATION OF APPLICATION DA2020/1684 FOR ALTERATIONS AND ADDITIONS TO A GROUP HOME

##### PROCEEDINGS IN BRIEF

The proposal seeks approval to DA2020/1684 which sought approval to an increase in the size of the balcony areas of bedrooms 2,3,4 & 5 located on the first floor and second floor of the existing group home.

The proposed works also include the following:

- New privacy screen on the eastern elevation of Level 2
- New planter boxes, with an irrigation system, along the western elevation of Level 1 and Level 2

The review of determination comprises of the same works proposed in the original development application DA2020/1684.

The Panel viewed the site and its surrounds.

##### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. REV2021/0015 for Review of Determination of Application DA2020/1684 for alterations and additions to a group home at Lot 46 DP 21576, 89 Wyadra Avenue, North Manly 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 D2 Private Open Space of the Warringah 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 D8 Privacy of the Warringah Development Control Plan.
3. The public interest would not be well served by the proposed extension of the first floor level balcony.

##### REASONS FOR DETERMINATION:

The Panel agrees generally with the Council Assessment Report and Supplementary Memo dated 16 June 2021.

The previous Panel's reason for refusal was that the proposal seeks retrospective approval of an existing concrete balcony which is contrary to the plans authorised by the Complying Development Certificate which approved the balcony as a steel framed high tensile metal roof. That was a reference to an architectural plan approved in the Complying Development Certificate. The previous panel was unaware that there were also inconsistent engineering plans approved in the Complying Development Certificate which showed the roof as a concrete slab. After the concrete roof was constructed the Private Certifier issued a Final Occupation Certificate. In these circumstances, this Panel considers that it is preferable not to maintain the previous Panel's reason for refusal.

An objector submitted that the said architectural plan should have priority over the inconsistent engineering plans. We are unable to agree.

The applicant amended its review request by letter dated 9 June 2021 to incorporate conditions earlier proposed by Council if the development application were to be approved. An objector submitted that a review request cannot be amended once lodged. We disagree. In our view section 8.3 of the Environmental Planning and Assessment Act 1979 permits such amendment. In any case, the point appears to be of no practical utility in the present case because it is open to the Panel, if it were minded to approve the development application, to adopt the said conditions or any other conditions it considers appropriate.

Vote: 4/0

This is the final page of the Minutes comprising 13 pages  
numbered 1 to 13 of the Northern Beaches Local Planning Panel meeting  
held on Wednesday 16 June 2021.