



northern  
beaches  
council

# MINUTES

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

held via teleconference on

**WEDNESDAY 21 JULY 2021**

## **Minutes of the Northern Beaches Local Planning Panel held on Wednesday 21 July 2021**

The public meeting commenced at 12.00pm and concluded at 1.15pm.

The deliberations and determinations commenced immediately following the public meeting and concluded at 4.05pm.

### **ATTENDANCE:**

#### **Panel Members**

David Crofts	Chair
Kara Krason	Town Planner
Graham Brown	Town Planner
Lloyd Graham	Community Representative

The Panel have visited all sites personally, or electronically (due to COVID restrictions), and have had regard to the assessment report, all accompanying documentation, submissions from the public and any supplementary reports in determining all applications.

## **ACKNOWLEDGEMENT OF COUNTRY**

The Acknowledgement of Country was delivered

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

Nil

### **2.0 MINUTES OF PREVIOUS MEETING**

#### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 7 JULY 2021**

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 7 July 2021, were adopted by the Chairperson and have been posted on the Council's website

### 3.0 PUBLIC MEETING ITEMS

#### 3.1 DA2021/0179 - 255 CONDAMINE STREET, MANLY VALE - CONSTRUCTION OF A BOARDING HOUSE DEVELOPMENT

##### PROCEEDINGS IN BRIEF

The proposal is for the demolition of existing site improvements and the construction of a boarding house.

At the public meeting the Panel was addressed by one neighbour and one representative 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 / 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 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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##### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2021/0179 for construction of a boarding house development at Lot 8 DP 604034, 255 Condamine Street, Manly Vale for the reasons set out below:

1. In accordance with the provisions of s.4.47(2) of the *Environmental Planning and Assessment Act*, consent cannot be granted as general terms of approval have not been obtained the Natural Resources Access Regulator for Activity Approval required under s91 of the *Water Management Act*.
2. The application proposes works within the road reserve of a classified road and concurrence from Transport for NSW has not been obtained, inconsistent with the provisions of s138(2) of the *Roads Act*.
3. The proposed development breaches the maximum building height development standard and is inconsistent with the objectives of clause 4.3 of *Warringah Local Environmental Plan 2011* (WLEP 2011) and exceeds the three-storey height control of clause B2 (Number of Storeys) of Warringah Development Control Plan 2011.
4. The applicant's written request under clause 4.6 of the WLEP 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has not adequately

addressed and demonstrated that:

- a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case;
- b) there are sufficient environmental planning grounds to justify the contraventions, and
- c) 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.

- 5. The extent of development over and within the waterway is inconsistent with Council's *Protection of Waterway and Riparian Land Policy*, and the requirements and objectives of clauses E6 (Retaining unique environmental features) and E8 (Waterways and Riparian Lands) of WDCP 2011.
- 6. The proposed development is not reflective of the character of the local area, specifically in relation to the treatment of the creekline and the relationship with the adjoining low density development at the rear, resulting in inconsistency with clause 30A of *State Environmental Planning Policy (Affordable Rental Housing)* (SEPP ARH).
- 7. The proposed development will result in adverse flood impacts upon adjoining properties, inconsistent with the provisions of clause 6.3 (Flood planning) of WLEP 2011 and clause E11 (Flood Prone Land) of WDCP 2011.
- 8. The proposed development is inconsistent with the minimum requirements and objectives of the front, rear and side setback controls, as prescribed by clauses B6 (Merit Assessment of Side Boundary Setbacks), B7 (Front Boundary Setbacks) and B10 (Merit Assessment of Rear Boundary Setbacks) of WDCP 2011. The bulk and scale of the built form does not appropriately respond to the pattern of adjoining development and is excessive, with unreasonable impacts upon adjoining properties and the streetscape, inconsistent with the provisions of clause F1 (Local ad Neighbourhood Centres) of WDCP 2011.
- 9. The application has not demonstrated safe vehicular movement to/from or within the site, inconsistent with the provisions of clause 101 of *State Environmental Planning Policy (Infrastructure)* and the requirements and objectives of clause C2 (Traffic, Access and Safety) of WDCP 2011.
- 10. The proposed development results in an unacceptable shortfall (five spaces) of on-site car parking, inconsistent with the requirements and objectives of clause C3 (Parking Facilities) of WDCP 2011.
- 11. The application has not demonstrated a suitable stormwater management solution for the site, resulting in inconsistency with the requirements and objectives of C4 (Stormwater) of WDCP 2011. The absence of an appropriate stormwater solution also attributes to inconsistency with the provisions of clauses 6.3 (Earthworks) and 6.4 (Development on sloping land) of WLEP 2011, in addition to clause E10 (Landslip Risk) of WDCP 2011 noting that the subject site is identified as being prone to landslip.
- 11. The proposed development is inconsistent with *Northern Beaches Council's Waste Management Guidelines*, resulting in inconsistency with the requirements and objectives of clause C9 (Waste Management) of WDCP 2011.
- 12. The proposed undercroft area is inconsistent with the Crime Prevention through Environmental Design principles and the requirements and objectives of clause D20 (Safety and Security) of WDCP 2011.

**REASONS FOR DETERMINATION:**

The Panel agrees generally with the assessment report.

Vote: 4/0

### 3.2 DA2021/0200 - 1110 BARRENJOEY ROAD, PALM BEACH - CONSTRUCTION OF A DWELLING HOUSE, INCLUDING A SECONDARY DWELLING AND SWIMMING POOL

#### PROCEEDINGS IN BRIEF

The proposal is for the construction of a split level residential dwelling and secondary dwelling across the site.

At the public meeting the Panel was addressed by one neighbour and one neighbour representative and three representatives of the applicant.

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#### 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** Application No. DA2021/0200 for construction of a dwelling house, including a secondary dwelling and swimming pool at Lot 103 DP 1256016, 1110 Barrenjoey Road, Palm Beach subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following deferred commencement condition:

The following must be undertaken prior to the development consent becoming operational.

(a) A Stage 1 geotechnical investigation is to be undertaken, comprising boreholes and any further investigations as required.

(b) The geotechnical engineer shall provide details on important subsurface conditions and suitable guidance to the structural design for excavation retention and for suitable and necessary engineering controls that must be implemented to ensure stable excavation.

(c) A Construction Methodology Statement (CMS) is to be produced, incorporating an Excavation Management Plan (EMP), and controls/hold points are to be confirmed. The CMS/EMP is to incorporate or cross reference:

- excavation and support design, with regard for potential impacts of the excavation upon No.1110, rock features that may become unstable through excavation and other adjoining properties;
- staging, Hold Points, geotechnical controls;
- monitoring of (i) the excavation support for lateral deflection, (ii) the surface conditions along the boundary and building settlements on adjoining property, (iii) ground vibrations, and (iv) any other aspects of the construction deemed important and necessary for protection of; adjoining property;
- confirmation of geotechnical parameters for the structural engineer's design;
- geotechnical review of the design and monitoring program;

(d) an independent review carried out by a suitably qualified and experienced geotechnical engineer.

Reason: To ensure a complete assessment of geotechnical hazards associated with the development are undertaken due to the nature of the site and management of the development that protects adjoining properties.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in

accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

2. The amendment of the following conditions:

**1. Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA1001 - Rev A	18/06/2021	Jorge Hrdina
DA2000 - Rev A	15/06/2021	Jorge Hrdina
DA2001	22/02/21	Jorge Hrdina
DA2002 - Rev A	15/06/2021	Jorge Hrdina
DA2003 - Rev A	15/06/2021	Jorge Hrdina
DA2004 - Rev A	15/06/2021	Jorge Hrdina
DA2005 - Rev A	15/06/2021	Jorge Hrdina
DA2221 - Rev A	13/07/2021	Jorge Hrdina
DA2222 - Rev A	13/07/2021	Jorge Hrdina
DA3000 - Rev A	18/06/2021	Jorge Hrdina
DA3001	22/02/2021	Jorge Hrdina
DA3002	22/02/2021	Jorge Hrdina
DA3003	22/02/2021	Jorge Hrdina
DA3004	22/02/2021	Jorge Hrdina
DA3100	22/02/2021	Jorge Hrdina
DA3103	22/02/2021	Jorge Hrdina
DA3102	22/02/2021	Jorge Hrdina

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site stormwater drainage, H-DA-01, Rev A	21/12/2020	ITM Design

<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>
Flora and Fauna Assessment	05/02/2021	GIS Environmental
Arboricultural Impact Assessment, Ref - 221	14/01/2021	Rain Tree Consulting
BASIX Certificate No. 1166191S	17/02/2021	Damian O'Toole Town



		Planning
Geotechnical Report, 2020-232, Issue 1	13/07/2021	Crozier Geotechnical Consultants
Geotechnical Assessment for revised architectural drawings, 2020-232	13/07/2021	Crozier Geotechnical Consultants
Arboricultural Addendum Report, Ref 10721	13/07/2021	Rain Tree Consulting

- a) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.
- 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>
Landscape Plan Rev A	20/02/2021	Pangkarra

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	Undated	Jorge Hrdina

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.

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

## 8. Pier Footing Design Near Trees to be Retained

- a) Pier footing and structural layout plans for the external works shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture and a qualified Structural Engineer.
- b) The Arborist shall review, comment, recommend design revision as required and approve the pier footing and building layout to ensure the locations of piers and structures will be manageable in terms of tree protection measures, in accordance with the recommendations of the Arboricultural Impact Assessment dated 14 January 2021 prepared by Rain Tree Consulting and Australian Standard 4970-2009 Protection of Trees on Development Sites.
- c) The Arborist shall submit certification to the Principal Certifying Authority that the locations of the pier footings and structures are accepted via the agreed pier footing and structural layout plans prior to the issue of a Construction Certificate.

Reason: Tree protection.

## 10. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Crozier Geotechnical Consultants dated 13 July 2021 are to be incorporated into the construction plans.

Additionally, the recommendations and findings of the investigations required to be undertaken as part of Deferred Commencement Condition 1 are to be included in the structural plans and documentation provide with the construction certificate application.

A Stage 2 Geotechnical investigation is to be undertaken from the information from Stage 1. Stage 1 investigation must be reviewed by the project geotechnical engineer at a Hold Point in the engineering design to allow review of the engineering design prior to commencement of any Stage 2 piling work or bulk excavation.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.

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.

#### **16. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit maximum height of 900mm above or below ground level and at least 900mm from any property boundary.

Design of all retaining walls must comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Designs for all retaining walls, as well as for temporary and permanent excavation support systems, are to be reviewed by the project geotechnical engineer in accordance with Condition 10 of this approval, prior to any excavations being undertaken.

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

Reason: To provide public and private safety.

#### **41. Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Deferred Commencement Condition 1 and Condition 2 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

**REASONS FOR DETERMINATION:**

The Panel agrees generally with the assessment report.

Vote: 4/0

### 3.3 DA2021/0318 - 14 SOUTH STEYNE, MANLY - ALTERATIONS AND ADDITIONS TO COMMERCIAL DEVELOPMENT

#### PROCEEDINGS IN BRIEF

The proposal is for alterations and additions and to an existing commercial building and to convert two (2) existing restaurants located in the building into the one tenancy.

At the public meeting the Panel was addressed by four neighbours and one representative of the neighbours.

#### 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 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.

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

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#### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0318 for alterations and additions to commercial development at Lot 501 DP 736679, 14 South Steyne, Manly subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following conditions:

##### **External Staircase**

The proposed external stair is to be visually and acoustically screened so that any person using this stair is not visible from any residences in 46 Victoria Parade. Details are to be provided to the satisfaction of the Executive Manager of Development Assessment prior to the issue of a Construction Certificate. The Construction Certificate is to be amended to incorporate this design.

Reason: to provide reasonable visual and acoustic amenity to the adjoining property.

##### **External Lighting**

All external lighting is to comply with AS4282-1997.

Reason: control of obtrusive effects of outdoor lighting.

2. The amendment of the following conditions:

##### **33. Use of external staircase**

The external service staircase is not to be used before 7.00am and after 9.00pm Monday to

Sunday and including Public Holidays.

Reason: To minimise disruption to neighbouring properties.

**26. Compliance with operational management plan**

The operational management plan and its associated hours of operation are to be complied with at all times. The hours of operation are to be amended to be consistent with this consent and a copy is to be submitted to Council.

REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report.

Vote: 4/0

## 4.0 NON PUBLIC MEETING ITEMS

### 4.1 DA2021/0115 - 1/57 LAUDERDALE AVENUE, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING (APARTMENT 1)

#### PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to the existing unit (Unit 1) located within a residential flat building containing four apartments.

#### 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 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.

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

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#### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0115 for alterations and additions to a residential flat building (Apartment 1) at Lot 5 SP 33024, 1/57 Lauderdale Avenue, Fairlight subject to the conditions set out in the Assessment Report.

#### REASONS FOR DETERMINATION:

The Panel agrees generally with the assessment report.

Vote: 4/0

#### **4.2 DA2021/0448 - 28-33 SOUTH STEYNE, MANLY - SUBDIVISION OF 10 EXISTING TORRENS TITLE LOTS INTO FIVE (5) NEW TORRENS TITLE LOTS**

##### **PROCEEDINGS IN BRIEF**

The proposal is for the consolidation of ten (10) existing Torrens Title allotments and the subdivision into five (5) new Torrens Title allotments at 28-29 South Steyne, Manly.

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##### **DETERMINATION OF DEVELOPMENT APPLICATION**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0448 for Subdivision of 10 existing Torrens Title Lots into five (5) new Torrens Title Lots at Lot 1-5 DP 1255547, Part Lots 1 & 2 DP 1030165, Lots 1 & 2 DP 1030165, Lot 7 DP 861591 & Lots 10 & 11 DP 861592 28-33 South Steyne, Manly subject to the conditions 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 15 pages  
numbered 1 to 15 of the Northern Beaches Local Planning Panel meeting  
held on Wednesday 21 July 2021.