



Warringah Council

**Minutes of
Application Determination
Panel Meeting
held on Thursday**

5 November 2009

Time: 11.30am
Location: Office of Director,
Planning and Development Services

ATTENDANCE:

Panel Members

Gayle Sloan, Chairperson, Director of Community & Environment Services

Peter Robinson, Manager, Development Assessment, Planning and Development Services

David Kerr, Manager Strategic Planning, Planning and Development Services

Advisors

Rod Piggott, Team Leader, Development Assessments (PDS)

Phil Lane, Senior Development Assessment Officer, Development Assessments (PDS)

Shaylin Moodliar, Development Assessment Officer, Development Assessments (PDS)

Alex Keller, Acting Team Leader, Development Assessments (PDS)

Cynthia Chan Development Assessment Officer, Development Assessments (PDS)

Minute Secretary

Teresa Fazzolari Administration Officer Planning and Development Services

Application Determination Panel

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1 CONFIRMATION OF MINUTES

DECISION OF APPLICATION DETERMINATION PANEL

That the Minutes of the Application Determination Panel Meeting held on 15 October, 2009, are true and accurate record of that meeting and have been signed off by Gayle Sloan as Chairperson of that meeting.

2 DECLARATION OF PECUNIARY INTEREST

Nil

3 DEVELOPMENT APPLICATIONS

3.1	Lot 1039 Oxford Falls Road, Oxford Falls – Modification of DA2006/0339 to Modify Landscaping, Car Parking, Building Openings and Ancillary Structures
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Mod2009/0177

Proceedings in Brief

The Panel concurred with the recommendation in the Assessment Report but resolved to add a condition to delete the reflection pool from the plans.

DECISION OF APPLICATION DETERMINATION PANEL

That the recommendation of the Development Assessment Officer for approval be adopted with the addition of a new Condition 61b to read as follows:

61. b Reflection Pool

The water feature labelled "Reflection Pool" located in the driveway is to be deleted.

Reason: Child safety.

3.2	26 Daisy Street Dee Why - Alterations and Additions to an Existing Dwelling House including a New First Floor Level and Ground Floor Alterations
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DA 2009/0381

Proceedings in Brief

The Panel concurred with the recommendation in the Assessment Report but resolved to add a condition that if the remainder of the building is removed or demolished a new application be required and the relevant planning controls including BASIX may apply.

DECISION OF APPLICATION DETERMINATION PANEL

That the recommendation of the Development Assessment Officer for approval be adopted with an addition of Condition 3.A to read as follows:

3.A Demolition of Extra Fabric

Alterations to, and demolition of the existing building shall be limited to that shown on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

***Reason:** To ensure compliance with the approved development. (DACGBdef)*

3.3	54 Robertson Road North Curl Curl – Demolition of Existing Dwelling and Construction of a New Dwelling and Swimming Pool
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DA2009/0324

Proceedings in Brief

This item was deferred until Wednesday 11 November 2009 to enable the panel members to do a site inspection to further assess view loss with regards to the design proposal.

Meeting Reconvened on Wednesday 11 November 2009, 8.30 a.m. at 54 Robertson Road, North Curl

The Panel met on site to consider the view loss issues. The panel concurred that the view of North Head was iconic however, the loss of views across the side boundary from the ground floor was considered reasonable against 'Tenacity vs Warringah' principle. The panel also considered the upper storey view loss to be acceptable in relation to the submitted design and the existing views from the front and rear of adjacent properties. A suitable condition is to be applied for transparent balustrades at the front of the site to minimise obstructions at ground level.

In regards to the non-compliance of Built Form Controls, they are considered acceptable and further, do not contribute to view loss impacts.

The panel does not concur with the recommendation contained in the Assessment Report. The application with transparent balustrading is supported for approval.

DECISION OF APPLICATION DETERMINATION PANEL

- A. That appropriate conditions be prepared including the following condition to the satisfaction of the Manager Development Assessment.

Front Verandah

The balustrades of the front of the dwelling surrounding the terrace area above the garage shall be constructed using transparent materials in order to reduce view impacts from 56 Robertson Road. No privacy screens or screen planting are to be used for the front terrace. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the construction certificate.

Reason: View sharing in accordance with Warringah LEP 2000

- B. That subject to "A" above the Manager Development Assessment be given delegation to determine this application.

Meeting concluded on Wednesday 11 November 2009 from 54 Robertson Road, North Curl at 8.50 a.m.

3.4

89 Aubreen Street Collaroy Plateau – Alterations and Additions to an Existing Dwelling including an Upper Storey Addition

DA2009/ 0085

Proceedings in Brief

The Panel were advised at the meeting that the draft conditions in the Assessment Report were not correct and new draft conditions were tabled at the meeting. The conditions are attached to these minutes.

The Panel concurred with the Assessment Report and the new draft conditions with amendments to those conditions as follows:

- (a) Condition 9 to be amended by deleting the reference to W8 in the first line to read as follow.

9. Modification to Window Design

The windows (W6 and W10) located at the upper levels of the development, upon the northern and southern building elevation off the dining and living rooms as shown on the approved plans, shall be constructed with a minimum sill height of 1.65m or of translucent glazing to a minimum sill height of 1.65 metres above finished floor level.

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

Reason: In order to maintain privacy to the adjoining / nearby property (DACPLC07)

- (b) The Panel required a new condition to be added that stated that no approval was granted for the rainwater tank as follows:

12A. No approval for rainwater tank

The rainwater tank must be deleted from the approved plans. Details demonstrating compliance with this condition must be submitted to Council, or an Accredited Certifier, prior to the Construction Certificate.

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

DECISION OF APPLICATION DETERMINATION PANEL

That the recommendation of the Development Assessment Officer for approval be adopted and resolve to adopt the conditions attached to these minutes with amendments to Condition 9 and a new Condition 12A as follows:

9. Modification to Window Design

The windows (W6 and W10) located at the upper levels of the development, upon the northern and southern building elevation off the dining and living rooms as shown on the approved plans, shall be constructed with a minimum sill height of 1.65m or of translucent glazing to a minimum sill height of 1.65 metres above finished floor level.

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

Reason: In order to maintain privacy to the adjoining / nearby property (DACPLC07)

12A. No approval for rainwater tank

The rainwater tank must be deleted from the approved plans. Details demonstrating compliance with this condition must be submitted to Council, or an Accredited Certifier, prior to the Construction Certificate.

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

3.5	Shop 2, 55 Sorlie Road, French's Forest - Internal Fit-Out and Occupation of a Shop for Use as a Restaurant and Associated Signage
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DA 2009/0869

Proceedings in Brief

The Panel concurred with the recommendation in the Assessment Report but resolved to amend Condition 17 to include "restaurant and delivery service" and Condition 22 to include "wholesale goods" to clarify the different outcomes between the conditions.

DECISION OF APPLICATION DETERMINATION PANEL

That the recommendation of the Development Assessment Officer for approval be adopted with an amendment to Condition 17 and Condition 22 as follows:

17. Hours of Operation

The hours of operation are to be restricted to restaurant and delivery service.

- Sunday to Thursday: between 11am and 9:30pm
- Friday and Saturday: between 11am and 10:30pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained (DACPLG08)

22. Delivery Hours

No deliveries, loading or unloading of wholesale goods to take place between the hours of 9pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

NOTE: Due to a clerical error the following condition for 4A for Development/Construction Security Bond was omitted from the conditions and has been approved by the Panel to include the condition into the consent.

4a. Development/Construction Security Bond

A bond (determined from cost of works) of \$500 must be deposited with Council and an inspection fee paid of \$210 prior to the issue of any Construction Certificate. This bond is to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

Reason: *To ensure adequate protection to Council infrastructure.*

Meeting closed on Thursday 5 November, 2009 at 12.45 p.m.

Meeting reconvened on Wednesday 11 November 2009 at 8.30 a.m.

Meeting concluded from 54 Robertson Road North Curl Curl at 8.50 a.m.



Gayle Sloan

Director Community & Environment Services
Chairperson

Attachment - Amended Conditions for Item 3.4

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

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:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
280920-B	10/09/2009	Knicol Pty Ltd

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service name	Letter Reference	Dated
Energy Australia	DA2009/0085	18 September 2009

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Body's. (DACPLB02)

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Attachment - Amended Conditions for Item 3.4

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement. (DACPLB09)

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:
7.00 am to 5.00 pm inclusive Monday to Friday
8.00 am to 1.00 pm inclusive on Saturday,
No work on Sundays and Public Holidays.

Attachment - Amended Conditions for Item 3.4

Demolition and excavation works are restricted to:
8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) All permanent survey markers shall be retained, undamaged, and not relocated.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

Attachment - Amended Conditions for Item 3.4

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. Section 94A Contributions

The Section 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$ 181,700.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.45%	\$818	Rams
S94A Planning and Administration	0.05%	\$91	Rams
Total	0.5%	\$909	

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

Reason: To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (DACPLC01)

6. Compliance with Standards

The development (where applicable) is to be carried out in accordance with relevant Australian Standards.

(Note: At the time of determination the following (but not limited to) Standards applied:

- (a) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.
- (b) AS2601.2001 - Demolition of Structures
- (c) AS4361.2 - Guide to lead paint management - Residential and commercial buildings
- (d) AS 1428.2 - 1992, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities
- (e) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting
- (f) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Attachment - Amended Conditions for Item 3.4

7. External Colours and Materials (Dwellings)

External Roofing

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC03)

8. Privacy Screen

A 1.65 metre high privacy screen (measured from finished floor level) is to be erected along the northern perimeter of the first floor level deck from the living room wall for a length of 1.8 metres. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm).

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

Reason: In order to maintain privacy to the adjoining / nearby property. (DACPLC06)

9. Modification to Window Design

The windows (W6, W8 and W10) located at the upper levels of the development, upon the northern and southern building elevation off the dining and living rooms as shown on the approved plans, shall be constructed with a minimum sill height of 1.65m or of translucent glazing to a minimum sill height of 1.65 metres above finished floor level.

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

Reason: In order to maintain privacy to the adjoining / nearby property (DACPLC07)

10. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

Attachment - Amended Conditions for Item 3.4

11. Bonds

Security Bond

A bond (determined from cost of works) of \$1000.00 and an inspection fee paid of \$210.00 as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Council infrastructure. (DACENC01)

12. Stormwater Disposal

Stormwater shall be disposed of to the street or to an existing approved system or in accordance with Council's "Stormwater Drainage: From Low Level Properties Policy". Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the "Stormwater Drainage: From Low Level Properties Policy" are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development. (DACENC02)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Protection of Trees During Works

All trees that are to be specifically nominated to be retained by notation or condition as a requirement of development consent shall be maintained and protected during demolition, excavation and construction on the site. Details of required protection methods shall be provided to the Certifying Authority by an appropriately qualified person prior to commencement of any works on the site.

Reason: *To ensure compliance with the requirement to retain significant planting on the site.*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. Applicant's Cost of Work on Council Property

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

Reason: *To ensure the proper management of public land.*

Attachment - Amended Conditions for Item 3.4

15. Installation and Maintenance of Sediment Control

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Soils and Construction Manual Volume 1 - Managing Urban Stormwater. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites.*

16. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans. (DACPLE01)

17. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: *Public Safety.*

18. Silt & Sediment Control

Provision shall be made throughout the period of demolition / Excavation & Construction to prevent transmission of soil to the public road and drainage system by vehicles leaving the site.

Reason: *To avoid siltation to adjoining properties and waterways.*

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

19. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)