

# MINUTES

## **DEVELOPMENT DETERMINATION PANEL MEETING**

held via teleconference on

**WEDNESDAY 8 DECEMBER 2021**

## **Minutes of a Meeting of the Development Determination Panel held via teleconference on Wednesday 8 December 2021**

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

Nil

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

#### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 24 NOVEMBER 2021**

The Minutes of the Development Determination Panel held 24 November 2021, were adopted by all Panel Members and have been posted on the Council's website

### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

#### 3.1 DA2021/2022 - 15 MULGOWRIE CRESCENT BALGOWLAH HEIGHTS - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

##### PANEL MEMBERS

Steven Findlay (Chairperson)	Manager, Development Assessment
Tony Collier	Acting Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

##### PROCEEDINGS IN BRIEF

No speakers addressed the Panel.

The Panel inspected the site, reviewed the Assessment Report and DA documentation, and concurred with the planning officer's recommendation for approval, subject to conditions.

The Panel is satisfied with the applicants Clause 4.6 variation request and the planning officers assessment in the assessment report, as further detailed below.

##### 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 in response to the notification or otherwise 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 Local Environmental Plan 2013 seeking to justify a contravention of clause 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.

##### DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **approves** Development Consent to DA2021/2022 for alterations and additions to a dwelling house on land at Lot 4 DP 758044, 15 Mulgowrie Crescent, Balgowlah Heights, subject to the conditions set out in the Assessment Report.

Vote: 3/0

### **3.2 DA2021/1113 - 43 QUEENSCLIFF ROAD QUEENSCLIFF - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE**

#### **PANEL MEMBERS**

Steven Findlay (Chairperson)	Manager, Development Assessment
Tony Collier	Acting Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

#### **PROCEEDINGS IN BRIEF**

No speakers addressed the Panel.

The Panel inspected the site, reviewed the Assessment Report, DA documentation and residents submissions, and concurred with the planning officer's recommendation for approval, subject to conditions.

#### **STATEMENT OF REASON**

The proposal generally satisfies the relevant strategy, objectives and provisions of Warringah LEP 2011 and the Warringah DCP 2011 subject to conditions.

#### **COMMUNITY CONSULTATION**

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

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

THAT Council as the consent authority **approves** Development Consent to DA2021/1113 for demolition works and construction of a dwelling house on land at Lot 1 DP 104227, 43 Queenscliff Road, Queenscliff, subject to the conditions set out in the Assessment Report.

Vote: 3/0

### **3.3 DA2021/1140 - 72 CARRINGTON PARADE CURL CURL - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE**

#### **PANEL MEMBERS**

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning
Anne-Maree Newbery	Manager, Strategic & Place Planning

#### **PROCEEDINGS IN BRIEF**

The Panel viewed the site and the surrounds. The Panel were addressed by two objectors who made written submissions to the Panel. The Panel also heard from the applicant and architect.

On review of the documentation submitted with the application, the submissions received, and the verbal presentations made at the meeting, the Panel does not concur with the Officer's assessment report and recommendation for the approval of the development.

#### **STATEMENT OF REASON**

The proposal does not satisfy the relevant strategy, objectives and provisions of Warringah LEP 2011 and the Warringah DCP 2011.

#### **COMMUNITY CONSULTATION**

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

#### **CONSIDERATION**

The Panel have reviewed the documents associated with Development Application (DA2021/1140) including the Court judgement which relates to the previously refused DA (DA2019/0380). Notwithstanding the history and outcome of the previous DA, the Panel has reviewed and considered this proposal as a fresh DA on its own merit.

On review it is noted that the proposal has gone some way towards addressing the primary issue of discussion in the NSW Land and Environment Court case pertaining to view sharing in that the development has further angled the north-western side of the building to afford a greater view angle from the neighbouring property to the west. However, on inspection of this issue from adjacent properties, it is considered that not enough has been done to achieve a satisfactory view sharing outcome.

The Panel notes that the development exhibits significant non-compliances with applicable controls of the Warringah Development Control Plan 2011 which contribute towards a built form that results in unacceptable outcomes to the amenity of the adjacent private and public domains. In particular, the Panel noted excessive overshadowing of the main outdoor open space areas of No. 70 Carrington Road, the loss of privacy to that dwelling from the proposed rooftop terrace, and the excessive bulk and scale of the building when viewed from adjoining properties and the public domain as a result of the large amount of floorspace proposed compared to the site area, and the consequent significant deficiency in landscaping of the site.

Having also heard from the applicant, the architect and two objectors to the proposal, the Panel considers that the Development Application constitutes an overdevelopment of the site and is refused.

## DETERMINATION OF DEVELOPMENT APPLICATION

THAT Development Application DA2021/1140 for demolition works and construction of a dwelling house on land at Lot 1 DP 366860, 72 Carrington Parade, Curl Curl be **refused** 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 provisions of Clause 6.2 Earthworks of the Warringah Local Environmental Plan 2011.
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 B1 Wall Height of the Warringah Development Control Plan 2011.
3. 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 B3 Side Boundary Envelope of the Warringah Development Control Plan 2011.
4. 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 B7 Front Boundary Setbacks of the Warringah Development Control Plan 2011.
5. 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 C7 Excavation and Landfill of the Warringah Development Control Plan 2011.
6. 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 D1 Landscaped Open Space and Bushland Setting of the Warringah Development Control Plan 2011.
7. 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 D7 Privacy of the Warringah Development Control Plan 2011.
8. 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 Views of the Warringah Development Control Plan 2011.
9. 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 D9 Building Bulk of the Warringah Development Control Plan 2011.

Vote: 3/0

### **3.4 DA2021/0504 - 1 UNDERCLIFF ROAD FRESHWATER - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING ON LOT 1 AND 2**

#### **PANEL MEMBERS**

Steven Findlay (Chairperson)	Manager, Development Assessment
Tony Collier	Acting Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

#### **PROCEEDINGS IN BRIEF**

The Panel was addressed by one resident objector.

The Panel inspected the site, reviewed the Assessment Report, DA documentation and residents submissions.

The Panel heard concerns from the adjoining landowner that the raising of the ground levels at the rear and east side of proposed House 2 (Lot 2) would impact on the amenity of that adjoining property and was directed to photos in one of the submissions. However, to better understand the existing relationship between the two properties and the potential impact of the proposed works in that part of Lot 2, an additional site inspection was carried out by the Panel. Based on that site inspection and further review of the plans, it was evident that the proposed levels are generally satisfactory in terms of privacy impacts, however a section of the rear north-east corner of Lot 2 requires a lowering and a setback from the boundary to negate privacy loss to the bedroom windows in the adjoining dwelling. The required amendments are incorporated into a new condition.

The Panel had concerns regarding the front setback to Undercliff Road in relation to the garage for House 1 and the impact on streetscape and compatibility with development on the adjoining property to the east. Therefore, a condition has been imposed requiring a 2.0m (minimum) front setback to the garage and for the associated balcony, stairs and roof overhang to also be setback an additional 2.0m to what is shown on the plans.

The Panel considers the extent of roof eave overhang of both dwellings to be excessive and disproportionate to the small size of the lots. In order to lessen the visual impact of the buildings, a condition will require a maximum 450mm roof eave overhang.

Finally, the Panel notes that the description of development in the Assessment Report is not sufficiently clear and should read "Demolition works and construction of two dwellings, one on lot 1 and one on Lot 2". This does not change any aspect of the assessment or notification of the application.

#### **STATEMENT OF REASON**

The proposal generally satisfies the relevant strategy, objectives and provisions of Warringah LEP 2011 and the Warringah DCP 2011 subject to conditions.

#### **COMMUNITY CONSULTATION**

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

**DETERMINATION OF DEVELOPMENT APPLICATION**

THAT Council as the consent authority **approves** Development Consent to DA2021/0504 for Demolition works and construction of two dwellings, one on lot 1 and one on Lot 2, on land at Lots 1 & 2 DP 1092166, 1 Undercliff Road, Freshwater, subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following condition:

**Reduced Roof Eave Overhang (Houses 1 and 2)**

The roof eave overhangs for both Houses 1 and 2 are to be no greater than 450mm.

Reason : To minimize the visual impact of the roofs and to protect the streetscape.

2. The addition of the following condition:

**Reduced Ground Levels (House 2)**

The finished ground levels in the north-east corner of Lot 2 are to be reduced so as to maintain the existing ground level on the northern side of the existing retaining wall to the northern boundary. This reduced level is to be maintained for a minimum distance of 2.5m from the eastern boundary of Lot 2. Steps can be provided on the western side of this area to obtain access for maintenance.

Reason : To ensure the privacy of the adjoining property is maintained.

3. The addition of the following condition:

**Increased Setback to Garage (House 1)**

The double garage for House 1 is to be setback a minimum of 2.0m from the front boundary with Undercliff Road. This increased setback to the garage is to be accompanied by an increased setback of 2.0m to the balcony above the garage and the roof overhang above the balcony.

Reason : To minimize the visual impact of the garage and associated structures on the streetscape.

Vote: 3/0



### 3.5 DA2021/0672 - 869 PITTWATER ROAD COLLAROY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

#### PANEL MEMBERS

Steven Findlay (Chairperson)	Manager, Development Assessment
Rebecca Englund	Acting Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel was addressed by four objectors and a representative of an objector.

The main issue raised by the resident objectors in the submissions and in the meeting is the impact of the proposed first floor addition on views from adjoining and nearby properties situated to the north and north-west of the subject site. The common request from the resident objectors is for the overall height of the proposed dwelling to be further reduced (in addition to the lowering already achieved through the amended proposal, including deletion of the pitched roof and increased side setbacks), through a reduction in the depth of the first floor construction from 600mm to 240mm.

Based on the critical nature of the view sharing issues associated with this application and in order for the Panel to properly understand whether the request made by the resident objectors could be achieved, and factoring in the specifics of the proposal and the design and cost implications of such a reduction, the Panel decided to defer the determination of the application and allow the information to be obtained from the applicant to inform the ultimate decision on the application.

#### STATEMENT OF REASON

To allow a full and proper consideration of the application.

#### COMMUNITY CONSULTATION

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

#### DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **defers** the determination of Development Application No. DA2021/0672 for alterations and additions to a dwelling house on land at Lot 9 DP 12985, 869 Pittwater Road, Collaroy.

### **3.6 DA2021/1863 - 24 CAPUA PLACE AVALON BEACH - ALTERATIONS AND ADDITIONS TO A HOME OFFICE FOR USE AS A SECONDARY DWELLING**

#### **PANEL MEMBERS**

Steven Findlay (Chairperson)	Manager, Development Assessment
Rebecca Englund	Acting Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

#### **PROCEEDINGS IN BRIEF**

The Panel were addressed by one representative of the applicant.

The Panel inspected the site, reviewed the Assessment Report, DA documentation and residents submissions.

The Panel is satisfied in relation to the applicants Clause 4.6 variation request and the planning officers assessment in the assessment report, as further detailed below.

The Panel noted that the assessment report does not address the Draft Housing SEPP, however, has duly considered the draft SEPP as part of the consideration of this matter.

It is noted that the PLEP 2014 Compliance Assessment Table in the assessment report states that the application does not comply with the provisions of Clause 5.4 "Controls relating to miscellaneous permissible uses", however the proposal does comply with the 60sqm maximum area for a secondary dwelling and notes that this is a typographical error in the report.

The Panel noted that Condition 15 "Geotechnical Recommendations" is not required and has been deleted from the set of conditions.

#### **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 EXCEPTIONS TO DEVELOPMENT STANDARDS**

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the 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 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.

**DETERMINATION OF DEVELOPMENT APPLICATION**

THAT Council as the consent authority **approves** Development Consent to DA2021/1863 for alterations and additions to a home office for use as a secondary dwelling on land at Lot 17 DP 219898, 24 Capua Place, Avalon Beach, subject to the conditions set out in the Assessment Report, subject to the following:

1. The deletion of condition 15. Geotechnical Recommendations

Vote: 3/0

### 3.7 REV2021/0035 - 114 WHALE BEACH ROAD WHALE BEACH - REVIEW OF DETERMINATION OF APPLICATION DA2020/1186 FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

#### PANEL MEMBERS

Steven Findlay (Chairperson)	Manager, Development Assessment
Rebecca Englund	Acting Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

There were no registered speakers.

The Panel inspected the site, reviewed the Assessment Report, DA documentation and residents submissions.

The Panel noted that there were additional conditions required in relation to geotechnical engineering, Boundary Identification Survey, Construction Traffic Management and Control During Works, which have been included in the determination section below

#### 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

There were no submissions received for this application.

#### DETERMINATION OF REVIEW OF DETERMINATION APPLICATION

THAT Council as the consent authority **approves** Review of Determination Application No. REV2021/0035 for Review of Determination of Development Application No. DA2020/1186 for alterations and additions to a dwelling house on land at Lot 82 DP 10782, 114 Whale Beach Road, Whale Beach, subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following condition:

**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 referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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 Accredited Certifier.

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.

2. The addition of the following condition:

**Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

3. The addition of the following condition:

**Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Transport Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones

- around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

4. The addition of the following condition:

**Traffic Control During Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and as submitted to, and approved by Council for each stage of the works undertaken. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public safety.

5. The addition of the following condition:

**Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

6. The addition of the following condition:

**Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

Vote: 3/0

This is the final page of the Minutes comprising 15 pages  
numbered 1 to 15 of the Development Determination Panel meeting  
held on Wednesday 8 December 2021.