

# MINUTES

## **DEVELOPMENT DETERMINATION PANEL MEETING**

held via teleconference on

**WEDNESDAY 22 DECEMBER 2021**

## **Minutes of a Meeting of the Development Determination Panel held via teleconference on Wednesday 22 December 2021**

### **ATTENDANCE:**

#### **Panel Members**

Rodney Piggott (Chairperson)	Manager Development Assessment
Tony Collier (Chairperson)	Acting Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning
Liza Cordoba	Manager, Strategic & Place Planning

## **1.0 APOLOGIES AND DECLARATIONS INTEREST**

Nil

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 15 DECEMBER 2021**

The minutes of the Development Determination Panel held 15 December 2021, were adopted by all Panel Members and have been posted on the Council's website

### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

#### 3.1 DA2021/1222 - 12 BAREENA DRIVE BALGOWLAH HEIGHTS - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

##### PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

##### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

There were no registered speakers.

The Panel concurred with the Officer's assessment report and recommendation subject to adding the submitted BASIX Certificate into Condition 1.

##### STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 subject to conditions.

##### COMMUNITY CONSULTATION

There were no submissions received for this application.

##### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly 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 DA2021/1222 for alterations and additions to a dwelling house on land at Lot 6 DP 758044, 12 Bareena Drive, Balgowlah Heights, subject to the conditions set out in the Assessment Report, amended as follows:

1. Amend Condition 1 to include the BASIX Certificate A421405 dated 2 July 2021 as prepared by Fineline.

Vote: 3/0

### **3.2 DA2021/0668 - 95 BOWER STREET MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE**

#### **PANEL MEMBERS**

Steve Findlay (Chairperson)	Manager, Development Assessment
Lashta Haidari	Principal Planner, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

#### **PROCEEDINGS IN BRIEF**

The Panel was addressed by the applicants planning consultant and legal representative.

The Panel inspected the site, reviewed the Assessment Report, DA documentation and residents submissions, including a late submission from the owners of the three adjoining properties to the south in Reddall Street. In that late submission, the owner stated that they no longer objected to the DA, subject to some amendments to Condition 7(d) in relation to the replacement cheese tree, in order to avoid future impacts on views. The suggested change to Condition 7(d) was agreed to by the applicants representatives in the meeting.

The Panel concurred with the Planning Officer's assessment report and recommendation, subject to an amendment to Condition 7(d) to stipulate a specific location for the replacement cheese tree in the south-western corner of the subject site and to update the landscape plan to be consistent with the revised Site Plan in relation to the changes to the access driveway.

The Panel notes the incorrect reference to the "WLEP 2011" on page 59 of the agenda that should read "MLEP 2013".

#### **STATEMENT OF REASON**

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 subject to conditions.

#### **COMMUNITY CONSULTATION**

Issues raised in the submissions have been taken into account in the report, the meeting and the post meeting deliberations and decision.

#### **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 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 DA2021/0668 for alterations and additions to a dwelling house on land at Lot 81 DP 8076, 95 Bower Street, Manly, subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 7 to read as follows:

### 7. Amended Landscape Plan

The approved Landscape Master Plan referenced in Condition 1 of this consent is to be amended, as follows:

- a. Garden areas nominated in the Landscape Master Plan shall include detailed planting layouts including species selection, quantities, and pot sizes,
- b. The three (3) nominated replacement trees within the front setback facing College Street shall be selected from Northern Beaches Council's Native Tree Guide - Manly Ward. With the exception of one direct replacement of the Cheese Tree species – *Glochiodion ferndinandi*, all trees are to be small trees, with a mature height of no more than 6.0m above natural ground,
- c. Tree planting shall be located within a 9m<sup>2</sup> deep soil area wholly within the site and be located a minimum of 3.0m from existing and proposed buildings and other trees,
- d. Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight or where the proposed tree location may impact upon significant views. Specifically, the replacement Cheese Tree is to be located approximately 2.0m from the College Street boundary and approximately 3.0m from the existing common boundary between 95 Bower Street and 35 Reddall Street,
- e. All garden beds shall be mass planted including shrub planting at a 200mm pot container size, and groundcover planting at a 140mm pot size.
- f. Provision of native plant species to provide new and/or improved low dense clumping habitat to provide for potential bandicoot foraging and nesting in accordance with Manly DCP Clause 3.3.1.iv) (Landscaping in Bandicoot Habitat). The planting schedule should comprise species such as *Lomandra* sp., *Dianella* sp., *Banksia spinulosa*, *Caustis* sp., *Xanthorrhoea* sp., *Isolepis* sp., *Juncus* sp., *Calochlaena* sp., *Callistemon* sp., *Gleichenia* sp. and *Grevillea* 'Robyn Gordon'.
- g. The landscape plan is to be amended to reflect the revised driveway design as shown on the approved Site Plan, numbered DA02, Revision C, dated 10 December 2021.

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: Landscape amenity, residential amenity and habitat.

Vote: 3/0

### 3.3 DA2021/1448 - 106 PRINCE ALFRED PARADE NEWPORT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE, INCLUDING A DETACHED DOUBLE CARPORT AND SWIMMING POOL

#### PANEL MEMBERS

Rodney Piggott (Chairperson)	Manager Development Assessment
Steve Findlay	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by a representative of the applicant.

The Panel concurred with the Officer's assessment report and recommendation subject to amendment of Condition 14 to ensure the carports impacts on the streetscape and views from the public domain were reasonable and reasonable privacy afforded to the adjoining western dwelling.

#### 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.

#### 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 DA2021/1448 for Alterations and additions to a dwelling house, including a detached double carport and swimming pool on land at Lot 25 DP 13457 and Lot PO 5606, 106 Prince Alfred Parade Newport, subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 14 to read as follows:

**14. Amendments to the approved plans**

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

- The works to the boat shed, sea wall and jetty, inclusive of any works seaward of the Mean High Water Mark, are not consented to and must be deleted from the plans in their entirety.
- The eastern and western walls of the carport must be amended to be not more than 1.65m in height.

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

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

Vote: 3/0



### **3.4 DA2021/1423 - 6 BONA CRESCENT LOVETT BAY - CONSTRUCTION OF A BOAT SHED, BOAT RAMP AND ASSOCIATED DECKING**

#### **PANEL MEMBERS**

Rodney Piggott (Chairperson)	Manager Development Assessment
Steve Findlay	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

#### **PROCEEDINGS IN BRIEF**

The Panel viewed the site and the surrounds.

There were no registered speakers.

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

#### **STATEMENT OF REASON**

The proposal generally satisfies the relevant strategy, objectives and provisions of Pittwater LEP 2014 and the Pittwater 21 DCP subject to conditions.

#### **COMMUNITY CONSULTATION**

There were no submissions received for this application.

#### **DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS**

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the 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 DA2021/1423 for Construction of a boat shed, boat ramp and associated decking on land at Lot 1 DP 554847, Lot 2 DP 554847 And Lot LIC 197918, 6 Bona Crescent, Lovett Bay subject to the conditions set out in the Assessment Report, subject to the following:

1. The deletion of condition 42 as it is a repeat of 41

Vote: 3/0

### 3.5 DA2021/1785 - 23 KING STREET NEWPORT - ALTERATIONS AND ADDITIONS TO DWELLING HOUSE INCLUDING A CARPORT AND SECONDARY DWELLING

#### PANEL MEMBERS

Rodney Piggott (Chairperson)      Manager Development Assessment  
Phil Jemison                              Manager, Strategic & Place Planning  
Liza Cordoba                              Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

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

The Panel concurred with the Officer's assessment report and recommendation subject to some condition changes particularly to reduce the overall height of the proposal to reduce the visual bulk of the secondary dwelling and reduce the impacts on the adjoining southern property as detailed in the determination 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

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 DA2021/1785 for alterations and additions to dwelling House including a carport and secondary dwelling on land at Lot 4 DP 331934, 23 King Street, Newport, subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 1 to read as follows:

##### 1. Approved Plans and Supporting Documents

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

##### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA112 - Rev. B - Demolition - Ground Floor Plan	09 November 2021	Walsh Architects
DA113 - Rev. A - Demolition - Level 1 Plan	03 May 2021	Walsh Architects
DA120 - Rev. A - Proposed Site Plan	03 May 2021	Walsh Architects
DA121 - Rev. B - Proposed Ground Floor Plan	08 November 2021	Walsh Architects
DA122 - Rev. D - Proposed Level 1 Plan	22 December 2021	Walsh Architects
DA123 - Rev. C - Proposed Roof Plan	22 December 2021	Walsh Architects
DA200 - Rev. C - Sections	22 December 2021	Walsh Architects
DA201 - Rev. B - Sections	08 November 2021	Walsh Architects
DA202 - Rev. D - Sections	22 December 2021	Walsh Architects

DA300 - Rev. C - Elevations	22 December 2021	Walsh Architects
DA301 - Rev. C - Elevations	22 December 2021	Walsh Architects
DA302 - Rev. B - Elevations	22 December 2021	Walsh Architects
DA800 - Rev. B - External Finishes	08 November 2021	Walsh Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Flood Risk Management Report	April 2021	Taylor Consulting

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:

Waste Management Plan		
Report Title	Dated	Prepared By
Waste Management Plan	02 July 2021	Walsh Architects

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.

2. The amendment of condition 2 to read as follows:

## 2. Amendments to the approved plans

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

- The south-facing bedroom 3 window is to have a minimum sill height of 1.7m measured from finished floor level, or obscure glazing to a height of 1.7m measured from the finished floor level or a privacy screen containing vertical louvers with spacings of not greater than 20mm to a height of 1.7m measured from the finished floor level.

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

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

3. The deletion of condition 4(n)

4. To move condition 9 to be under the heading “**Conditions that must be addressed prior to any commencement**” and the amendment of condition 9 to read as follows:

## 9. Surrender of Development Consent

The applicant shall surrender to Council Development Consent No: DA2021/1010 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

Reason: To prevent inconsistencies between consent applying the site (ref s80A (5) EPAA & cl97 EPA Reg).

Vote: 3/0

### 3.6 DA2021/0656 - 87 GURNEY CRESCENT SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

#### PANEL MEMBERS

Rodney Piggott (Chairperson)	Manager Development Assessment
Steve Findlay	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by representatives of the applicant.

The Panel was advised by the applicant that they did not receive a formal letter from Council outlining the issues of concern that are contained as reasons for refusal. The Panel could find no evidence on file of an issues letter and based on the age of the application and a willingness of the applicant to address the reasons for refusal the Panel agreed to deferring the application as detailed in the determination below.

#### DETERMINATION OF DEVELOPMENT APPLICATION

That Council as the consent authority **defers** Development Consent to DA2021/0656 for alterations and additions to a dwelling house on land at Lot 1 DP 1271044, 87 Gurney Crescent, Seaforth, for the following issues to be addressed by relevant amendments:

1. Court 1 be amended to increase the south side setback to a minimum of 2.0m
2. Second Floor Plan be amended to reduce the size of the rumpus bedroom and deck 3

This information is to be submitted to Council by 4 January 2022 or the application will be determined with the information on hand. Following receipt of this information, the Panel (as constituted on 22 December 2021) will determine the application electronically, unless the Chair determines that a further public meeting is required.

Vote: 3/0

### 3.7 REV2021/0030 - 55 BOWER STREET MANLY - REVIEW OF DETERMINATION OF APPLICATION DA2020/1338 FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

#### PANEL MEMBERS

Rodney Piggott (Chairperson)	Manager Development Assessment
Steve Findlay	Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

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

The Panel reviewed the Officer's assessment report and recommendation and the supplementary memo's.

The Panel was concerned with the view loss associated with the non-compliant portions of the proposal at the upper most level. The Panel considered the Land & Environment Court Planning Principle on Views and considered that a *"more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours"* Accordingly the Panel will defer the application to allow amendments to ensure compliance with the 8.5m height control and feedback from the applicant at the meeting that amendments could be accommodated.

#### DETERMINATION OF DEVELOPMENT APPLICATION

That Council as the consent authority **defers** Development Consent to REV2021/0030 for Review of Determination of Application DA2020/1338 for alterations and additions to a dwelling house on land at Lot 63 DP 8075, 55 Bower Street, Manly, subject to the following:

1. The upper most floor containing Bed 1 be amended to ensure compliance with the 8.5m height control and any equivalent floor space be provided in the area adjoining the study with the eastern and southern setbacks being maintained.
2. The upper ground floor western side setback to the deck containing the BBQ be increased to 1.0m.

This information is to be submitted to Council by 14 January 2022 or the application will be determined with the information on hand. Following receipt of this information, the Panel (as constituted on 22 December 2021) will determine the application electronically, unless the Chair determines that a further public meeting is required.

This is the final page of the Minutes comprising 13 pages  
numbered 1 to 13 of the Development Determination Panel meeting  
held on Wednesday 22 December 2021.