



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

held via teleconference on

WEDNESDAY 9 MARCH 2022

Minutes of a Meeting of the Development Determination Panel held on Wednesday 9 March 2022

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

1.0 APOLOGIES AND DECLARATIONS INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 23 FEBRUARY 2022

The minutes of the Development Determination Panel held 23 February 2022, were adopted by all Panel Members and have been posted on the Council's website

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2021/1698 - 68 BOWER STREET MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL, SPA AND GARAGE

PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Steven 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 the applicant. The Panel notes that one submission was received and that the issue raised in the submission was mutually resolved during the assessment process.

The Panel concurred with the Officer's assessment report and recommendation to approve of the application.

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 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 Manly LEP 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 DA2021/1698 for alterations and additions to a dwelling house including a swimming pool, spa and garage on land at Lot 12 in DP 8075, 68 Bower Street MANLY, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.2 DA2021/1980 - 55 GRANDVIEW DRIVE NEWPORT - ALTERATIONS AND ADDITIONS TO DWELLING HOUSE AND CONSTRUCTION OF A DOUBLE GARAGE

PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Steven 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 the owner and architect. The Panel notes that no submissions were received against the proposal.

The Panel concurred with the Officer's assessment report and recommendation to approve of the application.

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 LEP 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 DA2021/1980 for alterations and additions to dwelling house and construction of a double garage on land at Lot 28 in DP 16029, 55 Grandview Drive NEWPORT, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.3 DA2021/1020 - 41 GURNEY CRESCENT SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Steven Findlay	Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning

The Panel viewed the site and the surrounds. The Panel also conducted inspections of the adjoining properties at No. 35A Gurney Crescent and No. 43 Gurney Crescent and an inspection of the subject site with the owners, all being upon request.

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

The Panel notes a memorandum received from the assessing officer which clarifies a minor error in Condition 1 to include reference of plan A11/ Sections Sheet 3 dated 29 October 2021.

The Panel is also in receipt of a submission provided by the applicant which requests the deletion and amendment of the following conditions:

- 7. On-Slab Planter Works;
- 9. Amendments to Approved Plans; and
- 27. Landscape Completion.

The Panel acknowledges the attempts made by the owner to respond to Council's issues raised during the assessment process. However, in its deliberation following the meeting the Panel did raise concern regarding the impact of the development upon views from No. 35A Gurney Crescent and overlooking of No. 43 Gurney Crescent.

With respect to the impact on views from No. 35A Gurney Crescent, it was noted by the Panel that the proposed stairwell would have a significant impact upon the views of the skyline of the Sydney CBD from the neighbouring property to the north. The Panel queried the owner on the necessity of this stairwell and its chosen location and was not satisfied that the reasons provided justified the impact. The Panel formed the opinion that the stairwell could be redesigned and relocated to ensure view sharing is achieved.

The issue of overlooking of the neighbouring property (being No. 43 Gurney Crescent) was considered with respect to proposed Window W6 on the ground floor and Windows W14, W16 and W17 on the first floor. In this respect, it was considered that the potential to overlook the neighbouring principle private open space area was high and that the perception of being overlooked could render the use of the neighbouring private open space area undesirable.

To address both issues discussed above, the Panel has conferred with the applicant who has indicated that they are prepared to provide amended plans which include the deletion of the stairwell and provision of privacy screens. In order to properly consider the amendments and carry out consultation with the two affected landowners, the Panel defers the determination of this application to allow the amended plans to be submitted and undertake a re-notification for a period of 7 calendar days to the affected neighbours at No. 35A Gurney Crescent and No. 43 Gurney Crescent and to consider any further submissions made by these affected neighbours.

Once the re-notification period has ended and any further submissions have been received, the Panel will proceed to consider and determine the application.

STATEMENT OF REASON

The Panel considered that the application should be deferred to allow the issues of concern to be

addressed by the applicant and further engagement to be carried out with the affected neighbours.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the assessment report and at the meeting, and have informed the decision to seek amended plans from the applicant.

DETERMINATION OF DEVELOPMENT APPLICATION

The Development Determination Panel, on behalf of Northern Beaches Council as the consent authority, **defers determination** of Application No. DA2021/1020 for alterations and additions to a Dwelling House on land at Lot 5 in DP 1013813, 41 Gurney Crescent SEAFORTH, for the following reason:

1. Amended plans are to be received to address view sharing and visual privacy.

The amended plans are to be submitted to the Council by 16 March 2022 otherwise the application will be determined on the information currently provided. Following receipt of this information, the application will be re-notified for a period of 7 calendar days to the neighbouring properties at No. 35A Gurney Crescent and No. 43 Gurney Crescent. On conclusion of the re-notification period, and consideration of any further submissions received, the Panel will determine the application electronically, unless the Chair determines that a further public meeting is required.

Vote: 3/0

3.4 MOD2021/0905 - 16 MCDONALD STREET, FRESHWATER - MODIFICATION OF DEVELOPMENT CONSENT DA2020/0842 GRANTED FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING SWIMMING POOL

PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Steven Findlay	Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds. The Panel also conducted an inspection at No. 14 McDonald Street upon request.

The Panel was addressed by the applicant.

In its deliberation the Panel considered the issue of visual privacy particularly from Window 16 and the south facing window to Bedroom 2. Both windows were considered in context to an inspection conducted by the Panel at the neighbouring property. In its consideration the Panel regarded the potential for overlooking (in both directions) to be considerable given the close proximity and alignment of the windows to both dwellings.

The Panel generally concurred with the independent consultant's assessment report but considered that the proposed additional condition to address visual privacy be amended.

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 at the meeting.

DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **approves** modification application No. MOD2021/0905 to modify development consent No. DA2020/0842 granted for alterations and additions to a dwelling house including swimming pool on land at Lot 15 in DP22640, 16 McDonald Street FRESHWATER, subject to Condition 16 being amended to read as follows:

1. The amendment of Condition 16 – Southern Privacy Screens to read as follows:

B. Amend Condition 16 – Southern Privacy Screens

Balcony/Deck

A 1.8 metre high privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost southern edge of the balcony/deck located off the Ground Floor Level Bedroom 5 as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

Windows

Obscure glazing at a height of 1.8m above the finished floor level be installed to Window 16 (to Bedroom 3) and the south facing window of Bedroom 2. Alternatively, fixed privacy screens may be installed to the exterior of both windows. If the screens include louvered slats, the slats are to be spaced and angled in a fixed position to avoid viewing into the

windows of the neighbouring dwelling to the south.

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

Reason: To ensure visual and acoustic privacy for the neighbour.

Vote: 3/0

3.5 MOD2021/0542 - 16 UPPER GILBERT STREET MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA2018/1870 GRANTED FOR DEMOLITION WORKS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING

PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Phil Lane	Acting Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds. The Panel also conducted an inspection at No. 14 James Street upon request.

It is noted that the reporting manager is indicated as Tony Collier in the Agenda to the DDP. To avoid any perception of a conflict of interest, it is recorded in these Minutes that this is incorrect and should read as Steve Findlay.

The Panel notes a memorandum received from the assessing officer which corrects minor errors in the assessment report. The errors relate to an incorrect reference of the Panel, a numerical correction to the proposed floor area and floor space ratio, and the inclusion of the full commentary from Council's Landscape Officer.

The Panel was addressed by an objector, the owner of the subject property and the applicant. The Panel notes receipt of a written copy of the submission made by the objector which was received via email immediately after the meeting.

Issues raised by the objector related to the number of submissions to the original Development Application including variations to the built form controls of the MLEP and MDCP, refusal by the Northern Beaches Local Planning Panel and the Court Appeal via the Land & Environment Court (LEC) which included several amendments and conditions (Approved by LEC). Issues also raised amendments via this current modification which included treatments to the northern façade, the two (2) additional parking spaces within the basement level with the basement built up to the northern boundary at the expense of deep planting areas along the northern boundary. It is noted that an amended landscape plan was lodged with this application, however Council's Senior Landscape Architect had issue with this landscape plan and included Condition 25B – Amended Landscape Plan which has continuous planter with a minimum depth of 900mm and be a minimum width of 1200mm (internally) and this is considered to allow for sufficient area for growth for the conditioned *Acmena smithi* (Common Lilly Pilly), *Livistona australis* (Cabbage Tree Palm), *Banksia Integrifolia* (Coastal Banksia) and *Glochidion ferdinandi* (Cheese Tree) to grow to a sufficient height to ensure reasonable amenity. The Panel also notes that Condition 54 'Landscape Maintenance' of the court approval as follows:

"All landscape components are to be maintained for the life of the development. A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme in accordance with the landscape plan, and any relevant condition of consent."

Reason: To maintain local environmental amenity and ensure landscaping continues to soften the built form."

Additional issues related the bulk and scale of the development and impacts on both visual and acoustic privacy as well as variations to the applicable built form controls of the MLEP and MDCP which have been addressed with the Officer's assessment report.

The Panel concurred with the Officer's assessment report and recommendation subject to an

amendment to Condition 18 – 'Pre-commencement Dilapidation Report'

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

DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **approves** modification application No. Mod2021/0542 to modify development consent No. DA2018/1870 granted for demolition works and construction of a residential flat building on land at Lot A in DP 110371, 16 Upper Gilbert Street MANLY, subject to the conditions set out in the Assessment Report and Condition 18 'Pre-commencement Dilapidation Report' being amended to read as follows:

1. The amendment of condition 18 Pre-commencement Dilapidation Report to read as follows

V. Condition 18 Pre-commencement Dilapidation Report

- (a) The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and infrastructure (including roads, gutter, footpaths, etc.) and the private properties with the address of 14 James Street, 14 Upper Gilbert Street and 11 Camera Street. A copy of the report must be provided to the Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.
- (b) All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.
- (c) In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of the Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Reason: Protection of Council's and Private Party's Infrastructure during construction.

2. The addition of condition Boundary Fence to read as follows:

W. Add Condition Boundary Fence to read as follows:

- (a) A 1.8m high boundary fence (materials to be agreed between neighbours) is to be installed along the top of the retaining wall which extends across the length of the northern boundary abutting No. 14 James Street.
- (b) Details demonstrating compliance are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To maintain privacy.

Vote: 3/0

3.6 DA2021/2017 - 5 BASSETT STREET MONA VALE - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE AND SECONDARY DWELLING INCLUDING A SWIMMING POOL

PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Phil Lane	Acting Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

Three written submissions were received in objection to the proposal, however the Panel was not addressed by any objectors.

The Panel was addressed by the applicant and acknowledges receipt of a written statement provided by the applicant which queries the imposition of Condition 12(a) which requires that Bedroom 1 and the associated deck be set back a further 500mm from the western boundary. In their verbal and written submission to the Panel, the applicant stated that the required setback of 500mm would not result in any improved outcome and that the development, as proposed would enable sufficient separation, privacy and plantings. The written submission also states that the neighbour at No. 7 Bassett Street has been consulted and are in agreement with the proposed built form.

The Panel concurred with the applicant's submissions and consider that the deletion of Condition 12(a) is appropriate under the circumstances.

The Panel generally concurred with the Officer's assessment report and recommendation subject to Condition 12 – 'Amendments to Approved Plans' being amended.

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 DA2021/2017 for demolition works and construction of a dwelling house and secondary dwelling including a swimming pool on land at Lot 29 in DP 7236, 5 Bassett Street MONA VALE, subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of Condition 12 – 'Amendments to Approved Plans' to read as follows:

12. Amendments to the Approved Plans

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

- (a) The fire pit is not approved and does not form any part of the consent.
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

3.7 DA2021/2267 - 42 HILLCREST AVENUE MONA VALE - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Tony Collier (Chairperson)	Acting Manager, Development Assessment
Phil Lane	Acting Manager, Development Assessment
Phil Jemison	Manager, Strategic & Place Planning

The Panel viewed the site and the surrounds.

The Panel notes that no submissions were received against the proposal. The Panel was not addressed by the applicant.

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

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 LEP 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 DA2021/2267 for alterations and additions to a dwelling house on land at Lot A in DP 103352, 42 Hillcrest Avenue MONA VALE, subject to the conditions set out in the Assessment Report.

Vote: 3/0

The meeting concluded at 12:00pm

This is the final page of the Minutes comprising 15 pages
numbered 1 to 15 of the Development Determination Panel meeting
held on Wednesday 9 March 2022.