

# MINUTES

## **DEVELOPMENT DETERMINATION PANEL MEETING**

held via teleconference on

**WEDNESDAY 10 AUGUST 2022**

**Minutes of a Meeting of the Development Determination Panel  
held on Wednesday 10 August 2022  
via teleconference**

## **1.0 APOLOGIES AND DECLARATIONS INTEREST**

Nil

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 27 JULY 2022**

The minutes of the Development Determination Panel held 27 July 2022, were adopted by all Panel Members and have been posted on the Council's website

### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

#### 3.1 DA2022/0588 - 143 WYNDORA AVENUE FRESHWATER - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SWIMMING POOL, HOME OFFICE AND ASSOCIATED LANDSCAPE WORKS

##### PANEL MEMBERS

Adam Richardson  
Liza Cordoba

Manager, Development Assessment  
Manager, Strategic & Place Planning

##### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

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

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

The Panel on balance considered the privacy impacts to be acceptable in that treatment of the western facing windows at the first floor with privacy treatments were not necessary as the setbacks of the dwelling are compliant and that the windows relate to bedrooms and a bathroom, which are low use rooms. It is noted that the bathroom window is to be fitted with opaque glazing. At the ground floor, the impacts were considered by the Panel to be typical of those within a low density residential area and that further mitigation measures were not necessary.

The Panel also noted that recommended Condition 7 was based on now superseded wording and that any approval should adopt the current wording for the payment of development contributions.

##### 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, as amended.

##### COMMUNITY CONSULTATION

Issues raised in the submissions 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 **DA2022/0588** for demolition works and construction of a dwelling house including a swimming pool, home office and associated landscape works on land at Lot 58, DP 8389, 143 Wyndora Avenue, FRESHWATER, subject to the conditions set out in the Assessment Report, subject of the following:

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

##### **7. Policy Controls Northern Beaches 7.12 Contributions Plan 2021**

A monetary contribution of \$25,011 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$2,501,062.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the

amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

Vote: 2/0

### 3.2 MOD2021/0910 - 4-10 SYDNEY ROAD MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA0167/2017 GRANTED FOR CHANGE OF USE TO A CHILDCARE CENTRE INCLUDING ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING

#### PANEL MEMBERS

Adam Richardson

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 one objector (who also represented a number of occupiers in the strata) and two representatives of the applicant.

The Panel concurred with the Officer's assessment report and recommendation, noting that the applicant endorsed the recommendation as well. The Panel asked the applicant about a respite period during the middle of the day where no outdoor play was to occur and therefore breaking up the morning and afternoon play periods. The applicant was agreeable to such a Condition and so as to ensure that the Condition was operational functional they were invited to provide by close of business on 10.08.22 a time span where such a time span was operationally functional with the operating parameters of the Childcare Centre.

The applicant responded with:

*'We refer to the above item discussed at today's panel meeting. We have liaised with our client and/or the applicant and in relation to the question raised by the chair as to the break between the 2 x 2hr outdoor play periods proposed our client has indicated between the hours of 12pm and 2pm would work operationally in terms of the restriction i.e. the outdoor play periods cannot be conducted within these hours.'*

*We would be happy to have this restriction included as a condition or we can forward an updated plan of management.'*

Accordingly, the Panel on balance considered it reasonable to allow the modification, subject to a respite period of 12pm to 2pm daily where no outdoor play or use was allowed.

#### STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013, SEPP (Transport and Infrastructure) 2021 and the Manly DCP 2013, subject to conditions.

#### COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the report and the meeting. It is noted that the objector who addressed the Panel, did so on their behalf and a number of other residents at 9-15 Central Avenue.

#### DETERMINATION OF MODIFICATION APPLICATION

THAT Council as the consent authority **approves** the modification application MOD2021/0910 for modification of development consent DA0167/2017 granted for change of use to a childcare centre including alterations and additions to the existing building on land at Lot 2 SP 103324, 4 / 4 - 10 Sydney Road MANLY, subject to the conditions set out in the Assessment report and that the following Condition be inserted:

1. The addition of the following condition:

**1C. Amendments to approved Plan of Management listed in Condition 1B**

The Plan of Management listed in Condition 1B is amended to the effect that it is to provide for a respite period of 2 hours between the hours of 12pm and 2pm where no outdoor play or use of the outdoor area is to take place.

Reason: To protect the amenity of adjoining residential properties.

Vote: 2/0

### 3.3 DA2021/1330 - 15 BLIGH CRESCENT SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

#### PANEL MEMBERS

Adam Richardson  
Liza Cordoba

Manager, Development Assessment  
Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by one representative of the applicant.

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

The Panel was, however, concerned that the calculation of gross floor area within the plans and written 4.6 objection understates the true amount of GFA as some areas that are GFA per the definition within the Manly LEP were not captured. Accordingly, the extent of variation was understated and that this miscalculation questions the integrity of the written Clause 4.6 and the sufficient environmental planning grounds. It was the Panel's view that the FSR breach is significant and that it in part is a cause of the height breach and that where the amount of floor space exceeds the dispensation of the Manly DCP, the written 4.6's are not founded to account for this.

Accordingly, the Panel felt it reasonable to provide the applicant an opportunity to:

- a) re-calculate the GFA in accordance with the definition provided within the Manly LEP and modify the development so that the total amount of GFA on site does not exceed the maximum permitted by the Manly DCP for an undersized Lot of 0.4:1;
- b) submit amended plans and documentation reflective of (a) (including but not limited to updated written Clause 4.6 objections for height and FSR) within 14 days of the minutes being published.

Following which, the Panel felt it reasonable given the unknown way the plans maybe amended for any amended plans to be notified for 14 days and that any new submissions be considered in a supplementary report to the Panel.

The Panel also endorsed the recommended additional Condition within the memo to it dated 09.08.22 and that any approval of this DA which may arise include the following Condition (in addition to those attached to the end of the assessment report and any others the Panel may see fit to impose). It was noted that the applicant agreed to such a Condition:

1. The addition of the following condition under the heading: Conditions to be Complied with During Demolition and Building Work:

#### **Driveway Access:**

During work, access to 17 Bligh Crescent via the shared driveway is to be maintained at all times.

Reason: To maintain neighbours' access to their property.

The Panel has noted the assessment report contained conflicting information in the assessment table and that a Crime Prevention Through Environmental Design assessment was not provided, despite the heading in the report.



**DETERMINATION OF DEVELOPMENT APPLICATION**

THAT Council as the consent authority **defers determination** of DA2021/1330 for alterations and additions to a dwelling house on land at Lot 12 & Lot 13A DP 5297, 15 Bligh Crescent SEAFORTH, for the following reasons:

1. The applicant be invited to:
  - a. re-calculate the GFA in accordance with the definition provided within the Manly LEP and modify the development so that the total amount of GFA on site does not exceed the maximum permitted by the Manly DCP for an undersized Lot of 0.4:1; and
  - b. submit amended plans and documentation reflective of (a) (including but not limited to updated written Clause 4.6 objections for height and FSR) within 14 days of the minutes being published.
2. On receipt, the amended plans will be notified for a period of 14 days and a supplementary assessment report is to be provided to the Panel for consideration which accurately considers the suitability of the amended plans against the matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act, 1979 and any further submissions made.

Vote: 2/0

### **3.4 DA2022/0538 - 229 PITTWATER ROAD MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE**

#### **PANEL MEMBERS**

Rod Piggott	Manager, Development Assessment
Adam Richardson	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 one objector.

The Panel had concerns relating to the height of the rear portion of the Ground level additions and the overshadowing to the property to the east. The applicant provided amended plans that lowered the floor to ceiling heights of this area from 3.4m, to 3.05m, which reduced overshadowing to the rear yard of the property to the east to the satisfaction of the Panel.

The Panel sought and obtained clarification from Councils Heritage Advisor that they had reviewed and were satisfied with the amended Heritage Impact Statement.

#### **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 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 DA2022/0538 for alterations and additions to a dwelling house on land at Lot 1 DP 957654, 229 Pittwater Road MANLY, 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 Documentation**

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

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Plan - A02, Rev B	10 August 2022	Novam Design Studio
Existing Ground Floor - A03	10 August 2022	Novam Design Studio
Existing Roof Plan - A04	10 August 2022	Novam Design Studio
Existing North & South Elevations - A05	10 August 2022	Novam Design Studio
Existing East & West Elevations - A06	10 August 2022	Novam Design Studio
Existing Section A & Section B - A07	10 August 2022	Novam Design Studio
Existing Section C - A08	10 August 2022	Novam Design Studio
Proposed Ground Floor - A10, Rev B	10 August 2022	Novam Design Studio
Proposed Level 1 - A11, Rev B	10 August 2022	Novam Design Studio
Proposed Roof Plan - A12, Rev B	10 August 2022	Novam Design Studio
Proposed North Elevation - A13, Rev B	10 August 2022	Novam Design Studio
Front Fence Study - A13.1, Rev B	10 August 2022	Novam Design Studio
Proposed South Elevation - A14, Rev B	10 August 2022	Novam Design Studio
Proposed East Elevation - A15, Rev B	10 August 2022	Novam Design Studio
Proposed West Elevation - A16, Rev B	10 August 2022	Novam Design Studio
Proposed Section A - A17, Rev B	10 August 2022	Novam Design Studio
Proposed Section B & Section C - A18, Rev B	10 August 2022	Novam Design Studio
<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (No.A450355_02)	28 June 2022	Novam Design Studio
Geotechnical Report	19 April 2022	White Geotechnical Group
Heritage Report - Amended	2 June 2022	Watermark Planning

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	n.d.	Novam Design Studio

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 5 to read as follows:

**5. Policy Controls****Northern Beaches 7.12 Contributions Plan 2021**

A monetary contribution of \$5,753.64 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$575,363.75.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

Vote: 3/0

### 3.5 DA2022/0457 - 15 MONASH CRESCENT CLONTARF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE AND A SEAWALL

#### PANEL MEMBERS

Rod Piggott	Manager, Development Assessment
Dan Milliken	Acting 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 one representative of the applicant.

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

Amendments were proposed by the applicants Coastal Engineer and have been included 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

Issues raised in the submissions 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 authority, **grants deferred commencement approval** to Application No. DA2022/0457 for alterations and additions to a dwelling house and a seawall on land at Lot 54 DP 9745, 15 Monash Crescent CLONTARF, subject to the conditions set out in the Assessment Report subject to the following:

1. The amendment of condition 16 to read as follows:

#### **16. Works on Land Owned or Managed By Council**

No works are to be carried out on land owned or managed by Council, unless a Working on and Access to Reserves Permit is obtained from Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.) and landscaping works on land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

2. The amendment of condition 8 to read as follows:

### **8. Policy Controls**

#### **Northern Beaches 7.12 Contributions Plan 2021**

A monetary contribution of \$ 3,300.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$330,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

3. The deletion of condition 28:

### **28. Coastal Erosion - DELETE**

This property is on land located in an area where there is likely to be a risk of coastal erosion and wave impact during severe storms. The risk to the property may increase with time due to long-term beach recession caused by greenhouse induced sea level rise or natural coastal processes. To reduce the potential impact to your property, the Council strongly recommends that effective precautions be taken to ensure adequate volumes of sand are maintained within the western (seaward) boundary of your property. The Council requires that only free-draining, clean, yellow sand be used to fill allotments seaward of the seawall.

Reason: Protection of coastal environment.

Vote: 3/0

### 3.6 DA2021/2613 - 129 HEADLAND ROAD NORTH CURL CURL - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE

#### PANEL MEMBERS

Rod Piggott	Manager, Development Assessment
Dan Milliken	Acting 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 Warringah LEP 2011 and the Warringah DCP 2011 subject to conditions.

#### COMMUNITY CONSULTATION

Issues raised in the submissions 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 DA2021/2613 for demolition works and construction of a dwelling house on land at Lot 107 DP 14113, 129 Headland Road NORTH CURL CURL, subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 4 to read as follows:

##### **4. Policy Controls**

##### Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$24,320.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$2,432,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

Vote: 3/0



*The meeting concluded at 12:00pm*

This is the final page of the Minutes comprising 17 pages  
numbered 1 to 17 of the Development Determination Panel meeting  
held on Wednesday 10 August 2022.