



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

held via teleconference on

WEDNESDAY 8 FEBRUARY 2023

**Minutes of a Meeting of the Development Determination Panel
held on Wednesday 8 February 2023
via teleconference**

1.0 APOLOGIES AND DECLARATIONS INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 14 DECEMBER 2022

The minutes of the Development Determination Panel held 14 December 2022, were adopted by all Panel Members and have been posted on the Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2022/0704 - 10 FITZROY ROAD CROMER - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Adam Richardson	Manager, Development Assessment
Dan Milliken	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by one objector and the owner / applicant.

The Panel disagreed with the officer's report and recommendation as information provided to the Panel by the applicant confirmed that the existing built form of the development was misrepresented in the architectural plans and this affected the calculation of building height and the extent of purported breach.

The Panel is of the view that design amendments will be required to minimise any breach of the height limit, once the accurate existing ground level is known.

STATEMENT OF REASON

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

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 not satisfied that:

- 1) the applicant's written request under clause 4.6 of the Warringah LEP 2011 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 inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **refuses** Development Consent to DA2022/0704 for alterations and additions to a dwelling house on land at Lot 5 DP 241272, 10 Fitzroy Road CROMER, subject to the reasons listed below:

Building height

The architectural plans to which the Development Application relies upon are incomplete and fails to accurately represent the existing dwelling at 10 Fitzroy Road, CROMER. Accordingly, building height cannot be accurately measured, contrary to the considerations of Clause 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*.

Particulars:

- i. The existing floor space of the existing ground floor shown on architectural drawing DA02 dated 21.11.2022 do not accurately represent the existing layout and the position of built form and existing ground level.
- ii. Accordingly, there is no clear information as to how the proposed building works relate to the existing site conditions and principally the 'existing ground level' as defined within the Warringah Local Environmental Plan 2011 at any one point.
- iii. Therefore, there is no certainty in relation to the proposed 'maximum building height'.
- iv. As there is no measurable accuracy in relation to building height, the submitted written Clause 4.6 objection is not considered to be well founded as it does not accurately represent the true extent of height breach and variation proposed.

Public interest

Pursuant to *Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979* the proposed development is not within the public's interest.

Particulars:

- i. The inaccuracies in relation to the architectural plans are such that approval of the development is not within the public's interest.

Vote: 3/0

3.2 DA2022/1755 - 63 HILLSIDE ROAD NEWPORT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Adam Richardson	Manager, Development Assessment
Dan Milliken	Manager, Development Assessment
Anne-Maree Newbery	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

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 DA2022/1755 for alterations and additions to a dwelling house on land at Lot 47 DP 9224, 63 Hillside Road NEWPORT, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.3 DA2022/1209 - 8 ALLENBY STREET CLONTARF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Adam Richardson	Manager, Development Assessment
Dan Milliken	Manager, Development Assessment
Anne-Maree Newbery	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 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 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 DA2022/1209 for alterations and additions to a dwelling house on land at Lot B DP 361983, 8 Allenby Street CLONTARF, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.4 DA2022/0663 - 9A AMIENS ROAD CLONTARF - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PANEL MEMBERS

Adam Richardson	Manager, Development Assessment
Dan Milliken	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by two representatives of the applicant.

The Panel disagreed with the officer's assessment report and recommendation, as a review of the application revealed that the amount of gross floor area in the development was understated, and this affected the FSR calculation.

STATEMENT OF REASON

The proposal fails the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 subject to the reasons described below.

COMMUNITY CONSULTATION

There were no submissions received for this application.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is not satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly LEP 2013 seeking to justify a contravention of clause 4.3 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 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.
- 3) the proposed development will be in the public interest because it is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **refuses** Development Consent to DA2022/0663 for demolition works and construction of a dwelling house including swimming pool on land at Lot 222 DP 737476, 9A Amiens Road CLONTARF, for the following reasons:

Floor space

The gross floor area of the development has not been calculated in accordance with the definition of Gross Floor Area as defined within the Manly Local Environmental Plan 2013, contrary to the considerations of Clause 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*.

Particulars:

- i. There are areas within the basement that have been excluded from the gross floor area calculation, which, when considered against the definition of Gross Floor Area, must be included. As such, the floor space ratio is understated.
- ii. As the development relies upon a written Clause 4.6 objection and the objection refers to an incorrect FSR, the written Clause 4.6 objection is not well founded.
- iii. The sufficient environmental planning grounds are inadequate as they understate the minor nature of the breach and rely on the 'superior architectural design', which is contrary to the design outcomes envisaged by the C3 zone objectives.
- iv. The proposed development is considered to be of a significant bulk and scale which does not accord with the matters for consideration prescribed by Clause 6.9 of the Manly LEP 2014, particularly that the bulk and scale of the development will impact the visual amenity of the harbour and coastal foreshore. In addition to this, the visual bulk of the dwelling is contrary to the considerations of Clause 6.28 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- v. The breach in floor space is considered to contribute to the breach of building height, noting that the written Clause 4.6 objection in relation to building height asserts that the 'superior architectural design' as a primary reason for variation, whereas a more skillful design could be achieved where both compliant FSR and building height is achieved.

Public interest

Pursuant to *Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979* the proposed development is not within the public's interest

Particulars:

- i. The failure to accurately calculate the gross floor area and that additional FSR contributing to the height breach, is such that approval of the developments bulk and scale is not within the public's interest, given its C3 zoning and foreshore interface.

Vote: 3/0

3.5 DA2022/1216 - 69 ERNEST STREET BALGOWLAH HEIGHTS - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Rod Piggott	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by the owner. The Panel also considered the additional written submission by the owner.

The Panel were concerned with the privacy impacts of Window W3 and consider an amendment to proposed Condition 8 would resolve the privacy concerns and maintain water/district views from the subject site.

The Panel concurred with the Officer's Assessment Report and recommendation subject to amendment of Condition 8 "Amendments to the approved plans" as 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

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 DA2022/1216 for alterations and additions to a dwelling house on land at Lot A DP 356556, 69 Ernest Street BALGOWLAH HEIGHTS, subject to the conditions set out in the Assessment Report and subject to the following:

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

Condition 8. Amendments to the approved plans

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

Window W3 on the First Floor Level of the Eastern Elevation is to be amended to comprise two components, a 1.0m wide clear glazed section with the current sill height extending 1.0m from the north-eastern corner, and the remaining section is to have a minimum sill height of 1.5m when measured above the finished floor level or opaque glazing up to 1.5m above finished floor level.

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

Vote: 3/0

3.6 DA2022/1803 - 15 ALLINGTON CRESCENT ELANORA HEIGHTS - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Rod Piggott	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by an owner.

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 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 DA2022/1803 for alterations and additions to a dwelling house on land at Lot 40 DP 219787, 15 Allington Crescent ELANORA HEIGHTS, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.7 DA2022/0414 - 5 ELLEN STREET CURL CURL - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Rod Piggott	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

There were no registered speakers.

The Panel were concerned with the view impacts and consider an amendment to proposed Condition 9 would improve views.

The Panel concurred with the Officer's Assessment Report and recommendation subject to amendment of Condition 9 "Amendments to the approved plans" as detailed below.

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 DA2022/0414 for alterations and additions to a dwelling house on land at Lot 37 DP 14040, 5 Ellen Street CURL CURL, subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 9 to read as follows:

Condition 9. Amendments to the approved plans

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

- W5 (sited along the northern elevation of the first floor level to the proposed main bedroom / home office) shall be deleted and removed from the approved plans.
- The proposed deck extension on the first floor level shall be removed from the approved plans.
- The proposed fixed louver privacy screen affixed to the proposed deck extension shall be removed from the approved plans. The existing privacy screen shall remain.
- The proposed deck extension on the ground floor level shall be removed from the approved plans and the existing landscaping shall remain. Consequently, the proposed door off the rumpus room (being D6), shall be removed and the existing windows shall remain.
- The northern side setback distance to the proposed first floor addition shall be increased to 2.2 metres for the entire length of the proposed first floor addition, when

measured from the existing northern side boundary to the external wall.

- The wall height on the first floor level shall be a maximum of 2.4 metres, when measured from the finished floor level of the first floor to the underside of the first level ceiling.
- The wall height on the second floor level shall be a maximum of 2.4 metres, when measured from the finished floor level of the second floor to the underside of the second level ceiling.
- The roof ridge at RL24.86 is to be reduced by 500mm to RL24.36 and the roof slope is to remain consistent with the skillion design sloping down from the highest ridge 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.

Vote: 3/0

3.8 DA2022/1646 - 45 QUINTON ROAD MANLY - ALTERATIONS AND ADDITIONS TO A SEMI-DETACHED DWELLING

PANEL MEMBERS

Rod Piggott	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by the applicant and their representative.

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 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 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 DA2022/1646 for alterations and additions to a semi-detached dwelling on land at Lot 2 DP 1072958, 45 Quinton Road MANLY, subject to the conditions set out in the Assessment Report.

Vote: 3/0

The meeting concluded at

This is the final page of the Minutes comprising 16 pages
numbered 1 to 16 of the Development Determination Panel meeting
held on Wednesday 8 February 2023.