



northern  
beaches  
council

# MINUTES

## **DEVELOPMENT DETERMINATION PANEL MEETING**

held via teleconference on

**WEDNESDAY 22 FEBRUARY 2023**

**Minutes of a Meeting of the Development Determination Panel  
held on Wednesday 22 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 8 FEBRUARY 2023**

The minutes of the Development Determination Panel held 8 February 2023, were adopted by all Panel Members and have been posted on the Council's website.

### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

#### 3.1 DA2022/0593 - 3 AMBRYM AVENUE FRENCHS FOREST - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

##### PANEL MEMBERS

Dan Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Neil Cocks	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

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 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 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.

##### DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **approves** Development Consent to DA2022/0593 for alterations and additions to a dwelling house including a swimming pool on land at Lot 5 DP 230674, 3 Ambrym Avenue FRENCHS FOREST, subject to the conditions set out in the Assessment Report.

Vote: 3/0

### 3.2 MOD2022/0703 - 64 BALGOWLAH ROAD BALGOWLAH -MODIFICATION OF DEVELOPMENT CONSENT DA2020/0774 GRANTED FOR ALTERATIONS AND ADDITIONS TO A RESTAURANT/CAFE AND SIGNAGE

#### PANEL MEMBERS

Dan Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

The Panel was addressed by four objectors and representatives of the applicant.

The Panel considered, at length, the conflict between land uses on adjoining zones and the delicate balance between economic activity for businesses and reasonable amenity for residents.

The Panel notes that most businesses, along this street, close between 5pm and 9pm.

The Panel is of the view that a 9pm closing time for a restaurant is too early, but that a midnight closing time is too late.

The Panel is of the opinion that a 10pm closing time strikes the right balance in these circumstances and that any extension of time, even if it is only to the inside portion of the restaurant, would involve increases of noise late into the night. This would result in unreasonable impacts on the nearby residential properties.

The proposal to extend the opening hours must therefore be refused.

#### STATEMENT OF REASON

The proposal does not satisfy 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.

#### DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **refuses** Modification Application No. Mod2022/0703 for Modification of Development Consent No. DA2020/0774 granted for alterations and additions to a restaurant/cafe and signage on land at Lot 17 DP 975160, 64 Balgowlah Road BALGOWLAH, for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the aims of the Manly Local Environmental Plan 2013 in that:
  - a. The development would adversely and unreasonably affect the amenity of existing residents.
2. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development will have an overall detrimental social impact in the circumstances.

3. Pursuant to Section 4.15(1)(a) (iii) of the Environmental Planning and Assessment Act 1979, the proposed development is contrary to the objectives and requirements of Part 3.4 – Amenity (Noise) of the Manly Development Control Plan 2013.
4. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Vote: 3/0

**3.3 MOD2023/0006 - 11 LYLY ROAD ALLAMBIE HEIGHTS - MODIFICATION OF DEVELOPMENT CONSENT DA2022/0511 GRANTED FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SECONDARY DWELLING AND CARPORT**

**PANEL MEMBERS**

Dan Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

**PROCEEDINGS IN BRIEF**

The Panel viewed the site and the surrounds.

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

At 10:33am on the morning of the panel meeting, the applicant requested an amendment to the modification. The change requested was that the requirements of condition 12 (4) be amended to reduce the width of the proposed parking structure to a maximum width of 5.9m.

This request was not made through the NSW Planning Portal and therefore cannot currently be considered as part of the application before the Panel.

However, the Panel is conscious that all parties (applicant and surrounding neighbours) would like this matter resolved in a timely manner.

As a result, the Panel decided to defer the final decision on this matter.

**STATEMENT OF REASON**

The proposal does not 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 **defers the decision** on Mod2023/0006 for Modification of Development Consent DA2022/0511 granted for alterations and additions to a dwelling house including a secondary dwelling and carport on land at Lot A DP 22132, 11 Lyly Road ALLAMBIE HEIGHTS, to allow the following to happen:

1. The applicant is to formally request an amendment to the application through the NSW Planning Portal.
2. The assessing officer is to advise (via email) the surrounding residents of the change and give them 7 days to provide any feedback.
3. The assessing officer is to prepare a supplementary memo for the Panel.
4. The Panel will then determine the matter electronically.

Vote: 3/0

**3.4 DA2021/2661 - 33 BEATRICE STREET CLONTARF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL**

**PANEL MEMBERS**

Dan Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Neil Cocks	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 notes the Officer's Assessment Report and recommendation.

Deliberations are delayed to provide the Panel additional time to consider the application.

**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 **defers determination** of DA2021/2661 for alterations and additions to a dwelling house including a swimming pool on land at Lot 81 DP 9517, 33 Beatrice Street CLONTARF, to allow the Panel additional time to consider the application.

Vote: 3/0

**3.5 MOD2022/0637 - 3 SUWARROW STREET FAIRLIGHT - MODIFICATION OF DEVELOPMENT CONSENT DA2022/0221 GRANTED FOR DEMOLITION WORKS, TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO AND CONSTRUCTION OF TWO SEMI-DETACHED DWELLINGS INCLUDING TWO SWIMMING POOLS**

**PANEL MEMBERS**

Dan Milliken	Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

**PROCEEDINGS IN BRIEF**

The Panel viewed the site and the surrounds.

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

**DETERMINATION OF DEVELOPMENT APPLICATION**

THAT Council as the consent authority **approves** Mod2022/0637 for Modification of Development Consent DA2022/0221 granted for demolition works, Torrens Title subdivision of one lot into two and construction of two semi-detached dwellings including two swimming pools on land at Lot 28 DP 10399, 3 Suwarrow Street FAIRLIGHT, subject to the conditions set out in the Assessment Report.

Vote: 3/0

### 3.6 DA2022/1528 - 92 LAUDERDALE AVENUE FAIRLIGHT - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

#### PANEL MEMBERS

Dan Milliken	Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

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

The Panel concurred with the Officer's Assessment Report and recommendation subject to the following amended condition no. 23:

#### 23. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

##### Property / Properties

- The whole of 90 Lauderdale Avenue, Fairlight.
- The whole of 94 Lauderdale Avenue, Fairlight.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

#### STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions 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.

## DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority **approves** Development Consent to DA2022/1528 for demolition works and construction of a dwelling house including swimming pool on land at Lot 11 DP 6817, 92 Lauderdale Avenue FAIRLIGHT, subject to the conditions set out in the Assessment Report subject to the following:

1. The amendment of condition 23 to read as follows:

### **23. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties

; The whole of 90 Lauderdale Avenue, Fairlight.

; The whole of 94 Lauderdale Avenue, Fairlight.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development..

Vote: 3/0

**3.7 DA2022/0869 - 1 / 43 - 45 NORTH STEYNE MANLY - CHANGE OF USE TO A FOOD AND DRINK PREMISES (RESTAURANT), NEW INTERIOR FITOUT, MECHANICAL VENTILATION EXHAUST AND HOURS OF OPERATION**

**PANEL MEMBERS**

Dan Milliken	Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Neil Cocks	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.

**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.

**DETERMINATION OF DEVELOPMENT APPLICATION**

THAT Council as the consent authority **approves** Development Consent to DA2022/0869 for change of use to a food and drink premises (restaurant), new interior fitout, mechanical ventilation exhaust and hours of operation on land at Lot 1 SP 69948, 1 / 43 - 45 North Steyne MANLY, subject to the conditions set out in the Assessment Report.

Vote: 3/0

*The meeting concluded at 1pm*

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 February 2023.