

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

held via teleconference on

WEDNESDAY 28 JUNE 2023

**Minutes of a Meeting of the Development Determination Panel
held on Wednesday 28 June 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 JUNE 2023

The minutes of the Development Determination Panel held 14 June 2023, were adopted by all Panel Members and have been posted on the Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2022/1879 - 135A SEAFORTH CRESCENT SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING CONSTRUCTION OF AN INCLINATOR, STAIRS AND FENCING

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Kelly Lynch	Acting Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

The Panel viewed the site and the surrounds.

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

The Panel is satisfied that the existing inclinator, that crosses multiple properties, is not fit for purpose for the owners of No. 135A Seaforth Crescent, and that the proposed inclinator is a permitted ancillary use entirely within the subject site.

The Panel was also satisfied that the amenity impacts of visual and acoustic privacy could be dealt with via conditions of consent. These conditions would require screening on three sides of the rail car and the inclinator motor to be acoustically contained.

The Panel noted that the applicant commented on the 'near silence' of the motor and inclinator. The Panel notes the conditions about 60dBA above background noise levels. Given the comments from the applicant, the Panel considers 60dBA too loud and will impose conditions for 5dBA above background noise levels.

Two members of the Panel were satisfied that construction is possible, subject to the preparation of a detailed construction management plan (prior to the issue of the construction certificate).

One Panel member was not satisfied that sufficient information had been provided to demonstrate how the inclinator would be constructed, nor that suitable conditions could be imposed to ensure construction would not unreasonably impact on adjoining sites.

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 4.3 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** Application No. DA2022/1879 for alterations and additions to a dwelling house including construction of an inclinator, stairs and fencing at Lot 1 DP 236331, 135A Seaforth Crescent SEAFORTH, subject to the conditions set out in the Assessment Report, with the following changes:

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

7. Amendments to the approved plans

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

- A privacy screen 1.8m in height is to be provided along the extent of the northern, southern and eastern sides of the rail car. 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.
- Any side boundary fencing shown on the plans is to be deleted and does not form part of this consent.
- The motor for the inclinator must be detailed on the Construction Certificate plans, must be located a minimum of 2.0m from any property boundary and must be acoustically treated so that it does not produce noise, measured from the nearest property boundary, of more than 5dBA above normal background levels.

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

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

2. The addition of the following condition to be satisfied prior to the issue of the Construction Certificate:

Construction Management Plan

A Construction Management Plan (CMP) is to be prepared.

The CMP must detail how the works, including the inclinator and all footings, are to be constructed, how materials are to be brought to and into the site, how excavated material will be removed and how the neighbouring properties are to be protected.

The CMP must detail how the above matters (except for the bringing of materials to the site) will be done entirely within the subject site.

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

Reason: To ensure the construction does not unreasonably impact on surrounding land.

3. The addition of the following condition to be addressed prior to any commencement:

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, and landscape elements including rock outcrops/floaters and vegetation.

Property / Properties: 137A, 137 and 135 Seaforth Crescent.

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. If access is denied, then no dilapidation report is required.

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 rising 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.

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

16. Geotechnical Requirements

All recommendations included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

A Geotechnical Engineer must be on site for the excavation of the footings to instruct on how to minimise the risk to neighbouring sites.

Reason: To ensure geotechnical risk is mitigated appropriately.

5. The amendment of condition 24 to read as follows:

24. Acoustic expert to verify noise

Prior to Occupation certificate, a qualified acoustic expert is to ensure the inclinometer and motor does not exceed noise levels of 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

6. The amendment of condition 27 to read as follows:

27. Inclinometer Noise

The inclinometer (including the motor) shall not produce noise levels that exceed 5dBA above the

normal background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

Vote: 2/1

3.2 DA2022/2208 - 77 CASTLE CIRCUIT SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Kelly Lynch	Acting 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 was not satisfied with the variation to the floor space ratio development standard or the impacts resulting from the proposed upper level addition.

The Panel requested the applicant provide amended plans deleting the “parent’s lounge/study” and associated deck, plus updated clause 4.6 requests for height and floor space to reflect the amended plans, and an amended BASIX certificate.

These have been provided by the applicant, uploaded to the NSW Planning Portal and reviewed by the Panel.

The Panel is now satisfied that the proposal, as amended, is acceptable.

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 4.3 Height of Buildings and 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** Application No. DA2022/2208 for alterations and additions to a dwelling house at Lot 33 DP 200638, 77 Castle Circuit SEAFORTH, subject to the conditions set out in the Assessment Report, with the following changes:

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

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 010, Issue D, Site Analysis	5 July 2023	Hot House Architects
DA 098, Issue C, Basement	12 May 2023	Hot House Architects
DA 099, Issue C, Pool and Terrace	12 May 2023	Hot House Architects
DA 100, Issue C, Ground Floor	12 May 2023	Hot House Architects
DA 101, Issue C, First Floor Plan	12 May 2023	Hot House Architects
DA 102, Issue D, Second Floor Plan	5 July 2023	Hot House Architects
DA 110, Issue D, Roof Plan	5 July 2023	Hot House Architects
DA 200, Issue D, East Elevation	5 July 2023	Hot House Architects
DA 201, Issue D, West Elevation	5 July 2023	Hot House Architects
DA 202, Issue D, Street (North) Elevation	5 July 2023	Hot House Architects
DA 203, Issue D, South Elevation	5 July 2023	Hot House Architects
DA 300, Issue D, Section	5 July 2023	Hot House Architects
DA 301, Driveway Sections	12 May 2023	Hot House Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
D1, Issue B, Details, Notes & Legend	8 June 2023	NY Civil Engineering
D2, Issue B, Stormwater Management Basement Plan	8 June 2023	NY Civil Engineering
D3, Issue B, Stormwater Management Terrace/Ground Floor Plan	8 June 2023	NY Civil Engineering
D4, Issue B, Stormwater Management First/Second Floor Plan	8 June 2023	NY Civil Engineering
D5, Issue B, Stormwater Management	8 June 2023	NY Civil Engineering

Third Floor/Roof Plan		
D6, Issue B, Stormwater Details	8 June 2023	NY Civil Engineering
D7, Issue B, Stormwater Details	8 June 2023	NY Civil Engineering
D8, Issue B, Stormwater Details	8 June 2023	NY Civil Engineering
D9, Issue B, Sediment Control Plan	8 June 2023	NY Civil Engineering
D10, Issue B, Sediment Control Details	8 June 2023	NY Civil Engineering

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate – A478115_02	7 July 2023	Hot House Studio
Bushfire Assessment Report	3 December 2022	Sydney Bushfire Consultants
Bushfire Risk Assessment Certificate	3 December 2022	Sydney Bushfire Consultants
Arboricultural Impact Assessment	9 December 2022	Hugh The Arborist
Geotechnical Report, J4559	11 October 2022	White Geotechnical Group

- 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		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	21 October 2022	Jonathan Algar C/O Hot House 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.

Vote: 3/0

3.3 DA2023/0202 - 26 GREYCLIFFE STREET QUEENSCLIFF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Kelly Lynch	Acting 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 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.

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.

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** Application No. DA2023/0202 for alterations and additions to a dwelling house at Lot 23 DP 6076, 26 Greycliffe Street QUEENSCLIFF, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.4 REV2023/0012 - 2 CURBAN STREET BALGOWLAH HEIGHTS - REVIEW OF DETERMINATION OF APPLICATION DA2022/1442 FOR DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Kelly Lynch	Acting 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 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 submission have been taken into account in the report and the meeting.

DETERMINATION OF REVIEW APPLICATION

THAT Council as the consent authority, **approves** Review Application No. REV2023/0012 for Review of Determination of Application DA2022/1442 for demolition works and construction of a dwelling house including swimming pool at Lot 1 DP 758044, 2 Curban Street BALGOWLAH HEIGHTS, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.5 DA2022/1719 - 150 QUEENSCLIFF ROAD QUEENSCLIFF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Kelly Lynch	Acting 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 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 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 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.

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** Application No. DA2022/1719 for alterations and additions to a dwelling house at Lot 6 DP 8260, 150 Queenscliff Road QUEENSCLIFF, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.6 MOD2022/0518 - 26 RALSTON ROAD PALM BEACH - MODIFICATION OF DEVELOPMENT CONSENT DA2020/0096 GRANTED FOR DEMOLITION OF A DWELLING HOUSE AND CONSTRUCTION OF TWO DWELLING HOUSES

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Kelly Lynch	Acting 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 agreed that the proposed modifications would result in additional view impacts, particularly if the vegetation on the eastern side of lot 5 were to be removed.

The Panel also notes the low floor to ceiling heights in the current approval and the desire to increase them. However, the Panel is of the view that there is a better way to do this without needing to increase the maximum approved RLs. The Panel is of the view that this needs to be explored in more detail but in a future application.

The Panel, while supporting the recommendation for refusal, does not support the reasons for refusal as drafted in the assessment report. In particular, the Panel does not agree that the documentation submitted with the application was inadequate and therefore cannot support that as a reason for refusal.

STATEMENT OF REASON

The proposal does not satisfy the relevant strategy, objectives and provisions of Pittwater LEP 2014 and the Pittwater 21 DCP.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the report and the meeting.

DETERMINATION OF MODIFICATION APPLICATION

THAT Council as the consent authority, **refuses** Modification Application No. Mod2022/0518 for Modification of Development Consent DA2020/0096 granted for demolition of a dwelling house and construction of two dwelling houses at Lot 4 and 5, Sec. 10, DP 14048, 26 Ralston Road PALM BEACH, for the following reasons:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Part C1.3 of the Pittwater 21 DCP in that:
 - o The proposed increase height will adversely affect the sharing of views with 8 Ebor Road, Palm Beach.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Part D12.8 of the Pittwater 21 DCP in that:

- The proposed increase in building height will result in excessive built form that is unable to be satisfactorily screened and softened.

Vote: 3/0

3.7 DA2023/0099 - 30 UTINGU PLACE BAYVIEW - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Kelly Lynch	Acting 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 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** Application No. DA2023/0099 for alterations and additions to a dwelling house including a swimming pool at Lot 17 DP 248062, 30 Utingu Place BAYVIEW, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.8 DA2023/0255 - 3 LAROOL ROAD TERREY HILLS - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Kelly Lynch	Acting 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 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.

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** Application No. DA2023/0255 for demolition works and construction of a dwelling house including swimming pool at Lot 218 DP 752017, 3 Larool Road TERREY HILLS, subject to the conditions set out in the Assessment Report.

Vote: 3/0

The meeting concluded at 12pm.

This is the final page of the Minutes comprising 18 pages
numbered 1 to 18 of the Development Determination Panel meeting
held on Wednesday 28 June 2023.