



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

held via teleconference on

WEDNESDAY 12 JULY 2023

**Minutes of a Meeting of the Development Determination Panel
held on Wednesday 12 July 2023
via teleconference**

1.0 APOLOGIES AND DECLARATIONS INTEREST

Nil.

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 28 JUNE 2023

The minutes of the Development Determination Panel held 28 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 DA2022/1326 - 4 & 6 RAYNER ROAD WHALE BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Maxwell Duncan	Acting Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

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

The Panel questioned the applicant on the issues raised by the objectors and requested the applicant provide amended plans showing the services room in section, deleting the slab between the services room and pool, and deleting elements within the foreshore building line.

The Panel is satisfied that the amended plans are acceptable.

The Panel noted that numerous changes to the conditions of consent are required, including the imposition of specific requirements to deal with construction impacts on the private driveway servicing several properties.

The changes to conditions are detailed in the determination, below.

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** Application No. DA2022/1326 for demolition works and construction of a dwelling house including swimming pool at Lot 104 & Lot 105 DP 11933, 4 & 6 Rayner Road WHALE BEACH, 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
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Drawing No.	Dated	Prepared By
DA010 - Site Plan and Site Analysis Plan - Issue 3	18.07.2023	CM Studio
DA011 - Waste Erosion and Sediment Control Plan - Issue 3	18.07.2023	CM Studio
DA100 - Garage Level Plan - Issue 3	18.07.2023	CM Studio
DA101 - First Level Plan - Issue 3	18.07.2023	CM Studio
DA102 - Ground Level Plan - Issue 3	18.07.2023	CM Studio
DA103 - Lower Level Plan - Issue 3	18.07.2023	CM Studio
DA104 - Pool Level Plan - Issue 3	18.07.2023	CM Studio
DA105 - Roof Plan - Issue 3	18.07.2023	CM Studio
DA200 - South (Street) Elevation - Issue 3	18.07.2023	CM Studio
DA201 - West Elevation - Issue 3	18.07.2023	CM Studio
DA203 - North Elevation - Issue 3	18.07.2023	CM Studio
DA204 - East Elevation - Issue 3	18.07.2023	CM Studio
DA300 - Section A - Issue 3	18.07.2023	CM Studio
DA301 - Section B - Issue 3	18.07.2023	CM Studio
DA302 - Section C - Issue 3	18.07.2023	CM Studio
DA303 - Section D - Issue 3	18.07.2023	CM Studio
DA304 - Extended Section - Issue 3	18.07.2023	CM Studio
DA305 - Section E - Issue 1	18.07.2023	CM Studio
DA350 - Pool Plan + Section - Issue 3	18.07.2023	CM Studio
DA351 - Driveway Plan + Section - Issue 3	18.07.2023	CM Studio
DA450 - Excavated Plans - Issue 3	18.07.2023	CM Studio
DA451 - Excavation Sections - Issue 3	18.07.2023	CM Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Costal Engineering Advice	3 August 2022	Horton Coastal Engineering
Arboricultural Impact Assessment	20/07/2022	Advanced Treescape Consulting
Geotechnical Assessment	5 August 2022	JK Geotechnics

- 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:

Landscape Plans		
Drawing No.	Dated	Prepared By
DA401 - Landscape Plan	18.01.2023	CM Studio

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	25.07.2022	MAB

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 7 to read as follows:

7. Amended Landscape Plan

An amended landscape plan shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

- a) only locally native plant species shall be installed in the 1500mm wide landscaped buffer along the rear (northern) boundary. All species in the landscaped rear (northern) buffer are to be selected from the Coastal Headland Clay Heath Plant Community Type (PCT 1817) and/or an offspring PCT from the Eastern PCT reclassification system; remove all *Bougainvillea* species.
- b) the planting schedule is to be updated to include the species, size and numbers of all plants proposed to be planted in the 1500mm wide rear landscaped buffer.
- c) the 3 x *Howea forsteriana* in the rear yard are to be replaced with 3 x advanced *Livistona australis*.
- d) one locally native tree (selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, or Council's Tree Guide) shall be installed within the front setback, to achieve a mature height of at least 6 metres,
- e) one locally native tree (selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, or Council's Tree Guide) shall be installed in the position of the proposed *Pandanus* species, to achieve a mature height of at least 6 metres; the *Pandanus* may be relocated or deleted from the proposal.

Amended plans are to be certified by a qualified ecologist as complying with this condition and provided with the ecologist's certification to the Certifier prior to Construction Certificate.

Reason: Landscape amenity and retention of biodiversity values of the site and adjoining bushland.

3. The deletion of condition 12. Amended Landscape Plan
4. The deletion of condition 16. Amendments to the approved plans
5. The amendment of condition 23 to read as follows:

23. Construction Traffic Management Plan (CTMP)

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a TfNSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- a) The proposed phases of construction works on the site, and the expected duration of each construction phase.
- b) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- c) Make provision for all construction materials to be stored on site, at all times.
- d) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- e) The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- f) Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - i) Evidence of the legal right to use the access route or provide owners consent from the owners/strata/community association.
 - ii) Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - iii) Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP,
 - iv) No materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - v) How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - vi) A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - vii) A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - (a) Compare the post-construction report with the pre-construction report,
 - (b) Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - (c) Should any damage have occurred, identify remediation actions taken.
 - (d) Be submitted to Council with the Occupation Certificate
- g) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site, exclusive of any private road/driveway, community title road or right of way
- h) Make provision for parking onsite. Parking minimisation strategies are to be considered and documented.
- i) The CTMP must stipulate the size of the vehicles accessing the site and whether access is feasible in line with the adjoining property access uses.
- j) Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council.
- k) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.

- l) Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- m) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- n) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- o) Proposed protection for Council and adjoining properties
- p) The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 –

“Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

6. The addition of the following condition in the ‘prior to any commencement’ section of the consent:

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: 2 Rayner Road, Whale Beach & 8 Rayner Road, Whale Beach

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.

7. The deletion of condition 53. Geotechnical Certification Prior to Occupation Certificate

Vote: 3/0

3.2 DA2022/2280 - 47 BEATTY STREET BALGOWLAH HEIGHTS - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL AND GARAGE

PANEL MEMBERS

Daniel Milliken	Manager, Development Assessment
Maxwell Duncan	Acting Manager, Development Assessment
Neil Cocks	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

The Panel was addressed by representatives of the applicant.

The Panel questioned the applicant on the extensive excavation, the use of that floor space and the impacts of the recommended conditions of consent, particularly the condition requiring amendments to the approved plans.

The Panel notes the applicant's comments around the roof terrace and the potential for another floor at that level. However, the Panel is aware that the proposal is already at the maximum amount of floor space that is acceptable and any additional floor at the roof level would need to be compensated by a reduction elsewhere.

The Panel notes the benefit of removing the existing driveway but considers the significant excavation and the additional floor space above the LEP control to be reasonable compensation.

Overall, the Panel is satisfied that the recommended conditions of consent strike the right balance in these circumstances.

The Panel therefore 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.

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** Application No. DA2022/2280 for demolition works and construction of a dwelling house including swimming pool and garage at Lot 14 DP 11774, 47 Beatty Street BALGOWLAH HEIGHTS, subject to the conditions set out in the Assessment Report.

Vote: 3/0

The meeting concluded at 11:30am.

This is the final page of the Minutes comprising 12 pages
numbered 1 to 12 of the Development Determination Panel meeting
held on Wednesday 12 July 2023.