



northern
beaches
council

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held via Teleconference on

WEDNESDAY 2 AUGUST 2023

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 2 August 2023

The public meeting commenced at 12.00pm and concluded at 12.10pm.

The deliberations and determinations commenced at 12.20pm following the public meeting and concluded at 2.41pm.

ATTENDANCE:

Panel Members

Peter Biscoe KC	Chair
Graham Brown	Town Planner
Jason Perica	Town Planner/Architect
John Simmonds	Community Representative

The Panel have visited all sites personally, or electronically, and have had regard to the assessment report, all accompanying documentation, submissions from the public and any supplementary reports in determining all applications.

1.0 APOLOGIES AND DECLARATIONS OF INTEREST

No apologies

In accordance with Section 4.9 of the NSW Government Code of Conduct for Local Government Planning Panels, all members have signed a declaration of interest in relation to each item on the agenda. No conflicts of interest were disclosed.

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 21 JULY 2023

The Panel noted that the minutes of the Northern Beaches Local Planning Panel held 21 July 2023, were adopted by the Chairperson and have been posted on the Council's website.

3.0 CATEGORY 3 APPLICATIONS

Nil

4.0 PUBLIC MEETING ITEMS

4.1 DA2022/2102 - 8 WALSH STREET, NORTH NARRABEEN - SUBDIVISION OF ONE (1) LOT INTO TWO (2) LOTS

PROCEEDINGS IN BRIEF

The proposal is for demolition works and subdivision of one (1) lot into two (2) lots.

At the public meeting which followed the Panel was addressed by one (1) representative of the applicant.

The Panel received a late submission dated 2 August 2023, in which the applicant's representative requested the Panel defer the item. The Panel refused the request for deferral because insufficient reason was given for a deferral and the Panel was satisfied that the Council report adequately addressed the development application.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2022/2102 for the demolition works and subdivision of one (1) lot into two (2) lots on land at Lot 86 DP 11809, 8 Walsh Street, North Narrabeen for the following reasons:

1. Clause 4.6 Pittwater LEP 2014

The Panel is not satisfied that:

- a) the applicant's written request under clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of clause 4.1 Minimum Subdivision Lot Size has adequately addressed and demonstrated that:
 - i) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - ii) there are sufficient environmental planning grounds to justify the contraventions.
- b) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

2. Desired Future Character

Pursuant to Section 4.15(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A4.14 Warriewood Locality (Desired Future Character) of the Pittwater 21 Development Control Plan.

Particulars:

The undersized allotments will not satisfy the requirements of the Desired Future Character for Warriewood, which seek to retain the existing "low-intensity" character of the area. Further, the applicant has failed to provide any specific details of future development on these under-sized allotments, to demonstrate how the proposed allotments will achieve the low-intensity character of the area.

3. Minimum Building Area

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 Clause B2.2 Subdivision -

Low Density Residential Areas of the Pittwater 21 Development Control Plan.

Particulars:

An inadequate minimum building area is provided on Proposed Lot 1. The application has therefore failed to provide sufficient information that future development can be accommodated on the proposed allotments, consistent with the NSW Land and Environment Court Planning Principle "Subdivision - When a residential subdivision application should impose constraints on future development" [Parrott v Kiama Council [2004] NSWLEC 77]

4. **Off-Street Parking Facilities**

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 Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities of the Pittwater 21 Development Control Plan.

Particulars:

There is insufficient information provided to determine if future development on the site can provide adequate off-street car parking and not have adverse impact on the surrounding local road network.

5. **Amenity and Design**

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 Clause C4.7 Subdivision - Amenity and Design of the Pittwater 21 Development Control Plan.

Particulars:

Insufficient information has been provided to determine if the under-sized allotments proposed will not have an adverse impact on the amenity of the surrounding area.

6. **Site Interface Amenity**

The proposed landlocked rear allotment is likely to lead to interface amenity issues with neighbouring properties due to the nature of the site and adjoining developments.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report, subject to the above.

Vote: 4/0

5.0 NON PUBLIC MEETING ITEMS

5.1 DA2022/2181 - 69 MELWOOD AVENUE, FORESTVILLE - DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS HOUSING DEVELOPMENT

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a seniors housing development.

The Panel received a supplementary memo from Council on 2 August 2023.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2022/2181 for demolition works and construction of a seniors housing development on land at Lot 1 DP 208183, 69 Melwood Avenue, Forestville 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 Clause 4.6 Exceptions to development standards of the Warringah LEP.

Particulars:

The Panel is not satisfied that:

- a) the applicant's written requests under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of the SEPP (Housing) 2021 development standards in relation to floor space ratio and building planes has adequately addressed and demonstrated that:
 - i. compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - ii. there are sufficient environmental planning grounds to justify the contraventions.
 - b) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is contrary to the provisions of Clause 108(2)(c) (Floor Space Ratio) of *State Environmental Planning Policy* (Housing) 2021.

Particulars:

Clause 108(2)(c) specifies a floor space ratio of 0.5:1. The proposal is for a floor space ratio of 0.598:1. Consequently;

- a) the proposed development, by virtue of its bulk and scale, will not be consistent with the desired character of the locality.
 - b) the development will not be compatible with the bulk and scale of surrounding and nearby development.
 - c) the development will not be compatible with the existing streetscape.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is contrary to the provisions of Clause 84(2)(c)(iii) (Building

Plane) of *State Environmental Planning Policy (Housing) 2021*.

Particulars:

Clause 84(2)(c)(iii) specifies that if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site. The third storey of the building protrudes outside the 45 degree building plane. Consequently:

- a) the proposed development, by virtue of its bulk and height, will not be consistent with the desired character of the locality.
 - b) the proposed development will not be compatible with the height and scale of surrounding and nearby development.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal is not considered to satisfactorily meet the relevant Design Quality Principles of SEPP 65, in particular Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density and Principle 6: Amenity.
 5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the Desired Future Character of the location and is an over-development of the site.

REASONS FOR DETERMINATION

The reasons are as stated above. In addition, the Panel took into consideration the conclusion of the Design & Sustainability Advisory Panel (DSAP) in relation to the original proposal, that it did not support more than a floor space ratio of 0.5:1. The Panel agrees and considers that the subsequent amended proposal does not affect that conclusion.

Vote: 4/0

5.2 DA2023/0208 - 184 PITTWATER ROAD, MANLY - ALTERATIONS AND ADDITIONS TO AN EXISTING DUAL OCCUPANCY TO CREATE A SINGLE DWELLING ON EACH LOT

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to an existing dual occupancy (attached).

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0208 for alterations and additions to an existing dual occupancy (attached) on land at Lot 30 DP 2427, 184 Pittwater Road, Manly, subject to the conditions set out in the Assessment Report, subject to amendment of condition 8 to read as follows:

8. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 6.66m AHD.

Building Components and Structural Soundness – B1

All new development below the FPL of 7.16m AHD shall be designed and constructed as flood compatible materials.

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level 7.16m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 7.16m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level of 6.66m AHD. Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 7.16m AHD unless adequately protected from floodwaters in accordance with industry standards.

Pools - H1

The pool's coping is to be less than 150mm above natural ground level.

All electrical equipment associated with the pool (including pool pumps) is to be waterproofed and/or located at or above the Flood Planning Level of 7.16m AHD.

All chemicals associated with the pool are to be stored at or above the Flood Planning Level of 7.16m AHD.

Pool fencing shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level of 7.16m AHD.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report, except that Mr Perica considers that the proposed swimming pools should be deleted and replaced by landscaping given non compliances with the rear setback and pool controls in the Manly Development Control Plan.

Vote: 3/1 (Mr Perica dissenting for the reasons stated above relating to the swimming pools)

5.3 DA2023/0150 - 19/2 MONASH PARADE, DEE WHY - ALTERATIONS AND ADDITIONS TO COMBINE UNITS 19 AND 20 WITHIN A RESIDENTIAL FLAT BUILDING INTO A SINGLE DWELLING INCLUDING STRATA SUBDIVISION

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to combine Units 19 and 20 within a residential flat building into a single dwelling including strata subdivision.

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 Local Environmental Plan 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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0150 for alterations and additions to combine Units 19 and 20 within a residential flat building into a single dwelling including strata subdivision on land at Lot 19 SP 7604, 19 / 2 Monash Parade, Dee Why subject to the conditions set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0

5.4 MOD2023/0171 - 1191 BARRENJOEY ROAD, PALM BEACH - MODIFICATION OF DEVELOPMENT CONSENT DA2021/0669 GRANTED FOR DEMOLITION WORKS AND CONSTRUCTION OF A NEW RESTAURANT, CARPARKING AND ASSOCIATED USES, INCLUDING A VOLUNTARY PLANNING AGREEMENT

PROCEEDINGS IN BRIEF

The proposal is for Modification of Development Consent DA2021/0669 granted for demolition works and construction of a new restaurant, carparking and associated uses.

The Panel received a late submission date 31 July 2023 and a supplementary memo from Council dated 1 August 2023.

DETERMINATION OF MODIFICATION APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Modification Application No. Mod2023/0171 for Modification of Development Consent DA2021/0669 granted for demolition works and construction of a new restaurant, carparking and associated uses on land at Lot 7005 DP 1117451, 1193 Barrenjoey Road, Lot 7002 DP 1117592, 1193 Barrenjoey Road and Lot 298 DP 721522, 1191 Barrenjoey Road, Palm Beach subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. Delete the proposed condition 38a for the reasons given in Council's supplementary memo dated 1 August 2023.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo.

Vote: 4/0

This is the final page of the Minutes comprising 11 pages numbered 1 to 11 of the Northern Beaches Local Planning Panel meeting held on Wednesday 2 August 2023.