



northern
beaches
council

MEMORANDUM

DATE: 5/09/2023

TO: Northern Beaches Local Planning Panel (NBLPP)

CC: Peter Robinson, Executive Manager Development Assessment

FROM: Tom Prosser

SUBJECT: Item No. 4.1 – DA2022/2234 – 19 Morella Road, Whale Beach

TRIM REFERENCE: 2023/570612

The purpose of this memorandum is to provide assessment of new information and issues raised in late submissions made to the panel.

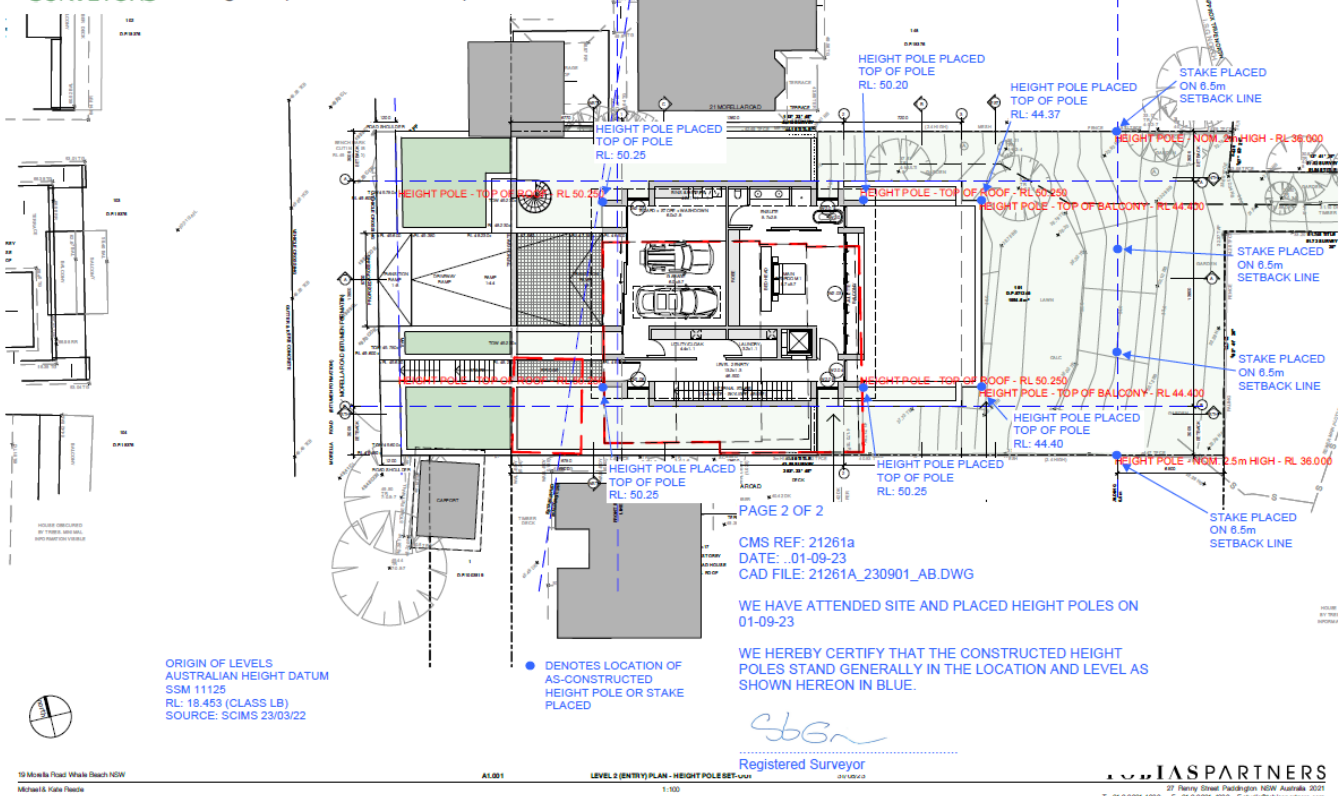
There have been 3 late submissions from objectors and late submissions made by the applicant.

Late submissions - Applicant

- Height poles and height pole diagrams
- Updated Clause 4.6 application

Height Poles and Height Pole Diagrams

On September 1, 2023, the applicant provided a letter with Survey confirmation to state that height poles had been erected. After this confirmation was provided, the panel inspected the site (on 4 September). A diagram of the height pole survey confirmation provided by the applicant is shown below:



Clause 4.6 Application

The applicant has submitted an updated Clause 4.6 application to reflect the amended plans. This application has been forwarded to the panel for consideration.

Late Submissions – Objectors

- Building Height and measurement of Building height
- Dilapidation report for 206 Whale Beach Road

Building Height and measurement of Building Height

An assessment of Building height has been made, having regard to *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582, and with consideration of the known points on the site (provided in the submitted survey). This consideration has found the proposal does not comply with the Height of Building standard at the rear (as shown in the Assessment report).

In addition to this diagram in the assessment report, the north-eastern rear corner of the development also does not comply with Building height due to the west to east slope along with the sharp drop off in topography along the northern boundary. Due to this unusual topography, the height of Building along the northern elevation varies from 5.3m to 12.1m. It is again noted that the cl4.6 application refers to the relevant non-compliance at the rear of the building, caused by the east to west slope.

Dilapidation Report

A further request is made for condition 24 to include 206 Whale Beach, Whale Beach in the listed properties that require a Dilapidation report.

Upon further review and consideration, it is reasonable to require a Dilapidation report for 206 Whale Beach Road, particularly due to the potential for the adjacent passageway to be used for construction.

It is therefore recommended that condition 24 is amended to add 206 Whale Beach Road, Whale Beach.

Conclusion

It is concluded that all other issues raised in late submissions to the panel have been addressed in the Assessment report or that further clarification through a Memorandum is not necessary.

Recommendations

1. The Panel note the Height Pole Survey Confirmation.
2. The panel note the updated CI4.6 application.
3. The following amendment be made to Condition 24:

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: 17 Morella Road, 21 Morella Road, Whale Beach and **206 Whale Beach 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.