

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held via Teleconference on

WEDNESDAY 4 OCTOBER 2023

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 4 October 2023

The public meeting commenced at 12.00pm and concluded at 12.50pm.

The deliberations and determinations commenced at 1.20pm following the public meeting and concluded at 6.58pm.

ATTENDANCE:

Panel Members

Peter Biscoe KC	Chair
Oliver Klein	Town Planner
Jason Perica	Town Planner/Architect
Peter Cotton	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 EXTRAORDINARY NORTHERN BEACHES LOCAL PLANNING PANEL HELD 25 SEPTEMBER 2023

The Panel noted that the minutes of the Extraordinary Northern Beaches Local Planning Panel held 25 September 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 PEX2023/0002 - PLANNING PROPOSAL AT THE WARRINGAH RECREATION CENTRE

PROCEEDINGS IN BRIEF

The proposal is to permit an additional permitted use of "registered club" on the site of the proposed new Warringah Golf Club.

At the public meeting which followed the Panel was addressed by two representatives of the applicant.

RECOMMENDATION OF PLANNING PANEL

That the Northern Beaches Local Planning Panel **advises** Council that it is appropriate for Council to forward the planning proposal to the Minister for a Gateway determination under section 3.34(1) of the Environmental Planning & Assessment Act 1979, as recommended in the report of GHD Pty Ltd dated 13 September 2023.

Vote: 4/0

4.2 DA2022/0837 - 155 PACIFIC PARADE, DEE WHY - DEMOLITION WORKS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a residential flat building.

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

The Panel received a late submission dated 3 October 2023.

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 standards is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) 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.

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. DA2022/0837 for demolition works and construction of a residential flat building on land at Lot 154 DP 6167, 153 Pacific Parade, Dee Why, Lot 1 DP 1222977, 151 Pacific Parade, Dee Why and Lot 155 DP 6167, 155 Pacific Parade, Dee Why subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 15 to read as follows:

15. Full Photographic Archival Record

A full and thorough photographic archival record of 151 Pacific Parade Dee Why is to be made of all existing buildings and structures (including all interiors and exteriors and their setting), in accordance with the guidelines issued by NSW Heritage. This record must be submitted to and approved by Council's Heritage Officer prior to the issuing of the Construction Certificate. Once approved, a physical copy must also be submitted to Council's Local Studies Library.

The photographic record should be made using digital technology, and must include at a minimum:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100 with dimensions of rooms;
- Internal photos detailing every room;
- Photographs which document the site, cross-referenced in accordance with recognised archival

- recording practice to catalogue sheets.

Details demonstrating compliance with this condition must also be submitted to the Principal Certifying Authority prior to commencement of any demolition or works on-site.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

2. The amendment of condition 26 to read as follows:

26. Contaminated Land Requirements

Prior to the issue of any Construction Certificate:

1. A Detailed Site Investigation report be carried out in accordance with the report recommendations by JK Environments (JKE) "PRELIMINARY (STAGE 1) SITE CONTAMINATION INVESTIGATION (PSI) ref: E34745BW rpt 10 March 2023." to determine if any contaminants are present and if necessary, how the site is to be remediated, contaminants safely removed and disposed of to the satisfaction of the Certifier and Council to ensure that the site will be suitable for the proposed use.
2. A Contamination Management Plan is to be prepared if required by an appropriately qualified Environmental Consultant and provided to the satisfaction of the Certifying Authority. The plan shall detail:
 - a) How all the requirements and / or recommendations contained within the Contamination Report/s are to be implemented;
 - b) A Remedial Action Plan (RAP) prepared by a suitably qualified Environmental Consultant.:
 - c) Stipulate reporting and processes associated with discovery of any new contamination that is revealed during excavation, demolition or development works. This process shall include the ability to contact NSW Fire and Rescue for pollution incidents, have on call (24 hours a day), a suitably qualified Environmental Consultant to undertake immediate investigations and provide recommendations for containment and rectification of contaminants or toxins and a process for notification to Council and the Principal Certifying Authority.
 - d) A requirement to complete ongoing water and soils testing during excavation, demolition and development works as follows:
 - (a) During construction in order to monitor water and soil quality the following is to be implemented:
 - i) Water testing is to be completed in accordance with Section 3 of the NSW RTA's Guideline for Construction Water Quality Monitoring
 - ii) Soil Testing in order to detect contaminants is occur weekly with two (2) samples in accordance with the NSW EPA Contaminated Site Sampling Design Guidelines.
 - (b) The requirements of (i) and (ii) above are to be implemented from the commencement of works as follows:
 - i) Fortnightly during excavation works
 - ii) Monthly during building works
 - e) To ensure water quality is maintained runoff must be drained to an adequately bunded central collection sump and treated, to meet NSW Department of Environment and Climate Change (formerly Environment Protection Authority) discharge criteria.

Note: Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transported for treatment/disposal to an appropriate waste treatment/processing facility.

f) All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:

- i) Protection of the Environment Operations Act 1997; and
 - ii) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
 - iii) State Environmental Planning Policy (Resilience and Hazards) 2021
- g) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority and the provisions of all relevant Acts, Regulations and Guidelines.

Note: The following standards applied at the time of determination:

- i) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
- h) Stipulate protocols for the importation of any landfill material onto the site the protocols shall include:
- 'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the (*) site at (*), to the subject premises.
 - Requirement that any landfill material being brought to the site shall be free of contaminants or toxins and shall suitable for the use on the land.
 - Any landfill material being brought to the site shall have a validation report prepared to the satisfaction of the Principal Certifying Authority (prepared in accordance with the Department of Environment & Climate Change's guidelines).

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

Reason: Protection of the environment by managing any existing site contamination if discovered to ensure the site will be suitable for the proposed use.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report, subject to the above. However, the Panel does not agree with the statement in the report that the site poses no risk of contamination. Rather, this is best determined after a Detailed Site Investigation report is obtained to further characterise the site contamination conditions and determine whether remediation is required, as stated elsewhere in the report. The Panel is satisfied as to the matters specified in clause 4.6(1) of the SEPP(Resilience and Hazards) 2021 having regard to condition 26.

Vote: 4/0

4.3 REV2023/0019 - 8 BAROONA ROAD , CHURCH POINT - REVIEW OF DETERMINATION OF APPLICATION DA2022/1650 FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

PROCEEDINGS IN BRIEF

The proposal is for Review of Determination of Application DA2022/1650 for alterations and additions to a dwelling house including a swimming pool.

At the public meeting which followed the Panel was addressed by the representative of one neighbour and one representative of the applicant.

DETERMINATION OF REVIEW OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. REV2023/0019 for the Review of Determination of Application DA2022/1650 for alterations and additions to a dwelling house including a swimming pool on land at Lot A DP 391997,8 Baroona Road, Church Point for the reasons for refusal set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0

4.4 DA2023/0830 - 38 MCCARRS CREEK ROAD, CHURCH POINT - USE OF CABANA AND BOATSHED

PROCEEDINGS IN BRIEF

The proposal is for use of cabana and boatshed.

At the public meeting which followed the Panel was addressed by two representatives of the applicant.

The Panel received a late submission dated 29 September 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. DA2023/0830 for the use of cabana and boatshed on land at Lot 1 DP 209105, 38 McCarrs Creek Road, Church Point and Lot PO 7118, 38 McCarrs Creek Road, Church Point 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 not permissible within the W1 Zone under Pittwater Local Environmental Plan 2014.

Particulars:

- i. The application seeks consent for the use of a building as a boat shed.
- ii. The unauthorised fitout and use of the building are incompatible with its characterisation as a “boat shed” as defined in the Pittwater Local Environmental Plan 2014.
- iii. The proposed building has been adapted and is utilised for habitable purposes and is best characterised as a dwelling under the PLEP, which is a prohibited form of development within the W1 zone.

2. 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 7.8 Limited development on foreshore area of the Pittwater Local Environmental Plan 2014.

Particulars:

- i. The use of land is a type of development prescribed by Section 1.5 of the Environmental Planning and Assessment Act, 1979.
- ii. The cabana is not an exception under clause 7.8(2) of Pittwater Local Environmental Plan 2014. In particular, it is not a “recreation facility (outdoor)” as defined.
- iii. The building beneath the cabana is also not an exception under clause 7.8(2). In particular, it is not a “boat shed” as defined in the Pittwater Local Environmental Plan 2014.
- iv. As neither the cabana nor the building beneath it is an exception, a clause 4.6 written request is required for each, however no clause 4.6 written request was submitted with the application.
- v. The boat shed and cabana presents as a two-storey structure the appearance of which, from both the waterway and adjacent foreshore areas, will not be compatible with the surrounding area.

3. 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 Pittwater Local Environmental Plan 2014.

Particulars:

- i. The application does not include a clause 4.6 written request as a required for the variation to clause 7.8 Limited development on foreshore area of Pittwater Local Environmental Plan 2014.
- ii. In the absence of a clause 4.6 written request, development consent cannot be granted as no

written request has been provided to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

4. 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 A1.7 Considerations before consent is granted of the Pittwater 21 Development Control Plan.

Particulars:

i. The proposal is inconsistent with clause B3.7 Estuarine Hazard - Low density residential of Pittwater 21 Development Control Plan (P21 DCP), clause C1.5 Visual Privacy of P21 DCP, clause C1.6 Acoustic Privacy of P21 DCP, clause D4.6 Side and rear building line of P21 DCP, clause D4.8 Building envelope of P21 DCP, and clause D15.15 Waterfront development.

5. 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 B3.7 Estuarine Hazard - Low density residential of the Pittwater 21 Development Control Plan.

Particulars:

i. The proposed works to the boat shed are located below the Estuarine Planning Level, and an Estuarine Risk Management Report has not been submitted with the application.

6. 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 C1.5 Visual Privacy and Clause C1.6 Acoustic Privacy of the Pittwater 21 Development Control Plan.

Particulars:

i. The proposal is inconsistent with the outcomes of the control of clause C1.5 Visual Privacy, and the use of the cabana will result in unacceptable visual privacy impacts to the adjoining residents at No.40 McCarrs Creek Road.

ii. The proposal is inconsistent with the outcomes of the control of clause C1.6 Acoustic Privacy, and the use of the cabana will result in unacceptable acoustic impacts to the adjoining residents at No.40 McCarrs Creek Road.

7. 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 D4.6 Side and rear building line and Clause D4.8 Building envelope of the Pittwater 21 Development Control Plan.

Particulars:

i. The proposal is inconsistent with the outcomes of the control of clause D4.6 Side and rear building line, and Clause D4.8 Building envelope, and presents an unacceptable level of privacy impacts, and bulk and scale as a result of the cabana and associated roof structure.

8. 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 D15.15 Waterfront development of the Pittwater 21 Development Control Plan.

Particulars:

i. The proposal is inconsistent with the criteria for boatsheds, specifically ii and iv of the criteria detailed under sub-clause c) boatsheds.

ii. The boatshed with the cabana above is inconsistent with the one storey requirement for boatshed structures.

iii. The incorporation of shower, toilet facilities, and a wet bar is not permitted, and the roof areas of boatsheds are not permitted to be used for recreational purposes.

REASONS FOR DETERMINATION

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

Jason Perica had a dissenting view in relation to reason 1. Mr Perica agreed with the refusal decision, but did not agree with reason 1 because, in his view, while the predominant use of the boatshed was not entirely clear, the boatshed component of the proposal was capable of use as a boatshed, as sought, and this could be addressed by a condition of consent for that component.

Vote: 4/0

5.0 NON PUBLIC MEETING ITEMS

5.1 DA2022/0646 - 122 QUEENSCLIFF ROAD, QUEENSCLIFF - DEMOLITION WORKS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a residential flat building.

The Panel received three late submissions dated 29 September & 3 October 2023 and a supplementary memo from Council dated 4 October 2023.

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 standards is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) 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.

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, **grants deferred commencement approval** of Application No. DA2022/0646 for demolition works and construction of a residential flat building on land at Lot 5 DP 16941, 124 Queenscliff Road, Queenscliff and Lot 6 DP 16941, 122 Queenscliff Road, Queenscliff subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. The amendment of condition 2, BASIX Certificate to read as follows:

2. 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:

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 1276224M_05	19.7.2023	Chapman Environmental Services

2. The amendment of condition 53 to read as follows:

53. Car Lift Traffic requirements

- To prevent vehicles reversing to or from Queenscliff Road signage must be erected at both the street level and basement level entry points to the lift advising drivers to enter

in a forwards direction

- Details of the system, including the system operation, components and placement within the development, must be specified by a practising Traffic Engineer. This engineer is to submit a compliance certificate to the Principal Certifier that the system has been installed and operating as designed, in accordance with the requirements of this condition, prior to the issue of an Occupation Certificate for the development.

Reason: To reduce potential for vehicle conflicts entering or exiting the basement carpark.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo, subject to the above and the following.

1. (a) The development application is based on a rebuilding and enlargement of an existing use permitted with development consent under Part 7 (sections 162-167) of the Environmental Planning and Assessment Regulation 2021. The Part 7 provisions are called "the incorporated provisions" because they are taken to be incorporated in every Environmental Planning Instrument (EPI): section 4.67 (2) EPA Act 1979. Relevantly, section 163(1) provides that an existing use may be (a) enlarged, expanded or intensified, or (b) altered or extended, or (c) rebuilt. The development application must be determined taking into consideration (inter alia) relevant provisions of an EPI-which is defined to include a local environmental plan (LEP)-and a development control plan (DCP): section 4.15 (1) EPA Act. An EPI may contain provisions extending, expanding or supplementing the incorporated provisions, but any provision of an EPI that would "derogate" or have the effect of derogating from the incorporated provisions has no force or effect: section 4.67 (3).

(b) The provisions of an LEP fixing development standards do not derogate from the incorporated provisions: *Saffioti v Kiama Municipal Council* [2019] NSWLEC 57 at [65], approving earlier authority. Nor can built form controls in a DCP derogate in the manner prescribed by section 4.67 (3) since a DCP is not an EPI for the purposes of the Act: *Saffioti* at [4], [72]. [81]; *Made property Group Pty Ltd v North Sydney Council* [2020] NSWLEC 1332 at [154]. The planning principles in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71, which the assessment report assumed to be the only ones applicable, were predicated on the assumption that planning controls do derogate and therefore have no application to the incorporated provisions, an assumption that cannot prevail in light of the more recent decisions cited above. However, the assessment report did in fact assess the proposed development against the LEP and DCP controls.
2. The assessment report omitted to identify an objector Dr Kristina Vikman. This was due to an administrative error. The Panel has taken into account the written submissions of Dr Vikman and the submissions on her behalf by Planning Progress. The issues raised in those submissions prior to the assessment report were addressed in the assessment report (the view loss issue was dealt with not in the submissions received section but later in the report).
3. The assessment report states that "By 11am no overshadowing begins to affect No. 120 Queenscliff Road". The Council assessment officer advises the Panel that "By" should be "Before". An objection letter dated 8 June 2023 by Planning Progress on behalf of Dr Vikman made calculations challenging the applicant's solar diagrams. Consequently, on 25 July 2023 the applicant's architect amended its solar diagrams and the assessment officer accepted same as accurate. The Panel accepts the officer's assessment.

Vote: 4/0

5.2 DA2023/0335 - 161 RIVERVIEW ROAD, AVALON BEACH - CONSTRUCTION OF A BOATSHED AND DECK, TIMBER JETTY, SKID RAMP AND PONTOON.

PROCEEDINGS IN BRIEF

The proposal is for construction of a boatshed and deck, timber jetty, skid ramp and pontoon.

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 Local Environmental Plan 2014 seeking to justify a contravention of clause 4.3 Height of Buildings development standard and clause 7.8 Limited Development on Foreshore Area development standard has adequately addressed and demonstrated that:
 - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) 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.

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. DA2023/0335 for construction of a boatshed and deck, timber jetty, skid ramp and pontoon on land at Lot PO 11544 and Lot 1 DP 1282914, 161 Riverview Road, Avalon Beach subject to the conditions set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0

5.3 DA2023/0090 - 883 BARRENJOEY ROAD, PALM BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE, POOL AND BOATSHED

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a dwelling house, pool and boatshed.

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 Local Environmental Plan 2014 seeking to justify a contravention of clause 7.8 Limited Development on Foreshore Area development standard has adequately addressed and demonstrated that:
 - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) 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.

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, **grants deferred commencement approval** of Application No. DA2023/0090 for demolition works and construction of a dwelling house, pool and boatshed on land at Lot 1 DP 13620, 883 Barrenjoey Road, Palm Beach and Lot LIC 577198, 883 Barrenjoey Road, Palm Beach 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 DA2023/0888 - 25/37-38 EAST ESPLANADE, MANLY - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL APARTMENT**PROCEEDINGS IN BRIEF**

The proposal is for alterations and additions to a residential apartment.

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 Local Environmental Plan 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 standards is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) 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.

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. DA2023/0888 for alterations and additions to a residential apartment on land at Lot 25 SP 3035, 25 / 37 - 38 East Esplanade, Manly, Lot 46 SP 3035, 25 / 37 - 38 East Esplanade, Manly, Lot 48 SP 3035, 25 / 37 - 38 East Esplanade, Manly and Lot 72 SP 3035, 25 / 37 - 38 East Esplanade, Manly subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following condition:

Private Lift Overrun

The private lift overrun shall not extend beyond the height of the new roof. Details shall be submitted as part of the construction certificate application to the satisfaction of the certifier.

Reason: The private lift overrun is not shown on the roof plan, and is not part of the clause 4.6 height contravention request, and to ensure the lift overrun is compatible with the built form.

REASONS FOR DETERMINATION

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

Vote: 4/0

5.5 DA2023/0926 - 68 THE CORSO, MANLY - ALTERATIONS AND ADDITIONS TO A COMMERCIAL PREMISE AND USE AS A FOOD AND DRINK PREMISES AND ASSOCIATED SIGNAGE

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a commercial premise and use as a food and drink premises and associated signage.

The Panel a supplementary memo from Council dated 27 September 2023.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0926 for alterations and additions to a commercial premise and use as a food and drink premises and associated signage on land at Lot C DP 321706, 68 The Corso, Manly subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. The amendment of condition 3 to read as follows:

3. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Retail Premises.

A Retail Premises means a building or place at or on which:

- It is used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

Reason: To ensure compliance with the terms of this consent.

2. The deletion of condition 26.

Reason: Condition 26 is an inconsistent replication of Condition 20

3. The addition of the following condition:

Illumination of awning fascia sign

Nothing in this consent authorises or allows for the illumination of sign affixed to the awning fascia.

Reason: To ensure that the development has an acceptable heritage impact.

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 18 pages
numbered 1 to 18 of the Northern Beaches Local Planning Panel meeting
held on Wednesday 4 October 2023.