



northern
beaches
council

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held via Teleconference on

WEDNESDAY 18 OCTOBER 2023

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 18 October 2023

The public meeting commenced at 12.00pm and concluded at 12.37pm.

The deliberations and determinations commenced at 1.10pm following the public meeting and concluded at 2.29pm.

ATTENDANCE:

Panel Members

Annelise Tuor	Chair
Marjorie Ferguson	Town Planner
David Epstein	Urban Design/Architect
Phillip Young	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 4 OCTOBER 2023

The Panel noted that the minutes of the Northern Beaches Local Planning Panel held 4 October 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 DA2022/1494 - 2A ALLEN AVENUE, BILGOLA BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a dwelling house including swimming pool.

At the public meeting which followed the Panel was addressed by seven objectors.

The Panel received four late submissions and an updated petition dated 11, 15 & 16 October 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. DA2022/1494 for the demolition works and construction of a dwelling house including swimming pool on land at Lot 20 DP 11978, 2A Allen Avenue, Bilgola Beach and Lot A DP 379490, 2A Allen Avenue, Bilgola Beach, for the following reasons:

1. Clause 4.6 Height of Buildings Variation

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.

Specifically, the proposal is inconsistent with the underlying objectives of PLEP 2014, Clause 4.3 Height of Buildings. Further, the applicant's written request under Clause 4.6 of PLEP 2014 has not adequately demonstrated that compliance with the standards is unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify the contraventions or that the proposed development will be in the public interest.

2. Aims of the Pittwater Local Environmental Plan 2014

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.

3. Heritage

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 5.21 Heritage Conservation of the Pittwater Local Environmental Plan 2014.

Specifically, the application fails to demonstrate that the proposal will avoid adverse impacts upon the heritage-listed street trees in Allen Avenue or that the development would complement the streetscape and surrounding heritage items.

4. Excavation and Groundworks

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 7.2 Earthworks of the Pittwater Local Environmental Plan 2014.

Specifically, the proposed volume and depth of excavation to accommodate the proposed building are excessive and do not respond to the topography of the site. The proposal is also contrary to the provisions of Pittwater 21 Development Control Plan Clause A3.4, Clause A4.3 and Clause B8.1.

5. Biodiversity

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 7.6 Biodiversity Protection of the Pittwater Local Environmental Plan 2014.

Specifically, the application does not demonstrate that the proposal will not detrimentally impact existing trees on adjoining properties and Allen Avenue.

6. Desired Future Character and C4 Environmental Living Zone

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 the C4 Environmental Living Zone under PLEP 2014 and Clause A4.3 Bilgola Locality of the Pittwater 21 Development Control Plan.

Specifically, the proposal, due to its excessive bulk, its impact on the amenity of adjoining properties and users of the public domain, its poor relationship with the subject property and the environment is inconsistent with the objectives of the C4 Environmental Living Zone and with the Desired Future Character provisions of the Bilgola Locality.

7. Landscaping

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 C1.1 Landscaping and Clause D3.11 Landscaped Area - Environmentally Sensitive Land of the Pittwater 21 Development Control Plan.

Specifically, the combined footprint of the proposed dwelling and existing tennis court prevent the inclusion of adequate deep soil area/volume for substantial planting to assist in mitigating the bulk and scale of the Proposal, maintaining the character of the locality and minimising impacts to adjoining properties.

8. Amenity

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 C1.3 View Sharing, Clause C1.4 Solar Access, Clause C1.5 Visual Privacy and Clause C1.6 Acoustic Privacy of the Pittwater 21 Development Control Plan.

Specifically, the proposed building height, bulk, siting and design result in unacceptable impacts upon adjoining properties in relation to view loss, overshadowing and visual and acoustic privacy.

9. Setbacks and Building Envelope

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 D3.7 Side and Rear Building Line and Clause 3.9 Building Envelope of the Pittwater 21 Development Control Plan.

Specifically, the proposal would result in adverse amenity impacts upon adjoining properties and diminish the character of the surrounding locality.

10. Tennis Court

The tennis Court does not have development consent (there is a building information certificate that expires on 29 January 2028). The retention of the tennis court constraints the redevelopment of the site and exacerbates impacts in relation to height exceedance, extent of landscaping, non-compliance with rear setback and streetscape context.

11. Public Interest

Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Specifically, the development is not in the public interest having regard to the matters set out in the submissions to the extent that the concerns raised are consistent with Council's assessment.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and for the reasons stated above refuses the application.

Vote: 4/0

4.2 DA2023/0251 - 54 GREYCLIFFE STREET, QUEENSCLIFF - ALTERATIONS AND ADDITIONS TO A DUAL OCCUPANCY INCLUDING A SWIMMING POOL

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a dual occupancy including a swimming pool.

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

The Panel received a late submission dated 16 October 2023 and a supplementary memo from Council dated 17 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. DA2023/0251 for alterations and additions to a dual occupancy including a swimming pool on land at Lot 18 DP 8373, 54 Greycliffe Street, Queenscliff subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. The amendment of condition 19 to read as follows:

19. Amendments to the approved plans

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

- a) Rear Access Stairs: The proposed external access stairs to the south-eastern portion of the site are to be deleted from the architectural plans, and do not form part of this consent. Any reference of these stairs are to be removed.
- b) Eastern Elevation Windows - BED 3: The windows to "BED 3" on both Unit 1 and Unit 2 as shown on the approved plans, is to increase the sill height to 1.70 metres above the finished floor level.
- c) Western Elevation Windows - BED 1: The windows to "BED 1" on both Unit 1 and Unit 2 as shown on the approved plans, is to increase the sill height to 1.70 metres above the finished floor level.
- d) Western Elevation Windows - Internal Stairwell: The windows on the western elevation to the common internal stairwell as shown on the approved plans, are to include

obscured glazing.

- e) The architectural plans listed in Condition 1 are to be amended to be consistent with the Landscape Plan also listed in Condition 1, prepared by Venation Landscapes (Project No: Cassar Residence Landscape Plan LC_01, Issue A) dated 4 August 2023.
- f) The lift shown on the architectural plans listed in Condition 1 is to be a hydraulic lift that does not have a lift overrun.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development

2. The amendment of condition 49 to read as follows:

49. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) three replacement trees shall be planted on the subject site. Two planted into the lower slopes of the property and one within the front setback landscaped courtyard, at a minimum pre-ordered planting size of 75 litres; selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide; to achieve at least 6.0 metres height at maturity; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- c) mass planting shall be installed at minimum 1metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable tree draining soil mix and minimum 75mm depth of mulch,
- d) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
- e) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

3. The addition of the following condition:

Structural Adequacy (alteration and additions)

Prior to commencement of any works, the Principal Certifier shall be satisfied that those components of the building to be retained and/or altered will be structurally sound and able to withstand the excavation and demolition process.

Evidence from a qualified practising structural engineer, demonstrating compliance with the above and detailing, where relevant, means of support for those parts of the retained building shall be provided to the Principal Certifier prior to the issue of the construction certificate.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo, subject to the imposition of the additional conditions in relation to a replacement tree in the front set back, no lift overrun and the structural adequacy of those parts of the existing building to be retained.

Vote: 4/0

5.0 NON PUBLIC MEETING ITEMS

5.1 REV2023/0018 - 61 ROBERTSON ROAD, SCOTLAND ISLAND - REVIEW OF DETERMINATION OF APPLICATION DA2022/1863 FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PROCEEDINGS IN BRIEF

The proposal is for Review of Determination of Application DA2022/1863 for alterations and additions to a dwelling house.

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 in the 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 REVIEW OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. REV2023/0018 for Review of Determination of Application DA2022/1863 for alterations and additions to a dwelling house on land at Lot 119 DP 12749, 61 Robertson Road, Scotland Island and Lot LIC 556720, 61 Robertson Road, Scotland Island subject to the conditions set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0

5.2 DA2023/0325 - 9 EUSTACE STREET, MANLY - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a residential flat building.

The Panel received a late submission dated 16 October 2023 and a supplementary memo from Council dated 17 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 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. DA2023/0325 for alterations and additions to a residential flat building on land at Lot CP SP 31425, 9 Eustace Street, Manly subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. The amendment of condition 9 to read as follows:

9. Amendments to the approved plans

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

- a) The rear boundary fence is to be reduced in height to a maximum of 1.2 metres(m), and include timber paling material above ground level with an updated schedule of materials and colours for the rear fence (palings and posts and colour) to be provided to Northern Beaches Council's Heritage Officer for approval, prior to the issuing of the Construction Certificate. The rear pedestrian gate to the rear stairs is to be limited to 1.5m high and be of timber and metal frame.
- b) The fence along the northern boundary between number 9 and number 11 shall be contained within the property of number 9 and shall not exceed a maximum height of 1.8 metres measured above the finished floor level of the courtyards.

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.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo subject to the imposition of the condition to ensure that the height of the boundary fence does not impact the amenity of the adjoining property.

Vote: 4/0

5.3 DA2023/0322 - 109 FLORENCE TERRACE, SCOTLAND ISLAND - LANDSCAPING WORKS, STAIRS, DECKING, TIMBER SKID BOAT RAMP AND REMEDIAL WORK TO EXISTING TIMBER JETTY ANCILLARY TO A DWELLING HOUSE

PROCEEDINGS IN BRIEF

The proposal is for landscaping works, stairs, decking, timber skid boat ramp and remedial work to existing timber jetty ancillary to a dwelling house.

The Panel received amended plans and clause 4.6 submitted by the applicant in the NSW Planning Portal on 16 October 2023 and a supplementary memo from Council dated 17 October 2023.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

- A. Subject to conditions reducing the extent of variation to the standard, 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

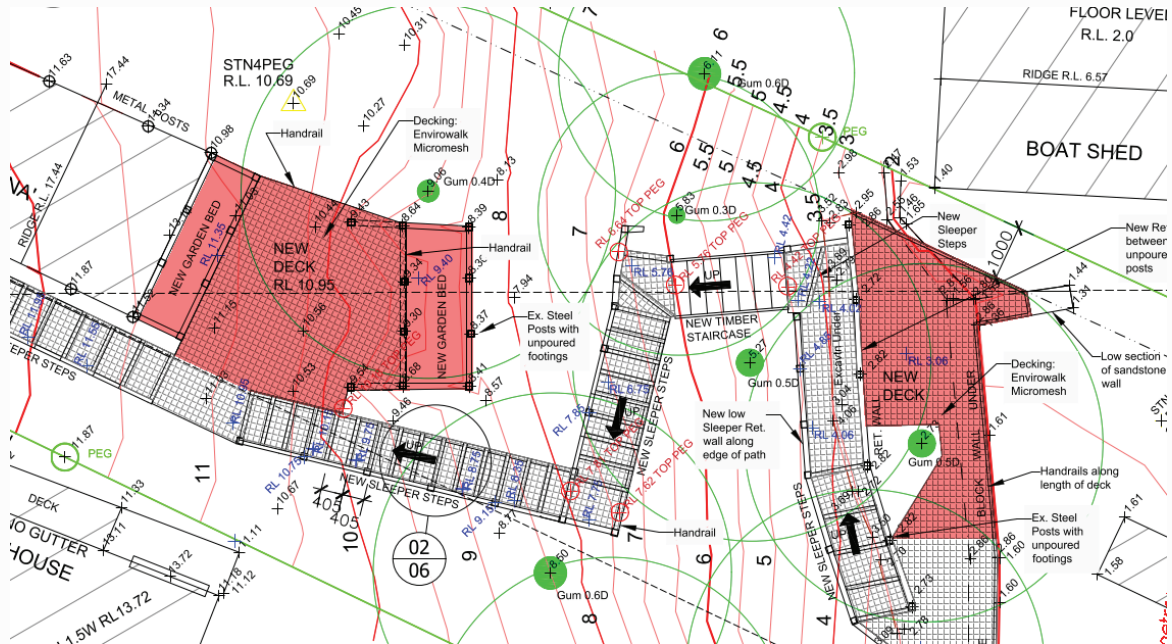
That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0322 for landscaping works, stairs, decking, timber skid boat ramp and remedial work to existing timber jetty ancillary to a dwelling house on land at Lot 64 DP 810165, 109 Florence Terrace, Scotland Island and Lot LIC 525364, 109 Florence Terrace, Scotland Island, subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. The amendment of condition 9 to read as follows:

9. Amendments to the approved plans (Only Works Covered by Clause 4.6 Variation)

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

- a) The deck at RL 10.95 and related retaining walls, earthworks/excavation and garden beds shown in red in the figure below are not approved and must be deleted. The area is to be retained as soft landscaping at the existing ground level.
- b) To provide site stability, the deleted retaining walls/garden beds can be replaced by retaining walls which are minimal in height and are only parallel to the contours of the land.
- c) The portion of the deck at RL 3.06 as shown in red in the figure below shall be deleted. The area is to be planted with locally endemic shrubs.



Details are to be provided to the satisfaction of the Executive Manager of Development Assessment prior to the issue of a Construction Certificate. The Construction Certificate is to be amended to incorporate this design”.

Reason: To ensure the works approved within the Foreshore Area are only those covered by the applicants Clause 4.6 Variation submitted with the application and the development minimises unreasonable impacts upon the foreshore area.

2. The addition of the following condition:

Scope of consent

This consent does not authorise any existing structure on the land that has been constructed without relevant development consent prior to the issue of this development consent.

Reason: To restrict the terms of this consent.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo subject to the deletion of works within the foreshore area (shown in the diagram above). The Panel has imposed additional conditions which seek to reduce the extent of built form within the foreshore area to reduce the impact of the development on the significance and the amenity of the foreshore area.

Vote: 4/0

5.4 DA2023/0414 - 1973 PITTWATER ROAD, BAYVIEW - ALTERATIONS AND ADDITIONS TO AN EDUCATIONAL ESTABLISHMENT, ST LUKE'S GRAMMAR SCHOOL

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to an educational establishment, St Luke's Grammar School.

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 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. DA2023/0414 for alterations and additions to an educational establishment (St Luke's Grammar School) on land at Lot 1 DP 304830, 1973 Pittwater Road, Bayview, Lot A DP 360274, 1973 Pittwater Road, Bayview and Lot 20 DP 635214, 1973 Pittwater Road, Bayview subject to the conditions set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0

This is the final page of the Minutes comprising 15 pages numbered 1 to 15 of the Northern Beaches Local Planning Panel meeting held on Wednesday 18 October 2023.