



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

held via teleconference on

WEDNESDAY 11 OCTOBER 2023

Minutes of a Meeting of the Development Determination Panel held on Wednesday 11 October 2023 via teleconference

The public meeting commenced at 10.00am and concluded at 12pm.

The minutes were determined on 20 October 2023.

1.0 APOLOGIES AND DECLARATIONS INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 27 SEPTEMBER 2023

The minutes of the Development Determination Panel held 27 September 2023, were adopted by all Panel Members and have been posted on the Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 REV2023/0016 - 166 PITTWATER ROAD MANLY - REVIEW OF DETERMINATION OF DA2022/2270 FOR ALTERATIONS AND ADDITIONS TO A SEMI-DETACHED DWELLING HOUSE

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Robert Platt	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 note the additional submission prepared on behalf of the Applicant dated 26 September 2023 in response to the assessment report and recommended reasons for refusal as outlined within the assessment report. The supplementary submission includes a response from Evolution Planning, a Legal Opinion from Hamer & Hamer Balgowlah (solicitors) and Structural Engineering Advice from Geoff Hopkins and Associates. The Panel note that amended Structural Engineering Plans, Sections and Details prepared by Geoff Hopkins and Associates, Revision A dated 1 July 2023.

The Panel was provided with a supplementary memo dated 10 October prepared by the assessing officer in response to the additional material provided by the applicant. The Panel notes the supplementary memo concludes that despite the additional information, the recommendation of the assessing officer remains that of refusal.

The Panel did not concur with the assessing Officer's recommendation for refusal. The Panel note the assessing officer finds the proposal to be acceptable on merit, however, finds there to be insufficient information / detail to demonstrate that the proposed development does not breach the terms of the party wall easement and an absence of owner's consent from 168 Pittwater Road which inhibits the assessing officer recommending approval.

Upon review of the assessment report, supplementary memo, additional material provided by the applicant and the applicant's structural engineer, the Panel have formed the opinion that there is sufficient detail available to approve the application. The Panel is of the view that any inconsistency between the architectural plans and structural engineering plans dated 1 July 2023 can be dealt with via a consent condition.

The Panel are satisfied for the following reasons:

- 1) The structural engineering plans titled 'Plans, Sections and Details' Revision A dated 1/07/2023 prepared by Geoff Hopkins & Associates include a detailed section plan 'Section FP1' sufficiently show how a footing can be constructed clear of the existing footing upholding the party wall and clear of the 0.13m wide easement. While this is not shown on the Architectural Plan 'DA/09', this can be dealt with via a condition.
- 2) The works proposed (including the proposed footings as shown in the updated engineering section) are entirely within the lot boundary of 166 Pittwater Road and as such, the Panel are satisfied that written owner's consent is not required from the owner of 168 Pittwater Road.

- 3) Clause 1.9A 'Suspension of covenants, agreements and instruments' of Manly LEP 2013 sets out that *'any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose'*. As the covenant is a private covenant this should not restrict the granting of development consent in accordance with Clause 1.9A MLEP 2013. Notwithstanding, the updated structural engineering drawings, together with the recommended conditions, enable Council to be satisfied the terms of the easement can be complied with.

During the meeting, the applicant suggested that any inconsistency between the architectural plans and structural engineering drawings could be dealt with via a deferred commencement condition of consent. The Panel agree that a deferred commencement condition of consent is appropriate to deal with this inconsistency.

STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 as set out within the assessment report and subject to the conditions recommended below.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the report and the meeting.

DETERMINATION OF REVIEW APPLICATION

Approval

THAT Council as the consent authority, **approves** Application No. REV2023/0016 for Review of Determination of DA2022/2270 for Alterations and additions to a semi-detached dwelling house at Lot 107 DP 1176623, 166 Pittwater Road MANLY, subject to the conditions set out below:

DEFERRED COMMENCEMENT CONDITIONS

1. Architectural Plans & Engineering Plans

Architectural plans and engineering drawings are to be amended so as to demonstrate compliance with the terms of the easement (C).

Reason: To ensure there is no construction within or impacting upon easement (C). Applicants must complete two essential steps to request their consent become operational:

1. Submit a completed 'Deferred Commencement Document Review Form' (available on Council's website), include the relevant evidence and the application fee as per Council's Fees and Charges.
2. Submit a request for operational consent to Council via the NSW Planning Portal. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

2. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA//04	D	Site Analysis Plan	View Thru	23 June 2023
DA//06	D	Site // Entry Level Plan // Proposed	View Thru	23 June 2023
DA//07	D	First Floor Plan // Proposed	View Thru	23 June 2023
DA//08	D	Roof Plan // Proposed	View Thru	23 June 2023
DA//09	D	Section a-a & Section b-b Proposed	View Thru	23 June 2023
DA//10	D	North Elevation Existing & Proposed	View Thru	23 June 2023
DA//11	D	South Elevation Existing & Proposed	View Thru	23 June 2023
DA//12	D	East Elevation Existing & Proposed	View Thru	23 June 2023
DA//13	D	West Elevation Existing & Proposed	View Thru	23 June 2023
DA//16	D	External Finishes Schedule	View Thru	23 June 2023
DA//21	D	Erosion & Sediment Control Plan // Site Setup Plan	View Thru	23 June 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
DA//22 Rev D Sediment & Erosion Control Details Sht 1	D	View Thru	23 June 2023
DA//23 Rev D Sediment & Erosion Control Details Sht 2	D	View Thru	23 June 2023
DA//24 Rev D Sediment & Erosion Control Details Sht 3	D	View Thru	23 June 2023
BASIX Certificate A463505_02	N/A	View Thru	13 July 2023

Waste Management Plan	N/A	View Thru	8 November 2022
Heritage Impact Statement	C	David Scobie Architects Pty Ltd	6 December 2022

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

3. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Not dated

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

5. General Requirements

- (a) Unless authorised by Council:
- Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$3,267.98 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$326,798.21.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

7. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. Fire Separation - Class 1 Buildings

The external walls of the dwelling (in particular the South wall and Party wall) where less than 900mm from an allotment boundary or less than 1.8 m from another building on the same allotment other than a Class 10 building associated with the Class 1 building or a detached part of the same Class 1 building and any openings within these walls is required to comply with Part 9.2.1 of the National Construction Code – Housing Provisions – 'External walls of a Class 1 building'.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety.

9. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply

with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The

Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

10. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

11. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

12. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

13. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

14. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. 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: 168 Pittwater Road, Manly (Lot 108 DP 1176623)

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 arising 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.

DURING BUILDING WORK

16. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site, including trees and vegetation nominated for retention on the approved Plans,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all trees and vegetation within the road reserve.

- b) Tree protection shall be undertaken as follows:
- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
 - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970- 2009 Protection of trees on development sites,
 - ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees.

Reason: Tree and vegetation protection.

17. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601

—

- The Demolition of Structures.

Reason: For the protection of the environment and human health.

18. Compliance with the terms of the easement (C)

Compliance with the terms of easement (C) must be undertaken during construction works.

Reason: To ensure there is no impact upon easement (C).

19. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

20. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

21. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

22. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms

13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority to

release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

23. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

24. **Satisfaction of the terms of Easement C**

A suitably qualified person must be satisfied that the works have been constructed in accordance with the terms of easement (C).

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with the terms of easement (C).

Vote: 3/0

3.2 DA2022/1917 - 11 NAMBA ROAD DUFFYS FOREST - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SWIMMING POOL, TENNIS COURT, AND EQUINE FACILITIES

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

The Panel was addressed by one objector and representatives of the applicant.

The Panel was provided with a supplementary memo dated 11 October in relation to an amended cost summary. The memo recommended that proposed Condition 5 be amended, as a result of the amended cost summary.

A further written submission was received on 11 October from the owner of 383 Wyong Road Duffy's Forest. A further written submission was received on 12 October from the owner of 9 Namba Road, Duffy's Forest. The Panel were provided copies of the submissions and have considered the as part of the deliberations.

The Panel were provided with a supplementary memo dated 17 October in response to the additional written submissions.

A further written submission was provided to the Panel on 19 October 2023 from the owner of 383 Wyong Road.

The Panel concurred with the Officer's Assessment Report, supplementary memo and recommendation.

STATEMENT OF REASON

The proposal generally satisfies the relevant strategy, objectives and provisions of Warringah LEP 2011 and the Warringah DCP 2011 subject to conditions in the assessment report and supplementary memo.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the report and the meeting.

DETERMINATION OF DEVELOPMENT APPLICATION

Approval

THAT Council as the consent authority, **approves** Application No. DA2022/1917 for demolition works and construction of a dwelling house including a swimming pool, tennis court, and equine facilities at Lot 382 DP 752017, 11 Namba Road DUFFYS FOREST, subject to the conditions set out in the Assessment Report, as amended by the supplementary memo's dated 11 October 2023 and the below conditions.

1. Add the following condition to 'Ongoing Conditions that must be complied with at all times' to read as follows:

Use of Equine Facilities

The equine facilities approved as part of this application are to be used for private purposes only by the residents of the land and shall not be used as part of a commercial operation, without the prior written consent of Council.

Reason: To maintain reasonable amenity for the surrounding properties and remain consistent with the land use as approved under this application.

2. Add the following condition to 'Ongoing Conditions that must be complied with at all times' to read as follows:

Parking within the site

All vehicular parking associated with the site use must be accommodated within the subject site.

Reason: To prevent parking of vehicles in the road Reserve.

3. Amend condition 54 to read as follows:

No Lighting of Tennis Court

No consent is given or implied for any form of artificial illumination for the tennis court.

Reason: To ensure the amenity of the surrounding natural environment is protected.

Vote: 3/0

3.3 DA2023/1047 - 139 GEORGE STREET AVALON BEACH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE AND CONSTRUCTION OF A SWIMMING POOL

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

There were no registered speakers.

The Panel concurred with the Officer's Assessment Report and recommendation.

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 as set out within the assessment report.

COMMUNITY CONSULTATION

There were no submissions received for this application.

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 LEP 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 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

Approval

THAT Council as the consent authority, **approves** Application No. DA2023/1047 for alterations and additions to a dwelling house and construction of a swimming pool at Lot 4 DP 204164, 139 George Street AVALON BEACH, subject to the conditions set out in the Assessment Report, with the following changes:

1. Amendment of Condition 24 to include details of the Erosion and Sediment Control plan as follows:

24. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Blue Skym Building Designs (Sheet A100 dated 29/05/2023) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: To protect the receiving environment

2. Amendment to Condition 25 to read as follows:

25. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

3. Deletion of Condition 26 as this is a duplicate of Condition 24.

Vote: 3/0

3.4 DA2023/0749 - 9 FRANCIS STREET FAIRLIGHT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

The Panel was addressed by representatives of the applicant.

The applicant's Town Planner and Architect addressed the Panel in relation to proposed Condition 8 which required a reduction in the size of the first-floor deck adjoining the southern boundary (located to the west of the proposed garage). The Panel also received a late submission from the owner of 7 Francis Street in relation to the design and size of the deck. The submission stated that the owner of 7 Francis Street supports the size of the deck given the privacy screening proposed along the southern side of the deck. The applicant's architect and the planner provided a further sketch showing the levels and privacy interface between the two sites, relative to the proposed deck.

Based on the further explanation provided and the submission of support from the adjoining property, the Panel are satisfied that privacy is appropriately managed, subject to a condition clarify the design and height of the proposed privacy screen along the southern edge of the deck.

It was also discussed that Condition 8 could be amended to require boundary fencing to be dealt with outside of the scope of this application.

The Panel concurred with the Officer's Assessment Report and recommendation, with the exception of Condition 8.

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 as set out within the assessment report.

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 4.3 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

Approval

THAT Council as the consent authority, **approves** Application No. DA2023/0749 for alterations and additions to a dwelling house including a swimming pool at Lot 7 DP 978391, 9 Francis Street FAIRLIGHT, subject to the conditions set out in the Assessment Report, with the following changes:

1. Amendment to Condition 8 Amendment to the Approved Plans to read as follows:

8. Amendment to the Approved Plans

The following amendments to the plans are required:

- A privacy screen to a height of RL 44.97 shall be provided along the full length of the southern edge of the first-floor deck which sits to the west of the proposed garage. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- Plans are to be amended to remove reference to all side and rear boundary fencing. No approval for side or rear boundary fencing is given under this consent, as this is a matter for civil negotiation between relevant property owners under the Dividing Fences Act 1991.

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.

Vote: 3/0

3.5 DA2023/0806 - 12 CRESCENT ROAD MONA VALE - ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING-HOUSE AND SECONDARY DWELLING, INCLUDING CONVERSION TO A SINGLE DWELLING-HOUSE

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

There were no registered speakers.

The Panel concurred with the Officer's Assessment Report and recommendation.

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 as set out within assessment report.

COMMUNITY CONSULTATION

There were no submissions received for this application..

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 LEP 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 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

Approval

THAT Council as the consent authority, **approves** Application No. DA2023/0806 for Alterations and additions to an existing dwelling-house and secondary dwelling, including conversion to a single dwelling-house at Lot 1 DP 207839, 12 Crescent Road MONA VALE, subject to the conditions set out in the Assessment Report, with the following changes:

1. Addition of a condition prior to the issue of an Occupation Certificate titled Removal of Lower Ground Floor Cooking Facilities, to read as follows:

Removal of Lower Ground Cooking facilities

Prior to the issue of an Occupation Certificate, evidence shall be provided to the Principal Certifier demonstrating that any existing built-in cooking facilities have been removed from the lower ground floor.

Reason: To ensure the approved land use as a 'Dwelling House' is complied with and the lower ground floor is not fit for separate occupancy.

Vote: 3/0

3.6 DA2023/0929 - 147 MCCARRS CREEK ROAD CHURCH POINT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

There were no registered speakers.

The Panel concurred with the Officer's Assessment Report and recommendation.

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 as set out within assessment report.

COMMUNITY CONSULTATION

There were no submissions received for this application.

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 LEP 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 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

Approval

THAT Council as the consent authority, **approves** Application No. DA2023/0929 for alterations and additions to a dwelling house at Lot 1 DP 243387, 147 McCarrs Creek Road CHURCH POINT, subject to the conditions set out in the Assessment Report, with the following changes:

1. Amendment to Condition 2 Compliance with Other Department, Authority or Service Requirements to read as follows:

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	26/07/2023
Rural Fire Service	Rural Fire Service Response	31/07/2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

Vote: 3/0

3.7 DA2023/0710 - 681 BARRENJOEY ROAD AVALON BEACH - USE OF PREMISES AS A RECREATION FACILITY (INDOOR), INCLUDING FIT-OUT AND SIGNAGE

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Anne-Maree Newbery	Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

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

The objectors were primarily concerned with potential noise impacts of the gym and the ability to raise concerns of noise impacts during the operation of the gym.

The Panel asked several questions of the applicant in relation to the operation of the roller door to the basement parking and the ability of patrons to use the internal lift between the basement and upper levels.

The Panel note that concerns in relation to amplified music are addressed within the Operational Noise Emissions Assessment.

The Panel note recommended Condition 25 '6 Month Trial Period' and agree that Council should have the opportunity to review the 24-Hour operation should there prove to be unreasonable noise impacts.

The Panel note that the Assessment Report made reference to SEPP 64 – Advertising and Signage (*SEPP 64*). The Panel note that this policy is now superseded by the SEPP (Industry and Employment) 2021 – Chapter 3 (*SEPP I & E*). However, *SEPP (I & E)* contains transitional arrangements which confirm a reference to *SEPP 64* may be taken as a reference to *SEPP (I & E)* and as such, the Panel are satisfied an appropriate assessment of the proposed signage has been made within the Assessment Report given the transitional arrangements between the SEPP's.

The Panel concurred with the Officer's Assessment Report and recommendation.

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 as set out within the assessment report.

COMMUNITY CONSULTATION

Issues raised in the submissions have been taken into account in the report and the meeting.

DETERMINATION OF DEVELOPMENT APPLICATION

Approval

THAT Council as the consent authority, **approves** Application No. DA2023/0710 for use of Premises as a Recreation Facility (indoor), including fit-out and signage at Lot 1 DP 15295, 681 Barrenjoey Road AVALON BEACH, subject to the conditions set out in the Assessment Report, with the following changes:

1. Amendment to Condition 8 Plan of Management to read as follows:

8. Plan of Management

The Plan of Management is to be amended/added to as follows:

- Provisions for a 24 hour hotline to be distributed to all neighbouring residences, and manned at all times. The details of the 24 hour hotline are to be affixed to the entry of the premises. Complaints received through the hotline are to be logged and provided to an acoustic engineer for potential corrective action. The log is to detail who made the call, at what time/date, what the complaint was and what action has been taken. The log is to be available to Council upon request and will be considered as at the conclusion of the trial period.
- Any lighting that is visible from neighbouring living spaces is to be adjustable.
- The roller door at the entrance to the basement parking is to remain open at all times whilst the gym is operating.
- Internal access via the internal stairs and lift between the basement parking and gym must be available to patrons and staff at all times whilst the gym is operating.
- No music is to be played in the gym after 6pm or before 7am daily.

Reason: To minimise amenity impact.

Vote: 3/0

This is the final page of the Minutes comprising 29 pages numbered 1 to 29 of the Development Determination Panel meeting held on Wednesday 11 October 2023.