



northern
beaches
council

MINUTES

DEVELOPMENT DETERMINATION PANEL MEETING

held via teleconference on

WEDNESDAY 8 NOVEMBER 2023

Minutes of a Meeting of the Development Determination Panel held on Wednesday 8 November 2023 via teleconference

The public meeting commenced at 10.00am and concluded at 11.30am

The minutes were determined on 9 November 2023

1.0 APOLOGIES AND DECLARATIONS INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 25 OCTOBER 2023

The minutes of the Development Determination Panel held 25 October 2023, were adopted by all Panel Members and have been posted on the Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 DA2023/0455 - 1 PHYLLIS STREET NORTH CURL CURL - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Kelly Lynch	Acting 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 Warringah LEP 2011 and the Warringah DCP 2011 subject to conditions.

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 Warringah LEP 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
 - a) compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Panel assumes the concurrence of the Secretary, Department Planning and Environment required under clause 4.6.

DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority, **approves** Application No. DA2023/0455 for alterations and additions to a dwelling house at Lot 32 DP 16602, 1 Phyllis Street NORTH CURL CURL subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.2 DA2022/2207 - 30 ABERNETHY STREET SEAFORTH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PANEL MEMBERS

Adam Richardson	Manager, Development Assessment
Steven Findlay	Manager, Development Assessment
Kelly Lynch	Acting Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

The Panel also noted the receipt of a Supplementary Memo, dated 7 November 2023, prepared by the Assessment Officer, which changed the recommendation contained of the Assessment Report from refusal to approval, on the basis that outstanding engineering issues had been satisfactorily addressed by additional information which overcame the recommended reasons for refusal.

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

The Panel does not agree with the Officer's Assessment Report and revised recommendation contained in the Supplementary Memo dated 7 November 2023. Whilst the engineering matters have been resolved, the Panel has concerns in relation to the non-compliances with development standards under the Manly LEP 2013, and the size, scale and impacts of the proposal.

The Panel noted that the floor space calculation plan submitted with the amended application did not align with the submitted Clause 4.6 variation request in relation to FSR. As the 4.6 is not well founded, it cannot be relied upon by the Panel in making a determination.

Further, the FSR is greater than that contemplated by the LEP and DCP and is a contributing factor in relation to the building height breach.

The proposal has not demonstrated that view impacts have been minimised as per the provisions of the Manly DCP 2013, by virtue of the excessive roof height and roof design, and the pergola and privacy screen associated with the balcony on the Ground Floor Level.

It is considered on balance that the impacts in relation to view loss, privacy and solar access are unacceptable.

STATEMENT OF REASON

The proposal does not satisfy the relevant strategy, objectives and provisions of Manly LEP 2013 and the Manly DCP 2013 as set out within the reasons for refusal and articulated within the comments contained within the proceedings in brief.

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 not 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 and Clause 4.4 Floor Space Ratio development standards 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 contravention of the development standards.
- 2) the proposed development will be in the public interest because it is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority, **refuses** Development Application No. DA2022/2207 for demolition works and construction of a dwelling house including swimming pool at Lot A DP 358783, 30 Abernethy Street SEAFORTH, for the reasons for refusal set out below:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development contravenes Clause 4.3 of *Manly Local Environmental Plan 2013* and will have unacceptable impacts.

Particulars:

- The development results in a building height of up to 11.0 metres and contravenes the building height development standard of 8.5 metres under Clause 4.3 of the *Manly Local Environmental Plan 2013*.
- The written request seeking a variation to the building height development standard has not demonstrated compliance with the standard is unreasonable or unnecessary pursuant to Clause 4.6(3)(a).
- Pursuant to Clause 4.6(3)(b) the written request to vary the building height development standard does not demonstrate sufficient environmental planning grounds for the building height contravention. The building height contravention does not occur as a result of the site slope and existing excavation as suggested by the Applicant. The exceedance occurs as a result of the preferred architecture of the building.
- The height breach creates unacceptable view loss and solar access impacts on adjoining properties.

2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development contravenes Clause 4.4 of *Manly Local Environmental Plan 2013* and will have unacceptable impacts.

Particulars:

- The development results in a Floor Space Ratio which contravenes the maximum permitted by Clause 4.4 of the *Manly Local Environmental Plan 2013*.
- The written request seeking a variation to the FSR development standard has not demonstrated compliance with the standard is unreasonable or unnecessary pursuant to Clause 4.6(3)(a).
- Pursuant to Clause 4.6(3)(b) the written request to vary the FSR development standard does not demonstrate sufficient environmental planning grounds for the FSR

contravention. The FSR has not been calculated correctly in accordance with the definitions of gross floor area contained within the *Manly Local Environmental Plan 2013* and the submitted Clause 4.6 written request is not well founded.

- The excessive FSR creates unacceptable view loss and solar access impacts on adjoining properties.
- The jurisdictional prerequisites have not been met with respect to the development application, and development consent cannot be granted.

3. Pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*, the development is contrary to Section 1.3 Objects for the following reasons:

Particulars:

- The proposal does not promote the orderly and economic use and development of land. The development results in adverse impacts upon surrounding properties.
- The proposal does not promote good design and amenity of the built environment. The development is not sufficiently responsive to the site's topography, results in amenity impacts upon neighbouring properties, and is inconsistent with the suite of built form controls applying to the land.

4. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of the *Manly Local Environmental Plan 2013*.

Particulars:

- The development exceeds the maximum building height prescribed by Clause 4.3 Height of Buildings and the maximum floor space ratio prescribed by Clause 4.4 Floor Space Ratio. The proposed height and FSR results in unacceptable amenity impacts on adjoining properties, namely view loss, solar access, privacy and bulk and scale.

5. The development is inconsistent with provisions of the *Manly Development Control Plan 2013*.

Particulars:

- The development results in an unacceptable bulk and scale contrary to Section 4.1.4.2 of the *Manly Development Control Plan* in that:
 - o The development results in an excessive wall height and non-compliant side setbacks along the southern and northern elevations.
 - o The proposed breaches of the side setback contribute to view loss, privacy issues and reduced solar access to the adjoining southern property and streetscape impacts.
 - o The bulk and scale of the development is excessive, and inconsistent with the provisions of Section 4.1.4.2 of the *Manly DCP*.

6. The site is not suitable for the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

Particulars:

- For the reasons set out in refusal reasons 1 to 5, the site is not considered suitable for the proposed development in terms of its size, scale and design, despite it being residential development in the Low Density Residential R2 zone.

7. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.

Particulars:

- The extent of issues identified with the proposed development are such that the public's interest is not served by way of approval of the development application.

Vote: 3/0

3.3 DA2023/0703 - 6-7 KARA CRESCENT BAYVIEW - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Adam Richadson	Manager, Development Assessment
Kelly Lynch	Acting 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 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.

COMMUNITY CONSULTATION

Issues raised in the submission 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 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

THAT Council as the consent authority, **approves** Application No. DA2023/0703 for alterations and additions to a dwelling house including a swimming pool at Lot 100 DP 1298273, 6 - 7 Kara Crescent BAYVIEW, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.4 DA2023/1087 - 3 LANTANA AVENUE WHEELER HEIGHTS - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Kelly Lynch	Acting 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 Warringah LEP 2011 and the Warringah DCP 2011 subject to conditions.

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 Warringah LEP 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
 - a) compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Panel assumes the concurrence of the Secretary, Department Planning and Environment required under clause 4.6.

DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority, **approves** Application No. DA2023/1087 for alterations and additions to a dwelling house at Lot B DP 395548, 3 Lantana Avenue WHEELER HEIGHTS, subject to the conditions set out in the Assessment Report.

Vote: 3/0

3.5 REV2023/0021 - 17 EDWIN AVENUE AVALON BEACH - REVIEW OF DETERMINATION OF APPLICATION DA2023/0057 FOR DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE

PANEL MEMBERS

Jordan Davies	Acting Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Kelly Lynch	Acting Manager, Strategic & Place Planning

PROCEEDINGS IN BRIEF

Panel members visited the site and surrounds.

There were no registered speakers.

The Panel was provided with a Supplementary Memo dated 8 November 2023.

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 Pittwater LEP 2014 and the Pittwater 21 DCP subject to conditions.

COMMUNITY CONSULTATION

There were no submissions received for this application.

DETERMINATION OF REVIEW APPLICATION

THAT Council as the consent authority, **approves** Review Application No. REV2023/0021 for review of Determination of Application DA2023/0057 for demolition works and construction of a dwelling house at Lot 47 DP 17177, 17 Edwin Avenue AVALON BEACH, subject to the conditions set out in the Assessment Report and Supplementary Memo which recommended an amendment to Condition 15.

Vote: 3/0

This is the final page of the Minutes comprising 12 pages
numbered 1 to 12 of the Development Determination Panel meeting
held on Wednesday 8 November 2023.