

# **MINUTES**

## **NORTHERN BEACHES LOCAL PLANNING PANEL MEETING**

held via Teleconference on

**WEDNESDAY 7 FEBRUARY 2024**

## **Minutes of the Northern Beaches Local Planning Panel held on Wednesday 7 February 2024**

The public meeting commenced at 12.00pm and concluded at 1.01pm.

The deliberations and determinations commenced at 1.30pm following the public meeting and concluded at 4.54pm.

### **ATTENDANCE:**

#### **Panel Members**

Peter Biscoe KC	Chair
Marcus Sainsbury	Environmental Expert
Robert Hussey	Town Planner
Peter Cotton	Community Representative

The Panel have visited all sites personally, or electronically, and have had regard to the assessment report, all accompanying documentation, submissions from the public and any supplementary reports in determining all applications.

## **1.0 APOLOGIES AND DECLARATIONS OF INTEREST**

No apologies

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 13 DECEMBER 2023**

The Panel noted that the minutes of the Northern Beaches Local Planning Panel held 13 December 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 DA2023/0720 - VISTA AVENUE, BALGOWLAH HEIGHTS - ALTERATIONS AND ADDITIONS TO RECREATION FACILITY OUTDOORS

#### PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to Recreation Facility Outdoors.

The Panel received a supplementary memo from Council dated 6 February 2024.

#### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0720 for alterations and additions to Recreation Facility Outdoors at Lot 1432 and Lot 1431 in DP752038, Vista Avenue, Balgowlah Heights, subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. The addition of the following condition:

##### **Hours of Operation**

The hours of operation of the tennis courts are to be restricted to:

- Monday to Sunday – 7:00am – 9:00pm

Upon expiration of the permitted hours, all operations of the tennis courts shall immediately cease.

Reason: To ensure that amenity of the surrounding locality is maintained.

#### REASONS FOR DETERMINATION

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

Vote: 4/0

## 4.2 DA2023/0281 - 3 / 43 A ETHEL STREET, SEAFORTH - DEMOLITION WORKS AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY

### PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of an attached dual occupancy.

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

The Panel received three late submissions dated 4 February & 5 February 2024 and swept path and garage plans on 7 February 2024.

### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **grants deferred commencement approval** to Application No. DA2023/0281 for demolition works and construction of an attached dual occupancy on land at Lot 19 DP 7532, 3 / 43 A Ethel Street, Seaforth subject to the conditions set out in the Assessment Report, subject to the following:

1. The addition of the following Deferred Commencement Condition:

#### 1. Vehicular Swept Paths

Vehicular manoeuvring swept path plots are to be provided to and be approved in writing by Council's traffic engineer. The plots are to be prepared using traffic engineering software such as Autotrack/Autoturn, for a B85 car entering and egressing the garages with the adjacent parking space occupied. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

This deferred commencement condition must be satisfied within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

The applicant must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

2. The deletion of proposed condition 14, Vehicular Swept Paths.
3. In proposed condition 15, Construction Traffic Management Plan, seventh dot point delete the second sentence.
4. In proposed condition 27, Demolition Traffic Management Plan, delete the fifth dot point.
5. The amendment of proposed condition 28, Pre-Construction Dilapidation Report, by adding to the list of properties "The existing right of way from Ethel Street".
6. The addition of the following condition within the conditions to be satisfied prior to the issue of the Occupation Certificate:

#### Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under

“Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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 statutory requirements of Sydney Water.

## REASONS FOR DETERMINATION

A majority of the Panel agrees generally with the Assessment Report, subject to the above. Mr Hussey dissents and would refuse the application for the following reasons: On the basis of the available information for this proposal the proposed doubling of carparking and increased traffic movements via the existing narrow ROW connecting onto Ethel Street will potentially result in unreasonable traffic, safety and amenity issues for the other ROW users.

Vote: 3/1

#### 4.3 DA2023/0275 - 4 / 43 A ETHEL STREET, SEAFORTH - DEMOLITION WORKS AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY AND STRATA SUBDIVISION

##### PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of an attached dual occupancy and strata subdivision.

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

The Panel received two late submissions dated 4 February & 5 February 2024 and a supplementary memo from Council dated 6 February 2024.

##### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **grants deferred commencement approval** to Application No. DA2023/0275 for demolition works and construction of an attached dual occupancy and strata subdivision on land at Lot 18 DP 7532, 4 / 43 A Ethel Street, Seaforth, subject to the conditions set out in the Assessment Report and supplementary memo, subject to the following:

1. The addition of the following Deferred Commencement Condition:

##### 1. Vehicular Swept Paths

Vehicular manoeuvring swept path plots are to be provided to and be approved in writing by Council's traffic engineer. The plots are to be prepared using traffic engineering software such as Autotrack/Autoturn, for a B85 car entering and egressing the garages with the adjacent parking space occupied. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

This deferred commencement condition must be satisfied within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

The applicant must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

2. The amendment of proposed condition 1 to read as follows:

##### 1. 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
DA010	C	Site Analysis + Roof Plan	Platform Architects	27 October 2023
DA100	C	Lower ground	Platform Architects	27 October 2023

DA101	C	Ground floor plan	Platform Architects	27 October 2023
DA102	C	First floor plan	Platform Architects	27 October 2023
DA103	C	Ground Floor Garage	Platform Architects	27 October 2023
DA200	C	North Elevation	Platform Architects	27 October 2023
DA201	C	West Elevation	Platform Architects	27 October 2023
DA202	C	East Elevation	Platform Architects	27 October 2023
DA203	C	South Elevation	Platform Architects	27 October 2023
DA204	C	Window Schedule	Platform Architects	27 October 2023
DA300	C	Section AA	Platform Architects	27 October 2023
DA301	C	Section AA Part 2	Platform Architects	27 October 2023
DA400	C	Materials proposed	Platform Architects	20 November 2023
DA501	A	Draft Strata Subdivision Plan	Platform Architects	7 February 2024
1 of 4	B	Landscape Site Plan	Paul Scrivener	16 January 2023
2 of 4	B	Detail Plan A and Planting Plan	Paul Scrivener	16 January 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. 1367645M	-	Eco Certificates Pty Ltd	1 March 2023
Preliminary Geotechnical Report	-	eiaustralia	19 December 2022
Arboricultural Impact Assessment Report	1	Blues Bros	7 March 2023
Waste Management Plan	-	-	-

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

In the event of any inconsistency between 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. The deletion of proposed condition 15, Vehicular Swept Paths.
4. In proposed condition 16, Construction Traffic Management Plan, seventh dot point delete the second sentence.
5. In proposed condition 25, Demolition Traffic Management Plan, delete the fifth dot point.
6. The amendment of proposed condition 26, Pre-Construction Dilapidation Report, by deleting the references to 2/43A Ethel Street and 4/43A Ethel Street and substituting references to 3/43A Ethel Street and 5/43A Ethel Street and by adding to the list of properties "The existing right of way from Ethel Street".
7. The addition of the following condition within the conditions to be satisfied prior to the issue of the Occupation Certificate:

**Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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 statutory requirements of Sydney Water.

**REASONS FOR DETERMINATION**

A majority of the Panel agrees generally with the Assessment Report and supplementary memo, subject to the above. Mr Hussey dissents and would refuse the application for the following reasons: On the basis of the available information for this proposal the proposed doubling of carparking and increased traffic movements via the existing narrow ROW connecting onto Ethel Street will potentially result in unreasonable traffic, safety and amenity issues for the other ROW users.

Vote: 3/1

#### 4.4 DA2023/1458 - 49 PITTWATER ROAD, MANLY - DEMOLITION WORKS AND CONSTRUCTION OF A STUDIO WITH ASSOCIATED LANDSCAPING

##### PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of a studio with associated landscaping.

At the public meeting which followed the Panel was addressed by one neighbour.

##### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/1458 for the demolition works and construction of a studio with associated landscaping on land at Lot 1 DP 233249, 49 Pittwater Road, Manly for the following reason:

1. **Pursuant to Section 4.15(1)(a)(iv) of the of the Environmental Planning and Assessment Act 1979, the application has not been accompanied by the required information for a Development Application.**

Particulars:

i. The application has not been accompanied by Land Owners Consent from No.47 Pittwater Road. The development application proposes works to a party wall within an easement for support which travels the boundary with 47 Pittwater Road and also extending over that boundary into 47 Pittwater Road. As such, the development application does not contain all the information and documents required by Clause 24(1)(b) of the *Environmental Planning and Assessment Regulation 2021* and the development application has not been made with the consent of the owner of 47 Pittwater Road as required by Clause 23(1)(b) *Environmental Planning and Assessment Regulation 2021*.

##### REASONS FOR DETERMINATION

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

Vote: 4/0

**4.5 DA2023/1232 - 397 CONDAMINE STREET, ALLAMBIE HEIGHTS - ALTERATIONS AND ADDITIONS TO A CHILDCARE CENTRE**

**PROCEEDINGS IN BRIEF**

The proposal is for alterations and additions to a childcare centre.

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

The Panel received a late submission dated 5 February 2024 and a supplementary memo from Council dated 5 February 2024.

**DEFERRAL FOR FURTHER CONSIDERATION OF DEVELOPMENT APPLICATION**

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **defers** further consideration of Application No. DA2023/1232 for the alterations and additions to a childcare centre on land at Lot 1 DP 624845, 397 Condamine Street, Allambie Heights, to give the applicant the opportunity to submit to Council by 15 February 2024, amended plans of the proposed façade which in elevation mirror the profile of the existing building so as not to exceed its height at any point and which does not infringe the DCP front setback and in the applicant's preferred colours, with the amended plans supported by an updated clause 4.6 request. The applicant should lodge the amended plans and the updated clause 4.6 request on the NSW Planning Portal.

If the requested information is not received by the date above, the Panel may proceed to determine the application on the material before it. The Chair will have the discretion to extend the above date if reasonable grounds are provided by the applicant.

**REASONS FOR DEFERRAL:** As a result of the written and oral submissions on behalf of the applicant, the Panel's preliminary view is that the proposal may be capable of approval subject to consideration of the amended plans referred to above.

Vote: 4/0

## 5.0 NON PUBLIC MEETING ITEMS

### 5.1 DA2022/2199 - 19 SYDNEY ROAD, MANLY - DEMOLITION WORKS AND CONSTRUCTION OF SHOP TOP HOUSING

#### PROCEEDINGS IN BRIEF

The proposal is for demolition works and construction of shop top housing.

The Panel received a late submission dated 5 February 2024 and a supplementary memo from Council dated 6 February 2024.

#### 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 Environment 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 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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/2199 for demolition works and construction of shop top housing on land at Lot 20 DP 235980, 19 Sydney Road, Manly subject to the conditions set out in the Assessment Report and supplementary memo.

#### REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and supplementary memo.

Vote: 4/0

**5.2 DA2023/1710 - 43 SYDNEY ROAD, MANLY - USE OF PREMISES AS A BUSINESS PREMISES (LAUNDROMAT), FITOUT AND SIGNAGE**

**PROCEEDINGS IN BRIEF**

The proposal is for Use of Premises as a Business Premises (Laundromat), fitout and signage.

**DETERMINATION OF DEVELOPMENT APPLICATION**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/1710 for Use of Premises as a Business Premises (Laundromat), fitout and signage on land at Lot 3 DP 445942, 43 Sydney Road, Manly, subject to the conditions set out in the Assessment Report.

**REASONS FOR DETERMINATION**

The Panel agrees generally with the Assessment Report.

Vote: 4/0

**5.3 PROPOSED DELEGATION TO COUNCIL'S CHIEF EXECUTIVE OFFICER (GENERAL MANAGER) FOR VARIATIONS TO A DEVELOPMENT STANDARD IN EXCESS OF 10% OF HEIGHT OF BUILDING AND FLOOR SPACE RATIO FOR CLASS 2-9 BUILDINGS.**

**DETERMINATION OF PROPOSED DELEGATION**

The Northern Beaches Local Planning Panel delegations to the Chief Executive Officer (General Manager) of Northern Beaches Council The functions of the panel in relation to development applications and modification applications in the following circumstances:

1. where there is a pre-existing non-compliance of more than 10% for a class 2-9 building under clause 4.3 Height of buildings of the Manly Local Environmental Plan 2013, Pittwater Local Environmental Plan 2014 or Warringah Local Environmental Plan 2011, and the development does not result in any increase in the overall/maximum non-compliance,
2. where there is a pre-existing non-compliance of more than 10% for a class 2-9 building under clause 4.4 Floor space ratio of Manly Local Environmental Plan 2013, Pittwater Local Environmental Plan 2014 or Warringah Local Environmental Plan 2011 and the development does:
  - a. not result in changes to the extent of the building envelope; and
  - b results in only minor increase to the gross floor area (for example balcony enclosure or similar).

Vote: 4/0

This is the final page of the Minutes comprising 14 pages numbered 1 to 14 of the Northern Beaches Local Planning Panel meeting held on Wednesday 7 February 2024.