

# MINUTES

## **DEVELOPMENT DETERMINATION PANEL MEETING**

held in the Walamai Room, Civic Centre, Dee Why on

**WEDNESDAY 8 AUGUST 2018**

**Minutes of a Meeting of the Development Determination Panel  
held on Wednesday 8 August 2018  
at Walamai Room, Civic Centre, Dee Why  
Commencing at 12.30pm**

**ATTENDANCE:**

**Panel Members**

Peter Robinson (Chairperson)	Executive Manager, Development Assessment
Matthew Edmonds	Manager, Development Assessment (Item 3.1 only)
Anna Williams	Manager, Development Assessment (Items 3.2 to 3.6)
Phil Jemison	Manager, Strategic & Place Planning

## **1.0 APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST/CONFLICT OF INTEREST**

No conflicts of interest.

Declarations:

- Mitchell Drake presenting on item 3.1 was a recent former employee of Northern Beaches Council
- Geoff Goodyer presenting on item 3.1 is a panel contractor for Northern Beaches Council
- Anna Williams was replaced by Matthew Edmonds for item 3.1 as she was the reporting Manager on this item.

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 25 JULY 2018**

#### **RECOMMENDATION**

That the Minutes of the Development Determination Panel held 25 July 2018, were adopted by all Panel Members at the time of the meeting and have been posted on the Council's website.

### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

#### 3.1 DA2018/0128 - 65 BOWER STREET, MANLY - DEMOLITION AND CONSTRUCTION A NEW DWELLING HOUSE

##### PROCEEDINGS IN BRIEF

The Panel viewed the site and adjacent properties, particularly 9, 10, 11 and 12 Montpelier Street, Manly.

The Panel were addressed by three neighbours, three representatives on behalf of neighbours and the owner with two representatives.

The Panel considered a further written submission from the neighbours.

The Panel reviewed the issue of height of the building in context of the definition of existing ground level, court judgements on the interpretation and concerns raised by adjoining parties.

Height of buildings are measured from *ground level (existing)* - a defined term in a Local Environmental Plan (LEP).

Applying the definition as written, the surface level of the court (or the top of fill below the playing surface), is taken to be ground level (existing) resulting in the proposed development being 7.15 metres high and compliant with the height limit of 8.5 metres.

Taking into account case law on this topic and applying the objectives of the LEP Section 4.3(1)(a) Height of Buildings, which establishes ground level from known, or external levels to the site. In this 2 methodologies have been applied. The first using survey levels from adjoining properties at No. 63 and No. 67 close to the northern elevation of the proposed building and extrapolating a level between the two points. This has faults, as the ground level has been altered at No. 67, whilst ground level at the survey points on No. 63 appears to be less altered, however this would lend itself to the LEP objective 4.3(1)(a) *'to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality'* on Height of Buildings. This methodology would deliver a development marginally under the 8.5 metre height of 8.48 metres.

The second methodology takes into account known levels on site. Geotechnical Engineering investigations establish the likely depth of the underlying rock as 1.45 metres at borehole 3 and 1.42 metres at borehole 4. This methodology does not take into account any natural soils which may have existed above the rock shelf. This would establish a compliant building height of 8.45 metres.

Based on the above the Panel has concluded that the proposed development is compliant with the building height.

The issue of the driveway was considered and the conflicts with existing private arrangements for parking in the driveways and access to the main pavement. Montpelier Place is not a public road and does not benefit from approvals under Section 138 of the Roads Act. The land is privately owned and private arrangements between the various home owners and the land owner exists. Council is not bound by such private arrangements, however any works within the land known as Montpelier Place cannot be deferred for later approval under the Roads Act and any consent Council issues must be able to demonstrate vehicular access is viable and have the correct approvals. The application was made only referencing lot 68 DP 8075 (65 Bower Street), not lot 30 DP 1149439 (Montpelier Place). Separate approval, with land owners consent, will be required for works within lot 30. Landscaping should be considered between the two driveways/hardstand areas for 65 and 67 Bower Street. Access to the Bin store area should be considered in the final design.

In relation to view loss the panel considered that the development could be lowered in height to a maximum RL of 41.1 which would achieve view sharing to surrounding properties.

Concerns were raised in relation to the common boundary fences and the impacts on both adjoining properties and structural issues around the construction.

In relation to this, amended plans or conditions could be applied for the eastern side boundary fence to be minimised in height by lowering proposed fill along the side setback of the development. To the western boundary plans could be amended to clearly indicate finished wall heights or conditions could be applied to ensure privacy is maintained by a wall of suitable height.

Structural concerns relating to the spiral staircase excavation adjoining the boundary fence are a matter for the construction certificate, however a condition could be inserted requiring a dilapidation report to establish the current state of the boundary wall and adjoining structures.

### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS – Floor Space Ratio

A) The Panel is not satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio 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 not 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, and not in the public interest in regards to view loss to surrounding properties.

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

### DECISION

THAT Development Application No. DA2018/0128 for Demolition and construction a new dwelling house at 65 Bower Street, MANLY be **refused** for the following reasons:

1. The proposed development exceeds the floor space ratio development standard contained within Clause 4.4 of the Manly Local Environmental Plan (MLEP) 2013 without adequate justification that is consistent with the requirements of Clause 4.6 under the MLEP 2013; having regard to Section 79C (1) (a) (i) of the *Environmental Planning and Assessment Act 1979*.

### 3.2 DA2018/0608 - 16 CLIFF STREET, MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and adjacent properties, [REDACTED]

The Panel were addressed by three objectors and the owner.

The Panel considered a written submission provided by a neighbour.

The Panel concurs with the assessment report findings and recommendations except regards to privacy from bedroom No. 2 and bathroom windows.

The Panel discussed the issues of privacy and considered that a translucent surface to the glazing being applied to the first floor bathroom window (W13), and bedroom No. 2 window (W14) to a height of 1.65 metres would provide sufficient levels of privacy to adjoining dwellings.

The Panel also identified that the plans indicated a new fence pillar in the south west corner of the site which extended onto the adjoining site. A condition has been inserted to ensure this is wholly within the property.

#### DECISION

THAT Development Application No. DA2018/0608 for Alterations and additions to a dwelling house at 16 Cliff Street, MANLY be **approved** subject to the conditions outlined in the Assessment Report, and subject to the following:

1. Amend Condition No. 2 to read as follows:

**2. Amendments to the approved plans**

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

- The feature tree on the north-eastern boundary is to be deleted.
- The BBQ Area is to be deleted and a 600mm wide planter box is to be provided on the north eastern boundary in the location of the BBQ area.
- Window W14 to bedroom 2 is to be translucent to a minimum height of 1.65m above the finished floor level.
- Window W13 to the first floor bathroom is to be translucent.
- The 'New Pillar' in the south-western corner is to be located wholly within the lot boundaries.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land. (DACPLB02)

### **3.3 DA2018/0594 - 14 ABBOTT STREET, BALGOWLAH HEIGHTS - ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE**

#### **PROCEEDINGS IN BRIEF**

The Panel viewed the site and adjacent properties.

The Panel were addressed by a representative on behalf of the applicant.

The Panel was satisfied and concurred with the recommendation contained in the report.

#### **DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS – Height of Building**

A) The Panel is satisfied that:

- 1) The applicants written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
  - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
  - b) there are sufficient environmental planning grounds to justify the contraventions.
- 2) The proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

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

#### **DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS – Floor Space Ratio**

A) The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio 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.

#### **DECISION**

THAT Development Application No. DA2018/0594 for Alterations and additions to the existing dwelling house at 14 Abbott Street, Balgowlah Heights be **approved** subject to the conditions set out in the Assessment Report.

### 3.4 DA2018/0788 - 15 GRIFFITHS STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and adjacent properties.

The Panel considered a written submission provided by a neighbour. The Panel also considered memos provided by the assessing officer in relation to this submission as well as to the issue of owners consent.

The Panel was satisfied and concurred with the recommendation contained in the report with the additional of a condition for a Construction Traffic Management Plan given the context of the site to the street and laneway.

#### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS – Floor Space Ratio

- A) The Panel is satisfied that:
- 1) the applicant's written request clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio 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.

#### DECISION

THAT Development Application No. to DA2018/0788 for Alterations and additions to the existing building at 15 Griffiths Street, FAIRLIGHT be **approved** subject to the conditions set out in the Assessment Report, and subject to the following:

1. Addition of the following condition under the heading "Conditions that must be Addressed Prior to any Commencement" to read as follows:

##### **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) is to be provided to Council prior to commencing any site works. The CTMP is to ensure that the impact of the public domain, in particular with respect to the temporary interruption to vehicular and pedestrian traffic on the narrow street frontage with the existing. No Stopping restriction are considered by the proponent. The CTMP must ensure that public safety is maintained at all times and interruption to the use of public space is minimised.

The CTMP is to include but not be limited to the following:

- Access to site for different stages of construction.
- Deliveries of materials to be undertaken within the site during construction
- All construction activity to occur within the site with no provision of Works Zone from



## Council

- Proposed truck routes and truck access to site.

Reason: To ensure public safety and minimisation of the interruption to the use of public.

### 3.5 DA2018/0789 - 15 GRIFFITHS STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING

#### PROCEEDINGS IN BRIEF

The Panel viewed the site and adjacent properties.

The Panel considered a memo provided by the assessing officer in relation to the issue of owners consent.

The Panel was satisfied and concurred with the recommendation contained in the report with the additional of a condition for a Construction Traffic Management Plan given the context of the site to the street and laneway.

#### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS – Floor Space Ratio

A) The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio 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.

#### DECISION

THAT Development Application No. DA2018/0789 for Alterations and additions to the existing building at 15 Griffiths Street, FAIRLIGHT be **approved** subject to the conditions outlined in the Assessment Report, and subject to the following:

1. Addition of the following condition under the heading "Conditions that must be Addressed Prior to any Commencement" to read as follows:

##### **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) is to be provided to Council prior to commencing any site works. The CTMP is to ensure that the impact of the public domain, in particular with respect to the temporary interruption to vehicular and pedestrian traffic on the narrow street frontage with the existing. No Stopping restriction are considered by the proponent. The CTMP must ensure that public safety is maintained at all times and interruption to the use of public space is minimised.

The CTMP is to include but not be limited to the following:

- Access to site for different stages of construction.
- Deliveries of materials to be undertaken within the site during construction
- All construction activity to occur within the site with no provision of Works Zone from Council

- Proposed truck routes and truck access to site

Reason: To ensure public safety and minimisation of the interruption to the use of public.

**3.6 REV2018/0012 - 4 CHERRY LANE, WARRIEWOOD - REVIEW OF DETERMINATION OF APPLICATION N0535/17 FOR THE CONSTRUCTION OF A NEW DWELLING WITHIN LOT 15, CHERRY LANE, WARRIEWOOD**

**PROCEEDINGS IN BRIEF**

The Panel viewed the site and adjacent properties.

The Panel was satisfied and concurred with the recommendation contained in the report.

**DECISION**

THAT Application No. REV2018/0012 for Review of Determination of Application N0535/17 for the construction of a new dwelling within Lot 15, Cherry Lane, Warriewood at 4 Cherry Lane, WARRIEWOOD be **approved** subject to the conditions outlined in the Assessment Report.

*The meeting was suspended at 2pm and reconvened on 20 August 2018, 10 to 10.20am.*

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 August 2018.