



northern
beaches
council

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL

held via teleconference on

WEDNESDAY 7 OCTOBER 2020

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 7 October 2020

The public meeting commenced at 1.00pm and concluded at 3.10pm.

The deliberations and determinations commenced immediately following the public meeting and concluded at 6.43pm.

ATTENDANCE:

Panel Members

Peter Biscoe	Chair - Items 3.1, 3.3 and 4.1
Steve Kennedy	Acting Chair - Item 3.2
Steve Kennedy	Urban Design Expert - Items 3.1, 3.3 and 4.1
Brian Kirk	Town Planner
Nick Lawther	Community Representative - Items 3.1, 3.2 and 4.1

1.0 APOLOGIES AND DECLARATIONS OF INTEREST

Annelise Tuor was listed in the published agenda as a panel member, however was unavailable to attend today. Brian Kirk replaced Annelise Tuor on the panel.

Item 3.2 - Peter Biscoe declared a conflict of interest and did not attend the site inspection and had no involvement in the public meeting, deliberation or determination of this item.

Item 3.3 - Nick Lawther declared a conflict of interest and did not attend the site inspection and had no involvement in the public meeting, deliberation or determination of this item.

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 16 SEPTEMBER 2020

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 16 September 2020, were adopted by the Chairperson and have been posted on the Council's website

3.0 PUBLIC MEETING ITEMS

3.1 DA2020/0455 - 50-52 GOLF AVENUE, MONA VALE - DEMOLITION WORKS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING

PROCEEDINGS IN BRIEF

The proposal seeks the following:

- Demolition of all existing structures and selected trees on site;
- Construction of a part 2/part 3 storey residential flat building with basement carparking;
- Ancillary site works including excavation, site preparation, landscaping, bin storage, fencing, stormwater and drainage works, pathways and retaining walls.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by one neighbour and two representatives of the applicant.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of clause 4.3 Height of Buildings development standard and clause 4.5A Density Controls for Certain Residential Accommodation 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 CONCERNING CONTAMINATION AND REMEDIATION

- (a) The Panel has considered whether the land is contaminated.
- (b) The Panel is satisfied that, whilst the land is contaminated, the land will be suitable after remediation for the purpose for which the development is proposed to be carried out.
- (c) As the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, the Panel is satisfied that the land will be remediated before the land is used for that purpose.

DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0455 for demolition works and construction of a residential flat building at Lot 1 DP 133456 & Lot 2 DP 133456 & Lot 1 DP 963829, 50-52 Golf Avenue, Mona Vale subject to the conditions and for the reasons set out in the Assessment Report and Supplementary Report, subject to the following:

1. The amendment of the following tables in condition 1 to read as follows:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA004 A Site Plan	9.4.2020	PBD Architects
DA100 B Basement Plan	8.9.2020	PBD Architects
DA101 B Ground Floor Plan	8.9.2020	PBD Architects
DA102 B Level 1 Plan	8.9.2020	PBD Architects
DA103 B Level 2 Plan	8.9.2020	PBD Architects
DA104 B Roof Plan	8.9.2020	PBD Architects
DA200 B Elevations 1	8.9.2020	PBD Architects
DA201 B Elevations 2	8.9.2020	PBD Architects
DA202 B Elevations 3	8.9.2020	PBD Architects
DA300 B Section A	8.9.2020	PBD Architects
DA301 B Section B & C	8.9.2020	PBD Architects
DA400 B Materials Schedule 1	8.9.2020	PBD Architects
DA401 B Materials Schedule 2	8.9.2020	PBD Architects
DA900 B Privacy Screen Details	8.9.2020	PBD Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Plan Sheet 1	23.4.2020	Taylor Consulting
Stormwater Management Details Sheet 2	01.04.20	Taylor Consulting
Driveway Plan Sheet 3	21.4.2020	Taylor Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Construction Traffic Management Plan 19.656r02v02	April 2020	Traffix
Detailed Site Investigation E24490.E02_Rev01	28.2.2020	EI Australia
Geotechnical Report E24490.G03	12.2.2020	EI Australia
BCA Assessment Report	22.4.2020	Building Group Control
Access Report 20018	April 2020	Access-i
Arboricultural Impact Assessment	April 2020	Urban Forestry Australia
BASIX Certificate 1090600	24.4.2020	Eco Certificates Pty Ltd

2. The addition of the following condition:

Amendments to Approved Plans

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

- The laundry window and immediately adjoining lobby window of unit B-2.01 shall be fixed with obscure glazing.
- The acoustic metal screen at Level 2, adjacent to unit B-2.01, accessed from fire stair FS-3 shall have a height of 2.1 metres.

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.

3. The addition of the following condition:

Acoustic Treatment

The common walls between the bedrooms of one unit and the living rooms or bathrooms of an adjoining unit are to be constructed to a minimum of 10Rw (sound reduction index) units above the minimum requirement specified in the Building Code of Australia for separating wall construction applicable to this building.

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

Reason: To provide for internal acoustic amenity.

4. The addition of the following condition:

Contaminated Land Requirement and Remediation

A Remediation Action Plan (RAP) is to be prepared by a suitably qualified Environmental Consultant with experience in land contamination in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997.

The RAP shall detail how all requirements and / or recommendations contained within the Detailed Site Investigation E24490.E02, Rev 01 dated 28 Feb 2020 by EI Australia are to be appropriately implemented and completed.

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

Reason: Protection of the environment, SEPP 55 compliance.

5. The addition of the following condition:

Validation for Remediation

A Validation Report to certify compliance with the Remediation Action Plan (RAP) is to be prepared by a suitably qualified Environmental Consultant with experience in land contamination in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997, and a copy of the RAP submitted to Council.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: To ensure environmental amenity is maintained.

Vote: 4/0

3.2 MOD2020/0332 - 173-175 RIVERVIEW ROAD, AVALON BEACH - MODIFICATION OF DEVELOPMENT CONSENT N0193/14 GRANTED FOR DEMOLITION OF THE EXISTING DWELLING AND ERECTION OF NEW SINGLE DWELLING, SWIMMING POOL AND DRIVEWAY

PROCEEDINGS IN BRIEF

The application seeks consent for the retention (and to complete the construction) of a letterbox, which has been erected on the site.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by one neighbour and one representative of the applicant.

The Panel generally agrees with the Council's assessment report and the recommendation for refusal of the application.

Prior to the public meeting the Panel sought advice from Council with regard to the capacity of the Panel to determine an application for work on land for which there was no owner's consent. The advice was that whilst the applicant had the right to submit an application and have that application determined, the Panel did not have the authority to determine that application favourably. During the public meeting the Panel put this issue to the applicant's representative who advised that the applicant had provided Council with advice that the Panel did have the authority to determine the application (letter from Shaw Reynolds dated 22 July 2020). The Panel has reviewed that advice and taken further verbal advice from Council's legal counsel. The Panel is of the opinion that it does not have the authority to determine the application favourably in the absence of land owner's consent.

DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. Mod2020/0332 for Modification of Development Consent N0193/14 granted for demolition of the existing dwelling and erection of new single dwelling, swimming pool and driveway at Lot 6 DP 236812 & Lot 5 DP 236812, 173-175 Riverview Road, Newport for the following reasons:

1. Pursuant to Clause 115(1)(h) of the *Environmental Planning and Assessment Regulation 2000*, owner's consent has not been provided from Council for the works proposed within the road reserve of Riverview Road.
2. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is inconsistent with the *Pittwater Development Control Plan 2014* pursuant to:
 - (a) *Section B6.1 Access driveways and Works on the Public Road Reserve* in that the proposal is considered to be contrary to the outcomes of this DCP control as safe and convenient access to the public is adversely impacted as it seeks to privatise the public frontage and does not assist in pedestrian safety as a future footpath may be obstructed by the proposal;
 - (b) *Section C1.24 Public Road Reserve - Landscaping and Infrastructure* in that the proposed letterbox is inconsistent with the outcomes of this control as the proposed encroachment of the road reserve obstructs the provision of a future footpath and privatises the public domain, particularly having regard to the foreshore access gained from Shore Brace;
 - (c) *Section D1.8: Front building line* in that the proposal is inconsistent with the outcomes

of this control as it does not improve pedestrian amenity nor ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

3. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not suitable for the development as it obstructs the public domain and privatises public land;
4. Pursuant to Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is unacceptable as outlined in submissions made in accordance with this Act or the regulations;
5. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest.

Vote: 3/0

3.3 DA2020/0661 - LOT 7356/1167221 HUSTON PARADE, NORTH CURL CURL - CONSTRUCTION OF A TELECOMMUNICATIONS FACILITY WITH ASSOCIATED EQUIPMENT

PROCEEDINGS IN BRIEF

The proposed development results in the removal of an existing 22 metre light structure being removed and replaced with a telecommunications facility (with an overall height of 25.7 metres) comprising:

- A 22.5m flood light pole with structural capacity to support telecommunications equipment and lighting;
- Three (3) panel antennas (2600mm (H) x 548mm (W) x 150mm (D) attached on a turret mount providing an overall height of 25.7 metres;
- An Optus vandal proof outdoor cabinet, screened by landscaping and on a raised metal platform (2940mm (H) x 2380mm (W) x 3150mm (D));
- Fourteen (14) remote radio units;
- Underground power and fibre connections; and
- Associated ancillary equipment

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by five neighbours and one representative of the applicant.

DEFERRAL DECISION ON DEVELOPMENT APPLICATION

For the purpose of giving further opportunity to the public and the applicant to make submissions concerning the assessment report, the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **defers** Application No. DA2020/0661 for construction of a Telecommunications Facility with associated equipment at Lot 7356/1167221 Huston Parade, North Curl Curl until 4pm Wednesday 14 October 2020 when the public meeting will resume. Any further written submissions relating to the assessment report should be emailed to Council by 3pm Tuesday 13 October 2020. If any person wishes to make an oral submission in relation to the assessment report they should register to do so by 3pm Tuesday 13 October 2020.

Vote: 3/0

4.0 NON PUBLIC MEETING ITEMS

4.1 DA2020/0645 - 37-43 FEDERAL PARADE, BROOKVALE - ALTERATIONS AND ADDITIONS TO A SCHOOL TO PROVIDE SOLAR PANELS

PROCEEDINGS IN BRIEF

The proposal is for the installation of a 588 x 395w solar photovoltaic (PV) cell system on the roof of two separate buildings, Brimson Hall (the gymnasium) and the recently renovated Gould building.

The Panel viewed the site and its surrounds.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
 - a) compliance with the 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 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 DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0645 for alterations and additions to a school to provide solar panels at Lot 100 DP 1250521, 37-43 Federal Parade, Brookvale subject to the conditions and for the reasons set out in the Assessment Report and Supplementary Report, subject to the following:

1. The amendment of condition 12 to read as follows:

12. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed.

- Structural Report prepared by SPAD Consulting Engineers, Ref V076, dated 24 October 2019

The written certification is to be submitted to the Certifying Authority and Northern Beaches Council prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with standards.

Vote: 4/0

This is the final page of the Minutes comprising 11 pages numbered 1 to 11 of the Northern Beaches Local Planning Panel held on Wednesday 7 October 2020.