



northern  
beaches  
council

# **MINUTES**

## **DEVELOPMENT DETERMINATION PANEL MEETING**

held via Teleconference on

**WEDNESDAY 13 MARCH 2024**

**Minutes of a Meeting of the Development Determination Panel  
held on Wednesday 13 March 2024 via Teleconference**

The public meeting commenced at 10.00am and concluded at 12.30pm.

The minutes were determined on 18 March 2024.

**1.0 APOLOGIES AND DECLARATIONS INTEREST**

Nil

**2.0 MINUTES OF PREVIOUS MEETING**

**2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 28 FEBRUARY 2024**

The minutes of the Development Determination Panel held 28 February 2024, were adopted by all Panel Members and have been posted on the Council's website.

### **3.0 DEVELOPMENT DETERMINATION PANEL REPORTS**

#### **3.1 DA2023/0846 - 11 CAPRI CLOSE AVALON BEACH - SUBDIVISION OF ONE LOT INTO TWO AND CONSTRUCTION OF A NEW DWELLING HOUSE**

##### **PANEL MEMBERS**

Daniel Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Simone Lotz	Principal Planner, 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 deliberated at length on a number of issues. These included the steepness of the site, the location, side setback and design of the driveway, impact on the amenity of adjoining properties, streetscape, geotechnical concerns and the structure of the draft conditions of consent.

The Panel sought additional comments from the independent assessing officer in relation to the driveway and dwelling, compliance with landscaped area and boundary envelopes, and how the proposed development will be consistent with the desired future character of the area.

The Panel notes that the site is steeper than 30% and that the P21DCP indicates that such a site should not be subdivided. However, the DCP controls must be applied flexibly and in this particular circumstance, it has been satisfactorily demonstrated that a dwelling and associated access, parking, private open space and stormwater management can be designed reasonably within the built form controls and other planning requirements on this site.

The Panel is satisfied that the driveway has been located to minimise site disturbance and the loss of trees.

The Panel is aware of the geotechnical and landslip concerns with this site and notes the Geotechnical Report, submitted with the application, specific to this site and development, and prepared by a suitably qualified geotechnical engineer. The Panel will impose an additional condition to ensure that the recommendations in the Geotech report are followed during construction.

In relation to the conditions, the Panel notes there are a number of conflicting conditions and minor error in others. Some conditions will need to be amended and some new conditions required. These are outlined in the decision below.

Overall, the Panel is satisfied that the development is acceptable.

The Panel concurred with the independent planning consultants Assessment Report and recommendation.

##### **STATEMENT OF REASON**

Taking into account the unique circumstances of this site and this proposal, the development 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 submissions have been taken into account in the assessment report, through additional assessment comments by the planning consultant and in the meeting.

## DETERMINATION OF DEVELOPMENT APPLICATION

THAT Council as the consent authority, **approves** Application No. DA2023/0846 for subdivision of one lot into two and construction of a new dwelling house at Lot 6 DP 262332, 11 Capri Close AVALON BEACH subject to the conditions set out in the Assessment Report, with the following changes:

1. **The deletion of condition 11 – Construction Certificate**
2. **The deletion of condition 70 – Subdivision Certificate**
3. **The deletion of condition 79 – Release of Subdivision Certificate**
4. **The amendment of condition 28 to read as follows:**

### **Building Colours**

Details demonstrating that:

- External colours and finishes, including to any retaining walls are dark and earthy tones, as outlined in Clause D1.5 of the Pittwater 21 Development Control Plan
- Finishes are of a low reflectivity are to be submitted to the Certifier prior to issue of the Construction Certificate.

Reason: To ensure that the proposed built form harmonises with the natural environment.

5. **The amendment of condition 71 to read as follows and move it to the prior to Construction Certificate section of the consent:**

### **Compliance with approved Vegetation Management Plan**

The two lots are to be managed in accordance with the approved Vegetation Management Plan (VMP), prepared by Kingfisher Urban Ecology and Wetlands, dated January 2023. The VMP is to be implemented for a period of 5 years from the date of commencement. A bushland management contract is to be entered into prior to issue of any Construction Certificate, which sets out the program of works specified in the VMP.

Evidence of the bushland management contract engagement is to be certified by the Project Ecologist.

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

Reason: To protect native vegetation and enhance the natural environment.

6. **The addition of the following condition under the heading ‘conditions to be complied with during demolition and building work’:**

### **Geotechnical Requirements**

All recommendations included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

Vote: 3/0

**3.2 DA2023/0638 - 11 BRISSENDEN AVENUE COLLAROY - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL AND STUDIO**

**PANEL MEMBERS**

Daniel Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

**PROCEEDINGS IN BRIEF**

Panel members visited the site and surrounds.

The Panel was addressed by two representatives of the applicant.

The Panel concurred with the Officer's Assessment Report and recommendation, with the exception of a missing word in the particulars of refusal reason 2.

**STATEMENT OF REASON**

The proposal does not satisfy the relevant strategy, objectives and provisions of Warringah LEP 2011 and the Warringah DCP 2011 as set out within the reasons for refusal in 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**

THAT Council as the consent authority, **refuses** Application No. DA2023/0638 for demolition works and construction of a dwelling house including swimming pool and studio at Lot 11 & 12 DP 978060, 1 Brissenden Avenue COLLAROY for the reasons for refusal set out in the Assessment Report, subject to the following changes:

**1. The amendment of refusal reason 2 to read as follows:**

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011.

Particulars:

Insufficient detail has been provided that will ensure that no detrimental impacts of stormwater discharge to adjoining properties will occur.

Vote: 3/0

**3.3 DA2023/1242 - 28 A OCEAN ROAD MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE AND ASSOCIATED WORKS**

**PANEL MEMBERS**

Daniel Milliken	Manager, Development Assessment
Steve Findlay	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

**PROCEEDINGS IN BRIEF**

Panel members visited the site and surrounds.

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

The Panel is generally satisfied with the merits of the development, however there are minor elements of the proposal that will result in unreasonable amenity impacts. In particular, the fire rated wall on the upper level balcony and the spa on the lower level deck.

The Panel is of the view that the fire rated wall is not necessary in its current proposed length and should be reduced so that it extends no more than 1m from the end of window W13.

The privacy wall on the lower level deck has been recommended to be removed via condition. The Panel is supportive of this and is also of the view that the spa will result in unreasonable impacts to the adjoining property and should be deleted.

The applicant requested the deletion of conditions 19 and 45. The Panel agrees that these are not necessary and can be deleted.

Amendments are required to conditions 8 and 15 and these will be addresses in the decision below.

Subject to the above 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 Manly LEP 2013 and the Manly DCP 2013 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 Manly LEP 2013 seeking to justify a contravention of clause 4.3 Height of Buildings and 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.

## **DETERMINATION OF DEVELOPMENT APPLICATION**

THAT Council as the consent authority, **approves** Application No. DA2023/1242 for alterations and additions to a dwelling house and associated works at Lot Y DP 445287, 28A Ocean Road MANLY subject to the conditions set out in the Assessment Report, with the following changes:

### **1. The amendment of condition 8 to read as follows:**

#### **On-Site Stormwater Detention**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Amuna Civil Engineers, drawing number ACE23117 S1 Rev 1, S2 Rev1, S3 Rev1, S4 Rev 1, S5 Rev 1 and S6 Rev 1, dated 18/10/23. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- The outlet pipe from the site is to be connected to the Council pipe in Augusta Lane. The connection is to be approved by Council via a Stormwater Drainage Application.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure the adequate disposal of stormwater.

### **2. The amendment of condition 15 to read as follows:**

#### **Amendments to the approved plans**

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

- The aluminium privacy screen proposed to be affixed to the southern elevation (eastern portion) of the ground floor deck is to be deleted.
- The spa on the lower level deck is to be deleted.
- The fire rated wall on the southern edge of the upper level deck is to be reduced in length so that it extends no further than 1m eastwards of window W13.

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.

### **3. The deletion of condition 19 – Front Facade**

### **4. The deletion of condition 45 – Resident Parking Permits**

Vote: 3/0



**3.4 DA2023/0707 - 2 MANOR ROAD INGLESIDE - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A CARPORT AND SECONDARY DWELLING**

**PANEL MEMBERS**

Daniel Milliken	Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Kelly Wilkinson	Principal Planner, Strategic & Place Planning

**PROCEEDINGS IN BRIEF**

Panel members visited the site and surrounds.

The Panel was addressed by 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**

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**

THAT Council as the consent authority, **approves** Application No. DA2023/0707 for alterations and additions to a dwelling house including a carport and secondary dwelling at Lot 81 DP 866452, 2 Manor Road INGLESIDE subject to the conditions set out in the Assessment Report.

Vote: 3/0

**3.5 MOD2023/0684 - 1191 & 1193 BARRENJOEY ROAD PALM BEACH - MODIFICATION OF DEVELOPMENT CONSENT NO. DA2021/0669 GRANTED FOR DEMOLITION WORKS AND CONSTRUCTION OF A NEW RESTAURANT, CARPARKING AND ASSOCIATED USES**

**PANEL MEMBERS**

Daniel Milliken	Manager, Development Assessment
Rod Piggott	Manager, Development Assessment
Liza Cordoba	Manager, Strategic & Place Planning

**PROCEEDINGS IN BRIEF**

Panel members visited the site and surrounds.

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

The application was lodged as a 4.55(1A). A critical test of a 4.55(1A) is that it is of minimal environmental impact. The Panel is of the view that the increase in operating hours and the inevitable increase in functions, noise, traffic and other amenity issues resulting from these extended hours does not meet the requirement to be of minimal environmental impact.

Given the above, the Panel does not have the authority to approve this application as a 4.55(1A) and therefore must refuse this modification.

The Panel is also concerned about the impacts of the proposed increased operating hours on nearby residents and notes that no acoustic testing has been undertaken during functions since the recent re-opening of the venue. The testing in the Acoustic report submitted with the application occurred, in part, during Covid lockdowns.

**STATEMENT OF REASON**

The proposal does not satisfy the relevant strategy, objectives and provisions of Pittwater LEP 2014 and the Pittwater 21 DCP subject to conditions.

**COMMUNITY CONSULTATION**

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

**DETERMINATION OF MODIFICATION APPLICATION**

THAT Council as the consent authority, **refuses** Application No. Mod2023/0684 for Modification of Development Consent No. DA2021/0669 granted for demolition works and construction of a new restaurant, carparking and associated uses at Lot 298 DP 721522, 1191 Barrenjoey Road PALM BEACH and Lot 7002 and 7005 DP 1117451, 1193 Barrenjoey Road PALM BEACH subject to the following reasons for refusal:

1. Pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, the proposed development is not of minimal environmental impact.

Particulars:

The increase in operating hours and the inevitable increase in functions, noise, traffic and other amenity issues resulting from these extended hours does not meet the requirement to be of minimal environmental impact.

2. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the

proposed development is not in the public interest.

Particulars:

The proposed increase in operating hours is likely to result in unreasonable amenity impacts to nearby residential properties.

3. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the proposed development has not provided sufficient information.

Particulars:

No acoustic testing has been undertaken during functions since the recent re-opening of the venue. The testing in the Acoustic report submitted with the application occurred, in part, during Covid lockdowns.

Vote: 3/0

**3.6 MOD2023/0625 - 199 WHALE BEACH ROAD WHALE BEACH - MODIFICATION OF DEVELOPMENT CONSENT DA2022/1951 GRANTED FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE**

**PANEL MEMBERS**

Daniel Milliken	Manager, Development Assessment
Adam Richardson	Manager, Development Assessment
Kelly Wilkinson	Principal Planner, Strategic & Place Planning

**PROCEEDINGS IN BRIEF**

Panel members visited the site and surrounds.

The panel was addressed by representatives of the applicant.

The Assessment report, in the executive summary references 4.55(2) and clause 4.6. The Panel notes that this is a typographical error and that the application was lodged as a 4.55(1A), has been assessed as a 4.55(1A) and that there is no clause 4.6 request.

Subject to the above, 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 submissions have been taken into account in the report and the meeting.

**DETERMINATION OF MODIFICATION APPLICATION**

THAT Council as the consent authority, **approves** Modification Application No. Mod2023/0625 for modification of Development Consent DA2022/1951 granted for alterations and additions to a dwelling house at Lot 10 DP 10782 & Lot 200 DP 1033789, 199 Whale Beach Road WHALE BEACH subject to the conditions set out in the Assessment Report.

Vote: 3/0

This is the final page of the Minutes comprising 13 pages numbered 1 to 13 of the Development Determination Panel meeting held on Wednesday 13 March 2024.