



northern
beaches
council

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

held via Teleconference on

WEDNESDAY 5 JUNE 2024

Minutes of the Northern Beaches Local Planning Panel held on Wednesday 5 June 2024

The public meeting commenced at 12.04pm and concluded at 1:40pm.

The deliberations and determinations commenced at 2:00pm following the public meeting and concluded at 5:30pm.

ATTENDANCE:

Panel Members

David Crofts	Chair
Lisa Bella Esposito	Town Planner
Deborah Laidlaw	Town Planner
Susan Denham	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

In accordance with Section 4.9 of the NSW Government Code of Conduct for Local Government Planning Panels, all members have signed a declaration of interest in relation to each item on the agenda. No conflicts of interest were disclosed.

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF EXTRAORDINARY NORTHERN BEACHES LOCAL PLANNING PANEL HELD ON 23 MAY 2024

The Panel noted that the minutes of the Extraordinary Northern Beaches Local Planning Panel held on 23 May 2024, 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 DA2023/1224 - 62 MYOORA ROAD TERREY HILLS - ALTERATIONS AND ADDITIONS TO THE EXISTING GARDEN CENTRE

PROCEEDINGS IN BRIEF

The Proposal is for alterations and additions to the existing garden centre.

At the public meeting the Panel was addressed by 4 neighbours and 1 representative of the applicant.

The Panel received late submissions dated 31 May 2024 and 3 June 2024 and a Supplementary Memo from Council dated 4 June 2024.

The Panel considered a request by objectors to defer the matter.

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 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.

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. DA2023/1224 for alterations and additions to the existing garden centre at Lot 4 DP 737411, 62 Myoora Road TERREY HILLS subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 14 to read as follows:

14. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.

- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors to park onsite.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Specify that, due to the proximity of the site adjacent to Terrey Hills Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas

- (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
 - The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
 - Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
 - The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
 - Proposed protection for Council and adjoining properties.
 - The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”. All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted. A copy of the approved CTMP must be kept on-site at all times while work is being carried out. The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

2. The Amendment of condition 27 to read as follows:

27. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

3. The Amendment of condition 29 to read as follows:

29. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for Infrastructure Works on Council Roadway for approval under Section 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the new development works within the road reserve. The design of the kerb and gutter, footpath, ramps, stormwater connection to Council's pit, vehicle crossing design and road pavement are to be in accordance with Council standard drawings and Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

- a) The construction of vertical faced kerb and gutter on the south side of Cooyong Road between Mona vale Road and Myoora Road. The face of kerb to be offset 8.2m from the kerb on the northern side of Cooyong Road road to provide two 3m wide traffic lanes and a 2.2m parking lane (northern side of Cooyong Road). This width is to be provided for the section of road between the existing School Zone sign opposite the Cooyong Road frontage of 64 Myoora Rd and a location opposite the Cooyong Rd access point to the Mona Vale Road underpass. Transitions between the new kerb and existing kerb at the intersections of Cooyong Rd with Myoora Road and Mona Vale Road must be designed to accommodate the turning manoeuvres for the largest vehicle type accessing the site. A swept path analysis demonstrating access is to be submitted to Council's Traffic Engineer for approval.
- b) A 2.5m wide concrete shared path on the southern side of Cooyong Road, between Myoora Road and Mona Vale Road. The shared path to be located between the property boundary of the development site and the existing streetlights in the Road Reserve. New kerb ramps connections to the path are to be provided on both sides of Myoora Road, and on the southern side of Cooyong Road at its eastern end opposite the access to the Mona Vale Road underpass.
- c) A 1.5m wide concrete footpath on the eastern side of Myoora Road connecting to the new Cooyong Road shared path and Myoora Road kerb ramp and extending to Bus Stop ID: 208454, and the proposed nursery access driveway to Myoora Road.
- d) A minimum 1.5m wide bridle trail (off-road & turfed) located in the grassed nature strip on the south side of Cooyong Road.
- e) e) Install 'No Parking' signage along the southern side of Cooyong Road.
- f) f) The provision of 'No Parking' restrictions on the south side of Cooyong Road, between Myoora Road and Mona Vale Road, requires approval from the Northern Beaches Council Local Traffic Committee prior to commencement of installation. A plan providing details of the proposed signage must be lodged for consideration at least twelve (12) weeks prior to work commencing.
- g) g) The existing overflow parking on the Mona Vale Road verge is to be removed and the area reinstated to Council's satisfaction. The access driveway off Cooyong Road shall be removed and replaced with kerb and gutter.
- h) The redundant driveway on the Mona Vale Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Mona Vale Road shall be in accordance with TfNSW requirements.
- i) Detail of stormwater connection to Pit SPP13301 on Mona Vale Road. Submitted plans must include longitudinal section from last pit on private property to Pit SPP13301. Show all crossing services. Connect to pit as high as possible whilst maintaining minimum grade of 1% and minimum cover requirements. Design is to be in accordance with Council Standard Drawing S1006 (Junction Pit).
- j) Provide detailed design including longitudinal sections for all proposed vehicle crossings accessing the site.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

Details demonstrating compliance in relation to works on Cooyong Road and Myoora Road (local roads) are to be submitted to Council for approval prior to the issue of the Construction Certificate.

Detailed design plans of the proposed works on Mona Vale Road (State Road) are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and

commencement of any road works.

An approval for the above matters is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

4. **The amendment of condition 91 to read as follows:**

91. Signage Illumination

Illumination of signage must be in accordance with the relevant Australia Standards (AS1158.3.1:2020, AS4282:2019 (Category A3), and AS1680.5:2012).

Signage must only be illuminated in accordance with the above operation details.

Details of how the signage will be illuminated must be submitted to the satisfaction of the Principal Certifier prior to the operation of the signage lighting.

Reason: To prevent excessive illumination.

5. The addition of the following condition:

97. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a garden centre, in accordance with the Dictionary of the Warringah Local Environmental Plan 2013, as follows:

Garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may include a restaurant or cafe and the sale of any of the following:

- a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,*
- b) pets and pet supplies,*
- c) fresh produce.*

The above land use definition is in accordance with Schedule 1 Additional Permitted Uses, Subclause 18 of the Warringah Local Environmental Plan 2013, which provides:

- (1) This clause applies to land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills, shown as "Area 18" on the Additional Permitted Uses Map.*
- (2) Development for the purposes of educational establishments, garden centres, hospitals, hotel or motel accommodation, places of public worship, recreation areas, recreation facilities (indoor), recreation facilities (outdoor), registered clubs and restaurants or cafes is permitted with consent.*

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and Supplementary Memo.

Vote: 4/0

4.2 DA2023/1532 - 15 OCEAN ROAD PALM BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PROCEEDINGS IN BRIEF

The Proposal is for demolition works and construction of a dwelling house including a swimming pool.

At the public meeting the Panel was addressed by 1 neighbour and 1 representative of the applicant.

The Panel received a late submission dated 3 June 2024 and a supplementary memo from Council dated 4 June 2024.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

The Panel is not 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 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.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/1532 for demolition works and construction of a dwelling house including swimming pool at Lot 2 DP 412086, 15 Ocean Road PALM BEACH, for the reasons for refusal set out in the Assessment Report, subject to the following:

1. **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 Clause 4.6 Exceptions to Development Standards of the Pittwater Local Environmental Plan 2014.**

Particulars

- a) Council is not satisfied that the applicant's variation request under Clause 4.6 of Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings.
 - i. has adequately demonstrated that compliance with the standards is unreasonable or unnecessary,
 - ii. that there are sufficient environmental planning grounds to justify the contravention
 - iii. that the proposed development will be in the public interest
2. **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 Clause 4.3 Height of Buildings of the Pittwater Local Environmental Plan 2014.**

Particulars

The Proposal is inconsistent with the underlying objectives of Clause 4.3 Height of Buildings of the Pittwater Local Environmental Plan 2014.

3. **Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.**

Particulars

The Proposal is not consistent with the Desired Future Character of Pittwater's localities:

4. **Assessment Act 1979, the proposed development is inconsistent with the provisions of the C4 Environmental Living zone of the Pittwater Local Environmental Plan 2014, Clause A4.12 Palm Beach Locality of the Pittwater 21 Development Control Plan and Chapter 2 Coastal Management of SEPP (Resilience and Hazards) 2021.**

Particulars

The Proposal, due to its excessive bulk, its impact on the amenity of adjoining properties and users of the public domain, and its poor relationship with the subject property and the surrounding environment, is inconsistent with

- a) the objectives of the C4 Environmental Living Zone,
- b) the Desired Future Character provisions of the Palm Beach Locality, and
- c) the visual amenity provisions of Chapter 2 of SEPP (Resilience and Hazards).

5. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B8.1 Construction and Demolition - Excavation and Landfill of the Pittwater 21 Development Control Plan.**

Particulars

The proposed volume and depth of excavation to accommodate the proposed development is excessive and do not respond to the topography of the site

6. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.4 Solar Access of the Pittwater 21 Development Control Plan.**

Particulars

The proposed building height, bulk, siting and design result in unacceptable overshadowing of adjoining properties.

7. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.5 Visual Privacy of the Pittwater 21 Development Control Plan.**

Particulars

The proposed building height, bulk, siting and design result in unacceptable privacy and visual impacts on adjoining properties

8. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.8 Building Envelope of the Pittwater 21 Development Control Plan.**

Particulars

The proposed breaches of the building envelope control contribute the excessive bulk and scale of the dwelling that would result in adverse amenity impacts upon adjoining properties and diminish the character of the surrounding locality.

9. **Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.10 Landscaped Area - Environmentally Sensitive Land of the Pittwater 21 Development Control Plan.**

Particulars

The proposed landscaped area is insufficient in relation to the site area and the scale of the proposed dwelling. The shortfall in landscaped area is reflective of the excessive building footprint and inconsistency with the landscape character of the locality.

10. **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 development assessment has found the proposal to be contrary to relevant requirements of the Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan.

As such it will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and Supplementary Memo.

Vote: 4/0

4.3 DA2023/1481 - 26 & 28 ABERNETHY STREET SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PROCEEDINGS IN BRIEF

The Proposal is for alterations and additions to a dwelling house.

At the public meeting the Panel was addressed by 2 neighbours and 1 representative of the applicant.

The Panel received late submissions dated 2 and 3 June 2024 and a Supplementary Memo from Council dated 4 June 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. DA2023/1481 for alterations and additions to a dwelling house at Lot 1 DP 223177, 26 Abernethy Street SEAFORTH and Lot 2 DP 223177, 28 Abernethy Street SEAFORTH subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of Condition 1 **Approved Plans and Supporting Documentation** to read as follows:

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
99524.01	A	Site & Floor Plan	HSA Architects	16 April 2024
99524.02	A	Section & Elevations	HSA Architects	16 April 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Geotechnical Investigation	J3760A	White Geotechnical Group	2 May 2024
Structural Load Certificate	cl21050/2403 2A	D. O'Brien Engineering Services	1 May 2024
Bushfire Assessment Report	79BA-1994-2	Sydney Bushfire Consultants	29 April 2024

Bushfire Risk Assessment Certificate	79BA-1994-2	Sydney Bushfire Consultants	29 April 2024
Structural Investigation of Existing Garage Slab	-	Slab Scan	14 March 2023
Structural Engineering Report	22-17	Milton Webster Structural Consulting	24 March 2023
Structural Certificate	22-17	Milton Webster Structural Consulting	28 April 2023
Structural Certificate	22-17	Milton Webster Structural Consulting	16 August 2023
Structural Certificate	22-17	Milton Webster Structural Consulting	30 November 2023
Structural Certificate	22-17	Milton Webster Structural Consulting	2 December 2023
Structural Certificate	22-17	Milton Webster Structural Consulting	5 March 2024
Waste Management Plan	-	Ian McKnight	24 October 2023

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.

2. The addition of the following conditions under '**BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**' to read as follows:

Amendment to the Approved Garage

The following amendments are required to the approved garage:

- The skillion roof of the garage is to be lowered by a minimum of 150 millimetres to a maximum height of RL 61.57 at the eastern edge. The maximum height of the western edge of the roof may be retained at RL 61.10 or reduced.
- The external faces of the garage are to have a finish that improves visual impact, such as vertical timber battens or stonework, from the base of the walls to the height of the garage door header.

Details demonstrating compliance with this condition are to be provided to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: To reduce the overall bulk and scale of the garage.

Stormwater Disposal from Low Level Property

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing functioning system or in accordance with Northern Beaches Council's Water Management for Development Policy, in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with Northern Beaches Council's policy by an appropriately qualified Civil Engineer are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

The method of stormwater management is not to rely on discharge to adjoining private properties.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

3. The addition of the following conditions under '**DURING BUILDING WORK**' to read as follows:

Protection of Existing Street Vegetation

All existing street trees and hedging in the vicinity of the works (including the existing hedging in Council's road reserve in front of No. 26 Abernethy Street) shall be retained during all works. The street tree(s) and hedging fronting the development site shall be protected by protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) and hedging fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street vegetation protection.

4. The addition of the following condition under '**BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**' to read as follows:

Partial Surrender of Consent

Prior to commencement of any works, Development Consent No. DA34/2001 at No. 28 Abernethy Street, Seaforth is to be partially surrendered in accordance with under Section 4.63 of the *Environmental Planning and Assessment Act 1979* and Clause 68 of the *Environmental Planning and Assessment Regulation 2021*. The portion to be surrendered is for the approved double garage.

Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Principal Certifier prior to commencement.

Reason: To ensure orderly development.

5. The addition of the following condition under '**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**' to read as follows:

Use of the Approved Garage

The approved double garage subject of this consent is to be for the use of occupants of No. 28 Abernethy Street, Seaforth only.

Reason: To ensure orderly use of the approved garage.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and Supplementary Memo.

Vote: 4/0

4.4 DA2023/1750 - 42 NORTH STEYNE MANLY & 75 THE CORSO MANLY - ALTERATIONS AND ADDITIONS TO A PUB

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a Pub.

At the public meeting which followed the Panel was addressed by 2 neighbours and 1 representatives of the applicant.

The Panel received late submissions dated 3 and 4 June 2024 and a Supplementary Memo from Council dated 5 June 2024.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

The applicant's 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.

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. DA2023/1750 for alterations and additions to a Pub at Lot 1 DP 1280856, 42 North Steyne MANLY, Lot 100 DP 1069144, 75 The Corso MANLY, Lot 101 DP 1069144, 75 The Corso MANLY and Lot 102 DP 1069144, 75 The Corso MANLY subject to the conditions set out in the Assessment Report, subject to the following:

1. The deletion of Condition 12, 13 and 17 addressing Acid Sulfate Soils management.
2. The addition of the following Conditions:

A. 'Mechanical Plant Screening' under 'BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE' to read as follows:

Mechanical Plant Screening

The proposed mechanical plant screening on the rooftop is to be of solid construction to provide acoustic screening, not louvres. The screening is to be at a height of RL 18.33. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that offensive noise is not created from plant and equipment.

B. 'Plan of Management Amendment' under 'BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE' to read as follows:

Plan of Management Amendment

The Plan of Management, as approved by Council, must amended to include a section addressing the ongoing noise management of the outdoor courtyard area. The updated Plan

of Management is to be submitted to Council's Environmental Health Team prior to the issue of the Construction Certificate.

Reason: To ensure compliance with legislation and protect public health and residential amenity.

C. 'Construction Traffic Management Plan' under 'BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE' to read as follows:

Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate.
 - The report must:
 - Compare the post-construction report with the pre-construction report.
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether it is likely to be the result of the development works.
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.

- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork, and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.

- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

D. ‘On-Street Work Zone’ under ‘BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE’ to read as follows:

On-Street Work Zone

The applicant shall lodge an application for a work zone at the frontage of the site to Council

for consideration and approval.

The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Applications must be lodged at least four (4) weeks prior to work commencing.

Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

E. 'Road Reserve' under 'DURING BUILDING WORK' to read as follows:

Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

F. 'Implementation of Construction Traffic Management Plan' under 'DURING BUILDING WORK' to read as follows:

Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation.

Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval.

A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

G. 'Noise Limiters' under 'BEFORE ISSUE OF THE OCCUPATION CERTIFICATE' to read as follows:

Noise Limiters

Prior to the issue of the Occupation Certificate, an acoustic consultant is to be engaged to set noise limiters to the venues internal sound systems located in all outdoor areas of the venue. The acoustic consultant is to set the noise limiters to a level where the noise from the sound systems in all outdoor areas of the venue cannot be audible inside a habitable room of a residential dwelling.

The use of externally sourced sound systems is not permitted in any outdoor areas of the venue.

Reason: To protect the noise amenity of nearby residential receivers.

H. 'Ongoing Noise Management' under 'ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES' to read as follows:

Ongoing Noise Management

The ongoing management of the premises must be in full accordance with the Protection of

the Environment Operations Act 1997, including but not limited to:

- Noise arising from patrons must not be audible within any habitable room of any neighbouring residential premises at any time.
- Noise arising from music, live entertainment or other such amplified sound must not be audible within any habitable of any neighbouring residential premises at any time.

Reason: To ensure reasonable levels of amenity for adjoining residents in the surrounding area.

3. The amendment of title of Condition 10 to read as follows:

Conservation Management Plan

4. **The amendment of condition 21 to read as follows:**

21. Plan of Management

The Hotel Steyne is to operate in accordance with the Plan of Management of Security and Operation of The Hotel Steyne, Manly, dated March 2013, approved as per DA350/2011 Part 4 on 16 February 2017, as modified by the conditions of consent applied to DA350/2011 and this consent.

Reason: To ensure operation in accordance with this consent and previous related consents.

5. **The amendment of Condition 25 to read as follows:**

Noise Levels

The La10* noise level emitted from the licensed premises must not exceed the background of noise level in any Octave Band Centre Frequency (31.5Hz to 8kHz inclusive) by more than 5dB between 10:00 pm and 7:00 am at the boundary of any affected residence.

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.

Vote: 4/0

4.5 DA2024/0017 - 169 AVALON PARADE AVALON BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DUAL OCCUPANCY

PROCEEDINGS IN BRIEF

The Proposal is for demolition works and construction of a dual occupancy.

At the public meeting the Panel was addressed by 2 representatives of the applicant.

The Panel received a late submission dated 3 June 2024 and a Supplementary Memo from Council dated 4 June 2024.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

The Panel is not satisfied that:

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 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.

DETERMINATION OF DEVELOPMENT APPLICATION

The Panel was informed by the applicant of an error in the submitted plans that showed a retaining wall incorrectly located at 167 Avalon Parade, Avalon Beach. The Panel has determined the application based on an acknowledgement of this error.

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2024/0017 for demolition works and construction of a dual occupancy at Lot B DP 357431, 169 Avalon Parade AVALON BEACH for the reasons for refusal set out in the Assessment Report, subject to the following:

1. **The deletion of reason 1. Owners Consent**
2. **The amendment of reason 2 to read as follows:**

a) Clause 4.6 Variation to Development Standards

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 Clause 4.6 Exceptions to Development Standards of the Pittwater Local Environmental Plan 2014.

Particulars:

The applicant's written request under Clause 4.6 of PLEP 2014 has not adequately demonstrated that compliance with the standard is unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify the contraventions.

b) Inconsistency with Clause 4.3 Height of Buildings

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 Clause 4.3 Height of Buildings development standard of the Pittwater Local Environmental Plan 2014.

Particulars:

The proposal is inconsistent with the Clause 4.3 Height of Buildings of Pittwater Local Environmental Plan 2014 Development Standard.

3. **Replace reason 9 with the following:**

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause C1.4 Solar Access of the Pittwater 21 Development Control Plan.

Particulars:

The proposed building height, bulk, siting and design result in unacceptable overshadowing impacts upon adjoining properties.

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause C1.5 Visual Privacy of the Pittwater 21 Development Control Plan

Particulars:

The proposed building height, bulk, siting and design result in unacceptable visual privacy impacts upon adjoining properties.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and Supplementary Memo.

Vote: 4/0

4.6 REV2024/0006 - 107 IRIS STREET BEACON HILL - REVIEW OF DETERMINATION OF DA2023/0379 TORRENS TITLE SUBDIVISION OF ONE LOT INTO FOUR LOTS

PROCEEDINGS IN BRIEF

The Proposal is for review of Determination of DA2023/0379 Torrens title Subdivision of one lot into four lots.

At the public meeting the Panel was addressed by 1 representative of the applicant.

The Panel received a late submission dated 31 May 2024 and a supplementary memo from Council dated 4 June 2024.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

The Panel is not satisfied that:

The applicant's written request under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.1 Minimum subdivision lot size 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.

DETERMINATION OF REVIEW APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. REV2024/0006 for Review of Determination of DA2023/0379 Torrens title Subdivision of one lot into four lots at Lot 18 DP 19022, 107 Iris Street BEACON HILL, for the reasons for refusal set out in the Assessment Report, subject to the following:

- 1. 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 Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2014.**

Particulars:

The Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case.

The Applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standard in the circumstances of this case.

- 2. 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 Clause 4.1 Minimum Subdivision Lot Size of the Warringah Local Environmental Plan 2011.**

Particulars:

The Proposal is inconsistent with Clause 4.1 Minimum subdivision lot size development standard of the Warringah Local Environmental Plan 2011. It is consistent with the Minimum Lot Size for the subject land shown on the Lot Size Map.

It is also inconsistent with Objective 4.1(1)(g) of Clause 4.1 provides "(g) to retain and protect existing significant natural landscape features". This inconsistency relates to natural features

within proposed Lot 2, namely, a large mature tree and natural rock face.

The additional information provided by the applicant with the application for a review of the Panel's decision of 13 December 2023 has not demonstrated that the proposed development can be undertaken without adverse environmental impacts.

The site is significantly constrained by the natural features principally located adjacent to the street frontage which inhibits the ability to undertake more intensive development in that part of the lot.

The location of the large mature tree further limits the flexibility in lot design and associated spaces.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.

Particulars:

The Proposal is inconsistent with Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011 in that the proposed development will not protect and enhance the residential use and amenity of existing residential environments, and will not result in a development that is compatible with neighbouring development in terms of bulk, scale and appearance.

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Zone R2 Low Density Residential zone objectives of the Warringah Local Environmental Plan 2011

Particulars:

The Proposal is inconsistent with the objectives of the R2 Low Density Residential zone as the proposed development does not provide for the housing needs of the community within a low density residential environment, or ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

The Proposal will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community.

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.

Particulars:

The Proposal will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. The proposal is inconsistent with the provisions of Clause 4.1 Minimum subdivision lot size, Clause 4.6 Exceptions to Development Standards and the Zone R2 Low Density Residential zone objectives of the Warringah Local Environmental Plan 2011.

In this regard the proposed development is not considered to be in the public interest.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report and Supplementary Memo.

Vote: 4/0

5.0 NON PUBLIC MEETING ITEMS

5.1 DA2023/1536 - 173 MONA VALE ROAD INGLESIDE - ALTERATIONS AND ADDITIONS TO A PLACE OF PUBLIC WORSHIP (BAHAI TEMPLE)

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a Place of Public Worship (Bahai Temple).

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/1536 for alterations and additions to a Place of Public Worship (Bahai Temple) at Part Lot 52 DP 1152609, 173 Mona Vale Road INGLESIDE subject to the conditions set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report

Vote: 4/0

5.2 DA2024/0104 - 1637 - 1639 A PITTWATER ROAD MONA VALE - STRATA SUBDIVISION OF AN EXISTING DUAL OCCUPANCY

PROCEEDINGS IN BRIEF

The proposal is for strata subdivision of an existing dual occupancy.

DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

The applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones 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.

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. DA2024/0104 for strata subdivision of an existing dual occupancy at Lot 3 DP 1126202, 1637 - 1639 A Pittwater Road MONA VALE subject to the conditions set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the Assessment Report.

Vote: 4/0