



northern
beaches
council

MINUTES

NORTHERN BEACHES LOCAL PLANNING PANEL EXTRAORDINARY MEETING

held via Teleconference on

WEDNESDAY 31 AUGUST 2022

Minutes of an Extraordinary Meeting of the Northern Beaches Local Planning Panel

held on Wednesday 31 August 2022

The public meeting commenced at 12.00pm and concluded at 12.03pm.

The deliberations and determinations commenced immediately following the public meeting and concluded at 2.52pm.

ATTENDANCE:

Panel Members

Annelise Tuor	Chair
Kara Krason	Town Planner
Robert Hussey	Town Planner
Frank Bush	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 NORTHERN BEACHES LOCAL PLANNING PANEL HELD 3 AUGUST 2022

RECOMMENDATION

That the minutes of the Northern Beaches Local Planning Panel held 3 August 2022, 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 DA2022/0448 - 7 COOLEENA ROAD, ELANORA HEIGHTS - SUBDIVISION OF ONE LOT INTO TWO AND PARTIAL DEMOLITION OF EXISTING DWELLING.

PROCEEDINGS IN BRIEF

The proposal is for subdivision of one lot into two and partial demolition of existing dwelling.

At the public meeting the Panel was not addressed by any neighbours or representatives of the applicant.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2022/0448 for the Subdivision of one lot into two and partial demolition of existing dwelling on land at Lot G DP 408223,7 Cooleena Road, ELANORA HEIGHTS, for the reasons for refusal set out in the Assessment Report.

REASONS FOR DETERMINATION

The Panel agrees generally with the assessment report.

Vote: 4/0

5.0 NON PUBLIC MEETING ITEMS

5.1 DA2022/0581 - 3 GOLF AVENUE, MONA VALE - ALTERATIONS AND ADDITIONS TO A RECREATION FACILITY (OUTDOOR) - MONA VALE GOLF CLUB.

PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to a Recreation Facility (Outdoor) - Mona Vale Golf Club.

DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/0581 for Alterations and additions to a Recreation Facility (Outdoor) - Mona Vale Golf Club on land at Lot 2 DP 1275526, 1 Golf Avenue, MONA VALE, Lot 249 DP 752046 (SPL 76319) Lot 323 DP 824000 (Crown Lease 200108), 3 Golf Avenue, MONA VALE, Lot 249 DP 752046 (SPL 76319) Lot 323 DP 824000 (Crown Lease 200108), 3 Golf Avenue, MONA VALE, subject to the conditions set out in the Assessment Report, subject to the following:

1. The amendment of condition 10 to read as follows:

10. Building Code of Australia Fire Safety Requirements

The recommendations and requirements for fire safety measures as detailed and recommended in the BCA Assessment Report prepared by BCA Logic, dated 1/4/2022, Ref 115505-BCA-r4, including any Performance Solutions, shall be implemented into the plans.

Details demonstrating compliance are to be provided to the certifier prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for health, amenity, access and fire safety for building occupant health and safety.

2. The amendment of condition 11 to read as follows:

11. Building Code of Australia Access

The recommendation and requirements for access for Persons with a Disability are to comply with the Building Code of Australia and AS 1428.1.

The recommendations and requirements of the Accessibility Review Report prepared by ABE Consulting dated 31/3/2022 shall be implemented into the plans.

Details are to be provided to the certifier prior to the issue of a Construction Certificate, and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

3. The amendment of condition 40 to read as follows:

40. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 8:00am - 9:00pm
- Saturday – 8:00am - 9:00pm

- Sunday and Public Holidays – 8:00am - 9:00pm

No more than 1 (one) ancillary function/event to the approved land use shall occur per week which operates until midnight (12:00). Note: this requirement does not preclude the number of ancillary functions/events held within the above hours of operation.

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

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

REASONS FOR DETERMINATION

The Panel agrees generally with the assessment report subject to amendments to clarify conditions 10, 11 and 40.

Vote: 4/0

5.2 DA2021/2447 - 989 BARRENJOEY ROAD, PALM BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SWIMMING POOL.

PROCEEDINGS IN BRIEF

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

The panel received a late submission dated 30 August 2022 and a supplementary memo.

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 Environment Plan 2014 seeking to justify a contravention of clause 4.3 Height of Buildings 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.

C. The Panel is not satisfied that:

- a) the applicant's written request under clause 4.6 of the Pittwater Local Environment Plan 2014 seeking to justify a contravention of clause 7.8 Foreshore Area 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 proposed development will be in the public interest because it is not 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, **approves** Application No. DA2021/2447 for demolition works and construction of a dwelling house on land at Lot 58 DP 13620, 989 Barrenjoey Road, PALM BEACH, Lot LIC 320226, 989 Barrenjoey Road, PALM BEACH, subject to the conditions set out in the Assessment Report and Supplementary Memo, subject to the following:

1. The amendment of condition 1 to delete the Waterfront Plan and Estuarine Risk Management report and inclusion of a note on all other plans and reports that the tunnel, deck, pool and other works within the foreshore area are not approved.

Note on landscape plans stating: No landscape works are approved within the road reserve or within the foreshore area and adjacent areas of the site; including the pool, decks,

pergola, rebuild of sea wall, retaining wall, tunnel and associated earthworks.

Note: The revision numbers and dates on some drawings have been updated to reflect the approved plans.

2. The amendment of condition 3 to read as follows:

3. Approved Land Use / No approval of tunnel or work adjoining and within foreshore area (west of the terrace to ground floor plan at RL 9.995)

(a) Nothing in this consent shall authorise the use of site/onsite structures as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling."

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.

(b) No approval is granted under this Development Consent for the tunnel shown on the plans that connects the house to the foreshore or any work adjoining and within the Foreshore Area (west of the terrace to ground floor plan at RL 9.995), including the deck, pergola, swimming pool or changes to the sewer, seawall and retaining walls and associated earthworks

Reason: To ensure compliance with the terms of this consent and to protect the environmental amenity of the site.

3. The amendment of condition 8, to add part viii and merging in condition 12 in respect to species selection, to read as follows:

8. Amended Landscape Plan

An Amended Landscape Plan, based on the submitted Landscape Plans, shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) landscape works are confined to the property's boundaries. A 3 m clear distance from the kerb meaning the design of the steps, the retaining walls and the landscaping must be amended to provide a 3 m clearance from the kerb.
- ii) existing trees to be retained and protected, including within adjoining properties,
- iii) all tree planting shall be a minimum planting size of 75 litres or larger if otherwise nominated in the plant schedule, and shall meet the requirements of Natspec - Specifying Trees,
- iv) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1.5 metres from common boundaries,
- v) all Rhipiolepis species nominated in the plant schedule shall be removed and shall not be planted and shall be substituted with a non self-seeding species of similar form and size.
- vi) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space, and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public

spaces.

vii) in addition to the proposed 1 *Angophora costata*, and 3 *Livistona australis* plantings, the Landscape Plan must provide for an additional three (3) locally-indigenous plantings, including at least one (1) *Eucalyptus robusta* to ensure 1:1 replacement of prescribed canopy species

viii) no landscaping is approved west of the terrace to ground floor plan at RL 9.995.

If the existing landscape features within the road reserve verge are to be altered, the proposed landscape works shall be part of a Works within the Road Reserve application under section 138 and 139 of the Roads Act, for approval or otherwise.

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

4. The amendment of condition 19 to read as follows:

19. Amendments to the approved plans

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

(a) No approval is granted for any structures or landscaping within the road reserve 3.0m of the road kerb with the exception of the driveway. For any works between the 3.0 m clearance from the kerb and the property boundary, Council requires a Roads Act Application for Civil Works to be lodged with appropriate engineering details.

(b) No approval is granted under this Development Consent for the tunnel as shown on the plans that connects the house to the foreshore or any work within or adjacent to the foreshore area, including the pergola, deck, swimming pool, retaining walls, changes to the sea wall, sewer relocation or associated earthworks.

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

Reason: To protect the environmental qualities of the site and ensure development minimises unreasonable impacts upon surrounding land.

5. The amendment of condition 35 to read as follows:

35. Clearing for Asset Protection Zones

Clearing of vegetation during works for APZ establishment must only occur within the subject site.

Written certification of compliance is to be submitted to the Principal Certifying Authority.

Reason: To protect native vegetation and wildlife.

6. The deletion of condition 27
7. The deletion of condition 28
8. The deletion of condition 29
9. The deletion of condition 30
10. The deletion of condition 67

REASONS FOR DETERMINATION:

The Panel supports the approval of the dwelling house for the reasons set out in the assessment report but does not support the proposed tunnel, swimming pool and works within and adjoining on the foreshore area (including but not limited to new seawall, new stairs, new retaining walls, sewer relocation, deck and pergola).

The Panel acknowledges that the existing concrete sea wall is a detracting element. However, the realignment of the sea wall, the projection of the timber deck and the relocation of the sewer encroach further than the existing sea wall within the foreshore beach area and are closer to mean high water mark. These elements together with the height and extent of the new retaining wall, swimming pool, excavation for the tunnel and fill are not adequately integrated into the landform and landscape and do not meet the objectives for development within the foreshore under clause 7.8 of Pittwater LEP.

The Panel is not satisfied that the clause 4.6 written request adequately describes the extent of the changes or justifies that that compliance with the foreshore area standard is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify contravening this standard.

Furthermore, the Panel is not satisfied that the visual amenity and scenic quality of the foreshore will be maintained. Or that the development within and adjoining the foreshore meets the requirements for the coastal use and environment areas under the Coastal Management SEPP 2018.

The Panel has therefore imposed a condition to delete the tunnel, swimming pool and works adjoining and within the foreshore area (west of the terrace to ground floor plan at RL 9.995) and made other consequential amendments to conditions.

Vote: 4/0

This is the final page of the Minutes comprising 10 pages
numbered 1 to 10 of the Extraordinary Northern Beaches Local Planning Panel meeting
held on Wednesday 31 August 2022.