



NORTH SYDNEY COUNCIL

Council Chambers
27 October 2022

I wish to inform you that a Meeting of the **NORTH SYDNEY LOCAL PLANNING PANEL** will be held in the Council Chambers, North Sydney at 2.00pm on Wednesday 2 November 2022 when your attendance is requested.

Your attention is directed to the accompanying statement of the business proposed to be transacted at such meeting.

I would like to acknowledge the traditional owners of these lands in which we meet and to pay our respect to the ancestors, and spirits past and present.

ROB EMERSON
A/GENERAL MANAGER

BUSINESS

Minutes

Confirmation of Minutes of the previous Meeting held on Wednesday 5 October 2022.

(Circulated)

LPP01: 18 Vale Street and 560-562 Miller Street, Cammeray - DA 143/22

Applicant: M Hinzack – Millervale Holdings Pty Ltd
Report of Miguel Rivera, Senior Assessment Officer

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for demolition of existing dwellings and ancillary structures and construction of a 4-storey residential flat building on land identified as No. 18 Vale Street and No. 560-562 Miller Street, Cammeray.

The application is required to be reported to the NSLPP for determination, as directed by the Minister of Planning, as the development application has attracted 10 or more unique submissions by way of objection; involves a departure from a development standard that is greater than 10%; and is considered sensitive development, to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) applies.

Council's notifications of the proposed development has attracted a total of 31 submissions raising concerns and issues associated with proposal: misdescription; bulk, scale, massing and density; excessive height; overdevelopment; visual privacy and amenity impacts; non-compliance with SEPP 65 and Council policies; inadequate consideration of existing ground levels; landscaped area; streetscape character; building separation and setbacks; and suggested changes to the design and siting of the development. The development application was assessed against relevant State Planning Policies such as SEPP 65, as well as Council policies including the North Sydney Local Environmental Plan 2013 (NSLEP 2013) and North Sydney Development Control Plan 2013 (NSDCP 2013). The proposed development is considered to be sensitively designed and sympathetic to the setting, constraints and context of the site and the applicable environmental planning controls. The proposed development results in a balanced and sufficiently responsive planning and design outcome that provides additional dwellings and housing options within Cammeray. The proposed development demonstrates general compliance with relevant provisions, objectives and controls. It reflects sufficient planning merit and an acceptable redevelopment of consolidated land in a predominantly residential area whilst not generating any adverse and substantial impacts upon the environment, neighbouring properties and the community.

The application involves a non-compliance to the maximum height of buildings development standard (12m) under Clause 4.3 of NSLEP 2013 as the proposal features a building height of 13.73m (for balustrades at the rear of the roof terraces) above existing ground level. This represents a departure of 1.73m or 14.4% from the development standard. The Applicant submitted a written request pursuant to Clause 4.6 of the NSLEP 2013. The request is supported given that sufficient planning grounds were provided and the included information has demonstrated that compliance with this development standard is unreasonable or unnecessary.

The assessment of the proposed development considered the concerns raised in the submissions and its performance against Council's planning requirements. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as

amended), the application is recommended for approval given the merits demonstrated by proposal against critical objectives, provisions and controls under the SEPP 65 and Council policies.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 – Maximum Height of Buildings and grant consent to Development Application No. 143/22 for demolition the existing dwellings and structures on site and construction of a new 4-storey residential flat building with two (2) basement levels, containing eight (8) x 3-bedroom residential apartments and 14 car spaces at No. 18 Vale Street and No. 560-562 Miller Street, Cammeray, subject to the following site specific conditions and attached standard conditions:

Requirements from Ausgrid

C1. The following requirements from Ausgrid must be incorporated and considered in the final design and construction methodology:

Overhead Powerlines

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

(Reason: To avoid and minimise potential impacts on existing power services and infrastructure)

Requirements from NSW Roads and Maritime Services (RMS)

C2. The following requirements from NSW RMS must be incorporated and considered in the final design and construction methodology:

1. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Miller Street boundary.

2. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Miller Street during construction activities. A ROL can be obtained through

<https://myrta.com/oplinc2/pages/security/oplincLogin.js>

(Reason: To comply with NSW RMS requirements and to minimise impacts on traffic flow on classified roads)

New Tree Planting and Amendments to Landscape Plan

- C3. The approved Landscape Plan must be amended to comprise of the following details:

A qualified AQ5 arborist shall be appointed to oversee all works within the TPZ of any protected tree.

The (2) x Bottlebrush trees - *Callistemon viminalis* (6m) in the council verge to the east of the existing driveway of No. 18 Vale Street and adjacent to the southern boundary of No. 560 Miller Street, shall be protected in accordance with AS4970. A 1.8m high steel mesh tree protection fencing shall be installed for any trees to be protected and retained. Hoarding and scaffolding shall be designed and constructed accordingly.

One (1) x *Platanus orientalis* in the Council verge in front of 1-11 Cambridge Street (Miller St frontage) must be protected in accordance with AS4970. A 1.8m high steel mesh tree protection fencing shall be installed for any trees to be protected and retained. Hoarding and scaffolding shall be designed and constructed accordingly.

Replacement planting of three (3) x Bottlebrush trees - *Callistemon viminalis* (200L) must be provided and established, as shown in the approved Landscape Plan.

One (1) x *Tristaniaopsis laurina* (6x6m) and one (1) x *Plumeria* sp. (5x6m) on the eastern boundary of 49 Abbott Street, and one (1) x *Magnolia* 'Little Gem' on southern boundary of 1-11 Cambridge St shall be protected in accordance with AS4970, no canopy pruning shall be permitted without prior permission from council, and if permitted, shall be carried out by a qualified AQ3 arborist in accordance with AS4373.

Sensitive construction measures including hand excavation, pier & beam construction, and flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 30mm shall be cut.

Stormwater and other services shall be directed outside the TPZ of any protected tree and/or be installed via non-invasive means under supervision of project arborist (notably regrading of main SW discharge into Miller Street).

Any existing sandstone blocks shall be retained and re-used on site or surrendered to Council.

(Reason: To provide improved landscape outcomes at street level and in the public domain, and protect and retain existing trees, and to offset tree removal)

Access Report Recommendations

- C4. Any recommendations within the Access Report, prepared by Morris Goding Accessibility Consulting, must be implemented and integrated within the final design.

(Reason: To comply with anti-discrimination laws and maximise inclusion for people with disabilities)

LPP02: 4 Cremorne Road, Cremorne Point (C) - DA 132/22

Applicant: Joseph Proia

Report of Andrew Beveridge, Assessment Officer

This development application seeks NSLPP approval for alterations and additions to the existing residential flat building at 4 Cremorne Road, Cremorne Point, including the demolition and reconstruction of the garages, the full internal refurbishment of the units (reduced from 6 to 5), a new attic conversion and roofing, and the installation of an internal lift.

This application is reported to North Sydney Local Planning Panel for determination because the proposed works breach the building height limit development standard by greater than 10% and results in additional floorspace. The proposal also involves development to which *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* is applied requiring determination of NSLPP.

Development for the purpose of a residential flat building is not permitted within the R2 Low Density Residential zone. However, it is considered that the subject site benefits from existing use rights on the basis of North Sydney Council's original approval from 1925.

The proposed building results in a non-compliance with the height of buildings development standard in clause 4.3 of NSLEP 2013 by up to 3.5m or 41%. The extent of the variations will not result in any increase in the overall height of the existing building and relates primarily to existing roof and proposed attic level additions, including a recessed balcony on the rear western roof plan and a dormer window on the southern side roof plane. The written request submitted pursuant to clause 4.6 in NSLEP 2013 demonstrates that compliance with the development standard is unreasonable and unnecessary as the objectives of the standard are achieved notwithstanding the variation, and that there are sufficient environmental planning grounds to justify the variation in the circumstances of the case. The variation would be in the public interest as the proposed development is consistent with the objectives of the standard and the R2 Low Density Residential zone.

The impacts of the overall development upon the Cremorne Point Conservation Area have also been assessed and, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the works will maintain a sympathetic scale and will match the built form character of the existing building.

The proposed substantial refurbishment of the existing building would result in a loss of four low-rental dwellings in accordance with the Housing SEPP. A contribution is recommended under section 7.32 of the Act to offset the loss of affordable housing within the local government area. The proposed development meets the design principles in SEPP 65 and is consistent with the design requirements of the Apartment Design Guide. The proposed development is also generally in accordance with the objectives in NSDCP 2013.

Notification of the proposal has attracted one submission objecting to construction impacts including noise. The issues raised are considered to be generally acceptable or have been addressed through conditions of consent, particularly with regard to construction impacts.

On balance, the application is considered reasonable and is recommended for **approval** subject to site specific and standard conditions.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and **grant consent** to Development Application No. 132/22 for alterations and additions to the existing residential flat building on land at 4 Cremorne Road, Cremorne Point, subject to the attached site specific and standard conditions.



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL
MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON WEDNESDAY 5 OCTOBER 2022, AT 2.00PM.**

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Peter Brennan (Panel Member)
Brendan Randles (Panel Member)
Lindsey Dey (Community Representative)

Staff:

David Hoy, A/Manager Development Services
Robyn Pearson, Team Leader Assessments
Michael Stephens, Senior Assessment Officer
Rachel Wu, Graduate Assessment Officer

Administrative Support:

David Hoy, A/Manager Development Services
Robyn Pearson, Team Leader Assessments
Peita Rose, Governance Officer (Minutes)

This meeting was conducted by remote (Zoom) means.

A public meeting was held for Item 1 as there were more than 10 objections and Items 2 and 3 were determined in closed session as there were less than 10 unique submissions for these agenda items.

The Chair acknowledged the Cammeraygal people being the traditional owners of the land on which this meeting is held.

Apologies:

Nil.

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 7 September 2022 were confirmed following that meeting.

2. Declarations of Interest

Nil.

3. Business Items

The North Sydney Local Planning Panel is a NSW Government mandated Local Planning Panel exercising the functions of North Sydney Council, as the Consent Authority, under Section 4.8(2) of the Environmental Planning and Assessment Act, 1979 as amended, and acts pursuant to a Direction of the Minister for Planning issued under Section 9.1 of the Act, dated 23 February 2018.

The Panel has considered the following Business Items and resolves to determine each matter as described within these minutes.

Public Meeting**ITEM 1**

DA No:	232/20/3
ADDRESS:	5 Rodborough Avenue, Crows Nest
PROPOSAL:	Section 4.55(2) modification application relating to Development Consent DA232/20 for the demolition of the existing buildings and the construction of a 4 storey residential flat building with basement parking and associated landscaping including strata subdivision.
REPORT BY NAME:	Michael Stephens, Senior Assessment Officer
APPLICANT:	Matthew Billing, Rodborough Development Pty Ltd

Registered to Speak**No Written Submissions**

Submitter	Applicant/Representative
Myron Hartley-Holl - Resident	Brett Brown - Ingham Planning - Representing Applicant
	Michael Clark - Platform Project Services - Applicant

Panel Determination

The Panel members have undertaken independent site inspections prior to the meeting and have considered all submissions, both written and verbal, prior to the determination.

The Council Officers Report and Recommendation to refuse the modification application is endorsed by the Panel for the following amended reasons:

1. Inconsistent with the reasons for the original approval

The modification application is refused because it would be contrary to the reasons for approval of the original development application on the 7 July 2021. The consent authority must take into account the reasons for the granting of consent when making its determination, as required by section 4.55(3) of the Act.

Particulars

- a) The original application limited the extent of the third-floor level on the basis that this allowed for an acceptable variation to the height of buildings development standard which had regard to the topography. Furthermore, the additional roof top communal area was considered to provide excellent open space amenity, and complied with the requirements for the quantity and amenity of the communal open space to serve the development.
- b) The roof top open space area as approved provides very good amenity for the occupants of the development and satisfies the Apartment Design Guidelines (ADG) requirements for communal open space. The proposed modification significantly reduces the quality and quantity of roof top communal open space from 395sqm to 83sqm, and as a consequence the modification application would not satisfy the ADG requirements.
- c) Furthermore, the modification would increase the demand for communal open space by increasing the number of apartments while decreasing the amenity of the communal open space.

2. Objectives of the zone

The proposed modification is refused because it is inconsistent with the objectives of the zone.

The subject site is zoned R4 High Density Residential. The objectives of the R4 High Density Residential zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

Particulars

- a) The modification application does not satisfy the above dot point 4 because the massing and scale of the proposed development is inconsistent with the desired character of the area and would diminish the amenity of the cul-de-sac and surrounding properties given the overbearing nature of the non-complying portion of the additions.
- b) The proposed modification is inconsistent with dot point 5 because the approved rooftop communal open space area is proposed to be significantly reduced from 395sqm to 83sqm. The total useable outdoor communal open space equates to 334sqm or 12% of the site area, with less than 50% of the area receiving solar access for at least 2hrs in mid-winter. The overall quantity and quality of communal open space for the future residents of the approved development would be significantly diminished for the additional development yield and a high level of residential amenity would not be achieved.

3. Building Height

The modification application is refused because it contravenes the maximum height of buildings, development standard, in clause 4.3 in NSLEP 2013.

The objectives of the height of buildings development standard are:

- a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- b) *to promote the retention and, if appropriate, sharing of existing views,*
- c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- e) *to ensure compatibility between development, particularly at zone boundaries,*
- f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,*
- g) *to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.*

Particulars

- a) A 12m height of buildings development standard applies to the subject site pursuant to subclause 4.3(2) in NSLEP 2013.
- b) The proposed additional apartment contravenes the development standard by between 1m-1.8m or 8.3-15%.
- c) The proposed development would be inconsistent with objectives a), c), e) and f) of the development standard.

4. SEPP 65 – Design Quality Principles

The modification application is refused because it would detract from the design quality of the approved development.

Particulars

- a) The proposed building form is contrary to design quality principles: 1 *Context and neighbourhood character*, and 2 *Built form and scale*. Further increase to the breach of height creates an overbearing built form and poor streetscape outcome.
- b) The proposal does not comply with the design quality principle 5 *landscape*. The communal open space does not comply with the area and amenity requirements of the ADG's.
- c) The proposal does not comply with design quality principle 6 *amenity*. The basement communal room does not have windows and is not suitable for habitable space.
- d) The proposal does not comply with design quality principle 8 *housing diversity and social interaction*.
- e) The communal open space provided is inadequate for a project of this scale and does not align with the principles and objectives of the ADG.

5. Form, Massing and Scale

The modification application is refused because it does not comply with the form, massing and scale controls.

Particulars

- a) The proposed development does not comply with the height requirement in Provision P1 as required by provision P8(a) in Section 1.4.7 of Part B in NSDCP 2013 to justify the proposed flat roof.
- b) The proposed development does not comply with the top-most storey setback control of 36 degrees as required by Provision P8(b) in Section 1.4.7 of Part B in NSDCP to justify the proposed flat roof.

6. Communal Open Space

The modification application is refused because it would detract from the amenity of the approved communal open space arrangements and would then not meet the ADG requirements.

Particulars

- a) The proposed modified roof top communal open space has been reduced from 395sqm to only 83sqm in size (3% of the site area) and is inconsistent with objective 3D of the ADG.
- b) The supplementary communal open space at ground level within the southern side setback area would receive no solar access to the principal usable portion of the space and only marginal solar access to the fringes of the space between 9am to 3pm in mid-winter.
- c) The Panel does not accept the basement room should form part of the open space provision given its limited utility.

7. Insufficient Information

The modification application was lodged with insufficient information. Nonetheless, it fails for all the fundamental reasons above.

Particulars

- a) An amended landscape plan has not been provided to reflect the amended architectural plans lodged 1 August 2022.
- b) An amended strata plan has not been provided to reflect the amended architectural plans lodged 1 August 2022.

Panel Reason:

The Panel considers the modification application does not warrant approval, and the reasons for refusal above are symptomatic that it would result in an overdevelopment of the site in its context.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Lindsey Dey	Y	
Peter Brennan	Y				
Brendan Randles	Y				

Items considered in Non Public Meeting

ITEM 2

DA No:	249/22
ADDRESS:	11 Ernest Street, Crows Nest
PROPOSAL:	Change of use of commercial tenancy to retail (shoe shop) over the existing two storeys with operating hours 8am – 9pm and two employees on site.
REPORT BY NAME:	Rachel Wu, Graduate Assessment Officer
APPLICANT:	Jack Nicholas James

No persons elected to speak on this item.

No Written Submissions

Panel Determination

The Panel members have undertaken independent site inspections where necessary prior to the meeting.

The Council Officer's Report, Recommendation and conditions are endorsed by the Panel subject to the deletion of Condition I.2.

Panel Reason:

The Panel is satisfied the change of use of the commercial premises will not have adverse environmental impacts and warrants approval.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Lindsey Dey	Y	
Peter Brennan	Y				
Brendan Randles	Y				

ITEM 3

DA No:	313/21
ADDRESS:	48 Edward Street, North Sydney
PROPOSAL:	Alterations and additions to dwelling
REPORT BY NAME:	Planning Ingenuity, Town Planning Consultants
APPLICANT:	Fengrong Li

Registered to speak**2 Written Submissions**

Submitter	Applicant/Representative
	John Oultram - John Oultram Heritage & Design
	Katherine Burdett - Nobile Architecture
	Joe Wang - applicant/owner

Panel Determination

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel is satisfied that the written request to the contravention of the Height of Buildings development standard in clause 4.3 of the LEP, adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case and the written request identifies sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the standard and the zone objectives.

The Panel members have undertaken independent site inspections where necessary prior to the meeting and have considered all submissions, both written and verbal, prior to determination.

The Council Officer’s Report, Recommendation and conditions are endorsed subject to conditions C1.1 and C1.9 being deleted and the imposition of the following additional conditions:

- The dwelling is to be used only as a single occupancy.
- The reconstructed top floor balcony must include solid balustrades to the northern and southern elevations.

Panel Reason:

The Panel is satisfied the proposed alterations and additions to the local heritage item will not adversely impact on the heritage significance of the dwelling and the Edward Street Conservation Area, its streetscape and adjacent context.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Lindsey Dey	Y	
Peter Brennan	Y				
Brendan Randles	Y				

The public meeting concluded at 2:51 pm.

The Panel Determination session commenced at 3:00pm.

The Panel Determination session concluded at 4:15pm.

Endorsed by Jan Murrell
North Sydney Local Planning Panel
5 October 2022