



NORTH SYDNEY COUNCIL

Council Chambers
30 June 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 6 July 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 1 June 2022.
(Circulated)

LPP01: 15A Lower Wycombe Road, Neutral Bay (C) - DA 395/21

Applicant: Alexander Laykoski C/- Nolan Planning Consultants

Report of Andrew Beveridge, Assessment Officer

This development application seeks NSLPP approval for alterations and additions of the existing 4 storey single dwelling at 15A Lower Wycombe Road, Neutral Bay, including a northern extension and garage within the front setback and the elevator tower connecting all levels of the dwelling, and associated works.

This application is reported to North Sydney Local Planning Panel for determination because the proposed works breach the building height limit by greater than 10% and requires determination by the panel.

As the proposal involves works to the existing residential dwelling that are in exceedance of the maximum permitted height limit of 8.5m by 3.9m or 45.88%, the applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the amenity of adjoining properties or the character of the conservation area.

Notification of the proposal has attracted one submissions raising concern regarding solar access to the east, and the assessment has considered the performance of the application against Council's planning requirements. The solar access impacts resulting from the northern garage extension are considered to be minor and acceptable within the site circumstances.

The impacts of the overall development upon the Kurraba Point Conservation Area and the Sydney Harbour foreshore 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 original house through the use of characteristic materials and colours.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the streetscape character will be maintained. The proposal will also not result in any unreasonable amenity impacts upon adjoining properties such as views loss, overshadowing or loss of privacy.

Having regard for the potential impacts upon the amenity of adjoining properties and heritage conservation area, subject to conditions, the development application is considered to be satisfactory and is recommended for **approval**.

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 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. 395/21 for the construction of alterations and additions to the existing dwelling within a conservation area including an elevator tower and garage, on land at 15A Lower Wycombe Road, Neutral Bay, subject to the following site specific and standard conditions:-

Driveway and vehicular access

- C8. The proposed footpath boundary levels must match the level of the existing footpath boundary levels and if the internal parking slab levels are modified in order to accommodate the proposed turntable, any change to the existing driveway access must not cause scraping to the underside of vehicles and must be contained wholly within the subject property

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain an acceptable vehicular access to the site.)

Heritage Requirements

- C15. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:

a) Southern Gable-end Window

The new gable end window on the rear southern elevation at the second floor level must be no wider than the existing window to be replaced on the gable end. This window must be timber-framed and have a glazing that is vertical in profile.

b) New Windows and Doors

New windows and doors on the northern and southern elevations shall be timber framed. All other new windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber framed.

c) Roof Sheeting

The new metal roof planes with a pitch greater than 2° are to have a traditional corrugated roof profile equal to Custom Orb. No approval is given for min-orb or tray profile roof sheeting on these planes.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, in order to fully satisfy the requirements of this condition.

(Reason: To ensure the use of materials is consistent and sympathetic to the character of the conservation area and the original dwelling)

Landscape Amendments

- C19. The site plan and landscape plan must be amended as follows to provide an appropriate landscaped setting and to demonstrate an improved level of compliance with the landscaped area and unbuilt-upon area controls:

- 1) A portion of the paved areas located within the rear garden, to an area of approximately 21m², must be converted into lawn, garden

beds, planters, or some other form of soft landscaping.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity and to demonstrate compliance with Council's landscaped area controls)

LPP02: 18 Tobruk Avenue, Cremorne (S) - DA 56/22

Applicant: Platino Properties

Report of Andrew Beveridge, Assessment Officer

This development application seeks NSLPP approval for the demolition of the existing 1960-1961 three storey dwelling house and the majority of the existing detached garage, and the construction of a new attached dual occupancy comprising two 3-bedroom dwellings across four storeys.

This application is reported to North Sydney Local Planning Panel for determination because the proposed works breach the building height limit by greater than 10% and requires determination by the panel.

As the proposal involves the demolition of the existing residential dwelling (with an existing height of 11.8m or 3.3m/38% over the height limit) and the construction of a dual occupancy with a maximum height of 13.5m that is in exceedance of the maximum permitted height limit by 5m (58%), the applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLPP 2013. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the views or general amenity of adjoining properties.

Notification of the proposal has attracted three submissions and the assessment has considered these as well as the performance of the application against Council's planning requirements. The amenity impacts upon adjoining properties in regard to views, solar access, privacy have been assessed and are considered to be minor and acceptable within the site circumstances.

The impacts of the overall development upon nearby bushland areas and significant trees have also been assessed and, subject to appropriate conditions, was found to be generally acceptable on the basis that the works will maintain a sympathetic scale with relatively minor excavation and will not result in any adverse impacts upon bushland areas.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the streetscape character will be maintained. The proposal will also not result in any unreasonable impacts on the amenity of adjoining properties such as impacts to views, overshadowing or loss of privacy.

Having regard for the potential impacts upon the amenity of adjoining properties and nearby bushland, subject to conditions, the development application is considered to be satisfactory and is recommended for **approval**.

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. 56/22 for the demolition of the existing single dwelling and construction of attached dual occupancy, on land at 18 Tobruk Avenue, Cremorne, subject to the attached site specific and standard conditions:-

LPP03: 9 Carlyle Lane, Wollstonecraft - DA 447/21

Applicant: CO-AP Pty Ltd

Report of Thomas Holman, Assessment Officer

This development application seeks consent for alterations and additions to a semi-detached dwelling comprising internal alterations, a side and rear addition, relocation of skylights, additional skylight, and dormer addition.

The development application is reported to the North Sydney Local Planning Panel for determination because the development application contravenes a development standard imposed by an environmental planning instrument by more than 10%, which requires determination by the Panel in accordance with the directions from the NSW Minister of Planning, Industry and Environment. The proposed works seek relocation of skylights at 11.5m (35.29% variation) and a dormer addition with a height of 10.95 m (29% variation) above the existing ground level which would not comply with the maximum permitted height of 8.5 m not in accordance with clause 4.3 in NSLEP 2013.

The application has been assessed against the relevant provisions and requirements of the relevant planning instruments including the North Sydney LEP 2013 and North Sydney DCP 2013. Consideration has also been given to the Clause 4.6 request for a variation to the height of buildings development standard as submitted by the applicant which was considered to be acceptable in the site circumstances.

The proposed side dormer to be located on the western roof slope of the semi-detached dwelling is supportable and generally compliant with provisions in s1.4.11 of the NSDCP 2013. The dormer has no significant impact on Carlyle Lane and not located on the street elevation of the building, so there would be no impact to adjoining properties in terms of privacy or overshadowing and the design of the dormer is acceptable.

The side and rear extensions are generally supported maintaining a semi-detached dwelling that is compatible with surrounding development with a bulk, scale and form compatible with its low density residential surroundings. The development does not seek to significantly exacerbate the density of the

site with works predominantly internalised or additions restricted to minor infill additions and additions to the roof.

One submission raised concerns about construction and potential inconvenience to the amenity of adjoining properties and the public realm. The issues have been addressed in this report and appropriate conditions of consent will ensure the amenity and public realm of adjoining properties is not affected during construction.

Following this assessment, the development that application is considered to be reasonable in the circumstances and is recommended for **approval** subject to 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. 447/21 for alterations and additions to a semi-detached dwelling on land at 9 Carlyle Lane, Wollstonecraft, subject to the attached standard conditions of consent.

LPP04: 242 Miller Street, North Sydney NSW (C) - DA 116/22

Applicant: Yuet Lam Ada Lo

Report of Rachel Wu, Student Planner

This development application seeks approval for change of use and fit out of a retail premises, including hours of operation, signage and installation of solar panels on land at 242 Miller Street, North Sydney NSW.

The application is reported to the North Sydney Local Planning Panel for determination as a property owned by North Sydney Council. In accordance with the Minister's Directions the Panel is required to determine the application. Given the relatively minor nature of the application and the lack of submissions, it is considered appropriate for the matter to be assessed internally with the panel's determination lending appropriate independence and transparency.

The subject property currently contains a two-storey, vacant commercial building with a frontage to Miller Street and is also accessible by a pedestrian rear laneway that links Ridge Street with the North Sydney Council Library. The site is part of a row of similar low-rise, mixed-use Victorian terraces (240-248 Miller Street) identified as heritage items with local significance known as 'Trewyn Terraces'. The terraces are a series of retail shopfronts with cast iron railings on first floor verandahs.

The proposed use and fitout include upgrades to existing pedestrian access and changes to internal areas to enable retail use. Council's Conservation Planner supports the proposal subject to conditions. Changes to access arrangements are considered to improve on existing conditions.

Notification of the proposal has not attracted any submissions. The assessment has considered the application against Council's planning requirements.

Following this assessment, the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to 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 as the consent authority grant consent to Development Application No. 116/22 for the fit out and change of use of premises, signage, hours of operation, installation of roof-top solar panels out of sight from the street on land at 242 Miller Street, North Sydney subject to the following site specific and attached standard conditions:-

Design Changes – Heritage Conservation works

A1. In order to conserve the heritage significance of the premises the following amendments must be incorporated into the plans:

- i. No consent is granted for tiling over any existing timber flooring. Where required for compliance with food preparation and wet areas, the flooring is to be of a suitable vinyl type flooring or an appropriate alternative product that is not permanently fixed by way of glue or other means. The selection of flooring materials must be in keeping with the character of the historic building and be capable of being removed later or as required;
- ii. No consent is granted, or may be assumed for any changes to the existing ceiling to the ground floor areas. The ceilings mouldings and cornices are to be protected at all times during fitout work;
- iii. No consent is granted for any works to the first floor rooms or stair balustrade.
- iv. The solar panels must only be installed in the rear roof plane of the building, must be installed to match the pitch of the roof and must not extend greater than 50mm above the existing roof plane.
- v. The original door to the rear-most room is to be retained in-situ or reused on site within the premises in consultation with Council's Conservation planner; In the event, the door cannot be retained in situ, it is to be removed and stored within the building for use at a later date.
- vi. A photographic survey of the premises should be undertaken as a physical record of the place prior to the commencement of the new fit-out.

(Reason: To conserve the heritage significance of the site and to retain the character and an understanding of the heritage item)

Outdoor Seating

A2. Outdoor seating from the commercial use is not permitted under this development consent.

(Reason: To ensure adequate pedestrian space is provided for public safety and convenience)

Cleanliness and Maintenance of Food Preparation Areas

C6. To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises for the preparation and storage

of food shall be designed and carried out in accordance with the requirements of: -

- a) the Food Act 2003;
- b) the Food Regulation;
- c) the relevant Australian Standards;
- d) Council's Food Premises Code;
- e) Sydney Water Corporation - Trade Waste Section;
- f) the Protection of the Environment Operations Act and associated Regulations; and
- g) the Building Code of Australia.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Construction Certificate plans and documentation must incorporate details of the following: -

- a) construction, materials and finishes;
- b) installation of fixtures, fittings and equipment;
- c) washing facilities, other facilities and special requirements;
- d) mechanical ventilation and exhaust discharges; and
- e) temperature control

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure compliance with acceptable standards for the construction of food premises established under environmental health and safety legislation)

Use of first floor

11. Use of the first floor shall be limited to office purposes associated with the retail use of the premises. No approval is granted under this consent for any residential or other commercial use of the first floor. The first floor must not be used for any customer dining purposes.

(Reason: To clarify the use of the first floor)

No Trade from Rear

12. The rear areas of the premises, from the "packaging" room to the rear boundary line shall not be used for retail trade and may only be used for preparation, storage and access purposes.

(Reason: To ensure the primary trading area is accessible)

Building Use

13. The rear portion of the building must be used for storage and preparation purposes only.

(Reason: Amenity)

Public Bench

14. No approval is granted to relocate the existing bench located in front of the shop.

(Reason: To preserve the location of the public bench)

LPP05: 104 Wycombe Road, Neutral Bay - D295/21

Applicant: Arora Shweta

Report of Robin Tse, Senior Assessment Officer

This development application seeks NSLPP approval for alterations and additions to a single storey heritage listed detached dwelling including internal alterations, a first floor rear addition and a new swimming pool at 104 Wycombe Road, Neutral Bay.

The application is reported to North Sydney Local Planning Panel for determination as the proposed works involve partial demolition of a heritage item and the determination of the Local Planning Panel is required in accordance with the directions of the Minister for Planning, Industry and Environment. While the Panel has given delegation for staff determination in some circumstances, the negative recommendation here warrants a panel determination.

Notification of the proposal has attracted a total of five (5) submissions from three (3) households raising particular concerns about adverse visual privacy and noise impacts arising from the new swimming pool, shadowing impacts and non-compliance with the permitted site coverage. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The development application has been assessed against the North Sydney LEP 2013 and North Sydney DCP 2013 and was found to be unsatisfactory.

The proposal, including a new first floor rear addition and a new swimming pool, complies with the LEP maximum building height limit. However, the proposed first floor rear addition would have an adverse impact on the significance of the subject heritage listed single storey dwelling.

Therefore, the proposed development is contrary to the objective of the R4 (High Density Residential) zone because the proposal would detract from the significance of the subject heritage listed building.

The application was referred to Council's Conservation Planner who considered the proposal unsatisfactory because of the adverse impacts on the heritage significance of subject heritage listed item.

In addition, the proposed development does not comply with the DCP maximum site coverage requirement for the subject site and will cause some view loss for a property to the north of the subject site.

The issues raised in the submissions received have been addressed in this report.

Accordingly, the proposed development is recommended for **refusal**.

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 as the consent authority, resolve to refuse development consent to Development Application No.295/21 for alterations and additions to a single storey heritage listed dwelling on land at No.104 Wycombe Road, Neutral Bay, for the following reasons:-

1. Unacceptable Heritage Impacts

The proposed development is unacceptable because of the adverse impacts on the subject heritage item.

- (i) The proposed development does not satisfy Clause 5.10(1)(a), Clause 5.10(1)(b) and Clause 5.10(4) in Part 5 of NSLEP 2013 due to the detrimental impacts of the proposed development on the subject heritage listed item, in particular the introduction of an uncharacteristic first floor addition at the rear of the dwelling.
- (ii) The proposal does not satisfy the aims of North Sydney Local Environmental Plan 2013 (NSLEP 2013) as listed in Clauses 1.2 (2)(a), (2)(b)(i), and (2)(f) in Part 1 of NSLEP 2013.
- (iii) The proposed development does not satisfy the objective of the R4 (High Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the adverse impacts of the proposed development on the significance of the subject heritage listed item, particularly dot point 4.
- (iv) The proposed development does not satisfy the Area Character Statement for South Cremorne Planning Area in Section 6.0 in Part C of North Sydney DCP 2013 (NSDCP 2013) given that the proposal does not promote a quality built form within the planning area because the design of the proposal fails to reflect and reinforce the distinctive built form of the existing heritage listed building.
- (v) The application fails to satisfy the development controls for the following sections in Part B of the NSDCP 2013 and is therefore considered unacceptable:
 - a. 13.1.1 Guiding Statement: in terms of managing North Sydney's heritage for present and future generations in accordance with the principles of intergenerational equity as per the Burra Charter
 - b. 13.1.2 – General Objectives
 - c. Section B – 13.5.1 – Protecting heritage significance
 - d. Section B – 13.5.2 – Form massing and scale
 - e. Section B – 13.5.3 – Additional Storeys
 - f. Section B – 13.5.4 – Roofs
 - g. Section B – 13.5.5 – Interior Layout
 - h. Section B – 13.9.4 – Materials

2. Inappropriate context, excessive height, bulk and scale

The proposed development is unacceptable because of the proposed first floor rear addition is inappropriate for the built form of the existing building.

Particulars

- (i) The proposed development is inappropriate in its context being a heritage item because the proposed first floor addition will alter the form of the subject single storey dwelling which is contrary to aim 1.2 (2)(a) in NSLEP 2013 as well as section 1.4.1 in Part B of NSDCP 2013.
- (ii) The proposed development is contrary to Section 1.4.7 and 1.4.8 in Part B of NSDCP 2013 because the proposed first floor addition will increase the bulk and scale of the existing dwelling with an uncharacteristic built form due to the creation of an additional storey that would detract from the significance of the subject heritage item.

3. Excessive Site Coverage

The proposed development is unacceptable because the non-complying site coverage.

Particulars

- (i) The proposed development will result in a non-compliance with the maximum site coverage for the subject site and is contrary to section 1.5.5 in Part B of NSDCP 2013.

4. View Loss

The proposed development is unacceptable because the proposed first floor rear addition will cause some loss of water views that could be retained with a more skilful design.

Particulars

- (ii) The proposed first floor rear addition will cause some loss of water view of Sydney Harbour currently seen from the adjoining property to the north and is contrary to aim 1.2 (2)(a) in NSLEP 2013 as well as section 1.3.6 in Part B of NSDCP 2013.
- (iii) The proposed development does not satisfy the objective of the R4 (High Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the adverse impacts of the proposed development on the amenity of the neighbouring properties in terms of the loss of significant views.

5. Public Interest

The approval of the proposed development is not in public interest because of the adverse impacts on the significance of the subject heritage listed item and the failure to protect heritage buildings within North Sydney.

LPP06: 22 Premier Street, Cremorne- DA 457/21

Applicant: Stephanie Brancatisano Architect

Report of Michael Stephens, Senior Assessment Officer

This development application seeks consent for alterations and additions to an existing semi-detached dwelling including a first floor addition and a two storey addition to the rear on land at 22 Premier Street, Neutral Bay.

The application is reported to the North Sydney Local Planning Panel for determination as the application seeks a variation to a development standard by more than 10%. In accordance with the Ministers direction of 1 August 2020 a public determination meeting is not required because no submissions by way of objection were received.

The subject site is zoned R2 Low Density Residential where development for the purpose of semi-detached dwellings is a permitted use.

The proposed development breaches the maximum permitted building height of 8.5m by up to 1.55m, equating to a variation of 18.2%. The proposed variation relates to rear end of the proposed first floor addition and is reflective of the significant fall of the land towards the rear of the site. The applicant has submitted a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013 which satisfactorily demonstrates that compliance with the development standard is both unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation. The proposed development would be in the public interest. The submitted written request is considered to be well founded and worthy of support.

The proposed development would improve the amenity of the existing dwelling by increasing the size of the existing dwelling and providing a more modern layout. The rear additions would align with the recent additions to the adjoining semi-detached dwelling to the north. The proposed first floor addition is set back predominantly behind the existing roof form to retain the existing built form character of the pair of semi-detached dwellings which positively contribute to the street scape. The addition has a sloping roof on the southern side to further minimise its visibility from the street and is clad with timber cladding to break down the visual massing of the addition.

The original plans and the amended application were notified in accordance with Council's Community Engagement Protocol and one submission in support of the application was received.

On balance, the proposed development is considered reasonable and is recommended for approval subject to various 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, as the consent authority, assume the concurrence of the Secretary, 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 of NSLEP 2013 and grant consent to Development Application No. 457/2021 for alterations and additions to an existing semi-detached dwelling on land at No 22 Premier Street, Neutral Bay.



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE
COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 1 JUNE 2022, AT 2.00PM.**

PRESENT

Chair:

Helen Lochhead in the Chair.

Panel Members:

Jan Murrell (Panel Member)
Linda McClure (Panel Member)
Ken Robinson (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
Jim Davies, Executive Planner
Robin Tse, Acting Team Leader
Miguel Rivera, Senior Assessment Officer

Administrative Support:

Stephen Beattie, Manager Development Services
David Hoy, Team Leader Assessments
Robin Tse, Acting Team Leader Assessments
Peita Rose, Governance Officer (Minutes)

This meeting was conducted by remote (Zoom) means.

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, 4 May 2022 were confirmed following that meeting.

2. Declarations of Interest

Ken Robinson declared a non-pecuniary/non-significant interest in relation to LPP02 and left the meeting for the public meeting and deliberation of that item.

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.

ITEM 1

DA No:	398/21
ADDRESS:	199 Miller Street, North Sydney
PROPOSAL:	Alterations and additions to existing hotel including addition of a rooftop bar, function space, lift and associated works.
REPORT BY NAME:	Annelize Kaalsen of AK Planning
APPLICANT:	Alexander & Co

Oral Submissions

Submitter	Applicant/Representative
James McKinnon - Resident	Peter Calligeros - Owner
Geoffrey Smith - Resident	Bob Chambers - Planner for Architect
Mark Harlow - Resident	Anna Calligeros (Observing Only)

Panel Determination

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

The Council Officers Report, Recommendation and Conditions are endorsed by the Panel subject to the following amended conditions and an additional condition to be drafted by the Manager of Development Services that requires the main southern elevation of the roof top extension to be set back an equal distance from Berry Street as is proposed for the Miller Street elevation:

Dilapidation Survey Private Property (Neighbouring Buildings)

- C2. A photographic survey of the basement, ground level and 1st floor level of the adjoining property, 50 Berry Street, detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the photographic survey is to be provided to Council prior to the issue of any Construction Certificate, if Council is not the Certifying Authority.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

If access to undertake the dilapidation survey is denied by the adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Occupation Certificate

- F4. A person must not commence occupation or use of the relevant level or part of the building unless an Occupation Certificate has been issued in relation to that level of the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Restrictions on Use of the Roof Terrace

- I2. Any amplified sound or the like on the roof top terrace area shall comply with the recommendations of the Acoustic Report prepared by AKA Acoustics dated 25 March 2022 **except where modified by this consent**. No live entertainment is permissible on the roof terrace.

(Reason: To ensure that the use of the roof terrace area does not result in unacceptable amenity impact on neighbours and the area, and the use is consistent with the maximum LAB noise criteria)

Hours of Operation - Roof top terrace only

14. The hours of operation **for the roof top terrace** are restricted to 10.00am and 10.00pm Monday to Saturday and 10pm Sunday.

Upon expiry of the permitted hours:

- a) all restaurant service (and entertainment) must immediately cease;
- b) no person shall be permitted entry; and
- c) all customers on the premises must be required to leave within the following half hour.

(Reason: To ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

Trial Period – Roof Top Terrace Hours of Operation

- 15A. Notwithstanding Condition 14, the roof top terrace may operate between 10:00am and 12 midnight on Fridays, Saturdays and any day preceding a public holiday for a trial period of 12 months from the date of issue of the Occupation Certificate. Should the applicant wish to continue to trade outside those hours referred to in Condition 14 following the end of the trial period, a Section 4.55 application must be lodged within 10 months of the end of the trial period for Council's consideration. The trial period hours continue to apply to the roof top terrace until the Section 4.55 application is finally determined.

Note: Consideration of the continuation of extended trading hours will be based on, among other things, the performance of the operator in relation to compliance with development consent conditions and any substantiated complaints received.

(Reason: Information to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in the surrounding locality)

Trial Period – Roof Top Terrace

15. (a) Notwithstanding **any other condition of this consent**, the roof top terrace may operate between 10:00am and 12 midnight on Fridays, Saturdays and any day preceding a public holiday for a trial period of 12 months from the date of issue of the Occupation Certificate. Should the applicant wish to continue to trade outside those hours referred to in Condition 14 following the end of the trial period, a Section 4.55 application must be lodged within 10 months of the end of the trial period for Council's consideration. The trial period hours continue to apply to the roof top terrace until the Section 4.55 application is determined.

Note: Consideration of the continuation of extended trading hours will be based on, among other things, the performance of the operator in relation to compliance with development consent conditions and any substantiated complaints received.

(Reason: To ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in the surrounding locality)

- (b) Notwithstanding Condition 12 amplified recorded music must not **exceed an LF10 of 75 dBA** when measured 5 metres from **any speaker used on the roof top terrace**. A trial period of 7 days a week for 12 months is to apply. Council is to be advised of the date of commencement of operation **of the** relevant occupation certificate of the rooftop terrace.

(Reason: To maintain local amenity)

Maximum Capacity – Premises

16. The maximum number of patrons within the level 2 roof top terrace allowed by this consent is 110 persons.

A notice must be displayed at all times in a window of the premises fronting a **public street** (or any other clearly visible place) identifying the maximum capacity described above.

(Reason: Protection of residential amenity, provision of public information, and to enable compliance enforcement)

Panel Reason:

The Panel considers that the above conditions will ensure the protection of the amenity of neighbours and also provide a reasonable trial period to evaluate the effectiveness of the operational controls in practice.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		Ken Robinson	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 2

Ken Robinson declared a non-pecuniary/non- significant interest in this item and left the meeting for the public meeting and deliberation of this item.

DA No:	379/21
ADDRESS:	1 Warung Street, McMahons Point
PROPOSAL:	Partial demolition of existing residential flat building, construction of below ground basement and reconstructed and new apartment addition above and configuration of remaining apartments.
REPORT BY NAME:	Miguel Rivera, Senior Assessment Officer
APPLICANT:	T Paradisis

Oral Submissions

Submitter	Applicant/Representative
Tony Moody - Consultant Planner	Theo Paradisis- part owner
David Uther - Resident	
Catherine Bloxham – Resident	

Panel Determination

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

The Panel considered the request from the Applicant to defer the determination of the application however considered that deferral was not appropriate in circumstances where significant further changes would be required to resolve the design.

The Council Officers Report, Recommendation and reasons for refusal are therefore endorsed by the Panel.

Panel Reason:

The Panel, in addition to the reasons in the Council Officer's report, the Panel considered that the number of breaches to planning controls and guidelines was symptomatic of an unsatisfactory development in the circumstances. The development would be an inappropriate and uncharacteristic intrusion in the heritage conservation area particularly given its highly prominent location, the prevailing landscape character of the sandstone rock face, the visibility of the site to Sydney Harbour and considering its location adjacent to a neighbouring heritage item. In particular, the Panel did not support the driveway access through the Henry Lawson Avenue rock face, a significant landscape element visible from the Harbour, an important consideration given the Planning Principles of Clause 10.10(b) and (f) in Part 10.2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		Ken Robinson	Absent	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 3

DA No:	281/21
ADDRESS:	107 High Street, North Sydney
PROPOSAL:	Demolition of an existing residential flat building and construction of a new four storey residential flat building with basement parking, landscaping and associated works.
REPORT BY NAME:	Annelize Kaalsen of AK Planning
APPLICANT:	107 High Street North Sydney Pty Ltd – Damien Kiley

Oral Submissions

Submitter	Applicant/Representative
Kristina Lim - Resident	Damien Kiley - Applicant
Carole Baker - Resident	Peter Mayoh - Architect
Kevin and Frances Gallagher - Residents	Jane Maze- Riley - representing applicant
Danny Linker - Resident	James Phillip - Heritage Consultant
	Mark Schofield - Consultant Planner
	Patrick Holland - Solicitor for applicant (observing only)

Panel Determination

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

The Council Officers Report, Recommendation and reasons for refusal are generally endorsed by the Panel with the exception of reason 4.

Panel Reason:

The Panel considers that further consideration needed to be given to the design of the top level where a smaller and reconfigured footprint would have greater compatibility with the DCP and opportunities for improved view sharing.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		Ken Robinson	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 4

DA No:	141/21/3
ADDRESS:	34 Phillips Street, Neutral Bay
PROPOSAL:	Section 4.55(2) to modify development consent DA 141/21 for the demolition of an existing dwelling house and garage and construction of a two storey dwelling house and associated landscaping.
REPORT BY NAME:	Thomas Holman, Assessment Officer
APPLICANT:	David Selden Pty Ltd

This item was determined in closed session as there was less than 10 unique submissions.

Submitter	Applicant/Representative
	David Selden - Applicant
	Zara Norley - Applicant
	Jennie Askin - aSquare Planning - representing applicant

Panel Determination

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

The Council Officer's Report and Recommendation are endorsed by the Panel subject to correction of the typographical errors in Condition C30. The Manager Development Services is delegated authority to ensure the appropriate amendments are made.

Panel Reason:

The Panel noted the amendments were minor and consistent with the original consent.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		Ken Robinson	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 5

DA No:	237/20/3
ADDRESS:	30-34 Grosvenor Street, Neutral Bay
PROPOSAL:	Section 4.55(2) modification application to modify development consent DA 237/20 relating to an approved four (4) storey residential flat building including internal layout changes, building height increases, level 3 extension and a reduced communal terrace.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Platform Project Services Pty Ltd

This item was determined in closed session as there was less than 10 unique submissions.

Submitter	Applicant/Representative
	Geoff Bonus - Architect

Panel Determination

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

The Council Officers Report and Recommendation are endorsed by the Panel subject to the roof terrace and the proposed roof extension being amended to reduce the private open space for the modified level 3 apartment and to incorporate an L shaped terrace for communal use and the amended plans to be submitted to the Manager Development Services for written approval.

Panel Reason:

The Panel was of the view that a generous rooftop terrace would provide high amenity and value to all the residents while a smaller outdoor space, ample for private use of the level 3 apartment and accessible to a larger communal terrace could also be provided.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		Ken Robinson	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 6

DA No:	220/21
ADDRESS:	352 Miller Street, Cammeray
PROPOSAL:	Demolition of an existing detached dwelling house and construction of a four (4) storey residential flat building containing six (6) units, basement car park and associated landscape works.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	SJR Consulting Australia

This item was determined in closed session as there was less than 10 unique submissions.

Submitter	Applicant/Representative
	Grace Moses - Applicant

Panel Determination

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

The Council Officers Report, Recommendation and Conditions are endorsed by the Panel subject to the deletion of the deferred commencement condition AA1 and amendments to conditions A1, A4, C27 and G19 as follows:

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Description	Prepared by	Dated
DA-0101 Rev F	Site Plan	SJB	31.05.2022
DA-0105 Rev F	Demolition Plan	SJB	31.05.2022
DA-0201 Rev F	Floor Plan - Basement	SJB	31.05.2022
DA-0202 Rev F	Floor Plan - Ground	SJB	31.05.2022
DA-0203 Rev F	Floor Plan – Level 1	SJB	31.05.2022
DA-0204 Rev F	Floor Plan – Level 2	SJB	31.05.2022
DA-0205 Rev F	Floor Plan – Level 3	SJB	31.05.2022
DA-0206 Rev F	Floor Plan – Roof	SJB	31.05.2022
DA-0501 Rev F	Elevation – East & West	SJB	31.05.2022
DA-0502 Rev F	Elevation – North & South	SJB	31.05.2022
DA-0601 Rev F	Sections	SJB	31.05.2022

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

External Finishes and Materials

A4. External finishes and materials must be in accordance with the submitted schedule Drawings numbered DA 3205 Rev F, dated 31 May 2022, and prepared by SJB Architects unless otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Tree Protection

C27. To ensure the protection of all trees to be retained as identified in the submitted Arboricultural Impact Assessment report, prepared by Complete Arborcare and dated 13 June 2021, the following measures are to be undertaken:

- a) All documentation for the Construction Certificate application must show the site trees to be retained, and retention of the adjoining trees, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.
- b) All plans and correspondences must refer to the required compliance with the approved Tree Protection and Management Plan, and clearly show the assigned number of each tree on site, adjoining and Council land.
- c) A Consulting Arboriculturist (“the project arboriculturist”), who holds a minimum Australian Qualification Framework Level 5 in Arboriculture, is a registered consulting member of a nationally recognised arboricultural organisation or association, and who does not remove or prune trees in the North Sydney local government area, shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.
- d) The project arboriculturist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.
- e) The contact details of the project arboriculturist shall be advised to Council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to Council within 7 days.
- f) The project arboriculturist is to submit a list of critical stages where joint site inspections with Council’s Tree Management Officer will be required, with the adopted schedule to be complied with during the course of works, and include at minimum, the following hold points:
 - i. Prior to demolition of existing structures;
 - ii. At commencement of any excavation works within 7 metres of any tree to be retained;
 - iii. Prior to any tree crown or root pruning;
 - iv. At commencement of construction works within 7 metres of any tree to be

retained.

- g) Any excavation/earthworks as required within the SRZ/TPZ of T4 (*Lophostemon confertus*) Brush Box, sensitive construction techniques including hand excavation is required under supervision of a project arborist and no roots greater than 40mm shall be cut.

(Reason: Tree protection measures)

Allocation of Spaces

G19. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

8 Residential including 1 accessible space

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Panel Reason:

The Panel was supportive of the proposal subject to the modifications of the basement footprint to accommodate the Brush Box tree roots noting that this results in the removal of one visitor car space. These changes have been satisfied with amended plans submitted prior to the meeting. As such a deferred commencement is not required.

The Panel considered the minor modifications would not require re-notification in accordance with Section 3.6 of the North Sydney Council Community Engagement Protocol.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		Ken Robinson	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 7

DA No:	333/19/4
ADDRESS:	182 Kurraba Road, Kurraba Point
PROPOSAL:	Supplementary Report – Modifications to a consent for alterations and additions to convert a duplex into a residential flat building with strata subdivision.
REPORT BY NAME:	Stephen J Beattie, Manager Development Services
APPLICANT:	David Rahme

This item was determined in closed session as there was less than 10 unique submissions.

Submitter	Applicant/Representative
	Rod Hills - Project Manager

Panel Determination

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

Having regard to all the circumstances of the matter it has been deferred for electronic determination at a time and date to be advised on Council's website and to the applicant and interested parties.

Panel Reason:

While correct procedure appears to have been observed, concerns have been raised by a submitter that confusion arose over whether this matter was to be heard publicly or in closed session. Given the nature of those concerns it is considered the matter should be deferred to allow an oral submission to be made.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		Ken Robinson	Y	
Jan Murrell	Y				
Linda McClure	Y				

The public meeting concluded at 3.36pm

The Panel Determination session commenced at 3.40pm.

The Panel Determination session concluded at 5.36pm.

Endorsed by Helen Lochhead
North Sydney Local Planning Panel
1 June 2022