



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