



NORTH SYDNEY COUNCIL

Council Chambers
28 April 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 4 May 2022 when your attendance is requested.

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

KEN GOULDTHORP
GENERAL MANAGER

BUSINESS

- 1. Minutes**
Confirmation of Minutes of the previous Meeting held on Wednesday 6 April 2022.
(Circulated)
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2. LPP01: 206 Blues Point Road, McMahons Point – DA 101/2021/2

Report of David Hoy, Team Leader Assessments

This application under Section 4.55 of the Environmental Planning and Assessment Act 1979 seeks to modify Council's consent for alterations and additions to an existing hotel (Commodore Hotel), including the conversion of an existing ground floor parking to a gaming room and new illuminated signage.

On 15 October 2021 the North Sydney Local Planning Panel considered and approved the original development application subject to Condition I4 relating to changes to the hours of operation for the hotel, including changes to the existing outdoor terrace.

The application is referred to the Local Planning Panel for consideration as the Panel in its consideration of the original proposal amended the terms of Condition I4 relating to the hours of operation for premises, including the hours of operation of the existing outdoor terrace. In accordance with the Minister's Directions the Panel is the relevant determining body.

The current application seeks consent to modify Condition I4 to retain existing hours of operation for the approved covered terrace to trade between 10am and 12 midnight Monday to Thursday, 10am and 1am the following day Friday to Saturday, and between 10am and 10pm Sunday. The modification is sought on the basis that the amended Condition I4 does not reflect the original recommendation or existing license conditions which apply to the premises and the Panel was not empowered to restrict the operation of the existing premises having regard for the "Newbury Principles".

The application has been notified in accordance with Council's Community Participation Plan. In response to Council's notification of the proposal a total of eleven (11) submissions have been received objecting to the proposal including submissions from the Union Precinct and Lavender Bay Precinct Committee. The issues raised in the submissions include objections to noise impacts arising from the ongoing use operation of the hotel, additional impacts arising from "extension" of hours of use of the existing terrace, parking and traffic impacts, incidents of crime and anti-social behaviour of patrons, impacts from smoking, concerns about gambling profits and lack of benefit from gambling returns to the local community.

The Panel is advised premises currently operates under a historical liquor license which provides broad hours of operation. Until the approval previously granted by the Panel, the Premises has not been subject to a specific Plan of Management. Whilst the concerns of local residents should be noted, the Panel should consider that the consent relates to alterations to an existing premises and the approved consent conditions would enable Council and the NSW Office of Liquor & Gaming to pursue greater enforcement of noise standards for the premises.

It is concluded that the changes to Condition I4 should be accepted noting that additional measures which would be imposed by the development consent, include adoption of an enforceable Plan of Management. It is therefore recommended that the Panel grant approval for the modification of Condition I4.

Recommending:

PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Planning Panel exercising the functions of Council approve under the Direction of the Minister of Planning approve the modification of Development Consent No. 101/21 dated 6 October 2021 in respect of a proposal for Alterations and additions to an existing hotel, including the conversion of an existing ground floor parking to a gaming room and new illuminated signage at 206 Blues Point Road, McMahons Point under the provisions of Section 4.55 of the Environmental Planning and Assessment Act only insofar as will provide for the following:

1. To amend condition I4 of the consent to read as follows:

Hours of Operation

I4. The hours of operation are restricted to:

Indoor areas

Monday to Thursday 10am and 12 midnight the following day

Friday to Saturday 10am and 1am the following day

Sunday 10am and 10pm Sunday

Outdoor terrace

Monday to Thursday 10am and 12 midnight the following day;

Friday to Saturday 10am and 1am the following day;

Sunday 10am and 10pm

Lower ground floor gaming room and sports bar

Monday to Thurs 10am and 11pm

Friday to Saturday 10am and 11pm

Sunday 10am and 10pm

Definitions

Outdoor Terrace *For the purpose of this condition, reference to the term “outdoor terrace” refers to the “covered terrace” shown the drawing numbered DA 1-02 D referenced in Condition A1 of this consent.*

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 reflect existing licensed hours of operation and to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

3. LPP02: 46 Crows Nest Road, Waverton (W) - DA 436/21

Report of Miguel Rivera, Senior Assessment Officer

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations to an existing dwelling house, including a swimming pool, new fence and associated works on land identified as No. 46 Crows Nest Road, Waverton, and legally described as Lot 69 in DP 17495.

The application is required to be reported to the NSLPP for determination, as directed by the Minister of Planning, given that the development is considered contentious development, in that, more than ten (10) submissions were received.

Council's notification of the original plans has attracted a total of twelve (12) submissions from ten (10) individual addresses and the Edward Precinct Committee, raising concerns regarding bulk and scale, impacts associated with amenity, privacy and solar access, variations to provisions and controls under Council policy, uncharacteristic built form including front façade and roof, and impacts on streetscape and heritage conservation area.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 (NSLEP 2013), North Sydney Development Control Plan 2013 (NSDCP 2013) and the relevant State Planning Policies and it was generally found to be satisfactory given the site's constraints, context and setting.

The application involves a pre-existing non-compliance to the maximum height of buildings development standard (8.5m) under Clause 4.3 of NSLEP 2013. This variation is only attributed to the ridge of the existing pitched roof of the dwelling, which is 8.95m above natural ground level. This represents a departure of 450mm (0.45m) or 5% from the development standard. It is noted that this non-compliance does not trigger required determination of the application by the NSLPP.

The applicant submitted a written request pursuant to Clause 4.6 of the NSLEP 2013. The request is supported on the grounds that the height of the additions and alterations demonstrate full compliance with the maximum height of buildings provision and that the only portion of the building that is non-compliant is the roof of the existing dwelling, which is proposed to be retained. The proposed development achieves the objectives of the maximum building height development standard and the R2 – Low Density Residential Zone.

The proposed development will result in a built form that is considered to be appropriately responsive to the context of the site and sympathetic to and in keeping with the established character of the immediate locality and the Crows Nest Road – Conservation Area (CA23).

The assessment of the proposed development has considered the concerns raised in the submissions as well as the performance of the application 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 proposal's compliance to and consistency with the key objectives and controls within State Planning Policies and under Council policy including NSLEP 2013 and NSDCP 2013, and lack of adverse impacts from the development on adjoining and surrounding properties.

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. 436/21 for alterations to an existing dwelling house, including a swimming pool, new fence and associated works on land at No. 46 Crows Nest Road, Waverton, legally described as Lot 69 in DP 17495, subject to the following site specific conditions and attached recommended conditions.:

Design Changes

C1. The following design changes must be incorporated into all documentation (including final plans/drawings) that are to be submitted as part of any application for a construction certificate:

- For consistency purposes, all documentation (including landscape plans and stormwater plans) must be amended to reflect the amended design (as approved by this consent).
- All annotations, illustrations, words and details indicating construction of a spa in the rear yard of the premises are to be deleted from all construction certificate documentation to reflect the final scheme and approved design. This consent does not cover the construction of any spa within the site.
- The roof top garden above the garage structure must be non-trafficable and cannot be used for any purposes other than to establish plantings and maintain the garden bed. The words ‘non-trafficable area’ must be annotated for the roof top garden on all construction certificate documentation.
- The removal of trees T9 and T10 in the rear yard, comprising a Bottlebrush and a California Palm, is not supported and all construction certificate documentation (including landscape plans and architectural plans) must be amended to indicate both trees are to be retained and protected. All new plantings and landscaping treatments in the rear yard must be re-designed to incorporate the retained trees (T9 and T10).
- The tree in the south-western corner of the site (*Celtis* species) is to be removed. All construction certificate documentation must be amended to indicate that this tree will be removed.

(Reason: To ensure the amended and final design of the approved development as shown on the approved architectural plans are reflected on all construction certificate plans and documents)

Roof Top Garden – above garage

I1. The roof top garden above the garage structure must be non-trafficable and cannot be used for any purposes other than to establish plantings and maintain the garden bed. The plantings within the garden bed must be planted in accordance with the approved landscape plan and maintained, in perpetuity.

(Reason: To minimise potential privacy impacts and to ensure the built form is softened by green roof areas)

4. LPP03: 108 Hayberry Street, Crows Nest (T) - DA 382/21

Report of Miguel Rivera – Senior Assessment Officer

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to an existing semi-detached dwelling on land identified as No. 108 Hayberry Street, Crows Nest, and legally described as Lot 2 in DP 521540.

The application is required to be reported to the NSLPP for determination, as directed by the Minister of Planning, given that the development is considered contentious development, in that, more than ten (10) submissions were received.

Council's notification of the original plans has attracted a total of twenty-four (24) submissions from seventeen (17) individual addresses and the Hayberry Precinct Committee, raising concerns regarding bulk and scale, errors in documentation, party wall consent, amenity impacts and impacts on streetscape and heritage conservation area.

The Applicant provided an amended design and additional information in response to matters and issues raised by Council and in the abovementioned submissions. The amended design was re-notified and the re-notification attracted two (2) additional submissions from two (2) individual properties. The issues raised in these submissions were in relation to the first floor balcony, bulk and scale, visual intrusion, lack of engineering detail and impacts on neighbouring trees.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 (NSLEP 2013), North Sydney Development Control Plan 2013 (NSDCP 2013) and the relevant State Planning Policies and it was generally found to be satisfactory given the site's constraints, context and setting.

The proposed development will result in a built form that is considered to be appropriately responsive to the context of the site and sympathetic to and in keeping with the established character of the immediate locality and the Holtermann Estate C Conservation Area (CA09).

The assessment of the proposed development has considered the concerns raised in the submissions as well as the performance of the application 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 proposal's compliance to and consistency with the key objectives and controls within State Planning Policies and under Council policy including NSLEP 2013 and NSDCP 2013, and lack of adverse impacts from the development on adjoining and surrounding properties.

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. 382/21 for alterations and additions to existing semi-detached dwelling on land at No. 108 Hayberry Street, Crows Nest, legally described as Lot 2 in DP 521540,

subject to the following site specific condition and the attached recommended conditions:

Engineering Report

C1. An Engineering Report, prepared by a suitably qualified person such as a civil/structural engineer, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. This report must satisfy the Certifying Authority with regard to providing sufficient detail on the construction methodology and techniques that are to be implemented to ensure that all works for the approved development (including the first floor addition) can be reinforced and supported without utilising/impacting the party wall between No. 106 and No. 108 Hayberry Street, Crows Nest, and the roof structure of No. 106 Hayberry Street, Crows Nest.

(Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognised)

5. LPP04: 11 Bennett Street, Cremorne – DA 353/21

Report of John McFadden, Consultant Planner

This development application seeks approval for 'Demolition of existing structures and erection of an attached dual occupancy and associated works on each lot in an approved subdivision of the subject land into 2 lots (Consent DA 237/2018)'.

The application is reported to North Sydney Local Planning Panel (NSLPP) for determination as the proposal seeks a variation to the Height of Buildings Development Standard under clause 4.6 of the North Sydney Local Environmental Plan 2013 (NSLEP) and a significant number of objections have been received.

Notification of the proposal has attracted 30 submissions, 29 from adjoining property owners and the Harrison Precinct raising particular concerns about the height of the development and the precedent it will create, impacts on privacy, streetscape, views, shadowing, tree loss, impact on the adjoining Heritage items and Conservation Area. One letter of support for the proposal was also received. The assessment has considered these submissions as well as the performance of the application against Council's planning requirements and found that a significant number of the concerns raised in the submissions are valid.

A similar proposal (DA 308/20) to the current application has previously been considered by the North Sydney Local Planning Panel (NSLPP) at its meetings of 28 January 2021 and again on 27 May 2021, where the proposal was ultimately refused. The NSLPP suggested a number of changes for any amended proposal, but only some of these recommendations were incorporated in the current proposal.

The proposal exceeds the LEP maximum building height development standard which has enabled a 3rd storey of residential accommodation to be included to each pair of dual occupancies. The applicant has lodged a submission under clause 4.6 of the NSLEP seeking a variation to the height standard. However,

the variation is unjustified and exacerbates a number of adverse impacts on the adjoining properties, which includes two heritage items. The submitted clause 4.6 statement has failed to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

In addition, the proposed development does not comply with a number of key controls in the North Sydney DCP 2013 including site coverage and landscaping/open space requirements.

Council's Conservation Planner considered the current proposal inappropriate within the conservation area and recommended the building be redesigned to be reduced in height and the pair of dual occupancies be split to give the appearance of two separate and distinct buildings.

Council's Landscape Officer also found the proposed landscaping plans and supporting Arboricultural Impact Assessment unsatisfactory.

Accordingly, the application is recommended for **refusal**.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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. DA 353/21 for development of demolition of the existing structures and erection of an attached dual occupancy and associated works on each lot in an approved subdivision of the subject land into 2 lots (Consent DA 237/2018) on land at 11 Bennett Street, Cremorne, as shown on plans submitted, for the following seven (7) reasons:-

1) The proposed development is contrary to the following objectives of the NSLEP, R2 –Low Density Residential Zone:-

- 'To encourage development of sites for low density housing, including dual occupancies, 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 high level of residential amenity is achieved and maintained.'

(Reasons: The current design of the Dual Occupancies will compromise the amenity of the surrounding area and Heritage items and the existing high level of residential amenity of the surrounds will be degraded)

2) The proposed development is contrary to the objectives of NSLEP, Clause 4.3, Height of Buildings Development Standard:-

Clause 4.3(1)

- (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.'*

and:

- (2) *'The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map'.*

(Reasons: The design of the dual occupancies as currently proposed will impact views, solar access and privacy of adjoining development. Furthermore, the 3 storey development has excessive bulk and scale and does not maintain the built form of 1 or 2 storeys specified.)

3) The provisions of NSLEP, Clause 4.6 (3)(a) & (b) have not been met as the applicant has failed to demonstrate that:-

'(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.'

(Reasons: The applicant's submission under clause 4.6 has not demonstrated that compliance with the height standard is unreasonable, or that there are any special circumstances of the case. No convincing environmental planning grounds have been put forward)

4) The provisions of NSLEP, Clause 4.6 (4)(a)(i) & (ii) have not been met;

(Reasons: The applicant's clause 4.6 submission has not adequately addressed the matters required to be demonstrated by subclause (3) above and the proposed development is not in the public interest because it is inconsistent with several of the objectives of the Height of Buildings Development Standard and two of the objectives for development within the R2 – Low Density Residential zone)

5) The following objectives of NSLEP, Clause 5.10 - Heritage conservation have not been met, specifically:-

- (a) to conserve the environmental heritage of North Sydney,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

(Reasons: The development (as proposed) is not sympathetic to the Conservation Area or the two adjoining Heritage items. Further, the settings and outward views of the items are impacted by the height and bulk of the proposal which is exacerbated by loss of screening trees and vegetation)

6) The proposed development is contrary to Clause 6.6(2)(a) in NSLEP.

(Reasons: The proposed dual occupancy is a form of development prohibited within a conservation area where existing

structures on the site have not been demolished pursuant to Clause 6.6(2)(a) in NSLEP)

7) **The proposal does not comply with North Sydney DCP 2013 Part B Section 1- Residential Development in the following matters:-**

1.3 Environmental Criteria

- **1.3.6 Views**
- **1.3.7 Solar Access**
- **1.3.10 Visual Privacy**

1.4 QUALITY BUILT FORM

- **1.4.6 Setback – Side**
- **1.4.7 Form Massing Scale**
- **1.4.8 Built Form Character**
- **1.4.9 Dwelling Entry**
- **1.4.10 Roofs**
- **1.4.13 Balconies**
- **1.4.14 Front Fences**

1.5 QUALITY URBAN ENVIRONMENT

- **1.5.5 Site Coverage**
- **1.5.6 Landscape Area**

(Reasons: The proposed pair of dual occupancies does not comply with the requirements of the sections of the NSDCP as specified above and as discussed within the Planning Report prepared for the North Sydney Local Planning Panel)

6. LPP05: 102 Carabella Street, Kirribilli – DA 371/21

Report of Thomas Holman, Assessment Officer

This development application seeks consent for alterations and alterations to an attached dwelling comprising a ground floor extension, internal alterations, and construction of a dormer and skylight on the rear roof plane at 102 Carabella Street, Kirribilli.

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 proposal also involves partial demolition of a heritage item being another reason to report the application to the Panel.

The proposed works would have a height of 10.3 m to the internal roof of the converted attic and the dormer addition would have a height of 9.9 m (16.47% variation) above the existing ground level which would not comply with the maximum permitted height of 8.5m 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 because there would be no view loss, nor any unreasonable overshadowing and/or privacy loss arising from the height non-compliance.

The design of the dormer is acceptable subject to appropriate materials and finishes and a reduced height of dormer to no greater than 1.5 m from its base to its ridge height. Appropriate conditions of consent are recommended to ensure the dormer conserves the significance of the heritage item and surrounding conservation area.

The rear extension is generally supported as it is consistent with the character of the group of attached dwellings. However, a condition of consent is recommended to reduce the length of the extension to be more subservient in scale and reduce the site coverage non-compliance. A condition of consent is also recommended to provide additional landscaping within the site.

One submission was received that raised concerns regarding the potential impact during and post construction to an adjoining property which has been considered in the report and where appropriate conditions of consent are considered to address these concerns.

Following this assessment, the development application is considered to be reasonable in the site 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. 371/21 for alterations and additions to an attached dwelling on land at 102 Carabella Street, Kirribilli subject to the following site specific and attached standard conditions:-

Heritage Requirements

C9. The following heritage requirements are to be met to ensure that the heritage and character of the attached dwelling is retained:

- a) **Rear Dormer** - the location and siting of the dormer shall remain as shown in the approved South West Elevation (D.A - 104 Issue A). However, the rear dormer shall be amended so that the height must not exceed more than 1.5 m measured from its base to its ridge.
- b) **Entrance to Master Bedroom** - the existing door and entry including partitions as clouded in red on the approved Level 2 Floor Plan (D.A -102 Issue A) are to remain.
- c) **Level 2 Proposed Walk-in Robe and Ensuite** - the existing door in the hallway shown clouded in red is to remain in situ and may be fixed shut.
- d) **Side Ground Floor Extension at the rear** - the rear addition infill is to have an additional setback from the rear building line of

700mm (depth) x 1.618m (width) at the south-western corner of the building. Window W1 is to be deleted as annotated on the Proposed Level 1 Floor Plan (D.A -101 Issue A).

- e) **Stairs** - The new staircase serving the converted attic is to match the details of the existing stairs. Details of the new stairs should be submitted to Council's Conservation Planner for written approval prior to the issue of the construction certificate. Information should also be provided on how the stairs and the pressed metal ceiling will be treated.

The Certifying Authority must also 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 protect the heritage significance of 102 Carabella Street and the heritage group as a whole including to protect the character and significance of the Careening Cove Conservation Area).

Works to be Contained within the Subject Site

- C10. The approved works must be wholly contained within the site of No. 102 Carabella Street, Kirribilli, and must not result in any encroachment into neighbouring lots or Council's road reserve. Under no circumstances shall the boundary wall/fence and rear extension extend or be altered into adjoining lots.

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 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 protection and structural integrity of adjoining properties, and that common law property rights are recognised)

Landscape Plan

- C20. A Landscape Plan must be prepared to provide an appropriate landscaped setting:

- The Landscape Plan is to detail the existing/proposed landscaped areas as shown in the Compliance Diagram (D.A - 110 Rev A).
- The Landscape Plan is also to include two areas bordered in red within the front garden of the Compliance Diagram (D.A - 110 Rev A) for growing of grasses, groundcovers and/or shrubs.

A 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 Landscape Plan and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure an adequate level of planting is provided)

7. LPP06: 4 East Avenue, Cammeray – DA 427/21

Report of Michael Stephens, Senior Assessment Officer

This development application seeks consent for alterations and additions to an existing residential flat buildings containing two units, including a balcony enclosure to the rear of unit 1 at 4 East Avenue, Cammeray.

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 were received.

The subject site is zoned R2 Low Density Residential. Residential flat buildings are a prohibited use within the zone and therefore the application relies on the existing use provisions of the Environmental Planning and Assessment Act 1979 and Regulations to undertake alterations and additions to the existing residential flat building.

The proposed development breaches the maximum permitted building height of 8.5m by up to 2.88m, equating to a maximum variation of 33.9%. The proposed variation relates to north-eastern corner of the proposed balcony enclosure and proposed alterations to the part of the existing building which currently exceeds the development standard. 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 not adversely impact the amenity of the surrounding properties with regard to the retention of views, solar access and existing levels of privacy.

The built form character of the proposed works is contemporary in nature and is compatible with the character of the existing building and surrounding residential area.

The application was notified in accordance with Council's Community Engagement Protocol, however, no submissions were 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. 427/2021 for alterations and additions to an existing residential flat building on land at No 4 East Avenue, Cammeray.



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE
COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 6 APRIL 2022, AT 2.00PM.**

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Grant Christmas (Panel Member)
Ian Pickles (Panel Member)
Jane van Hagen (Community Representative)

Staff:

Robin Tse, Senior Assessment Officer
Thomas Holman, Assessment Officer
Kim Rothe, Senior Assessment Officer

Administrative Support:

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

This meeting was conducted by remote (Zoom) means.

Apologies:

Nil.

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 2 March 2022 were confirmed following that meeting.

2. Declarations of Interest

Jane van Hagen has a perceived conflict of interest on Item 2.

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:	368/21
ADDRESS:	64 Rangers Road, Cremorne
PROPOSAL:	Alterations and Additions to a semi-detached dwelling including construction of a detached studio and alterations to the dwelling façade.
REPORT BY NAME:	Thomas Holman, Assessment Officer
APPLICANT:	Council Approval Group

No Written Submissions

Submitter	Applicant/Representative
	Owner

Panel Determination

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

The Council Officers Report, Recommendation and Conditions are endorsed subject to amending Condition C6 to include the following changes:

Amendment to Skylight

C6. The proposed skylight to the southern elevation is to be coloured to match the existing roof with non-reflective glazing that is tinted in a recessive colour. Similarly, the skylight framing and trim flashings are to be dark grey or similar to match the roof. The dimensions are to match the skylight at No. 66 Rangers Road.

(Reason: To minimise the effect of the appearance of the skylight on the street elevation and the conservation area)

Panel Reason:

The Panel is satisfied the development would not have adverse impacts on the heritage conservation area. The Panel notes that the adjoining semi at No. 66 has a similar skylight to that proposed and with the appropriate use of materials and colours in the amended condition is considered a satisfactory outcome in the circumstances.

The Panel notes the applicant sought to have the condition regarding a landscape plan deleted. However, this is retained to ensure the development sits appropriately in the landscape, and the species of trees and vegetation complements the conservation area.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
Grant Christmas	Y				
Ian Pickles	Y				

ITEM 2

Jane Van Hagen had a perceived conflict of interest on this item and left the meeting for the deliberation.

DA No:	122/21
ADDRESS:	(Supplementary Report) 1 Baden Road, Kurraba Point
PROPOSAL:	Demolition of all existing structures and construction of a part 4, part 5 storey dwelling house with an integrated garage, swimming and associated landscaping.
REPORT BY NAME:	Michael Stephens, Senior Assessment Officer
APPLICANT:	Charbel Hazzouri from Revelop

Public Submissions**1 Written Submission**

Submitter	Applicant/Representative
Byron Knight - Solicitor on behalf of submitters	Anthony El-Hazouri - (Revelop on behalf of Applicant)
Jacki Heppard - Resident	Jane Maze-Riley - Urban Planner
	Nicola Ghirardi - Architect
	Ian Cady - Town Planner

Panel Determination

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

This matter was deferred by the Panel in November 2021 to require the applicant to undertake a comprehensive view sharing assessment, from certain units at No. 200 Kurraba Road. A detailed assessment has been carried out in accordance with view sharing principles established in *Tenacity Consulting v Warringah [2004] NSWLEC 140* to allow the Panel to make an informed 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 in relation 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 will be in the public interest because it is consistent with the objectives of the standard and the zone objectives.

The Council Officers Report, Recommendation and Conditions are endorsed by the Panel.

Panel Reason:

The Panel is satisfied that the view loss assessment from the affected dwellings addresses the relevant planning principles established in *Tenacity Consulting v Warringah [2004] NSWLEC 140* in terms of view sharing.

The Panel notes that the exceedance in height generally does not contribute to view loss in the context of the extent and totality of views retained. It is also noted that some improvements will occur where the existing building is to be demolished. The Panel accepts the removal of the existing chimney together with the increased western setback, assists in view sharing and the shape of the roof is a better built form outcome to a flat roof.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen		Absent
Grant Christmas	Y				
Ian Pickles	Y				

ITEM 3

DA No:	269/21
ADDRESS:	372 Military Road (aka 75 & 75A Parraween Street, Cremorne
PROPOSAL:	Demolition of an existing shop top housing and construction of a five (5) storey shop top housing containing seven (7) apartments, a ground floor retail tenancy and basement parking.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Platino Properties Pty Ltd

Public Submissions**1 Written Submission**

Submitter	Applicant/Representative
Anna Hole - Resident	Jack Prail - Platino Property -Applicant
Lesley Smith - Resident (observing only)	Paula Mottek - Platino Property - -Applicant

Panel Determination

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

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 in relation to the contravention of the Height of Buildings development standard in clause 4.3 of the LEP 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 will be in the public interest because it is consistent with the objectives of the standard and the zone objectives subject to the imposition of appropriate conditions.

The Council Officers Report, Recommendation and Conditions are endorsed by the Panel with the addition of conditions to give effect to the following:

- the bedrooms shown on the plans that are less than 3 metres in width are to be shown as studies on the amended plans as these rooms do not comply with the Australian Design Guidelines for a minimum width of 3 metres;
- appropriate provisions/infrastructure is to be incorporated in the design of the basement car park to allow for the installation of charging facilities for electric vehicles at each designated parking spot;
- The colour and materials on the southern elevation of level 3 are to be amended to be of a darker recessive colour to improve its relationship with the adjoining heritage item. Amended plans showing the revised architectural treatment and colours of this level are to be submitted for the written approval of the Manager, Development Services prior to the issue of a Construction Certificate.

- Condition C1 is to be amended to require the parking space for the ground floor commercial/retail tenancy to be allocated to the commercial/retail lot in any strata plan.

Panel Reason:

The Panel considers the plans must be amended in accordance with the Officer's recommendation to ensure that the building has a respectful transition to the adjoining heritage item. These design changes are also considered appropriate in the context of a more sensitive design to reduce view impacts for the adjoining property.

While the front facade of the existing building remains somewhat intact above the awning, the remainder of the building has been extensively modernised and does not warrant retention in the context of current planning controls. The application, subject to the above changes is satisfactory on a merits assessment and further modification is not required.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
Grant Christmas	y				
Ian Pickles	Y				

ITEM 4

DA No:	230/20/2
ADDRESS:	23 Victoria Street, McMahons Point
PROPOSAL:	Section 4.55(2) Modification to DA 230/20/2 to raise the roof level of the approved roof level additions, including a higher lift overrun and introduction of new rooftop terrace.
REPORT BY NAME:	Kim Rothe, Senior Assessment Officer
APPLICANT:	Felicity King, Studio Barbara

Public Submissions

Written Submissions

Submitter	Applicant/Representative
	Felicity King - Architect & Applicant on behalf of owner
	Andrew Martin – Town Planner

Panel Determination

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

The Council Officers Report, Recommendation and Conditions are supported subject to the imposition of the following additional condition:

Balustrade of Roof Terrace

C27. The glass balustrade for the roof terrace is to be changed to be the same material as shown in the plans for the balustrades at the lower levels of the building being either: the appearance of masonry, with a flat bar handrail optional; or material “D” “steel balustrade with vertical steel rods with flat bar handrail” as specified in the materials schedule and depicted in Drawing Number DA20 Schedule of Finishes and Materials.

Plans and specifications 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 building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To reduce the total amount of glazing for the northern and western elevations on the building and be replaced with consistent materials used in the development.)

Panel Reason:

The Panel is satisfied the modification application warrants approval subject to the above changes and it will not have adverse impacts on the amenity of the area.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
Grant Christmas	Y				
Ian Pickles	Y				

ITEM 5

DA No:	413/21
ADDRESS:	1B Samora Avenue, Cremorne
PROPOSAL:	Alterations and additions to an existing part two/three storey detached dwelling.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Neché Page

Public Submissions**Written Submissions**

Submitter	Applicant/Representative
	Neché Page - Applicant
	Joseph and Elizabeth Hunt – Owners (Observing only)

Panel Determination

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

The Council Officers Report, Recommendation and Conditions are endorsed by the Panel.

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 in relation to the contravention of the Height of Buildings development standard in clause 4.3 of the LEP 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 will be in the public interest because it is consistent with the objectives of the standard and the zone objectives.

The Panel notes the word “opaque” should be substituted with the word “obscure” for purposes of clarity within Condition C1.

Panel Reason:

The Panel is satisfied the proposed alterations and additions are satisfactory and will not have adverse impacts on adjoining properties. The Panel notes the applicant’s request, however, the planting of a Canopy Tree in the rear yard is necessary to filter the dwelling and provide amenity and sustainability.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
Grant Christmas	Y				
Ian Pickles	Y				

The public meeting concluded at 3.08pm.

The Panel Determination session commenced at 3.15pm.

The Panel Determination session concluded at 4.45pm.

Endorsed by Jan Murrell
North Sydney Local Planning Panel
6 April 2022