



**NORTH SYDNEY COUNCIL**

Council Chambers  
31 March 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 April 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**

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**BUSINESS**

**1. Minutes**

Confirmation of Minutes of the previous Meeting held on Wednesday 2 March 2022.  
(Circulated)

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**2. LPP01: 64 Rangers Road, Cremorne - DA 368/21**

Report of Thomas Holman, Assessment Officer

This development application seeks approval for alterations and additions to the semi detached dwelling including works to the front façade comprising the replacement of a brick balustrade for a timber picketed balustrade and the provision of a skylight on the front roof slope. The development application also seeks a detached studio within the rear garden.

The development application is reported to the North Sydney Local Planning Panel for determination because the development application received more than 10 unique submissions by way of objection.

Eleven (11) unique submissions raising particular concerns about the nature and use of the proposed studio, its proximity to boundaries, privacy, loss of palms, stormwater, insufficient landscaping, and the likely impact to the surrounding conservation area. The assessment has considered the concerns as well as the performance of the application against Council's planning requirements.

The detached studio is supported because it is ancillary to the primary use of the site subject to an appropriate condition of consent. The detached studio with a height under 3m and floor area of 25m<sup>2</sup> is much smaller in scale than the existing semi detached dwelling maintaining the low density character of the site. The detached studio is appropriately sited to the rear of the site with modest openings and the provision of privacy screens. A condition is also recommended requiring tree planting to ensure a high level of neighbouring amenity is maintained.

The site inclusive of the detached studio has an appropriate density complying with the maximum site coverage stipulated in s1.5.5 of the NSDCP 2013 and the site complies with landscaping and un-built upon areas as stipulated in s1.5.6 of the NSDCP 2013 subject to a condition of consent requiring additional landscaping to be provided.

The proposed works conserve the heritage significance of the Cremorne Conservation Area subject to deletion of the skylight from the front roof plane facing Rangers Road and the detached studio is appropriately located to the rear not visible from the surrounding conservation area.

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. 368/21 for alterations and additions including a detached studio to on land at 64 Rangers Road, Cremorne subject to the following site specific and standard conditions:-

**Delete Skylight**

C6. The proposed skylight is not approved and is to be deleted from the front southern roof plane. The skylight that is not approved is clouded in red on the approved South Elevation (Dwg No. 3 dated 14 October 2021).

The above changes must be made to the plans prior to the issue of any construction certificate and the certifier is to 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 retain roof appearance that contributes to the significance character and significance of the conservation area)

#### **Works to be Contained within the Subject Site**

C7. The approved works must be wholly contained within the site of No. 64 Rangers Road, Cremorne, and must not result in any encroachment into neighbouring lots or Council's Road reserve. Under no circumstances shall the boundary fence/detached studio extend or altered into adjoining lots without the prior written consent of the adjoining owner(s).

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)

#### **Tree Planting**

C14. The following trees are required to be planted and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

<b>Tree</b>	<b>Location</b>	<b>Container Size (l)</b>
1 x local native tree. Suitable local native tree species are listed on Council's website.	Within rear garden of subject site	75l

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 ensure that tree planting provided enhances environmental and landscaped amenity)

#### **Landscape Plan**

C18. A Landscape Plan is to be prepared detailing the following planting requirements:

- Planting of 1 local native canopy tree with a minimum mature height of 6m (pot size 75l) within the rear garden of the subject site.
- Removal of pavers and pebbles within driveway between paved tyre strips to be replaced with groundcovers/grasses.
- The existing pavers and pebbles within the driveway between the paved tyre strips may remain if the Landscape Plan sufficiently

ensures the provision of a minimum 30% (104.34m<sup>2</sup>) landscaped area within the site as defined in Provision P2, s1.5.6 of the North Sydney Development Control Plan 2013.

- Removal of pavers within rear garden to be replaced with groundcovers/shrubs or grasses (area to become soft landscaping annotated on Compliance Diagram).
- The gravel area (annotated in red on the Compliance Diagram) within the eastern side setback is to be replaced with either groundcovers/shrubs or grasses.

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 amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure an adequate level of planting, tree canopy and native plant species is provided)

#### **Restrictions on the Use of the Detached Studio**

11. Nothing in this consent authorises the use of the detached studio other than for purposes ancillary to the semi-detached dwelling including use as a home office, art studio or guest room. At no time should the detached studio contain cooking facilities. The detached studio may only be used strictly as defined in Cl. 1.5 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

(Reason: To ensure compliance with the terms of this consent)

### **3. LPP02: 1 Baden Road, Kurraba Point - DA 122/21**

Report of Michael Stephens, Senior Assessment Officer

This supplementary report is prepared in response to the deferral of Item No.1 at the 3 November 2021 meeting of the North Sydney Planning Panel. Following the deferral, the applicant undertook a further view sharing assessment which included an inspection of objector's properties and submitted a revised view sharing assessment report and written request to vary the height of buildings development standard pursuant to clause 4.6 in NSLEP 2013.

The revised documentation (December 2021) was notified in accordance with Council's Community Engagement Protocol where a further six submissions were received. The documentation was revised further (March 2022) to address concerns raised in submissions.

Following a detailed assessment of the submitted documentation, it is concluded that, the revised written request as submitted by the applicant is adequate to satisfy the jurisdictional matters in clause 4.6. The written request demonstrates that compliance is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the variation. The variation is considered to be in Public Interest.

The application is returned to the Panel for determination and the recommendation for approval remains unchanged.

**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. 122/2021 for demolition of all existing structures and construction of a part 4, part 5 storey dwelling house with an integrated garage, swimming and associated landscaping subject to the following site specific and standard conditions of consent attached to the original assessment report.

**4. LPP03: 372 Military Road (aka 75 & 75A Parraween Street), Cremorne (C) - D269/21**

Report of Robin Tse, Senior Assessment Officer

This development application seeks approval for demolition of the existing two (2) storey shop top housing building and the construction of a five (5) storey shop top (mixed use) development containing seven (7) apartments, a ground floor commercial/retail tenancy and basement parking with an underground vehicular access across the property boundary to the basement of the adjoining mixed use development at No.368 Military Road including the shared use of an existing driveway off Parraween Street.

The application is reported to North Sydney Local Planning Panel for determination as the proposal is subject to SEPP 65, a variation to the building height development standard that is greater than 10% and received more than 10 submissions, which requires determination of the application by the Panel as directed by the Director of Planning and the Environment.

Notification of the original and the amended proposal has attracted a total of sixteen (16) submissions including multiple submissions from two submitters. The concerns raised in the submissions include the appropriateness of the proposed development adjacent to a heritage listed item, impacts of works associated with the underground vehicular access to the adjoining property, view loss, overshadowing and traffic/parking impacts. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The subject site is located to west of the heritage listed Orpheum Theatre. A deferred commencement condition is recommended requiring additional setback for the southern side on the fourth floor to provide a more sympathetic transition of built form and building height for the Orpheum Theatre (**Condition AA1**).

Consideration has been given to a written request submitted by the applicant seeking a variation to Clause 4.3 in North Sydney LEP concerned with the height of buildings height pursuant to Clause 4.6 of the LEP. It is considered that the variation to the building height development standard could be supported because the building elements in breach of the LEP building height development standard would not cause material impacts on the amenity of

the adjoining properties as well as the character of the locality subject to the imposition of the deferred commencement condition.

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

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved subject to the imposition of the deferred commencement condition (**Condition AA1**).

**Recommending:**

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

A. **THAT** the North Sydney Local Planning Panel, assume the concurrence of the Secretary of Planning, Industry and Environment, invoke the provisions of Clause 4.6 with regard to the exception to the development standard for maximum building height and grant deferred commencement consent to Development Application No. 269/21 for demolition of the existing two storey shop top housing building and the construction of a five storey shop top housing (mixed use) development on land at No.372 Military Road (aka 75 & 75A Parraween Street) Cremorne, subject to the following site specific conditions and the attached conditions:-

**AA. Deferred Commencement Condition**

This consent shall not operate until the following deferred commencement condition has been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement condition within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement condition within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

**Deferred Commencement Matters**

AA1. Amended plans, addressing the following matters, must be submitted for the written approval of Council's Manager Development Services:

**Design Modifications**

The design of proposed building be modified to provide an 8m setback between the southern building line on the fourth floor of the building and the southern (Military Road) property boundary to minimise the visibility of the top level of the proposed building and to provide a more sympathetic transition of built form and building height for the adjoining heritage listed Orpheum Theatre to the east of the subject site.

The modified fourth floor southern building line shall match the southern wall of the proposed lift shaft/overrun. The internal layout of the fourth floor shall be modified to a three bedroom apartment similar in layout to the other three bedroom apartments proposed on the first and second floor.

(Reason: To ensure that the development complements the locality in terms of streetscape and heritage significance of the adjoining Orpheum Theatre)

This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.

- B. Subject to the above deferred commencement condition being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following site specific conditions and the attached conditions:

**Basement Carpark**

- C1. The applicant shall amend the design of the basement carpark with the allocation of parking space No.9 as shown on Drawing No. DA100 Issue B, dated 18.11.21 and prepared by PA Studio to provide a parking space for the commercial tenancy and to remain as common property in any strata plan. A parking space on the car stacker shall be allocated to motorcycle in order to cater for the parking needs from different types of vehicles.

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

(Reason: To ensure compliance with DCP requirement for motorcycle parking.)

**Compliance with Acoustic Report**

- C2. The recommendations contained in the statement and the referenced acoustic report, prepared by Acoustic Logic, dated 13 July 2021 must be implemented during construction and use of the development.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To maintain an appropriate level of amenity for the subject shop top housing development and the adjoining land uses.)

**5. LPP04: 23 Victoria Street, McMahons Point (W) – DA 230/20/2**

Report of Kim Rothe, Senior Assessment Officer

The subject application is an application made under Section 4.55(2) of the Environmental Planning and Assessment Act 1979 and amended and seeks to modify DA 230/20 for alterations and additions and change of use from a commercial building to a single residential dwelling house on land at No. 23 Victoria Street, McMahons Point.

The original application was approved by the North Sydney Local Planning Panel at its meeting 2 December 2020 subject to conditions. The matter was reported to NSLPP on the basis of the height breach to Clause 4.3 of NSLEP

2013 proposed exceeding the 10% allowed to be supported by staff under delegated authority. The exceedance was 20%.

The application seeks approval for the following modifications to the approved development altering the approved attic level plan which included stair access to a study / storage area into a newly proposed outdoor roof terrace with adjoining sitting room and bathroom. The lift incorporated into the other levels will be extended to allow for access to this new enhanced level. There will also be a new lightwell over the entry door area.

The application is reported to the NSLPP Panel on the basis that the modification proposal will increase the building height breach pursuant to Clause 4.3 Building Height of NSLEP 2013 previously considered by the Panel. In accordance with the Minister's Directions and the application must be determined by the Panel due to the extent of the breach exceeding 10%.

Council's notifications of the proposal as modified has attracted **zero (0) submission** raising concerns regarding the development

The further variation to the building height development standard is justifiable in the circumstances as the amended proposal would achieve the objectives of the development standard despite the non-compliance. The modified amenity impacts, revised layouts, privacy and solar access, are assessed as reasonable and acceptable.

Following this assessment, the Section 4.55 application is considered to be substantially the same development and the breaches to the height standard are assessed as reasonable in the circumstances. The Modification is recommended for **approval** subject to amending conditions as detailed in the recommendation of this report.

**Recommending:**

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

**THAT** the North Sydney Local Planning Panel, under the delegation of the General Manager as the consent authority, resolve to grant consent to Development Application No. 230/20/2 to modify DA230/20 for alterations and additions and change of use from commercial building to single residential dwelling house, upon land described as No. 23 Victoria Street, McMahons Point, subject to modification to the following conditions:-

**1. To insert Condition A4, as follows:-**

**Development in Accordance with Plans (S.4.55 Modifications)**

A4. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

Plan No.	Issue	Title	Drawn by	Dated	Received
DA1	D	Proposed Site Plan + Site Analysis	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA4	D	Existing Basement Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA5	D	Existing Ground Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA6	D	Existing First Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA7	D	Existing Roof Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA8	D	Proposed Basement Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021



Plan No.	Issue	Title	Drawn by	Dated	Received
DA9	D	Proposed Ground Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA10	D	Proposed First Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA11	D	Proposed Attic Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA12	D	Proposed Roof Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA13	D	North Front & West Side Elevations	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA14	D	South Rear & East Side Elevations	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA15	D	Sections 1 & 2	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA20	D	Schedule of Materials & Finishes	Barbara Architecture and Interiors	26 August 2021	7 September 2021

and except as amended by the following conditions and this consent.

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

**2. To modify Condition C26 as follows:-**

**BASIX Certificate**

C26. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **(12342985)** for the development are fulfilled. 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 ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

**6. LPP05: 1B Samora Avenue, Cremorne (C) - D413/21**

Report of Robin Tse, Senior Assessment Officer

This development application seeks approval for alterations and additions to an existing part two/three storey detached dwelling located at No.1B Samora Avenue, Cremorne.

The application is reported to North Sydney Local Planning Panel for determination as the proposal is subject to a variation to the building height development standard that is greater than 10%, which requires determination of the application by the Panel as directed by the Director of Planning and the Environment.

Notification of the proposal has attracted no submissions.

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and was generally found to be satisfactory.

This report has considered a written request submitted by the applicant seeking a variation to Clause 4.3 in North Sydney LEP concerned with the

height of buildings height pursuant to Clause 4.6 of the LEP. It is considered that the variation to the building height development standard could be supported because the building elements in breach of the LEP building height development standard would not cause material impacts on the amenity of the adjoining properties as well as the character of the locality.

The proposal generally complies with the DCP's setback provisions and site coverage requirements. The unbuilt upon and landscaped areas of the existing site do not comply with the relevant DCP requirements. Nevertheless, a condition has been recommended requiring additional landscaping treatments to increase soft landscaping within the subject site. Furthermore, additional window treatments are recommended to protect visual privacy for an adjoining property to the south of the subject site.

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved subject to the imposition of standard and site specific 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 (Maximum Building Height) and grant consent to Development Application No.413/21 for alterations and additions to an existing dwelling house on land at No.1B Samora Avenue, Cremorne, subject to the following site specific and attached standard conditions:-

**Visual Privacy Protection**

C1. Opaque/translucent glazing shall be applied to the following windows on the southern elevation of the building to protect visual privacy of the adjoining property at No.1 Samora Avenue:

- (a) W11 and W20; and
- (b) the lower panes of W19, W21 and W22

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

(Reason: To protect visual privacy for the adjoining property)

**Landscaping Treatments**

C2. The following landscaping treatments shall be provided to enhance the landscaping quality of the subject site:

- (a) The area within the rear yard occupied by the footprint of the external staircase at the rear of the main dwelling to be removed as part of this application; and
- (b) A new planter bed with soft landscaping, measuring 10.6m in length and 650mm in width, shall be provided to replace the existing paving within the northern side building setback along the northern property boundary as marked in red on the approved plans. The new planter bed shall provide a continuous

soft landscaping strip along the northern property boundary connecting the existing garden beds on the eastern and western sides of the subject property; and

- (c) Planting of 1 x *Melaleuca armillaris* (75l) within the rear yard of the subject site.

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

(Reason: To enhance landscaping quality within the subject site.)

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**NORTH SYDNEY LOCAL PLANNING PANEL****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 2 MARCH 2022, AT 2.00PM.****PRESENT****Chair:**

Jan Murrell in the Chair.

**Panel Members:**

Caroline Pidcock, Panel Member

Lloyd Graham, Panel Member

Veronique Marchandean, Community Representative

**Staff:**

Kim Rothe, Senior Assessment Officer

Miguel Rivera, Senior Assessment Officer

Thomas Holman, Assessment Officer

**Administrative Support:**

Stephen Beattie, Manager Development Services

Robyn Pearson, Team Leader Assessments

David Hoy, Team Leader Assessments

Peita Rose, Governance Officer (Minutes)

In accordance with the Covid 19 Public Health Order this meeting was conducted by remote (Zoom) means.

**Apologies:**

Nil

**1. Minutes of Previous Meeting**

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

**2. Declarations of Interest**

Jan Murrell declared a non-pecuniary and insignificant interest in Item 1. However, there is a possibility of a perceived conflict of interest

Caroline Pidcock declared a non-pecuniary and insignificant interest in Item 3. However, there is a possibility of a perceived conflict of interest.

### 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**

Jan Murrell declared an interest in this item and therefore left the meeting. Caroline Pidcock assumed the Chair for the public session and deliberations.

<b>DA No:</b>	216/21
<b>ADDRESS:</b>	21 King George Street, Lavender Bay
<b>PROPOSAL:</b>	Demolition of existing structures and construction of a new two storey dwelling house plus basement and associated landscaping and stormwater works.
<b>REPORT BY NAME:</b>	Annelize Kaalsen (AK Planning)
<b>APPLICANT:</b>	Margaret Beazley

#### **Public Submissions**

#### **4 Written Submissions**

<b>Submitter</b>	<b>Applicant/Representative</b>
Brendan Hull - Resident	Tina Christy - Town Planner
Daniel Bryant - Resident	Steven Isaacs - Architect
Craig Bryant - Resident	

#### **Panel Determination**

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

The Consultant Planner's Supplementary Report, Recommendation and Conditions are endorsed by the Panel; subject to amended plans being submitted to address the following;

- The ground floor rumpus room is to be amended to be set back a minimum of 3.0 metres from the Bayview Street boundary. The applicant may reduce the internal dimension of the rumpus room and/or the size of the ground floor courtyard or the location of the building on the site to achieve this;
- The first-floor terrace is to be moved south so that the northern edge is aligned to Grid Line B as shown on the proposed first floor plan.
- Where the first floor terrace does not cover the rumpus room, the roof is to be a flat or low pitched skillion roof that is non-trafficable and no higher than the finished floor level of level 1. The roof to the rumpus may be planted with suitable low height low maintenance plant species which would achieve a mature height of not more than 300mm.

The Applicant is encouraged to include higher than required sustainability initiatives to help increase its energy efficiency, reduce its CO2 emissions (both in construction and operation) and ensure its resilience in the future. Total electrification is highly recommended in the achievement of this, as is optimal provision of photo voltaic panels for creation of on-site renewable energy.

The Manager Development Services is granted delegation to determine the application following submission of amended plans including any necessary amendment of conditions and having consideration for the need to renotify. If amended plans are not received within 30 days, or if the Manager forms the view that they cannot support the approval of the application, the application may be returned to the Panel for determination.

**Panel Reason:**

The Panel considered that the amended scheme had partially addressed the concerns of the previous Panel but required design changes to further improve view sharing.

The Panel considered the concerns raised by the resident submitters and considered that an increased setback from the Bay View Street boundary at the ground floor (to better reflect setbacks on Bayview Street) and changes to the first-floor terrace would achieve a reasonable balance between view sharing and the development rights and amenity of the future occupants. Subject to these amendments, the Panel considered the view impacts of the proposal to be reasonable.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	Absent		Veronique Marchandau	<b>Y</b>	
Caroline Pidcock	<b>Y</b>				
Lloyd Graham	<b>Y</b>				

**ITEM 2**

<b>DA No:</b>	205/21
<b>ADDRESS:</b>	23-27 Wheatleigh Street, Crows Nest
<b>PROPOSAL:</b>	Demolition of the existing dwellings and all structures, removal of trees and the construction of a multi-dwelling housing development comprised of 10 dwellings over one level of basement parking.
<b>REPORT BY NAME:</b>	Kim Rothe, Senior Assessment Officer
<b>APPLICANT:</b>	Salina Lama, Wheatleigh Street Pty Ltd

**Public Submissions****Written Submissions**

<b>Submitter</b>	<b>Applicant/Representative</b>
Neil Forbes - Resident	Mohit Keni - Architect
Edward James - Resident	Manny Hunjan - Development Management
Lara Naigus - Resident	Kerry Gordon - Planner

**Panel Determination**

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

The Panel has carefully considered the concerns raised in submissions, both written and oral in making its decision.

The Panel determined to approve the written request for variation to the height standard.

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.

The Council Officer’s Report, Recommendation and Conditions are generally endorsed, except for the changes required by the matters below and shown in a full set of amended plans and documentation to be approved by the Manager Development Services and accordingly the imposition of an amended set of conditions.

- The landscape plan is to be rationalised, without removing canopy trees, to incorporate more usable private open spaces, without hard paving, for each unit;
- An outdoor clothes drying area is to be shown and provided in the courtyard area for each unit. This must not be in the vicinity of the central spine access areas where bins are stored.

- The colour scheme is to be amended to incorporate lighter colour materials to mitigate the effects of heat absorption.
- The applicant is to provide amended plans to correct references to nominate which two units will be adaptable. An appropriate condition is to be imposed to require Certification of those units.
- Council’s Development Engineer to review the submitted plans and recommend conditions to ensure the stormwater scheme meets Council’s standards/guidelines including the following matters:
  - A suitable charged system for roof waters collected above street level;
  - Appropriate OSD and pump out system for any water that cannot be disposed of by a charged system or gravity;
  - Appropriate arrangements for the ongoing management of the stormwater system.
- A condition is to be included requiring a traffic light system for the basement ramp and vehicle access.
- A condition to be included for signage to ensure all vehicles enter and leave from the basement in a forward direction.
- Condition C1 is to be amended to ensure adequate protection for trees on the adjoining rear property, together with a review of landscape conditions by Council’s relevant officer. (This is to consider the recommendations of the amended arborist report and the incorporation of appropriate conditions).
- The temporary garbage bin holding bay at the southwestern corner of the site is to be designed to ensure bins are closer to the street to manage more efficient collection of bins by the Council. The sharing of certain waste bins will rationalize the number.
- The applicant is encouraged to incorporate further sustainability measures into the development.
- Condition C3 and C4 are to be amended to allow for the applicant to engage a suitably qualified person, to delete reference to the requirement for an “agreement” with adjoining owners and to instead require a copy of the dilapidation report to be provided to adjoining owners.
- Inconsistencies with the current plans are also to be resolved. The Manager Development Services is granted delegation to impose conditions to achieve the above and on satisfaction of the conditions to approve amended plans, and consequential amendments to the conditions as may be required. In the event of the manager not being satisfied he may refer the matter back to the Panel.

The Applicant is to submit amended plans, including necessary documentation, to the Council within 40 days.

**Panel Reason:**

The Panel considered the proposal is generally acceptable, except as identified above, and it will provide for a choice of medium density housing that could be reasonably anticipated in the R3 zone. The Panel considered that the proposal warrants approval and considers:



- Solar access has been adequately addressed by the amended plans and is deemed to be acceptable in the circumstances given the zone and the orientation of the subdivision. The development provides for an increased setback to the southern boundary and a built form that steps away from 21 Wheatleigh Street. The proposal meets Council’s solar access controls and the design has considered and mitigated the impacts for a development in the R3 zone. The Panel is satisfied the height exceedence does not contribute to the overshadowing of No. 21 .
- The proposed housing mix is acceptable as the development is less than 20 Dwellings and the North Sydney DCP requirement is achieved with 9 X 4 bedroom and 1 X 3 bedroom multi-unit development. The FSR is below the standard of the R3 zone.
- Matters relating to concerns with preservation of significant trees on adjoining sites can be addressed with the further consideration of the arborist report and landscaping plans pursuant to the above amendment to Condition C1. (A construction certificate cannot be released until Council is satisfied that the landscape and tree protection measures have been incorporated into the plans)
- In terms of the streetscape, the Panel, notes the character of Wheatleigh Street will evolve given the R3 zone on the eastern side, at the same time the proposal is designed to sit within a landscaped setting.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Veronique Marchandau	Y	
Caroline Pidcock	Y				
Lloyd Graham	Y				

**At this point the meeting was closed to the public in accordance with the Ministers directive that public meetings are predicated only when there are 10 or more submissions.**

### **ITEM 3**

Caroline Pidcock declared an interest in this item and therefore left the meeting. Jan Murrell assumed the Chair.

<b>DA No:</b>	34/19/3
<b>ADDRESS:</b>	85 Kurraba Road, Kurraba Point
<b>PROPOSAL:</b>	To modify a consent for demolition of an existing residential flat building, tree removal and excavation to provide for the construction of a part three, part four and part five storey residential flat building comprising 14 apartments, with basement parking for 24 cars and associated landscaping.
<b>REPORT BY NAME:</b>	Thomas Holman, Assessment Officer
<b>APPLICANT:</b>	WKJ Pty Limited C/- Urbis

## Public Submissions

### 2 Written Submissions

Submitter	Applicant/Representative
	James Harrison - Project Manager
	Edward Green - Town Planner

### Panel Determination

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

The Panel has considered all submissions, both written and oral.

The Council Officer's Report and Recommendation is endorsed by the Panel subject to a requirement that charging facilities be provided within the basement carpark for electric vehicles as specified in the following condition:

#### Charging Facilities for Electric Vehicles

- C35. Appropriate provisions must be incorporated in the design of the basement and lower ground floor car park to facilitate future owners to install charging facilities for electric vehicles to their car parking space when required.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate. The Certifying Authority must ensure that the building plans and specification submitted fully satisfy the requirements of this condition.

(Reason: To promote sustainability and energy efficiency)

The Panel is also of the opinion that the number of 20 residential car spaces as proposed by the applicant is acceptable as it has regard to parking difficulties in the local area with the following conditions being amended:

#### 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:

No Spaces	Use
20 spaces	Residential
4 spaces	Residential – Visitors

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)

### Allocation of Spaces

13. The allocation of Carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

20 spaces	Residential
4 spaces	Residential – Visitors

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 lot's 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)

The Panel also considered and agreed to an amended Condition C3 at the request of the applicant to allow this condition to be satisfied prior to any construction certificate issued for external works including landscaping as follows:

### Tree Planting

- C3. The following tree is required to be planted and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Container Size (l)
1 x Lophostemon confertus or 1 x Glochidion ferdinandii	Within landscaped north western corner of the site in close proximity to the removed Tree 24 Lophostemon confertus	400l

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate for external works and landscaping.

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 that tree planting provided enhances environmental and landscaped amenity)

**Panel Reason:**

The Panel generally supported the proposed modifications including the proposed number of car spaces provided a condition be imposed for recharging facilities to be provided for electrical cars within the basement car park to allow for a more sustainable development. The applicant advised the development is intended to provide this, and the Panel has imposed a relevant condition in accordance with best practice.

The additional height for the lift overrun and the provision of solar panels on the roof of the building were considered to be acceptable in the site circumstances given that there would be no material loss of amenity for adjoining properties. The Panel also acknowledged the ecological benefits to be gained from the provision of solar panels on the roof contributing further to a more sustainable development.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	<b>Y</b>		Veronique Marchandeu	<b>Y</b>	
Caroline Pidcock	Absent				
Lloyd Graham	<b>Y</b>				

**ITEM 4**

<b>DA No:</b>	277/21
<b>ADDRESS:</b>	Suite 3, 102 Alfred Street South, Milsons Point
<b>PROPOSAL:</b>	Alterations and additions to ground floor commercial tenancy and change of use of first floor level to provide a 2 bedroom residential apartment.
<b>REPORT BY NAME:</b>	Miguel Rivera, Senior Assessment Officer
<b>APPLICANT:</b>	F. Henry-May

**Public Submissions**

**Written Submissions**

<b>Submitter</b>	<b>Applicant/Representative</b>
	Jorgen Liaris - Applicant

### Panel Determination

The Panel members have undertaken independent site inspections where considered necessary prior to the meeting and considered all 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 non-residential floor space ratio development standard in clause 4.4A 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.

The Council Officer’s Report, Recommendation and Conditions of approval are endorsed by the Panel.

### Panel Reason:

The proposal would provide for appropriate housing choice in a location where there is an appropriate mix of established non-residential uses in the locality. The development would maintain ground floor commercial floor space which would continue to support the needs of residents. The reduction in non-residential floor space is minor at 79sqm and would not significantly reduce the available commercial floor space in the locality. The development would retain a continuous and activated streetscape to the Alfred Street frontage.

The proposal is assessed as meeting the objectives of the non-residential FSR development standard and the objectives for the B4 Mixed Use Zone.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	<b>Y</b>		Veronique Marchandau	<b>Y</b>	
Caroline Pidcock	<b>Y</b>				
Lloyd Graham	<b>Y</b>				

### ITEM 5

<b>DA No:</b>	333/19/4
<b>ADDRESS:</b>	182 Kurraba Road, Kurraba Point
<b>PROPOSAL:</b>	Modifications to a consent for alterations and additions to convert a duplex into a residential flat building with Strata Subdivision
<b>REPORT BY NAME:</b>	John McFadden, Consultant Planner
<b>APPLICANT:</b>	David Rahme

## Public Submissions

### Written Submissions

Submitter	Applicant/Representative
	David Rahme - Applicant
	Daniel Younan- Architect

### Panel Determination

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

The Panel has considered all submissions, both written and oral, made in respect of the modification application, including late submissions.

The Consultant Planner's Report, Recommendations and Supplementary Report are generally supported subject to amended plans for the approval of the Manager of Development Services to show design changes to delete the laundry extension and reduce the awning as follows:

- The proposed 1.6m awning extension at RL30.640 is to be reduced to extend a maximum depth of 450mm on the eastern face. *(Reason: to mitigate visual impact on neighbouring properties and reflect the awnings below on the eastern facade. On balance this will allow weather protection while minimizing visual impacts)*
- The laundry extension at the lower ground level is not approved and is to be deleted and is to be replaced with soft landscaping with a garden bed level of approximately RL18.470. *(Reason: to increase landscaping)*

Revised landscape and architectural plans addressing the above shall be submitted by the Applicant to Council within 30 days.

The Manager Development Services is granted delegation to determine the application based on the above required amendments following the submission of amended plans, including consideration of whether renotification is required.

If amended plans and information are not received within 30 days, or if the Manager forms the view that they cannot support the approval of the amended application, the application is to be returned to the Panel for determination.

### Panel Reason:

The panel has had regard to the concerns of submitters, the nature of the approved development and the consultant planners report. The approved development represents a significant re-development of the site and any increase to its bulk, scale and footprint should be minimised. The panel notes that the proposal seeks to extend the level 2 floor to the east to provide greater protection to the unit below and this is considered

unnecessary and adds further bulk to an already height non-compliant development. It is also noted that the laundry extension to the lower ground unit removes approved deep soil landscaping, and this is considered inappropriate and is not supported.

Finally, the panel notes that as this is a modification application the matters for its determination are limited and the Panel has no power to revisit the previous consents issued for the subject site. Compliance issues are not within the remit of the Panel.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Veronique Marchandau	Y	
Caroline Pidcock	Y				
Lloyd Graham	Y				

## **ITEM 6**

<b>DA No:</b>	417/21
<b>ADDRESS:</b>	34 Alexander Street and 2 Ernest Place, Crows Nest
<b>PROPOSAL:</b>	Removal of existing carports and solar panels at the Holtermann Street carpark and installation of car park awnings with integrated solar panels and associated works at the Alexander Street carpark.
<b>REPORT BY NAME:</b>	John McFadden, Consultant Planner
<b>APPLICANT:</b>	North Sydney Council

### **Public Submissions**

No persons elected to speak on this item.

### **Written Submissions**

### **Panel Determination**

The Panel members have undertaken independent site inspections were considered necessary prior to the meeting and notes no submissions were made.

The Consultant Planner's Report and Recommendations are endorsed by the Panel. The Panel requested that a condition be imposed to require signage to be installed within the premises to inform visitors of the installation of the solar panel array.

**Panel Reason:**

The Panel supported the Council’s proposal to repurpose and expand the solar power generation on Council owned assets. The Panel considered that Council should further promote its sustainable power initiatives.

The Panel also noted that the proposed Solar Panel and parking space awning support structures would not be readily seen from adjoining public areas and would not detract from the public domain.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	<b>Y</b>		Veronique Marchandean	<b>Y</b>	
Caroline Pidcock	<b>Y</b>				
Lloyd Graham	<b>Y</b>				

The public meeting concluded at 4.45pm.

The Panel Determination session commenced at 4.50pm.

The Panel Determination session concluded at 7.00pm.

By way of comment, the Panel encourages Council to review its relevant controls and guidelines for development assessment to achieve zero emission developments empowered by renewable energy. (For example: encourage garbage aggregation for waste collection in multi-unit developments; encourage external materials in lighter colour tones for thermal comfort as a positive contribution to energy efficiency of the built environment; encourage acoustic and light control of glass panels used; and encourage best practice self sufficient electrification elements and aim to eliminate gas usage.)

Endorsed by Jan Murrell  
North Sydney Local Planning Panel  
**2 February 2022**