



NORTH SYDNEY COUNCIL

Council Chambers
28 October 2021

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, 3 November 2021 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 October 2021.
(Circulated)

2. LPP01: 1 Baden Road, Kurraba Point - DA 122/21

Applicant: Charbel Hazzouri C/- Revelop

Report of Michael Stephens, Senior Assessment Officer

This development application seeks consent for the demolition of the existing dwelling house, bulk excavation of the site and construction of a new dwelling house over four to five levels with an integrated double garage, swimming pool, associated landscaping and fencing on land at 1 Baden Road, Kurraba Point.

The application is reported to the North Sydney Local Planning Panel for determination as the application attracted more than 10 submission by way of objection. In accordance with the Ministers direction of 1 August 2020 a public determination meeting is required because there were more than 10 submissions.

The proposed development breaches the maximum permitted building height of 8.5m by up to 600mm, equating to a maximum variation of 6.81%. The variation is limited to the southern leading edge of the fifth level roof form, curved roof awning over the fourth level and a glazed balustrade. 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 there are sufficient environmental planning grounds and that approval of the development would be in the public interest. The written request is well founded and worthy of support.

The proposed dwelling seeks to shift the massing of the building further from the waterway in comparison to the existing dwelling given the existing steep topography of the site which has a significant drop towards the rear. The overall height of the dwelling does not exceed the height of the existing dwelling and includes larger side setback which intend to reduce the view impacts in comparison to the existing dwelling and contribute to view sharing amongst surrounding development.

The proposed development exceeds the maximum permitted site coverage of 40% by 12%. However, the proposal would achieve a significant reduction in comparison to the existing dwelling and also complies with the minimum required landscaped area. The proposed architectural design of the dwelling would not have an adverse impact on the character of the area or diminish views to or from the Harbour or its foreshores.

Notification of the proposal has attracted eleven (13) submissions raising particular concerns regarding the proposed height variation, view sharing, amenity impacts, construction impacts including excavation and traffic management.

Following this assessment, the development application is considered to be reasonable in the circumstances of the case 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, 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 attached standard conditions of consent:

Privacy

C25. The following privacy measures are to be provided:

- A) The depth of the roof terrace located on the fifth level (Drawing DA09 as referenced in Condition A1) is to be limited in depth to 3m measured perpendicularly from the rear (southern) wall of the “Master Bedroom Retreat”. The remaining area is to be specified as non-trafficable roof or landscaping.
- B) The opening aperture of the timber shutters of the “Butler’s Pantry” W24, 23 and “Family Room” W22, W21, W20, W19 (Drawing DA07 as referenced in Condition A1) on the eastern elevation is to be limited to 350mm on the southern side and hung from the northern side.
- C) W25 in the south eastern corner of the eastern elevation on the third level (Drawing DA07 as referenced in Condition A1) is to have a privacy measure such as fixed obscure glazing or an external privacy screen installed to a minimum height of 1.5m above the internal finished floor level.
- D) W9 in the south eastern corner of the eastern elevation on the second level (Drawing DA06 as referenced in Condition A2) is to have a privacy measure such as obscure glazing or an external privacy screen installed to a minimum height of 1.5m above the internal finished floor level.

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 an adequate level of privacy is provided to adjoining property located at No. 3 Baden Road)

3. LPP02: 35 Bay View Street, Lavender Bay - DA 211/21

Applicant: Bronwyn Litera

Report of Sophie Griffiths, Student Town Planner

The development application seeks development consent for substantial alterations and additions to an existing dwelling house including attic level additions and double garage at No. 35 Bay View Street, Lavender Bay.

This application is a report to NSLPP for determination because the application being the proposed dormers is above the building height limit by greater than

10% and is therefore required to be determined by the North Sydney Local Planning Panel in accordance with the Minister's directions.

The applicant has provided a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013. The applicant's Clause 4.6 variation statement is considered to be well founded and has provided sufficient environmental planning grounds. The proposal is considered to achieve the objectives of the building height development standard.

The notification of the application is in accordance with the North Sydney Community Participation Plan 2019. At the end of the notification period, Council received three (3) submissions raising particular concerns about visual privacy, view loss, height, setbacks, solar access and the enclosure of the carport. The proposal has considered these concerns as well as the performance of the application against Council's planning requirements.

The amended proposed largely addresses the issues raised by Council during the assessment of the application. Subject to conditions, the amended proposal is generally considered to maintain the heritage significance and amenity of adjoining dwellings.

The development application has been assessed against all applicable environmental planning instruments and was found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and is recommended for approval.

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and grant consent to Development Application No. 211/21 for substantial alterations and additions to a dwelling including a new attic level additions and double garage to an at 35 Bay View Street, Lavender Bay subject to the following site specific and attached standard conditions:-

Relocation of Dwelling Entry

C1. The proposed entry to the dwelling is to be relocated to the front elevation of the dwelling and the walkway is to be deleted.

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 adequate privacy, daylight access and acoustic privacy to No. 37 Bay View Street)

Relocation of Ground Level Deck

- C2. The ground level deck to the rear garden is to be relocated to be centrally placed within the rear yard of the subject dwelling to ensure the protection of views across boundaries and to maintain privacy of adjoining dwellings.

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 maintain residential amenity of adjoining dwellings)

Reduce Dormer to eastern elevation

- C3. The rear dormer in the eastern elevation is to be reduced to have a gable face height of two (2) metres with a corresponding setback from the existing eastern gutter line.

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 scale of the rear dormer and minimise the visual impact of glazing in the roof plane overlooking Lavender Bay)



NORTH SYDNEY LOCAL PLANNING PANEL

DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 6 OCTOBER 2021, AT 2.00PM.

PRESENT

Chair:

Gary Shiels in the Chair.

Panel Members:

Jan Murrell, Panel Member
Linda McClure, Panel Member
Virginia Waller, Community Representative

Staff:

Administrative Support

Stephen Beattie, Manager Development Services
Robyn Pearson, Team Leader Assessments
David Hoy, Team Leader Assessments
Michael Stephens, Senior Assessment Officer
Robin Tse, Senior Assessment Officer
Kim Rothe, Senior Assessment Officer
Lucinda Varley, Conservation Planner
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, 1 September 2021 were confirmed following that meeting.

2. Declarations of Interest

Nil.

3. Business Items

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

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

ITEM 1

DA No:	33/21
ADDRESS:	13 Shellcove Road, Kurraba Point
PROPOSAL:	Alterations and additions to an existing dwelling house including excavation, two level addition below the existing dwelling, 15m pool, internal and external alterations to existing dwelling, landscaping works.
REPORT BY NAME:	Annelize Kaalsen, AK Planning
APPLICANT:	Mary Ann Beregi

Public Submissions

1 Written Submission

Submitter	Applicant/Representative
Sally Christansen - Resident (Observing Only)	David Waghorn - Applicant
	Dr Richard Lamb - Visual Impact Expert
	Thomas Beregi - Applicant (Observing Only)

Panel Determination

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

The Council Officer's Report, Recommendation, Conditions and Addendum are generally endorsed by the Panel, subject to the deletion of the deferred commencement conditions and the imposition of Condition A2 that requires the following design changes;

Design Amendments

A2. The plans referenced and stamped approved in Condition A1 are to be amended to incorporate the following design changes in consultation with the proponent’s Heritage Architect as required by Condition C9:

- a) Relocate the staircase proposed within the front porch/veranda on the ground level, internally to the area of the proposed storeroom, near the proposed lift and walk in wardrobe close to Bedroom 4, to provide access to the lower ground levels.
- b) Remove the existing late 20th century glazing to the existing eastern veranda to reinstate it as an open verandah.
- c) All new external windows and doors are to be timber framed.

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

(Reason: To maintain the significance of the Heritage Item)

Subsequent conditions are to be renumbered as appropriate.

Panel Reason:

The panel considers the current proposal is generally an appropriate response to the constraints of the site and the applicable controls. Additional condition A2 is imposed to ensure the integrity of the Heritage Item by the retention of important elements while at the same time providing for a functional dwelling.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 2

DA No:	101/21
ADDRESS:	206 Blues Point Road, McMahons Point
PROPOSAL:	Alterations and additions to an existing hotel, including the conversion of an existing ground floor parking to a gaming room and new illuminated signage.
REPORT BY NAME:	Hugh Shouldice, Assessment Officer
APPLICANT:	Toongame P/L

Public Submissions

No Written Submissions

Submitter	Applicant/Representative
	David Rippingill - Applicant

Panel Determination

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

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to changes to the recommended conditions as follows:

1. To amend Condition C2 to read as follows:

Construction Management Plan

- C2. A Construction Traffic Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate.

~~Reversing into the loading dock from Blues Point Road is to be approved by Transport for NSW due to proximity of the driveway access to the traffic signal at the intersection of Blues Point Rd and Lavender Street/Union Street prior to the issue of the Construction Certificate.~~

Any use of Council property shall require appropriate separate permits/ approvals.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

2. Amend Condition C23 to read as follows:**Section 7.12 Development Contributions**

- C23. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$26,703.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

3. To Amend Condition I4 & I5 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 Saturday	10am and 11pm
Sunday	10am and 10pm Sunday

Lower ground floor gaming room and sports bar

Monday to Saturday 10am and 11pm
 Friday to 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 ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

Hours of Operation – trial period (Lower ground floor gaming room & sports Bar)

15. Notwithstanding Condition 14 above, the use of the lower ground floor gaming room & sports bar may operate between:

Monday to Wednesday 10am and 12 midnight
Thursday to Saturday 10am and 1.00am the following day

The trial period of operation is **twelve (12)** months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

4. To insert the following additional condition**Noise Conditions for Licensed Premises**

15A. Appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants must be appointed before the use of the lower ground floor gaming room and sports bar commences and details of that appointment submitted to Council.

During the first 60 days of entertainment being provided at the premises, the attended acoustic monitoring must be undertaken in accordance following:

- (a) The acoustic consultant must:
 - (i) measure and verify that the noise emanating from the premises complies with the noise criteria specified in this consent; and
 - (ii) if necessary, make recommendations to ensure that the noise emanating from the premises will comply with the noise criteria at all times. specified in this consent.
- (b) The noise measurements must be:
 - (i) undertaken without the knowledge of the applicant, manager or operator of the premises; and
 - (ii) taken on at least three different occasions on three different days of the week (excluding Monday, Tuesday and Wednesday) from 11 pm until the end of the entertainment or the close of business, whichever occurs first.
- (c) If the acoustic consultant recommends that additional treatment or works be undertaken under condition (a)(ii) above, those recommendations must be implemented to the acoustic consultant's and Council's satisfaction.
- (d) If the acoustic consultant's recommendations are not implemented in accordance with this condition, the premises must not be used for entertainment until such time as the recommendations are implemented and verified.

(Reason: To manage the potential for ongoing noise impacts)

Panel Reason:

The Panel notes a Plan of Management is a requirement of the conditions and this includes hours of operation reflected in the existing liquor licenses as well as a requirement for a register of complaints to be maintained and made available for inspection by Council if required to ensure the amenity of the local area is reasonably maintained. The Panel considers the proposal is worthy of support having regard to its potential to impact on the amenity of the neighbourhood and having regard to the officer's report.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 3

DA No:	172/21
ADDRESS:	26 Thomas Street, McMahons Point.
PROPOSAL:	Alterations and additions to a heritage listed dwelling within a conservation area.
REPORT BY NAME:	Hugh Shouldice, Assessment Officer
APPLICANT:	Edward Dieppe, Dieppe Design P/L

Public Submissions

2 Written Submissions

Submitter	Applicant/Representative
	Edward Dieppe - Applicant
	Arthur Alla – Owners son
	Lauren Hunter - Architect (Observing Only)
	Robert Gasparini - Heritage Consultant (Observing Only)
	Sarah McNeilly - Town Planner (Observing Only)
	Christine Alla - Owner (Observing Only)
	Jean Alla - Owner (Observing Only)
	Adrien Alla - Owner (Observing Only)

Panel Determination

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

The Council Officer's Report, Recommendation, Conditions and Addendum are endorsed by the Panel. The Panel notes the engineering conditions included in the addendum should be incorporated in the notice of consent.

Panel Reason:

To encourage the refurbishment of existing workers heritage item for continued use and meet current contemporary living standards.

The proposal responds well to heritage and other site constraints with no loss of privacy, minimal overshadowing and the retention of slot views.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 4

DA No:	183/21
ADDRESS:	1 Blue Street, North Sydney (SHORE School)
PROPOSAL:	Alterations and additions to the Shore School House
REPORT BY NAME:	Hugh Shouldice, Assessment Officer
APPLICANT:	Church of England Grammar School (Shore)

No persons elected to speak on this item.

No Written Submissions

Panel Determination

The Panel members have undertaken independent site inspections 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 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 standards are unnecessary in the circumstances of the case. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the zone objectives.

The Council Officer's Report and Recommendation is endorsed by the Panel.

Panel Reason:

The Panel is satisfied the proposed works will not adversely impact the heritage significance of the heritage item.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 5

DA No:	63/21
ADDRESS:	5 Earle Street, Cremorne
PROPOSAL:	Construction of a dwelling house, retaining walls and associated landscaping.
REPORT BY NAME:	Michael Stephens, Senior Assessment Officer
APPLICANT:	Rahmani Esan

Public Submissions

No Written Submissions

Submitter	Applicant/Representative
	Esan Rahmani – Applicant
	Tim Cooper – Applicants Planner

Panel Determination

The Panel members have undertaken independent site inspections 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 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 standards are unnecessary in the circumstances of the case. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the zone objectives.

The Council Officer's Report and Recommendation is endorsed by the Panel subject to the deletion of the deferred condition AA1(a) and AA1(b). A "C" condition is to be imposed with regards to landscaping;

Garden Bed Retaining Wall Amendments

C28. In consultation with a AQF Level 5 Project Arborist, the garden beds within the rear setback area are to be redesigned to accommodate the required setbacks to ensure the retention of trees T10, T15 and T16 (as identified in the Arborist Report prepared by Treehaven Envionscapes, dated 2/3/2021) as required by Condition C17 of this consent.

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 existing trees are capable of retention)

Panel Reason:

To retain the architectural integrity of the proposed design.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

ITEM 6

DA No:	398/19/2
ADDRESS:	45 Willoughby Street, Kirribilli
PROPOSAL:	Section 4.55(2) application seeking modifications to Development Consent (D398/19) involving changes to pedestrian access arrangements to a heritage item and the relocation of a skylight.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Filmer Architects

Public Submissions

No Written Submissions

Submitter	Applicant/Representative
	Colin Filmer - Applicant
	Stuart Terry & Sylvia Terry - Applicant

Panel Determination

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

The Council Officer’s Report and Recommendation is endorsed by the Panel.

Panel Reason:

The amendment enhances access to the original front entrance of the Heritage Item.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

The public meeting concluded at 3.10pm.

The Panel Determination session commenced at 3.15pm.

The Panel Determination session concluded at 5.00pm.

Endorsed by Gary Shiels
 North Sydney Local Planning Panel
6 October 2021