



NORTH SYDNEY COUNCIL

Council Chambers
26 August 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, 1 September 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, 4 August 2021.
(Circulated)

2. LPP01: 135 Carabella Street, Kirribilli (V) - DA 117/21

Applicant: Yulan He, C/- Anthony Solomon- COSO Architecture
Report of Andrew Beveridge, Graduate Assessment Officer

This development application seeks NSLPP approval for extensive alterations and additions of the existing single dwelling on site to accommodate a new three-level rear addition alongside various internal layout reconfigurations.

The application is referred to the North Sydney Local Planning Panel for determination as the proposed development has received more than ten (10) submissions objecting to the proposal. Under the directions from the Minister of Minister for Planning, Industry and Environment, this application requires determination by NSLPP.

In accordance with the Minister's Direction of 1 August 2020, a public meeting determination of this matter is also required as there are more than 10 submissions.

The application was notified to adjoining properties and the Milson Precinct Committee. Council received twelve (12) submissions raising concerns about uncharacteristic development within the conservation area, adverse privacy impacts, and the level of excavation required. The assessment report has considered the above concerns as well as the performance of the application against Council's planning requirements.

The proposed works are considered to be relatively sympathetic to the existing dwelling, which is a contributory item within the Careening Cove Conservation Area, as they retain the primary form visible from Carabella Street and are confined to less visible and already highly altered sections at the rear of the original 1880s cottage, subject to the imposition of appropriate conditions. The form and character if the new additions are also in-keeping with the area though minimising glazing with façade articulation and materials, and by maintaining a scale that is subservient to the original cottage as seen from Carabella Street.

While the proposed new rear addition to replace the existing 1980s rear addition and deck will have non-compliant side and rear setbacks, and will result in some increased overlooking to the dwelling at the rear at No. 135A Carabella Street, the proposed broadly maintains the existing minimal side setbacks and enhances the setback from the rear through the removal of the deck. The privacy impacts are considered to be acceptable as the rear balconies are modest in footprint and are recommended to have solid balustrades to further reduce the potential for overlooking to the rear.

The level of excavation to the basement level and courtyard is also considered to be acceptable as the majority of excavation will be confined within the existing dwelling footprint, and the works are recommended to be subject to appropriate conditions to ensure that the excavation will not result in any damage and/or any other adverse impacts upon the subject site or adjoining properties.

Therefore, the proposal would not cause significant amenity impacts in terms of overshadowing, excavation, view loss and the loss of privacy, subject to the imposition of appropriate conditions regarding additional privacy measures and measure to ensure the stability of the site and adjoining sites.

Following this assessment, the development application is considered reasonable and is recommended for **approval**, subject to the standard and site specific conditions of consent.

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, **grant consent** to Development Application No. 117/21 proposing alterations and additions upon land at No. 135 Carabella Street, Kirribilli, subject to the following site specific and the attached standard conditions: -

Heritage Requirements

C12. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:

a) **Roof sheeting**

The new metal roof to the rear addition only is to have a traditional corrugated roof profile equal to Custom Orb. No approval is given for standing seam, mini-orb, or tray profile roof sheeting.

b) **Privacy Screens**

The privacy screen louvres are to be painted to match the dwelling in a visually submissive tone. Metallic finishes are not to be used.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure that the use of materials and built elements are consistent and sympathetic to the character of the conservation area and the original dwelling)

Conservation of the Front Façade

C13. An appropriately qualified and experienced heritage architect must be commissioned to provide advice regarding the conservation of the finishes to the front façade (facing Carabella Street) and the eastern side elevation (facing the right of way) to inform design development, contract documentation and overseeing conservation works to these elevations.

Written details of the engagement of the experienced heritage architect must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Note: if advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require an application under s4.5.5 of the Environmental Planning and Assessment Act 1979 or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that the use of materials and built elements are consistent and sympathetic to the character of the conservation area and the original dwelling)

Works to be Contained within the Lot and not rely on Party Walls

C15. The approved works must be wholly contained within the lot of No. 135 Carabella Street, Kirribilli, and must not result in any encroachment into neighbouring lots or Council's road reserve without the prior written consent of the adjoining owner(s). The new works should not rely on the common party walls in any way.

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)

Balcony Balustrades

C19. The balustrades of the four rear balconies on the Upper Ground Floor and Lower Ground Floor levels must be of an entirely solid construction and not transparent or open. The solid balustrade must be composed of materials and colours that are sympathetic to the character of the Conservation Area. Acceptable balustrade materials may be fibre-cement sheeting, timber shingles, weatherboards laid in a horizontal pattern, face or rendered brick, or sandstone cladding.

Details of the privacy screens required by this condition must be provided 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 by the Applicant, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the privacy of adjoining properties and to ensure that the use of materials are sympathetic to the character of the conservation area)

No Obstruction to the Street and Right of Way

E1. Carabella Street and the right of way located to the east of the subject site shared with the lot of No. 135A Carter Street must not be obstructed at any time during construction of the works by any vehicle and/or machinery/equipment associated with the proposed development to ensure unrestricted pedestrian and/or vehicular access to the subject site and the adjoining properties serviced by this street and right of way.

(Reason: To ensure continued access to the adjoining properties)

3. LPP02: 34 Phillips Street, Neutral Bay - DA 141/21

Applicant: Egil & Lisa Paulsen

Report of Thomas Holman, Assessment Officer

This development application seeks approval for the demolition of an existing detached dwelling and replacement with a two storey detached dwelling house with basement and landscaping at 34 Phillips Street, Neutral Bay. Dwelling houses are a permissible form of development in an R2 Low Density Residential Zone.

The application is reported to North Sydney Local Planning Panel for determination as the application has attracted more than 10 submissions by way of objection, which requires determination by the Panel in accordance with the Directions from the Secretary of Planning, Industry and Environment. Notification of the proposal has attracted fifteen submissions (15). The submissions opposing the development raised concerns regarding the windows on the rear elevation and western side elevation adversely affecting the privacy of adjoining properties, also concerns about overshadowing, loss of views, overdevelopment of the site and the flat roof profile of the dwelling which submitters considered to be out of character with the surrounding pitched roof profile of dwellings in the locality.

The development is a dwelling designed to be low density commensurate with its R2 Low Density Residential Zone with a maximum height of 8.0m less than the maximum 8.5m stipulated in the development standard Cl. 4.3 in NSLEP 2013. Deferred commencement conditions are recommended to reduce the height of building to 7m, internalise air conditioner units and reduce the height of the skylights below the roof parapet to encourage view sharing for adjoining properties.

The replacement dwelling is suitably located within the site ensuring an appropriate front setback with a front garden that is characteristic of the Neutral Neighbourhood and the side and rear setbacks comply with setback provisions in s1.4.6 of NSDCP 2013. The dwelling has a compliant site coverage and generous provision of landscaping within all setbacks of the site that further softens the built form of the dwelling and is indicative of a low density development.

A key consideration of the development is the suitability of the proposed flat roof profile which is not compatible with the predominantly pitched roof form of neighbouring buildings but proposed to promote view sharing. The dwelling design utilises a flat roof to provide positive environmental benefits with the provision of solar photovoltaic panels and roof gardens that are proposed on the front and rear of the roof which provides positive benefits to biodiversity, stormwater management, thermal efficiency and enhances the aesthetic appearance of the dwelling. The flat roof provides environmental and energy efficiency benefits complying with Provision P1 and the objectives in s1.6.10 'Green Roofs' of the NSDCP 2013.

Design modification conditions are recommended to maintain privacy and outlooks for adjoining properties. Privacy measures are recommended to minimise overlooking from the western façade of the dwelling to habitable rooms and the private open space of properties with a frontage to Undercliff Street.

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 as the consent authority grant consent to Development Application No. 141/21 for demolition of existing dwelling and garage and construction of a new two storey dwelling and associated landscape works on land at 34 Phillips Street subject to the following site specific and the attached standard conditions:-

AA. Deferred Commencement Conditions

This consent shall not operate until the following deferred commencement condition(s) has/have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 6 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 conditions within 6 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.

Height of Building

AA1. The floor to ceiling height for both ground level and first floor should be reduced in height from 2.9m to 2.7m. The reduced floor to ceiling heights totalling 400mm should be annotated in corresponding plans. Due to the reduced floor to ceiling heights the overall height of building should be reduced. The roof parapet height should be reduced from RL 62.55 to RL 62.15 (maximum height of building 7m) and the roof level below that of the roof parapet should measure RL 61.75 (6.6m above existing ground level). The corresponding plans must be amended to comply with the maximum floor to ceiling heights and roof parapet/roof heights prescribed within this deferred commencement condition.

(Reason: To control height of building and ensure that the development encourages view sharing and an equitable access to views from adjoining properties.)

Skylights

AA2. Skylight(s) are to sit no higher than RL 62.05 (0.3m) above roof plane (RL 61.75) when in a closed position.

The corresponding plans must be amended to comply with the design requirements of this deferred commencement condition.

(Reason: To control height of building and ensure that the development encourages view sharing and an equitable access to views from adjoining properties.)

Location of Plant

AA3. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the building and is not to be located on balconies/terraces or the roof.

The corresponding plans must be amended to comply with the design requirements of this deferred commencement condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

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 conditions being satisfied within 6 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following site specific conditions:

Skylights

C6. Skylight flashing(s) and frame(s) to be coloured to match the roof material.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

Privacy

C22. The following privacy devices are to be provided:

- a) Window FW07 shown on the Western Elevation (DA07 Rev A) shall be designed with a minimum sill height of 1.5m above the finished floor level.
- b) Fixed aluminium louvre privacy screens shall be attached to FW03 and FW04 on the Western Elevation (DA07 Rev A) or the windows FW03 and FW04 are to be fitted with fixed obscure glass.
- c) The eastern elevation window FW12 shall be either obscure glazed or aluminium louvre privacy screens are to be fixed to the window.

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 36-38 Phillips Street, 26 Phillips Street and 51-53 Undercliff Street)

First Floor Terrace Design Modification

C23. The size of the first floor front terrace is to be reduced in size and a greater provision of landscaping is provided within the western planter bed. The depth of the planter bed on the western side of the terrace be increased from 800mm to 1.3m, (an increase in width of 0.5m), and additional planting of native plant species is to be provided within the terrace planter bed capable of a mature height of 1.5m.

(Reason: To ensure an adequate level of privacy is provided to adjoining property located at 26 Phillips Street)

4. LPP03: 22-26 Spruson Street, Neutral Bay - DA 67/2021

Applicant: Made Property Group

Report of Michael Stephens, Senior Assessment Officer

This development application seeks consent for the demolition of three existing residential flat buildings containing a total of 12 apartments and construction of a three storey residential flat building containing 11 apartments over two levels of basement carparking for 19 vehicles, car lift access, retaining walls and fencing, and associated landscaping at 22-26 Spruson Street, Neutral Bay.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to a SEPP 65 development, seeks a variation to a development standard by more than 10% and attracted more than 10 submissions 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 subject site is zoned R3 Medium Density Residential. At the time of lodgement, residential flat buildings were a prohibited use within the zone and therefore the application relies on the existing use rights provisions of the EP&A Act to reconstruct the existing residential flat buildings. However, NSLEP 2013 was amended on 30 June 2021 to include residential flat buildings as a permitted use within the R3 Zone, but this amendment has no affect as the application was lodged prior to the amendment. NSDCP 2013 was amended 14 September 2020, pre-emptively incorporating provision for residential flat buildings within the R3 zone. These provisions apply to the proposed development.

The proposed development exceeds the maximum permitted building height of 8.5m by up to 1.1m, equating to a maximum variation of 12.6%. The variation is primarily limited to the leading edges of the rear roof plane and balcony awnings over the northern pavilion. 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, that there are sufficient environmental planning grounds, and that approval of the development would be in the public interest. The written request submitted is considered to be well founded and worthy of support.

The proposed development is consistent with the Design Quality Requirements in SEPP 65 and meets the objectives of the design requirements in the Apartment Design Guide. The Design Excellence Panel provided qualified support for the application subject to the resolution of some matters which have been substantially addressed. The proposed development has regard for the character of the area and generally complies with the relevant DCP provisions for residential flat buildings.

The proposed development would result in the loss of affordable housing as a portion of the dwellings are identified as low-cost rental housing. The applicant has suggested that a contribution could be levied to offset the loss of affordable housing within the locality.

Notification of the proposal has attracted 14 submissions raising particular concerns regarding construction impacts, ground water, traffic and parking,

building character and potential amenity impacts including overshadowing and privacy impacts.

On balance, the application 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. 67/2021 for the demolition of three existing residential flat buildings and construction of a residential flat building containing eleven apartments over two levels of basement parking and associated site works and landscaping on land at No 22-26 Spruson Street, Neutral Bay, subject to the attached conditions.

5. LPP04: 315 Ernest Street, Neutral Bay - DA 336/16/4

Applicant: Barry Babikian, 3.09/77 Dunning Avenue, Rosebery
Report of Luke Donovan, Senior Assessment Officer

This application under Section 4.55 of the Environmental Planning and Assessment Act 1979 seeks to modify consent to DA 336/16 for the demolition of the existing structures and the construction of a three-storey residential flat building with basement parking on land described as 315 Ernest Street, Neutral Bay.

This Section 4.55 application (DA 336/16/4) specifically seeks consent for the addition of privacy screens to terraces, conversion of the approved non-trafficable section of roof to a southern level 2 terrace, an extension to the approved northern level 2 terrace over the approved non trafficable section of roof, changes to internal stairs and western window and addition of nib walls on land at No. 315 Ernest Street, Neutral Bay.

The application is reported to the NSLPP for determination as the application has the effect of changing the area of the “non trafficable roof” of the building which was required as a condition of consent (Condition I2) by the NSLPP in its determination of DA 336/16.

Council’s notification of the proposal has attracted eight (8) unique submissions raising particular concerns about visual and acoustic privacy issues and overshadowing from the proposed level 2 terraces. The assessment has considered these concerns as well as the performance of the modification against Council’s planning requirements.

The proposed level 2 southern terrace will result in unreasonable visual privacy impacts with the rear section of private open space at 317 Ernest Street and the northern windows and rear communal area of the apartment building at 37 Merlin Street. The proposed privacy screen along the eastern side of the level 2 terrace is considered inadequate in ensuring a reasonable level of visual privacy with these adjoining properties. These visual privacy impacts could realistically only be mitigated through a significant reduction in the size of the

terrace, potentially juliette style with a solid balustrade, with the remainder of the southern roof non trafficable.

The addition of louvred privacy screens to the eastern side of the ground, level 1 and level 2 northern terraces will ensure reasonable privacy is maintained with the ground and first floor northern balconies of 317 Ernest Street. It is however recommended as a condition of consent that these louvred privacy screens be fixed and angled in a manner to prevent any direct line of sight to the front balconies of this property.

Subject to a condition requiring the deletion of the proposed level 2 southern terrace, the balance of the application is considered to be reasonable in the circumstances and is recommended for **approval**.

Recommending:

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

THAT the North Sydney Local Planning Panel exercising the functions of Council grant **approval** to Section 4.55 No. 336/16/4 to modify DA 336/16 with regards to the addition of privacy screens to terraces, changes to internal stairs and western window and addition of nib walls except for the proposed conversion of the approved non-trafficable section of roof to a southern level 2 terrace on land at No. 315 Ernest Street, Neutral Bay subject to the following conditions:

1. Modify Condition A4 'Development in Accordance with Plans (Modification applications)', Condition C30 'Privacy' and Condition 12 'Non Trafficable Roof' to read as follows:

Development in Accordance with Plans (Modification applications)

A4. The development being carried out in accordance with plans identified in **Condition A1** of the consent, except as modified by the modifications shown clouded in red on the following plans:

Drawing No.	Revision	Title	Drawn by	Dated
A00	D	Site plan	BJB Architects	27/07/2021
A01	C	Basement floor plan	BJB Architects	21/05/2021
A02	C	Ground floor plan	BJB Architects	21/05/2021
A03	C	First floor plan	BJB Architects	21/05/2021
A04	D	Second floor plan	BJB Architects	27/07/2021
A05	C	Roof plan	BJB Architects	21/05/2021
A06	C	Section	BJB Architects	21/05/2021
A07	C	Section	BJB Architects	21/05/2021
A08	C	Section	BJB Architects	21/05/2021
A09	C	Section	BJB Architects	21/05/2021
A10	C	North (Ernest Street) Elevation	BJB Architects	21/05/2021
A11	C	East elevation	BJB Architects	21/05/2021
A12	C	South elevation	BJB Architects	21/05/2021
A13	C	West elevation	BJB Architects	21/05/2021
A20	D	View Privacy Analysis – South Terrace	BJB Architects	27/07/2021
A21	D	View Privacy Analysis – North Terrace	BJB Architects	27/07/2021

And except as modified by other conditions of this consent.

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

Privacy

C30. The following privacy devices are to be provided:

- a) The western study room window (Level 1) must be fitted with obscure glass.
- b) A fixed privacy screen must be attached on the eastern side of the fire egress stair (adjacent to the eastern boundary of the site) and landing (as indicated on the plans that form part of Condition A1 of this consent). The privacy screen must have a minimum height of 1.6m above the level of the stair landing (RL84.35).
- c) A fixed or sliding privacy screen must be attached to the southern side of the first floor terrace (Unit 3). The privacy screen must have a minimum height of 1.8m above the level of the terrace (RL87.30) and a minimum width of 2m.
- d) The southern windows to the second floor bedrooms (Unit 5) must be two pane sashless windows that have a maximum opening of 100mm. The sections of glass below the sashless windows must be fixed and non operable.
- e) The louvred privacy screens along the eastern side of the northern terraces at ground, level 1 and level 2 must be fixed. The privacy screens must be a minimum of 1.6m above the respective floor levels of the terraces. The fixed louvres must be angled in a manner that would not permit views onto the ground or first floor balconies of 317 Ernest Street.

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 properties located at No's 313 and 317 Ernest Street and 37 Merlin Street. Further, to ensure that the nominated sashless windows restrict access to the non-trafficable parts of the roof.)

Non-Trafficable Roof

12. The roof over the first floor of the building must be non-trafficable with the exception of the area nominated as "Terrace" on the northern side of Unit 05 (Level 2).

(Reason: To minimise privacy impacts for the adjoining properties)

2. To add Condition A5 'Level 2 southern terrace to read as follows:

Level 2 Southern Terrace

- A5. No approval is granted or implied for the level 2 southern terrace (15sqm).

No approval is granted or implied for any changes to the level 1 roof form, including parapets/upturns on the southern side of the building.

The roof over level 1 on the southern side of the building must remain non trafficable.

The southern sliding doors to level 2 must be replaced with the sashless windows as required by Condition C30(d) of this consent.

(Reason: To clarify terms of this consent and ensure a reasonable level of visual privacy is maintained with the adjoining properties at 37 Merlin Street and 317 Ernest Street).



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING
HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 4 AUGUST
2021, AT 2.00PM.**

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

James Harrison, Panel Member
Garth Paterson, Panel Member
Jane van Hagen, Panel Member/Community Representative

Staff:

Administrative Support

Stephen Beattie, Manager Development Services
Robyn Pearson, Team Leader Assessments
David Hoy, Team Leader Assessments
Lara Huckstepp, Executive Planner
Robin Tse, Senior Assessment Officer
Luke Donovan, Senior Assessment Officer
Michael Stephens, Senior Assessment Officer
Kim Rothe, Senior Assessment Officer
Peita Rose, Governance Officer (Minutes)

Apologies: Nil.

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 7 July 2021 were confirmed following that meeting.

2. Declarations of Interest

Jan Murrell declared a perceived conflict of interest for Item No. 1 as she was on the Panel that determined the original application. James Harrison assumed the chair for this Item.

3. Business Items

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

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

ITEM 1

DA No:	Section 8.2 Review of Determination No. 5/21 (DA5/21)
ADDRESS:	229 and 231 Miller Street, North Sydney
PROPOSAL:	S8.2 Review of Determination for Condition C1 requiring deletion of Sign 1
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Platino Properties

Public Submissions

No Written Submissions

Submitter	Applicant/Representative
	Joshua Palmer - Lawyer for the 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 Panel has considered the representations on behalf of the applicant including the submission dated the 2 August 2021. The Panel is not satisfied that the Clause 4.6 variation is well founded.

The Panel considers that the sign would add unnecessary visual clutter at the edge of the North Sydney Centre and would have an unsatisfactory impact when viewed from the residential buildings as well as the public domain and would have a negative impact on the adjoining conservation area and was for a business that was not located within the subject building.

The Panels view was that the primary purpose of a business identification sign was to identify and mark the location of the business within the building.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Absent		Jane van Hagen	Y	
James Harrison	Y				
Garth Paterson	Y				

ITEM 2

DA No:	328/20
ADDRESS:	51 Blues Point Road, McMahons Point
PROPOSAL:	Subdivision of one (1) lot in to two (2) lots and construction of a three-storey dwelling over lower ground level/basement parking with associated landscaping and removal of trees.
REPORT BY NAME:	Kim Rothe, Senior Assessment Officer
APPLICANT:	Jacqueline Mcallister

Public Submissions

1 Written Submission

Submitter	Applicant/Representative
Will Morris	Tony Robb - Town Planner
Tim BurtonTaylor (observing only)	Brian Hollis - Architect
Fran McPherson (observing only)	Mansia Lam - Architect
	Jacqueline McAllister - 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.

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. 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, Recommendation and Conditions are endorsed by the Panel subject to deletion of Condition C1; and the landscape plan being amended to provide a canopy tree in the rear garden of a native species (Angophora Costata), or similar to obtain a minimum maturity height of 15 metres, to the satisfaction of Council’s Landscape Officer.

Panel Reason:

The Panel is satisfied the additional height would not warrant refusal of the application as the living rooms for the units at No. 49 face either east or west, and the overshadowing is not unreasonable in the circumstances given the subdivision pattern, the topography and the proposal meets Council's DCP solar access requirements.

While the Panel accepts that tree four cannot be retained, a replacement canopy is required in the rear yard to ensure the site continues to contribute to the district canopy.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
James Harrison	Y				
Garth Paterson	Y				

ITEM 3

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, 25m pool, internal and external alterations to existing dwelling, landscaping works.
REPORT BY NAME:	Annelize Kaalsen of AK Planning
APPLICANT:	MaryAnn Beregi

Public Submissions

No Written Submissions

Submitter	Applicant/Representative
Sally Christiansen - Observing only	David Waghorn - Town Planner
	Richard Lamb - Architect
	Stephen Davies - Heritage Consultant

Panel Determination

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

The Consultant Planner's Report and Recommendation is noted by the Panel.

The Panel has given this matter careful consideration in the context of the dwelling being a heritage item and its location on the foreshore, as well as its visibility from the public domain.

The Panel has decided that this matter be deferred to allow the applicant the opportunity to amend the plans to more appropriately resolve the relationship of the heritage dwelling, and the extensive alterations and additions proposed. The matters to be resolved by amended architectural plans include the following:

- The lower ground 2 basement level is to be treated as a largely subterranean level to be only accessed internally to generally conceal its presentation as a visible level. This will allow the first basement level, the living area, to provide an appropriate and improved access and connection with the garden area. A consequence of this change may require the swimming pool to be reduced in length to maintain the existing setback to the foreshore;
- The ensuites on the verandah are to be deleted and the open verandah reinstated. The ensuites may be reconfigured internally;
- The lower ground 1 eastern elevation shall be redesigned to include greater proportional use of sandstone to the façade to provide a more solid base to reflect the presentation of the dwelling;
- The Panel encourages the applicant where possible to reuse existing cut sandstone in the reconstruction of the building additions and landscaping;
- A more detailed landscape plan is required, and this includes the careful location of canopy trees, Angophora Costas, to enhance the development.
- The materials and finishes and proportions of the alterations and additions are to reflect/compliment the existing dwelling, with an appropriate materials and finishes pallet (clearly the Panel is not seeking to mimic the architecture).
- The 6% non-compliance site coverage is to be addressed.

Panel Reason:

The Panel does not consider the architectural resolution of the alterations and additions shown in the current plans is worthy of approval. At the same time the Panel is not opposed to the excavation subject to satisfying engineering requirements to ensure the structural integrity of the existing building and that of adjoining properties. Nonetheless, the Panel does not consider the visibility of lower level 2, as shown in the plans is acceptable in its current form.

The deletion of the ensuites on the verandah is necessary to reinstate a characteristic element of open verandahs for the era of this heritage item. However, the Panel is not opposed to sympathetic alterations and additions guided by the above criteria to improve the liveability of the heritage dwelling.

The applicant is to submit amended plans to Council within one month and an addendum report is to be prepared in a timely manner for the Panel's determination.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
James Harrison	Y				
Garth Paterson	Y				

ITEM 4

DA No:	Section 4.55 No. 198/20/3
ADDRESS:	425-429 Pacific Highway, Crows Nest
PROPOSAL:	Section 4.55 application to modify DA198/20 in respect of changes to Condition G2 'Time period for advertising' specifically a change from 5 years to 15 years.
REPORT BY NAME:	Luke Donovan, Senior Assessment Officer
APPLICANT:	Legge & Legge Architects Pty Ltd

Public Submissions

1 Written Submission

Submitter	Applicant/Representative
	Tony Legge - 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.

Panel Reason:

The Panel is satisfied that a 10 year consent in the circumstances of this case is reasonable and after that time a further application may be submitted for a merits assessment having regard to the evolving character of this area.

The Panel notes the Applicant's town planner accepts the recommendation for 10 year duration on behalf of his client.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
James Harrison	Y				
Garth Paterson	Y				

ITEM 5

DA No:	118/21
ADDRESS:	1 Balls Head Drive, Waverton
PROPOSAL:	Site remediation including excavation of contaminated soils and back filling with VENM.
REPORT BY NAME:	C.F. Blyth, Planning Consultant
APPLICANT:	Property & Development New South Wales

Public Submissions

No Written Submissions

Submitter	Applicant/Representative
	David Rohloff - 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 the following changes to the conditions as agreed to by the applicant's representative.

- Amendments to Condition 16:

Delete heading Archaeologist to be engaged and first sentence is to be deleted from condition such that the condition now reads. "....."

Archaeological Discovery During Works

16. Should any historical or Aboriginal relic be discovered on the site during demolition, excavation or site preparatory works, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with the provisions of the Heritage Act 1977 and/or National Parks and Wildlife Act, 1974. Works must not recommence until such time as approval to recommence is given in writing by Council or a permit from the Director of the NPWS is issued.

(Reason: To prevent the unnecessary destruction or removal of unrecorded historical or Aboriginal relics)

- Condition 10 is to be amended to refer to tree 24 in the heading in the table and not tree 25. Description in the table needs also to be changed to refer to Tree 24.

Panel Reason:

The Panel is satisfied the remediation works are to make the land suitable for use as public open space.

The Panel is also satisfied that the trees identified to be protected are noted in the conditions.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
James Harrison	Y				
Garth Paterson	Y				

ITEM 6

DA No:	313/20
ADDRESS:	457 Miller Street, Cammeray
PROPOSAL:	Modify hours of operation, increase maximum occupancy and minor additions to the interior to an existing restaurant
REPORT BY NAME:	Lara Huckstepp, Executive Planner
APPLICANT:	David Scobie Architects Pty Ltd

Public Submissions

2 Written Submissions

Submitter	Applicant/Representative
	David Scobie - Applicant

Panel Determination

The Panel members have undertaken independent site inspections prior to the meeting and considered all submissions, both written and oral including representations made on behalf of Mr John and Mrs Hryssi Argyropoulos and Gem wisp Pty Limited.

The Council Officer's Report, Recommendation and Conditions are noted by the Panel.

The Panel decided that the application should be deferred to allow the applicant to submit amended plans detailing how compliance can be achieved with the accessibility requirements of the NCC, and seating layout in accordance with the Council's Outdoor Dining Policy. This was discussed with the applicant's architect and it was clear that compliance will require internal reconfiguration to accommodate the necessary size of accessible facilities and the ramp access.

The applicants architect advised the Panel that the amended plans can be submitted within 2 weeks. As such, the Panel seeks an addendum report, and the Panel may determine this matter electronically.

Panel Reason:

The Panel considers the plans require amending to provide the necessary detail and assessment before a determination can be made.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
James Harrison	Y				
Garth Paterson	Y				

The public meeting concluded at 2.10pm.

The Panel Determination session commenced at 4.20pm.

The Panel Determination session concluded at 6.25pm.

Endorsed by Jan Murrell
North Sydney Local Planning Panel
4 August 2021