



NORTH SYDNEY COUNCIL

Council Chambers
1 July 2021

I wish to inform you that a Meeting of the **NORTH SYDNEY LOCAL PLANNING PANEL** will be held in the Supper Room, North Sydney at 2.00pm on Wednesday 7 July 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 2 June 2021.
(Circulated)

2. LPP01: 68 Alfred Street, Milsons Point - DA 43/21

Applicant: A Plus Design Group

Report of George Youhanna, Executive Planner

This development application seeks approval for alterations and additions to an existing commercial building and is reported to North Sydney Local Planning Panel for determination due to the number of submissions received.

Notification of the proposal has attracted twenty one (21) submissions raising particular concerns about view loss, visual impact, streetscape, privacy, loss of light, impact on fire safety and BCA compliance, setbacks, building separation and other issues as detailed in this report. The assessment has considered these concerns as well as the performance of the application against relevant planning provisions.

In relation to view loss it is considered reasonable to require modification of the proposed development to delete the podium additions at levels three and four, in order to retain the iconic views available from the south facing windows in apartments 10D and 11D. This issue is discussed under section 2.3.8 in the report.

With regard to owners consent, all lots within the building other than Lot 18 are owned by Arch Capital Investment (Australia) Pty Ltd. Council's records indicate that Lot 18 is owned by Shanghai Textiles Import and Export Corporation. It has become apparent following lodgement of the DA that no evidence of owners consent has been provided in relation to Lot 18. The applicant has indicated that owners consent will be provided and may be available by the NSLPP Meeting date of 7 July 2021, or shortly after.

Following this assessment the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions, including deletion of the two additional podium levels to Alfred Street. However, as development consent cannot be granted without owners consent, the recommendation for approval provides for the Manager Development Services to be delegated the authority to determine DA43/21 upon receipt of owners consent within fourteen (14) days. If owners consent is not provided within fourteen (14) days then DA43/21 should be refused due to lack of owners consent.

Recommending:

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

1. THAT the North Sydney Local Planning Panel, exercising the functions of Council delegate to the Manager Development Services authority to determine Development Application No.43/21 for alterations and additions to the existing commercial building on land at 68 Alfred Street, Milsons Point, subject to the attached conditions, upon receipt of satisfactory evidence of owners consent in relation to Lot 18, SP 56293 within fourteen (14) days of the date of the 7 July 2021 Panel meeting.

2. THAT if satisfactory evidence of owners' consent is not provided to Council within the specified timeframe, DA No.43/21 is refused due to lack of owners consent.

3. LPP02: 287 Miller Street, Cammeray (T) – DA 335/20

Applicant: Link Wentworth Ltd

Report of Chris Blyth, Planning Consultant Plansight Pty Limited

This development application seeks Council's approval for the demolition of the existing building used as a 5 room boarding house and the construction of a four level boarding house containing 12 rooms. The application is referred to NSLPP due to the part ownership by North Sydney Council and in the public interest with 18 submissions received. There is also a noncompliance with Clause 30(1)(a) SEPP Affordable Rental Housing 2009 with regards to provision of motorbike parking.

The applicant Link Wentworth is a Tier 1 Registered Community Housing provider of social, affordable and transitional housing and specialist disability housing and is responsible for the tenancy and asset management of almost 4,000 properties primarily in the northern suburbs of Sydney.

Council's initial notification of the original proposal has attracted four (4) submissions raising concern about lack of on-site car parking and issues regarding the adequacy of the traffic report. After 11 submissions requesting an extended period a further 14 submissions were received relating to a variety of issues. The assessment has considered the submitter's concerns as well as the performance of the application against Council's planning requirements.

The site development provides no on-site car parking nor any motorbike parking. A Clause 4.6 request for variation has been lodged in relation to provision of motorbike parking as this requirement is considered to be a development standard. The site is centrally located on Miler Street, close to North Sydney and Crows Nest town centres and very close to public transport services. It is not anticipated to give rise to any material traffic impacts or affect on-street parking demand to a significant degree. As assessed in this report, the provision of no car parking on this site is not considered to be decisive and the submitted Clause 4.6 request to vary the motorbike parking requirement is considered to be well founded.

The operation of the boarding house will be subject to a Plan of Management (POM) which has been revised since initial submission to include provisions related to maximum occupancy and boarding house rules to maintain responsible operation. Conditions of consent are recommended, so as to maintain reasonable residential amenity to the locality.

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, 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 30(1)(h) of SEPP ARH 2009 and grant consent to Development Application No. 335/20 for demolition of the existing building and construction of a boarding house on land at 287 Miller Street Cammeray subject to the following site specific and attached standard conditions:-

Privacy

C33. The following privacy devices are to be provided:

- a) 1.5m high privacy screens shall be attached to the northern end of the proposed balconies to rooms 3.1 and 3.2 on Level 2 of the proposed building.

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)

Flood Evacuation Plan and Deed of Release

C37. Prior to the issue of a construction certificate, a Flood Evacuation Plan must be prepared to the satisfaction of Council detailing the methods to be employed in the event of a flood. A deed of release agreement must also be entered into between the affected property owner and Council, to indemnify Council in respect of any claims that may arise in the event of a flood.

(Reason: To ensure that appropriate plans and agreements are in place in the event of a flood)

Tenant relocation and Management Plan

C38. All existing tenants shall be rehoused as per the submitted Tenant Relocation & Management Plan for New Age Boarding House at 297 Miller Street Cammeray, submitted 3 June 2021, prepared by Link Wentworth Housing Ltd and in accordance with the current Management Agreement Local Housing Program 2018, between Council and Link Housing. Details demonstrating compliance shall be submitted with the Construction Certificate.

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

(Reason: To ensure compliance with the submitted Tenant Relocation Plan)

Covenant & Restriction (Flood Affectation)

G21. An Instrument pursuant to Sections 88B, 88E and 88F of the *Conveyancing Act 1919* and one copy must be submitted to Council in registrable form, providing for:

- a) a restriction as to user and positive covenant as to user in favour of North Sydney Council and burdened by 287 Miller Street, Cammeray advising that part of the site is located within the overland flow path and that the lower ground level may be impacted by the 1% AEP overland flows where the floor level is below the 0.5m freeboard to the 1% AEP flood level.

The Instrument creating the restriction and/or covenant under s 88B, 88E and 88F required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier. Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent.

(Reason: Compliance and adequate maintenance due to potential flood affectation)

Boarding House - Operational Plan of Management

I2. The management of the boarding house shall be conducted in accordance with the ‘ *Tenant Relocation & Management Plan for New Age Boarding House at 297 Miller Street Cammeray, submitted 3 June 2021, prepared by Link Wentworth Housing Ltd* and must comply with the requirements of the following relevant legislation:

- Schedule 2 (Standards for places of shared accommodation) to the Local Government (general) regulation 2005
- The public health act 1991 and
- Boarding houses act 2012.
- North Sydney Council’s Boarding House controls under Section 4 of Development Control Plan 2013.

Except as otherwise amended by the conditions of this consent.

(Reason: To ensure the ongoing operation of the boarding house is in accordance with the terms of this consent)

Use of common open space

I7. The use of the common open space at the rear of the site shall not occur between the hours of 10.00pm and 7am daily.

(Reason: To protect the amenity of surrounding properties)

Total site occupancy

I10. The total site occupancy shall be restricted to 19 persons with room occupancy to be strictly controlled as per the provisions of the Tenant Relocation & Management Plan for New Age Boarding House at 297 Miller Street Cammeray, submitted 3 June 2021, prepared by Link Wentworth Housing Ltd.

(Reason: To comply with the terms of this development consent)

Use of lower ground floor level

I11. The lower ground floor level of the proposed building shall be used for communal purposes only and there shall be no sleeping, habitation or permanent residential occupation of the space

(Reason: The existing site is flood effected)

Floor Evacuation Plan

I12. The Food Evacuation Plan required to be prepared by this development consent shall be adhered to at all times.

(Reason: To ensure the safety of future occupants)

4. LPP03: 27 Bogota Avenue, Cremorne Point - DA 45/2021

Applicant: Tessa Wise and Michael Wise

Report of Michael Stephens, Senior Assessment Officer

The application is reported to the North Sydney Local Planning Panel for determination as the application seeks a variation to a development standard (Clause 4.3 - Height of Buildings) by more than 10%. In accordance with the Minister’s Direction of 1 August 2020 a public determination meeting is not required because no submissions were received.

The property is identified as a neutral item within the Kurraba Point Conservation Area. The proposed alterations and additions would remove detracting elements and would result in a development that has a consistent building form, massing and scale in keeping with the Federation style of the

original dwelling. The proposed development would not detract from the heritage significance of the nearby heritage items or the wider conservation area.

The proposed alterations and additions would result in a variation to the height of building development standard which presents for a short portion of the north western ends of the ridgelines of the gable ends of the roof form. The written request to vary the development standard in Clause 4.3 in NSLEP 2013 demonstrates that strict compliance is both unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the variation because the extent of the variation relates to the ridgeline of the gable ends of the roof form, which are characteristic elements within the conservation area, and occurs where there is an irregularity in the topography of the land.

The application was notified in accordance with Council's Community Engagement Protocol although no submissions were received at Council.

The proposed development would not result in any material adverse impact to the amenity of the surrounding properties having regard to the retention of views, solar access and privacy.

On balance, the proposed development is considered reasonable and is recommended for approval subject to site specific and standard 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, 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. 45/2021 for alterations and additions to an existing dwelling house and construction of a detached garage, fencing and associated landscaping on land at No. 27 Bogota Avenue, Cremorne Point, subject to the following site specific condition and attached standard conditions:-

Heritage Amendments

C1. The following heritage requirements are to be met:

- a) New roof tiles are to match the existing tiles.
- b) New shingles are to be timber.
- c) New brickwork to the front garden wall is to be dark brown, equal or similar to Bowral Gertrudis Brown.
- d) New garage door must be a segmented panel lift door and not a roller door.
- e) Front boundary fence and pedestrian entry gate to be a maximum of 1m height measured from the internal ground level of the site.
- f) The glazing to the stairwell must be amended by deleting the triangular glazing pane on Level 3.

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

(Reason: To retain the character of the conservation area)

5. LPP04: 16 Davidson Parade, Cremorne – DA 77/2021

Applicant: Add Style Home Additions

Report of Michael Stephens, Senior Assessment Officer

This development application seeks consent for alterations and construction of a first floor addition to an existing dwelling house on land at 16 Davidson Parade, Cremorne. The application is reported to North Sydney Local Planning Panel for determination as the proposed development results in a variation to the Height of buildings development standard pursuant to clause 4.3 in NSLEP 2013 by greater than 10%.

The proposed first floor addition would result in a maximum variation of 1.3m or 15.3% above the height limit, primarily caused by the existing excavation of the lower ground floor level. The applicant has submitted a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013, which is considered well founded as compliance with the development standard is considered both unreasonable and unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the variation.

The design of the first floor addition has regard to the existing built form, massing and scale of the dwelling. The addition is set in from the storey below and has an articulated front façade and a hipped roof with a gable end which are characteristic of the surrounding dwellings. Other characteristic built form elements of the existing dwelling have been incorporated into the design of the addition. The subject site is not a heritage item or located within a conservation area.

The application was notified in accordance with Council's Community Engagement Protocol and one submission was received, objecting to the height of the proposed development and the potential overshadowing. However, considering the submitted shadow diagrams, the potential additional overshadowing is not considered to have a material impact on the adjoining property, and the height of the dwelling is considered reasonable having regard to the existing excavation.

On balance, the application is recommended for approval subject to standard conditions of consent.

Recommending:

PURSUANT TO SECTION 80/91 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. 77/2021 for alterations and construction of a first floor addition to an existing dwelling house at No. 16 Davidson Parade, Cremorne Point, subject to the following site specific and attached standard conditions:-

Privacy

C1. The following privacy devices are to be provided:

- a) Window W11 located in the eastern elevation of the first floor level (Bedroom 2) is to be fixed and fitted with obscure glazing to a minimum height of 1.5m above the internal finished floor level.
- b) Windows W6 located in the western elevation of the first floor level (Sitting Room) is to be fixed and fitted with obscure glazing 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 76 Macpherson Street and 14 Davidson Parade)

6. LPP05: 1-11 Rodborough Avenue, Crows Nest - Section 8.2 Review of Determination No. 3/21 (DA232/20)

Applicant: Platform Project Services Pty Ltd

Report of Luke Donovan, Senior Assessment Officer

On 3 March 2021, the North Sydney Local Planning Panel (NSLPP) refused DA232/20 for the demolition of all structures and construction of a part 4, part 5 storey residential flat building containing 35 units over two levels of basement parking for 53 vehicles and associated works including strata subdivision on land at 1-11 Rodborough Avenue, Crows Nest.

The applicant seeks a review of the determination under s.8.2 of the *Environmental Planning & Assessment Act 1979* (EPA Act).

In accordance with the provisions of Section 8.3(5) of the Environmental Planning & Assessment Act, 1979 (EP&A Act) the review of a determination made by a local planning panel is also to be conducted by the Panel and the review referred back to the Panel for determination.

Council's notification of the application attracted eight (8) unique submissions raising concerns about building height non-compliances, traffic impacts, overshadowing, noise and privacy impacts, glare, tree removal and impacts during building works. These issues have been discussed in this report.

In accordance with Section 8.3(3) of the EP&A Act, the application includes amended architectural and landscape plans which proposes a number of amendments as compared to the refused DA. The amendments include a reduction in the number of apartments to 27, a reduction in the number of car parking spaces to 43, a reduction in the size of level 03, a relocation of the driveway ramp and improved landscaping across the site.

A revised clause 4.6 request for an exception to the maximum 'height of building' development standard under NSLEP 2013 has also been submitted by the applicant with this 'review of determination' application. The amended proposal is considered to be substantially the same development for the purposes of Section 8.3(3) of the EP&A Act.

The amendments made by the applicant under this s.8.2 review application has significantly reduced the bulk and scale of the development particularly at level 03 which has assisted in minimising amenity impacts in terms of privacy and solar access for adjoining properties. The minor additional solar access impacts to adjoining properties are caused by elements of the building that comply with Council's controls. The four-storey scale of the building is considered to be compatible with surrounding developments particularly those to the south along Falcon Street and on the western side of Rodborough Avenue.

The breaches to the building height control are mainly limited to parts of level 03 with the largest breach (2.2m) confined to the lift over run and fire stair which are centrally located on the roof and not highly visible from the public domain

or adjoining properties. The 4.6 written request seeking a variation to the building height control has adequately demonstrated that strict compliance is unreasonable and unnecessary, there are sufficient environmental planning grounds to justify contravening the development standard and that it is in the public interest as it is consistent with the objectives of the control.

The proposal maintains a majority of the existing street trees and provides suitable replacement canopy trees across the site to ensure an appropriate landscape buffer is maintained with adjoining properties.

Sydney Water and Council's Engineer have reviewed the amended proposal and support the proposed diversion of the existing stormwater channel to accommodate the substation, subject to conditions of consent. Further, Council's Engineers are satisfied with the design of the building including deflection walls to manage overland flow.

The applicant made changes to the level 03 communal open space and the design of the apartments to improve internal amenity and address the issues raised by the Design Excellence Panel.

Following this assessment and having regard to the provisions of Section 4.15 and Sections 8.2-8.5 (inclusive) of the Environmental Planning & Assessment Act 1979 (as amended), the application is recommended for **approval** subject to 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, as the consent authority, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 NSLEP 2013 with regards to the non-compliance with Clause 4.3 (Building Height) and **grant consent** to Section 8.2 Review Application No. 3/21 for the demolition of the existing buildings and the construction a 4 storey residential flat building with basement parking and associated landscaping including strata subdivision on land at 1-11 Rodborough Avenue, Crows Nest, subject to the attached conditions including the following site specific conditions:

Roof top plant and screening

C1. Prior to the issue of a construction certificate, the design of the plant area of level 3 must be amended as follows:

- a) The screening around the plant on level 03 must be a height of 500mm over the highest point of discharge of any plant.
- b) The screening around the eastern side of the level 3 plant area be setback a minimum of 2m from the eastern parapet of the building.
- c) The 2m setback zone as required by b) must be planted with appropriate landscaping that is capable of achieving a minimum mature height that is equal to the height of the top of the screen as required by a)

Plans and specifications complying with this condition must be to the satisfaction of an appropriately qualified Acoustic Engineer (in respect of a) and Landscape Architect (in respect of c) prior to the issue of a construction certificate.

(Reason: To minimise the potential visual impact of this screening around the level 03 plant on the properties to the east of the site and to provide an improved landscape buffer).

Privacy screening to projecting level 01 and 02 eastern balconies

- C2. Prior to the issue of a construction certificate, the plans forming part of Condition A1 of the consent, must be amended as follows:
- a) The balconies that extend to within 7.05m and 7.1m from the eastern rear boundary on levels 1 and 2 of the building must provide the following:
 - i. A fixed privacy screen along the entire width (eastern side) of these balconies and to a minimum height of 1.8m above the respective floor levels of the balconies.

Plans and specifications complying with this condition must be submitted to the Principal Certifying Authority prior to the issue of a construction certificate.

(Reason: To ensure a reasonable level of visual and acoustic privacy is maintained with the western windows and private open space of townhouse 5 at 346 Miller Street and to the rear private and communal open space of 338 Miller Street)

Operational Plan of Management – level 3 communal open space

- C3. Prior to the issue of a construction certificate, an operational management plan for the level 3 communal open space must be prepared. The plan must specify at a minimum the following:
- a) The use of the level 3 communal open space must be restricted to the hours of 7am and 10pm every day of the week.
 - b) The doors to the level 3 communal open space must be locked outside of these hours. Appropriate signage must be displayed throughout the communal areas of the building advising of these times.
 - c) There is to be no speakers or amplified music at any time within the level 3 communal open space.
 - d) There is to be no large gatherings of people (>10 people) after sunset.
 - e) Landscaping around the perimeter of the level 3 communal space must be regularly maintained.
 - f) A contact name and number must be provided as part of the plan so that any person/s wishing to make a complaint regarding the use of the communal space on level 3 can do so.
 - g) A complaints register must also be established, with complaints addressed in person or over the telephone within 48 hours of the receipt of the complaint.
 - h) A copy of the plan must be provided to all adjoining properties including 2 Rodborough Avenue.

Prior to issue of the Subdivision Certificate written By-laws reflecting the above requirements must be prepared by a suitably qualified person for adoption by the future strata committee.

(Reason: To ensure that the operation of the level 3 communal open space does not result in any unreasonable amenity impacts for surrounding properties)

Flood Evacuation Plan

- C4. Prior to the issue of a construction certificate, a flood evacuation plan must be prepared to the satisfaction of Council detailing the methods to be employed in the event of a flood. The plan must also specify that a deed of release agreement must be entered into between the person

acting on this consent and affected property owner in respect of any claims that may arise in the event of a flood.

(Reason: To ensure that appropriate plans and agreements are in place in the event of a flood.)

Sydney Water

C5. There are to be no buildings or permanent structures over the existing and relocated stormwater pipe or within 1m from the outside edges of the existing and relocated stormwater pipe.

Plans and specifications complying with this condition must be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

(Reason: To satisfy the requirements of Sydney Water).

Deflection wall

G1. Prior to the issue of an occupation certificate, an appropriately qualified practicing structural engineer with relevant experience in designing structures on flood prone lands must certify in writing that the deflection walls as indicated on the flood mitigation plans forming part of Condition A1 of this consent are capable of withstanding the loads imposed by the 1% AEP floodwaters plus 0.5 m freeboard, including hydrostatic, hydrodynamic, buoyancy and debris impact forces.

(Reason: To reduce the risk of damage to the lower ground floor units in the event of a flood).

Covenant & Restriction (Flood Affectation)

G2. An Instrument pursuant to Sections 88B, 88E and 88F of the *Conveyancing Act* 1919 and one copy must be submitted to Council in registrable form, providing for:

b) a restriction as to user and positive covenant as to user in favour of North Sydney Council and burdened by 1-11 Rodborough Avenue, Crows Nest advising that part of the site is located within the overland flow path and that the lower ground floor units (LG01 and LG02) may be impacted by the 1% AEP overland flows given the floor level of these units are below the 0.5m freeboard to the 1% AEP flood level.

The Instrument creating the restriction and/or covenant under s 88B, 88E and 88F required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier. Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent.

(Reason: Compliance and adequate maintenance due to potential flood affectation)

Flood mitigation

I1. If at any stage during the life of the development, written advice is obtained from an appropriately qualified hydraulic engineer that a part of the development is increasing the risk of flooding to the surrounding area, Council has the ability to request, in writing, to the owner of the

site that part/s of the building must be modified, relocated or removed to minimise this risk of flooding.

(Reason: To mitigate potential impacts of flooding on adjoining properties)

Operational Management Plan – level 3 communal open space

I2. The operation management plan for the level 3 communal open space must be adhered to on an on-going basis and for the life of the development.

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



NORTH SYDNEY LOCAL PLANNING PANEL

DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE SUPPER ROOM, NORTH SYDNEY, ON 2 JUNE 2021, AT 2.00PM.

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Tony Caro, Panel Member
Ian Pickles, Panel Member
Jane van Hagen, Community Representative

Staff:

David Hoy, Team Leader Assessments
Robyn Pearson, Team Leader Assessments
Josh Jongma, Governance Co-ordinator (Minutes)

Not Present for Determination Session

Thomas Holman, Development Assessment Officer
Kim Rothe Development Assessment Officer
Robin Tse, Development Assessment Officer
Michael Stephens, Development Assessment Officer
Hugh Shouldice, Development Assessment Officer
Surb Bhatti, Conservation Planner
Lucinda Varley, Conservation Planner

Apologies: Nil.

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of 5 May 2021 were confirmed following that meeting.

2. Declarations of Interest

Jane van Hagen declared a non-pecuniary but significant interest in item LPP01, 22-24 Carabella Street, Kirribilli as a friend of a submitter. Jane van Hagen therefore took no part in the briefing, public meeting or determination session in the matter by leaving the room.

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: | 323/20 |
| ADDRESS: | 22-24 Carabella Street, Kirribilli |
| PROPOSAL: | Partial demolition of two residential flat buildings, internal alterations and additions to the rear of the site resulting in two x part three, part four storey residential flat building containing 26 apartments over three levels of basement parking and associated landscaping. |
| REPORT BY NAME: | Michael Stephens, Senior Assessment Officer |
| APPLICANT: | Abelco Pty Ltd |

5 Written Public Submissions

Public Submissions

| Submitter | Applicant/Representative |
|----------------------|---------------------------------|
| Joshua Anderson | Tina Christy - Town Planner |
| Richard Burek | Felicia Huang - Applicant |
| Julie Mackenzie | |
| Stephanie Bradstock | |
| Nadine Valma Wheeler | |
| Tanya Tegon | |

Panel Determination

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

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 address 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 an additional design change condition to be satisfied by written approval of Council’s Manager Development Services prior to the Construction Certificate being issued:

C50 The following design changes are to be made:

- a) The design of the parapet of the Peel Street façade should be refined to have a more consistent height and detail.
- b) The north eastern wall of the apartment 24 L3-02 living room is to be setback an additional 2 metres towards the south west and with consequential floor plan reconfiguration.

Plans and specifications which comply with this condition and are endorsed with written approval from Council's Manager Development Services must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate

(Reason: To improve the architectural relationship between the old building and the new building in the Peel Street context)

Panel Reason:

The Panel considers that the proposed development subject to conditions is satisfactory for the R4 zone having regard to heritage, the conservation area and Council's planning framework.

The impacts on existing residents have been considered in the revised scheme and the Panel considers the impacts have been mitigated. The Panel considers that the proposal is now acceptable subject to the above design change.

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Jan Murrell | Y | | Jane van Hagen | DoI | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 2

| | |
|------------------------|---|
| DA No: | 11/21 |
| ADDRESS: | 6 John Street, McMahons Point |
| PROPOSAL: | Use of relocatable shed for repair and maintenance purposes at existing boat repair facility. |
| REPORT BY NAME: | Brett Brown, Consultant Town Planner |
| APPLICANT: | Hamptons Property Services Pty Ltd |

No Written Public Submissions

Public Submissions

| Submitter | Applicant/Representative |
|------------------|---|
| Douglas Nicol | Kristy Hodgkinson - Applicant's planner |
| Karen Foster | Lance Hodgkinson on behalf of the Applicant |
| Michael Stevens | |
| Leon Reardon | |

Panel Determination

The Panel members have undertaken independent site inspections prior to the meeting. The Council Officer's Report and Recommendation is endorsed by the Panel.

Panel Reason:

The Panel is not satisfied that the documentation and plans provide any certainty as to the purpose of the proposal, its impacts and outcomes. Furthermore, the Panel does not consider that a structure of this size can be feasibly relocated on site without any details provided including anchoring the structure as depicted in the generic diagrams. Furthermore, the Panel does not consider relocation provides certainty and the structure would need to be clearly identified as to the permanent location.

While the Panel supports the concept of a continuing working harbour in Sydney and the need for maritime facilities, more information would need to be submitted for this application to be supported. The applicant is encouraged to develop a holistic masterplan for the site that would inform future decision making.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 3

| | |
|------------------------|--|
| DA No: | 308/20 |
| ADDRESS: | 11 Bennett Street, Cremorne |
| PROPOSAL: | Addendum to report of Pierre Le Bas & Tia Gao, Turnbull Planning, dated 27 January 2021. |
| REPORT BY NAME: | Robin Tse, Senior Assessment Officer |
| APPLICANT: | Ocean King Enterprises Pty Ltd |

15 Written Public Submissions**Public Submissions**

| Submitter | Applicant/Representative |
|---------------------|---------------------------------|
| Lisa Wilkinson | Kate Bartlette - Planner |
| Gillian Cappelletto | Lisa Zhang - Project Manager |

Panel Determination

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

The Council Officer's Report and Recommendation is endorsed by the Panel with additional reasons for refusal being:

1. **The proposed dual occupancy is a form of development prohibited within a conservation area where existing structures on site have not been demolished pursuant to Clause 6.6(2)(a) in NSLEP 2013**
2. **Unacceptable Form Bulk and Scale:**

The proposed dual occupancy is unacceptable in terms of its form, bulk and scale and its relationship with the adjoining heritage items within the conservation area.

Particulars:

- a) The proposed development does not satisfy the aims of North Sydney LEP 2013 including Clause (2)(a) because the proposal provides an inappropriate response to the context of the locality; Clause (2)(b)(i) because the form, bulk and scale of the proposed development is incompatible with the desired character of the area; and Clause (2)(f) due to the adverse effects on heritage significance within the area.
- b) The proposed development does not satisfy the planning objective (Dot Point 3) for the R2 (Low Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because the form, bulk and scale of the proposal will have adverse impacts on the significance of the nearby heritage listed items and the Cremorne Conservation Area.
- c) The built form of the proposed development does not respond to the existing character and context of the adjoining heritage items and site context contrary to the planning objectives concerned with context in section 1.4.1 in Part B of NSDCP 2013.
- d) The proposed development does not reflect, re-inforce or complement the existing character of the locality and is contrary to the provisions in section 1.4.8 (Built Form Character) in Part B of NSDCP 2013.
- e) The proposed development is excessive in terms of bulk and scale because its design is contrary to the provisions in section 1.4.7 (Form, Bulk and Scale) in Part B of NSDCP 2013.

3. **Public Interest**

Particulars:

- a) The approval of the proposed development is not in the public interest because the development is prohibited in accordance with Clause 6.6(2)(a) in NSLEP 2013; and the adverse impacts on the significance of the adjoining heritage items and the conservation area given the built form and the inappropriate bulk and scale of the proposal.

Panel Reason:

The Panel considers the appropriate course of action to provide certainty is for the existing dwelling and ancillary structures to be demolished and the property subdivided in accordance with the current consent of DA 237/18. Following this, the applicant can then seek approval for development on each allotment.

The Panel notes that the site is now in different ownership and the new owner's representatives stated that demolition could commence in early June and be completed by mid-July, however, it is also noted that all the relevant dilapidation reports must be completed prior to the commencement of works on site. The Panel also urges the applicant to provide copies of the dilapidation reports to the owners of the adjoining heritage dwellings.

The Panel notes the original assessment report for the proposed development did not make reference to the heritage item at 4 Bertha Road. Given that a determination of the development application has not been made the Panel has decided the future built form must be more sympathetic to the existing heritage conservation items and context. With demolition yet to commence architectural design changes can be carried out during this stage.

The Panel urges the applicant to submit amended architectural plans via a section 8.2 review having regard to the heritage items and conservation area. These plans should include addressing the following issues:

- The Panel has architectural concerns about the bulk and scale of the proposed development with the juxtaposition of the two heritage items on the southern and eastern boundaries.
- The upper level should read primarily as a strong pitched roof form that has the capacity to contain internal spaces. This in essence will require a reduction in floor area and replanning of the dwellings. Unification of the roof form for each building will provide a better street presentation and avoid a mirror image.
- Deletion of the rear external stairs.
- More skilful architectural design that reduces, and or mitigates, the intensity of development for the sites.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|--------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 4

| | |
|------------------------|--|
| DA No: | 18/21 |
| ADDRESS: | 1 Bank Lane, North Sydney |
| PROPOSAL: | Demolition of existing contributory item and construction of new two storey dwelling, car space, associated landscaping and ancillary works. |
| REPORT BY NAME: | Kim Rothe, Senior Assessment Officer |
| APPLICANT: | Philip Jokob Mehrgardt |

No Written Public Submissions

Public Submissions

| Submitter | Applicant/Representative |
|-------------------|----------------------------|
| Vivienne Predebon | Jessica Watson - Architect |
| | Peter Lonergan - Applicant |

Panel Determination

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

The Council Officer’s Report and Recommendation is generally endorsed by the Panel. The demolition of the existing building must form part of a future approval to satisfy the requirements of the *North Sydney*

Council Development Control Plan 2013 section 13.8. The Panel considers that subject to an appropriate built form outcome for the conservation area that demolition could be justified due to the poor external condition. The Panel notes that the original Victorian two room house portion is highly compromised by the numerous later additions and dilapidation. As a contributory item in the conservation area, in the circumstances of this case the Panel is of the opinion that it is the contribution of this dwelling form to the streetscape that is more important than the remaining internal fabric. The cottage scale and alignment to Bank Lane is unique and important for this immediate heritage setting.

Panel Reason:

The Panel considers the applicant should be encouraged to submit an 8.2 review with an amended proposal to address the following concerns:

- The two storey presentation should be modified to be more consistent with the existing context of the conservation area, in particular the immediate surrounds to respect the low scale fine fabric. The redesign should further develop the option of providing rooms largely within the roof form to present more as a single storey scale.
- The alignment of the dwelling to be parallel and address Bank Lane in a manner that is consistent with the existing contributory item.
- The access for an off-street car space should be from Bank Lane and be discreet in design by being incorporated into the landscape and with a retractable sliding fence appropriate to the conservation area.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|--------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 5

| | |
|------------------------|--|
| DA No: | 20/21 |
| ADDRESS: | 15 Waiwera Street, Lavender Bay |
| PROPOSAL: | Alterations and additions to a heritage listed item being a detached dwelling. |
| REPORT BY NAME: | Hugh Shouldice, Assessment Officer |
| APPLICANT: | Tsai Design |

5 Written Public Submissions

Public Submissions

| Submitter | Applicant/Representative |
|-----------|-------------------------------|
| | Willem Van Wyk – Town Planner |

| | |
|--|--|
| | Jack Chen & Kirstin Farchaus – Applicant |
|--|--|

Panel Determination

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

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 requests in relation to the contravention of the height of buildings development standard in clause 4.3 of the LEP addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objective of the standard and the zone objectives.

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

Panel Reason:

The Panel is satisfied the proposed development will not adversely impact on the heritage value or have an unacceptable impact on the amenity of the adjoining properties.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|--------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 6

| | |
|------------------------|--|
| DA No: | 333/19/2 |
| ADDRESS: | 182 Kurraba Road, Kurraba Point |
| PROPOSAL: | To modify a consent for alterations and additions to convert duplex into a residential flat building with Strata Subdivision |
| REPORT BY NAME: | Geoff Mossemenear, Executive Planner |
| APPLICANT: | Daniel Younan & Associates Pty Ltd |

1 Written Public Submissions

Public Submissions

| Submitter | Applicant/Representative |
|-----------|-----------------------------------|
| | David Rahme – Applicant |
| | Daniel Younan – Project Architect |

Panel Determination

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

The Council Officer's Report, Addendum and Recommendations are endorsed by the Panel.

Panel Reason:

The Panel is satisfied that the modification of the application is substantially the same as the application that was approved and considers that the impacts are insignificant. Therefore, the application warrants approval subject to conditions including those in the addendum report.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 7

| | |
|------------------------|---|
| DA No: | 84/21 |
| ADDRESS: | 12 Fernhurst Avenue, Cremorne |
| PROPOSAL: | Alterations and additions including first floor addition. |
| REPORT BY NAME: | Thomas Holman, Assessment Officer |
| APPLICANT: | Group Architects Pty Ltd |

No Written Public Submissions

No Public Submissions

| Submitter | Applicant/Representative |
|------------------|---------------------------------|
| | Michael Munro – Applicant |

Panel Determination

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

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 and Recommendation is endorsed by the Panel.

Panel Reason:

The Panel considers that the application is satisfactory and has no adverse impacts on adjoining properties. The Panel notes no submissions were received during the exhibition.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|--------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 8

| | |
|------------------------|--|
| DA No: | 294/20 |
| ADDRESS: | 38 Cowdroy Avenue, Cammeray |
| PROPOSAL: | Substantial alterations and additions to dwelling including partial demolition of the existing dwelling, internal reconfiguration, a new double garage, additions to the main dwelling, a single storey rear addition, a new swimming pool and deck, earthworks and landscaping works. |
| REPORT BY NAME: | Robin Tse, Senior Assessment Officer |
| APPLICANT: | Troy Davis |

No Public Written or Oral Submissions

Panel Determination

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

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 and Recommendation is endorsed by the Panel subject to:

- (i) a change from #36 to #40 in condition C2;
- (ii) condition C1 being amended requiring a landscape plan to be prepared by a qualified landscape architect; and
- (iii) the inclusion of a deferred commencement condition to be satisfied prior to the operation of the consent: This Deferred Commencement Condition is to read as follows:

Revised Architectural Plans

- AA1. The applicant must submit revised architectural plans, prepared in accordance with the requirements for plans as contained in Schedule A in the NSW Land and Environment Court - Practice Notes for Class 1 Residential Development Appeals, for the written approval of Council’s Manager Development Services.

(Reason: The plans require greater detail to ensure certainty of outcomes in the

quality of the built form and compliance with the necessary regulations)

Panel Reason:

The Panel is satisfied that the height exceedance is a factor of the topography and will not unreasonably impact views. Furthermore, the development as assessed and conditioned will not create unacceptable impacts on the built or natural environment.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|--------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

ITEM 9

| | |
|------------------------|--|
| DA No: | 86/21 |
| ADDRESS: | 79 Willoughby Road, Crows Nest |
| PROPOSAL: | Construction of a permanent shading structure on Council's footpath. |
| REPORT BY NAME: | Hugh Shouldice, Assessment Officer |
| APPLICANT: | Jacob Tanous Yeah Nah JTAA Pty Ltd |

No Public Submissions or Oral Submissions

Panel Determination

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

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

Panel Reason:

The Panel is satisfied that the structure is appropriate and will not have adverse impacts.

Voting was as follows:

Unanimous

| Panel Member | Yes | No | Community Representative | Yes | No |
|--------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Jane van Hagen | Y | |
| Tony Caro | Y | | | | |
| Ian Pickles | Y | | | | |

The public meeting concluded at 4.50pm.

The Panel Determination session commenced at 5.05pm.

The Panel Determination session concluded at 8.20pm.

Endorsed by Jan Murrell
North Sydney Local Planning Panel

2 June 2021