



NORTH SYDNEY COUNCIL

Council Chambers
27 May 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, 2 June 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, 5 May 2021.
(Circulated)

2. LPP01: 22-24 Carabella Street, Kirribilli - DA 323/20

Applicant: Abellco Pty Ltd

Report of Michael Stephens, Senior Assessment Officer

This development application seeks consent for partial demolition of two existing residential flat buildings, internal alterations and significant additions at the rear of the site to construct two x part three, part four storey residential flat buildings containing 26 apartments above three levels of basement parking for 29 vehicles and associated works at 22-24 Carabella Street, Kirribilli.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to SEPP 65 development, seeks a variation to a development standard by more than 10% (Height of Buildings), and attracted more than 10 submission by way of objection. In accordance with the Ministers direction of 1 August 2020 a public determination meeting is required because there were more than 10 Submissions.

The proposed development breaches the maximum permitted building height of 12m by up to 2.1m, equating to a maximum variation of 17.5%. The variation is limited to the lift overruns and the leading edges of the flat roof over the fourth storey. 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 subject site contains two existing interwar art deco style three storey residential flat buildings constructed of brick with pitch tiled roofs. The buildings contain 12 apartments and there are detached garages and open parking spaces at the rear of the site accessed via a Right of Carriage over private land. The existing buildings are identified as neutral items within the Kirribilli Conservation Area. The proposal seeks to adapt the existing buildings and construct an additional 14 apartments at the rear of the site over a three level of basement which contain 29 parking spaces, storage and other site facilities.

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 did not initially support the proposal in full however the amended plans received 6 April 2021 are considered to primarily resolve these issues.

Notification of the proposal has attracted eighty-nine (**89**) submissions raising particular concerns regarding the proposed height variation, heritage impacts, view sharing, amenity impacts including overshadowing and overlooking, tree removal, construction impacts including excavation, traffic congestion and insufficient on-site parking.

On balance, following the assessment of the amended application, the proposed development generally complies with the key planning controls and is a sympathetic addition to the existing buildings within the Kirribilli Conservation Area. 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. 323/2020 for partial demolition of two residential flat buildings to undertake additions to the rear of the site resulting in two residential flat buildings containing 26 apartments over three levels of basement parking and associated landscaping. on land at No 22-24 Carabella Street, Kirribilli, subject to the following site specific and the attached standard conditions:-

Heritage Requirements

- C1. The following heritage requirements are to be met:
- a) Conversion of the front balconies/sunrooms that face Carabella Street within the existing buildings into wintergardens is to retain the existing opening size, same number of window panes plus the existing pattern of mullions, transoms and materiality.
 - b) New roof tiles to the existing buildings are to match in profile, material and colour. No 22 is to retain a tapestry tile appearance with multiple tile colours.
 - c) Glazed balustrades are not to be used and are to be substituted with metal palisade balustrades.
 - d) The aluminium privacy louvres are to be painted to match the building in a visually submissive tone and finish. Metallic finishes are not to be used.
 - e) The metal cladding to be metal shingle style roof cladding and is not to be standing seam metal cladding.
 - f) The glazing to the front doors on 24 Carabella Street is to be salvaged and re-used on site.
 - g) Brick painted finish to new addition to use Dulux Rottnest or other neutral tone. White is not to be used.
 - h) Face brickwork on the exterior of original apartment buildings and on the interior walls of the proposed wintergardens where it is currently exposed, is not to be painted.
 - i) Vertical aluminium fencing that has timber appearance to be replaced with timber fencing.

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 be sympathetic to the palette of materials used in the conservation area.)

Right of Carriage Repair

- G1. Following the completion of the construction works, the portion of Lot 1 DP 7 being portion of the Right of Carriage abutting the rear of the subject site is to be resurfaced at the proponent's cost. Consultation is to be undertaken with the property owner's benefiting from the Right of Carriage to minimise any disruption.

(Reason: To ensure adjoining owner's property rights are protected)

Allocation of Spaces

- G21. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

Residential (Including 4 Accessible Parking Spaces)	Parking Spaces
One Bedroom Apartments	4
Two Bedroom Apartments	19
Three Bedroom Apartments	3
Visitor (Including carwash bay)	3
Total	29

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development. In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Street Lighting Upgrade

G23. The developer shall upgrade lighting levels on Carabella Street ad Peel Street adjacent to the site, to the appropriate Australian Standard PR3 in accordance with AS115, and to the satisfaction of Council. The developer shall pay the full costs of this lighting upgrade. Council's Traffic Engineers can be contacted on 9936 8100 for further information regarding the requirements of this condition.

(Reason: To ensure lighting around the site is adequate in the interests of residential amenity and safety)

3. LPP02: 6 John Street, McMahons Point - DA 11/21

Applicant: Hamptons Property Services Pty Ltd
Report of Brett Brown, Consultant Town Planner

This development application seeks approval for use of a relocatable shed for repair and maintenance purposes at an existing boat repair facility and is reported to the North Sydney Local Planning Panel for determination as there are more than 10 individual submissions.

Notification of the proposal has attracted 26 submissions raising concerns about various matters as detailed in this report. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

Following this assessment, the development application is recommended for refusal due to the failure of the application to address the potential adverse impacts of the proposed use of the relocatable structure. The existing development consent and recent Deed of Agreement between Council and the applicant, do not permit the type of works proposed by the applicant (including sand blasting and spray painting) in this location on the site and so the introduction of such works to areas where there is no existing approval requires consideration of the environmental impacts.

Despite a request for the applicant to provide additional information, including an acoustic report, the applicant has indicated that the submitted information is adequate.

Consequently, the application is recommended for refusal.

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 resolve to **refuse** development consent to Development Application No. 11/21 for the use of a relocatable shed for purposes relating to a boat repair facility at 6 John Street McMahons Point for the following 3 reasons:-

1. The submitted DA fails to provide adequate information to assess the environmental impacts of the proposed use in relation to noise, fumes and potential escape of other pollutants into the environment.
2. The submitted DA indicates that the proposal is not integrated development however the environmental impacts of the proposed use in relation to noise, fumes and potential escape of other pollutants into the environment are likely to require approval by the Environmental Protection Authority under the Protection of the Environment Operations Act 1979 and as such the application is considered to be integrated development pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1997.
3. Given the size and nature of the structure and its use, and that it is bolted into the concrete platform on the site, it is considered inappropriate to approve the movement of the structure without a detailed assessment of the impacts of each specific location. The submitted DA does not provide such an assessment.

4. LPP03 11 Bennett Street, Cremorne - DA 308/20 - ADDENDUM

Applicant: Ocean King Enterprises Pty Limited

Report of Pierre Le Bas & Tia Gao of Turnbull Planning International Pty Ltd
This report should be read in conjunction with the report LPP02 dated 27 January 2021 (see **Attachment 1**), prepared by Pierre Le Bas & Tia Gao of Turnbull Planning, concerning a development application (**DA308/20**) seeking NSLPP approval for the construction of part two and part three storey dual occupancy on each lot following the demolition of existing dwelling and subdivision of the land under **DA237/18**. The report LPP02 was considered by the NSLPP at its meeting held on 3 February 2021.

The Panel's determination of the application is as follows:

The Panel members have undertaken independent site inspections prior to the meeting and considers the application would be worthy of approval on its merits. However, the Panel is without power to approve the application at this time because the structures on the land have not been demolished. It is noted that demolition was approved in a separate application (DA 237/18) but has not been acted upon. Demolition is necessary prior to the granting of consent to this application, however, the 60-day time limit stipulated for demolition is deleted.

Following demolition the Panel would be satisfied pursuant to the provisions of Clause 4.6 of the LEP, 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 would be in the public interest because it is consistent with the objectives of the standard and zone objectives.

The Council Officer's Report and Recommendation is noted by the Panel and the Panel is in agreement with the merit assessment and the Clause 4.6 written request to vary the height.

In the circumstances, the Panel delegates to the Manager Development Services the power to determine the application following the demolition of all the existing structures onsite. In the event there is a change in circumstance then the matter is to be referred back to the Panel for an electronic determination.

The purpose of this addendum is to provide an update on the status of the subject site and its implications for the application and further consideration in relation to the determination of the application.

Recommending:

A. THAT the addendum be noted.

B. THAT the North Sydney Local Planning Panel, exercising the functions of Council as the consent authority, resolve to **refuse** Development Application No. 308/20 for the construction of a pair of dual occupancy development, on land at No. 11 Bennett Street, Cremorne for the following reason:-

1. The proposed dual occupancy is prohibited on the subject site because it is located within a conservation area.

The proposed dual occupancy is a form of development prohibited within a conservation area where existing structures on site have not been demolished.

Particulars:

a) The proposed development is contrary to Clause 6.6(2)(a) in NSLEP 2013.

5. LPP04: 1 Bank Lane, North Sydney (V) - DA 18/21

Applicant: Philip Mehrgardt

Report of Kim Rothe, Senior Assessment Officer

This development application seeks North Sydney Local Planning Panel (NSLPP) approval for demolition of an existing dwelling contributory item dwelling, construction of new dwelling including new external works, off street car space and carport and related landscaping.

The application is reported to the North Sydney Local Planning Panel (NSLPP) for determination as it is proposed to demolish an identified contributory item and the level of public interest in the proposal.

Council's notification of the proposal attracted **Sixteen (16) submissions** raising concerns about bulk and scale, consistency of the proposal with the established character of the locality and general impact to amenity. Three (3) submissions received expressed support for the proposal.

The development application has been assessed against the North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013 and the relevant State Planning Policies and found to be unsatisfactory in the site circumstances.

The demolition of the dwelling will result in the removal of an item of environmental heritage of North Sydney and the heritage significance of the item will not be conserved. Therefore, the proposal does not meet the objectives of Clause 5.10 Heritage Conservation under NSLEP 2013. The proposal would not achieve the aims of the NSLEP to protect the built heritage of North Sydney and to promote development that is appropriate to its context.

The proposed new dwelling and car port is also considered to perform unsatisfactorily with regard to impact to the Conservation Area, Context, Streetscape, Setbacks, Form Massing and Scale, Built Form Character is non-compliant with a significant number of applicable controls in the NSLEP 2013 and NSDCP 2013

These non-compliances result in a building with excessive bulk and would not be in keeping with the character of the Union, Bank, Thomas Street Conservation Area which and considered to be an overdevelopment of the site in the circumstances.

Following this assessment and having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended), the application recommended for refusal as it is not considered to be suitable for the subject site, and fails to satisfy a number of objectives within the North Sydney Development Control Plan 2013.

Recommending:

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

THAT the North Sydney Local Planning Panel, under the delegation of the General Manager as the consent authority, resolve to *refuse* consent to Development Application No. 18/21 for demolition of an existing dwelling, construction of new dwelling including new two storey dwelling and carport on land at 1 Bank Lane, North Sydney, for the following reasons:-

1. Heritage

The proposed demolition of the single storey contributory item dwelling house is contrary to the heritage controls in North Sydney Local Environmental Plan 2013 (NSLEP 2013) and North Sydney Development Control Plan 2013 (NSDCP 2013).

Particulars

- a) The subject property, 1 Bank Lane, North Sydney is a single storey dwelling that is listed as a contributory item of the NSDCP 2013.
- b) The proposal aims to demolish a circa 1890s Victorian style contributory dwelling from the core period of development.
- c) The proposal to demolish the existing dwelling will result in the complete removal of an item of heritage of North Sydney and the heritage significance of the item will not be conserved. Therefore, the proposal does not meet the objectives of Clause 5.10 ‘Heritage Conservation’ under NSLEP 2013 and is inconsistent with the relevant aims of NSLEP 2013 and the objectives for the R2 (Low Density Residential) zone.
- d) The Statement of Heritage Impact (SoHI) does not establish any factor that could be considered to be so strongly in favour of the

proposed new building (a two-storey contemporary style dwelling) that the demolition of the heritage item is justified.

- e) The application does not adequately address the provisions of Section 13.8 of NSDCP 2013. The applicant has not satisfactorily demonstrated why it is not reasonable to conserve the heritage item and that alternative options to demolition have been considered.
- f) The application does not meet the objective for Section 13.4 of the NSDCP 2013, as the proposal will diminish the heritage significance of the group of heritage items in the vicinity of the subject property and the significance of the Union Bank and Thomas Street Conservation Area.

2. **Overdevelopment of the Site**

The proposed development due to new car port and the excessive bulk and scale of the new dwelling is considered to be an overdevelopment of the site. The proposal would introduce fill into the site which contributes to the overall bulk and scale of the building at street level

Particulars

- a) The site coverage of the building is excessive for the size of the site and is not characteristic of surrounding developments or the conservation Area. The proposed development is contrary to the following provisions:
 - i. Aims of NSLEP 2013, specifically (2)(a) and (b)(i);
 - ii. Clause 5.10 Heritage Conservation of NSLEP 2013
 - iii. Clause 6.10 Earthworks of NSLEP 2013
 - iv. Objective O1 and Provisions P1 and P4 in Part B Section *1.3.1 Topography* on NSDCP 2013
 - v. Objective O1 and Provisions P1 in Part B, Section *1.4.1 Context* in NSDCP 2013;
 - vi. Objective O1 and Provision P2 in Part B Section *1.4.3 Streetscape* in NSDCP 2013
 - vii. Objective O1 and Provision P2 in Part B, Section *1.4.7 Form Massing and Scale* in NSDCP 2013;
 - viii. Objective O1 and Provision P2 in Part B, Section *1.4.8 Built Form Character* in NSDCP 2013;
 - ix. Objective O3 and O4 and Provision P10 in Part B, Section *1.5.4 Vehicular Access and Car Parking* in NSDCP 2013;

3. **The development Would not be in keeping with the established Character of the Union, Bank, Thomas Street Conservation Area**

The non-compliances with the following controls of NSLEP 2013 and North Sydney Development Control Plan (NSDCP 2013) result in a development that is uncharacteristic and will not be in keeping with the established character of the conservation area.

- a. Part 5 Clause 5.10 Heritage conservation of NSLEP 2013; and
- b. NSDCP 2013 Section 13 Heritage and Conservation:
 - Part B Section 13 Heritage and Conservation Particulars:
 - 13.6.1 General objectives O1/ O3
 - 13.6.2 Form, massing, scale O1/ O2/ P1/ P2/ P5/ P7/ P9
 - 13.6.4 Additional storeys and levels O1/ P1/P2 (a)
 - 13.9.5 Garages and Carport P3/P4/P6
- c. NSDCP 2013 Part C Lavender Bay Planning Area, Section 9.10 Union, Bank, Thomas Street Conservation Area

Part C Section 9.10 Union, Bank, Thomas Street Conservation Area
Particulars:

9.10.6 Characteristic Building element Controls P1, P2, P11, P16

9.10.7 Uncharacteristic Elements Control P1

4. Failure to satisfy the following relevant objectives within the North Sydney Development Control Plan 2013.

The proposed development fails to satisfy the objectives of a number of the controls within the North Sydney Development Control Plan 2013 (NSDCP 2013).

Particulars

a) The non-compliances with the following controls of North Sydney Development Control Plan (NSDCP 2013) result in a development that is uncharacteristic and represents an overdevelopment of the site and will not be in keeping with the established character of the conservation area.

The proposed development is contrary to the following:

- i. Objectives of the R2 Low Density Residential zone, specifically dot point 3;
- ii. Objective O1 and Provisions P1 and P4 in Part B Section *1.3.1 Topography* on NSDCP 2013
- iii. Objective O1 and Provisions P1 in Part B, Section *1.4.1 Context* in NSDCP 2013;
- iv. Objective O1 and Provision P2 in Part B Section *1.4.3 Streetscape* in NSDCP 2013
- v. Objective O1 and Provision P2 in Part B, Section *1.4.7 Form Massing and Scale* in NSDCP 2013;
- vi. Objective O1 and Provision P2 in Part B, Section *1.4.8 Built Form Character* in NSDCP 2013;
- vii. Objective O3 and O4 and Provision P10 in Part B, Section *1.5.4 Vehicular Access and Car Parking* in NSDCP 2013;

5. Not considered to be in the public interest

The proposed development would set undesirable precedent for the subject site nor in the public interest.

Particulars

- a) The size of the proposed building is not considered to be suitable for the site nor would be characteristic within the Union Bank and Thomas Street Conservation Area and contrary to Section 4.15(c) of the Environmental Planning and Assessment Act 1979 (as amended)
- b) Public submissions were received against the application raising particular concerns about the excessive bulk, scale and density of the development, uncharacteristic built form, non-compliance with the landscape area, and privacy. The proposal in its current form is not considered to be in the public interest contrary to Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

6. LPP05: 15 Waiwera Street, Lavender Bay - DA 20/21

Applicant: Tsai Design

Report of Hugh Shouldice, Development Assessment Officer

This development application seeks North Sydney Planning Panel (NSLPP) approval for partial demolition, alterations and additions to a local heritage listed item at No. 15 Waiwera Street, Lavender Bay.

This application is reported to NSLPP for determination because the development applications involves partial demolition of a heritage item. The development application is therefore required to be determined by the North Sydney Local Planning Panel in accordance with the Minister's directions.

The proposal seeks approval for partial demolition, internal and external alterations to a heritage item. A detailed description of the proposed works is outlined later in the report.

The application was notified in accordance with the North Sydney Community Participation Plan 2019. The notification of the application received in **five (5)** submissions raising concerns around heritage impacts, view loss impacts, visual privacy impacts, site coverage non-compliances, tree removal, side setbacks and potential construction impacts. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The application was referred to Council's Engineer and Heritage Officer who both raised no objections to the proposal, subject to standard and site-specific conditions. Council supports the application and recommends approval on the basis that the proposed works do not result in significant environmental, heritage or construction impacts.

Recommending:

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

THAT the North Sydney Local Planning Panel, grant consent for the Development Application No. 20/21 for alterations and additions to a heritage listed item on land at No. 15 Waiwera Street, Lavender Bay, subject to the following site-specific conditions and the attached standard conditions.

Heritage Design Amendments

- C1. The following heritage design amendments are to be included below:
- That the proposal shall not demolish any extra fabric at the ground floor level pertaining to the original building such that all new work shall be limited to the areas where alterations have already occurred.
 - That the proposed glazed enclosure of the roof terrace area facing the harbour shall be inset 100mm from the existing window sill.
 - That the proposed metal roofing over the proposed garage shall be replaced with the use of terracotta roof tiling to match the main dwelling.
 - That details relating to how the stepped approach and landing in the foreground of the western elevation of the existing building, including the associated architectural and landscaping elements within this zone shall be protected and retained during the excavation and construction of the proposed cellar and sunken garden are to be submitted to the satisfaction of Council's conservation planner and prior to the issue of any CC.

(Reason: To protect the significance of the heritage item and the character of McMahons Point North Conservation Area)

First Floor Garden is to be deleted

- C2. The proposed southern facing rooftop garden and metal sliding screen located on the second floor are to be deleted from the proposal.

The proposed skylight (SLH 01) on the north eastern facing roof splane is to be deleted from the proposal.

Both existing south western and north easting facing roof planes are to remain intact.

No consent is granted for alterations to the existing roof form.

Architectural plans satisfying the requirements of this condition and must be submitted to the Council for assessment and approval, prior to the issue of any Construction Certificate.

(Reason: To mitigate visual privacy impacts and retain heritage fabric)

Deck to be kept clear

11. The following shall not be affixed to or placed on the deck of No. 15 Waiwera Street, Lavender Bay:

- a) Permanent umbrellas and/or shade structures;
- b) Heaters that exceed the height of the balustrade;
- c) Permanent structures that exceed the height of the balustrade;
- d) Planters and/or plantings that exceed 1.2m above the floor level of the deck.

(Reason: To ensure view sharing is maintained)

7. LPP06: 182 Kurraba Road, Kurraba Point - DA 333/19/2

Applicant: Daniel Younan & Associates Pty Ltd

Report of Geoff Mossemenear, Executive Planner

This application under Section 4.55 of the Environmental Planning and Assessment Act 1979 seeks to modify Council's consent for alterations and additions to convert a duplex into a residential flat building with Strata Subdivision and is reported to the North Sydney Local Planning Panel (NSLPP) for determination as the application involves the modification of a condition imposed by the Panel.

The development application was approved by the North Sydney Local Planning Panel on 15 April 2020 subject to a number of conditions. The consent has been activated and construction has commenced on the site.

The main component of the modified proposal includes the increase in the height of the building by 350mm. This is due to the need to raise the height of the building overall to allow clearance to the Sydney water sewer main running through the site and the manhole under the building and to improve floor to ceiling heights of the units which will make the building comply with SEPP 65 and the related Apartment Design Guidelines. It will also eliminate existing steps in the floor slab to make the units more accessible.

Internal layout changes are also proposed to improve the internal amenity of the units, which do not affect the building envelope or site coverage and 1.8m high screens are proposed to some balconies to meet the privacy objectives of Condition C18.

Council's notification of the proposal has attracted 2 submissions raising particular concerns about increased height and additional view loss. The assessment has considered these concerns as well as the performance of the modification against Council's planning requirements.

Following this assessment the application to modify Council's consent 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 Planning Panel exercising the functions of Council approve the modification of development consent DA.333/19 dated 24 April 2020 in respect of a proposal to for alterations and additions to convert duplex into a residential flat building with Strata Subdivision at 182 Kurraba Road Kurraba Point under the provisions of Section 4.55 of the Environmental Planning and Assessment Act only insofar as will provide for the following:

To delete condition A1, A3, C18 and C21 of the consent and insert in lieu thereof the following new conditions, namely:

Development in Accordance with Plans/documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council’s approval stamp, except where amended by the following conditions and this consent.

Plan No.	Issue	Title	Drawn by	Received
DA_100_00	05	Proposed lower ground (L)	Daniel Younan & Ass.	13/04/2021
DA_100_10	05	Proposed lower ground (U)	Daniel Younan & Ass.	13/04/2021
DA_100_20	05	Proposed ground	Daniel Younan & Ass.	13/04/2021
DA_100_30	05	Proposed level 1	Daniel Younan & Ass.	13/04/2021
DA_100_40	05	Proposed level 2	Daniel Younan & Ass.	13/04/2021
DA_100_50	05	Proposed roof plan	Daniel Younan & Ass.	13/04/2021
DA_200_00	05	Proposed south elevation	Daniel Younan & Ass.	13/04/2021
DA_200_01	05	Proposed north elevation	Daniel Younan & Ass.	13/04/2021
DA_200_02	05	Proposed east elevation	Daniel Younan & Ass.	13/04/2021
DA_200_03	05	Proposed west elevation	Daniel Younan & Ass.	13/04/2021
DA_300_00	05	Section A-A	Daniel Younan & Ass.	13/04/2021
DA_300_01	05	Section B-B	Daniel Younan & Ass.	13/04/2021
DA_300_02	05	Section C-C	Daniel Younan & Ass.	13/04/2021
DA_300_03	05	Section D-D	Daniel Younan & Ass.	13/04/2021
DA_300_04	05	Section E-E	Daniel Younan & Ass.	13/04/2021
DA_400_00	05	Finishes & materials	Daniel Younan & Ass.	13/04/2021
L-01/2	B	Landscape Plan	Ray Fuggle Associates	31/01/2020
L-02/2	B	Landscape Plan	Ray Fuggle Associates	31/01/2020
DA-800-00	04	Draft Strata Sheet 1	Daniel Younan & Ass.	02/02/2020
DA-800-01	04	Draft Strata Sheet 2	Daniel Younan & Ass.	02/02/2020
DA-800-02	04	Draft Strata Sheet 3	Daniel Younan & Ass.	02/02/2020

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

External Finishes & Materials

A3. External finishes and materials must be in accordance with the submitted drawing numbered DA_400_00 Revision 05, prepared by Daniel & Younan & Associates and received by Council on 13 April 2021 unless otherwise modified by Council in writing.

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

Level 2 Vergola

A4. The vergola over the level 2 balcony in the north eastern corner of the building shall be deleted from the approved plans.

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, fully satisfy the requirements of this condition.

(Reason: Unacceptable breach of height control, bulk and scale of building, impact on views)

Privacy

C18. The following privacy devices are to be provided:

Privacy Measures	Windows/Location Details
Ensuite Windows – Obscure or frosted glazing to whole window.	W21; W38; W56
Doors/Full Height Windows – Obscure or frosted glazing to lower part to a minimum height of 1500mm above the finished floor level.	W57; W58; W63; W64
Windows – Bottom half of window to be obscure or frosted glazing or external fixed louvres directed to block overlooking of neighbour’s windows.	W22; W23; W39; W40; W61; W62
Privacy Screens – Balconies Solid balustrades and obscure or frosted glass screens to a height of 1.6m above finished floor level are to be provided to the northern edges of balconies at the nominated locations.	Balconies on the northeast corner on: Lower ground floor (upper) Ground floor Level 1 Level 2

Note: The window numbers are identified on drawing numbered DA_200_01 Revision 04 dated 15 January 2020

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 Nos. 176 and 178 Kurraba Road)

BASIX Certificate

C21. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No’s. A413062, A413063, A413065, and A413066 for the development are fulfilled.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government’s requirements for sustainability and statutory requirements)

8. LPP07: 12 Fernhurst Avenue, Cremorne (V) - DA 84/21

Applicant: Group Architects Pty Ltd

Report of Thomas Holman, Assessment Officer

This development application seeks approval for alterations and additions comprising a first floor addition to an existing detached dwelling house and is reported to North Sydney Local Planning Panel for determination because the variation sought to the building height development standard is greater than

10% which requires determination of the application by the Panel in accordance with the directions from the Secretary of Planning, Industry and Environment. The proposal is consistent with the relevant objectives of the zone providing development to serve the housing needs of the occupiers at 12 Fernhurst Avenue whilst not significantly adding to the bulk and scale of the dwelling.

The proposed works would have a height of 10.73m that fails to comply with the permissible height limit of 8.5m outlined within clause 4.3 in NSLEP 2013. The height of the first floor addition varies from the maximum height limit by 2.23m (26.24%). The written request to vary the development standard provided by the applicant is considered well founded demonstrating that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation. Assessment of the proposed addition against the objectives of the development standard Cl. 4.3 'Height of Buildings' of the North Sydney Local Environmental Plan 2013 confirmed the proposal meets the underlying objectives of the development standard most notably promoting the sharing of views, maintaining solar access and improving the privacy for residents of adjoining properties.

The proposed addition retains a compliant site coverage and has no impact on existing landscaping within the site. The proposed first floor addition form sympathetically matches the character of the existing dwelling comprising a hipped roof profile to match materials and finishes to match the existing dwelling.

The addition does not compromise the amenity of adjoining properties with sufficient setbacks to adjoining properties and the additional shadow cast predominantly falling within the subject site or streetscape. The development would not adversely restrict views from neighbouring properties only impacting on side views from a dormer window of 14 Fernhurst Avenue. The first floor addition would retain water views and views towards Middle Harbour from the dormer window of 14 Fernhurst Avenue.

Notification of the proposal has attracted no submissions. Nevertheless, the assessment has considered the potential adverse impact to neighbouring properties including privacy, overshadowing and access to views. The assessment has considered the amenity of adjoining properties against Council's planning requirements and where appropriate conditions of consent have been recommended to maintain residential amenity.

Following this assessment, the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

Recommending:

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

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority, 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. 84/21 for alterations and additions to a detached dwelling house on land at 12 Fernhurst Avenue, Cremorne subject to the attached standard conditions.

9. LPP08: 38 Cowdroy Avenue, Cammeray (T) - DA 294/20

Applicant: Troy Davis

Report of Robin Tse, Senior Assessment Officer

This development application seeks approval from the North Sydney Local Planning Panel for substantial alterations and additions to an existing detached dwelling, a new rear addition, a swimming pool and associated earthworks and landscaping works.

The proposal proposes a variation to the building height development standard which is greater than 10%, that requires determination of the application by the Panel as directed by the Minister of Planning, Industry and the Environment.

Council's notification of the proposal has attracted one (1) submission raising concerns about the likely impacts of excavation works, the need for a dilapidation survey for an adjoining property and the support for the removal of two trees.

The proposal has been assessed against the North Sydney LEP 2013 and North Sydney DCP 2013 and generally found to be satisfactory.

The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have material impacts on the overall character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and loss of privacy.

The variation to the DCP's site coverage and landscaped area controls are considered to be acceptable given that the design of the proposed single storey rear addition located away from the main dwelling together with a courtyard and roof garden above the addition would ensure the retention of an existing blackbutt tree whilst maintaining the landscape quality of the subject site with adequate landscaping and open space within the property.

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

The proposal, as amended by conditions, is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, 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 deferred commencement consent to Development Application No. 294/20 for the substantial alterations and additions to an existing detached dwelling, a new rear addition and associated earthworks/landscaping works on land at No. 38 Cowdroy Avenue, Cammeray, subject to the following site specific and attached standard conditions:-

Revised Landscape Plan

C1. The applicant shall submit a revised landscape plan, based on DA 14 Rev C and DA 15 Rev B, dated 19/05/21, prepared by IQR Design, incorporating the following:

- (a) Planting of 2 x *Banksia integrifolia* (75l) & 1 x *Angophora hispida* (45l) within the rear setback (water frontage, either level) as replacement plant for the removal of T2 (*Cedrus deodara*);
- (b) Appropriate landscaping treatments with soft landscaping must be

provided on the area under the meshed elevated driveway. This area must be free from any placement of plant and/or equipment and the western elevation must be open and not enclosed; and

- (c) Details of the locations of all plant species and a schedule of plant numbers, pot sizes and mature height of each plant specie.

The applicant must submit detailed landscape plan(s) complying with the requirements of this consent for the written approval of Team Leader Assessment in consultation with Council's Landscape Officer.

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

(Reasons: To ensure landscaping quality for the subject site and the locality)

Privacy Screen - Swimming Pool

- C2. The privacy screen on the eastern edge of the proposed swimming pool should be provided to a height of 1.8m with angled vertical timber louvres to ensure privacy protection while preserving views for the adjoining property to the east at No. 36 Cowdroy Avenue.

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

(Reason: To protect privacy and to minimise view impacts for the adjoining property)

10. LPP09: 79 Willoughby Road, Crows Nest - DA 86/21

Applicant: Jacob Tanous

Report of Hugh Shouldice, Development Assessment Officer

This development application seeks Council's approval to construct a permanent shading structure on Council's footpath. An outdoor dining area has been previously approved under DA 431/99. The premise at No. 79 Willoughby Road, Crows Nest is currently operating as a food and drink premise with approved operating hours from 7.00am – 10.00pm Monday to Sunday.

The application is reported to the North Sydney Local Planning Panel (NSLPP) because North Sydney Council is the owner of the footpath upon which the permanent shading structured is to be erected. The Ministers directions of 30 June 2020 require all such applications to be referred to the Local Planning Panel for determination.

Council's notification of the proposal has attracted nil (0) submissions.

The assessment has considered the performance of the proposal against Council's planning requirements. Following this assessment the development application is considered to be reasonable in the circumstances and is recommended for **approval**.

Recommending:

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

THAT the North Sydney Local Planning Panel, under the directions of the Minister exercise the powers as the consent authority and grant consent to Development Application No. 86/21 for the installation of a shade structure on the Council's footpath located on land also known as No. 79 Willoughby Road, Crows Nest, subject to the attached conditions.

**NORTH SYDNEY LOCAL PLANNING PANEL****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING
HELD IN THE SUPPER ROOM, COUNCIL CHAMBERS, NORTH SYDNEY,
ON WEDNESDAY 5 MAY 2021, AT 2.00PM.****PRESENT****Chair:**

Grant Christmas

Panel Members:

Jan Murrell (Panel Member)

Caroline Pidcock (Panel Member)

Kenneth Robinson (Community Representative)

Staff:

George Youhanna, A/Manager Development Services

Robyn Pearson, Team Leader Assessments

David Hoy, Team Leader Assessments

Josh Jongma, Governance Co-Ordinator (Minutes)

Apologies: Nil**1. Minutes of Previous Meeting**

The Minutes of the NSLPP Meeting of 7 April 2021 were confirmed at that meeting.

2. Declarations of Interest

There were no declarations of interest

3. Business Items

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

Panel Members inspected sites independently and have had access to Council's electronic file, including details of all written submissions, plans, site photographs and supporting documentation. This meeting was recorded for the purposes of preparing minutes in accordance with the NSW Panel Secretariat's Panel Operating Guidelines.

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

ITEM 1

DA No:	287/20
ADDRESS:	13 Eden Street, North Sydney
PROPOSAL:	To extend operating hours of ground floor tenancies G01 to G07 (inclusive) to 24 hours a day, seven days a week.
REASON FOR NSLPP REFERRAL	The application is referred to the North Sydney Local Planning Panel for determination because of the number of submissions that have been received. The notification of this proposal has attracted 18 unique submissions.
REPORT BY NAME:	Leonie Derwent, Consultant, Ingham Planning Pty Ltd
APPLICANT:	Myrtle 29 Pty Ltd

Public Submissions**5 Written Submissions**

Submitter	Applicant/Representative
Amanda Judd	James Lovell - Applicant's Town Planner

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 and the Development Application is refused.

Panel Reason

The Panel considers that the application to extend the trading hours for the commercial suites is inappropriate having regard to the close proximity of the residential apartments above and the common courtyard.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Grant Christmas	Y		Kenneth Robinson	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 2

DA No:	339/20
ADDRESS:	13 Eden Street, North Sydney
PROPOSAL:	To change of use of six (6) “business/retail” tenancies to studio apartments.
REPORT BY NAME:	Leonie Derwent, Consultant, Ingham Planning Pty Ltd
REASON FOR NSLPP REFERRAL:	The application is referred to the North Sydney Local Planning Panel for determination due to the level of public interest expressed and the total number of unique submissions that have been received objecting to the proposal.
APPLICANT:	Myrtle 29 Pty Ltd

Public Submissions**5 Written Submissions**

Submitter	Applicant/Representative
Amanda Judd	James Lovell - Applicant/Town Planner

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 not satisfied that the written request in relation to the contravention of the non-residential Floor Space Ratio development standard, in clause 4.4A of the LEP, adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request does not demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Further, the Panel considers that the proposed development will not be in the public interest because it is inconsistent with the objectives of the standard and the zone objectives.

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

Panel Reason:

The Panel considers that the proposed conversion of the suites from commercial to residential is unacceptable because of the lack of amenity and private open space for future residents of those suites.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Grant Christmas	Y		Kenneth Robinson	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 3

DA No:	40/21
ADDRESS:	1B Pine Street, Cammeray
PROPOSAL:	Construction of a two storey detached dwelling.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
REASON FOR NSLPP REFERRAL:	The application is referred to the North Sydney Local Planning Panel for determination because the application has received more than 10 submissions.
APPLICANT:	Kyoung Lim Choi

Public Submissions**No Written Submissions**

Submitter	Applicant/Representative
Vitalii Tyshchenko	Raouf Saadeh - Applicant
Linda Quinn (assisted by Alice Cook)	

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 subject to the deferred commencement conditions in the report and the following additional conditions:

- A. A dilapidation report to be prepared detailing the visible external condition of the immediately adjoining properties at 491 and 495 Miller Street and a copy is to be provided to the property owners.
- B. The removal of the 'new natural screen bambu' (sic) adjacent to the common boundary with 491 Miller Street.
- C. The proposed brick wall adjacent to the driveway of 497 Miller Street is to be reduced in height to a maximum of 1.8 metres.
- D. A design change requiring the concrete roof to be replaced with a sloping Colorbond roof.

The deferred commencement conditions requires the applicant to submit amended plans for the approval of Council's Manager Development Services before the consent can operate.

Panel Reason:

The Panel considers a deferred commencement consent is necessary in the circumstances to provide certainty and an improvement to the outcome.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Grant Christmas	Y		Kenneth Robinson	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 4

DA No:	26/21
ADDRESS:	37 Carr Street, Waverton
PROPOSAL:	Alterations and additions to the existing heritage listed dwelling including the addition of a balcony to the side dormer, infill of the indoor swimming pool and the construction of a pergola over the deck in the rear yard.
REPORT BY NAME:	Luke Donovan, Senior Assessment Officer
REASON FOR NSLPP REFERRAL:	The application is reported to the North Sydney Local Planning Panel for determination as the proposal involves demolition works to a heritage listed item.
APPLICANT:	WEN Architects

Public Submissions**No Written Submissions**

Submitter	Applicant/Representative
	Hao Yan – Wen Architects – Applicant

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.

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 does demonstrate 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.

Panel Reason:

The Panel considers that the proposed development has a minimal environmental impact and will not impact on the heritage significance of the building on the site.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Grant Christmas	Y		Kenneth Robinson	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 5

DA No:	336/20
ADDRESS:	2-4 Winslow Street, Kirribilli
PROPOSAL:	Torrens title subdivision into three separate lots, use of the existing federation style terrace buildings as semi-detached dwellings including alterations and additions, and alterations and additions to the existing office premises under existing use rights provisions.
REPORT BY NAME:	Michael Stephens, Senior Assessment Officer
REASON FOR NSLPP REFERRAL:	The application is reported to the North Sydney Local Planning Panel for determination as the proposed development results in a variation to the development standards by more than 10%
APPLICANT:	Cerno Management Pty Ltd

Public Submissions**No Written Submissions**

Submitter	Applicant/Representative
	Tony Robb – Town Planner
	Tai Ropiha - Architect
	Paul Di Cristo -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 and the minimum subdivision lot size development standard in clause 4.1 of the LEP, adequately address the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written requests demonstrate 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 standards and the zone objectives.

The Council Officer’s Report and Recommendation is endorsed by the Panel subject to:

- (i) an amendment to condition AA1 to read:

“Disabled access is to be provided from the ground floor to the lower ground floor of lot 1 commercial office premises.”

- (ii) Condition AA2 being deleted.

The Panel delegates the power to attach and impose standard conditions to the Council’s Manager Development Services.

Panel Reason:

The Panel considers that the proposed development will improve the existing development on the site and is more compatible with the surrounding existing development in the locality.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Grant Christmas	Y		Kenneth Robinson	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 6

DA No:	397/19/2
ADDRESS:	2 Folly Point, Cammeray
PROPOSAL:	Section 4.55(2) Modifications to development consent for alteration and additions to an existing dwelling house.
REPORT BY NAME:	Michael Stephens, Senior Assessment Officer
REASON FOR NSLPP REFERRAL:	The application is reported to the North Sydney Local Planning Panel for determination as the proposed amendments relate to a condition of consent added by the Panel, and the development application set out in the Schedule relate to a departure from a development standard Cl 4.3 Building Height.
APPLICANT:	Mark Solomon – Plan Urbia

Public Submissions

No Written Submissions

Submitter	Applicant/Representative
	Mark Solomon – Applicant’s Town Planner

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 considers that the proposed modification is minor and will have negligible environmental impact.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Grant Christmas	Y		Kenneth Robinson	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

PLANNING PROPOSAL

ITEM 7 (Considered after Development Applications)

PROPOSAL No:	7/20
ADDRESS:	Fiveways Triangle Site (Land bound by Pacific Highway, Falcon Street and Alexander Street, Crows Nest)
PROPOSAL:	<p>To amend North Sydney Local Environmental Plan 2013 as follows:</p> <ul style="list-style-type: none"> • Increase the maximum building height on the subject site from 16m to 75m; • Increase the minimum Non-Residential Floor Space Ratio (FSR) on the subject site from 0.5:1 to 2.5:1; and • Establish an overall maximum FSR on the subject site of 9.3:1.
REPORT BY NAME:	Katerina Papas, Strategic Planner
APPLICANT:	Deicorp Projects (Crows Nest) Pty Limited

Public Submissions

1 Written Submission

Submitter	Applicant/Representative
John Hancox - Representation from Wollstonecraft Precinct	Fouad Deiri -Deicorp – Applicant
Sue Yelland - Resident of Wollstonecraft	Stephen Kerr - City Plan – Applicant’s Planning Consultant
	Stephen Cox - Turner Architects – Applicant’s Architect

Panel Recommendation to Council:

The Planning Proposal seeks to amend NSLEP 2013 as follows:

- Increase the maximum building height control on the subject site from 16m to 75m;
- Increase the minimum Non-Residential Floor Space Ratio (FSR) control on the subject site from 0.5:1 to 2.5:1; and
- Establish an overall maximum FSR control on the subject site of 9.3:1.

The Panel recommends that the Planning Proposal not proceed in its current form and endorses the analysis and reasons provided in the Council Officer’s report.

The Panel considers that the Planning Proposal is unacceptable for the following reasons:

- a) The Panel is not persuaded that the numeric controls of the St Leonards and Crows Nest 2036 Plan (“the 2036 Plan”) can be ignored for a preference to the more general “vision, objectives and actions” in the Plan. The Planning Proposal is inconsistent with 2036 Plan, in particular the metrics relating to the number of storeys and FSR which are an integral part of the 2036 Plan that was developed after years of study, consultation and investigation.
- b) The Planning Proposal if made would create an undesirable precedent and undermine the integrity of the recently adopted 2036 Plan.

- c) The Planning Proposal is also contrary to *Direction 5.10 – Implementation of the Regional Plan* and *Direction 7.11 – Implementation of St Leonards and Crows Nest 2036 Plan* to section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979, which permits Planning Proposals to be inconsistent with the 2036 Plan but only if any inconsistencies are of minor significance.
- d) The Planning Proposal does not satisfy all the requirements under the ADG and urban design excellence has not been established with the intensity of the development proposed.
- e) The 2036 Plan is based on contributions from the uplift of all the sites, having regard to infrastructure, public domain and urban design. The consideration of planning proposals on a site by site basis undermines the integrity of the planning system.

It is noted that the applicant emphasised the public benefit of the Planning Proposal by the doubling of monetary contributions however the Panel does not consider this as justification for a height and FSR exceedance not envisaged in the 2036 Plan.

The Panel does not recommend that the Planning Proposal proceed to Gateway Determination as a site specific planning proposal given the significant processes that have occurred in finalising the 2036 Plan.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Grant Christmas	Y		Kenneth Robinson	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

The public meeting concluded at 4.05pm.

The Panel Determination session commenced at 4.15pm pm.

The Panel Determination session concluded at 6.03pm.

Endorsed by Grant Christmas
 Chair North Sydney Local Planning Panel
5 May 2021