

**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