



## NORTH SYDNEY COUNCIL

Council Chambers  
1 October 2020

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 7 October 2020 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**

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### BUSINESS

**1. Minutes**

Confirmation of Minutes of the previous Meeting held on Wednesday  
2 September 2020.  
(Circulated)

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**2. LPP01: 1 The Boulevardde Cammeray - DA 149/20**

Applicant: Cable Residences Pty Ltd

Report of Geoff Mossemeneer, Executive Planner

This development application seeks Council's approval for alterations and additions to the existing/approved residential flat building including the addition of 2 bedrooms within the roof space of the existing building, a change in roof materials from tile to colorbond metal, landscaping, bin storage area and the addition of one off- street car space accessed from a new driveway crossing at the end of North Avenue.

This application is in effect an adjunct to the approved DA.420/18 which remains in place and provides for works beyond the scope of this application.

The existing residential flat building is a prohibited use on the R2 Low Density Residential site and such the building is a non-conforming use under the North Sydney LEP 2013. The proposal enjoys the benefit of existing use rights and the subject proposal is to be assessed on a merit basis whilst having regard to SEPP 65 (Design Quality of Residential Flat Buildings), the Apartment Design Guide, and the Planning Principle identified in Fodor Investments v Hornsby Shire Council.

The application is referred to the North Sydney Local Planning Panel as it is development to which SEPP 65 applies and the proposal involves a non-compliance with a development standard (building height) exceeding 10%.

Council's notification of the proposal attracted six submissions concerning privacy, height, loss of views and parking. The original proposal was for 2 parking spaces to be provided with access from North Avenue. The applicant was advised that the provision of two car spaces would reduce the landscape area to below the minimum requirement and the unbuilt area to above the maximum requirement. Providing for one space would be much more compliant and it was noted that one space would then provide a total 6 spaces on site for 6 apartments. The applicant agreed to amend the application to only seek one car space to be accessed from North Avenue.

The proposed bedrooms exceed the 8.5m height limit specified in Clause 4.3 of the North Sydney Local Environmental Plan 2013. The applicant submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013. The applicant's submission has been considered. The applicant's Clause 4.6 is considered to be satisfactory given that the proposal would not change the overall height of the existing building.

The assessment has considered the response to concerns as well as the performance of the application against Council's planning requirements. 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 Director General of the Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 with regard to the exception to the development standard for building height and grant consent to Development Application No. 149/20, subject to the attached conditions.

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**3. LPP02: 201 Miller Street, North Sydney (W) - DA 163/20**

Applicant: Eventbright Industries Pty Ltd

Report of Hugh Shouldice, Assessment Officer

This development application seeks North Sydney Planning Panel (NSLPP) approval for four (4) building identification signs replacing the four existing “McAfee” sky signs to a heritage item at 201 Miller Street, North Sydney.

This application is reported to NSLPP for determination because the application received fifteen (15) submissions during the notification period of the application. The notification of the application has resulted in over ten (10) submissions and is, therefore, required to be determined by the North Sydney Local Planning Panel in accordance with the Minister’s directions.

The notification of the application is in accordance with the *North Sydney Community Participation Plan 2019*. At the end of the notification period, Council received fifteen (15) submissions raising particular concerns about loss of residential amenity, uncharacteristic for the area, light spillage/pollution and non-compliances with SEPP 64 - Advertising and Signage. The assessment has considered these concerns as well as the performance of the application against Council’s planning requirements.

The proposal seeks approval for four (4) building identification signs replacing the four existing “McAfee” signs to a heritage listed office building at 201 Miller Street, North Sydney (the former Sabemo Building). Currently, the “McAfee” signs are located on all four elevations of the existing building. The proposed replacement signage is to be also located on all elevations, with the highest point being 159.49m RL.

The proposed signage is not in breach of the Council’s building height control. However, Council has further requested additional information in order to accurately assess the application, which is discussed later in the report.

The design of the proposed signage is not supported as it would protrude 600mm above the rooftop plant room parapet and is of a size, colour and dimension, which would detract from the heritage significance, and architectural form of the heritage listed building. The design and form of the signage could not reasonably be modified by conditions to address those impacts.

Council requested the application be withdrawn on 10 of September 2020 due to the impacts to the heritage item and the non-compliances with the relevant sections of the North Sydney Development Control Plan 2013. The applicant has elected not to withdraw the application.

The proposed business identification signage is considered to be unsupportable due to the impacts to the heritage item, non-compliances with SEPP 64, NSLEP 2013, NSDCP 2013 and the amenity impacts of the proposed illumination to the surrounding residential units. The application is deemed unsatisfactory and 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, refuse Development Application No. 163/20 for erection of four (4) building identification signs on land at No. 201 Miller Street, North Sydney as shown on the plans below for the following reasons: -

**1. Non-compliances with SEPP 64**

*Particulars:*

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- a) The proposed signage is not compatible with the desired amenity and or the visual character of the area outlined Part 1 Clause 3, subclause (a) (i) (iii) of SEPP 64 given that the size and illumination of the proposed signage will have amenity impacts to adjoining residential units located in the adjoining B4 Mixed Use Zone.
    - i) The proposed white coloured light box upon which the logo is displayed is not of a high quality design/finish. The design is to reflect the existing ‘McAfee’ signage, which has separate lettering and is in scale with plant room wall upon which it is attached.
    - ii) The proposed building identification signage does not integrate with existing architecture of the building and does not satisfy the criteria outlined in Part 1 Clause 3, subclause (a) (i) (iii) of SEPP 64.
  - b) The proposed building identification signage does not satisfy Schedule 1 assessment criteria outlined in SEPP 64 being:
    - i) Character of an area
      - Compatible with the existing or desired future character of the area or locality.
    - ii) Streetscape, setting or landscape
      - Scale, proportion and form appropriate for the streetscape, setting or landscape.
    - iii) Site and building
      - Compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located.
    - iv) Illumination
    - v) Detract from the amenity of any residence or other form of accommodation.
- 2. Non-compliances with the NSLEP 2013**
- Particulars:*
- a) The illuminated signage is inconsistent with the objectives for the B3 Commercial Core, specifically bullet point 5, which aims to minimise the ‘adverse effects of development on resident occupiers of existing and development’.
  - b) The proposal is contrary to the objectives of NSLEP 2013 Clause 5.10 (1) (a) and (b), which aims to conserve the environmental heritage and heritage significance of heritage items including associated fabric, settings and views.
- 3. Non-compliances with the NSDCP 2013**
- Particulars:*
- a) The proposal is inconsistent with the objectives outlined in Section 9.1.1 of the North Sydney DCP 2013. The proposal signage is not appropriately positioned or sized with respect to the existing plant room wall to which the signage is attached. The proposed white coloured illuminated light box does not complement the architectural style or the colour scheme of the heritage item. The proposed illumination of the building identification signage results in amenity impacts to adjoining residential units in close proximity to the subject site.
  - b) The proposal is inconsistent with Section 9.2.4 of the North Sydney DCP 2013, the North Sydney Centre limits large business identification signage on multi storey building above the first floor level to be only
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two per building. The proposal seeks four (4) large building identification signs.

- c) The proposal is inconsistent with objective 1, Provision 3 and Provision 4 of Section 9.4 of the North Sydney DCP 2013. The proposed white coloured light box signage is large in scale is 600mm above the overrun from the existing plant room wall, where it is seeking to be attached. The proposed signage does not integrate with the architecture of the building and the materials used do not complement the heritage item. Therefore the proposal detracts from the architecture of the existing building.
- d) Section 9.6 of the North Sydney DCP 2013 specifies that no more than one large building identification sign be allowed per building. The proposal seeks four (4) large building identification signs.
- e) Section 9.9 of the North Sydney DCP is non-compliant with O1, P1, P3 and P5. The inconsistency with the objectives and provisions is due to the vertical dimensions of the sign that project above the existing plant room wall, which creates a detracting element which is at odds with the horizontal panel of the plant room.
- f) Section 9.10 of the North Sydney DCP 2013 specifies that with regards to illumination, local amenity is to be preserved. The proposed illumination of the signage will result in amenity impacts to adjoining properties and is not in the public interest.

#### **4. Amenity Impacts**

##### Particulars:

- a) The illumination of the proposed building identification signage will result in amenity impacts to residential apartments within the B4 mixed use zone.

#### **4. LPP03: 13 King Street, Waverton - DA 125/20**

Applicant: Queenie Chow

Report of Luke Donovan, Senior Assessment Officer

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to dwelling including a new level 1 addition on land at No. 13 King Street, Waverton.

The application is reported to the NSLPP for determination given more than 10 unique submissions were received against the application.

Council's notification of the original and amended application has attracted a total of thirteen (13) unique submissions raising issues in regard to built form character, overshadowing, loss of daylight, visual privacy, solar access and visual impacts.

The amended proposal is compliant with the maximum building height control in NSLEP 2013. The bulk of the proposed level 1 addition is located behind and below the new ridge which assists in minimising impacts on the public domain. The proposed level 1 addition has been appropriately designed and sited to maintain the single storey skillion roof form at the rear which assists in maintaining reasonable amenity in terms of privacy, solar access and natural daylight for surrounding properties.

A condition is recommended that no approval is granted to the proposed picket fence above the front sandstone wall to ensure greater consistency with the predominant streetscape character.

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 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, grant consent to Development Application No. 125/20 for alterations and additions to dwelling including a level 1 addition on land at 13 King Street, Waverton, subject to the following site-specific condition and the attached standard conditions of consent:

**Front Fence and Gate**

A1. No approval is granted or implied for the picket fence on top of the front sandstone wall.

A new timber picket gate to a maximum height of 900mm, above the level of the first (bottom) sandstone step (RL45.43) may be constructed at the front property boundary. The gate must not open onto Council land. The colour of the gate should be a similar colour to the balusters of the upper ground level front balcony.

(Reason: To ensure that the front boundary treatment is generally consistent with the established streetscape. A gate to a maximum height of 900mm would be generally consistent with the front gate at 9 King Street)

**5. LPP04: Unit 3, 73 Bay Road, Waverton - DA 144/20**

Applicant: Alan Connolly

Report of Luke Donovan, Senior Assessment Officer, 28 September 2020

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to a residential flat building on land at No. 73 Bay Road Waverton. The works specifically involve the creation of a habitable attic space for the exclusive benefit of Unit 3 and will comprise an additional two bedrooms and bathroom with roof storage area. The property is located within the Bay Road Conservation Area.

The application is reported to the NSLPP for determination given that the proposed works result in a variation to the height of building development standard in NSLEP 2013 of 10.59% (max).

The property benefits from existing use rights. In accordance with the decision of Commissioner Chilcott in *Made Property Group Pty Limited v North Sydney Council [2020] NSWLEC 1332*, a revised written request pursuant to Clause 4.6 in NSLEP 2013 was submitted with the amended proposal which is considered to be well founded, as it adequately addresses subclause (3) in Clause 4.6 and is considered to be in the public interest as the objectives of the development standard and R2 Low Density Residential zone are achieved notwithstanding the numerical non-compliance.

Council's notification of the application did not result in any public submissions. The amended proposal has lowered the ridge height of the proposed secondary (rear) roof form to 90mm below the ridge height of the primary roof form which assists in addressing some of the issues raised by Council's Conservation Planner. A condition is recommended further reducing the width of the side dormers by an additional 600mm and deleting skylight 2 (north eastern roof

plane) to further minimise impacts on the significance of the Bay Road Conservation Area.

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 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, exercising the functions of Council 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 Development Application No. 144/20 for alterations and additions to a residential apartment building on land at 73 Bay Road, Waverton, subject to the following site specific condition and the attached conditions:-

**Side Dormers and Skylight**

C1. Prior to the issue of a construction certificate, the plans forming part of Condition A1 must be amended as following:

- a) The width of the north eastern and south western side dormers must be reduced by a minimum of 600mm.
- b) The attic floor plan to be re-configured as a result of (a).
- c) Skylight 2 on the north eastern roof plane is to be deleted.

Plans and specifications complying with this condition must be submitted to the certifying authority prior to the issue of a construction certificate.

(Reason: To further assist in minimising any adverse impacts on the significance of the Bay Road Conservation Area)

**6. LPP05: 27 Churchill Crescent, Cammeray - DA 20/20**

Applicant: Hussein Rifai

Report of Lara Huckstepp, Executive Planner

The application seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to a dual occupancy development on land at No.27 Churchill Crescent. The additions include the addition of a rear elevated balcony, minor internal and external alterations within Unit No.1, and alterations and additions to the garage of both units 1 and 2, and associated development.

The application is reported to the NSLPP for determination, as directed by the Minister of Planning, Industry and Environment, as the proposed rear elevated balcony will result in a non-compliance with a development standard (building height) exceeding 10%.

The proposed rear elevated balcony will be set down below the height of the existing building, however due to the steeply sloping topography on the site, will result in a breach of the building height control. The applicant's Clause 4.6 request for variation is considered to satisfy the matters set out in Clause 4.6(3). The proposal is considered to satisfy the objectives underpinning the building height standard including resulting in a reasonable impact upon overshadowing, views, privacy and built form and is also considered to satisfy the objectives of the R2 low density residential zone.

The resultant development, on balance, is considered to result in development that is generally characteristic of the locality. The proposed development will continue to comply with site coverage requirements contained with the NSDCP 2013. The proposed reduction in landscaped area is considered to result in a minor non-compliance and on balance, is supported.

Notification of the proposal has attracted one submission raising particular concerns about the lack of owner's consent, building height, overshadowing and structural stability. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements. Amended plans were re-notified to adjoining properties and no further submissions were received.

It is noted that owner's consent from No.2/27 Churchill Crescent has since been provided.

Following this assessment having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended), the application 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 4.3 and grant consent to Development Application No. 20/2020 for alterations and additions to a dual occupancy development on land at 27 Churchill Crescent, Cammeray, subject to the following site specific and standard conditions:-

**No approval for balcony 2/27 Churchill Crescent**

C1. No approval is granted or implied for the lower balcony detailed as indicative on the plans at 2/27 Churchill Crescent. A future development application is required for these works. 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: To clarify that the proposed balcony plan detailed for 2/27 Churchill Crescent is indicative only and development consent is not sought under this development application)

**Separate approval for a vehicular crossing**

C2. Prior to the issue of a Construction Certificate, the applicant shall obtain a driveway crossing and roads infrastructure permit under S.138 of the Roads Act 1993 for an extension to the existing vehicular driveway to align with the revised garage location.

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 appropriate vehicular access will be provided to the altered garage structure)



**Amendment to Strata Plan**

11. Prior to the issue of an Occupation Certificate, the Strata Plan for the subject site shall be amended to reflect the approved development within this development consent.

(Reason: To provide certainty to occupants and Council)

**7. LPP06: 2 Commodore Crescent, McMahons Point (W) - DA 132/20**

Applicant: Archispectrum

Report of Kim Rothe, Senior Assessment Officer

This amended development application seeks North Sydney Local Planning Panel (NSLPP) approval for Construction of a garage, lift and enclosure of a rear balcony

The application is reported to the North Sydney Local Planning Panel (NSLPP) for determination as the proposal exhibits a breach to the statutory Clause 4.3(2) Building Height control of NSLEP 2013.

Council's notification of the proposal attracted two (2) submissions raising concerns about loss of vehicle manoeuvring, parking, materials, reflectivity, constructional impacts, and stormwater.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013.

The proposal is considered acceptable in the circumstances as the development will improve on the amenity of the existing dwelling without having material adverse impacts on adjoining properties, particularly adjoining residential properties to the south and east. The new development will not adversely impact on the streetscape or significance of the local Neighbourhood Character Area. All other issues identified in the report or raised in the submissions have been found to be either acceptable or able to be managed via the imposition of conditions of development consent.

This assessment, having regard to the provisions of Section 4.15 of the *Environmental Planning & Assessment Act, 1979* (as amended), this report has considered the concerns raised in the submissions as well as the performance of the application against Council's planning requirements. Following this assessment, the development application is supportable in the circumstances and is recommended for approval, subject to the attached as recommended conditions of development.

**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, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 with regard to the exception to the development standard for Building Height, resolve to approve consent to Development Application No. 132/20 for construction of a garage and a lift and enclosure of a rear balcony, on land at 2 Commodore Crescent, McMahons Point, subject to the following site specific conditions and the attached standard conditions of development consent.

**Use of Rear Garage**

A2. The existing garage in the north western corner of the site is not to be used for parking and is to remain a detached outbuilding only.

(Reason: To clarify the terms of the consent)

### **Sydney Trains Requirements**

A3. Details demonstrating compliance with the following requirements of Sydney Trains are to be submitted to the Principal Certifying Authority with the application for a Construction Certificate:

1. The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
2. Prior to the issue of a Construction Certificate the Applicant is to provide structural details that the concrete slab or footings will be protected by a vapour barrier membrane. A copy of this detail is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
3. No work is permitted within the rail corridor, or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

(Reason: To ensure the requirements of Sydney Rail are met for development adjacent to a rail corridor)

## **8. LPP07: 12 Waters Road, Neutral Bay (T) - DA 104/20**

Applicant: CE Waters Pty Ltd

Report of Robin Tse, Senior Assessment Officer

This development application seeks approval from the North Sydney Local Planning Panel (NSLPP) for redevelopment of the subject properties to provide a new five storey mixed use/shop top housing development containing three (3) commercial/retail tenancies and sixteen (16) apartments on the upper levels with a roof top communal area and a part three/four level basement with a retail/commercial tenancy, plant areas and car parking for 25 cars.

The proposal is subject to SEPP 65 and 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 original proposal for a six storey mixed use building has attracted a total of seven (7) submissions raising particular concerns about the non-complying building height, adverse traffic impacts, overshadowing of adjoining properties, adverse privacy impacts, impacts associated with construction and excavation works. The applicant amended the proposal with the deletion of one residential level to provide a five (5) storey mixed use building. The notification of the amended proposal has attracted one submission from a previous submitter raising issues similar to those raised in the original submission.

The development application has been assessed against the North Sydney LEP 2013 and North Sydney DCP 2013, SEPP 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide and found to be generally satisfactory.

This report has considered a written request submitted by the applicant seeking a variation to Clause 4.3 in North Sydney LEP concerned with the height of buildings pursuant to Clause 4.6 of the LEP. It is considered that the variation to the building height development standard could be supported because the building elements in breach of the LEP building height development standard, comprising the predominantly the roof, the rooftop communal areas, the lift overrun and roof access provision, and the would not cause material impacts on the amenity of the adjoining properties nor the character of the locality.

The applicant has also amended the design to address the comments raised by the Design Excellence Panel that were found to be satisfactory.

The issues raised in the submissions received have 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, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 in relation to maximum building height limit and grant consent to Development Application No. 104/20 on land at No. 12 Waters Road, Cremorne, subject to the following site specific and standard conditions:-

**Geotechnical Report**

- C1. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared, with reference to Basement Excavation and Retention Methodology, dated 20 August 2020 and prepared by Stantec Australia Pty Ltd, which addresses at a minimum (but is not limited to) the following:-
- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
  - b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
  - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
  - d) The existing groundwater levels in relation to the basement structure, where influenced;
  - e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential

for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and

- f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimized or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) An adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

#### **Compliance with Acoustic Report**

C2. The recommendations contained in the acoustic report for the proposed development, dated 28 September 2020 and prepared by Renzo Tonin, must be implemented during construction and use of the development.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To maintain an appropriate level of amenity for the subject shop top housing development and the adjoining land uses)

#### **Internal Traffic Signal system**

C16. An internal traffic signal system must be installed for safe entry and exit of vehicles using the access ramp. The internal traffic signal system, including the waiting bay with line marking and appropriate signage, must be designed by a suitably qualified consultant, with the design to be submitted for the written approval of Council's Traffic and Transport Engineer prior to the issue of the Construction Certificate.

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

(Reason: To provide an internal traffic signal system and traffic safety.)

#### **Street Lighting Upgrades**

C17. The developer shall bear the cost of the required street lighting upgrades along Waters Road and Waters Lane in front of the subject site to the appropriate Australian Standards to the satisfaction of Council.

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

(Reason: To ensure sufficient street lighting, traffic and pedestrian safety.)

#### **Rooftop Communal Area**

I1. The rooftop communal area, the communal room and associated facilities must only be used by the residents and their guests of the approved development.

The operating hours of the rooftop communal facilities shall be as follows:

Sunday to Thursday: 7.00am to 10.00pm.

Friday to Saturday: 7.00am to 11.00pm.

A sign showing the above operating hours must be installed at a highly visible location within the communal area.

The above operating hours must be incorporated in the by-law of any strata plan for the approved development.  
(Reason: To restrict the use of the facilities and amenity protection)

**9. LPP08: 398 - 400 Military Road (AKA 93 Parraween Street), Cremorne (T) - DA 408/17/2**

Applicant: Mecone Pty Ltd c/o Mijollo

Report of Robin Tse, Senior Assessment Officer

This Section 4.55(2) application seeks approval from the North Sydney Local Planning Panel for modifications to the approved five storey mixed use/shop top housing development at Nos.398-400 Military Road (aka No. 93 Parraween Street) to provide an extension to the communal roof terrace.

The proposed Section 4.55(2) modifications involve a variation to the LEP maximum building height development standard, which requires determination of the application by the Panel as directed by the Director of Planning, Industry and Environment.

Council's notification of the proposal has attracted no submissions.

The proposed modifications satisfy the provisions of Section 4.55 in that the proposed development is substantially the same as what was approved under DA 408/17 as the proposed modifications to the communal roof top terrace, including the unauthorised low hob walls, will not significantly alter the bulk/scale nor the built form of the mixed use development as originally approved.

The proposed modifications would not result in significant changes in terms of height, bulk/scale and the form of the approved development subject to the imposition of appropriate conditions requiring further setback for the proposed planter adjacent to the common property within the adjoining mixed use building at No. 2 Langley Place.

The non-compliance with the LEP maximum building height is considered to be acceptable as there would be no material changes to the overall design and form of the approved mixed use building and the impacts on the amenity of the adjoining properties are considered to be acceptable subject to the imposition of appropriate conditions.

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 Planning Panel exercising the functions of Council approve the modification to development consent D408/17 dated 2 May 2018 in respect of a proposal to extend the communal roof top terrace at Nos. 398-400 Military Road (aka No. 93 Parraween Street), Cremorne under the provisions of Section 4.55 of the Environmental Planning and Assessment Act only insofar as will provide for the following:-

**1. To modify the development consent (D408/17) and modify conditions A1, G13 and G16 to read as follows:**

**Development in Accordance with Plans (S4.55 Amendments)**

A1. The development being carried out in accordance with the following drawings:

Dwg No.	Issue	Date	Drawn By	Received
A201	D	15 Mar 18	Mijollo International	4 Apr 18
A202	D	15 Mar 18	Mijollo International	4 Apr 18
A203	D	15 Mar 18	Mijollo International	4 Apr 18
A301	D	15 Mar 18	Mijollo International	4 Apr 18
A302	D	15 Mar 18	Mijollo International	4 Apr 18
A401	D	15 Mar 18	Mijollo International	4 Apr 18
LPDA 18-120 P.1	C	4 Apr 18	Conzept Landscape Architects	4 Apr 18
LPDA 18-120 P.2	C	4 Apr 18	Conzept Landscape Architects	4 Apr 18

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D408/17/2:

Dwg No.	Issue	Date	Drawn By	Received
A203	G	18 Aug 20	Mijollo International	18 Aug 20
A204	F	28 Apr 20	Mijollo International	18 Aug 20
A301	F	28 Apr 20	Mijollo International	18 Aug 20
A302	F	28 Apr 20	Mijollo International	18 Aug 20
A401	F	28 Apr 20	Mijollo International	18 Aug 20

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

### Landscaping

G13. The landscaping shown in the approved landscape plan numbered LPDA 18-120 P.1 Issue C and LPDA 18-120 P.2 Issue C, dated 4 April 2018, prepared by Conzept Landscape Architects and the revised landscape plan as required by Condition C45 of this consent must be implemented prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

### Compliance with Certain conditions

G16. Prior to the issue of any Occupation Certificate, Conditions C1, C2, C3, C45 and C46 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

### 2. To insert new conditions A3, C45 and C46 to read as follows:

#### Terms of Consent (D408/17/2)

A3. Approval is granted for the following modifications only:

- (a) Modifications to the layout for the southern side of the roof top level for an extension to the communal roof top terrace;
- (b) Reconfiguration of the roof plant area and the solar panels, including the low hob walls already constructed within the roof terrace extension;
- (c) Construction of new planter boxes along the south-western edge of the proposed roof terrace extension;
- (d) Construction of new planter boxes on the north-eastern side of the proposed roof terrace extension in accordance with Condition C46 of this consent; and
- (e) Installation of glass balustrade along the southern edge of the proposed roof terrace extension.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear)

**Revised Landscape Plan**

C45. The applicant shall submit revised landscape plan, based on the approved landscape plan numbered LPDA 18-120 P.1 Issue C and LPDA 18-120 P.2 Issue C, dated 4 April 2018, prepared by Conzept Landscape Architects, incorporating details of planting for the new planters on the roof terrace extension including plant species, plant numbers and pot size. The mature height of plant species for the new planters shall not exceed 1 metre.

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

(Reason: To ensure a desirable landscaping outcomes)

**Modifications to Planters**

C46. The north-eastern edge of the proposed planter on the eastern side of the roof terrace extension must provide a 1.5m setback from the north-eastern property boundary to minimise visual bulk of the common north-eastern boundary wall and to provide amenity protection for the adjoining property.

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

(Reason: To minimise visual bulk and amenity protection for the adjoining property)

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**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 2 SEPTEMBER 2020, AT 2.00PM.****PRESENT****Chair:**

Jason Perica

**Panel Members:**

Jan Murrell, Panel Member

Caroline Pidcock, Panel Member

Virginia Waller, Community Representative

**Staff:**

Stephen Beattie, Manager Development Services

**Administrative Support**

Melissa Dunlop, Governance Co-ordinator (Minutes)

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

The Minutes of the NSLPP Meeting of 5 August 2020 were confirmed following that meeting.

**2. Declarations of Interest**

Caroline Pidcock declared a non-pecuniary/less than significant interest in relation to Item 2, 173 West Street, Crows Nest as a submitter was a distant relative. Ms Pidcock did not participate in discussion or the determination of this Item.

**3. Business Items**

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

*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**

<b>DA No:</b>	<b>382/18/3</b>
<b>ADDRESS:</b>	<b>12 Premier Street, Neutral Bay</b>
<b>PROPOSAL:</b>	<b>Section 4.55 modification – Partial demolition, alterations and additions to an existing semi-detached dwelling.</b>
<b>REASON FOR NSLPP REFERRAL</b>	<b>S4.55 (2) relates to a development consent granted by the Panel which affects conditions imposed by the Panel and included a variation to a development standard.</b>
<b>REPORT BY NAME:</b>	<b>Michael Stephens, Assessment Officer</b>
<b>APPLICANT:</b>	<b>Stuart Bryson</b>

**Public Submissions**

No public submissions received.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Stuart Bryson

**Panel Determination**

The Panel members have undertaken independent site inspections as deemed necessary prior to the meeting and have noted the submissions received. The Panel also received an Addendum dated 2 September 2020 from Council staff clarifying an aspect of the proposal related to window treatment.

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

**Panel Reason:**

The Panel considered the proposal was substantially the same development as approved. The proposed changes are relatively minor, improve the functionality of the dwelling and in part respond to the changing surrounding built environment. Impacts from the proposed changes were deemed to be minor and acceptable, and where they exist are reasonably managed and mitigated by the recommended and existing conditions of consent.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jason Perica	<b>Y</b>		Virginia Waller	<b>Y</b>	
Jan Murrell	<b>Y</b>				
Caroline Pidcock	<b>Y</b>				

**ITEM 2**

<b>DA No:</b>	<b>270/19</b>
<b>ADDRESS:</b>	<b>173 West Street, Crows Nest</b>
<b>PROPOSAL:</b>	<b>Construction of a Boarding House.</b>
<b>REPORT BY NAME:</b>	<b>Lara Huckstepp, Executive Planner</b>
<b>REASON FOR NSLPP REFERRAL:</b>	<b>Motorcycle non-compliance greater than 10%.</b>
<b>APPLICANT:</b>	<b>Woodhouse &amp; Danks Pty Ltd</b>

**Public Submissions**

No public submissions received.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Stephen Fayle, Applicant
	Bruce Cuttance, Applicant

Caroline Pidcock declared a non-pecuniary/less than significant interest in this Item and did not participate in discussion or the determination of this Item.

**Panel Determination**

The Panel members have undertaken independent site inspections as deemed necessary prior to the meeting and have noted the submissions received.

The Council Officer's Report, Recommendation and Addendum for approval is endorsed by the Panel subject to Condition 19 being amended to require the management of the boarding house by a social housing provider to a minimum of 10 years from the issue of an Occupation Certificate.

**Panel Reason:**

The Panel noted the proposed boarding house is intended to be managed by a social housing provider (Link Housing). This was proposed by the Applicant to justify the shortfall of car parking. This will also assist in the provision and management of low to medium cost rental housing in the Local Government Area. The provisions of the SEPP (Affordable Rental Housing) 2009 allow and encourage affordable housing developments to be managed by such providers for a period of 10 years.

The Panel had regard to the Applicant's written request to contravene the motorcycle parking development standard within SEPP (Affordable Rental Housing) 2009 and formed the view that the written request satisfactorily addresses the requisite matters in Clause 4.6(3) of North Sydney LEP 2013. The Panel was satisfied that the proposal was consistent with the objectives underpinning the standard and the objectives of the zone and that granting consent would be in the public interest. The Panel also notes that the proposed bicycle parking exceeds the requirements of Council's Development Control Plan.

The use is permissible in the zone and the site is suitable for the development. The proposed boarding house adjoins a recently approved and constructed boarding house. The form and scale of the proposed building is compatible with this and the surrounding area.

The proposal, except for parking, complies with key development standards and controls regulating the siting, design and scale of the boarding house.

The Panel considered submissions raised and agreed with the conclusions within the Council Officer's report. The issues raised were not of such significance to warrant refusal of the application. Impacts from the proposal were deemed to be acceptable, and environmental impacts are reasonably managed and mitigated by the recommended conditions of consent, including the Plan of Management.

During the public meeting, while the Applicant expressed support for the recommendation of approval, it was then clarified that concern was held with a condition of consent requiring the boarding house to be managed by a social housing provider in perpetuity. Given the governing SEPP only requires affordable housing to be managed by a community housing provider for 10 years, it was deemed reasonable by the Panel that this timeframe be applied to the management by a social housing provider in this instance.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jason Perica	<b>Y</b>		Virginia Waller	<b>Y</b>	
Jan Murrell	<b>Y</b>				
Caroline Pidcock	<b>DoI</b>				

### **ITEM 3**

<b>DA No:</b>	<b>41/20</b>
<b>ADDRESS:</b>	<b>10 Oak Street, North Sydney</b>
<b>PROPOSAL:</b>	<b>Alterations and additions to a heritage listed semi-detached dwelling including a rear two storey addition.</b>
<b>REASON FOR NSLPP REFERRAL</b>	<b>The proposal involves demolition work to a local heritage item.</b>
<b>REPORT BY NAME:</b>	<b>Luke Donovan, Senior Assessment Officer</b>
<b>APPLICANT:</b>	<b>Cameron Gillies</b>

### **Public Submissions**

No public submissions received.

<b>Submitter</b>	<b>Applicant/Representative</b>
Linda Heiler	Simon Rosewell, Architect
	Luisa Alessi, Heritage Consultant
	Cameron Gillies, Owner

### **Panel Determination**

The Panel members have undertaken independent site inspections prior to the meeting and have noted the submissions received.

The Council Officer's Report, Recommendation and Addendum for refusal is endorsed by the Panel.

Panel Reason:

The Panel adopts the reasons in the Council Officer's report. While the Panel is conscious of the imposing surrounding buildings and need to create reasonable internal amenity, the proposal nonetheless represents an overdevelopment of the site (also noting site coverage and landscape area non-compliances), with an inappropriate siting and scale relationship between the new rear addition and the existing dwelling. As the dwelling is part of a group, the rear addition should either follow a pre-existing pattern or set an appropriate and desirable precedent for new rear additions. The proposal does neither.

As outlined in the Council Officer's report and implicit in the above, there may be alternatives for a rear addition that may be suitable for the site. There were late plans lodged by the applicant but there was insufficient time for either Council or the Panel to assess the plans, and from a cursory review, it did not appear the changes addressed fundamental concerns.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jason Perica	Y		Virginia Waller	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

**ITEM 4**

<b>DA No:</b>	<b>157/20</b>
<b>ADDRESS:</b>	<b>49 Carter Street, Cammeray</b>
<b>PROPOSAL:</b>	<b>Alterations and additions to an existing dwelling house including excavation within the basement level, construction of a front terrace and enclosure of a roof balcony.</b>
<b>REPORT BY NAME:</b>	<b>Michael Stephens, Assessment Officer</b>
<b>REASON FOR NSLPP REFERRAL:</b>	<b>Development results in a variation to the height of buildings development standard by 10%.</b>
<b>APPLICANT:</b>	<b>Thomas Wing-Evans</b>

**Public Submissions**

No public submissions received.

**Panel Determination**

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

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

Panel Reason:

The Panel considered the proposal was substantially the same development as approved. The proposed changes are relatively minor and will provide some improvement to the amenity of the existing dwelling and the streetscape, including the landscaping component to the front terrace. Impacts from the proposed changes were deemed to be minor and acceptable, and where impacts exist, they are reasonably managed and mitigated by the recommended and existing conditions of consent.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jason Perica	Y		Virginia Waller	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

**ITEM 5**

<b>DA No:</b>	<b>112/01/14</b>
<b>ADDRESS:</b>	<b>61 Lavender Street, Milsons Point</b>
<b>PROPOSAL:</b>	<b>Modification of consent for mixed use development</b>
<b>REPORT BY NAME:</b>	<b>George Youhanna, Executive Planner</b>
<b>REASON FOR NSLPP REFERRAL:</b>	<b>More than 10 unique submissions</b>
<b>APPLICANT:</b>	<b>Aqualand North Sydney Lavender Development Pty Ltd</b>

**Public Submissions**

No public submissions received.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Sandra Robinson, Urban Planning
	Tony Amidharmo, Applicant

**Panel Determination**

The Panel members have undertaken independent site inspections prior to the meeting and have noted the submissions received.

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

Panel Reason:

The Panel has considered the submissions received and is satisfied the modifications are relatively minor and will not unreasonably impact on adjoining properties or the built form of the subject development.

Where impacts exist, they are reasonably managed and mitigated by the recommended and existing conditions of consent.

Jason Perica expressed some concerns regarding the test of “substantially the same development” in relation to the original 2001 DA approval. However, it was clear the current proposal is substantially the same development as the currently approved development and the subject modifications marginally reduces the extent of difference to the original 2001 development consent. The matter is further complicated by the substantial passing of time, previous modification approvals and changes to the governing legislation. Despite his expressed concerns and some doubt, Jason Perica was willing to support approval.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jason Perica	<b>Y</b>		Virginia Waller	<b>Y</b>	
Jan Murrell	<b>Y</b>				
Caroline Pidcock	<b>Y</b>				

The public meeting concluded at 2.55pm.

The Panel Determination session commenced at 3.05pm.

The Panel Determination session concluded at 4.05pm.

Endorsed by Jason Perica  
 Chair North Sydney Local Planning Panel  
 2 September 2020