



## NORTH SYDNEY COUNCIL

Council Chambers  
25 February 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 3 March 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 3 February 2021.  
(Circulated)

---

---

**2. LPP01: 19 Bennett Street, Cremorne (V) – DA 324/20**

Applicant: Weir Phillips Architects

Report of Andrew Beveridge, Graduate Assessment Officer, 19 February 2021

This development application seeks approval of a tennis pavilion, tree removal and associated landscaping works at 19 Bennett Street, Cremorne

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

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

The application was notified to adjoining properties and the Bennett Precinct Committee. Council received seventeen (17) submissions raising concerns about uncharacteristic development to a heritage item, adverse privacy impacts, view loss, and the loss of significant trees arising from the proposal. The assessment report has considered the above concerns as well as the performance of the application against Council's planning requirements.

The proposed tennis pavilion is considered to be sympathetic to the character of 'Ingleneuk', the existing heritage dwelling constructed in 1903, and the character of the Cremorne Conservation Area within the South Cremorne Planning Area, subject to the imposition of appropriate conditions.

The loss of several mature site trees has also been assessed by Council's Landscape Development Officer, and it is considered to be acceptable on the basis that the overall landscaped amenity of the site will be improved, and the amenity of adjoining properties will be enhanced through improved views and greater overall privacy for residents and neighbours through the addition of a permanent evergreen planting scheme along the eastern boundary.

Therefore, the proposal would not cause significant amenity impacts in terms of overshadowing, view loss and the loss of privacy, subject to the imposition of appropriate conditions regarding replacement trees and boundary planting.

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

**Recommending:**

PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (As Amended)

**THAT** the North Sydney Local Planning Panel, exercising the function of Council as required by the Minister for Planning, **grant development consent** to Development Application No. 324/2020 for the construction of a tennis pavilion, associated landscaping, and tree removal, at 19 Bennett Street, Cremorne, subject to the attached conditions.

**3. LPP02: 61 Lavender Street, Milsons Point – DA 317/20**

Applicant: Robinson Urban Planning Pty Ltd

Report of Thomas Holman, Assessment Officer, 12 February 2021

This development application seeks approval for the first use of two premises for the purposes of a food and drink premises and retail premises being forms of commercial premises which are permissible in the B4 Mixed Use Zoning.

---

The application is reported to North Sydney Local Planning Panel for determination as the application has attracted more than 10 submissions by way of objection, which requires determination by the Panel in accordance with the directions from the Secretary of Planning, Industry and Environment.

Notification of the proposal has attracted twenty four submissions (21 opposed and 3 in support or neutral) raising particular concerns about the proposed operating hours of the restaurant, the potential noise, odours, waste and traffic generated from the first use of the tenancies and the overall impact to the residential amenity of nearby residents.

The assessment has considered the submissions as well as the performance of the application against Council's planning requirements.

The potential adverse acoustic impact to surrounding residents from the operation including trading hours of the restaurant and bakery is assessed in the respective acoustic reports and subject to management of the premises and compliance with mitigation measures outlined in the respective acoustic reports the tenancies are able to maintain an appropriate level of acoustic amenity to neighbouring residents.

Appropriate conditions of consent are recommended to ensure trading of tenancies maintain an appropriate level of acoustic amenity and odour control in accordance with industry best practice in order to protect adjacent residential amenity to neighbouring residents.

The proposed use of the ground floor tenancies as a restaurant and bakery are considered to be appropriate uses which activate the streetscape. The proposed use of the ground floor tenancies combined with associated external works, outdoor dining, and signage supports the objective for the B4 Mixed Use Zone to achieve interesting and vibrant mixed use centres.

The proposed restaurant and bakery are a compatible land use serving the immediate residential locality and sited in an accessible location with alternative forms of transport available in the area. Subject to compliance with the requirements of the submitted acoustic reports, Plan of Management and conditions of consent the proposed uses would uphold the ongoing surrounding residential amenity in accordance with objectives of the B4 Mixed Use Zone.

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 grant consent to Development Application No. 317/20 for fit out and first use of two commercial tenancies as a restaurant and bakery on land at 61 Lavender Street, Milsons Point subject to the attached conditions.-

**4. LPP03: 1-11 Rodborough Avenue, Crows Nest (W) - DA 232/20**

Applicant: Platform Project Services

Report of Michael Stephens, Senior Assessment Officer, 23 February 2021

This development application seeks approval for demolition of all structures and construction of a part four, part five-storey residential flat building containing

35 units above two levels of basement parking for 53 vehicles and associated works at 1-11 Rodborough Avenue, Crows Nest.

The application is reported to 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% and attracted more than 10 submission by way of objection. In accordance with the Ministers direction of 1 August 2020 a public meeting determination of this matter is required because there were more than 10 Submissions.

The proposed development breaches the maximum permitted building height of 12m by up to 2.2m, equating to a variation of 18.5%. The first storey of the building predominantly breaches the development standard. The proposed variation results in a built form, massing and scale that exceeds the desired future character of the area and results in adverse impacts on the amenity of the surrounding properties given the additional overshadowing and overlooking that would be created.

The subject site has a major stormwater pipeline traversing the southern side of the site which Sydney Water has provided conditional consent to relocate the asset outside of the building footprint. An overland flow path has been established above the asset and a free board level above the 1% AEP flood level is provided for all building entries.

The proposed development fails to comply with key design requirements in the Apartment Design Guide as an insufficient proportion of apartments are naturally cross ventilated or do not receive adequate solar access.

The Design Excellence Panel did not support the amended application, raising particular concerns regarding the height variation, compliance with Apartment Design Guide design requirements, the driveway arrangement, the balcony design and its relationship with the interiors, and adverse amenity impacts.

The proposed driveway is located within the northern side setback and provides a poor site planning outcome resulting in a numerical shortfall of landscaped area contrary to Council's DCP.

Notification of the proposal has attracted 12 submissions raising particular concerns regarding the proposed height variation, amenity impacts, tree removal, construction impacts and traffic congestion. A number of these concerns remain valid having regard to the amended scheme. Approval of the proposed development is not considered to be in the public interest.

On balance, following the assessment of the amended application, the proposed development still fails to comply with key planning controls and results in adverse impacts on the desired character of the area and the amenity of both the proposed apartments and the surrounding properties, and is therefore 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 function of the Council as the consent authority in accordance with the Directions of the Ministers dated 30 June 2020, refuse Development Application No. 232/2020 for the following reasons:

- 1) The proposed development does not achieve the objectives of the R4 High Density Residential zone.**

Particulars

- a) The proposed built form exceeds the height and scale of development

envisaged by the relevant planning controls and would be inconsistent with the desired character of the area.

- b) The proposed development would not achieve a reasonably high level of residential amenity given that there are an insufficient proportion of apartments that are naturally cross ventilated and received adequate solar access.
  - c) The proposed development would not maintain a reasonably high level of residential amenity for surrounding properties given the unreasonable overshadowing and privacy impacts arising from the non-compliance building height.
- 2) **The proposed development does not comply with the maximum permitted height of buildings pursuant to clause 4.3 of NSLEP 2013.**  
Particulars
- a) The portion of the building that does not comply with the height control results in a loss of amenity to surrounding developments including additional overlooking and overshadowing.
  - b) The height and scale of the development exceeds that of the surrounding development.
  - c) The written request to justify the contravention has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary, or that there are sufficient environmental planning grounds to justify the variation.
- 3) **The proposed development does not comply with key amenity controls outlined in the Apartment Design Guide.**  
Particulars
- a) Only 20 of the 35 (57%) apartments receive sufficient solar access which fails to comply with the 60% minimum design requirement in 4-A of the Apartment Design Guide.
  - b) Only 17 of the 35 (48%) apartments are considered to be naturally cross ventilated which fails to comply with the 70% minimum design requirement in 4-B of the Apartment Design Guide.
- 4) **The proposed development does not provide the minimum landscaped area as required by NSDCP 2013.**  
Particulars
- a) Landscaping above the basement does not meet the definition of landscaped area in section 1.5.7 of Part B in NSDCP 2013 which results in a non-compliance with the minimum landscaped area provision of 40% by 9.7%.
  - b) Consequently, the unbuilt upon area exceeds the maximum permitted provision of 15% by 9.7%.
  - c) The proposed replacement tree planting is insufficient to re-establish the landscape character and tree canopy to be lost as a result of the development.
- 5) **The location of the proposed driveway is inappropriate and raises a number of other planning issues.**  
Particulars
- a) Given the scale of the development, the driveway should be located within the building form to minimise the unbuilt-upon area with setbacks,
  - b) The proposed development doesn't not comply with the minimum required landscaped area which could be resolved by locating the

- basement entry within the building footprint.
- c) The driveway location results in increased acoustic impacts to dwellings within the development and the adjoining dwellings to the east.
  - d) The proposed driveway requires extensive excavation along the northern side boundary.
  - e) No landscape buffer is accommodated between the proposed apartments and the driveway or the driveway and the adjoining boundary shared with the school.
  - f) The location of the driveway provides a poor streetscape outcome that is dominated by the driveway and limits landscaping within the northern side setback to screen the development when viewed from the school.
  - g) The location of the driveway compromises the use of the northern side setback for communal open space, being the primary location where reasonable solar access is available.
- 6) **The form, massing and scale of the proposed development is unsatisfactory.**  
Particular
- a) An additional setback has not been provided for the upper most level to comply with P8 in section 1.4.7 of Part B in NDSCP 2013.
- 7) **The proposed waste collection facilities do not comply with Council's waste collection requirements.**  
Particulars
- a) The street side waste collection bay has been removed on the amended plans. Council's waste collection vehicles will not enter private land. A temporary holding bay is to be provided within 2m of the front boundary of the site.
- 8) **The proposed on-street parking amendments are not acceptable**  
Particulars
- a) Turning paths of service vehicle to demonstrate safe and smooth access to the loading bay without any impacts on the on-street parking spaces be provided.
  - b) Proposed "No Parking" and "Loading Zone" to be removed from proposal and be converted to "2P, 8.30am – 10pm (Monday – Friday) Permit Holder Excepted."
  - c) The submitted existing and proposed parking restriction diagram shows a 7m long No Parking restriction which is longer than the 7.89m long driveway.
- 9) **The recommendations of the submitted 1% AEP Flood Investigation have not been incorporated on the amended plans.**  
Particulars
- a) Sydney Water has provided only conditional approval, subject to the proposed electrical substation being relocated to avoid conflicting with stormwater pipeline traversing the southern side of the site.
  - b) The proposed substation and surrounding acoustic wall would adversely impact the overland flow corridor provided through the southern side setback of the building and may resulting in increase flooding levels to the surrounding land.
  - c) The proposed boundary fencing along the southern and eastern sides should be open style fencing.
  - d) There are some isolated increases to the flood levels within the southern side setback. No details have been provided as to the landscaping
-

modifications to resolve the potential impact to surrounding properties.

**10) Front Fence**

Particular

- a) The height of the front boundary fencing is excessive in places and should be stepped to ensure that the masonry portion does not result in a harsh blank wall as viewed from the Street.

**11) Insufficient information has been submitted to approve the application.**

Particulars

- a) Sydney Water has provided only conditional approval, subject to the proposed electrical substation being relocated to avoid conflicting with stormwater pipeline traversing the southern side of the site.
- b) The roof top plant equipment referenced in the submitted acoustic report has not been detailed on the submitted plans.
- c) An amended BASIX Certificate has not been provided.

**5. LPP04: 229 and 231 Miller Street, North Sydney - DA 5/21**

Applicant: Platino Properties

Report of Hugh Shouldice, Development Assessment Officer - 15 February 2021

This development application seeks NSLPP approval for three (3) business identification signs at 229 Miller and 231 Miller Street, North Sydney.

This application is reported to North Sydney Local Planning Panel for determination because the application received twelve (12) 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 Independent Planning Panel in accordance with the Ministers 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 **twelve (12)** 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 three (3) business identification signs. Two (2) of the business identifications signs are located on the ground floor and are to be illuminated. The proposed non-illuminated Sign 1 is located on the northern elevation on level 18 above the 130m height limit at No.231 Miller Street, North Sydney. Council requested a Clause 4.6 written variation to the breach to the building height standard. 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 proposed Sign 1 is not supported as the applicant's Clause 4.6 variation statement is considered not to be well-founded, and has not provided sufficient environmental planning grounds to justify a breach of the development standard. In addition, the proposed Sign 1 has been considered to not to be in the public interest, as it is inconsistent with the objectives of the building height development standard and the objectives for the B4 Mixed Use Zone. Even if the Clause 4.6 variation statement was acceptable the proposal, on a whole would remain unacceptable.

The design of the proposed ground floor signage (Sign 2 and Sign 3) is supported as it would identify the commercial tenancy on the ground floor at No. 229 Miller Street as well as being similar to the existing signage in size, colour and dimensions. The design, form and illumination impacts of the proposed signage can be reasonably modified by conditions to address amenity impacts and is consistent with what is reasonable expected in a mixed use zone. The application is deemed satisfactory 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, grant consent to Development Application No. 5/21 for the three (3) new signs on land at No. 229 and 231 Miller Street, North Sydney as shown on the plans and subject to the following site specific conditions and attached standard conditions: -

**Delete Sign 1**

C1. The Proposed Sign 1 is to be deleted from the proposal. No consent is granted for the erection of Sign 1.

(Reason: Inconsistent with the desire character of the B4 Mixed Use zone and non-compliant with the building height control specified in Clause 4.3 of the NSLEP 2013).

**Hours of Illumination**

I1. All illuminated signs approved by this consent must cease illumination between the hours of 9.00 pm and 7.00 am daily.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

**Signage Illumination Intensity**

I2. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:

(a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.

(b) The level of illumination and/or lighting intensity used to illuminate the signage must not cause excessive light spill or nuisance to any nearby residential premises.

(c) The signage illumination must not flash.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

**6. LPP05: 4 Holt Street, McMahons Point (V) – DA 302/20**

Applicant: O<sub>2</sub> Architecture Pty Ltd

Report of Kim Rothe, Senior Assessment Officer, 23 February 2021

This development application seeks North Sydney Local Planning Panel (NSLPP) approval for partial demolition and substantial alterations and additions to an existing industrial building currently occupied by a commercial offices and the proposed additions principally comprising an additional two levels to the existing single storey building



The application is reported to NSLPP for determination due to the level of breach proposed to Clause 4.3(2) Building Height control of NSLEP 2013 with exceeds 10% variation and the level of public interest expressed, with greater than 10 unique submissions being received objecting to the application.

Council's notification of the proposal attracted **Eleven (11) submissions** raising particular concerns about height, bulk, scale and character, amenity, overshadowing, privacy, and car parking availability.

The proposed additions to the building exceed the 8.5 m maximum height limit applicable to the site as set out under Clause 4.3 Building Height of NSLEP 2013. The applicants Clause 4.6 written request for variation is considered to be well founded and the height variation to the maximum height standard is assessed as acceptable on the basis, the perceived bulk and scale of the additions will be commensurate with the adjoining three storey building to the immediate east of the subject site.

The proposed height, bulk and scale of the additions is considered to be sufficiently in keeping with the established character of the *Union, Bank and Thomas Street, Conservation Area* of the immediate locality in Holt Street.

A detailed view assessment has been completed and it is agreed that impacts to views are acceptable in the circumstances. A height compliant proposal would not provide for provide further material improvements to any potential adverse impact particularly with regard to view impacts.

The assessment of the proposal has considered the concerns raised in the submissions as well as the performance of the application against Council's planning requirements. 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**. The consistent with the objectives and controls within the North Sydney Local Environmental Plan and Development Control Plan 2013.

**Recommending:**

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

**THAT** the North Sydney Independent Planning Panel, 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, grant consent to Development Application No. 302/20 for demolition, new first and second floor addition to existing commercial industrial building for commercial purposes at land known as 4 Holt Street, McMahons Point subject to the attached conditions.

**7. LPP06: 30 – 34 Grosvenor Street, Neutral Bay – DA 237/20**

Applicant: Willowtree Planning

Report of Robin Tse, Senior Assessment Officer, 24 February 2021

This development application seeks approval from the North Sydney Local Planning Panel for redevelopment of the subject properties to provide a new four (4) storey residential flat building containing nine (9) apartments and basement parking for fifteen (15) 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.

In accordance with the Minister's direction of 1 August 2020, a public meeting determination of this matter is not required as there are less than 10 submissions. Council's notification of the original proposal has attracted a total of three (3) submissions raising particular concerns about the inadequate setbacks, non-complying site coverage, impacts on landscaping, adverse privacy impacts, impacts associated with construction and excavation works. The notification of the amended proposal has attracted no submissions.

The proposal has been assessed against the North Sydney LEP 2013 and North Sydney DCP 2013 and SEPP 65 – Design Quality of Residential Flat Building and generally found to be satisfactory.

The variation to the building height development standard, subject to the imposition of a deferred commencement condition to reduce the projection of the roof overhang at the top level, is justifiable because the building elements above the LEP maximum building height are unlikely to have material impacts on the overall high density residential and mixed use 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 proposed four storey apartment building, as amended by the recommended deferred commencement conditions, is considered to be appropriate in terms of height and built form within a R4 (High Density Residential) zone. Furthermore, the proposal would not result in unacceptable impacts on the character of the locality and the amenity of the adjoining properties subject to the imposition of appropriate conditions.

A deferred commencement condition is also recommended requiring additional building setback from the western property boundary to provide an adequate transition of built forms, improve compliance with the DCP site coverage requirements and to increase landscaping opportunities.

The issues raised in the submissions 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 deferred commencement 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 20013 and grant deferred commencement consent to Development Application No. 237/20 for the demolition of the existing buildings and the construction of a residential flat building containing nine apartments with basement parking and associated landscaping on land at Nos.30-34 Grosvenor Street, Neutral Bay, subject to the following deferred commencement and site specific conditions and the attached conditions:-

**Deferred Commencement Conditions:**

**Design Modifications**

AA1. The design of the subject residential flat building must be modified as follows:

- (a) The western building line of the apartment building on the Ground Level, Levels 01 and 02 must provide a minimum 4m setback from the western (Young Lane) property boundary to provide adequate

building setback from the laneway. Modifications to the internal layout of the affected apartment units on the Ground Level, Level 01 and Level 02 could be required in order to accommodate the above changes;

- (b) The installation of planter 1m (high) x 1m (wide) along the northern edge of the communal terrace on Level 03 to provide additional screening and a further visual buffer for the existing apartment building to the north;
- (c) The design of the roof overhang over the balcony on the western side of Level 03 be modified to provide a maximum projection of 500mm from the western building line to minimise any amenity impacts for the adjoining properties;
- (d) Installation of sliding and/or fixed screens and/or louvres to the bedroom windows on the northern elevation of the proposed residential flat building to reduce the extent of uncovered glazing and to enhance visual privacy protection for the adjoining properties. The design of screens/louvres is to be similar to those on the southern elevation of the building; and
- (e) The 3 Bedroom apartment on the Lower Ground Floor Level (Unit LG01) be reconfigured with the depth of the unit as measured from the eastern glazing line of the unit be reduced by 1.5m in order to improve the amenity of this unit.

The applicant must submit architectural plans complying with the requirements of this consent for the written approval of Team Leader Assessments.

*Advisory Note: The design modifications should not cause material changes to the location of windows, otherwise, notification of these modifications may be necessary.*

(Reasons: To provide a more appropriate built form, building separation and reduce amenity impacts on the adjoining properties)

#### **Modifications to the Landscape Plan**

AA2. The applicant shall submit a detailed landscape plan, based on the Landscape Design Report, prepared by Oculus, incorporating the following:

- (a) Details of the location of all plant species and a schedule of plant numbers and mature height of each plant species;
- (b) Locations of irrigation, including the re-use of harvested rainwater, in addition to the location of taps for hand watering during water restrictions. An automatic irrigation system is required for all raised planters on the external walls of the proposed residential flat building; and
- (c) Soil depths to all planters as well as landscape areas located above concrete slabs.

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.

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

#### **Landscape Maintenance Plan**

AA3. The applicant shall submit a Landscape Maintenance Plan, including the following but not limited to:

- (a) Maintenance and usage of irrigation;
- (b) Mowing schedule;
- (c) Fertilising schedule;
- (d) Pruning and trimming schedule;
- (e) Re-mulching;
- (f) Replanting schedule;
- (g) Cleaning of exterior pavements, furniture and lighting;
- (h) Storage of materials;
- (i) Disposal of landscape waste;
- (j) Access of maintenance staff; and
- (k) Use and noise control of power tools.

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

(Reasons: To ensure the ongoing viability and vigour of plant species, the practicalities of undertaking landscape maintenance are met as well as the retention of the intended aesthetic values of the landscape plan)

### **Geotechnical Report**

C1. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared, with reference to the Geotechnical desktop report study, dated August 2020 and prepared by Douglas Partners, 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)

#### **External Colours, Materials and Finishes**

- C2. The external colours, materials and finishes must be consistent with the submitted Material Sample Board, dated 11/12/2020, prepared by Koichi Takada Architects with the following modification:
- (a) External material (RND01 – Sandstone Colour Render) be replaced by matching colour smooth finished brick/tiles to enhance the appearance of the façade and easy maintenance.
- 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 enhance the appearance of the façade and easy maintenance)

**No Encroachment onto Adjoining properties**

- C3. The proposed works, including but not limited to, excavation and any other associated works, must not encroach onto any adjoining properties.
- 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 ensure no encroachment onto the adjoining properties)

**8. LPP07: 425 - 429 Pacific Highway, Crows Nest - 198/20/2**

Applicant: Legge & Legge Architects Pty Ltd

Report of Luke Donovan, Senior Assessment Officer, 19 February 2021

This application under Section 4.55 of the Environmental Planning and Assessment Act 1979 (as amended) seeks to modify consent for alterations and additions to levels 4, 5 of a heritage listed commercial and retail building, changes to roof and changes to signage including the demolition of existing AGC sign, demolition of the existing advertising billboard structure and construction of new LED advertising sign.

The proposed modifications specifically relate to changes to Condition G2 'Time period for advertising' and Condition I1 'Dwell Time and Curfew on Advertising' in association with the approved LED advertising sign.

The application is reported to the North Sydney Local Planning Panel (NSLPP) for determination as the application is a Section 4.55 (2) which seeks changes to conditions that were modified by the Panel in its original determination.

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

The proposed reduction in the dwell time for the LED advertising sign from 60 seconds (approved as part of condition I1(a)) to 25 seconds is considered reasonable noting that this proposed dwell time is greater than the minimum dwell time of 10 seconds specified in the Digital Sign Criteria of the Transport Corridor Outdoor Advertising and Signage Guidelines. Furthermore, Transport for NSW raised no objection with this originally proposed dwell time of 10 seconds.

In its reason for amending Condition G2 from 3 to 5 years, "*the Panel considers 5 years an appropriate time frame to reassess changes in the character of the area*". The original recommendation was for a three (3) year consent period.

The proposed increase in the consent duration for the display of advertising from 5 years to 15 years is however not supported. The recent changes to NSLEP 2013, specifically in respect of Clause 4.3 'Building Height' and the maximum building heights for the Crows Nest Station site would indicate that

the area of Crows Nest will undergo change. An LED advertising sign located at the top of the subject building for a period of 15 years is unlikely to be consistent with this change in character which will likely be high density shop top housing developments to the north west of the site along Pacific Highway. A period of 5 years for the LED Advertising should therefore remain and the applicant advised to consider a s 4.55 application lodged closer to the lapsing of this consent to gauge the extent of change to the character of the Crows Nest. It is recommended that approval only be granted to the reduction in dwell time to 25 seconds for the LED advertising sign and that no approval be granted to the change to the approved 5-year time period for the LED advertising sign.

**Recommending:**

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

**THAT** the North Sydney Local Planning Panel exercising the functions of Council grant **approval** to the modification of development consent DA198/20 dated 2 December 2020 only in respect of a modification to condition I1 to permit a reduction in the dwell time to 25 seconds for the display of advertising on the LED sign on land at 425-429 Pacific Highway, Crows Nest 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 Condition I1 as follows:**

**Dwell Time and Curfew on Advertising**

- I1
- a) The dwell time for the advertising on the LED sign (southern elevation at level 5 of the building) must be not less than ~~60~~**25** seconds.
  - b) The advertising on the LED sign must not change during the time that school zones along Pacific Highway are active (i.e. 8.00am-9.30am and 2.30pm-4.00pm on weekdays during School Terms). The content of advertising during school zone period is to be of a suitable content (excluding alcohol, gambling and cigarettes)
  - c) A curfew is to be placed on the advertising on the LED sign (southern elevation at level 5 of the building) between 11pm and 7am (every day of the year) The above requirements must be programmed into the sign to ensure compliance with the terms of this condition. The requirements of this condition may be subject to variation following the submission by the Applicant and an assessment of a modification application under Section 4.55.

(Reason: To protect existing and future residential amenity and to minimize safety impacts for motorists)

**2. No changes to the other conditions of consent relating to DA198/20**

**9. PP01: 20-22 Atchison Street, St Leonards (T) - PP3/20**

Applicant: Urbis Pty Ltd (on behalf of CVWL Atchison Pty Ltd & Radaca Investments Pty Ltd)

Report of Katerina Papas, Strategic Planner - 22 February 2021

On 29 May 2020, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 20-22 Atchison Street, St Leonards. The site is located within the area covered by the *St Leonards and Crows Nest 2036 Plan (2036 Plan)*, adopted by the Department of Planning, Industry and Environment (DPIE) on 29 August 2020.

The Planning Proposal as lodged initially sought to increase the maximum building height control applying to the site from 49m to 169m and establish an overall maximum Floor Space Ratio (FSR) control of 24.5:1 for the site to accommodate a 48-storey mixed-use commercial and residential building (responding to the then draft 2036 Plan's nomination of the site as a 'Significant Site'). The Planning Proposal was also accompanied by an offer to enter into a Voluntary Planning Agreement (VPA) to convert the Holtermann Street Car Park into an underground parking facility and create a new public space at the ground level.

Following the release of the finalised 2036 Plan in August 2020, the applicant submitted a revised Planning Proposal on 10 December 2020. The amended Planning Proposal seeks to:

- increase the maximum building height control applying to the site from 49m to 127m;
- establish an overall maximum FSR control 14.9:1; and
- include a site-specific provision to permit an additional 1,887sqm residential Gross Floor Area (GFA) for winter gardens.

The purpose of the revised Planning Proposal is to deliver a 35-storey mixed-use commercial and residential building with a 4-storey podium and tower above. The indicative scheme includes 193 residential apartments with a 16,193sqm GFA (excluding winter gardens), 4,258sqm non-residential GFA and 97 car parking spaces.

The original offer to enter into a VPA has been withdrawn in response to the requirement to pay a Special Infrastructure Contribution (SIC), in accordance with the *St Leonards Crows Nest Special Infrastructure Contribution (SIC) Plan*, as well as in response to the significant reduction in height in accordance with the 2036 Plan. The public benefits contained in the applicant's previous VPA offer are now incorporated in the 2036 Plan and SIC Plan.

Having completed an assessment of the amended Planning Proposal against the 2036 Plan and relevant Regional, District and Local Plans, it is recommended that the Planning Proposal not be supported to proceed to Gateway Determination for the following reasons:

- It is inconsistent with the Built Form controls (Height and FSR) identified in the *St Leonards and Crows Nest 2036 Plan* and by virtue of the degree of non-compliance and impacts arising, is inconsistent with the vision, objectives and actions of the 2036 Plan;
- The Planning Proposal if implemented, could have the potential to create a precedent that would undermine the integrity of the strategic planning policies relating to the site, including:
  - Greater Sydney Regional Plan and North District Plan;
  - St Leonards and Crows Nest 2036 Plan and supporting Special Infrastructure Contribution (SIC) Plan; and
  - North Sydney Local Strategic Planning Statement (LSPS).
- It is inconsistent with *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 (EP&A Act) 1979, which requires Planning Proposals be consistent with the 2036 Plan and Greater Sydney Regional Plan.

It is also worth noting that the applicant has lodged a rezoning review in December 2020 in response to Council not having made a decision within 90



days of lodgement. The review is likely to be considered by the Regional Planning Panel in late March/early May 2021.

The Planning Proposal seeks to amend NSLEP 2013 to:

- increase the maximum building height control applying to the site from 49m to 127m;
- establish an overall maximum Floor Space Ratio (FSR) control 14.9:1; and
- include an additional Local Provision under Part 6 of NSLEP 2013 to permit an additional 1,887sqm of residential gross floor area (GFA) on the site for the purposes of winter gardens.

Having completed an assessment of the amended Planning Proposal against the DPIE's 2036 Plan and relevant Regional, District and Local Plans, it is recommended that the Planning Proposal not be supported to proceed to Gateway Determination for the following reasons:

- It is inconsistent with the Built Form controls (Height and FSR) identified in the *St Leonards and Crows Nest 2036 Plan* and by virtue of the degree of non-compliance and impacts arising, is inconsistent with the vision, objectives and actions of the 2036 Plan;
- The Planning Proposal if implemented, could have the potential to create a precedent that would undermine the integrity of the strategic planning policies relating to the site, including:
  - Greater Sydney Regional Plan and North District Plan;
  - St Leonards and Crows Nest 2036 Plan and supporting Special Infrastructure Contribution (SIC) Plan; and
  - North Sydney Local Strategic Planning Statement (LSPS).
- It is inconsistent with *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 (EP&A Act) 1979, which requires Planning Proposals be consistent with the 2036 Plan and Greater Sydney Regional Plan.

The Planning Proposal is seeking a maximum height above 35 storeys and a significant variation to the FSR control of 11.5:1 identified in the 2036 Plan. The indicative scheme accompanying the Planning Proposal fails to demonstrate how the site could be acceptably developed to the requested height and FSR controls insofar that it will result in unacceptable public and private amenity impacts. It is considered that a scheme compliant with the 2036 Plan's Height and FSR controls would be able to largely address the impacts identified, and that an FSR of 11.5:1 assumes greater setbacks and building articulation than currently proposed.

Council has received numerous enquiries for sites within the St Leonards and Crows Nest Precinct seeking to challenge the Height and FSR controls of the 2036 Plan. If the Planning Proposal were to be implemented, it could potentially establish a pathway for significant non-compliances and facilitate an unanticipated level of growth that cannot be supported by the established infrastructure program.

**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 3 FEBRUARY 2021, AT 2.00PM.****PRESENT****Chair:**

Jan Murrell

**Panel Members:**

Lloyd Graham (Panel Member)

Lesley Finn (Panel Member)

Virginia Waller (Community Representative)

**Staff:**

Stephen Beattie, Manager Development Services

David Hoy Team Leader Development Assessment

Robyn Pearson Team Leader Development Assessment

Josh Jongma, Governance Co-ordinator (Minutes)

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

The Minutes of the NSLPP Meeting of 2 December 2020 were confirmed at that meeting.

**2. Declarations of Interest**

Lesley Finn declared an interest in Item 4 – LPP04 275 Alfred Street, North Sydney DA 240/20 and did not take part in any discussions or deliberations on this Item.

Jan Murrell declared a perceived conflict of interest in Item 6 – LPP06 58 Cowdroy Avenue, Cammeray as she was on the panel that originally determined the application. She did not take part in any discussions or deliberations on 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 where considered necessary 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>	299/20
<b>ADDRESS:</b>	2/152 Military Road, Neutral Bay
<b>PROPOSAL:</b>	Fit Out and Use as a Small Bar
<b>REASON FOR NSLPP REFERRAL</b>	The application is reported to North Sydney Local Planning Panel (NSLPP) for determination as more than 10 submissions objecting to the proposal were received by Council.
<b>REPORT BY NAME:</b>	Michael Stephens, Senior Assessment Officer
<b>APPLICANT:</b>	Mr Dru Gillian

**Public Submissions**

Nil.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Keryl Byrne - Applicant

**Panel Determination**

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

The Council Officer's Report and Recommendation is approved by the Panel subject to amendments to conditions identified below:

**Noise and Vibration Impact (Compliance)**

19. Further acoustic testing must be undertaken and a report from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, prepared to demonstrate that the use of the premises complies with the conditions of this consent and/or the Acoustic Report prepared by Rodney Stevens Acoustics, Reference R200447R1, Revision 2, dated 15 January 2021 and received by Council 19 January 2021.

The required testing is to be undertaken at the following intervals:

- a) within 60 days of commencement of operation of the premises; and
- b) within 60 days of commencement of operation of the premises at full capacity (i.e following the repeal of any relevant Public Health Order that would have the effect on reducing the capacity of the premises)

A copy of each report must be submitted to Council within 14 days of completion.

If the use is found not to comply with the noise conditions, the use must cease immediately until appropriate measures to remedy the breach are implemented to the satisfaction of Council.  
(Reason: To ensure compliance with acceptable noise levels to maintain the amenity of adjoining land uses)

***Include the following additional condition*****Complaints Register**

I15. As part of Management’s ongoing complaints handling, the manager’s mobile telephone number is to be visible on the outside of the premises and a complaints register must be maintained on the premises, recording at a minimum: the time, date, and particulars of any complaint and the appropriate action taken by Management to reasonably resolve the complaint.

The relevant contact details of the premises’ Management are to be externally signposted on the building in a prominent position to enable anyone to lodge a complaint with Management.

Records are to be retained for a minimum of five years and made available for inspection by Council, NSW Police or other appropriate authority upon request.

(Reason: to provide a record of the steps taken my management to resolve any complaints raised by the local community.)

**Panel Reason:**

Having considered the submissions made the Panel is satisfied that with the above amendments to conditions that the application warrants approval and is consistent with the objectives of the zone. The requirement for a the management plan and the need for a complaints register and a contact number for the manager to be identified on the outside of the building this will provide a mechanism for nearby residents concerns to be addressed in a timely manner should the need arise.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	<b>Y</b>		Virginia Waller	<b>Y</b>	
Lloyd Graham	<b>Y</b>				
Lesley Finn	<b>Y</b>				

**ITEM 2**

<b>DA No:</b>	308/20
<b>ADDRESS:</b>	11 Bennett Street, Cremorne
<b>PROPOSAL:</b>	Construction of part two three storey dual occupancy in semi detached arrangement on each of the two allotments (Lots 1 and 2)
<b>REPORT BY NAME:</b>	Robin Tse, Senior Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	The application is reported to the North Sydney Local Planning Panel as the application requires a variation to the building height development standard which is greater than 10% and the application has received more than 10 submissions.
<b>APPLICANT:</b>	Ocean King Enterprises Pty Limited

**Public Submissions**

Nil.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Tim Alexander – Applicant Architect
	Warren Long – Applicant Planner

**Panel Determination**

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 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.

**Panel Reason:**

The Panel is satisfied that the proposed built form would be appropriate for the site and adverse impacts have been mitigated. However, the Panel has no power to grant consent at this point in time and as such the recommendation is as above.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	<b>Y</b>		Virginia Waller	<b>Y</b>	
Lloyd Graham	<b>Y</b>				
Lesley Finn	<b>Y</b>				

**ITEM 3**

<b>DA No:</b>	231/20
<b>ADDRESS:</b>	5 Mil Mil Street, McMahons Point
<b>PROPOSAL:</b>	Alterations and additions to a heritage listed dwelling within a conservation area.
<b>REASON FOR NSLPP REFERRAL</b>	This application is reported to the North Sydney Local Planning Panel because the development application involves demolition of a heritage item, including part demolition.
<b>REPORT BY NAME:</b>	Hugh Shouldice, Assessment Officer
<b>APPLICANT:</b>	Louise Cox

**Public Submissions**

1 written submission.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Louise Cox – Applicant
	Phillip North – Applicant Planner

**Panel Determination**

The Panel members have undertaken independent site inspections prior to the meeting and considered the submissions in relation to the application.

The Council Officer's Report and Recommendation is approved by the Panel subject to the recommended condition C1 being amended as follows: at the second dot point include the words "not more than 100mm" to achieve consistency with C9; and the deletion of the third dot point that requires a conservation management plan because the Panel is satisfied the Heritage Impact Statement provides sufficient information.

**Panel Reason:**

The Panel is satisfied that the modifications in the amended plans and condition will mitigate adverse impacts and the application is worthy of 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>
Jan Murrell	<b>Y</b>		Virginia Waller	<b>Y</b>	
Lloyd Graham	<b>Y</b>				
Lesley Finn	<b>Y</b>				

**ITEM 4**

<b>DA No:</b>	240/20
<b>ADDRESS:</b>	275 Alfred Street, North Sydney
<b>PROPOSAL:</b>	The removal of the existing “BAYER” sky signs and the installation of three (3) “FIVEX” sky advertisement signs to the roof structure of an existing commercial building.
<b>REPORT BY NAME:</b>	Hugh Shouldice, Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	This application is reported to the North Sydney Local Planning Panel for determination because the proposed signage is above the building height limit by greater than 10%.
<b>APPLICANT:</b>	Legge and Legge Architects Pty Ltd

**Public Submissions**

Nil.

Lesley Finn declared an interest and did not participate in any consideration or voting on this item.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Jeff Mead - Applicant

**Panel Determination**

The Panel members have undertaken independent site inspections where necessary prior to the meeting and considered the submissions made during exhibition.

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel is satisfied that the written request in relation to the contravention of the height of buildings development standard, in clause 4.3 of the LEP, adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the standard and zone objectives.

The Council Officer’s Report and Recommendation and Addendum is approved by the Panel subject to an amendment to condition I1 to delete the words “the hours of dusk and 11PM” and replace with the words “the hours of 11PM and 7AM daily”.

**Panel Reason:**

The Panel considers that a 10-year period of approval is appropriate to allow reconsideration having regard to possible changes in character of the area and future technology. The Panel has considered the submissions and is satisfied that subject to conditions to mitigate adverse impacts the application warrants 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>
Jan Murrell	<b>Y</b>		Virginia Waller	<b>Y</b>	
Lloyd Graham	<b>Y</b>				
Lesley Finn		DOI			

**ITEM 5**

<b>DA No:</b>	269/20
<b>ADDRESS:</b>	20 Waiwera Street, Lavender Bay
<b>PROPOSAL:</b>	Alterations and additions to heritage listed attached dwelling including new rear boundary wall and landscaping works.
<b>REPORT BY NAME:</b>	Luke Donovan, Senior Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	The application is reported to the North Sydney Local Planning Panel for determination as the proposal involves demolition works to a heritage listed item that would be considered more than “minor” or “partial”.
<b>APPLICANT:</b>	James John Martin

**Public Submissions**

Nil.

<b>Submitter</b>	<b>Applicant/Representative</b>
	James John Martin - Applicant
	Katharina Liu – Heritage Consultant

**Panel Determination**

The Panel members have undertaken independent site inspections prior to the meeting and considered the submissions made during exhibition.

Pursuant to the provisions of Clause 4.6 of the *North Sydney Local Environmental Plan 2013* (“the LEP”), the Panel is satisfied that the written request in relation to the contravention of the height of buildings development standard, in clause 4.3 of the LEP, adequately addresses the required matters in Clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the standard and zone objectives.

The Council Officer’s Report and Recommendation and Addendum is approved by the Panel subject to amendments to the conditions as follows.

**Condition C1 is to read as follows:**

C1. Prior to the issue of any construction certificate the following design amendments are required to the plans forming part of Condition A1 of this consent:

1. The photovoltaic cells on the western roof plane of level 02 are to be deleted.
2. The height of the brick wall to Wellington Lane to be reduced to a maximum of 2482mm.
3. The roof form of the kitchen that extends beyond the line of the existing balcony (referred to in 3. above) must be a skillion roof that is consistent with the roof form over the family room. The ridge of the skillion roof must not extend any higher than the floor level of the existing rear level 01 balcony. The roof form is to be independent of the party wall at 22 Waiwera Street.

4. The roof top terrace 04 and associated planter (located above the ground level family room) are to be deleted. A skillion roof to the family room is to be reinstated. A Juliette balcony may be indicated on the western side of bedroom 4/study. This can be achieved via the lowering of the western window sill while retaining the existing width of the opening.
5. The nib walls and bulkheads to the new southern opening between the entry and living room are to be retained. The height of the southern opening between the entry and dining room must match existing with architraves reinstated that match the existing timber profile.
6. The widening of the existing door opening from the kitchen to the dining room area should retain the same height as existing with architraves to match existing. Plans and specification complying with the above must be to the written satisfaction of Council's Conservation Planner prior to the issue of any construction certificate.

(Reason: To retain the heritage significance of the heritage item while at the same time providing improved amenity for the occupants.)

Panel Reason:

The Panel is satisfied that the rear terrace on level 1 will not be highly visible from the public domain and is adjoined by a solid 2-Storey wall of the adjoining terrace and will not detract from the amenity of the adjoining property. The retention of the nibs and head of door opening at the original height is important for the interpretation of the heritage significance of the building under section 13 of the DCP. Subject to conditions, the Panel considers the development in its context warrants 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>
Jan Murrell	<b>Y</b>		Virginia Waller	<b>Y</b>	
Lloyd Graham	<b>Y</b>				
Lesley Finn	<b>Y</b>				

**ITEM 6**

<b>DA No:</b>	56/20
<b>ADDRESS:</b>	58 Cowdroy Avenue, Cammeray
<b>PROPOSAL:</b>	Demolition of existing dwelling and construction of a new dwelling with associated tree removal and earthworks.
<b>REPORT BY NAME:</b>	Robin Tse, Senior Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	The application is reported to the North Sydney Local Planning Panel, as the proposal involves a non-compliance with the maximum height of building development standard under NSLEP 2013 exceeding 10% and given that the application seeks a review of determination under Sections 8.2-8.5 (inclusive) of the EPA Act.
<b>APPLICANT:</b>	Paul Etherington & Renata Etherington

**Public Submissions**

2 written submissions.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Anthony Soloman – Applicant
	Greg Boston – Town Planner

Jan Murrell declared an interest and did not participate in any consideration or voting on this item.

**Panel Determination**

The Panel Members have undertaken site inspections independently and prior to the meeting. They have noted submissions received during exhibition and representations made at the meeting by Mr Anthony Soloman (Architect) and Mr Greg Boston (Town Planner).

The applicant has sought a review of the Panels determination of 5 August 2020 under provisions of section 8.2 *Environmental Planning and Assessment Act 1979* ('EPA').

Pursuant to the provisions of Clause 4.6 of the *North Sydney Local Environmental Plan 2013* ('LEP') the Panel is not satisfied that the written requests in relation to the contravention of the height of building development standard in Clause 4.3 of the LEP adequately address the required matters in Clause 4.6 of the LEP.

The Consultant Planner's report and recommendation are supported by the Panel and the Clause 8.2 review is determined by refusal.

**Panel Reason:**

The Panel acknowledges that although an attempt has been made by the applicant to reduce the impact of the development it is of the view that a further reduction in building height, increased setbacks and reduced site coverage together with improved landscaping is desirable in order to limit unacceptable impacts.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	DOI		Virginia Waller	<b>Y</b>	
Lloyd Graham (Chair)	<b>Y</b>				
Lesley Finn	<b>Y</b>				

The public meeting concluded at 3:30 pm.

The Panel Determination session commenced at 3:35pm.

The Panel Determination session concluded at 5:02pm.

Endorsed by Jan Murrell  
 Chair North Sydney Local Planning Panel  
 3 February 2021