

**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	Y		Virginia Waller	Y	
Lloyd Graham	Y				
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	Y	
Lloyd Graham (Chair)	Y				
Lesley Finn	Y				

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