



NORTH SYDNEY COUNCIL

Council Chambers
26 March 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 1 April 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

BUSINESS

1. Minutes

Confirmation of Minutes of the previous Meeting held on Wednesday 4 April 2020.
(Circulated)

2. LPP01: 1 Blue Street, North Sydney (SHORE School) – DA 28/20

Applicant: Church of England Grammar School (Shore)

Report of Luke Donovan, Senior Assessment Officer, 23 March 2020

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to the Shore School House on land at 1 Blue Street, North Sydney. The site is identified as a local heritage item under Schedule 5 of the NSLEP 2013. The application was not lodged as a 'stage development', however the applicant proposes to undertake the proposed works in two (2) stages.

The application is reported to the NSLPP for determination as the works, whilst a majority of which are internal to the building, are located more than 10% above the maximum building height that applies to the site. The application also involves some minor demolition work to a local heritage item.

The written request prepared pursuant to Clause 4.6 in NSLEP 2103 seeking a variation to the building height development in Clause 4.3 in NSLEP 2013 is considered to be well founded. The written request has adequately demonstrated that strict compliance with the building height development standard is considered unreasonable and unnecessary noting that the existing building breaches this standard and all new works above the standard are internal to the building. There are also considered to be sufficient environmental planning grounds to justify the breach to the standard given the works will result in improved access to the upper levels of the building.

The Shore School House provides residential accommodation for the students. The proposal will provide for accessible accommodation and improved facilities for students accommodated in the School House without adversely impacting the heritage significance of the building or nearby properties. There will be no increase to the number of boarders within the School House.

Following this assessment and having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended), the application is considered to be reasonable in the site circumstances and recommended for **approval** subject to standard and site-specific 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. 28/20 for alterations and additions to the Shore School House on land at No. 1 Blue Street, North Sydney, subject to the attached conditions:-

Staging of Works

A4. The approved works may be carried out in stages as indicated on the stamped plans, with relevant conditions being satisfied prior to the issue of the relevant Construction Certificates and relevant Occupation Certificates for each stage.

(Reason: To permit works to be undertaken in stages)

Number of Student Boarders

A5. No approval is granted or implied under this consent for any increase in the total number of student boarders (75 student boarders) within the School House.

(Reason: To clarify the terms of this consent)

Schools Hazardous Materials Management Plan

E1. The Unexpected Finds Protocol, as outlined in the SHORE School Hazardous Materials Management Plan (HMMP) must be implemented during demolition works.

(Reason: To ensure appropriate health and safety measures are implemented should any hazardous materials be discovered during demolition)

3. LPP02: 28 Fitzroy Street, Kirribilli (V) - DA 363/19

Applicant: Carl Redfern, Redfern Lynch Architects

Report of Lisa Kamali, Senior Assessment Officer - 17 March 2020

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for additions and alterations to terraced dwelling, including internal demolition and alteration, a three-level rear extension, alterations to the front façade and a new front fence, on land at 28 Fitzroy Street, Kirribilli. The property is a locally listed Heritage Item but is not within a Conservation Area.

The application is reported to NSLPP because the proposed development involves building elements at the upper floor level that are above the permissible height limit of 8.5m pursuant to clause 4.3(2) in NSLEP 2013. The noncompliance with the permitted height limit is greater than 10% requiring determination by NSLPP as directed by the Minister for Planning, Industry and Environment.

The proposed development exceeds the maximum height limit for the site by up to 15.17%, however the submitted justification under Clause 4.6 in NSLEP is well founded given that the height breach is unlikely to affect the setting and significance of the Heritage Item, and will not result in undue amenity impacts including impacts on views, solar access and privacy.

The application as amended proposes the removal of an unsympathetic addition from the primary facade and the provision of a more traditional and sympathetic front boundary fence. This will improve the appearance of the primary facade of the Heritage Item, which is supported.

The form, scale and design of the rear additions is generally complementary to the character and built form of the existing dwelling and is similar in bulk and scale to previous development within the locality. The additions are subordinate in scale to the existing building and will not compete with the Heritage Item.

Officers acknowledge that the application will involve the removal of the skillion-roofed service wing form to the rear of the property at first floor level, however the service wing has been previously highly modified and is not visible from the public domain. The replacement extension which overhangs the floor below would normally be considered a detracting element in the context of a Heritage Item. However, only the top of this level will be visible from the street it will not be read as an overhanging element with the location of the existing street facing garages, and can be supported given the particular site circumstances and given the site is not located within a Conservation Area.

There are existing site coverage, landscaped area and unbuilt upon area non-compliances. However, these non-compliances will not be increased and can be supported in the context where a number of properties around the site also do not achieve compliance.

Overall, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and is therefore 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 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 (Building Height) and **grant consent** to Development Application No. 363/19 for additions and alterations to an existing dwelling including a three level rear extension, at 28 Fitzroy Street, Kirribilli, subject to the attached conditions.

4. LPP03: 182 Kurraba Road, Kurraba Point (V) – DA 333/19

Applicant: Daniel Younan & Associates Pty Ltd

Report of Geoff Mossemenear, Executive Planner, 10 March 2020

This development application seeks North Sydney Local Planning Panel (NSLPP) approval for alterations and additions to convert a duplex into a residential flat building and strata subdivision of completed building. The application is referred to the Local Planning Panel as SEPP 65 is applicable to the proposal. There was also considerable public interest in the proposal.

Council's notification of the proposal has attracted fourteen submissions raising particular concerns about loss of privacy; loss of views; bulk; scale; height; traffic; tree loss; excessive excavation and lack of compatibility with area. Council's Design Excellence Panel provided comments and made a number of suggestions to improve the proposal. The applicant was advised of the concerns raised in the submissions and by the DEP and was requested to amend the proposal. Amended plans were submitted on 31 January 2020.

Council's notification of the amended proposal has attracted four submissions raising particular concerns about scale of development; height; view loss; traffic; impact on access to right of way; loss of amenity and privacy.

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

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

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Secretary, Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 of NSLEP 2013 - Height Control and grant consent to Development Application No. 333/19, subject to the attached conditions.

5. LPP04: 1/146 Kurraba Road, Kurraba Point (V) – DA 158/19

Applicant: Prudence Murdoch

Report of Michael Stephens, Assessment Officer, 20 March 2020

This development application seeks approval for alterations and additions to a dwelling within an existing attached dual occupancy at 1/146 Kurraba Road, Kurraba Point.

The application is referred to the North Sydney Local Planning Panel for determination as the proposed development breaches the development standard for height by more than 10%. The proposed works have a maximum height of 9.9m which results in a variation of 16.5% to the 8.5m development standard applicable to the site. The applicant has submitted a clause 4.6 variation that is considered to be worthy of support as it has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the variation.

The proposal is identified as integrated development given that approval is also required under section 58 of the *Heritage Act 1977* because the building, “Hollowforth”, is listed as an item of state significance in schedule 5 of NSLEP 2013. The site is also located within the Kurraba Point Conservation Area.

The application was considered by the NSW Heritage Council and General Terms of Approval were issued on 5 March 2020. However, no approval was granted for a number of elements within the proposed development including the construction of roof dormers and the removal of significant fabric such as the attic staircase.

An assessment of the proposed alteration and additions did not raise any concerns with regards to bulk and scale, built form character or potential amenity impacts such as view loss, overshadowing or overlooking.

Notification of the application, and the subsequent amended plans did not attract any submissions.

Following this assessment and having regard to the additional approval from Heritage NSW, the development application is considered reasonable and is recommended for **approval** subject to the General Terms of Approval issued by Heritage NSW and standard 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, assume the concurrence of the Secretary of Planning, Industry and Environment, invoke the provisions of Clause 4.6 with regard to the exception to the development standard for maximum building height and **grant development consent** to Development Application No. 158/2019 for alterations and additions to an existing dwelling within an attached dual occupancy listed as a State Heritage Item at 1/146 Kurraba Road, Kurraba Point subject to the following conditions and General Terms of Approval issued by Heritage NSW.

6. LPP05: 49 Reynolds Street, Cremorne (T) – DA 416/19

Applicant: Damian O’Toole, Damian O’Toole Town Planning & Heritage Services

Report of Lisa Kamali, Senior Assessment Officer, 23 March 2020

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for additions and alterations to a detached dwelling, including a new first floor addition, a new carport, a replacement swimming pool and landscaping, on land at 49 Reynolds Street, Cremorne.

The application is reported to NSLPP because 10 or more unique submissions have been received, and the proposal involves an exceedance of a NSLEP development standard of over 10%, both of which require determination by NSLPP as directed by the Minister for Planning, Industry and Environment.

The proposed development exceeds the maximum height limit for the site by up to 18.4%, which is significant and only acceptable subject to a deferred commencement condition (*refer to Condition AA1(a)*) to provide a hipped instead of a gable roof form to reduce the scale and bulk of the first floor extension where it exceeds 8.5m. Subject to this amendment the elements of the proposal which exceed 8.5m will not result in unreasonable amenity impacts including impacts on views, solar access and privacy.

The form, scale and design of the box element of the first floor extension is generally consistent with policy expectations however the scale and bulk of this extension is to be further reduced via deferred commencement (*refer to Condition AA1(b) and (c)*) to reduce impacts for neighbours. The reduced first floor will still provide for a generous amount of accommodation with acceptable internal amenity and as such the design amendments are both reasonable and necessary in the circumstances.

Notification of the original application attracted 15 objections with the key issues including excessive building height, excessive and overbearing scale and bulk, non-compliant side setbacks, loss of solar access, view loss, and inadequate soft landscaping. Notification of the amended application attracted four (4) further objections raising ongoing concern regarding building height, view impacts, loss of privacy, unsympathetic built form and colour scheme, and general loss of amenity. The issues raised in the submissions have been considered in the assessment and are addressed via conditions of consent including the deferred commencement condition (*refer to Condition AA1*) which will reduce the scale and bulk of the first floor to an acceptable level.

Overall, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and is therefore, recommended for **approval (Deferred Commencement)** 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 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 (Building Height) and **grant consent (Deferred Commencement)** to Development Application No. 416/19 for additions and alterations to an existing dwelling, at 49 Reynolds Street, subject to the attached conditions:-

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement condition has been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement condition within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

Design Modifications

AA1. The following design modifications to the pitched roof element of the first floor addition are required:-

a) The northeastern and southwestern gable ends of the transverse pitched element of the new first floor shall both be modified to provide a hipped roof form. The pitch of the new hipped roof elements shall match the pitch of the existing roof of the dwelling.

b) The height of the roof of the box element of the first floor extension shall be reduced by no less than 300mm. This shall be achieved by reducing the internal floor to ceiling height from 2.7m to 2.4m with associated reductions in overall height and shall apply to the entire box element structure.

c) The width of the box element of the first floor extension shall be reduced by increasing the side setbacks to no less than 2 metres from the boundary on each side of the extension. This shall apply to the width of the whole box element.

d) The southeast facing bay window relating to Bedroom 4 shall be reduced in width to match the width of the southeast facing bay window relating to Bedroom 3.

e) The colour of the box element of the first floor extension shall be modified to be more neutral and pale which provides less contrast with the colour of the sky, and provides a less dark appearance for neighbours.

The applicant must submit revised architectural plans and details complying with the requirements of this condition for the written approval of Team Leader Assessments.

(Reasons: To minimise impacts on views and outlooks and light for neighbours and to provide a more appropriate scale, bulk and height in the site circumstances).

This consent shall not operate until such time as the written approval stating that the requirements of this condition have been satisfied.

B. Subject to the above deferred commencement condition being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including site specific and the attached standard conditions.

7. LPP06: Primrose Park Tennis Courts, Matora Lane off Young Street, Cremorne (T) - DA 18/20

Applicant: Figgis and Jefferson Tapa Pty Ltd

Report of Geoff Goodyer, Town Planning Consultant, Symons Goodyer Pty Ltd, 18 March 2020

This development application seeks Council's approval for alterations and additions to the Primrose Park Tennis Court Office. The works involve the construction of a timber deck measuring 5.115m x 4.705m off the north-western side of the existing office and replacement of an existing window with a door to provide access to the proposed deck.

The application is reported to the North Sydney Local Planning Panel (NSLPP) for determination because North Sydney Council is the owner of the land.

The application has been assessed under the NSLEP 2013, NSDCP 2013 and other relevant planning instruments and policies and generally found to be satisfactory because the works are unlikely to have any impact upon the heritage significance of the building and/or Primrose Park. Surrounding residential properties are far enough away from the Tennis Court Office that there will be no impact upon residential amenity.

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

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, **grant consent** to Development Application No. 18/20 for the addition of a deck and minor alterations to the existing Primrose Park tennis court office, (Matora Lane), Cremorne, subject to the attached standard conditions.

8. LPP07: 2A Cowdroy Avenue, Cammeray (T) – DA 200/19

Applicant: Liban Zakhia

Report of Robin Tse, Senior Assessment Officer, 23 March 2020

This development application seeks NSLPP approval for alterations and additions to an existing four (4) storey detached dwelling at No.2A Cowdroy Avenue, Cammeray to provide a new replacement roof, an extension to the swimming pool deck at the rear of the property and new garages to Cowdroy Avenue.

The application is referred to the North Sydney Local Planning Panel for determination because the variation sought to the building height development standard is greater than 10% and more than 10 submissions received which requires determination of the application by the Panel in accordance with the directions from the Secretary of Planning, Industry and Environment.

The notification of the original application and the amended plans has attracted a total of twelve (12) submissions were received raising concerns about the adverse amenity impacts on the adjoining properties including, the loss of views/privacy, overshadowing as well as on-going construction and site maintenance issues.

The proposed development has been assessed against NSLEP 2013 and NSDCP 2013 and was generally found to be a satisfactory in the site circumstances subject to the imposition of a deferred commencement condition requiring design modifications to the proposed garages to minimise the bulk and scale of the proposed garages along Cowdroy Avenue frontage and the deletion of the swimming pool deck extension to maintain the provision of landscaped area within the subject site (**Condition AA1(a) and (b)**).

The subject site is zoned E4 (Environmental Living) which permits single dwelling development.

The subject dwelling contains a self-contained flat on the top (flat floor) level as approved in a 1987. It is recommended that an on-going/operational

condition be imposed requiring the subject premises be used as a single occupancy (**Condition I1**).

Consideration has also been given to the Clause 4.6 request for a variation to the LEP's building height development standard as submitted by the applicant. The variation to the building height development standard is justifiable because the building element above the LEP maximum building height is unlikely to have an impact on the character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and the loss of privacy.

Council's Landscape Officer has recommended the retention of the matured trees as identified in the arborist report and the submission of a revised landscape plan (**Condition AA1(c)**).

The issues raised in the submissions received have also been addressed in the report with the imposition of appropriate conditions including additional privacy protection devices (**Condition AA1(d)**).

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved subject to conditions of consent.

Recommending:

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

A. **THAT** the North Sydney Local Planning Panel, assume the concurrence of the Secretary of Planning, Industry and Environment, invoke the provisions of Clause 4.6 with regard to the exception to the development standard for maximum building height and grant deferred commencement consent to Development Application No. 200/19 for alterations and additions to an existing detached dwelling on land at No. 2A Cowdroy Avenue, Cammeray, subject to the following site specific conditions and the attached conditions:-

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement condition(s) has/have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

Deferred Commencement Matters

AA1. Amended plans, addressing the following matters, must be submitted for the written approval of Council's Manager Development Services:

(a) Modifications to the Buildings Elements along Cowdroy Avenue Frontage

The dwelling entrance structure and the single garage to the west of the double garage must be deleted and replaced by an open entrance pathway to the dwelling with an open entrance gate and a single carport with an open construction. Soft landscaping up to a maximum height of 3m must be provided within planter beds located between the western edge of the single carport and the western common property boundary with 2 Cowdroy Avenue. These modifications are required in order to minimise visual bulk and to maintain the streetscape.

(b) Deletion of Swimming Pool Deck Extension

The proposed swimming pool deck extension at the rear of the subject property, including the extension to the northern and western edges of the existing swimming pool deck, be deleted and form no part of this approval to maintain adequate landscaping within the subject site and the locality within the E4 (Environmental Living) zone.

(c) Revised Landscape Plan

The applicant must prepare a revised landscape plan for the subject site, based on the landscape plan (Sheet 1 of 2, dated 20.01.20, drawn by Monaco Design PL) incorporating the following to enhance landscape quality of the subject site:

- (i) Retention of all trees identified in the Arborist report, dated 28 January 2020, prepared by Glenice Buck Design. The trees are T1 (*Grevillea robusta*), T3 (*Glochidion ferdinandii*) and T9 (*Grevillea robusta*);
- (ii) Provision of screen planting along the eastern and western property boundaries to the north of the northern building line of the main dwelling with a selection of native planting for the locality at a maximum height of 1.5m and drawn from the recommended list of native species from Council;
- (iii) Replacement of existing planting with new screen planting on the planter beds along the eastern and western property boundaries to the south of the northern building line of the main dwelling with a selection of native planting for the locality at a maximum height of 2m;
- (iv) Soft landscaping and planting of hedges/screen planting with a height of 3m on the planters on the eastern and western end of the street boundary adjacent to the new double garage and single carport; and
- (v) The retention of the turf area between the existing swimming pool deck and the northern property boundary.

(d) Privacy Screens

The applicant must install 1.5m high privacy screens along the eastern edges of the proposed staircase to the north of the new eastern garage building and along the eastern edge of the second floor elevated passageway within the eastern side setback area to ensure privacy protection for the adjoining property to the east. (Reason: To ensure that the development complements the locality in terms of streetscape, landscape quality and the amenity of the surrounding properties.)

This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.

B. Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following and site specific conditions:

Terms of Consent (D200/19)

A4. Approval is granted for the following as shown on the approved drawings listed in Condition A1:

- (a) Removal of the unauthorised eastern covered terrace windows and the removal of the unauthorised bi-fold doors to the eastern covered terrace on the top (flat) floor level;
- (b) Demolition of the existing roof and the construction of a new roof including an extension of the roof to the north by 3m to be supported by two unauthorised columns;
- (c) Demolition of the existing carports and the construction of a double garage, an open pedestrian entrance pathway to the dwelling and a single carport to

Cowdroy Avenue;

(d) Demolition of an existing external staircase within the eastern side building setback area and the construction of a new external staircase to provide access to the eastern garage;

(e) Construction of a new metal roof over the elevated passageway within the eastern (side) building setback on the second floor level and installation of a privacy screen to an existing opening off a first floor bedroom on the eastern elevation;

(f) Addition of a spa pool on a raised platform adjacent to the existing swimming pool and pool fencing;

(g) Retention of all trees identified in the Arborist report, dated 28 January 2020, prepared by Glenice Buck Design. The trees are T1 (*Grevillea robusta*), T3 (*Glochidion ferdinandii*) and T9 (*Grevillea robusta*);

(h) Landscaping works within the subject site as shown on the approved landscape plan as required by Condition AA3 of this consent; and

(i) The use of two (2) unauthorised columns on the top (flat) floor level to provide structural support for the proposed roof extension and the external wall on the eastern elevation under the eastern covered roof terrace.

No approval is given or implied in this consent for the swimming pool deck extension, tree removal and any other works not covered by this consent and other previous approvals issued by the relevant consent authorities or a Principle Certifying Authority, both internal and external, within the subject property.

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

Single Occupancy

11. The subject four-storey detached dwelling, including all residential accommodation on ALL levels, must be used as a single occupancy at all times. No approval granted or implied in this consent for the use of the subject property other than a single occupancy.

(Reason: To ensure the use of the existing dwelling as a single occupancy)

9. LPP08: 43 Hayberry Street, Crows Nest (W) - DA 38/2018/2

Applicant: Jeff and Yvette Mitchell

Report of George Youhanna, Executive Planner, 18/3/2020

This modification application seeks approval for modification of development consent for alterations and additions to an existing terrace at No. 43 Hayberry Street, Crows Nest and is reported to North Sydney Local Planning Panel for determination as the original development application included the addition of skylights to the existing roof at a height of approximately 9.8m above ground level, being greater than 10% above the 8.5m height limit.

Notification of the proposal has attracted one (1) submission, raising particular concerns about privacy, setback and stormwater disposal. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The applicant has amended the proposal to address the concerns of the submitter and has responded to concerns raised by Council in relation to the statutory requirements of s.4.55 and the architectural plan details.

Following this assessment the proposed modifications are considered to be reasonable in the circumstances and are recommended for **approval** subject to conditions.

Recommending:

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

THAT the North Sydney Local Planning Panel modify the development consent to Development Application No. 38/18 for alterations and additions on land at 43 Hayberry Street, Crows Nest, as per the following, amended conditions:

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/documentation

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

Plan No.	Issue	Title	Drawn by	Dated
S4.5501		Site Plan	COSO Architecture	Nov 2019
S4.5502		Ground Floor Plan	COSO Architecture	Nov 2019
S4.5503		First Floor Plan	COSO Architecture	Nov 2019
S4.5504		Roof Plan	COSO Architecture	Nov 2019
S4.5505		Back Elevations	COSO Architecture	Nov 2019
S4.5506		East Elevation	COSO Architecture	Nov 2019
S4.5507		West Elevation	COSO Architecture	Nov 2019
S4.5508		Studio Elevation	COSO Architecture	Nov 2019
S4.5509		Section AA	COSO Architecture	Nov 2019
DA04	A	Front and Back Elevation	COSO Architecture	June 2018
DA21		Materials/Finishes	COSO Architecture	June 2018

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

Amended Plans – Heritage

A3. 1) The proposed solar panels in the rear western facing roof plane shall be revised to cover no more than 25% of the roof plane. All skylights should be in line with the roof plane.

2) The legibility of the traditional layout of the terrace be conserved by the retention of nib walls and bulk heads where possible.

(Reason: To conserve the characteristic elements of the terrace house dwelling and the character of the Holtermann Estate C conservation area)

Amended Plans

A5. 1) The privacy screen on the southern elevation of the studio shall include 13 louvre blades, with a minimum blade depth of 40cm, angled upwards at a fixed angle of 30 degrees, in order to prevent downward viewing. Details shall be provided to the satisfaction of the PCA.

2) The “Back Elevation” shown on plan DA 04 Issue A is not approved and has been superseded by the Back Elevation on plan S4.5505

(Reason: To retain reasonable privacy for surrounding dwellings and to rationalise the architectural plan sets.)

10. LPP09: Unit 23, 238 Falcon Street, North Sydney (T) – DA 7/20

Applicant: Robert Joseph Wickham

Report of David Hoy, Team Leader Assessments, 20 February 2020

This development application seeks approval for the installation of a window to the eastern elevation and minor internal changes to Unit 23, being a top floor unit of an existing residential flat building at 238 Falcon Street, North Sydney.

The application is reported to North Sydney Local Planning Panel (NSLPP) for determination as the proposed alterations are above the maximum building height standard of 12 metres pursuant to Clause 4.3(2) in NSLEP 2013. The non-compliance with the permitted height standard is greater than 10% requiring

determination by the Local Planning Panel as directed by the Minister of Planning, Industry and Environment.

Council's notification of the proposal has attracted no submissions. Notwithstanding, the public interest has been considered within this assessment as well as the performance of the application against Council's planning requirements.

The applicant has submitted a Clause 4.6 submission seeking a variation to the building height control is considered to be well founded as the proposed breach will not increase the existing height or alter the overall built form of the building. In addition, the proposal will not materially reduce the residential amenity of surrounding properties in terms of solar access, privacy or views.

The proposed alterations are considered to be consistent with, and sympathetic to, the character and overall appearance of the existing residential building and the character of the Anzac Neighbourhood within the Cammeray Planning Area. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning & Assessment Act 1979*, the application is considered to be reasonable in the site circumstances and recommended for **approval** subject to standard 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, 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. 7/20 for Installation of window to eastern elevation of Unit 23 and minor internal changes on land at Unit 23, 238 Falcon Street, North Sydney, subject to the attached standard conditions.



NORTH SYDNEY LOCAL PLANNING PANEL

DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 4 MARCH 2020, AT 2.00PM.

PRESENT

Chair:

Jason Perica in the Chair.

Panel Members:

Jan Murrell - Panel Member

Caroline Pidcock - Panel Member

Veronique Marchandeanu - Community Representative

Staff:

Robyn Pearson, Team Leader Assessments

Administrative Support

Melissa Dunlop, Governance Coordinator (Minutes)

Apologies: Nil.

1. Minutes of Previous Meeting

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

2. Declarations of Interest

It is noted that Veronique Marchandeanu has previously served on the same Council as the part owner for Item 2, 61/29 Carabella Street, Kirribilli – DA 13/20 but has no personal or commercial affiliation with the part owner and accordingly did not declare a Conflict of Interest. The Chair noted and agreed.

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.

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

ITEM 1

DA No:	DA 403/19
ADDRESS:	1 Elizabeth Plaza, North Sydney
PROPOSAL:	Alterations and additions to commercial building.
REPORT BY NAME:	Geoff Mossemenear, Executive Planner
REASON FOR NSLPP REFERRAL:	The application is reported to the Panel for determination as the proposal involves Council land.
APPLICANT:	Cullen Feng Pty Ltd

Public Submissions

Submitter	Applicant/Representative
	Jon Cullen (Applicant)

Panel Determination

The Council Officer's Report and Recommendation is endorsed by the Panel subject to the deferred commencement terms being amended as follows:

AA. *Deferred Commencement Condition*

This consent shall not operate until the following deferred commencement condition has been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 5 years of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement condition within 5 years of the date of the grant of this consent this consent will lapse in accordance with Section 4.53 (7) of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not.

Air Space above Splay Corner

AA1. *The applicant and Council shall enter into a Heads of Agreement, agreeing to the formalisation of a Lease over the encroachment of the proposed expansion of the commercial floor plates over the splay corner which will encroach onto Council's public land.*

The applicant shall agree in writing to enter into a Lease Agreement with Council in accordance with Clause 4.2.3.5(i)(a) of the Encroachment Management Policy.

A bond of \$20,000 shall be lodged to cover all costs associated with the preparation and negotiation of the lease documents, and the drawing of the stratum subdivision plan of the airspace encroachment. The bond is to be accompanied with a letter of authorisation from the property owner granting Council permission to draw on the bond. A further amount is to be lodged if the bond is insufficient.

All associated costs in relation to the encroachment will be borne by the property owners of 1 Elizabeth Plaza.

All other terms and conditions are to be in accordance with the Encroachment Management Policy including:

- *The rental being determined by a registered valuer and the 'area' used to assess the rental must be supplied in writing by a registered surveyor or architect.*
- *A final survey plan being submitted to Council upon completion of the development with the total 'area' of the encroachment noted. If the 'area' differs upon completion of the project, the rental will be reviewed at the cost of the lessee.*
- *The commencement date of the lease being the Date of Practical Completion.*
- *The lessee being responsible for all maintenance and insurance of the encroachment.*
- *The encroachment being notated on a Section 10.7 Certificate.*

(Reason: To allow the proposed additional floor space over the splay corner.)

This consent shall not operate until such time as the written approval is received from Council's Manager Development Services stating that the requirements of this condition has been satisfied.

B. *Subject to the above deferred commencement condition being satisfied within 5 years of the date of this determination, the consent shall operate in accordance with the following site specific condition (II) and the attached standard conditions and any conditions reasonably arising from satisfying the terms of the deferred commencement condition.*

Panel Reasons:

The Panel agreed with the environmental assessment of the proposal as outlined in the Council officer's report. The Panel was of the view the works are relatively minor, the form respects the existing building and the public way is not compromised by the proposed works. The external impacts from the proposal will be very minor.

Minor changes were made to the recommendation ensure the deferred commencement terms were able to be implemented.

The Panel noted that no submissions were received.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jason Perica	Y		Veronique Marchandeanu	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 2

DA No:	DA 13/20
ADDRESS:	61/29 Carabella Street, Kirribilli
PROPOSAL:	Two new top floor windows on the northern and southern elevations within Unit 61.
REPORT BY NAME:	Leonie Derwent, Senior Consultant, Ingham Planning Pty Ltd
REASON FOR NSLPP REFERRAL:	The application is reported to the Panel for determination because a part owner of the subject Unit is the Mayor of North Sydney Council. Furthermore, the new windows would also be constructed above the permissible height limit of 12m with a non-compliance greater than 10%.
APPLICANT:	COSO Architecture

Public Submissions

Submitter	Applicant/Representative
	Anthony Solomon (Applicant)

Panel Determination

The Council Officer's Recommendation is endorsed subject to the inclusion of a new condition to state:

“The new windows shall incorporate high performance glazing, with details to be included in the application for a Construction Certificate.”

Panel Reasons:

The Panel has the benefit of a site inspection and the submissions received both oral and written.

The Panel agreed with the environmental assessment of the proposal as outlined in the Council officer's report.

The Panel had regard to the applicant's Clause 4.6 written request to contravene the maximum Building Height development standard within Clause 4.3 of North Sydney Local Environmental Plan 2013 and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was

in the public interest. It was noted the new works are within the existing building fabric and do not add to the overall building height.

The Panel is satisfied the proposal would have minimal adverse impacts and warrants approval given the separation distances to surrounding properties. The new windows complemented existing window openings and proportions on the ground floor of both the northern and southern elevations. Concerns raised by neighbours regarding privacy impacts and light spill did not warrant refusal of the application and were not considered significant in the context of the existing built environment and inner city living, and given separation distances to other dwellings.

By way of comment, there was some discussion amongst the Panel about the potential heritage significance of the building. The Panel noted this is a matter for Council to consider.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jason Perica	Y		Veronique Marchandau	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 3

DA No:	DA 398/19
ADDRESS:	45 Willoughby Street, Kirribilli
PROPOSAL:	Additions and alterations to dwelling including a two-storey rear extension, roof terrace and excavation to create additional accommodation below the dwelling.
REPORT BY NAME:	Lisa Kamali, Senior Assessment Officer
REASON FOR NSLPP REFERRAL:	The application is reported to the Panel for determination because the proposed development involves building elements at roof level that are above the permissible height limit of 8.5m, pursuant to Clause 4.3(2) in NSLEP 2013. The non-compliance with the permitted height limit is in part greater than 10%.
APPLICANT:	Stuart and Sylvia Terry, C/- Filmer Architects (Colin Filmer)

Public Submissions

Submitter	Applicant/Representative
James McGee	Colin Filmer (Applicant)
	Elyse Kenny (Applicant's Town Planner)
	Stuart Terry (Owner)

Panel Determination

The Council Officer's Recommendation is endorsed by the majority of the Panel subject to the following amendments:

1. The terms of the Deferred Commencement consent shall be modified as follows:

AA1. Design Modifications and Further Information – Heritage

The following modifications and clarification are required:

- ~~1. The proposal is to be amended by the consultant heritage architect to delete the reinstatement of the balconies to the original configuration with the subsequent cantilever over the new staircase. Details are to be provided to illustrate the revised balcony design, which may include works to provide a more even, symmetrical splayed corner, including the location of new verandah posts, the location of the entry stairs and pathways to the front door of the Victorian dwelling. Note: The Panel deleted this condition as it was satisfied with the proposed squaring off of the verandah and rationalisation of support posts.~~
1. **The proposal is to be amended to delete the staircases from the cellar to the front setback and to provide replacement soft landscape in this area. These stairs may be replaced by a small lightwell (maximum 1 metre x 600mm) to allow some light and ventilation into the proposed cellar.**
2. **The existing balustrades are to be modified to achieve BCC compliance rather than replaced, to retain significant original fabric.**
3. **The existing 'L' shaped front ground floor verandah shall retain the existing sandstone base (extended for the squared-off verandah corner), and the proposed stair along the northern front boundary shall be deleted. Access to the front door shall be provided but relocated via the western verandah, in the area of new works to the west of the dwelling, from the basement to the ground floor level. This may also include some revision to the basement floor levels and planter box depth (while retaining sufficient soil volume for the proposed tree, which may also include a planter box partly above ground, but no higher than 600mm above finished ground level), without otherwise changing the proposed surrounding ground floor finished levels.**
4. **First Floor Plan DA 1.1.4 Revision C is to be amended to delete 'Note: New ceilings and ceiling framing to Level 4 as approved under DA307/13.' The note does not point to any specific part of the plans and should be removed.**
5. **The requirements of Condition C13 (Geotechnical Report).**
6. **An amended landscape plan is required to include: an increased amount of soft landscaping; replacement of the proposed Lagerstroemia tree in NE corner by a tree selected from Council's Port Jackson plant species list, to reach a mature height of at least 6 metres, with a minimum pot size of 75L; and an additional canopy tree in the western courtyard.**

The applicant must submit revised architectural plans and details complying with the requirements of this condition for the written approval of Team Leader Assessments, after consultation with Council's Heritage Planner.

(Reasons: To retain original fabric, reduce structural impact to significant elements and retain the significance of the building including original front entranceway and balcony, while improving landscaping and rationalising access).

2. Add a condition requiring the applicant to surrender previous consent (DA307/13).

Panel Reason:

The Panel has the benefit of a site inspection and the submissions received both oral and written. The Panel generally agreed with the environmental assessment of the proposal as outlined in the Council officer's report.

The Panel had regard to the applicant's Clause 4.6 written request to contravene the maximum Building Height development standard within Clause 4.3 of North Sydney Local Environmental Plan 2013 and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest.

The Panel notes the proposed height does not detract from the heritage significance of the building, did not significantly vary the approved and commenced Development Application and did not cause any significant amenity impacts on neighbours.

The restored verandah represents a positive heritage outcome and a public benefit.

The Panel had concerns regarding the heritage impacts and potential structural impacts upon the dwelling and front boundary wall arising from the proposed excavation for various stairs in the front setback area. Additional terms were included in the Deferred Commencement consent to address this. The Panel also noted the non-complying landscape area and lack of deep soil planting. Additional terms were also included in the Deferred Commencement consent to address this.

The decision was not unanimous, with one Panel member having a dissenting view. That Panel member is concerned with the compromised heritage outcome, excessive excavation and potential associated impacts, and the lack of landscaping and deep soil area. While noting changes proposed by the majority of the Panel, that Panel member was of the view that the outcome still remained compromised and therefore favoured refusal of the proposal.

Voting was as follows:

3/1

Panel Member	Yes	No	Community Representative	Yes	No
Jason Perica	Y		Veronique Marchandean		N
Jan Murrell	Y				
Caroline Pidcock	Y				

ITEM 4

DA No:	DA 410/19
ADDRESS:	15/224-230 Ben Boyd Road, Cremorne
PROPOSAL:	Balcony enclosure (Unit 15).
REPORT BY NAME:	Robyn Pearson, Team Leader (Assessments)
REASON FOR NSLPP REFERRAL:	The application is reported to the Panel for determination because the proposed alterations are above the permissible height limit of 12 metres pursuant to Clause 4.3(2) in NSLEP 2013. The non-compliance with the permitted height limit is greater than 10%.
APPLICANT:	Antony Bruce Doig

Public Submissions

Nil.

Panel Determination

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

Panel Reason:

The Panel has the benefit of a site inspection. The Panel agreed with the environmental assessment of the proposal as outlined in the Council officer’s report.

The Panel had regard to the applicant’s Clause 4.6 written request to contravene the maximum Building Height development standard within Clause 4.3 of North Sydney Local Environmental Plan 2013 and formed the view the applicant’s written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. The Panel noted the minor nature of the proposed works. The new works are within the existing building fabric and do not add to the overall building height.

The Panel notes that the proposal for frameless glazing is different to the other framed balcony enclosures and would have preferred a more consistent treatment, however this did not warrant refusal in the circumstances, given the minor nature of the works and their limited visibility.

The Panel noted no submissions were received.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jason Perica	Y		Veronique Marchandeanu	Y	
Jan Murrell	Y				
Caroline Pidcock	Y				

The public meeting concluded at 2.50pm.

The Panel Determination session commenced at 2.50pm.

The Panel Determination session concluded at 3.50pm.

Endorsed by Jason Perica

North Sydney Local Planning Panel, 4 March 2020