



## NORTH SYDNEY COUNCIL

Council Chambers  
28 January 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 February 2021.

Your attention is directed to the accompanying statement of the business proposed to be transacted at such meeting.

**KEN GOULDTHORP**  
**GENERAL MANAGER**

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### BUSINESS

**1. Minutes**

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

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**2. LPP01 PUBLIC MEETING: 2/152 Military Road, Neutral Bay (V) – DA 299/20**

Applicant: Service Industry Legal Services

Report of Michael Stephens, Senior Assessment Officer, 22 January 2021

This development application seeks approval for the fit out and use of an existing tenancy within a mixed use building as a small bar operating 10am – 11pm Monday to Wednesday, 10am – 12am Thursday to Saturday and 10am – 10pm Sunday, and associated signage.

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. Notification of the development application has attracted 13 submissions raising particular concerns regarding noise impacts arising from the use within the mixed use locality. This application is required to be determined by a public meeting of the Panel in accordance with the Directions from the Minister for Planning dated 10 August 2020 as there are more than 10 unique submissions.

The proposed development for a small bar is permissible within the mixed use zone and a small bar liquor licence application has been made concurrently with the Independent Liquor and Gaming Authority. The application was referred to the NSW Police who advised that the proposed use was considered low risk and recommended conditions of consent.

The proposed hours of operation comply within the late-night trading hours in North Sydney Development Control Plan 2013. The subject site is located at the rear of an existing mixed use building and would provide an active use at street level adjoining the laneway which has recently been pedestrianised with the public domain works undertaken by Council. The proposed signage is business identification signage only and is compatible with the proposed use and its location and are well proportioned for the small shop front facing the laneway. The 13 submissions received raised particular concerns regarding the suitability of the use within a mixed use area, potential noise impacts affecting surrounding dwellings, patron behaviour and restrictions on outdoor seating. 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, **grant consent** to Development Application No. 299/20 for the fit out and use of an existing tenancy as a small bar with a maximum capacity of 65 patrons and associated signage.

**3. LPP02 PUBLIC MEETING: 11 Bennett Street, Cremorne (V) - DA 308/20**

Applicant: Ocean King Enterprises Pty Limited

Report of Pierre Le Bas & Tia Gao of Turnbull Planning International Pty Ltd, 27 January 2021

This development application seeks approval for the construction of a part two storey and part 3 storey dual occupancy attached development in a semi-

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detached arrangement on each of the two previously approved allotments (Lot 1 in DP 1110849 and Lot B in DP 350785). The proposed development involves a pair of dual occupancy attached dwellings on each subdivided lot with a total of four (4) x 3 bedroom dwellings.

The proposal proposes a variation to the building height development standard which is greater than 10% and received more than ten (10) submission, 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 required as there are more than 10 submissions.

The application was notified to adjoining properties and the Bennett Precinct. Council received eighteen (18) submissions raising concerns about the non-compliance with the LEP maximum building height control, uncharacteristic development, adverse privacy impacts, view loss, overshadowing, traffic and parking impacts arising from the proposal.

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

The application proposes dual occupancy development that is a permissible form of development in the R2 zone under the NSLEP. The scale of the proposed two buildings (each on their own lot) is consistent with other development in the heritage conservation area and the site is located in a natural fall in the land and this combined with excavation that has already occurred will result in the scheme not dominating the local area.

The design, with suitable street setbacks is such that the proposal will improve the streetscape appearance. This is particularly the case given that the existing garages have a nil setback to the street that are proposed to be demolished. Existing heritage items near to the subject site will not be materially adversely affected.

The issues raised in the submissions received have been addressed in this report. The application is supported by the authors notwithstanding that, in the opinion of the authors and due to particular circumstances detailed under, the application may not be determined and until such time as the existing buildings on the land are demolished in accordance with **DA237/18** for subdivision and demolition of the existing dwelling on the subject site.

Having regard to the merits of the proposal, the application is recommended for approval subject to the submission of documentary evidence demonstrating the **demolition of the existing buildings on the land** within 60 days from the date of the Panel's decision.

**Recommending:**

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

**THAT** the North Sydney Local Planning Panel, delegate authority to Manager Development Services to determine the subject Development Application No. 308/20 for the construction of 2 x dual occupancy developments on land at No. 11 Bennett Street, Cremorne, subject to the submission of documentary evidence within 60 days to confirm the demolition of existing buildings within the subject site. The attached conditions should apply to any such approval.

Should the Manager Development Services determine that approval is not warranted then the application is to be referred to the Panel for determination.

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**Matters with less than 10 submission which are to be determined outside of the public meeting in accordance with the direction of the Minister for Planning dated 30 June 2020.**

**4. LPP03 OUTSIDE PUBLIC MEETING: 5 Mil Mil Street, McMahons Point - DA 231/20**

Applicant: Louise Cox

Report of Hugh Shouldice, Development Assessment Officer, 20 January 2020  
This development application seeks North Sydney Planning Panel (NSLPP) approval for alterations and additions to a heritage item within a conservation area at No. 5 Mil Mil Street, McMahons Point.

This application is reported to NSLPP for determination because the development applications involves demolition of a heritage item, including part demolition. The development application is therefore, required to be determined by the North Sydney Local Planning Panel in accordance with the Minister's directions.

The notification of the application is in accordance with the *North Sydney Community Participation Plan 2019*. At the end of the notification period, Council received seven (7) submissions raising concerns about loss of residential amenity, solar access, view loss, setbacks and heritage impacts. The assessment has considered these concerns as well as the performance of the amended application against Council's planning requirements.

The proposal seeks approval for minor demolition as well as alterations and additions to a heritage item within a conservation area. A detailed description of the proposed works is outlined later in the report.

The application was referred to Council's Heritage Officer who raised no objections to the proposal subject to standard and site-specific conditions. Council supports the application and recommends approval on the basis that the proposed works do not result in significant environmental or heritage impacts.

**Recommending:**

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

**THAT** the North Sydney Planning Panel, **grant consent** to Development Application No. **231/20** for alterations and additions to a heritage listed dwelling house within a conservation area, on land described as No. 5 Mil Mil Street, McMahons Point as shown on the plans and the following site specific condition and the attached standard conditions:

**Heritage Amendments**

C1 The following amendments to the proposal are to be undertaken:

- That the western (side) setback of the first-floor addition shall be revised so that it is aligned with the western chimney stack in the primary roof and does not project beyond it. Revised plans shall be submitted to Council for approval of any CC.
- That the proposed skylights in the roof above the stairs shall be in line with the roof plane and shall not extend above the roof plane.
- A schedule of conservation works to be carried out for the maintenance, repair and restoration of the dwelling is required prior to CC.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of

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

(Reason: To protect the significance of the heritage item and the character of the McMahons Point North conservation area)

**5. LPP04 OUTSIDE PUBLIC MEETING: 275 Alfred Street North, North Sydney (V) - DA 240/20**

Applicant: Legge and Legge Architects Pty Ltd

Report of Hugh Shouldice, Assessment Officer, 18 January 2021

This development application seeks North Sydney Local Planning Panel (NSLPP) approval for the removal of the existing “BAYER” sky signs and the construction of three (3) sky advertisement signs located on the roof structure of an existing commercial building at 275 Alfred Street North, North Sydney.

This application is reported to NSLPP for determination because the application being the proposed signage is above the building height limit by greater than 10% and is therefore required, to be determined by the North Sydney Local Planning Panel in accordance with the Minister’s directions.

The notification of the application is in accordance with the *North Sydney Community Participation Plan 2019*. At the end of the notification period, Council received two (2) submissions raising 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 existing “BAYER” signs are located on three elevations of the existing building, being the north, west and south. The highest point of the proposed signage is to be 58.99m RL. The proposed signage breaches Council’s building height control specified in Clause 4.3 of the North Sydney Local Environmental Plan 2013.

The design of the proposed signage is supported as it would site below the highest point of the existing rooftop structure and is similar to the existing signage in size, colour and dimensions. The design, form and illumination impact of the proposed signage can be reasonably modified by conditions to address amenity impacts.

The application is deemed satisfactory and is recommended for **approval**.

**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.240/20 for the removal of the existing signage and the installation of three (3) new sky signs on land at No. 275 Alfred Street North, North Sydney as shown on the plans and subject to the following site specific and standard conditions:-

**Terms of Consent**

A4. Approval is granted for the removal of the existing sky advertisement signage and the construction of new sky advertisement signage in the same locations at No. 275 Alfred Street North, North Sydney.

No approval is granted or implied for any additional works not covered by this consent.

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

#### **TfNSW Conditions**

C1. The following conditions from TfNSW are shall apply:

1. Signage display shall not contain:
  - a) Flashing lights.
  - b) Animated display, moving parts or simulated movement.
  - c) A method of illumination that unreasonably distracts or dazzles.
  - d) Images that may imitate a prescribed traffic control device, for example red, amber or green circles, octagons or other shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device.
  - e) Text providing driving instructions to drivers
2. The illumination levels shall be in accordance with relevant guidelines and standards.
3. The design and construction of signage structures shall be in accordance with relevant Australian Standards.
4. Construction and maintenance activities shall be undertaken wholly within the private property of the site.
5. All works associated with the proposed sign, including maintenance activities, shall be at no cost to TfNSW.

(Reason: To ensure the proposed signage does not result in adverse impacts to drivers or residents within the LGA)

#### **Signage Scale**

C2. The proposed signage is to be reduced in surface area by 10% on each of the northern, western and southern elevations.

(Reason: To ensure the proposed signage is similar in scale to the existing signage)

### **6. LPP05 OUTSIDE PUBLIC MEETING: 20 Waiwera Street, Lavender Bay (W) – DA 269/20**

Applicant: James John Martin

Report of Luke Donovan, Senior Assessment Officer, 21 January 2021

This development application seeks approval for alterations and additions to heritage listed attached dwelling including new rear boundary wall and landscaping works on land at

20 Waiwera Street, Lavender Bay.

The application is reported to 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”. As per the determination of the LPP on 4 November 2020 relating to “*Delegation of decisions relating to part demolition of Heritage items associated with alterations and additions...*”, Council Officers do not have delegation to determine such developments “*that would affect the heritage significance of the item*”.

The existing terrace dwelling has a maximum building height of 11.45m and is located within the R3 Medium Density Residential zone. The proposal involves works above the maximum height control of 8.5m, however these works are lower than the existing building height of 11.45m. A written request prepared

pursuant to Clause 4.6 in NSLEP 2013 was submitted as part of the application which is considered to be well founded in the site circumstances.

Subject to recommended conditions, the proposal will generally conserve the heritage significance of the heritage item and the McMahons Point North Conservation Area.

The notification of the proposal has not attracted any public 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, 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) in NSLEP 2013 and **grant consent** to Development Application No. 269/20 for alterations and additions to heritage listed attached dwelling including new rear boundary wall and landscaping works on land at 20 Waiwera Street, Lavender Bay subject to the following site specific and standard conditions:-

**Design Amendments**

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 size of the existing rear level 01 balcony (referred to on the plans as the roof top terrace 03) is to be retained. No approved is given to the extension of this balcony to the rear.
4. 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.
5. 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 roof 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.
6. The nib walls and bulkheads to new openings are to be retained.
7. 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 and to ensure new works do not detract from row of attached heritage listed dwellings)

**Retractable roof**

11. The approved ‘retractable roof’ to the north western courtyard shall not be further enclosed except with further development consent.

(Reason: To ensure consistency with the terms of this consent and the preserve the heritage significance of the dwelling)

**7. LPP06 OUTSIDE PUBLIC MEETING: 58 Cowdroy Avenue, Cammeray - Section 8.2 Review of Determination No. 3/20 (DA56/20)**

Applicant: Paul Etherington & Renata Etherington

Report of John McFadden, Consultant Town Planner, 25/01/2021

On 5 August 2020, the North Sydney Local Planning Panel (NSLPP) refused DA56/20 for the demolition of an existing dwelling and construction of a new dwelling with associated tree removal and earthworks on land at 58 Cowdroy Avenue, Cammeray. The applicant seeks a review of determination under s.8.2 of the *Environmental Planning & Assessment Act, 1979* (EPA Act).

The application is reported to the NSLPP for determination, as directed by the Minister for Planning, Industry and Environment as the proposal involves a non-compliance with the maximum ‘height of building’ development standard under *North Sydney Local Environmental Plan 2013* (NSLEP) exceeding 10% and given that the application seeks a review of determination under sections 8.2-8.5 (inclusive) of the EPA Act.

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. A revised clause 4.6 request for an exception to the maximum ‘height of building’ development standard under NSLEP has been submitted by the applicant with this ‘review of determination’ application. The amended proposal is substantially the same development for the purposes of s.8.3(3) of the EPA Act. The amended design has included a courtyard which appears to enable space for one (1) replacement tree to compensate for the removal of all nine (9) trees on the site. However, no revised landscaping plans have been submitted. The amended proposal, whilst reducing the height of the building and decreasing the site coverage, does not make a satisfactory attempt to comply with the relevant environmental planning instruments and controls.

The amended plans indicate some reduction in the impact of the development on adjoining development in terms of view impacts and overshadowing. However, a further reduction in the roof height, increased setbacks and less site coverage is desirable in order to make these impacts acceptable. The proposal is a ‘new build’ (not alterations and additions) and in the absence of any floor space ratio (FSR) control, should be able to comply with de facto building envelope controls such as height, setbacks and site coverage under NSLEP and North Sydney Development Control Plan 2013 (NSDCP). It is acknowledged that the topography of the site is a major constraint and with an appropriate design, some height variations could be justified.

However, the proposed upper floor, with ceiling heights up to 5.26m, is considered excessive and contributes to the non-compliance with that development standard and associated amenity and environmental impacts on both surrounding development and the public domain. The written clause 4.6



request seeking an exception to the maximum ‘height of building’ development standard under NSLEP is not supported as it has not adequately demonstrated that compliance with the standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to support the proposed variation. The breaches to the maximum building height control are not considered to be in the public interest given that the proposal is not consistent with the objectives of the maximum ‘height of building’ control, or the objectives of the E4 Environmental Living zone under NSLEP.

Council’s notification of the review and amended plans attracted four (4) submissions against the application which again raised a number of issues including those outlined above. Following this assessment and having regard to the provisions of Section 4.15 and Sections 8.2–8.5 (inclusive) of the *Environmental Planning & Assessment Act 1979*, the application is recommended for **refusal**.

**Recommending:**

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

**THAT** the North Sydney Local Planning Panel, exercising the functions of Council as the consent authority, resolve to **reaffirm the refusal** of Development Application No. 56/20 for the demolition of an existing detached dwelling, excavation, tree removal and construction of a new detached dwelling, on land at No. 58 Cowdroy Avenue, Cammeray for the following reasons:-

1. **The written request pursuant to clause 4.6 of NSLEP is not supported;**  
The written request pursuant to clause 4.6 of NSLEP seeking a variation to the height of building development standard in clause 4.3 of NSLEP is not considered to be well founded.

**Particulars:**

- a) The proposed development significantly breaches the 8.5m maximum height of building development standard specified in clause 4.3(2) in NSLEP for a substantial part of the proposed building.
- b) The written request submitted with the application seeking a variation to the maximum height of building development standard has inadequately addressed the matters required to be addressed in subclause (3) in clause 4.6 in NSLEP.

The written request has failed to adequately demonstrate that compliance is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the height of building development standard.

- c) The proposed development is not considered to be in the public interest as the development is not consistent with the objectives of the height of building standard in clause 4.3(1) in NSLEP and the objectives of the E4 - Environmental Living zone (dot points 1, 2 and 3) under NSLEP.

2. **The proposed development is not appropriate to its context and is incompatible with the built form and landscape character of the Cammeray foreshore area;**

The amended development is not appropriate to its context or compatible with the existing and future character of the Cammeray foreshore by virtue of its excessive height, bulk and scale, its excessive building footprint and inadequate area for deep soil tree planting, its incongruous built form and its failure to respond to the natural topography of the site.

**Particulars:**

- a) The proposed development has a large sloping roof form, high side walls and internal 3<sup>rd</sup> floor ceiling height of up to 5.26 metres with a substantial portion of the building still exceeding the ‘height of buildings’ development standard. Surrounding dwellings provide a significantly reduced volume and overall proportions.  
The proposed development is therefore not compatible with the predominant scale of the area, contrary to Aims of NSLEP, specifically clause 1.2(2)(a) and 1.2(2)(b)(i) and (iii), clauses 4.3(1)(e) and (f) in NSLEP (Height of Buildings - Objectives), the Objectives of the E4 Environmental Living zone, Objective O5 in Part B section 1.1.1 in NSDCP (General Objectives), and Objective O1 and Provisions P1 and P3 in Part B Section 1.4.7 in NSDCP.
- b) The proposed development as amended still does not adequately follow the natural topography of the site through a stepping of the built form contrary to Aims of NSLEP 2013, specifically clause 1.2 (2)(e)(i), clause 4.3(1)(a) in NSLEP (Height of Buildings - Objectives), Objective O8 in Part B section 1.1.1 (General Objectives), ) the Objectives of the E4 Environmental Living zone, Objective O1 and Provisions P1, P3, P4 and P5 in Part B Section 1.3.1 (Topography), and Provision P5 in Part C Section 4.2.3 (Cammeray Neighbourhood) in NSDCP.
- c) The proposed development as amended has a site coverage of at least 50% (including the foreshore lot) which is substantially non-compliant with the maximum site coverage of 40% specified in P1 in Part B, section 1.5.5 in NSDCP. The proposed development fails to satisfy Objectives O1, O2, O3 and O4 in Part B section 1.5.5 in NSDCP.
- d) The proposed development whilst having a landscaped area of 40% which barely complies with the minimum landscaped area specified, does not have adequate areas for deep soil planting and fails to satisfy Objectives O1(a), (c) and (f) and provisions P1, P3 and P8 in Part B, Section 1.5.6 in NSDCP, and Objectives O1, O2 and O3 and Provisions P2, P3, P6, P7, P9 of Part B Section 1.5.7 in NSDCP.
- e) The proposed rear setback is still well forward of the western neighbours, combined with the height, building bulk and inadequate stepping to the built form at the rear of the building, fails to satisfy Objectives O2 and O4 of Part B Section 1.4.6 in NSDCP.
- f) The proposed height, bulk and scale of the building and the extensive works and removal of vegetation within the foreshore area, incompatible with the waterfront natural environment. The development is therefore contrary to Aims of NSLEP 2013, specifically clause 1.2(2)(a) and 1.2(2)(b)(i) and (iii), clauses 4.3(1)(e) and (f) in NSLEP (Height of Buildings - Objectives), clause 6.9 (1), (3)(a), (b), and (g), the Objectives of the E4 Environmental Living zone specifically dot point 1), Objectives O4 and O5 in Part B Section 1.1.1 in NSDCP, Objective O1 and Provisions P2, P4, P5, P7, P8, P9 and P10 in Part B Section 1.3.4 in NSDCP, Objective O1 and Provision P2 in Part B section 1.4.12 in NSDCP, Provision P8 in Part B section 1.3.4 in NSDCP, and Objective O1 and Provision P3 in Part B section 1.4.7 in NSDCP.
- g) The proposed side setbacks, which provide no stepping at the 3<sup>rd</sup> floor level, fails to satisfy objectives O2, O3 and O4 of Part B Section 1.4.6 in NSDCP.

- h) The proposed development is not considered to maintain, protect and enhance the visual qualities of Sydney Harbour by virtue of the excessive height, bulk and scale of the building along with the extensive works and removal of vegetation within the foreshore area contrary to the planning principles in clauses 13(f) and 14(d) and clause 25 of SREP (Sydney Harbour Catchment) 2005.

**3. The proposed development will unnecessarily adversely impact existing views and result in an unreasonable level of view sharing for surrounding properties;**

The proposed development, by way of its height, scale and siting, will result in unreasonable view loss for several properties around the site and particularly the neighbour to the immediate west.

**Particulars:**

- a) The proposed development unnecessarily impacts existing views for properties around the site. The impact on existing views is generally caused by elements of the proposed development that fail to comply with Council's maximum building envelope controls.
- b) Having regard to the view sharing principle established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 the majority of the views that are to be impacted are significant including water views with land and water interface. These views, whilst across side boundaries, are from primary living spaces and for the western neighbour the view impacts would be considered moderate from all primary living areas.
- c) Occupants of the new dwelling will obtain unobstructed views at the expense of the neighbouring properties. If the building complied with height and site coverage requirements the view impacts would be significantly reduced.
- d) The proposed development is contrary to clause 1.2(2)(c)(i) Aims of Plan in NSLEP 2013, the Objectives of the E4 Environmental Living zone and Objective O2 and P4 in Part B, section 1.3.6 in NSDCP.

**4. The amended design still proposes excessive excavation and filled areas across the site would adversely impact neighbour amenity and existing vegetation and natural features of the site;**

The proposed development involves extensive excavation or fill across the majority of the site and construction of a new dwelling with significantly non-complaint site coverage, which results in the removal of all trees from the site including significant trees and natural features of the site.

**Particulars:**

- a) The amended application proposes the removal of all trees from within the site including several significant trees which would be likely to reduce the visual amenity and ecological performance of the site within its waterfront location within close proximity to bushland.

The tree removal has not been adequately justified in the submitted arborists reports. The development is therefore contrary to clause 1.2(2)(e)(i) Aims of Plan in NSLEP, Objectives O1, O2, O3 and O4 in Part B, section 1.5.7 in NSDCP, Objectives O1, O3 and O4 and provisions P1, P2, P3, P5, P6, P7, and P9 in Part B, section 1.5.8 in NSDCP, Objective O1 of Part B section 16.2.1 in NSDCP and Provisions P2, P3, P4 in Objective O1 of Part B section 16.2.2 in NSDCP.

- b) The application has failed to provide clarity as to the extent of excavation and any required retaining walls near site boundaries, and limited details are provided in respect of measures that may be necessary to support the excavation, including whether support extending into neighbouring land will be required.

The proposed excavation is contrary to the Objectives of clause 6.10 in NSLEP and Provisions P4 and P5 in Part B, section 1.3.1 in NSDCP.

**5. Unnecessary overshadowing of neighbouring properties caused by a non-compliant building form;**

The proposed development would result in unnecessary shadowing for neighbours.

**Particulars:**

- a) The amended development, although complying with the minimum 3 hours of solar access to neighbours requirement, still results in unnecessary shadowing to adjoining neighbours by way of the proposals excessive scale, bulk and height and is contrary to the Aims of NSLEP 2013, specifically (2)(c)(i); (Residential amenity); the Objectives of the E4 Environmental Living zone, specifically dot point 3, Objective O4 in Part B, section 1.1.1 in NSDCP, and Objectives O2 and O4 and Provision P4 in Part B, section 1.4.6 in NSDCP.

**6. Insufficient and inadequate plans and supporting information;**

The plans submitted with the review application are lacking in detail and supporting information inadequate.

**Particulars:**

- a) The architectural plans are insufficiently dimensioned, with features on the plans such as setbacks and the 8.5m height lines on elevational plans are either not dimensioned, unlabelled and/or confusing. Further, the RL of the Sewer Main has not been provided on the sectional plans;
- b) Detailed landscaping plans have not been submitted;
- c) The photomontage is inadequate as only one view has been submitted and no perspectives have been provided from the waterway.
- d) The view analysis is inadequate as it shows one view, from one location on one property, with no other supporting information.
- e) The BASIX certificate is a draft only and therefore is invalid.

**7. The amended development is not in the public interest given the above likely impacts.**

**Particulars:**

The above matters were raised in the four (4) submissions from nearby residents. The proposal is, therefore, not considered to be in the public interest or suitable for the site and is contrary to section 4.15 of the EPA Act.

**NORTH SYDNEY LOCAL PLANNING PANEL****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING  
HELD IN THE SUPPER ROOM, COUNCIL CHAMBERS, NORTH SYDNEY,  
ON WEDNESDAY 2 DECEMBER 2020, AT 2.00PM.****PRESENT****Chair:**

Jan Murrell

**Panel Members:**

Ian Pickles, Panel Member

Garry Fielding, Panel Member

Jane van Hagen, Community Representative

**Staff:**

Stephen Beattie, Manager Development Services

Melissa Dunlop, Governance Co-ordinator (Minutes)

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

The Minutes of the NSLPP Meeting of 4 November 2020 were confirmed at that meeting.

**2. Declarations of Interest**

Garry Fielding declared an interest in Item 1 – LPP01 127 Alexander Street, Crows Nest - DA 224/20 and 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 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>	224/20
<b>ADDRESS:</b>	127 Alexander Street, Crows Nest
<b>PROPOSAL:</b>	Alterations and additions to commercial building.
<b>REASON FOR NSLPP REFERRAL</b>	The proposal involves a non-compliance with a development standard (building height) exceeding 10%.
<b>REPORT BY NAME:</b>	Geoff Mossemeneer, Executive Planner
<b>APPLICANT:</b>	O2 Architecture

**Public Submissions**

1 written submission.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Rocky Zappia - Applicant

**Panel Determination**

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

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

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 ("the LEP"), the Panel is satisfied that the written request in relation to the contravention of the height of buildings development standard, in clause 4.3 of the LEP, adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request 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.

**Panel Reason:**

The Panel notes that the development will provide for further employment generating floor space and does not create unreasonable impacts by the addition of an additional floor.

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>		Jane van Hagen	<b>Y</b>	
Ian Pickles	<b>Y</b>				
Garry Fielding	<b>DoI</b>				

**ITEM 2**

<b>DA No:</b>	29/18/2
<b>ADDRESS:</b>	4-6 McKye Street, Waverton
<b>PROPOSAL:</b>	A Section 4.55(2) application to modify consent to DA 29/18 with regards to various changes to an approved residential flat building.
<b>REPORT BY NAME:</b>	Luke Donovan, Senior Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	The application proposes the modification of a development consent granted by the Panel and meets the criteria for a contentious development as set out in Schedule 1 of the Minister's Directions as greater than 10 submissions were received.
<b>APPLICANT:</b>	Shanlin L Property Pty Ltd, C/- City Planning Works

**Public Submissions**

1 written submission received.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Rouzbeh Loghmani - Urban Planner
	Andrew Talbot - Project Architect

**Panel Determination**

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

The Council Officer's Report, Recommendation and the Addendum Report for approval is endorsed by the Panel (the Addendum identifies a current BASIX Certificate and a consequential amendment to Condition C42).

**Panel Reason:**

The Panel is satisfied the development is substantially the same as approved and is satisfied the modification warrants approval.

The Panel notes the modification application is in respect of a previous approval, however, the envelope is generally maintained and the amended plans represent an improved built form and amenity outcome.

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>		Jane van Hagen	<b>Y</b>	
Ian Pickles	<b>Y</b>				
Garry Fielding	<b>Y</b>				

**ITEM 3**

<b>DA No:</b>	198/20
<b>ADDRESS:</b>	425-429 Pacific Highway, Crows Nest
<b>PROPOSAL:</b>	Proposed alterations and additions to Levels 4, 5 and roof and changes to signage.
<b>REASON FOR NSLPP REFERRAL</b>	The proposal has a greater than 10% variation to the building height development standard and partial demolition works to a heritage item.
<b>REPORT BY NAME:</b>	Luke Donovan, Senior Assessment Officer
<b>APPLICANT:</b>	Legge and Legge Architects Pty Ltd

**Public Submissions**

Nil.

<b>Submitter</b>	<b>Applicant/Representative</b>
	Navin Prasad - Director Traffic & Safety Solutions
	Tony Moodie - Planning Consultant

**Panel Determination**

The Panel members have undertaken independent site inspections prior to the meeting and have noted the submissions received. The Panel notes the application was amended to delete the residential component and provide commercial office space and this overcomes concerns.

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

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 ("the LEP"), the Panel is satisfied that the written request in relation to the contravention of the height of buildings development standard, in clause 4.3 of the LEP, adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request 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 following conditions are amended as follows:

- G2 shall be amended to reference 5 years with an additional sentence at the end,

Panel Reason: The Panel considers 5 years an appropriate time frame to reassess changes in the character of the area.

- I1(b) is to include 8.00am to 9.30am weekdays.

Panel Reason: To cover the AM school zone.

The following sentence is inserted at the end 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."



Panel Reason:

The Panel is satisfied that the proposal involving replacement of the existing sign with an LED sign presents improved heritage and visual amenity outcomes.

The Panel agrees with the Assessment Officer's report that the dwell time remain at 60 seconds due to the busy intersection and local road network. The Applicant has the ability in the future to submit a Section 4.55 modification application for this to be varied.

The Panel has amended the conditions to allow for a 5-year consent as opposed to 3 years and once again this is subject to extension through a modification application.

An appropriate condition is to be imposed to require the content of advertising during School Zone periods to be of a suitable content (excluding gambling, alcohol and cigarettes).

The conditions are to be amended accordingly to reflect the facilitative provisions of Section 4.55.

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>		Jane van Hagen	<b>Y</b>	
Ian Pickles	<b>Y</b>				
Garry Fielding	<b>Y</b>				

**ITEM 4**

<b>DA No:</b>	151/20
<b>ADDRESS:</b>	24 Hodgson Avenue, Cremorne Point
<b>PROPOSAL:</b>	Alterations and additions to an existing detached dwelling including internal alterations and a new first floor rear addition.
<b>REPORT BY NAME:</b>	Robin Tse, Senior Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	This application is reported to NSLPP because Council received more than 10 submissions following two rounds of notification of the original and the amended proposal. Under the directions from the Minister for Planning, Industry and Environment, this application requires determination by NSLPP.
<b>APPLICANT:</b>	Richard Garside, C/- Corben Architects

**Public Submissions**

4 written submissions received.

<b>Submitter</b>	<b>Applicant/Representative</b>
Stefanie Sng	Andrew Minto - Town Planner
Julia Cranwell	Philip Corben - Architect
Shirley Kirkwood	

### Panel Determination

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

The Council Officer's Report and Recommendation for approval is endorsed by the Panel subject to the first floor addition being set back an additional metre from the rear northern boundary and the plans being amended prior to the issuing of a Construction Certificate. The wording of an appropriate condition to achieve this outcome is delegated to the Manager of Development Services.

The Condition C1 is clarified by deleting the words, "frosted or opaque" and replacing with "obscure" in relation to glazing.

### Panel Reason:

The Panel has carefully considered submissions received from both adjoining neighbours and the Applicant and has determined that the bulk of the extension would be mitigated by a reduction of one metre and this will also provide the opportunity for improved view sharing without unreasonably impacting on the amenity of the rooms. The Panel however considers that further amendments are not required as the development is compliant and views across side boundaries are difficult to protect.

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>		Jane van Hagen	<b>Y</b>	
Ian Pickles	<b>Y</b>				
Garry Fielding	<b>Y</b>				

### ITEM 5

<b>DA No:</b>	170/20
<b>ADDRESS:</b>	75 Bank Street, North Sydney
<b>PROPOSAL:</b>	Partial demolition of an existing dwelling, construction of new alterations and additions to the dwelling including new first floor and associated landscaping.
<b>REPORT BY NAME:</b>	Kim Rothe, Senior Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	Non-compliance to Statutory Height of Building (Clause 4.3 of NSLEP 2013) control.
<b>APPLICANT:</b>	Antonio Caminiti Architect

**Public Submissions**

Nil.

Submitter	Applicant/Representative
	Antonio Caminiti - Architect
	Rebecca Charles - Owner

**Panel Determination**

The Applicant requested the matter be deferred to allow consideration of draft amended plans that had been submitted prior to the meeting on 30 November 2020, however, this time has not allowed for an assessment to be carried out to inform the Panel.

The Panel notes that the draft amended plans reduce the height breach which is the reason the matter has been referred to the Panel. In the circumstances, the Applicant is advised to consult with Council Officers as to what would be appropriate amendments to overcome concerns raised in the Officer's Report.

The Council Officer's Report and Recommendation for refusal is endorsed by the Panel. The Applicant is encouraged to submit a new Development Application which reduces any height breach to less than 10% and thus an assessment and determination can be carried out in accordance with standing delegation by the Manager Development Services. Alternatively if the Applicant wishes to submit amended plans under Section 8.2 for a review, then the matter would be required to be referred to the Panel.

Panel Reason:

The plans as submitted do not warrant approval for the reasons articulated in the Officer's Report and are not capable of conditional support. The above delegation to the Manager Development Services is recommended to the Applicant to allow a timely assessment and determination.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
Ian Pickles	Y				
Garry Fielding	Y				

**ITEM 6**

<b>DA No:</b>	219/20
<b>ADDRESS:</b>	31 King Street, Waverton
<b>PROPOSAL:</b>	Alterations and additions to an existing single storey dwelling including a two-storey rear addition, a car-stacker and associated landscaping works.
<b>REPORT BY NAME:</b>	Hugh Shouldice, Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	The Development application is reported to NSLPP for determination because the development application involves partial demolition of a heritage item.
<b>APPLICANT:</b>	Miriam Green

**Public Submissions**

Submitter	Applicant/Representative
	Miriam Green - Applicant
	Zoltan Kovacs - Heritage Consultant

**Panel Determination**

The Council Officer's Report and Recommendation for approval is endorsed by the Panel subject to Conditions C13, C14 and C16 being rationalised and to require the approval of the Manager Development Services.

Panel Reason:

The Panel considers the development warrants approval and will not create adverse impacts.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane van Hagen	Y	
Ian Pickles	Y				
Garry Fielding	Y				

**ITEM 7**

<b>DA No:</b>	230/20
<b>ADDRESS:</b>	23 Victoria Street, McMahons Point
<b>PROPOSAL:</b>	Change of use from a commercial building to a single residential dwelling.
<b>REPORT BY NAME:</b>	Hugh Shouldice, Assessment Officer
<b>REASON FOR NSLPP REFERRAL:</b>	The application is reported to the Panel for determination because elements of the proposed works would breach the height limit by greater than 10%.
<b>APPLICANT:</b>	Studio Barbara

**Public Submissions**

Submitter	Applicant/Representative
	Felicity King - Applicant

**Panel Determination**

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

Panel Reason:

The Panel is satisfied the development warrants approval.

By way of comment, the Panel notes that the natural ventilation for two bedrooms must be in accordance with the National Construction Code.

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>		Jane van Hagen	<b>Y</b>	
Ian Pickles	<b>Y</b>				
Garry Fielding	<b>Y</b>				

The public meeting concluded at 3.45pm.

The Panel Determination session commenced at 4.00pm.

The Panel Determination session concluded at 5.30pm.

Endorsed by Jan Murrell  
 Chair North Sydney Local Planning Panel  
 2 December 2020