



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 Marchandau		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