



**NORTH SYDNEY COUNCIL**

Council Chambers  
1 December 2022

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 7 December 2022 when your attendance is requested.

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

I would like to acknowledge the traditional owners of these lands in which we meet and to pay our respect to the ancestors, and spirits past and present.

**THERESE MANNS  
GENERAL MANAGER**

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**BUSINESS**

**Minutes**

Confirmation of Minutes of the previous Meeting held on Wednesday 2 November 2022.

(Circulated)

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**LPP01: 45 Thomas Street, McMahons Point - DA 72/22**

Applicant: B Brennan

Report of Miguel Rivera, Senior Assessment Officer

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for the demolition of existing structures, removal of five (5) trees, construction of a 3-storey dwelling house and associated civil and landscaping works (including new driveway crossover) on land identified as No. 45 Thomas Street, McMahons Point, and legally described as Lot 6 in DP 1225595.

The application is required to be reported to the NSLPP for determination in accordance with Directions of the NSW Minister of Planning. The development is considered as contentious development, in that more than ten (10) unique submissions were received.

Council's notification of the original plans has attracted a total of eleven (11) submissions from eight (8) individual addresses and the Union Precinct Committee, raising concerns regarding bulk and scale, impacts associated with view loss, amenity, privacy and solar access, impacts on boundary fencing and landscaping, rear setback variation and setbacks from boundaries, excavation, stormwater management, local character and streetscape, and loss of trees.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 (NSLEP 2013), North Sydney Development Control Plan 2013 (NSDCP 2013) and the relevant State Planning Policies (SEPPs). The proposed development is fully compliant with the maximum height of buildings development standard and is considered to be a satisfactory design response to the site's constraints, context and setting.

A detailed view loss assessment has been carried out following installation of indicative height poles on site reflecting the proposed built form. The impacts of the proposal have been considered against the of built form controls for height, form and setbacks which apply to the land. The resulting view impacts are considered to be reasonable and acceptable in the context of the site as well as the proposal's performance and compliance to provisions for height, bulk and massing, under Council policy.

The site is located within the Union, Bank and Thomas Streets Conservation Area (CA15). The existing dwelling is not considered to be representative of the characteristics of this conservation area, and no objection is raised to its demolition. The proposed new built form is considered to be appropriately responsive and sympathetic to the site constraints and context, and is considered to have a neutral impact on the established character of the conservation area.

The assessment of the proposed development has considered the concerns raised in the submissions as well as the performance of the application against Council's planning requirements. Following this assessment, and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application is recommended for approval given the proposal's compliance to and consistency with the key objectives and controls within the respective SEPPs and under Council policy including NSLEP 2013 and NSDCP 2013, and lack of adverse impacts from the development on adjoining and surrounding properties.

**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. DA72/22 for demolition of existing structures, removal of five (5) trees, construction of a 3-storey dwelling house and associated civil and landscaping works (including new driveway crossover) on land at No. 45 Thomas Street, McMahons Point (Lot 1 in DP 225595) subject to the following site specific and standard conditions:

**Design Changes – Heritage**

C1. The architectural plans must be amended as follows:

- The glazed openings facing Thomas Street must be reduced in area by at least one third (33.3%) to express an increase in the solid to void ratios, particularly at the ground and first floor levels.
- The steel framed windows and doors facing Thomas Street must have a neutral colour.
- The proposed garage door must be recessed in area by 200mm to reduce the overall size of its opening and to reduce its visual impact on the Thomas Street streetscape

(Reason: To improve the design response of the approved development to the streetscape setting and character of Thomas Street and to preserve the significance and character of the Union, Bank and Thomas Streets Conservation Area)

**Lift Design**

C2. The architectural plans must be amended to indicate any overrun for the approved lift (if any). Any lift overrun must be situated below the roof area and must not extent beyond any portion of the roof. The entire lift and associated components must be designed to be hidden from view from any property and from public domain.

(Reason: To ensure the lift component is not visible from any property and from public domain, and to achieve an acceptable outcome for the locality and conservation area)

**LPP02: 54 High Street, North Sydney – DA 105/22**

Applicant: Joseph Georghy

Report of Robin Tse, Senior Assessment Officer

This development application seeks approval for the use of the former common facilities area on the roof top (Level 9) as a residential studio at 54 High Street located at the north west junction of High Street and Clarke Road. The application is referred to North Sydney Local Planning Panel for determination because the subject studio is located above the permissible height limit (12m) with a variation greater than 10% and the application has attracted more than 10 submissions in accordance with the Directions from the NSW Minister of Planning.

Council received nineteen (19) submissions raising concerns about the absence of planning approval for the residential use of the top floor studio, non-

compliances with the BCA/NCC, the likelihood that the studio would restrict access to the roof top area for maintenance/repair works to the roof and other safety and building management issues.

The use of the roof top level as a studio within the existing apartment building is a form of development that is permissible on land zoned R4 (High Density Residential). The subject structure has been used for residential purposes without planning approval for some time.

The Clause 4.6 written submission submitted by the applicant for abundant caution seeks a variation to the LEP maximum building height development standard that is acceptable because the proposal would not change the height or the envelope of the existing apartment building and would not result in adverse impacts in terms of the loss of significant views, privacy and solar access for the adjoining properties.

The issues raised in the submissions have been addressed with relevant comments and/or the recommendation of specific conditions to ensure compliance with the NCC/BCA and to facilitate access to the roof top areas for necessary building repair and maintenance work.

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and was generally found to be satisfactory.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site specific 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 – maximum building height and grant consent to Development Application No. 105/22 for the use of an existing unauthorised converted structure as a studio apartment on the 9<sup>th</sup> floor of a building on land at 54 High Street, North Sydney subject to the following site specific and attached standard conditions:-

**No Approval for Sunroom, Timber Deck and Planters**

A4. Nothing in this consent authorises the construction and/or use of the following:

- (a) Sunroom and timber deck to the east of the proposed studio; and
- (b) Garden bed/planters on the roof level with associated planting.

(Reason: To ensure that the terms of consent is clear and only extend to the use)

**Design Modifications – Eastern Elevation**

C1. The design of the existing openings on the eastern elevation of the subject studio on the roof level (9<sup>th</sup> floor) must be modified as follows:

- (a) Installation of frames and glazed panels to all full height openings. The frames and glazed panels must be contained within the existing openings and must not extend beyond the building envelope; and
- (b) Installation of complying balustrades/railing across the full width of the openings to restrict access to the outdoor areas on the roof level.

The design and installation of the above modified building elements must comply with the relevant building requirements and submitted for the written approval of Council's Team Leader Assessments.

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

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

**Non-trafficable Area**

11. The external areas on the rooftop level (9<sup>th</sup> Floor) must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

**Access to the Roof Level for Repair and/or Maintenance Works**

12. The applicant must provide access through the subject apartment to the external areas on the roof level to carry out maintenance and repair works by qualified/authorised persons.

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works)

**“In accordance with current guidelines for the operation of Local Planning Panels, the following items are to be determined by the panel in closed session as they have received less than 10 submissions.**

**Applicants for these items are invited to stay in the zoom waiting room in the event the panel needs any clarification from you.**

**All others who are not applicants or applicant representatives for these items are respectfully asked to leave the meeting at this time.”**

**LPP03: 275 Alfred Street North, North Sydney - DA 145/22**

Applicant: Legge and Legge Architects Pty Ltd

Report of Greg Sherlock, Planning and Development Advisor

This development application seeks North Sydney Local Planning Panel (NSLPP) approval for replacement of the three (3) approved 'fivex' sky signs and construction of three (3) internally illuminated sky advertisement signs located on the roof structure of an existing commercial building at 275 Alfred Street, North Sydney.

This application is reported to the North Sydney Local Planning Panel (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 NSLPP 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 one (1) submission raising concerns about loss of residential amenity, uncharacteristic for the area, light spillage/pollution and non-

compliances with NSW State Environmental Planning Policy (Industry and Employment) 2021- Chapter 3 *Advertising and Signage*. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The proposal is for three (3) internally illuminated sky advertising signs consisting of 'SBS' on the western elevation and 'SBS On Demand' on the northern and southern elevation to the roof structure of that building. The highest point of the proposed signage is to be 98.066m 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 sit below the highest point of the existing rooftop structure and is similar to the approved 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, 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 and **grant consent** to Development Application No. 145/22 for replacement of approved three (3) "Fivex" sky advertisement signs to the roof structure of an existing commercial building with three (3) internally illuminated sky advertising signs on land at 275 Alfred Street, North Sydney, subject to the following site specific and attached standard conditions:-

**Terms of Consent**

A4. Approval is granted for the installation of three (3) roof or sky advertisement signs on the northern, western and southern faces of an existing commercial office building at No. 275 Alfred Street, 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 is clear.

**Further consent for change to signage required**

A5. Separate and further consent is required to be obtained for any change to the design, size, height, colour or external form of the approved signage including any change relating to:

- (a) Enlargement/alteration of signage area;
- (b) Any change to signage content;
- (c) Any change to illumination restrictions contained within this consent Animation.

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

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

**Time-limited Consent**

- A6 This consent shall cease to be in force on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with Section 8.13 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.  
(Reason: To satisfy the provisions of SEPP (Industry & Employment) 2021)

**TfNSW Conditions**

- C1. The following conditions from TfNSW 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)

**I. Ongoing/Operational Conditions****Hours of Illumination**

- I1. All illuminated signs approved by this consent must cease illumination between the hours of 11.00pm and 7am daily.  
(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

**Signage Illumination Intensity**

- I2. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:
- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.

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

(c) The signage illumination must not flash.

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

#### **Roof Top Lighting**

13. Lighting on rooftop or podium level areas must not be illuminated between 11:00 pm and 7:00 am. The design and placement of the lighting must:

(a) be directed away from any residential dwelling;

(b) not create a nuisance or negatively affect the amenity of the surrounding neighbourhood; and

(c) comply with AS4282-1997 control of obtrusive effects of outdoor lighting.

(Reason: To ensure residential premises are not affected by inappropriate or excessive illumination)

#### **Inconsistency between development consents**

14. In the event of any inconsistency between this consent and any preceding development consent concerning roof or sky advertisements, the requirements of this consent shall prevail to the extent of the inconsistency.

(Reason: To ensure the performance of the development in accordance with all relevant conditions of development consent and to provide for inconsistency between consents)

#### **LPP04: 8 Elamang Avenue, Kirribilli - DA 317/22**

Applicant: Ben Gerstel Architecture Pty Ltd

Report of Ruth Bennett, Senior Assessment Officer

This development application seeks approval for alterations and additions to an existing detached dwelling including a proposed habitable attic on land at 8 Elamang Avenue, Kirribilli.

The application is reported to North Sydney Local Planning Panel for determination as the application seeks a variation to a development standard by more than 10% and the proposal involves partial demolition of a Heritage Item. In accordance with the Minister's direction of 1 August 2020 a public determination meeting is not required because there were no submissions by way of objection. One submission, however, was received in support of the proposal.

The subject site is zoned R2 Low Density Residential where development for the purpose of detached dwellings is a permitted use.

The proposed development breaches the maximum permitted building height of 8.5m by up to 2.44m, equating to a variation of 28.7%. The proposed variation relates to the two new dormer windows and four skylights and one skytube proposed. The proposed works have a maximum height of 10.34m,



and the attic extension on the rear elevation has a maximum height of 10.94m. The variation is a result of the height of the existing dwelling which is 11 metres. The additional works are within the existing built form and do not increase the height of the overall dwelling. The variation is consistent with surrounding development, is a result of the topography of the site, and is limited to a small form that is part of the rear southern roof plane where there will be a negligible impact.

The applicant has submitted a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013 which satisfactorily demonstrates that compliance with the development standard is both unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation. The proposed development would be in the public interest. The submitted written request is considered to be well-founded and worthy of support.

The proposed development would improve the amenity of the existing dwelling by increasing the habitable area within the existing dwelling by converting the existing roof space into a habitable attic space of 23m<sup>2</sup> in area. The attic space will be accessed via a spiral staircase installed at the first floor level where a bedroom will be converted into a walk in robe area, and a curvilinear lightweight wall installed to frame the staircase. The proposed alteration and addition is setback within the existing roof form which will be extended on the rear elevation. This minor change will ensure retention of the existing built form character of the detached two storey dwelling which positively contributes to the streetscape, being a local heritage item known as 'Clutha'.

The plans submitted with the application were notified in accordance with Council's Community Engagement Protocol and one submission in support was received.

On balance, the proposed development is considered acceptable and is recommended for approval subject to various site specific and standard 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 in NSLEP 2013 and grant consent to Development Application No. 317/2022 for 'Alterations and additions to an existing detached dwelling, conversion of existing roof space into habitable attic space' on land at 8 Elamang Avenue, Kirribilli subject to the following site specific condition and attached standard conditions:-

**Heritage Requirements**

C16. The following heritage requirements are to be met:

- a) The two skylights on the front roof plane addressing Elamang Avenue are to be deleted.

- b) The glazing on the dormer on the North West Elevation on the original dwelling is to consist of three traditional casement windows not louvres.
- c) The new joinery for the walk-in robe is to be set below the existing cornices so that the volume of the room is readily interpretable.
- d) New slate is to be similar in colour and texture to the existing slate. Artificial slate is not to be used.

The Certifying Authority must also ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.  
(Reason: To retain the heritage significance of the dwelling)

#### **LPP05: 17 Cowdroy Avenue, Cammeray - DA 38/2022**

Applicant: DISP Consulting Pty Ltd

Report of Thomas Holman, Assessment Officer

This development application seeks consent for alterations and additions to a detached dwelling comprising internal alterations, alterations to the materials and finishes for the elevations, replacement of the metal roof sheeting and a rear first floor addition.

The development application is reported to the North Sydney Local Planning Panel (NSLPP) for determination because the development application contravenes a development standard imposed by an environmental planning instrument by more than 10%, which requires determination by the Panel in accordance with the directions from the NSW Minister of Planning, Industry and Environment.

The proposed first floor rear addition would have an approximate height of 9.5m (variation of 12%) that fails to comply with the permissible height limit of 8.5m not in accordance with clause 4.3 in NSLEP 2013. Alterations are also proposed replacing the metal roof and seeking external/internal alterations to parts of the dwelling which exceed the height limit of 8.5m.

The application has been assessed against the relevant provisions and requirements of the relevant planning instruments including the North Sydney LEP 2013 and North Sydney DCP 2013. Consideration has also been given to the Clause 4.6 request for a variation to the height of buildings development standard as submitted by the applicant which was considered to be acceptable in the site circumstances.

The proposed first floor rear addition is designed with side setbacks that comply with the minimum side setbacks stipulated in the DCP and the first floor addition is subordinate in height to the main dwelling house below the main ridge of the dwelling having a limited impact on the bulk and scale of the dwelling and no visual impact on the public domain.

The proposed materials and finishes to the elevations and roof of the dwelling comprising of either muted or earthy tones and amendments replacing the existing metal roller shutter doors with timber doors is a positive outcome reducing the extent of metal visible from the street.

The alterations and additions including first floor rear addition are designed to maintain view sharing and equitable access to views from adjoining dwellings

and the development would maintain a minimum 3 hours solar access to solar panels, windows of internal living areas and principal private open space of adjoining properties.

Two submissions were received in response to notification of the development application requiring consideration of potential loss of privacy to habitable rooms and private open space of adjoining properties. The windows on the side elevations of the dwelling are designed to prevent a direct outlook to windows or private open space of adjoining properties and where appropriate additional privacy measures are proposed.

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 and grant consent to Development Application No. 38/22 for alterations and additions to a detached dwelling on land at 17 Cowdroy Avenue, Cammeray subject to the attached standard conditions of consent.

**LPP06: 45-51 Ridge Street, North Sydney - DA 241/22**

Applicant: Cameragal Montessori School Pty Ltd

Report of John McFadden, Consultant Planner, State Planning Services

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for the fit-out and use of the existing buildings as a centre based child care facility, an education facility (kindergarten), playgroup location and out of school hours care facility on land identified as No. 45-51 Ridge Street, North Sydney, and legally described as Lot 3 in DP 1101874.

The application is required to be reported to the NSLPP for determination in accordance with Directions of the NSW Minister of Planning. The application is considered to involve a conflict of interest as the proposal will be situated on land owned by Council. The proposed development is also considered sensitive development, as it involves partial demolition of heritage items.

Notification of the proposal has attracted one (1) submission raising particular concerns about additional traffic congestion in Ridge Street and the cumulative traffic impact in the area with the Marist College development. The assessment has considered these concerns as well as the performance of the application against relevant State Environmental Planning Policies and Council's planning requirements.

The proposal seeks to convert the existing vacant office uses in the heritage listed buildings to the above uses with some internal alterations and external alterations to the rear of the buildings. Council's Conservation Planner has raised no objection to the development as proposed subject to conditions.

Following concerns raised during preliminary assessment of the application, the proposal was amended to incorporate modifications to comply with various guidelines and requirements for Child Care Centres. Due to the generally internal nature of these modifications, the amended proposal was not renotified.

The proposal has been assessed to be generally in accordance with the National Regulations of Child Care Centres 2011, NSW Child Care Planning Guidelines 2017, North Sydney Local Environmental Plan 2013 and North Sydney DCP 2013 Part B, Section 5 - Child Care Facilities.

With regard to Traffic and Parking, the Applicant requested that Council accept the required emergency vehicle and accessible car spaces to be provided off-site. This request is considered feasible, reasonable and acceptable, as accessible spaces can be utilised in the Ridge Street Council carpark. Further, a 'no parking' area adjacent to the proposed facility's entry could be used in the rare event that an emergency vehicle is required to attend the centre.

The Applicant is also sought consideration and acceptance for the zero provision of staff and parent (drop off) spaces. Following review from Council's Traffic Manager it was confirmed that Council can accept this subject to conditions and given that there are no specific requirements outlined under Council policy.

The assessment of the proposed development has considered the concerns raised in any submissions as well as the performance of the application against Council's planning requirements. Following this assessment, and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application is recommended for approval given the proposal's compliance to and consistency with the key objectives and controls within the respective SEPPs and under Council policy including NSLEP 2013 and NSDCP 2013, and lack of adverse impacts from the development on adjoining and surrounding properties.

**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. DA241/22 for fit-out and use of an existing building as a Centre Based Child Care Facility, an Education Facility (Kindergarten), playgroup location and out of school hours care facility on land at 47 (45 - 51) Ridge Street, North Sydney, subject to the following site specific conditions and attached standard conditions:

**Design Changes – Child Care Facilities**

C1. The following information must be provided and/or indicated on revised plans prior to approval of the Construction Certificate:

- The internal stair to be noted to be upgraded to comply with BCA D2.13.
- Appropriate signage for the entry of the Child Care Centre with Council approval if required.
- All grassed areas must be covered with artificial turf to ensure there is no contact with the soil.

- An Emergency and Evacuation Plan/diagrams as required by Section 5.3, Provision P2 (a) (b) & (c) be provided prior to approval of a Construction Certificate.
- The 'security buzzer' system proposed for James Place be augmented to provide CCTV functionality, and, this coverage extended to the doors accessing Ridge Street.
- All operational conditions contained in this consent.

(Reason: To comply with the requirements of the North Sydney Development Control Plan 2013, Section 5 'Child Care Facilities' and the associated State and National Guidelines, and to ensure security and safety of the students and staff of the Child Care Centre and its associated uses, and to protect children and users of the development in general from exposed soil)

#### **Design Changes – Heritage**

C2. The following additional information and design changes must be incorporated into the final set of plans and relevant Construction Certificate to be issued by the Principal Certifying Authority:

- The existing fabric relating to the earlier building and including the nib walls and bulkheads are to remain in situ.
- A conservation schedule for the ongoing care of the building must be prepared including the investigation and implementation of a new colour scheme picking up a traditional colour scheme to enhance its contribution to the streetscape character of Ridge Street.
- The proposed lift structure must remain clear of the eaves so as not to disrupt the understanding of the traditional roof form. Details are to be submitted to Council for the approval of Council's Conservation Planner.

(Reason: To protect the character and significance of the heritage item and its setting within the vicinity of the nearby heritage items)

#### **Risk Assessment**

C3. A risk assessment must be carried out and a risk assessment report must be submitted for approval to Council or the Principal Certifying Authority prior to release of the Construction Certificate. The risk assessment is to include factors internal and external to the facility including the drop off and pick up of students.

(Reason: To comply with the requirements of the North Sydney Development Control Plan 2013, Section 5 'Child Care Facilities' and the associated State and National Guidelines)

#### **Revised Plan of Management**

C4. The Plan of Management must be revised to incorporate the following:

- The Centre Based Child Care Facility, Education Facility (Kindergarten) and out of school hours care facility are to comply at all times with staffing requirements of the Education and Care Services National Regulations 2011.

(Reason: To ensure that the minimum staffing requirements of the Education and Care Services National Regulations 2011 are met)

due to the multiple uses operating at the same time in the centre)

### Drop Off / Pick Up Zones

G1. Prior to the issue of any Occupation Certificate and prior to any operations, the drop off/pick up locations must be established as follows:

- 1) In the first instance, the operator of the facility must formally seek approval from the North Sydney Traffic Committee for the 3 x metered 1P parking spaces directly in front of the building and along Ridge Street to be utilised as drop off/pick up parking spaces during the morning and afternoon peak period when parents are dropping off and collecting their children. The morning and afternoon periods must be clearly defined between specified times. These spaces can then revert to 1P parking at all other times (outside these periods).
- 2) Should the North Sydney Traffic Committee refuse to approve the above arrangement, the operator of the facility must seek approval from Council's Director – Engineering and Property Services, to extend the current grace period for entry and exit from the Ridge Street car park to at least 15 minutes to allow sufficient time for drop off/pick up.

(Reason: To ensure drop off/pick up zones for the facility are provided and to appropriately mitigate and manage traffic impacts in the vicinity, particularly during peak periods)

### Plan of Management

I1. The Plan of Management, as prepared by Cameragal Montessori School must be complied with at all times.

Any changes to the Plan of Management must be approved in writing by Council.

(Reason: To ensure the ongoing operation of the childcare centre is in accordance with the terms of this consent)

### Maximum Capacity of the Facility and Children in Attendance

I2. Regardless of any approved documentation including the Plan of Management, the maximum capacity of the facility at any given time is as follows:

	Maximum number of children
Child care centre	41
Playgroup	15
Baby education classes	10
Before/After school care	20 (available to child care attendees only)
	Maximum number of staff
Child care centre	5
Playgroup	1
Baby education classes	1
Before/after school care	2
<b>Total</b>	<b>9</b>

The above maximum capacity must be clearly displayed in the front (reception/lobby) areas of the facility.

The maximum number of children in attendance for the **child care centre** at any one time must be limited to 41 children in the following age groups:

Age Group	No. of Places
0-2 years	0
2-3 years	10
3-5+ years	31
<b>Total</b>	<b>41</b>

The above maximum children capacity of the child care centre must be clearly displayed in the front (reception/lobby) areas of the facility.

(Reason: To ensure the childcare centre is operating within capacity, as approved by this consent)

#### **Before and After Care service**

13. The Before and After Care service provided within the centre shall only be available to children who attend the childcare service within the centre. The before & After Care Service shall not be provided to students who attend another school.

(Reason: To limit the total traffic movements associated with the use of the premises for child care and education purposes)

#### **Noise Control (Child Care Centres)**

14. The use of the premises shall comply with the following:

##### Outdoor Play Area

- a) Up to two hours (total) per day - The LAeq(15 min) emitted from the outdoor play area shall not exceed the RBL by more than 10 dB at the boundary of any affected residence.
- b) More than two hours per day - The Leq(15 min) emitted from the outdoor play area shall not exceed the RBL by more than 5 dB at the boundary of any affected residence.

The LAeq(15 min) emitted from the cumulative noise impact of children playing indoors and mechanical plant on the site shall not exceed the RBL by more than 5 dB at the boundary of any affected residence.

**No music or amplified sound is to be played in any outdoor area at any time.**

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

##### Ambient Noise Levels in Outdoor Play Areas

The LAeq(1hr) from road, rail traffic, commerce and industry at any location within the outdoor play or activity area during the hours when the Childcare Centre is operating shall not exceed 55 dB.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

**LPP07: 94 Blues Point Road, McMahons Point - DA 412/21**

Applicant: Michael Manken & Julia Manken

Report of David Hoy, Team Leader Assessments

This application is an amended development application which seeks development consent for alterations and additions to terrace dwelling comprising substantial internal alterations, and excavation of new basement level and pool on land identified as 94 Blues Point Road, McMahons Point.

The application is required to be reported to the NSLPP for determination, as directed by the Minister of Planning, as the development involves a variation to a prescribed development standard (Clause 4.3 Building Height) in North Sydney Local Environmental Plan 2013 of more than 10%.

Council's notification of the proposal has attracted a total of two (2) submissions including one in support of the proposal. Concerns expressed are not in objection to the proposal but request that consideration be given to management of the proposed extensive excavation and to ensure sympathetic treatment is given to the heritage significance of the property in the conservation area.

The development application has been assessed against the North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013 and the relevant State Planning Policies and generally found to be satisfactory in the site circumstances.

The proposed dwelling as amended will exceed the 8.5 m maximum height limit applicable to the site as set out under Clause 4.3 Building Height of NSLEP 2013. Generally, however, the perceived bulk and scale of the additions will be commensurate with the adjoining buildings to the immediate north of the subject site. The proposed height, bulk and scale of the additions are considered to be sufficiently in keeping with the established character of the McMahons Point South Conservation Area and the immediate locality along Blues Point Road.

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

Having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended), the amended application is recommended for approval given the consistency to the objectives and controls within the North Sydney Local Environmental Plan and Development Control Plan 2013, and lack of material adverse impacts from the development of the adjoining properties.

**RECOMMENDATION**

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 with regard to the exception to the development standard for Building Height and grant consent to Development Application No. 412/21 for alterations and additions to terrace dwelling comprising substantial internal alterations, and



excavation of new basement level and pool on land at 94 Blues Point Road, McMahons Point, subject to the attached standard conditions.

**LPP08: 29 Churchill Crescent, Cammeray (T) - 386/09/4**

Applicant: Matthew Davis

Report of George Youhanna, Executive Planner

This application under s.4.55(2) seeks approval for modification of consent for a new dwelling including the addition of three (3) retractable shade structures to the eastern side of the dwelling, and is reported to North Sydney Local Planning Panel for determination as the building height exceeds the 8.5m height limit by more than 10%.

Notification of the proposal has attracted nil (0) submissions. The assessment has considered the performance of the application against Council's planning requirements.

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

**Recommending:**

**PURSUANT TO SECTION 4.55(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)**

**THAT** the NSLPP as the Consent Authority, resolve to grant consent to modify Development Consent DA386/09/4 dated 26/3/2010, in respect of a proposal for the construction of a new dwelling at 29 Churchill Crescent, Cammeray under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act only insofar as will provide for the following:

**1. To Modify Condition A1 as follows:**

**Development in Accordance with Plans**

A1. The development being carried out in accordance with drawings numbered DA01-DA12 (inclusive), dated 20/10/09, drawn by In and Out Architects Pty Ltd, and received by Council on 2 November 2009 and endorsed by Council's approval stamp, except as amended in highlighting as follows:-

- 1) Drawings titled 'Montage Image' including plan detailing approved house and 3 x plans detailing landscaping, all drawn by undated and dated 29 July 2011, Section drawing, unnumbered dated 20/10/2009 and drawn by In & Out Architecture Pty Ltd and Drawing DA10 (Section 96 Retaining walls application – new), undated and drawn by unknown. All plans received by Council on 1 August 2011. Drawing DA05A dated 20/10/2009 and prepared by In & Out Architecture Pty Ltd and received by Council on 1 August 2011.
- 2) Drawings as follows (only in so far as outlined in Condition A7 and G9):

Plan	Rev	Title	Dated	Prepared by	Received
DA01	C	Site and Roof	12/12/2019	Site Specific Designs	18/12/2019
DA02	C	Ground floor plan	12/12/2019	Site Specific Designs	18/12/2019
DA03	C	First Floor Plan	12/12/2019	Site Specific Designs	18/12/2019

DA04	C	Lower Ground Floor	12/12/2019	Site Specific Designs	18/12/2019
DA05	C	Basement and storage plans	12/12/2019	Site Specific Designs	18/12/2019
DA06	C	Section and Basix	12/12/2019	Site Specific Designs	18/12/2019
DA07	C	South West, North West (Street) elevation	12/12/2019	Site Specific Designs	18/12/2019
DA08	C	South East Elevation	12/12/2019	Site Specific Designs	18/12/2019
DA09	C	North East Elevation	12/12/2019	Site Specific Designs	18/12/2019

All as amended by the plans approved under s.4.55 application 386/09/4, but only in relation to the shade structures with retractable awnings, as follows:

Plan	Rev	Title	Dated	Prepared by
DA01	C	Site and Roof	20/10/22	Site Specific Designs
DA02	C	Ground floor plan	20/10/22	Site Specific Designs
DA03	C	First Floor Plan	20/10/22	Site Specific Designs
DA04	C	Lower Ground Floor	20/10/22	Site Specific Designs
DA05	C	Basement and storage plans	20/10/22	Site Specific Designs
DA06	C	Section and Basix	20/10/22	Site Specific Designs
DA07	C	South West, North West (Street) elevation	20/10/22	Site Specific Designs
DA08	C	South East Elevation	20/10/22	Site Specific Designs
DA09	C	North East Elevation	20/10/22	Site Specific Designs

Except where amended by the following conditions.

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

(Note: The applicant is advised to seek a building information certificate in regard to the works which were constructed prior to development consent)

**2. To Add New Condition A8 as follows:**

**No use of in-built lighting in shade structures**

A8. The in-built lighting in the shade structures is to be permanently disconnected and is not to be used at any time.

(Reason: Residential amenity and visual impact)

**Southernmost bays not approved**

A9. The southernmost bays of the pergolas serving the two upper most balconies are not approved and are to be removed or disabled from closing on a permanent basis.

(Reason: Reduction in overshadowing)



**NORTH SYDNEY LOCAL PLANNING PANEL**

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL  
MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,  
ON WEDNESDAY 2 NOVEMBER 2022, AT 2.00PM.**

**PRESENT**

**Chair:**

Gary Shiels in the Chair.

**Panel Members:**

Grant Christmas (Panel Member)  
David Logan (Panel Member)  
John Bohane (Community Representative)

**Staff:**

Jim Davies, A/Manager Development Services  
David Hoy, Team Leader Assessments  
Robyn Pearson, Team Leader Assessments  
Miguel Rivera, Senior Assessment Officer  
Andrew Beveridge, Assessment Officer

**Administrative Support:**

Peita Rose, Governance Officer (Minutes)

This meeting was conducted by remote (Zoom) means.

A public meeting was held for Item 1 as there was more than 10 objections and Item 2 was determined in closed session as there was less than 10 unique submissions for this agenda item.

The Chair acknowledged the Cammeraygal people being the traditional owners of the land on which this meeting was held.

**Apologies:**

Nil

**1. Minutes of Previous Meeting**

The Minutes of the NSLPP Meeting of Wednesday, 5 October 2022 were confirmed following that meeting.

**2. Declarations of Interest**

Nil

**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.*

**Public Meeting****ITEM 1**

<b>DA No:</b>	143/22
<b>ADDRESS:</b>	18 Vale Street and 560-562 Miller Street, Cammeray
<b>PROPOSAL:</b>	Demolition the existing dwellings and structures on site and construction of a new 4 storey residential flat building with two (2) basement levels, containing eight (8) x 3 bedroom residential apartments and 14 car spaces.
<b>REPORT BY NAME:</b>	Miguel Rivera, Senior Assessment Officer
<b>APPLICANT:</b>	Marcus Hinzack, Millervale Holdings Pty Ltd

**Registered to Speak****2 Written Submissions**

<b>Submitter</b>	<b>Applicant/Representative</b>
	Marcus Hinzack - applicant
	Jeff Mead - Planning Ingenuity - town planner
	Sonny Oh - DKO - architect
	Nicola Traise - DKO - architect

**Panel Determination**

The Panel members have undertaken independent site inspections prior to the meeting and have considered all submissions prior to determination.

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 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 and the written request identifies sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the standard and the zone.

The Council Officer’s Report, Recommendation and Conditions were endorsed by the Panel subject to amended plans incorporating the following amendments and the following additional conditions:

1. Amended plans are to be provided incorporating the following:
  - a. A continuous landscape strip, of a minimum 2.0m width and a minimum soil depth of 1.0m, is to be provided along the northern boundary where the basement extends 900mm from the boundary, to enable suitable screen planting.
  - b. Detailed cross-sectional drawings through the basement projection are to be provided which complies with the requirements in a) above.
  - c. The Panel considers the proposed communal open space should be deleted as it would not be successful given its location away from the communal lobby and its inaccessibility.

The amended plans are to be to the written satisfaction of Council’s Manager Development Services, prior to the issue of the relevant construction certificate:

2. The following amendment to conditions are required:

- a. Condition C37 is to be amended as follows:

#### **Location of Plant**

- C37. All plant and equipment (~~including but not limited to~~ **except for the rooftop** air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

**Panel Justification:** *The air conditioning units on the roof top are deemed acceptable. The standard condition needs to be re-worded to reflect this. This change can be accepted.*

- b. Condition C49 is to be amended as follows:

### Adaptable Housing

- C49. ~~All eight (8)~~ **The two (2) apartments on the ground floor (Apartments 03 and 04)** are to be designed such that these are capable of being adapted and modified with accessible features for disabled persons and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299-1995. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of 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 ensure equity of access and availability of accommodation in the future for an ageing population)

**Panel Justification:** *The Adaptable Apartment Plans (reference DA208 and DA209) did not indicate that the adaptable units would be the ground floor units only. It was assumed that all units are capable of being adaptable units. This has been clarified by the Applicant – who indicated the small annotation on the Ground Floor Plan (DA203).*

*The provision of 2 of 8 units (25%) as adaptable units achieves compliance with the adaptable housing requirements under the DCP. This change can be accepted.*

### Panel Reason:

The Panel generally supports the conclusions and recommendations in the report. However, the panel's concerns are maintaining and ensuring that there is adequate privacy screening for the development to the north, and therefore requires additional soil depth for tree planting adjacent to the northern site boundary.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		John Bohane	Y	
Grant Christmas	Y				
David Logan	Y				

**Item considered in Non Public Meeting****ITEM 2**

<b>DA No:</b>	132/22
<b>ADDRESS:</b>	4 Cremorne Road, Cremorne Point
<b>PROPOSAL:</b>	Demolition and reconstruction of garages, full internal refurbishment of units (6 into 5) new attic conversion and roofing, and installation of an internal lift.
<b>REPORT BY NAME:</b>	Andrew Beveridge, Assessment Officer
<b>APPLICANT:</b>	Joseph Proia

**Registered to Speak****No Written Submissions**

<b>Submitter</b>	<b>Applicant/Representative</b>
	Joseph Proia - Applicant

**Panel Determination**

The Panel members have undertaken independent site inspections where necessary prior to the meeting

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 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 and the written request identifies sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the standard and the zone.

The Council Officer’s Report, Recommendation and conditions are endorsed by the Panel subject to the following amended conditions:

Condition C25. Total of fees is \$404,200.00;

Condition C20(c) The garage doors are to be 100% solid timber panel lift style doors with a painted finish. Timber batten style doors are not acceptable.

**Panel Reason:**

The Panel was satisfied with the Council Officer’s recommendation subject to some minor additions.

Voting was as follows:

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Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		John Bohane	Y	
Grant Christmas	Y				
David Logan	Y				

The public meeting concluded at 2.45pm.

The Panel Determination session commenced at 2.50pm.

The Panel Determination session concluded at 3.30pm.

Endorsed by Dr Gary Shiels  
North Sydney Local Planning Panel  
**2 November 2022**