



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL
MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON WEDNESDAY 7 DECEMBER 2022, AT 2.00PM.**

PRESENT

Chair:

Gary Shiels in the Chair.

Panel Members:

Jan Murrell (Panel Member)
Ian Pickles (Panel Member)
Karla Castellanos (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
David Hoy, Team Leader Assessments
Robyn Pearson, Team Leader Assessments
Miguel Rivera, Senior Assessment Officer
Robin Tse, Senior Assessment Officer
Ruth Bennett, Senior Assessment Officer
Greg Sherlock, Planning and Development Advisor
Thomas Holman, Assessment Officer

Administrative Support:

Peita Rose, Governance Officer (Minutes)

This meeting was conducted by remote (Zoom) means.

A public meeting was held for Items 1 and 2 as there was more than 10 objections. Items 3-8 were determined in closed session as there was less than 10 unique submissions for these agenda items.

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, 2 November 2022 were confirmed following that meeting.

2. Declarations of Interest

Karla Castellanos declared a conflict of interest on Item No. 3.

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

DA No:	72/22
ADDRESS:	45 Thomas Street, McMahons Point
PROPOSAL:	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)
REPORT BY NAME:	Miguel Rivera, Senior Assessment Officer
APPLICANT:	P Brennan

Registered to Speak

4 Written Submissions

Submitter	Applicant/Representative
Robyn Burch - Resident	Stephen Kerr - GYDE Consulting -Town Planner
Stephen Gouge - Resident	Elys Kenny - GYDE Consulting -Town Planner
Elizabeth Adsett - Resident (observing only)	Andrew Tzannes from Smith & Tzannes - Architect
Robyn Tyrell (observing only)	Bernadette Brennan - Applicant

Panel Determination

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

The Council Officers Report, Recommendation and Conditions are endorsed by the Panel.

Panel Reason:

The Panel has noted that the northern elevation windows at the upper level are generally below the boundary fence on the northern side of the site.

The Panel notes the proposal complies with the controls for the zone and agrees with the assessment setbacks in the Council Officer's report.

The Panel recommends that a condition be imposed to require the position of the solar panels to be installed parallel with the front (western) roof plane, with a requirement that these be installed with minimum practicable clearance to the roof cladding.

The Panel notes concerns about loss of views, however observes that it is not always possible to retain views, in particular across property boundaries.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

ITEM 2

DA No:	105/22
ADDRESS:	54 High Street, North Sydney
PROPOSAL:	Use of the former communal facilities area on the roof top (Level 9) as a residential studio.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Joseph Georghy

Registered to Speak

3 Written Submissions

Submitter	Applicant/Representative
Mike Condon - Resident	James Lovell - Town Planner (representing applicant)
Nadine Keith -Resident	Joseph Georghy - Applicant/Owner (observing only)

Panel 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 generally consistent with the objectives of the standard and the zone objectives.

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

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to a condition about the use of the "exclusive use area" on the 9th floor of building to be retained in conjunction with Lot 105 in SP 8461.

Panel Reason:

The Panel considered that the ninth floor should continue to be used in conjunction with Lot 105 and the approval relates only to the proposed residential use of the roof top space, as identified in the by-law as exclusive use area for Lot 105, as this would facilitate access to rooftop for ongoing maintenance of the building.

Accordingly, Conditions are amended as follows:

No Approval for Sunroom, Timber Deck and Planters

A4. Approval is only granted for the residential use of the exclusive use area on the 9th floor of the building in conjunction with Lot 105 in SP 8461. Nothing in this consent authorises the construction works 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 removed.

(Reason: To ensure that the terms of consent are clear, and any approval of the 9th floor studio is related to its use only)

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

I2. The applicant must provide access through the subject exclusive use area on the 9th floor to the external roof areas 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)

Use of the Exclusive Use Area

I3. The residential use of the exclusive use area in accordance with the relevant By-laws on the 9th floor must be used in conjunction with Lot 105 in SP 8461.

(Reason: To ensure that the use of the exclusive use area remains in conjunction with Lot 105 in SP8461)

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

Items considered in Non Public Meeting**ITEM 3**

Karla Castellanos declared a conflict of interest and did not participate in the discussion or deliberation of this item.

DA No:	145/22
ADDRESS:	275 Alfred Street North, North Sydney
PROPOSAL:	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 consisting of “SBS” on the western elevation and “SBS On Demand” on the northern and southern elevation to the roof structure of that building.
REPORT BY NAME:	Greg Sherlock, Planning and Development Advisor
APPLICANT:	Legge and Legge Architects Pty Ltd

Registered to Speak**No Written Submissions**

Submitter	Applicant/Representative
	William Nemesh - Fivex Pty Ltd (representing applicant)

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 are endorsed by the Panel.

Panel Reason:

The Panel considers the proposal is reasonable in the circumstances of this case and supports the Council officer’s report.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

ITEM 4

DA No:	317/22
ADDRESS:	8 Elamang Avenue, Kirribilli
PROPOSAL:	Alterations and additions to an existing detached dwelling conversion of existing roof space into habitable attic space.
REPORT BY NAME:	Ruth Bennett, Senior Assessment Officer
APPLICANT:	Ben Gerstel Architecture Pty Ltd

Registered to Speak**1 Written Submission**

Submitter	Applicant/Representative
	Ben Gerstel - Ben Gerstel Architecture - Applicant

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 are endorsed by the Panel.

Panel Reason:

The Panel agrees that the two skylights on the front elevation should be deleted on heritage grounds.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

ITEM 5

DA No:	38/22
ADDRESS:	17 Cowdroy Avenue, Cammeray
PROPOSAL:	Alterations and additions to a dwelling house and associated works
REPORT BY NAME:	Thomas Holman, Assessment Officer
APPLICANT:	DISP Consulting Pty Ltd

No persons elected to speak on this item.

No Written Submissions

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 are endorsed by the Panel.

Panel Reason:

The Panel agrees with the assessment in the Council Officer’s report and recommendation.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

ITEM 6

DA No:	241/22
ADDRESS:	45-51 Ridge Street, North Sydney
PROPOSAL:	Fit out and use of an existing building as a Centre Based Child Care Facility and Educational Facility (Kindergarten), playgroup location and out of school hours care facility.
REPORT BY NAME:	John McFadden, Consultant Planner
APPLICANT:	Cameragal Montessori School Pty Ltd

Registered to Speak**No Written Submissions**

Submitter	Applicant/Representative
	Rachel Luchetti - Principal at Cameragal Montessori School - Applicant

Panel Determination

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

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to changes to the following conditions:

1. Condition C4 sent is to be amended to read as follows:***Revised Plan of Management***

C4. The Plan of Management must be revised to incorporate the various matters contained in this consent.

- *~~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.~~*
- **All operational conditions of this consent are to be incorporated in the plan of management**

The revised plan of management is to be approved in writing by Council prior to commencement of use of the premises.

2. Condition I3 is to be deleted**3. Condition I2 is to be amended to read as follows:**

Maximum Capacity of the Facility and Children in Attendance

12. 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/ <u>kindergarten</u>	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/ <u>kindergarten</u>	5
Playgroup	1
Baby education classes	1
Before/after school care	2
Total	9

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/kindergarten 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
Total	41

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)

4. Condition I6 is to be amended to read as follows:**Hours of Operation**

16. *The hours of operation are restricted to **the various rooms within the premises shown on the plans of Condition A1 summarised as follows:***

Child care centre/kinderqarten

8.30am – 3:00pm, Monday to Friday only.

Playgroup use

9.30am – 11.30am and 1pm -3pm, Monday to Friday only.

Baby Education Classes

1pm -2.30pm, Monday to Friday only.

Out of School Hours Care Use

- *Before School*
 - *7am – 8.30am, Monday to Friday only.*
- *After School*
 - *3pm – 6.00pm, Monday to Friday and 10am to 5pm, Saturdays (for any weekend associated programs)*

The facility must be closed on Sundays and public holidays.

Upon expiry of the permitted hours:

- a) *no person shall be permitted entry; and*
- b) *all customers on the premises must be required to leave within the following half hour.*

(Reason: To ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

5. That condition G1 be deleted and made an advising to the development consent.**Panel Reason:**

The Panel agrees with the assessment in the Council Officer's report and recommendation.

The Panel considers the proposal offers a desirable service to the community, which is centrally located and in close proximity to car parking.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shields	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

ITEM 7

DA No:	412/21
ADDRESS:	94 Blues Point Road, McMahons Point
PROPOSAL:	Alterations and additions to terrace dwelling comprising substantial internal alterations, and excavation of new basement level and pool.
REPORT BY NAME:	David Hoy, Team Leader, Assessments
APPLICANT:	Michael Manken & Julia Manken

Registered to Speak

No Written Submissions

Submitter	Applicant/Representative
	Jared Rudnick - representing applicant
	John Oultram- John Oultram - Heritage & Design
	Michael and Julia Manken - Owners (observing only)

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 are endorsed by the Panel.

Panel Reason:

The Panel noted the existing dormer windows in this row of terraces and considered that the proposed dormer was acceptable in the circumstances of this particular case.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shields	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

ITEM 8

DA No:	386/09/4
ADDRESS:	29 Churchill Crescent, Cammeray
PROPOSAL:	To modify Development Consent DA 386/09/4 for a new dwelling addition of retractable shade structures.
REPORT BY NAME:	George Youhanna, Executive Planner
APPLICANT:	Matthew Davis

No persons elected to speak on this item.

No Written Submissions

Panel Determination

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

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to the following changes:

- The first floor level retractable awning and supporting structures as shown on the plan is to be deleted.
- The awning to the living and dining room on the ground floor plan is to be setback a minimum of 2.5m from the south-eastern rear edge of the balcony.

Panel Reason:

The Panel does not consider the existing structure and retractable awning to be acceptable having regard to the breach to the building height controls, the excessive scale of the structures and the adverse amenity impact when viewed from adjoining properties and the nearby public domain.

The Panel decision requires that the upper awning is to be deleted and the awning on the ground floor living room level is to be set back from the south-eastern edge of the balcony.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shields	Y		Karla Castellanos	Y	
Jan Murrell	Y				
Ian Pickles	Y				

The public meeting concluded at 3.25pm.

The Panel Determination session commenced at 3.30pm.

The Panel Determination session concluded at 5.17pm.

Endorsed by Dr Gary Shiels
North Sydney Local Planning Panel
7 December 2022