



NORTH SYDNEY COUNCIL

Council Chambers
28 June 2023

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 5 July 2023.

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**

BUSINESS

Minutes

Confirmation of Minutes of the previous Meeting held on Wednesday 7 June 2023.

(Circulated)

LPP01: 451 Miller Street, Cammeray – DA 248/22

Applicant: Mr Andrew Berwick T/A Platino Properties Pty Ltd
Report of Damon Kenny, Executive Planner

This development application seeks approval for the demolition of existing structures and construction of shop top housing containing 11 apartments, commercial space and basement parking.

The application is reported to the North Sydney Local Planning Panel for determination as the applicant is a sensitive development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies and makes a request to contravene the building height development standard of 13m, prescribed by cl. 4.3 North Sydney Local Environmental Plan 2013 (the LEP) by more than 10%.

The request to breach the prescribed height maximum is examined by this report. According to the request to contravene the standard, the maximum height breach is mainly caused by the topographical constraints of the site and is generally limited to the roof form, lift over run and solar panels. The maximum height standard is 13m and the greatest degree of the breach 15m is satisfactory, having satisfied the requirements of cl. 4.6 of the LEP. The applicant's request demonstrates that compliance is unreasonable in the circumstances of the case, and that there are environmental planning grounds to justify the non-compliance. The breach is also in the public interest, as it results in a development outcome which is consistent with objectives of the development standard and the B1 Neighbourhood Centre zone affecting the subject land.

The written request demonstrates that the proposed development would have an appropriate scale and density, having regard to the character of the surrounding area. The 13m height control anticipates a four storey building. The proposed development, including the non-complying elements is four storeys and the variation is generally limited to the roof form, lift over run and solar panels, and a portion of the overall built form where the land falls away to the east.

The proposed development is considered satisfactory when evaluated against the Design Quality Principles in Schedule 1 to SEPP 65 – Design Quality of Residential Apartment Development and is generally consistent with the objectives of the Apartment Design Guide and NSDCP 2013.

The application was notified in accordance with the Community Engagement Protocol. Council received twenty-six (26) submissions objecting to issues including height, bulk and scale, streetscape appearance (front façade), design and character, Traffic, noise, and safety, overshadowing, impact of demolition, excavation and construction, block outlook, overdevelopment and privacy.

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 consideration of the site constraints, context and circumstances.

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. 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**.

Recommending:

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning 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. 248/22 for the demolition of existing buildings, and construction of a new mixed-use development of 11 apartments, one (1) retail and associated basement, landscaping and development works on Land at 451-455 Miller Street, Cammeray, subject to the attached conditions.

LPP02: 13 – 15 Allister Street, Cremorne – DA 291/22

Applicant: WINIM Property

Report of Michael Stephens, Senior Assessment Officer

This development application seeks consent for demolition of the existing multi-dwelling housing (No. 13 Allister Street) and partial demolition of the existing residential flat building (No. 15 Allister Street), and alterations and additions to the existing residential flat building to construct a part 3, part 4 storey residential flat building encompassing both lots, containing 13 apartments above two levels of basement parking, and associated works and landscaping at Nos. 13-15 Allister Street, Cremorne.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to SEPP 65 development, seeks a variation to a development standard by more than 10% and attracted more than 10 submissions by way of objection. A public determination meeting is required in accordance with the Ministers Direction.

Given its potential to be of heritage significance No. 15 Allister Street was subject to an interim heritage order authorised by Council, under delegation, and published to the Government Gazette on 3 June 2022. The interim heritage order lapsed on 3 June 2023, meaning it has no effect on the determination of the subject application. The interim heritage order served its purpose by allowing the progression of further investigations into the potential heritage significance and the commencement of a planning proposal to amend NSLEP 2013 to include No. 15 Allister Street in Schedule 5 *Environmental Heritage* as an item of local significance.

The planning proposal received gateway on 19 December 2023 and was subject to public consultation between 6 March 2023 and 17 April 2023. The planning proposal is a relevant matter for consideration under Section 4.15(1)(a)(ii) as a draft planning instrument. The Planning Proposal was endorsed by Council at its meeting of 22 May 2023 for forwarding to the Department of Planning for making of the LEP amendment. The application has therefore been considered against Clause 5.10 *Heritage and conservation* in NSLEP 2013, as if No. 15 Allister Street were a heritage item and has been found to be satisfactory.

The proposed development breaches the maximum permitted building height of 12m by up to 1.98m, in part, equating to a maximum variation of 16.5%. The proposed variation relates to the roof form, lift overrun and solar panels for the four-storey addition towards the southern side where the land falls towards the southwest. 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 submitted written request is considered to be well founded and worthy of support.

The proposed development is considered satisfactory when evaluated against the Design Quality Principles in Schedule 1 to SEPP 65 – Design Quality of Residential Apartment Development and is generally consistent with the objectives of the Apartment Design Guide and NSDCP 2013.

The application was notified in accordance with the Community Engagement Protocol. Council received twelve (12) submissions objecting to issues including the proposed height variation, impacts to heritage and neighbourhood character, amenity impacts, tree removal, traffic congestion and construction impacts including excavation and construction traffic congestion.

On balance the application is considered to be reasonable and is recommended for **approval**, subject to a **deferred commencement condition** to undertake further geotechnical investigations and structural engineering design.

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Secretary, Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 of NSLEP 2013 and grant **deferred commencement consent** to Development Application No. 291/2022 for demolition of the existing multi-dwelling housing (No. 13 Allister Street) and partial demolition of the existing residential flat building (No. 15 Allister Street), and alterations and additions to the existing residential flat building to construct a residential flat building encompassing both lots, containing 13 apartments above two levels of basement parking, and associated works and landscaping on land at Nos. 13-15 Allister Street, Cremorne, subject to the following site specific conditions and the attached standard conditions

AA. Deferred Commencement Condition

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

The applicant must satisfy Council as to the matters specified in the deferred commencement condition within 24 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement condition within 24 months of the dated of the

grant of this consent this consent will lapse in accordance with Section 4.53(6) 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. You are also advised of your appeal rights under Section 76(5) of the Environmental Planning and Assessment Regulation 2021, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 97 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Structural/Geotechnical Reports

AA1 Prior to granting of an operative consent a Geotechnical/Civil Engineering report and Structural Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:

Structural

- a) A detailed structural design engineers report, including documentation of an inspection and detailed survey of the existing site/building conditions, confirming the proposed means of underpinning and support for the existing building at No. 15 Allister Street to ensure its retention and protection from potential damage.

Geotechnical

- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) The existing groundwater levels in relation to the basement structure, where influenced;
- e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential for the development to create

a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and

- f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The reports, satisfying the requirements of this condition, must be submitted to the Council for approval prior to the issue of an operative consent.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

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

Subject to the above deferred commencement condition being satisfied within 24 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following site specific and standard conditions:

Heritage Requirements

- C1 The following heritage requirements are to be met for 15 Allister Street:
- a) Face brickwork and decorative brickwork on the exterior and the interior of the original dwelling are not to be painted.
 - b) Unpainted original interior Interwar joinery are not to be painted.
 - c) Original Interwar glazed doors to the balconies are to be retained.
 - d) Original glazed apartment front doors to be retained. Should changes be required for fire upgrades, they are to be modified on the interior side with fire rated material.
 - e) Interior doors that are to be removed as part of the demolition works are to be salvaged for re-use on site, sold, or distributed to the community to retain the heritage asset.
 - f) New windows and doors to be timber framed.
 - g) Original tiles in the common area lobby are to be retained and conserved.
 - h) Original wrought balustrade in the common area staircase is to be retained.

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 ensure that the building is conserved)

Charging Facility for Electric Vehicles

- C2 Appropriate provisions/infrastructure must be incorporated in the design of the basement car park to allow the installation of charging facilities for electric vehicles at each designated parking spot.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate. The Certifying Authority must ensure that the building plans and specification submitted fully satisfy the requirements of this condition.

(Reason: To promote sustainability and energy efficiency)

LPP03: Cammeray Park, Park Avenue, Cammeray – DA 58/23

Applicant: North Sydney Council

Report of Planning Ingenuity, Consultant Town Planners

This development application seeks approval for the extension of hours of use for the existing sportsfield at Cammeray Park to provide an additional 30 minutes on Thursdays and Fridays to 9:30pm and additional 105 minutes on Sunday to 6:45pm between 1 April to 31 August annually. The park will operate in conjunction with the consent for DA/207/13 approved by the former North Sydney Independent Planning Panel on 11 December 2013.

The sportsfield to which this application relates, Cammeray Park, is connected with the Cammeray Golf Club, Cammeray Croquet Club, tennis courts, skate park and amenities block. Specifically, the site comprises of one (1) full-sized 100m x 64m synthetic football field (subject of this application), which is used primarily for soccer and rugby, and is serviced by an adjacent amenity block with kiosk, change rooms, accessible toilets, concrete concourse with seating and lighting. No physical or building works are proposed as part of this application.

The application is required to be reported to the North Sydney Local Planning Panel for determination, as directed by the NSW Minister of Planning, as the development is considered to be a conflict of interest as the site is located on Crown land, and North Sydney Council is the nominated applicant for the development.

The owners of surrounding and nearby properties were notified of the proposed development between 31 March and 28 April 2023 in accordance with the North Sydney Community Participation Plan 2019. Notification of the proposal has attracted seven (7) submissions raising particular concerns regarding Noise; Increased traffic; Limited parking; Lighting spill from the field; Safety; Residential amenity.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 (NSLEP 2013), North Sydney Development Control Plan (NSDCP 2013) and the relevant State Environmental Planning Policies (SEPPs).

The proposed extension of hours on Thursday and Friday (30 minutes) matches the hours approved on a trial basis for 12 months under DA/207/13/3. Whilst the additional 105 minutes on a Sunday were not considered as part of DA/207/13/3, this is less than the 180 minute extension (until 8pm) on Saturday that was approved for a 12 month trial under DA/207/13/3.

It is noted that no complaints were received from neighbours during the trial period.

The assessment of the proposed development has considered the concerns raised in the submissions against the relevant planning requirements, suitability of the site and its context and setting.

Following this assessment and having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act (EP&A Act) 1979, the proposal is considered to be a reasonable and appropriate outcome for the site and is recommended for approval subject to conditions of consent.

Recommending:

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

THAT the North Sydney Local Planning Panel, as the consent authority under delegation from the General Manager, grant consent to Development Application 58/2023 for the extension of hours of use for existing sportsfield to provide additional 30 minutes on Thursdays and Fridays to 9:30pm, and additional 105 minutes on Sunday to 6:45pm between 1 April to 31 August annually, at Cammeray Park, Park Avenue, Cammeray, subject to the attached conditions of consent.

NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL
MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON WEDNESDAY 7 JUNE 2023, AT 2.00PM.**

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Helen Lochhead (Panel Member)

Ian Pickles (Panel Member)

Ken Robinson (Community Representative)

Staff:

Stephen Beattie, Manager Development Services

Robin Tse, A/Team Leader Assessments

Damon Kenny, Executive Planner

Michael Stephens, Senior Assessment Officer

Administrative Support:

Miranda Shoppee, Meeting Administration Coordinator (Minutes)

This meeting was conducted by remote (Zoom) means.

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

A public meeting was held for Item 1 as it received more than 10 objections. Items 2, 3 and 4 were determined in closed session as these items received less than 10 unique submissions each.

Apologies:

Nil

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 3 May 2023 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

DA No:	3/23
ADDRESS:	13 Shellcove Road, Kurraba Point
PROPOSAL:	Alterations and additions to existing dwelling house and associated works
REPORT BY NAME:	Annelize Kaalsen of AK Planning
APPLICANT:	Karen Chow C/- APlus Architecture

One Written Submission

Registered to Speak

Submitter	Applicant/Representative
Bill Tulloch – local resident speaking on behalf of multiple residents of 11 Shellcove Rd	Jason Tran - Associate, A+ Design Group
Chris Barton – owner of 1/15 Shellcove Rd	Tony Leung - Design Director, A+ Design Group not present
Mark Tolhurst – owner of 2/15 Shellcove Rd	
Sally Christiansen – <i>observing only</i>	

Panel Determination

The Panel members have undertaken a group site inspection of the house and its interior with the architect prior to the meeting and have considered all written submissions and those made to the public panel meeting.

The Council Officer's Report and Recommendation are endorsed by the Panel.

Panel Reason:

The Panel concurs with the reasons given in the independent assessment report subject to the amendments to Reasons 4, 5 and 6 as shown below:

- 4. The application results in adverse impacts on the heritage significance of the dwelling and the Kurraba Point Conservation Area due to its failure to satisfy the heritage requirements of Clause 1.2 and Clause 5.10 of the North Sydney Local Environmental Plan 2013 as well as the heritage requirements of Section 13 the North Sydney Development Control Plan 2013.**

Particulars:

- a) Clause 1.2(2) Aims in Part 1 of NSLEP 2013, specifically aim (f) to protect the natural, archaeological and built heritage of North Sydney and ensure that development does not adversely affect its significance;
- b) Clause 5.10(1) in Part 5 of the NSLEP 2013, specifically objective (a) and (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views;
 - i) The additional two new levels and the demolition of the original architectural detailing within the existing dwelling will cumulatively detract from, and dilute the character of, the Arts and Crafts style dwelling, which was designed by eminent architect B.J. Waterhouse, resulting in a loss of aesthetic and associative significance.
 - ii) The proposed landscaping and swimming pool will result in a loss of Arts and Crafts style character and aesthetic significance to the heritage listed site as a result of the construction of the new retaining walls, the reduction in soft landscaping within the eastern setback and the style of the new landscaping proposal.
 - iii) The proposal will result in a significant loss of heritage significance to the dwelling and its setting. It is a heritage item listed in the NSLEP 2013.
- c) Clause 5.10(4) in Part 5 of the NSLEP 2013, specifically the adverse effect of the proposed development on the heritage significance of the item and the Kurraba Point Conservation area;
- d) The proposal will detract from the setting of the adjoining heritage item at No.11 Shellcove Road, and is inconsistent with Section 13.4 *“Development in the vicinity of heritage items”* of the NSDCP 2013;
- e) The proposed development is inconsistent with:-
 - objectives O1 of Section 13.5.1 *“Heritage Item”* of the NSDCP 2013 as it fails to ensure that changes to the heritage item are based on an understanding of the heritage significance of the heritage item;
 - provision P5 of Section 13.5.1 *“Heritage Item”* of the NSDCP 2013 as it fails to locate change away from original areas of the heritage item that are intact;
 - objectives O1 of Section 13.5.2 *“Form massing and scale”* of the NSDCP 2013, as it fails to allow for alterations and additions to the heritage items which do not impact on the heritage significance of the heritage item;

- objectives O1 of Section 13.5.3 *“Additional Storeys”* of the NSDCP 2013, as it fails to minimise the visual dominance of the new work from public places;
- objective O1 of Section 13.5.5 *“Interior layouts”* of the NSDCP 2013 as it fails to ensure that significant interior elements are retained and preserved;
- Objective O1 of Section 13.6.1 *“General objectives”* of the NSDCP 2013 as it fails to ensure that new development is designed to retain and complement the character and significance of the conservation area;
- Objectives O2 of Section 13.9.3 *“Verandahs and balconies”* of the NSDCP 2013 as it fails to retain the original front verandah especially where it is significant or contributory to the individual building;
- Objective O1 of Section 13.9.4 *“Materials, colours and finishes”* of the NSDCP 2013 as it fails to ensure that materials and finishes are consistent with the characteristic elements of the heritage item;
- Objective O1 and provision P5 of Section 13.9.5 *“Garages and Carports”* of the NSDCP 2013 as it fails to ensure that vehicular accommodation does not determinately impact on the significance of the heritage item and failing to retain the original garages for heritage items;
- Provision P1 of Section 13.9.6 *“Fences”* of the NSDCP 2013 as it fails to retain the original street boundary fence and gate;
- Provision P3 of Section 13.9.7 *“Gardens”* of the NSDCP 2013 as it fails to retain the strong visual relationship to the existing terraced gardens and topography;
- Provision P2 of Section 13.10.3 *“Larger scale single dwellings”* of the NSDCP as it fails to locate new additions forward of the original eastern building façade altering its perceived storey height.

5. The proposed excavation is considered excessive resulting in a detrimental impact on the subject heritage item and the surrounding areas, pursuant to Clauses 5.10 (1) and 6.10(1) of the North Sydney Local Environmental Plan 2013 as well as the requirements of Section 1.3.1 the North Sydney Development Control Plan 2013.

Particulars:

- a) The proposal will result in extensive excavation below the subject dwelling and within its gardens to allow for the proposed two new levels. Cumulatively, these will result irreversible impacts on the heritage item and loss of character, particularly when viewed from the harbour and from the Federation Houses Walk which forms part of the Bondi to Manly Walk within Cremorne Reserve. This is contrary to Clause 5.10 (1) and Clause 6.10(1) of NSLEP 2013.
- b) The proposed excavation is inconsistent with O4 of Section 1.3.1 of NSDCP 2013, as the proposal will result in major site disturbance due to the amount of excavation proposed not just the depth but also beyond the existing building footprint;
- c) The proposed excavation with a maximum depth of 16.1m will have a detrimental impact on the existing landform within the subject site and surrounding properties and is contrary to O1 of Section 1.3.1 of NSDCP 2013;

- d) The extent of the excavation would result in the removal of sandstone retaining wall and the sandstone base of the heritage listed dwelling contrary to P2 of Section 1.3.1 of NSDCP 2013;
- e) New finished floor levels will be greater than 500mm below existing ground level contrary to P3 Section 1.3.1 of NSDCP 2013;
- f) New habitable rooms will be located more than 1m below existing ground level for more than 50% of the rooms floor area contrary to P4 of Section 1.3.1 of NSDCP 2013;
- g) The proposal will result excavation and associated works to occur within 200mm from the property boundary is contrary to the P5 of Section 1.3.1 of NSDCP 2013.

6. Uncharacteristic form of development

The application results in a built form which is not subservient to the heritage item. The proposed development would contain a total of six (6) levels, including subterranean/basement levels, with a proposed floor area 1.25 times of the area of the subject site. The proposed development would have a detrimental impact upon the characteristics features of the heritage item resulting in a massing that is likely to overwhelm the heritage item contrary to the following provisions within NSDCP 2013.

Particulars:

- a) Objectives of the R2 Low Density zone, specifically dot point 3 relating to then amenity of the surrounding area and the natural and cultural heritage within the area;
- b) The proposal fails to retain the visual character of the dwelling, contrary to objective O1 in Part B, Section 1.3.5 *Visual Impact* in NSDCP 2013;
- c) The proposed bulk and scale within the side setbacks results in a massing which dominates the heritage item contrary to Objective O2, in Part B, Section 1.4.6 *Setbacks* in NSDCP 2013;
- d) Objective O1 in Part B, Section 1.4.7 in NSDCP 2013 (*Form, massing & scale*);
- e) Objective O1 in Part B, Section 1.4.8 in NSDCP 2013 (*Built form character*);
- f) Provision P6 in Part B of Section 1.5.1 in NSDCP 2013 (*High quality residential accommodation*);
- g) Objective 1 in Part B Section 1.5.2 in NSDCP 2013 (*Lightwells and Ventilation*);
- h) Provision P3 of Section 1.5.4 in NSDCP 2013 (*Vehicle access and parking*);
- i) The proposal provides excessive site coverage across the site contrary to O1 and O2 in Part B, Section 1.5.5 *Site Coverage* in NSDCP 2013;
- j) Objectives O1 and O2 in Part B Section 1.5.8 in NSDCP (*Front Gardens*); and
- k) The proposal is contrary to P2 in Part C in Section 6.2.6 in NSDCP 2013 in relation to number of storeys for detached dwellings within Kurraba Point Conservation Area.

The proposal will overwhelm the integrity of the Arts and Crafts cottage. It will no longer function as a dwelling, given that there is excessive floorspace devoted to individual uses not normally associated with a dwelling. The amenity of these underground facilities is unsatisfactory and not characteristic of dwelling houses, in particular of the arts and crafts era. The extensive basement levels will not be ancillary to the dwelling itself but rather the dwelling will be overwhelmed by the excessive size and new floor space area of the new development.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Helen Lochhead	Y				
Ian Pickles	Y				

Items considered in Non-Public Meeting

ITEM 2

DA No:	239/21/2
ADDRESS:	131-139 Holt Avenue, Cremorne
PROPOSAL:	Section 4.56 modification relating to development consent DA239/2021 for excavation (not including demolition) and construction of a part four-part five storey mixed use development with basement parking, and stratum subdivision.
REPORT BY NAME:	Michael Stephens, Senior Assessment Officer
APPLICANT:	Helm Pty Ltd

No Written Submissions

Registered to Speak

Submitter	Applicant/Representative
	Kit Cunningham-Reid – Helm Properties

Panel Determination

The Panel members have undertaken independent site inspections where considered necessary prior to the meeting, submissions made, and the address to the Panel from the Applicant prior to determination.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel.

Panel Reason:

The Panel notes this is a modification application and is satisfied that it will result in substantially the same development and the reasons for the original decision have been considered.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Helen Lochhead	Y				
Ian Pickles	Y				

ITEM 3

DA No:	2/22
ADDRESS:	127-129 Willoughby Road, Crows Nest
PROPOSAL:	Demolition of existing structures and construction of a new mixed use building containing 10 apartments, commercial space and basement parking.
REPORT BY NAME:	Damon Kenny, Executive Assessment Planner
APPLICANT:	Ultraflex Holdings Pty Ltd

No Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
	Jack Prail -Platino Properties

Panel Determination

The Panel members have undertaken independent site inspections where considered necessary prior to the meeting and have considered all written submissions and the applicant's address 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 requests to the contravention of the Height of Buildings development standard in clause 4.3 and Clause 6.6 (1) (c) of the LEP, adequately address the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written requests demonstrates that compliance with the development standard is unnecessary in the circumstances of the case and the written requests identified sufficient environmental planning grounds to justify the contraventions. 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 Council Officer's Report and Recommendation are endorsed by the Panel. The panel has taken further advice in regard to the imposition of conditions C14 and C18 and has formed the view that these should remain at this time with the applicant undertaking further discussion with the Council should these conditions result in a material increase in the height of the building or access issues. With respect to the conditions these are generally endorsed subject to amendments to Conditions C14 sub-heading Drainage Works Item (e) and C18 as follows:

C14. Required Infrastructure Works - Roads Act 1993

Drainage works

- e) The floor level of the commercial lot is to be set at the 1% AEP level. The Residential floor levels and all basement entrances are to be set at the 1% AEP level + 300mm. The use of mechanical flood devices are not acceptable due to the long period between flooding events and the possibility that the device may not be in working condition or may otherwise be impeded in operation when a flood occurs.

C18. Floor Levels for Flooding

The floor level of the commercial lot is to be set at the 1% AEP level. The Residential floor levels and all basement entrances are to be set at the 1% AEP level + 300mm.

Note: The use of mechanical flood devices are not acceptable due to the long period between flooding events and the possibility that the device may not be in working condition or may be impeded in operation when a flood occurs.

Plans and specifications which comply 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: Prevention of damage to dwellings as a result of flood events)

Panel Reason:

The Panel is satisfied the proposed development will sit comfortably on the site and is consistent with the planning regime objectives with no significant adverse impacts.

It is open to the proponent to undertake further discussions with Council staff regarding flood mitigation measures and seek modification to this consent.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Helen Lochhead	Y				
Ian Pickles	Y				

ITEM 4

DA No:	348/22
ADDRESS:	2 Byrnes Avenue, Neutral Bay
PROPOSAL:	Alterations and additions to an existing dwelling
REPORT BY NAME:	Andrew Beveridge, Assessment Officer
APPLICANT:	Fadi Fadhil, Creative Spaces Architects

No Written Submissions

Registered to Speak

Submitter	Applicant/Representative
	Fadi Fadhil - Creative Spaces Architects
	Michael Ternes and Sarah Cervin (property owners)

Panel Determination

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

The Panel determines the application by the granting of consent subject to the imposition of standard conditions and the additional conditions imposed by the panel as detailed below.

The Council Officer's Report, Recommendation and Conditions are endorsed subject to an additional condition (C20) requiring a reduction in the wall height of the rear addition by 300mm, the removal of the pergola of the upper level, and a reduction in the width of the privacy screens to 1.2m at its uppermost point, no higher than the eaves line.

The panel has been made aware that the set of conditions was not attached to the assessment report on Councils website due to a technical oversight. At the same time given the standard nature of these conditions it remains appropriate to determine the application.

Design Modifications (Rear Addition)

C20. The design of the proposed rear addition must be modified as follows:

- a) The height of rear addition shall be reduced by 300mm (by a reduction in upper wall height) with the top of the roof ridge line at RL92.28 and the eave line for the proposed addition at RL90.99;
- b) The upper level pergola on the northern (rear) elevation shall be deleted;
- c) The width of the privacy screens on the eastern and western elevations of the proposed rear addition shall be reduced to 1.2m maximum, as measured from the northern (rear) building line of the proposed addition, at the upper most point ;
- d) The height of the modified privacy screens shall match the modified eave line at RL 90.99.

The modified design demonstrating compliance with the above requirements must be submitted for the written approval of the Manager Development Services.

The Certifying Authority must ensure that building plans and specifications submitted must be fully consistent with Council's written approval prior to the issue of any Construction Certificate.

(Reason: To minimise bulk and scale of the new addition and to reduce amenity impacts on the adjoining properties.)

Panel Reason:

The Panel supports the recommendation with the above amendment. The reason for the additional condition is to minimise the bulk and scale, and solar and privacy impacts on neighbouring properties.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Helen Lochhead	Y				
Ian Pickles	Y				

The meeting concluded at 3.08pm.

The Panel Determination session commenced at 3.30pm.

The Panel Determination session concluded at 5.11pm.

Endorsed by Jan Murrell
North Sydney Local Planning Panel
7 June 2023