



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING
HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
AT 2PM WEDNESDAY 2 AUGUST 2023**

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

David Logan (Panel Member)
Ian Pickles (Panel Member)
Karla Castellanos (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
Jim Davies, Executive Planner
David Hoy, Team Leader
Michael Stephens A/Team Leader Assessments
Miguel Rivera, Senior Assessment Officer
Ruth Bennett, Senior Assessment Officer
Thomas Holman, Assessment Officer

Administrative Support:

Peita Rose, Governance Officer (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.

Apologies:

Nil

1. Declarations of Interest

David Logan declared a conflict of interest for Item No. 5. No other conflicts received.

2. 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.

Following the public meeting the Panel considered the following Business Items and resolves to determine each matter as described within these minutes.

ITEM 1

DA No:	235/22
ADDRESS:	4 Warung Street, McMahons Point
PROPOSAL:	Alterations and additions to an existing dwelling house, including internal reconfigurations, a rear addition on the first and second floor levels, and associated works.
REPORT BY NAME:	Ruth Bennett, Senior Assessment Officer
APPLICANT:	Neda Khorsandian, SN Architects

No Written Submissions

Registered to Speak:

Submitter	Applicant/Representative
	Eli Gescheit - Navon Planning
	Neda Khorsandian - Applicant - SN Architects
	Brindavan Padley - Owner

Panel Determination

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

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 identified 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 Council Officer’s Report, Recommendation and Conditions are endorsed by the Panel and the application is approved.

Panel Reason:

The Panel is satisfied the development will not adversely impact the conservation area and is generally consistent with the planning controls and guidelines. Furthermore, the Panel is of the view that privacy and amenity for adjoining residents is reasonably maintained.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
David Logan	Y				
Ian Pickles	Y				

ITEM 2

DA No:	357/22
ADDRESS:	63 Victoria Street, McMahons Point
PROPOSAL:	Alterations and additions to an existing semi-detached dwelling
REPORT BY NAME:	Miguel Rivera, Senior Assessment Officer
APPLICANT:	A Machkevitch – Corona Projects Pty Ltd

One Written Submission**Registered to Speak:**

Submitter	Applicant/Representative
Helen McGrath - Resident	Stephen Barr - Representing Owner
Claire Fremder - Resident	Leanne Misenet - Owner
David Cartwright - Resident	
Brian Larkin - Resident	

The Panel members undertook a group site inspection prior to the public meeting, and this included visiting neighbouring properties as well as the subject property. The Panel has also considered all written and oral submissions prior to making its determination.

The Panel notes apparent errors on page 57 of the report and for consistency with the rest of the report these should be as follows: under the heading 'Public Interest' the report should read "***not*** considered..." ; and under the heading 'Suitability of the Site' the report should read "***not*** suitable for the site.." before the word considered.

Panel Determination

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel is not 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 does not demonstrate that compliance with the development standard is unnecessary in the circumstances of the case and the written request does not provide sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is not in the public interest because of inconsistencies with the objectives of the standard.

The Council Officer’s Report and Recommendation for refusal are endorsed by the Panel for the following reasons:

- A. In consideration of the written request made by the Applicant pursuant to Clause 4.6 of the North Sydney Local Environmental Plan 2013, the Panel is not satisfied that compliance with the development standard contained in Clause 4.3 – Maximum Height of Buildings of NSLEP 2013 is well founded.

The consent authority has identified that there are no sufficient environmental planning grounds which have been identified which would justify contravening the development standard.

The consent authority has identified that the proposed development is not in the public interest as it fails to achieve consistency with the relevant objectives of Clause 4.3 – Maximum Height of Buildings and the E3 - Productivity Support zone under NSLEP 2013.

- B. the North Sydney Local Planning Panel, resolves on a merits assessment to refuse development consent to Development Application No. 357/22 for development involving alterations and additions to an existing semi-detached dwelling on land at No. 63 Victoria Street, McMahons Point (Lot 1 in DP 202869), as shown on Architectural Plans, prepared by Archispectrum and dated 16/06/23, for the following reasons:

1. Under Part 3, Section 24 (1)(b) of the EP&A Regulation, the development application fails to contain all the information and documents required by the approved form and as per the Act or Regulation in that the proposal indicated works within No. 65 Victoria Street, McMahons Point and owner’s consent from this property was not obtained and provided to Council. As such, the consent authority is unable to grant consent for the respective works.
2. Pursuant to Section 4.15 (1)(a) of the EP&A Act 1979, the proposed development does not comply with the following relevant environmental planning instruments and development controls as follows:
 - a. North Sydney Local Environmental Plan 2013 – Aims of the Plan – unable to satisfy the key aims (2)(a), (2)(b)(i) and (2)(c)li).

- i. The proposal fails to promote development that is appropriate to its context and enhances the amenity of the North Sydney Community and environment. It involves introducing a built form that is not contextually appropriate, is excessive and disproportionate to the respective undersized allotment, and features a substantial height breach that will generate view loss and privacy impacts.
 - ii. The proposal fails to provide a compatible built form that is acceptable in terms of streetscape response, bulk, scale and appearance. The provision of a roof terrace is a key concern as it promotes a height breach that will result in view loss and amenity impacts.
 - iii. The proposal is unable to maintain and protect residential amenity due to the roof terrace generating view loss and privacy impacts.
 - iv. The proposal fails to not adversely affect residential amenity in terms of visual and acoustic privacy and view sharing.
 - b. North Sydney Local Environmental Plan 2013 – objectives of E3 zone relating to permitting development that is compatible with the scale, intensity and character of the surrounding residential area.
 - c. North Sydney Local Environmental Plan 2013 – objectives of Clause 4.3 – unable to satisfy the objectives (1)(b), (1)(d), (1)(e) and (1)(f).
 - d. North Sydney Local Environmental Plan 2013 – Clause 4.6 – the consent authority is not satisfied as per provisions (3) and (4).
 - e. North Sydney Development Control Plan 2013, Part B, Section 1 – Environmental Criteria (Section 1.3.6 and Section 1.3.10) – failure to meet objectives and controls with respect to Views and Visual Privacy.
 - f. North Sydney Development Control Plan 2013, Part B, Section 1 – Quality Built Form (Section 1.4) – failure to meet objectives and controls with respect to Form, Massing and Scale; Built Form Character; Roofs and Materials.
 - g. North Sydney Development Control Plan 2013, Part C, Section 9 – McMahons Point Business Precinct (Section 9.2) – failure to meet objectives and controls.
3. Pursuant to Section 4.15(1)(b) of the EP&A Act 1979, the proposed development is likely to have adverse impacts on the following aspects on the environment: view loss, privacy and amenity.
4. Pursuant to Section 4.15(1)(c) of the EP&A Act 1979, the subject site is not suitable for the proposed development for the following reasons: excessive height and adverse impacts on neighbouring properties.

5. Pursuant to Section 4.15(1)(e) of the EP&A Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent including poor design and planning response to the re-development of a substantially undersized and built-up allotment and endorsement of an unacceptable non-compliance to the maximum building height provision under Clause 4.3 and non-compliances with provisions and controls under Council policy.

Panel Reason:

The Panel is not persuaded, based on the plans and information submitted, that the proposal on a merits assessment warrants approval. The Panel is of the opinion that a form which retains the existing parapet, removes the first floor balcony on the street frontage and sets back a first floor addition behind the existing parapet, would be more consistent with the DCP provisions, in particular Part B 1.4.8 and Part C 9.2.3.

The Panel considers that a roof top terrace situated above the height plane would be inappropriate and have unreasonable amenity impacts.

The Panel suggests that the applicant discuss a revised application with Council staff.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
David Logan	Y				
Ian Pickles	Y				

ITEM 3

DA No:	432/21/5
ADDRESS:	2 Sutherland Street, Cremorne
PROPOSAL:	Section 4.55(2) modification relating to the demolition of an existing residential flat building and construction of a part 4, part 5 storey residential flat building containing 11 apartments with basement parking for 18 vehicles, and landscaping and associated works.
REPORT BY NAME:	Michael Stephens, A/Team Leader Assessments
APPLICANT:	AP Development No 1 Pty Ltd

No Written Submissions

Registered to Speak

Submitter	Applicant/Representative
	Jess Wong - Applicant - Platform Project Services

Panel Determination

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

The Panel is satisfied the modification application is substantially the same as that originally approved and is satisfied that the original reason for the imposition of the condition has been addressed in the modification plans as reasonable amenity for the second bedroom is now achieved.

Panel Reason:

The Panel considers there are no adverse impacts created by the modification and the amenity of the second bedroom is reasonable.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
David Logan	Y				
Ian Pickles	Y				

ITEM 4

DA No:	9/23
ADDRESS:	U4, 35 Murdoch Street, Cremorne
PROPOSAL:	Alterations and additions to an existing apartment including construction of a new dormer.
REPORT BY NAME:	Thomas Holman, Assessment Officer
APPLICANT:	Slade Hugall

No Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
Christopher Puplick - Chair, Owners' Corporation (SP10924) 35 Murdoch Street - Resident	Slade Hugall - Applicant
	Scott Pearse - Building Designer

The Panel members undertook a group site inspection prior to the meeting and have considered all written submissions.

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 identified 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 Council Officer’s Report, Recommendation and Conditions are endorsed by the Panel and the application is approved.

Panel Reason:

The Panel is satisfied the heritage conservation area will not be impacted and the proposed development is consistent with the character of the existing building, subject to the conditions as recommended.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
David Logan	Y				
Ian Pickles	Y				

ITEM 5

DA No:	115/23
ADDRESS:	115, 117, 119 Holt Avenue, Cremorne
PROPOSAL:	Demolition of 3 Dwelling Houses and associated works, and construction of a 3 storey residential flat building containing 16 dwellings, basement parking and associated works.
REPORT BY NAME:	Jim Davies, Executive Assessment Planner
APPLICANT:	Mersonn Pty Ltd

David Logan declared an actual conflict of interest in Item No. 5 and did not participate in any of the discussions or determination on the application.

Two Written Submissions

Registered to Speak

Submitter	Applicant/Representative
	Michael Wang - Managing Director - MMK Developments (later advised unable to connect to meeting)
	Anne McCusker - Garden Homes and DA Angels

The Panel members undertook a group site inspection prior to the meeting and considered written submissions. No oral submissions made with the applicant's representative observing proceedings only.

Panel Determination

The Council Officer's Report and Recommendation are noted by the Panel and the following determination is made:

In accordance with section 4.47 (4) Environmental Planning & Assessment Act, 1979 (EP&A) the North Sydney Local Planning Panel, exercising the functions of Council as the consent authority, refuses to grant development consent to Development Application No. 115/23 for demolition of 3 dwelling houses and associated works, and construction of a 3-storey residential flat building of 16 dwellings on land at 115, 117, 119 Holt Avenue Cremorne.

The relevant provision of the EP&A Act section 4.47 is:

(4) If the approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.

The Council having been notified by the approval body, the Heritage Council of NSW, that approval will not be granted to the application, in accordance with section 63(2) Heritage Act 1977, which states:

(2) Where -

(a) an application for approval is made to demolish the whole of a building or work, or

(b) an application for approval is made which would, if it were approved, necessitate the demolition of the whole of a building or work,

the approval body shall determine that application by refusing approval.

Panel Reason:

The above legislative requirements direct that the application be refused.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
David Logan	Absent				
Ian Pickles	Y				

The meeting concluded at 3:00pm.

The Panel Determination session commenced at 3:05pm.

The Panel Determination session concluded at 4.10pm.

Endorsed by Jan Murrell

North Sydney Local Planning Panel

2 August 2023