

**NORTH SYDNEY LOCAL PLANNING PANEL****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING
PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH
SYDNEY,
ON WEDNESDAY 7 FEBRUARY 2024, AT 2.00PM.****PRESENT****Chair:**

Jan Murrell

Panel Members:

Michel Reymond (Panel Member)
Linda McClure (Panel Member)
Karla Castellanos (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
Isobella Lucic, Team Leader Assessments
David Hoy, Team Leader Assessments
Jim Davies, Executive Assessment Planner
Damon Kenny, Executive Assessment Officer
Robin Tse, Senior Assessment Officer
Rachel Wu, Assessment Officer
Surb Bhatti, Conservation Planner
Lucinda Varley, Conservation Planner

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. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday 6 December 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:	205/23
ADDRESS:	115 Blues Point Road, McMahons Point
PROPOSAL:	Alterations and additions to a dwelling including new lift, formal vehicular access from lane, and new landscaping.
REPORT BY NAME:	Rachel Wu, Assessment Officer
APPLICANT:	Felicity King C/- Studio Barbara

No Written Submissions

Registered to Speak

Submitter	Applicant/Representative
Nil	Felicity King - Studio Barbara Architecture & Interiors
	Daniel Barber- Paro Consulting
	Bruce Smith - Owner
	James Hundt from Fin Abode P/L

Panel Determination

Panel members have undertaken a site inspection prior to the meeting and noted there were no written submissions. The applicant's representatives addressed the Panel.

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 subject to new and amended conditions as shown below:

Design Amendments

C18. The plans referred to in condition A1 are to be amended to provide for the following changes:

- ~~i. The proposed second floor balcony and awning are to be reduced in width to match the width of the existing rear wing;~~
- ii. The wall return on the southern elevation at Level 1 is to be reduced to have a minimum ~~1.5m~~ 1metre set back from the rear elevation and is to be finished in traditional masonry to match existing;
- iii. The cladding to the second floor balcony is to be of solid masonry form to match the masonry cladding;
- iv. The wall return on the eastern elevation of the proposed Bin and Bike Store is to increase in rear setback by a minimum of 0.5m from that proposed.
- v. The proposed lift on the northern boundary is to be constructed within the building in the approximate location between the proposed Ground Floor Bath 1 and Laundry.
- vi. The non-trafficable pebble roof proposed above the ground floor rear portion of the dwelling is to be converted into a green roof.
- vii. The section of the northern wall to the existing Ground Floor Storage proposed for demolition is to be retained commencing at the landing of the existing stairs.
- viii. The proposed roofing material for the First-Floor stair addition to the southern elevation is to be changed to corrugated metal roof.

The Certifying Authority must ensure the amendments required by this condition are included in the Construction Certificate Drawings.

(Reason: To reduce the impact of the contemporary built form to the laneway and to ensure the development minimises impact on the heritage significance of the contributory building and to be consistent with the DCP objectives and controls.)

The following additional conditions are to be imposed:

Boundary walls to wholly within the site

C#. Prior to the issue of the relevant Construction Certificate the boundary walls to the northern and laneway boundaries are to be shown to be constructed wholly within the site boundaries. A survey report and peg out of the wall footing is to be carried out by a registered surveyor to ensure the wall(s) will be constructed wholly within the property boundaries.

(Reason: To ensure all structures are wholly within the site)

Survey Report to be obtained – boundary walls

G# Prior to the issue of the Final Occupation Certificate a report prepared by a registered surveyor is to be provided which states that the boundary walls to the northern and laneway boundaries have been constructed wholly within the site boundaries.

(Reason: To ensure all structures are wholly within the site)

Panel Reasons:

The applicant's architect requested amendments to the conditions and the Panel determined the minor changes to the conditions are reasonable.

The Panel is satisfied that the proposal maintains the heritage significance of the building and will not impact on the conservation area, including the streetscape. While at the same time the alterations and additions will allow for an increase in the amenity of the building and approval is warranted. -

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
Michel Reymond	Y				
Linda McClure	Y				

ITEM 2

DA No:	324/23
ADDRESS:	13 Milner Crescent, Wollstonecraft
PROPOSAL:	Alterations and additions to a dwelling house including single storey rear addition, first floor addition to existing garage and alterations to landscaping.
REPORT BY NAME:	Thomas Holman, Senior Assessment Officer
APPLICANT:	Mark Oxenham

1 Written Submission**Registered to Speak**

Submitter	Applicant/Representative
Sean Radford - Nobbs Radford Architect- representing 11A Milner-	Mark Oxenham - Castlepeak Architecture – Applicant
	Kieren Chidgey - Owner

Panel Determination

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

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

- **Condition C12** is to be amended to provide for the replacement of the Golden Elm (*Ulmus glabra 'Lutescens'*), with the same advanced species.

- **Condition Nos. C25 and G7** - are to be amended to require the following changes:
 - To reflect the amended species required by Condition C12;
 - Additional street planting in Selwyn Street is to be shown as either a Jacaranda, Water Gum or other suitable canopy tree species as nominated, in consultation, by Council's Landscape team;
 - replacement of the Camellias are to be shown on the western boundary with suitable advanced Camellias (minimum 75ltr pot size).
- **Condition G7 and I2** are to be amended to provide for advanced replacement and maintenance of the row of Camellias on the western boundary in the event that the existing ones fail to survive.
- **Condition C15.** Regarding security bonds for street trees is to be amended to delete the last three trees in the Schedule with a reduction in the total bond being reduced to \$15,000.
- **Condition C23** is to be amended to reflect the reduced street tree bond amount.
- **An additional condition** is to be included to require access for construction to be only via Selwyn Street and not Milner Crescent. The following condition is to be imposed:

Construction access

E22. Construction activities and works approved under this consent must be restricted to access/entry from Selwyn Street only.

(Reason: Protection of existing environmental and community assets on Milner Crescent)

- **Condition C20** is to be amended to require Window W3 to have translucent glass up to 1.5m above finished floor level. The condition is to be amended to read as follows:

Privacy

C20. The following privacy devices are to be provided:

- a) Fixed lightweight louvred or lattice privacy screen shall be attached to the western side boundary, with a minimum height of 1.8m above the ground level opposite the location of the ground floor side window of the rear addition (Window W3). The location of the privacy screen is shown clouded in red on the Proposed Ground Floor Plan, DA02.*
- b) Window W3 to have translucent glass up to 1.5m above finished floor level.*

Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier 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 an adequate level of privacy is provided to the adjoining property located at 11A Milner Crescent)

Panel Reason:

The Panel has carefully considered all submissions made and is satisfied that the extent of overshadowing in mid-winter on No. 11A Milner Crescent-would not warrant refusal of the application. In its determination the-Panel has imposed additional conditions to maintain the amenity and privacy for the adjoining property at No.11A to provide window treatment and landscaping.

The Panel considers the extension will provide for increased accommodation while allowing the heritage significance of the dwelling to be maintained and impacts on adjoining properties are mitigated.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
Michel Reymond	Y				
Linda McClure	Y				

ITEM 3

DA No:	381/22
ADDRESS:	9 Gundimaine Avenue, Kurraba Point
PROPOSAL:	Alterations and additions to an existing detached dwelling including a first floor addition and a double garage.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Felicity King C/- Studio Barbara

No Written Submission

No persons elected to speak on this item.

The Panel Members have only been able to undertake a limited site inspection from the front street entry area prior to the public meeting.

Panel Determination

The Panel has considered all written submissions, the Council Officer's report, and the documentation submitted for the application prior to making a determination. The Panel has thus relied on the photographic evidence available to it to make its assessment.

The Council Officer's Report and Recommendation-are accepted by the Panel and the development application is determined by the refusal of consent.

Panel Reason:

When the Panel arrived to make the prearranged site inspection of the property the owner declined to allow access so the Panel could undertake an independent inspection, and therefore, the Panel has no further evidence and relies on the assessment report, including photographs, submissions and the material and documentation lodged with the application. The opportunity to present and address the Panel at the public meeting was also declined.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
Michel Reymond	Y				
Linda McClure	Y				

ITEM 4

DA No:	349/22
ADDRESS:	50 Tobruk Avenue, Cremorne
PROPOSAL:	Demolition of existing dwelling and construction of an attached dual occupancy, landscaping and associated works.
REPORT BY NAME:	Jim Davies, Executive Planner
APPLICANT:	V Parker C/- Auraa Architecture

2 Written Submissions

Registered to Speak

Submitter	Applicant/Representative
Rosalind Fischal - Neighbouring Property	Steven De Souza- Auraa - Architect
George Lloyd	Vicki and Geoff Parker - Owners
Julie Brown	Brett Brown - Ingham Planning
<u>Observing Only</u>	
Ian Cheung	

Panel Determination

Panel Members have undertaken a joint site inspection prior to the meeting and the Panel has considered all written and oral 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 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 subject to amendment to include the following additional condition(s):

Amendments to Landscape Plans

A3. The landscape plans cited in condition A1 are amended by:

- a) Replacing the three *Elaeocarpus reticulatus* ‘Blueberry Ash’ trees proposed to be planted centrally on the boundary with No 48 Tobruk Avenue with a suitable number of trees appropriate to the area, to achieve a screen along the boundary and provide shade during summer to the proposed building. The replacement species is to be selected from the range of trees identified in North Sydney Council’s recommended tree species list published on Council’s website, for trees included having a mature height of between 5 to 10 metres.

(Reason: To establish landscaping that provides environmental benefits and maintains amenity)

Amendments to Architectural Plans

- A4. The awning over the main entry to dwelling No 2 being reduced so it is at least to be setback a minimum of 1.0m from the boundary with No. 52 Tobruk Avenue Cremorne.

(Reason: To maintain the neighbour’s amenity.)

Panel Reason:

With respect to the height exceedance the Panel notes that the leading-edge that creates the greatest view loss is the front portion of the building and this is on average about 1 metre below the height control standard. The portion that exceeds the height plane is to the northwest where the topography is steep, and this will not lead to view impacts that are materially greater than a complying development.

The Panel has considered the proximity of the awning on the side entry and requires that it be setback 1 metre to the north-eastern boundary to maintain the amenity for the adjoining property.

The Panel considers the landscaping is generally appropriate and the provision of canopy trees will enhance the environmental benefits and provide appropriate filtering between properties. The inclusion of Water Gums in the landscape plan will still allow for views through to the water as well as providing environmental benefits. Some minor amendments have been made to respond to neighbours concerns with respect to side boundary plantings.

The Panel in its determination has carefully considered all matters and is satisfied that the development application, subject to conditions, is worthy of approval.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
Michel Reymond	Y				
Linda McClure	Y				

ITEM 5

DA No:	279/22
ADDRESS:	126-128 Willoughby Road, Crows Nest
PROPOSAL:	Alterations and additions to an existing building to create a mixed use development of 2 levels and a mezzanine of commercial and retail premises, and 4 residential units on the upper 2 levels and associated works.
REPORT BY NAME:	Damon Kenny, Executive Planner
APPLICANT:	Ken Demlakian

1 Written Submission

Registered to Speak

Submitter	Applicant/Representative
	Ken Demlakian - Keystone Property Consultants- Applicant
	Scott Milner – Into Architecture – Architect
	Mark Schofield – Gyde

Panel Determination

The Panel members have undertaken a joint site inspection prior to the meeting and noted there were no written submissions. The Applicant’s representatives made submissions at the public meeting, and these have been considered by the Panel in its 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. As such, being a threshold question, the application is determined by the refusal of consent.

The Council Officer’s Report and Recommendation is endorsed by the Panel subject to the reasons for refusal being amended as follows:

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is contrary to the objectives of the aims of plan of North Sydney Local Environmental Plan 2013 pursuant to Clause 1.2 in that the proposal is inconsistent with:
 - (a) The proposal does not provide development that is appropriate to its context and is does not enhance the amenity of the North Sydney community and environment (Clause 1.2(2)(a));
 - (b) The proposal is not compatible with the desired future character in terms of its height, bulk and scale (Clause 1.2(2)(b)(i));
 - (c) The proposal adversely affects the residential amenity of adjoining properties in terms of visual privacy (Clause 1.2(2)(c)(i));

2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the variation to the building height development standard pursuant to Clause 4.3(2) of North Sydney Local Environmental Plan 2013 lodged pursuant to Clause 4.6(3) has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify the contravention of the development standard. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed development as a whole does not ensure that a high level of amenity is achieved and maintained. The Clause 4.6 Statement in respect to the non-compliance with Clause 4.3 Height of Building standard is not considered to be well founded or in the public interest.
3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the design quality of the proposal when evaluated in accordance with the design quality principles is unacceptable, contrary to Clause 28(2)(b) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') and adequate regard has not been demonstrated to the design quality principles contrary to Clause 30(2)(a) of SEPP 65. Consent must not be granted as the proposal does not demonstrate that adequate regard has been given to the design quality principles. In particular, the proposal is inconsistent with the following design quality principles:
 - (a) **Principle 1 - Current and Neighbourhood Character:** The four storey building does not respect the existing context of Willoughby Road. The height of the development is inconsistent with the desired future character and built forms envisaged by the NSLEP 2013 and NSDCP 2013.
 - (b) **Principle 2 - Built Form and Scale:** The height, bulk and scale is inconsistent with the existing and desired future character of the locality.

The development is not consistent with the current built forms permissible under North Sydney Local Environmental Plan 2013 or the built forms envisaged under the St Leonards and Crows Nest Planning Area. The built form would produce a dominating presence within the streetscape.
 - (c) **Principle 3 - Density:** The floor space provided by a building that: exceeds height standards results in an overdevelopment of the site.
 - (d) **Principle 6 - Amenity: The amenity of apartment 2 is compromised due to the use of light wells for the provision of light and ventilation.**
4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as there are numerous inconsistencies with the Apartment Design Guide pursuant to Clause 28(2)(c) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') which result in an unsatisfactory impact to amenity, adjoining properties and the streetscape, including the following:
 - (a) **Part 3F:** Apartments 3 and 4 allow for direct overlooking onto No.33 Albany Street living areas and private open space.
 - (b) **Part 3J:** the proposal fails to provide adequate bicycle parking facilities.

(c) **Part 4D: Apartment 4 exceeds the maximum habitable room depth.**

5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with various parts of Part B of the North Sydney Development Control Plan 2013 in that:
 - (a) The proposed development does not satisfactorily respond to Part B Section 2.1.1 General Objectives - O8 as it does not provide an acceptable level of amenity to adjoining properties.
 - (b) The proposed development does not satisfactorily respond to Part B Section 2.4.1 in that the proposed developments height, bulk and scale is not in context with the surrounding development.
6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the waste management objectives and requirements of Section 19 Waste Minimisation and Management of the North Sydney Development Control Plan 2013 in that the proposed waste management arrangements are unacceptable and do not adequately demonstrate compliance with the requirements including:
 - (a) A functional bulky waste storage area has not been provided to hold household clean up material. This must be separate from the garbage room.
7. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the built environment with respect to the impact upon the streetscape and amenity to adjoining properties.
8. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed development in its current form is not suitable for the site.
9. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (e) of the Environmental Planning and Assessment Act 1979 as the proposal in its current form given its height, bulk and scale and massing, is not in the public interest as it is inconsistent with the relevant planning controls in relation to the adverse impacts on the streetscape and amenity of immediately adjoining properties. The proposal also lacks good urban design and will negatively affect the character and nature of the neighbourhood. It is considered to be an inappropriate outcome for the site and will establish an undesirable precedent in the area which will not be in the public interest.

Panel Reason:

It is considered that the proposal is inconsistent with the character and scale demonstrated by the Willoughby Road main street to the south of Albany Street and is one full story over the current height limit of 10 metres. The plans do not demonstrate that the proposed development would sit comfortably in the Willoughby Road streetscape.

It is further considered that the amenity of the proposed apartments is not adequate and could be improved to respond more appropriately to foreseeable development on adjoining sites.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Karla Castellanos	Y	
Michel Reymond	Y				
Linda McClure	Y				

The meeting concluded at 4:00pm.

The Panel Determination session commenced at 4.10pm.

The Panel Determination session concluded at 5:51pm.

Endorsed by Jan Murrell
 North Sydney Local Planning Panel
7 February 2024