



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL
MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON WEDNESDAY 6 MARCH 2024, AT 2.00PM.**

PRESENT

Chair:

Dr Gary Shiels AM

Panel Members:

Gerard Turrisi (Panel Member)
James Harrison (Panel Member)
Lindsey Dey (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
Isobella Lucic, Team Leader Assessments
David Hoy, Team Leader Assessments

Administrative Support:

Peita Rose, Governance Officer (Minutes)

This meeting was conducted by remote (Zoom) means.

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

Apologies:

Nil.

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 7 February 2024 were confirmed following that meeting.

2. Declarations of Interest

James Harrison declared an interest in Item No. 2 – 41 McLaren Street, North Sydney.

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.

ITEM 1

DA No:	DA 320/23
ADDRESS:	9 Oak Street, North Sydney
PROPOSAL:	Alterations and additions to an existing semi-detached dwelling house and associated works
REPORT BY NAME:	Rachel Wu, Assessment Officer
APPLICANT:	Michael Sandel

One Written Submissions

Registered to Speak

Submitter	Applicant/Representative
	Rebecca Wood - Owner

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and have considered all submissions, both written and verbal, prior to the determination.

The Council Officer's Report, Recommendation and conditions are endorsed by the Panel, subject to an amendment to condition A5 included below.

Reuse of heritage significant materials

- A5. Prior to the issue of any Construction Certificate, plans containing the following revisions are to be submitted to Council for approval showing the potential for:
- i. Re-use of the double hung window from the existing kitchen to the new bathroom area.
 - ii. Retain the sandstone base and brick wall (or a rebuilt brick wall skin) along the western elevation to the breezeway side of the service wing up to the south-western corner of the existing kitchen below the secondary roof element.

- iii. Re-use bricks from the new window openings (where practicable) to brick up the existing kitchen window opening to match the south-western corner of the existing kitchen, allowing for the construction of the contemporary horizontal window to the proposed kitchen as per plan A206.

(Reason: To protect the character of the heritage item)

Panel Reason:

The Panel considered that the existing brick wall in the vicinity of the kitchen should be retained or rebuilt. The Panel also thought that the sandstone shown in the drawings should be retained.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Lindsey Dey	Y	
Gerard Turrisi	Y				
James Harrison	Y				

ITEM 2

DA No:	DA 269/23
ADDRESS:	41 McLaren Street, North Sydney
PROPOSAL:	Stage 2 of concept approval SSD-46014456, comprising fit-out of levels 3-7 and works on open terraces on levels 2, 3 and 6, to reuse the existing building as an independent K-12 school for up to 1,560 students.
REPORT BY NAME:	Jim Davies, Executive Planner
APPLICANT:	J Cottee, Built Developments Pty Ltd

James Harrison declared an interest in this item and left the room for the deliberation.

No Written Submissions

Registered to Speak

Submitter	Applicant/Representative
	Sarah Castro – Ethos Urban – representing applicant

Panel Determination

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

Panel Reason:

The Panel endorses the Council Officer's Report, recommendation and conditions subject to the play equipment on the level two terrace being reduced in height to enable the horizontal banding of the planter boxes to be retained as viewed from the street.

The Manager Development Services is delegated authority to impose an appropriate condition to the above effect on any consent issued.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Lindsey Dey	Y	
Gerard Turrisi	Y				
James Harrison	Absent				

ITEM 3

DA No:	DA 216/23
ADDRESS:	17 Elamang Avenue, Kirribilli
PROPOSAL:	Alterations and additions to an existing attached dual occupancy and a change of use to a single dwelling including internal alterations, a new attic addition, a new swimming pool and associated landscape works
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Teresa Jane Harvey

One Written Submission from the applicant.

Registered to speak.

Submitter	Applicant/Representative
	Jaie Midei - Corben Architects - representing applicant
	James Phillips – Weir Phillips – Heritage and Planning- representing applicant
	Alice Fuller – Weir Phillips – Heritage and Planning – observing only

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and have considered all submissions, both written and verbal, 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 objectives.

Panel Reason:

The Panel endorsed the Council Officer’s Report, Recommendation and conditions subject to amendments to conditions C21, C23, C24, C36, C38, D4, E12 and G8, and the addition of a new condition G14 to facilitate the removal of a street tree.

Tree Bond for Public Trees

C21. Prior to the issue of any construction certificate, security in the sum of \$10,500.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree Species	Location	Bond
T1 <i>Lophostemon confertus</i> - 12x10m	Council verge in front of 17 Elamang Avenue	\$9,000
1 x <i>Callistemon</i> sp. (3m)	Council verge in front of 15 Elamang Avenue	\$1,500

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Protection of Trees

C23. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
T1 <i>Lophostemon confertus</i>	Council verge in front of 17 Elamang Avenue	12x10m
1 x <i>Callistemon</i> sp.	Council verge in front of 15 Elamang Avenue	3m
T3 & T4 <i>Plumeria acutifolia</i> (to be transplanted)	Rear setback of 17 Elamang Avenue	4x5m
T2 <i>Archontophoenix alexandrae</i>	Rear setback of 17 Elamang Avenue	12x4m
All trees and vegetation	Adjacent boundaries to 17 Elamang Avenue	variable

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

C24. The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
T5 <i>Magnolia</i> 'Teddy Bear'	Rear setback of 17 Elamang Avenue	4x2m
T6 <i>Araucaria heterophylla</i>	Rear setback of 17 Elamang Avenue	4x3m
T7 <i>Magnolia X soulangiana</i>	Council verge in front of 17 Elamang Avenue	1.5x1m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Section 16 of the North Sydney DCP 2013.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Security Deposit/Guarantee Schedule

C36. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$10,500.00
Footpath Damage Bond	\$5,000.00
TOTAL BONDS	\$15,500.00

Note: The following fees applicable

Fees	
Section 7.12 Contributions	\$32,200.00
TOTAL FEES	\$32,200.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

Amendments to the Landscape Plan

C38. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- 1 x *Plumeria acutifolia* shown in plant schedule but not depicted on plans shall be deleted from LS Plan.

- A Tree protection, management and ongoing maintenance plan prepared by a qualified (AQ5) arborist/horticulturalist shall be required, detailing methods of transplanting and maintenance for T3 & T4 *Plumeria acutifolia* (4x5m).
- Removal of a street tree (T7 *Magnolia X soulangiana*) on Council verge in front of No. 17 Elamang Avenue and planting of a new replacement street tree *Lophostemon confertus* (100 litres pot size) at the same location.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

Protection of Public Trees

- D4. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
T1 <i>Lophostemon confertus</i> (12x10m)	Council verge in front of 17 Elamang Avenue	1.8m high steel mesh tree protection fencing, Trunk, branch & root protection
1 x <i>Callistemon</i> sp.	Council verge in front of 15 Elamang Avenue	1.8m high steel mesh tree protection fencing

Trunk protection to be installed by first wrapping the stem of the tree in hessian or like material then strapping timber battens over the top. It is recommended that timber battens with the dimensions of length 2000mm, width 75mm and depth 50mm are used. The battens are not to be directly screwed or nailed into the tree.

(Reason: Protection of existing environmental and community assets)

Trees to be Removed.

- E12. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Trees that are acceptable to remove	Location	Height
T5 <i>Magnolia</i> 'Teddy Bear'	Rear setback of 17 Elamang Avenue	4x2m
T6 <i>Araucaria heterophylla</i>	Rear setback of 17 Elamang Avenue	4x3m
T7 <i>Magnolia X soulangiana</i>	Council verge in front of 17 Elamang Avenue	1.5x1m

(Reason: To ensure compliance with the terms of this development consent)

Certification of Tree Condition

- G8. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Principal Certifier, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
T1 <i>Lophostemon confertus</i>	Council verge in front of 17 Elamang Avenue	12x10m
1 x <i>Callistemon</i> sp.	Council verge in front of 15 Elamang Avenue	3m
T3 & T4 <i>Plumeria acutifolia</i> (to be transplanted)	Rear setback of 17 Elamang Avenue	4x5m
T2 <i>Archontophoenix alexandrae</i>	Rear setback of 17 Elamang Avenue	12x4m
All trees and vegetation	Adjacent boundaries to 17 Elamang Avenue	variable

The report must detail the condition and health of the nominated tree(s) upon completion of the works and shall certify that the tree(s) has/have not been significantly damaged during the works on the site, and has/have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

Required Tree Planting

- G14. On completion of works and prior to the issue of the Occupation Certificate for the whole of the building, trees in accordance with the schedule hereunder must be planted in Council's nature strip/footpath: -

Schedule

Tree Species	Location	Pot Size
1 x <i>Lophostemon confertus</i>	Council verge in front No.17 Elamang Avenue (at the same location of the removed street tree T7 <i>Magnolia X soulangiana</i>)	100 Litres

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provided to enhance community landscaped amenity and cultural assets)

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Lindsey Dey	Y	
Gerard Turrisi	Y				
James Harrison	Y				

ITEM 4

DA No:	DA 300/22
ADDRESS:	19 Walker Street, Lavender Bay
PROPOSAL:	Alterations and additions to existing dwelling house and removal of identified trees, including rear extension, internal reconfigurations, and alterations to garage rooftop.
REPORT BY NAME:	Damon Kenny, Executive Assessment Planner
APPLICANT:	Blake Letnic

One Written Submission

Registered to speak

Submitter	Applicant/Representative
Peter Zachert – owner at 17 Walker St	Adam Byrnes - Think Planners
Theresa Heintze – owner of 21 Walker St	Blake Letnic - Blake Letnic Architects
	John Luchetti - owner of 19 Walker St

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and have considered all submissions, both written and verbal, prior to determination.

The Chair noted that all of the written submissions were considered by 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 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 objectives.

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

Condition C15 and C22 to be amended as follows:**Approval for removal of Trees**

C15. The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
T3 <i>Lagerstroemia indica</i>	front setback -19 Walker St	8m
T6 <i>Lagerstroemia indica</i>	rear setback -19 Walker St	6m
T8 & T10 <i>Dicksonia antarctica</i>	rear setback -19 Walker St	2m
T9 <i>Cyathea australis</i>	rear setback -19 Walker St	7m

<i>T11 Callistemon viminalis</i>	rear setback -19 Walker St	5m
<i>T12 & T13 Hibiscus rosa-sinensis</i>	rear setback -19 Walker St	4m

Removal of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Amendments to the Landscape Plan

C22. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- 1 x canopy tree (45l) capable of attaining a mature height of 6m min. shall be planted within the front setback of 19 Walker St
- 1 x replacement *Lagerstroemia indica* (75l) shall be planted within the rear setback of 19 Walker St
- Suitable mature planting to provide screening and privacy shall be planted and maintained as shown as "DENSE PLANTING ON BOTH SIDES OF BOUNDARY" – between the rear setbacks of 19 & 17 Walker Street.
- The screen planting on the boundary adjoining No. 17 Walker Street must be capable of achieving a height of 1.5m above the finished floor level of the elevated walkway.
- A detailed Landscape Plan showing the above, and including plant species, number, and pot size, shall be provided to council for approval prior to CC.

An amended landscape plan 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 amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

Additional condition

Design changes.

C24. The following design changes are to be implemented:

- a) The balcony and roof above located off the master bedroom on the first floor is to be reduced to a depth of 450mm.
- b) A privacy screen is to be provided to the southern elevation of the elevated walkway with a height of 1.5m above the finished floor level with 50% solid form.

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 adjoining properties located at No. 17 & 21 Walker Street, Neutral Bay.

Panel Reason:

The Panel after hearing from the submitters and from the applicants' representative reviewed all of the correspondence that has been received.

The Panel checked the calculations contained in the report and found that there was an incorrect calculation of the site coverage. The correct figure was 184.3m² (67.73%). In assessing the merit of the non-conforming site cover, the panel considered that the proposal would be consistent the built form in the immediate locality.

The Panel did feel that the balcony to the master bedroom should be reduced to a maximum of 450mm to minimise potential privacy impacts while preserving amenity. The Panel also noted that proposal would increase the landscape area on site.

The panel also considered, at length, the relationship of the proposed walkway to the adjoining property and concluded that there should be a 1.5m high balustrade that is 50% solid and that there should be a requirement for landscaping of the space between walkway and 17 Walker Street to mitigate its visual impact.

The Panel also noted that notwithstanding the request from the submitters, they could not consider matters dealt with in the previous application. However, the Panel considered all the matters raised by the submitters including the absence of the full heritage report in the officer's report, and the written submissions, prior to the determination of this application.

The Panel included additional conditions to appropriately address matters of concern.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Lindsey Dey	Y	
Gerard Turrisi	Y				
James Harrison	Y				

ITEM 5

DA No:	DA 191/23
ADDRESS:	160 Kurraba Road, Kurraba Point
PROPOSAL:	Substantial alterations and additions to an existing residential flat building to change the use to a dual occupancy (attached) with alterations to existing car parking and landscaping.
REPORT BY NAME:	Thomas Holman, Senior Assessment Officer
APPLICANT:	SJB Architects

No persons elected to speak on this item.

No Written Submissions

Submitter	Applicant/Representative
	Chris Lane – owner (Observing Only)

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and have considered all verbal and written 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 requests have demonstrated that compliance with the development standards would be unnecessary in the circumstances of the case and the written request identifies sufficient environmental planning grounds to justify the contravention of the two standards. 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 objectives.

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 to the Dual Occupancy development standard in Clause 6.6 of the LEP, adequately address the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request has demonstrated that compliance with the development standard would be unnecessary in the circumstances of the case and the written request identifies sufficient environmental planning grounds to justify the contravention of the two standards. 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 objectives.

The Council Officer’s Report, Recommendation and conditions are endorsed by the Panel.

Panel Reason:

The Panel was satisfied with the assessment, recommendations, and conditions contained in the council officers report.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Lindsey Dey	Y	
Gerard Turrisi	Y				
James Harrison	Y				

The public meeting concluded at 2:50pm.

The Panel Determination session commenced at 2:55pm.

The Panel Determination session concluded at 4:23pm.

Endorsed by Dr Gary Shiels AM

Chair

North Sydney Local Planning Panel

6 March 2024