

NORTH SYDNEY LOCAL PLANNING PANEL

DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE SUPPER ROOM, COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 7 AUGUST 2024, AT 2.00PM.

PRESENT IN THE SUPPER ROOM

Chair:

Dr Robert Stokes

Panel Members:

Robert Montgomery (Panel Member)

John McNerney (Panel Member)

Lindsey Dey (Community Representative)

Staff:

Stephen Beattie, Manager Development Services

David Hoy, Team Leader Assessments

Isobella Lucic, Team Leader Assessments

Administrative Support:

Peita Rose, Governance Officer (Minutes)

This meeting was otherwise conducted by remote (Teams) means.

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

Apologies:

Nil.

1. Declarations of Interest

Nil.

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.

The Panel has considered the following Business Items and resolves to determine each matter as described within these minutes.

ITEM 1

| | |
|------------------------|---|
| DA No: | 359/23 |
| ADDRESS: | 45 Ben Boyd Road, Neutral Bay |
| PROPOSAL: | Alterations and additions to the heritage semi-detached dwelling including partial demolition of the rear section of the dwelling and construction of rear extension. |
| REPORT BY NAME: | Jack Varka, Assessment Officer |
| APPLICANT: | Linda Ingaldo, C/- Sydesign Pty Ltd |

Written Submissions - Nil**Registered to speaker**

| Submitter | Applicant/Representative |
|------------------|---|
| | James Corry - GAT & Associates - Representing Owner |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the oral submission from the applicant at the panel meeting.

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

The Panel noted that the masonry front fence detracts from the heritage values of the item and therefore, the Panel would like to encourage the owner to consider replacing the masonry fence along the front boundary with a more suitable design which is in keeping with the heritage item. The owner should consult with Council as to what, if any approvals are required.

Panel Reason:

The Panel agrees with the Assessment Officer's Report and Recommendation.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 2

| | |
|------------------------|--|
| DA No: | 37/24 |
| ADDRESS: | 171 Miller Street, North Sydney |
| PROPOSAL: | Fit-out and use of a food and drink premises, including café, restaurant and bar premises within the Victoria Cross Station, over station development. |
| REPORT BY NAME: | Kim Rothe, Senior Assessment Officer |
| APPLICANT: | The Trustee for Etymon Projects Trust |

Written Submissions - Nil**Registered to Speak**

| Submitter | Applicant/Representative |
|------------------|---------------------------------|
| | Matthew Holt - Urbis |

Panel Determination

The Panel members undertook a site inspection and considered the oral submission from the applicant at the panel meeting.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to the changes to Condition I4 and Plan of Management to provide for improved management arrangements and to exclude smoking or vaping areas within the premises.

Condition I4 is to be amended to read as follows:

Plan of Management

14. *The Plan of Management prepared by Etymon Projects Miller House, dated February 2024 submitted with the application is to be amended to include the following changes:*

- *Any requirements of the Office of Liquor and Gaming;*
- *Any requirements of the NSW Police Local Command and Emergency Services;*
- *The Complaints management arrangements is to require signage and details of a 24 hour contact phone number, complaints register and process for dealing with and reporting complaints;*
- *All references to smoking & vaping areas are to be deleted*
- *Implementation of mitigation measures recommended by the acoustic report;*
- *Signage is to include contact details for the licensee including phone number and maximum patron number details;*
- *Details of security arrangements and security staff and procedures;*
- *Details of access to loading dock including any limitation on delivery hours*
- *Any errors or inconsistencies in the POM to be rectified.*

The Plan of Management is to be updated to incorporate the above changes and all other changes required by this consent including but not limited to the approved limits on patron numbers, approved hours of operation and provision for security staff.

The updated Plan of Management is to be submitted to Council’s Manager Development Services for written approval prior to issue of the Occupation Certificate and before use commences.

Management of the premise(s) is to be conducted at all times in accordance with the requirements of the Plan of Management and the requirements of this consent.

The Plan of Management is to be updated and provided to council every two years, and a copy of the POM is to be kept on site and made available to all staff.

In the event of any inconsistency between the Plan of Management and the conditions of this consent or relevant legislation, then the stricter condition or regulation will prevail.

(Reason: Safety, security and amenity)

Panel Reason:

The Panel agrees with the Assessment Officer’s Report and Recommendation.

The Panel considered that areas for smoking and vaping were not adequately identified in the Plan of Management or the plans for the premise(s) and that each of the premises would be unlikely to meet the requirements of the Smoke-free Environment Act 2000, as it relates to food & drink premises. The Panel considered that it would be inappropriate to provide for smoking or vaping within the Plan of Management.

The additional conditions relating to the Plan of Management are designed to provide clarity and transparency for the operation of the premises.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 3

| | |
|------------------------|---|
| DA No: | 291/22/3 |
| ADDRESS: | 13-15 Allister Street, Cremorne |
| PROPOSAL: | Modifications of development consent to enable alterations to the approved development and amendment of specified conditions of consent, for alterations and additions to an existing residential flat building, demolition of remaining structures, amalgamation of lots and the provision of a 4 storey addition. |
| REPORT BY NAME: | Jim Davies, Executive Planner |
| APPLICANT: | Winim Developments |

2 Written Submissions**Registered to Speak**

| Submitter | Applicant/Representative |
|------------------|---------------------------------------|
| | Johnathan Joseph - Planning Ingenuity |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the written submissions, and the oral submissions from the applicant at the panel meeting.

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

Panel Reason:

The Panel agrees with the Assessment Officer's Report and Recommendation.

The Panel is of the view that the modification as now recommended for approval provides a better design outcome than the originally approved development.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 4

| | |
|------------------------|--|
| DA No: | 713/02/3 |
| ADDRESS: | Unit 6, 18-20 Cremorne Road, Cremorne Point |
| PROPOSAL: | Modification to condition I2 of DA 713/02 to increase the permitted number of users on the rooftop terrace of Apartment No. 6 to a maximum capacity of 84 people at certain times of the year. |
| REPORT BY NAME: | Andrew Beveridge, Senior Assessment Officer |
| APPLICANT: | Mona Karam |

1 Written Submission**Registered to Speak**

| Submitter | Applicant/Representative |
|-----------------------------------|---|
| Graham Walker - Resident | Mathew Quattroville - Four Towns Planning |
| | Mona Karam - TMA Group |
| Observing: David Yulli - Resident | |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the written submission, and the oral submissions at the panel meeting.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel except for the following:

The Panel had concerns relating to egress from the terrace in case of emergency. The Panel notes that the issue of emergency egress had not been specifically addressed by the applicant. The Panel is concerned about safety aspects of the use of the terrace by 84 people as proposed. It is noted that while there are no apparent fire safety specifications for this type of residential situation, it would be prudent to have a better understanding of safety and emergency egress in the circumstances of the matter.

Accordingly, authority is delegated to the Manager Development Services to determine the application following the submission of additional information from a suitably qualified fire safety practitioner which identifies the maximum number of people who can be safely evacuated from the terrace in the event of emergency. The number of people to be permitted on the terrace at any one time is to be determined by the Manager Development Services based on the evidence provided above and additional condition/s applied.

The Panel agreed to insert the following note into the amended condition I2 as follows:

“These restrictions must be notified to those responsible for reporting to Council's Annual Fire Safety Statement Register prior to the commencement of the first event”.

Subject to the above, the Panel also noted the owner's desire to host family events and, appreciative of the size of the owner's family, agrees that events accommodating the maximum of 84 people on the roof terrace, subject to resolution of the above, should be permitted on three occasions each year, one being New Year's Eve.

Panel Reason:

The Panel was concerned about the safety of the people on the terrace and the ability for safe egress in the event of an emergency.

The Panel also sought to balance the owner’s desire to entertain family and friends with submitter concerns about the impact on the neighbourhood.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 5

| | |
|------------------------|---|
| DA No: | 79/24 |
| ADDRESS: | 20 Folly Point, Cammeray |
| PROPOSAL: | Alterations and additions to existing dwelling including internal reconfiguration and installation of a lift. |
| REPORT BY NAME: | Andrew Beveridge, Senior Assessment Officer |
| APPLICANT: | Alex Roth, Roth Architecture Workshop Pty Ltd |

Written Submissions - Nil**Registered to Speak**

| Submitter | Applicant/Representative |
|------------------|---------------------------------|
| | Alex Roth - Architect |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the oral submission from the applicant at the panel meeting.

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 for the exceedance 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. Additionally, the Panel considers that the development is in the public interest and 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 agrees with the Assessment Officer’s Report and Recommendation.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 6

| | |
|------------------------|---|
| DA No: | 397/19/3 |
| ADDRESS: | 2 Folly Point, Cammeray |
| PROPOSAL: | S4.55 (1A) modification application for internal and external alterations to existing dwelling house and davit (boat lift) structure. |
| REPORT BY NAME: | Andrew Beveridge, Senior Assessment Officer |
| APPLICANT: | Mark Solomon, Plan Urbia |

Written Submissions Nil**Registered to Speak**

| Submitter | Applicant/Representative |
|------------------|---------------------------------------|
| | Mark Solomon (Town Planner) -Plan Urb |
| | Raymond Ng (Architect)- Play Co |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the submissions from the applicant at the panel meeting.

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

Panel Reason:

The Panel agrees with the Assessment Officer's Report and Recommendation.

The Panel notes that the proposed modifications are primarily internal and do not result in any significant amenity impacts.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 7

| | |
|------------------------|--|
| DA No: | 45/24 |
| ADDRESS: | 10 Larkin Street, Waverton |
| PROPOSAL: | Retractable awning structure |
| REPORT BY NAME: | Thomas Holman, Senior Assessment Officer |
| APPLICANT: | Chapman Planning Pty Ltd |

Written Submissions - Nil**Registered to Speak**

| Submitter | Applicant/Representative |
|------------------|---------------------------------|
| | Inderjit Singh - Owner |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the submissions from the applicant at the panel meeting.

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 for the exceedance 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. Additionally, the Panel considers that the development is in the public interest and 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 amended condition.

Terms of Consent

- A4. Approval is granted for the use of the awning structure and proposed works stipulated in Condition A1 of this consent. No approval is given or implied for any works undertaken prior to the date of determination of this consent associated with the use of the awning structure. The consent holder may consider the lodgement of a building information certificate application to regularise any such works.

The retractable awning is to be a Markilux Pergola 110/210 tracfix awning system which is not fixed and the colour of the awning shall be neutral as stipulated in the submitted Statement of Environmental Effects dated 20 February 2024 prepared by Chapman Planning.

The Markilux Pergola 110/210 tracfix awning system applies to the retractable awning coloured as Proposed Works in Condition A1 of Consent that identifies the approved plans.

(Reason: To ensure the terms of consent are clear)

Panel Reason:

The Panel notes that this is a rationalisation of the existing roof structures and will improve the amenity to the occupants and has limited additional visual impact.

There is a limited footprint of the pergola structure and the structure is substantially setback from the parapet.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 8

| | |
|------------------------|--|
| DA No: | 311/23 |
| ADDRESS: | 10 Colin Street, Cammeray |
| PROPOSAL: | Alterations and additions to a detached dwelling and a secondary dwelling including demolition, construction of a first floor addition, a garage building and a swimming pool. |
| REPORT BY NAME: | Robin Tse, Senior Assessment Officer |
| APPLICANT: | Ken Demlakian |

1 Written Submission**Registered to Speak**

| Submitter | Applicant/Representative |
|--------------------------|---------------------------------|
| Antony Partos - Resident | Ken Demlakian- Applicant |
| Paul Hutley - Resident | |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the written submission, and the oral submissions at the panel meeting.

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

Maintenance of Approved Landscaping and Street Trees

13. The owner of the premises at No.10 Colin Street, Cammeray is to maintain the landscaping within the subject site generally in accordance with approved landscape plans as required by Condition C2 of this consent.

The new street tree as required in Condition G10 shall be maintained by the owners of the premises at No, 10 Colin Street, Cammeray for a period of 24 month from the date of issue of the final Occupation Certificate.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the approved landscaping within the subject site and the new street tree on the nature strip)

Panel Reason:

The Panel agrees with the Assessment Officer’s Report and Recommendation.

The Panel noted that the existing subdivision pattern creates a context for conflict over views, access, privacy and sunlight. The Panel is of the view that the development, as modified by the deferred commencement conditions, represents an appropriate design outcome in the circumstances. The Panel finds that the Assessment Report and Recommendation thoughtfully addressed the concerns raised by Council Officers and submitters.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

ITEM 9

| | |
|------------------------|--|
| DA No: | 350/23 |
| ADDRESS: | Units 20 & 23, 11 Amherst Street, Cammeray |
| PROPOSAL: | Alterations and additions to existing roof terraces of a four (4) storey shop top housing development. |
| REPORT BY NAME: | Robin Tse, Senior Assessment Officer |
| APPLICANT: | Roberto Bianco |

Written Submissions - Nil**Registered to Speak**

| Submitter | Applicant/Representative |
|------------------|---------------------------------|
| | Paul Ludlow - Invest APR |

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the oral submissions from the applicant at the panel meeting.

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 for the exceedance 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. Additionally, the Panel considers that the development is in the public interest and 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 agrees with the Assessment Officer’s Report and Recommendation.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Dr Robert Stokes | Y | | Lindsey Dey | Y | |
| Robert Montgomery | Y | | | | |
| John McInerney | Y | | | | |

The public meeting concluded at 2.54pm.

The Panel Determination session commenced at 3.00pm.

The Panel Determination session concluded at 4.45pm.

Endorsed by Dr Robert Stokes
Chair
North Sydney Local Planning Panel
7 August 2024