



## NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 6 OCTOBER 2021, AT 2.00PM.**

### PRESENT

#### Chair:

Gary Shiels in the Chair.

#### Panel Members:

Jan Murrell, Panel Member  
Linda McClure, Panel Member  
Virginia Waller, Community Representative

#### Staff:

##### Administrative Support

Stephen Beattie, Manager Development Services  
Robyn Pearson, Team Leader Assessments  
David Hoy, Team Leader Assessments  
Michael Stephens, Senior Assessment Officer  
Robin Tse, Senior Assessment Officer  
Kim Rothe, Senior Assessment Officer  
Lucinda Varley, Conservation Planner  
Peita Rose, Governance Officer (Minutes)

In accordance with the Covid 19 Public Health Order this meeting was conducted by remote (Zoom) means.

**Apologies:** Nil.

#### 1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 1 September 2021 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.*

#### **ITEM 1**

<b>DA No:</b>	33/21
<b>ADDRESS:</b>	13 Shellcove Road, Kurraba Point
<b>PROPOSAL:</b>	Alterations and additions to an existing dwelling house including excavation, two level addition below the existing dwelling, 15m pool, internal and external alterations to existing dwelling, landscaping works.
<b>REPORT BY NAME:</b>	Annelize Kaalsen, AK Planning
<b>APPLICANT:</b>	Mary Ann Beregi

#### **Public Submissions**

##### **1 Written Submission**

<b>Submitter</b>	<b>Applicant/Representative</b>
Sally Christansen - Resident (Observing Only)	David Waghorn - Applicant
	Dr Richard Lamb - Visual Impact Expert
	Thomas Beregi - Applicant (Observing Only)

#### **Panel Determination**

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

The Council Officer's Report, Recommendation, Conditions and Addendum are generally endorsed by the Panel, subject to the deletion of the deferred commencement conditions and the imposition of Condition A2 that requires the following design changes;

**Design Amendments**

A2. The plans referenced and stamped approved in Condition A1 are to be amended to incorporate the following design changes in consultation with the proponent’s Heritage Architect as required by Condition C9:

- a) Relocate the staircase proposed within the front porch/veranda on the ground level, internally to the area of the proposed storeroom, near the proposed lift and walk in wardrobe close to Bedroom 4, to provide access to the lower ground levels.
- b) Remove the existing late 20th century glazing to the existing eastern veranda to reinstate it as an open verandah.
- c) All new external windows and doors are to be timber framed.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced to and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain the significance of the Heritage Item)

Subsequent conditions are to be renumbered as appropriate.

Panel Reason:

The panel considers the current proposal is generally an appropriate response to the constraints of the site and the applicable controls. Additional condition A2 is imposed to ensure the integrity of the Heritage Item by the retention of important elements while at the same time providing for a functional dwelling.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

**ITEM 2**

<b>DA No:</b>	101/21
<b>ADDRESS:</b>	206 Blues Point Road, McMahons Point
<b>PROPOSAL:</b>	Alterations and additions to an existing hotel, including the conversion of an existing ground floor parking to a gaming room and new illuminated signage.
<b>REPORT BY NAME:</b>	Hugh Shouldice, Assessment Officer
<b>APPLICANT:</b>	Toongame P/L

**Public Submissions**

No Written Submissions

<b>Submitter</b>	<b>Applicant/Representative</b>
	David Rippingill - Applicant

**Panel Determination**

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

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to changes to the recommended conditions as follows:

**1. To amend Condition C2 to read as follows:**

**Construction Management Plan**

- C2. A Construction Traffic Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate.

~~Reversing into the loading dock from Blues Point Road is to be approved by Transport for NSW due to proximity of the driveway access to the traffic signal at the intersection of Blues Point Rd and Lavender Street/Union Street prior to the issue of the Construction Certificate.~~

Any use of Council property shall require appropriate separate permits/ approvals.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

**2. Amend Condition C23 to read as follows:****Section 7.12 Development Contributions**

- C23. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$26,703.

**Indexation**

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

**Timing of payment**

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

**3. To Amend Condition I4 & I5 to read as follows:****Hours of Operation**

- I4. The hours of operation are restricted to:

***Indoor areas***

Monday to Thursday	10am and 12 midnight the following day
Friday to Saturday	10am and 1am the following day
Sunday	10am and 10pm Sunday

***Outdoor terrace***

Monday to Saturday	10am and 11pm
Sunday	10am and 10pm Sunday

**Lower ground floor gaming room and sports bar**

Monday to Saturday 10am and 11pm  
Friday to 10am and 11pm  
Sunday 10am and 10pm

**Definitions**

**Outdoor Terrace** For the purpose of this condition, reference to the term “outdoor terrace” refers to the “covered terrace” shown the drawing numbered DA 1-02 D referenced in Condition A1 of this consent.

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

(Reason: to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

**Hours of Operation – trial period (Lower ground floor gaming room & sports Bar)**

15. Notwithstanding Condition 14 above, the use of the lower ground floor gaming room & sports bar may operate between:

*Monday to Wednesday 10am and 12 midnight*  
*Thursday to Saturday 10am and 1.00am the following day*

The trial period of operation is **twelve (12)** months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

**Note:** Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

**4. To insert the following additional condition****Noise Conditions for Licensed Premises**

15A. Appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants must be appointed before the use of the lower ground floor gaming room and sports bar commences and details of that appointment submitted to Council.

During the first 60 days of entertainment being provided at the premises, the attended acoustic monitoring must be undertaken in accordance following:

- (a) The acoustic consultant must:
  - (i) measure and verify that the noise emanating from the premises complies with the noise criteria specified in this consent; and
  - (ii) if necessary, make recommendations to ensure that the noise emanating from the premises will comply with the noise criteria at all times. specified in this consent.
- (b) The noise measurements must be:
  - (i) undertaken without the knowledge of the applicant, manager or operator of the premises; and
  - (ii) taken on at least three different occasions on three different days of the week (excluding Monday, Tuesday and Wednesday) from 11 pm until the end of the entertainment or the close of business, whichever occurs first.
- (c) If the acoustic consultant recommends that additional treatment or works be undertaken under condition (a)(ii) above, those recommendations must be implemented to the acoustic consultant's and Council's satisfaction.
- (d) If the acoustic consultant's recommendations are not implemented in accordance with this condition, the premises must not be used for entertainment until such time as the recommendations are implemented and verified.

(Reason: To manage the potential for ongoing noise impacts)

**Panel Reason:**

The Panel notes a Plan of Management is a requirement of the conditions and this includes hours of operation reflected in the existing liquor licenses as well as a requirement for a register of complaints to be maintained and made available for inspection by Council if required to ensure the amenity of the local area is reasonably maintained. The Panel considers the proposal is worthy of support having regard to its potential to impact on the amenity of the neighbourhood and having regard to the officer's report.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

### **ITEM 3**

<b>DA No:</b>	172/21
<b>ADDRESS:</b>	26 Thomas Street, McMahons Point.
<b>PROPOSAL:</b>	Alterations and additions to a heritage listed dwelling within a conservation area.
<b>REPORT BY NAME:</b>	Hugh Shouldice, Assessment Officer
<b>APPLICANT:</b>	Edward Dieppe, Dieppe Design P/L

### **Public Submissions**

2 Written Submissions

Submitter	Applicant/Representative
	Edward Dieppe - Applicant
	Arthur Alla – Owners son
	Lauren Hunter - Architect (Observing Only)
	Robert Gasparini - Heritage Consultant (Observing Only)
	Sarah McNeilly - Town Planner (Observing Only)
	Christine Alla - Owner (Observing Only)
	Jean Alla - Owner (Observing Only)
	Adrien Alla - Owner (Observing Only)

### **Panel Determination**

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

The Council Officer's Report, Recommendation, Conditions and Addendum are endorsed by the Panel. The Panel notes the engineering conditions included in the addendum should be incorporated in the notice of consent.



Panel Reason:

To encourage the refurbishment of existing workers heritage item for continued use and meet current contemporary living standards.

The proposal responds well to heritage and other site constraints with no loss of privacy, minimal overshadowing and the retention of slot views.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

**ITEM 4**

<b>DA No:</b>	183/21
<b>ADDRESS:</b>	1 Blue Street, North Sydney (SHORE School)
<b>PROPOSAL:</b>	Alterations and additions to the Shore School House
<b>REPORT BY NAME:</b>	Hugh Shouldice, Assessment Officer
<b>APPLICANT:</b>	Church of England Grammar School (Shore)

No persons elected to speak on this item.

No Written Submissions

**Panel Determination**

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

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 in relation 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 standards are unnecessary in the circumstances of the case. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the zone objectives.

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

Panel Reason:

The Panel is satisfied the proposed works will not adversely impact the heritage significance of the heritage item.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

**ITEM 5**

<b>DA No:</b>	63/21
<b>ADDRESS:</b>	5 Earle Street, Cremorne
<b>PROPOSAL:</b>	Construction of a dwelling house, retaining walls and associated landscaping.
<b>REPORT BY NAME:</b>	Michael Stephens, Senior Assessment Officer
<b>APPLICANT:</b>	Rahmani Esan

**Public Submissions**

No Written Submissions

Submitter	Applicant/Representative
	Esan Rahmani – Applicant
	Tim Cooper – Applicants Planner

**Panel Determination**

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

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 in relation 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 standards are unnecessary in the circumstances of the case. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the zone objectives.

The Council Officer's Report and Recommendation is endorsed by the Panel subject to the deletion of the deferred condition AA1(a) and AA1(b). A "C" condition is to be imposed with regards to landscaping;

### Garden Bed Retaining Wall Amendments

C28. In consultation with a AQF Level 5 Project Arborist, the garden beds within the rear setback area are to be redesigned to accommodate the required setbacks to ensure the retention of trees T10, T15 and T16 (as identified in the Arborist Report prepared by Treehaven Envionscapes, dated 2/3/2021) as required by Condition C17 of this consent.

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: To ensure that existing trees are capable of retention)

#### Panel Reason:

To retain the architectural integrity of the proposed design.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

### ITEM 6

<b>DA No:</b>	398/19/2
<b>ADDRESS:</b>	45 Willoughby Street, Kirribilli
<b>PROPOSAL:</b>	Section 4.55(2) application seeking modifications to Development Consent (D398/19) involving changes to pedestrian access arrangements to a heritage item and the relocation of a skylight.
<b>REPORT BY NAME:</b>	Robin Tse, Senior Assessment Officer
<b>APPLICANT:</b>	Filmer Architects

### Public Submissions

No Written Submissions

Submitter	Applicant/Representative
	Colin Filmer - Applicant
	Stuart Terry & Sylvia Terry - Applicant

### Panel Determination

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

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

### Panel Reason:

The amendment enhances access to the original front entrance of the Heritage Item.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Virginia Waller	Y	
Jan Murrell	Y				
Linda McClure	Y				

The public meeting concluded at 3.10pm.

The Panel Determination session commenced at 3.15pm.

The Panel Determination session concluded at 5.00pm.

Endorsed by Gary Shiels

North Sydney Local Planning Panel

**6 October 2021**