



NORTH SYDNEY COUNCIL

Council Chambers
30 March 2021

I wish to inform you that a Meeting of the **NORTH SYDNEY LOCAL PLANNING PANEL** will be held in the Supper Room, North Sydney at 2.00pm on Wednesday 7 April 2021 when your attendance is requested.

Your attention is directed to the accompanying statement of the business proposed to be transacted at such meeting.

KEN GOULDTHORP
GENERAL MANAGER

BUSINESS

1. Minutes

Confirmation of Minutes of the previous Meeting held on Wednesday 3 March 2021.
(Circulated)

2. LPP01: 77 Holtermann Street, Crows Nest – DA 297/20

Applicant: Rapid Plans

Report of Hugh Shouldice, Development Assessment Planner

This development application seeks NSLPP approval for alterations and additions to a semi-detached dwelling located within a conservation area.

This application is reported to the North Sydney Local Planning Panel for determination because the application received nine (9) submissions during the notification period and seven (7) submissions during the re-notification period. Both notification periods contained a petition of 30 and 68 signatures respectively. The notification and re-notification of the application have resulted in greater than ten (10) unique submissions and is therefore required to be determined by the North Sydney Local Planning Panel in accordance with the Ministers directions.

The notification of the application is in accordance with the *North Sydney Community Participation Plan 2019*. At the end of the notification period, Council received a number of submissions raising particular concerns about solar access impacts, view loss, over-scaled development, heritage impacts, visual privacy impacts, acoustic privacy impacts, site coverage non-compliances, side setbacks, rear setbacks, building height requirements and potential construction impacts. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The applicant amended the original proposal and submitted amended plans to NSW Planning Portal on the 22 January 2021. The amendments to the original proposal were not formally requested by Council.

The amended proposal seeks approval for minor demolition as well as internal and external alterations and additions to a two-storey semi-detached dwelling within a conservation area. A detailed description of the proposed works is outlined later in the report.

The amended application is deemed satisfactory and is recommended for **approval**, subject to conditions.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, **grant consent** to Development Application 297/20 for alterations and additions to a two-storey semi-detached dwelling including a first-floor rear addition, on land at 77 Holtermann Street, Crows Nest, subject to the attached standard conditions and following site-specific conditions:

Engineer's Certification

- C1. Prior to the issues of the construction certificate, certification from a structural engineer is to be obtained which certifies that the works approved under this consent can be constructed wholly within the subject site.

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

(Reason: To clarify the terms of this consent and ensure the development does not encroach on the existing party wall.)'

External Timber Cladding

C2. All new timber cladding is to be a natural timber weatherboard or 16mm composite weatherboard with simple traditional profile and deep shadow lines, with paint finish in a light, neutral colour. No approval is given for fibre cement weatherboards or a stain or oil finish, or dark paint colour. 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.

(Reason: To ensure the use of materials and colour consistent with the conservation area)

Timber Framed Windows and Doors

C3. All new windows and external doors are to be timber frames with a paint finish in a light, neutral colour. No approval is given for metal framed windows and doors, or a stained or oiled finish.

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.

(Reason: To ensure the use of materials and colour consistent with the conservation area)

Street Tree

C4. The street tree in front of the subject site on Holtermann Street is to be retained. All safety measures should be undertaken to protect the existing tree on Council's land during the construction process. Any damage to the tree as a result of pre, ongoing or post construction impacts are to be at the cost of the developer.

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

(Reason: To ensure the protection and safety of Council's tree)

Window 1

C5. Window 1 is to have a minimum sill height of 1.5m. A minimum sill height of 1.5m is required in Section 1.3.10 of the NSDCP 2013.

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

(Reason: To ensure any visual privacy impacts are minimised)

Skylights

C6. The proposed skylights on the south facing roof plane of the existing dwelling are to be deleted from the proposal.

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

(Reason: To retain the significant fabric being the roof form of the contributory item located within conservation area.)

3. LPP02: 69A Carter Street, Cammeray – DA 263/20

Applicant: Michael Lowry, Mundarra Pty Ltd
Report of Robin Tse, Senior Assessment Officer

This development application seeks approval for demolition of existing structures and construction of a multi dwelling development with four (4) units, basement car parking, landscaping and an upgrade of the driveway off Carter Street on land at No. 69A Carter Street, Cammeray.

The application is reported to Council because there is a height variation that is greater than 10% and Council received more than 10 submissions requiring the application to be determined by the North Sydney Local Planning Panel (NSLPP) having regard to the Directions from the Minister of Planning and Public Spaces on 30 June 2020.

Notification of the proposal has attracted twenty-three (23) submissions that raised concerns about overshadowing, view loss, bulk and scale, traffic generation, impacts to the driveway off Carter Street and potential view loss.

The proposal is a permissible form of development in an R3 Zone (Medium Density Residential) with consent from Council. The building would partially breach the height limit of 8.5m requiring the submission of a clause 4.6 statement to justify the breach of the permissible height limit. The statement submitted by the applicant was found to be acceptable because there would be no excessive overshadowing, privacy loss, and/or view loss for adjoining properties.

There would be no impacts on the streetscape because the subject site is located behind No. 69 Carter Street and would not be highly visible from the public domain.

Furthermore, the design and the massing of the proposed development is appropriate for the subject site and the locality because it would provide a transition from the lower density built form in close proximity toward the north and east to a higher density apartment development on the southern and western side of the site.

It is proposed to remove a large number of trees from the site but the applicant has proposed a detailed landscape plan with significant new plantings that would over time contribute to the verdant character of that part of Cammeray. A condition is recommended requiring the submission of a revised landscaping plan with additional planting and a further arborist report to ensure the protection of trees within the adjoining properties.

Following a detailed assessment of the development application, DA263/20 is recommended for **approval** subject to appropriate conditions.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Director, Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 of NSLEP 2013 and grant consent to Development Application No. 263/20 for the demolition of the existing buildings and the construction of a residential flat building containing nine apartments with basement parking and associated landscaping on land at No.69A Carter Street, Cammeray , subject to the attached conditions:-

Modifications to the Landscape Plan

C1. The applicant shall submit a revised landscape plan, based on the Landscape plan L-01 to L-05, prepared by SiteDesign+Studios, dated 14/10/20 incorporating the following:

- a) The planting of a feature tree with a mature height of 6m in the rear gardens of townhouses 3 and 4 to provide more substantial planting within the rear setback areas of the development; and
- b) The replacement of “*Raphis excerisa*” with “*Callistemon viominalis* “*slim*” along the eastern side building setback area to provide additional screening of the building

The applicant must submit detailed landscape plan(s) complying with the requirements of this consent for the written approval of Team Leader Assessment in consultation with Council’s Landscape Officer.

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

(Reasons: To ensure landscaping quality for the subject site and the locality)

Revised Arborist Report

C2. The applicant shall submit a revised arborist report, based on the Arboricultural Impact Assessment dated 10/08/20 and prepared by Complete Arborcare, to incorporate additional information in relation to the impact of the proposed works on the trees within the adjoining properties, particularly Tree T6 *Glochidion ferdinandi* Cheese Tree.

The revised arborist report must details tree protection methods for the trees to be retained identified in the arborist report in accordance with AS 4970-2009 – Protection of trees on development sites.

The applicant must submit the revised arborist report complying with the requirements of this consent for the written approval of Team Leader Assessment in consultation with Council’s Landscape Officer.

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.

(Reasons: To ensure the retention and protection of trees within adjoining property and to protect the landscape quality of the locality)

Design Modifications

C3. The design of the development must be amended to provide visual privacy for the adjoining properties:

- a) Obscure glazing shall be applied to all windows on the southern elevation of townhouses 3 and 4 to protect visual privacy of the adjoining property to the south at No.24 Cammeray Road; and
- b) The western edge of the Level 2 bedroom balcony for townhouse 4 be setback from the western building line by 1m to provide additional privacy protection for the adjoining property at No.63 Carter Street.

The applicant must submit the architectural drawings complying with the requirements of this consent for the written approval of Team Leader Assessment.

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

(Reason: Privacy Protection)

Shared Driveway

C4. The entry to the shared driveway off Carter Street providing vehicular and pedestrian access to the subject site and No.71A Carter Street shall not be obstructed by gates or other form of barriers to ensure that unrestricted access is provided for the residents and/or visitors of the subject site and No.71A Carter Street including the construction phase of the development.

The Certifying Authority must also 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 access to the adjoining property)

Pests and Vermin Control

D1. An inspection must be carried out by a qualified pest controller of the subject site to identify the requirements for any necessary pets and vermin control measures for the subject site prior to the commencement of works and throughout the construction phase of the proposed development.

The required pest and vermin control measures must be implemented in accordance with the recommendation of qualified pest controller.

(Reason: To control pest and vermin and to ensure public health and safety)

Access to No.71A Carter Street

E1. Pedestrian and vehicular access to the adjoining property at No.71A Carter Street must be provided at all times during the construction phase of the proposed development. The access must be provided in way to ensure safety of pedestrians and vehicles using the shared driveway.

(Reason: To access safe access to the adjoining property)

4. LPP03: 2A Cowdroy Avenue, Cammeray – DA 1/21

Applicant: Wail El Waili C/o COSO Architecture

Report of Robin Tse, Senior Assessment Officer

This development application seeks NSLPP approval for alterations and additions to an existing four (4) storey detached dwelling at No.2A Cowdroy Avenue, Cammeray to provide a new replacement roof, a double garage and a carport to Cowdroy Avenue.

The application is referred to the North Sydney Local Planning Panel for determination because the variation sought to the building height development standard is greater than 10% which requires determination of the application by the Panel in accordance with the directions from the Minister of Planning, Industry and Environment.

The notification of the original application and the amended plans has attracted a total of two (2) submissions raising concerns about the adverse amenity impacts on the adjoining properties and the need for animal barriers between the subject site and an adjoining property.

The proposed development has been assessed against NSLEP 2013 and NSDCP 2013 and was generally found to be a satisfactory in the site circumstances subject to the imposition of a deferred commencement condition requiring

design modifications to the proposed carport to minimise the bulk and scale of the proposed structures along Cowdroy Avenue frontage (Condition AA1(a)). The subject site is zoned E4 (Environmental Living) which prohibits dual occupancies. A development consent issued in 1987 for the subject site granted consent for the use of the building as a single dwelling and required the termination of a strata plan previously applied to the subject site. It is recommended that an on-going/operational condition be imposed requiring the subject premises be used as a single occupancy (Condition I1) to ensure that the use of the dwelling is consistent with the permissible use of land within the E4 (Environmental Living) zone and previous development approvals.

Consideration has also been given to the Clause 4.6 request for a variation to the LEP's building height development standard as submitted by the applicant. The variation to the building height development standard is justifiable because the building element above the LEP maximum building height is unlikely to have an impact on the character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and the loss of privacy.

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be **approved** subject to conditions of consent.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, assume the concurrence of the Minister of Planning, Industry and Environment, invoke the provisions of Clause 4.6 with regard to the exception to the development standard for maximum building height and grant deferred commencement consent to Development Application No. 1/21 for alterations and additions to an existing detached dwelling on land at No. 2A Cowdroy Avenue, Cammeray, subject to the following site specific conditions and the attached conditions:-

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement condition(s) has/have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

Deferred Commencement Matters

AA1. Amended plans, addressing the following matters, must be submitted for the written approval of Council's Manager Development Services:

(a) Modifications to the western carport to Cowdroy Avenue

The design of the proposed western carport must be modified to minimise the visual dominance of new building elements.

The western carport shall adopt an open construction design utilising light weight materials to ensure high visibility of the car space and front setback area to the west of the dwelling entrance as seen from Cowdroy Avenue. The height of any door/gate for the western carport shall not be higher than 1.5m with a 50% transparency.

The western edge of the proposed carport must provide a minimum 1.5m setback from the western property boundary.

A 1.5m wide landscape strip along the western common property boundary shall be provided in order to maintain a landscape buffer between the carport and the common property boundary.

(b) Deletion of the doorway at the rear of western carport

The doorway providing pedestrian access between the proposed western carport and the Level 4 kitchen shall be deleted to ensure that Level 4 of the building can only be accessed via the main staircase of the existing dwelling.

(c) Privacy Screens

The applicant must install 1.5m high privacy screens along the eastern edges of the proposed staircase to the north of the new eastern garage building and along the eastern edge of the second floor elevated passageway within the eastern side setback area to ensure privacy protection for the adjoining property to the east.

(d) Landscape Plan

The applicant must prepare a landscape plan detailing the landscape treatments within the landscaping strip between the western property boundary and the western carport as amended by Condition AA1(a)) and the replacement of existing planting with new screen planting within the planter beds along the eastern property boundary to the south of the northern building line of the main dwelling.

The maximum height of screen planting along the eastern property boundary shall be 2m to protect the visual privacy of the adjoining property at No.6 Cowdroy Avenue. The screen planting along the landscaping strip between the western property boundary and the western carport shall have a minimum height of 2.5m and dense foliage to provide soft landscaping within the front building setback area.

(e) Engineering

The applicant must submit engineering drawings for the driveway crossings of the eastern double garage and the western carport, as modified by Condition AA1(a), demonstrating compliance with Australian Standard AS2890 and the relevant Council requirements. The floor levels of the eastern double garage and the western carport shall be amended to RL24.36 and RL24.2 respectively to be consistent with the sloping profile of Cowdroy Avenue.

Advisory Note: The final floor levels and the driveway crossing condition may subject to further adjustments to ensure compliance with relevant Australian Standards and Council requirements.

(Reason: To ensure that the development complements the locality in terms of streetscape, landscape quality and the amenity of the surrounding properties)

This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.

- B.** Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following and site specific conditions:

Terms of Consent (D1/21)

A4. Approval is granted for the following as shown on the approved drawings listed in Condition A1:

- (a) Demolition of the existing roof and the construction of a new roof including an extension of the roof to the north by 3m to be supported by two columns;
- (b) Demolition of the existing carports and the construction of a double garage on the eastern side, a new covered entry portico and a carport on the western side; and
- (c) Demolition of an existing external staircase within the eastern side building setback area and the construction of a new external staircase to provide access to the eastern garage.

No approval is given or implied in this consent for the doorway providing pedestrian access between the proposed western carport and the Level 4 kitchen, tree removal and any other works, internal or external, not covered by this consent and other previous approvals issued by the relevant consent authorities or a Principle Certifying Authority, both internal and external, within the subject property.

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

No Encroachment onto Adjoining Property

C1. The proposed works must be located wholly within the subject site and must not encroach onto the adjoining properties including, but not limited to, the property to the east at No 6 Cowdroy Avenue.

The Certifying Authority must ensure that the revised landscape plan, building plans, the written approval from Council and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the requirement of this condition.

(Reason: To ensure no encroachment onto the adjoining property)

Installation of Barriers

C2. Suitable barriers shall be installed along the top of eastern parapet of the proposed double garage to prevent crossing of small animals such as possums to the adjoining property to the east at No.6 Cowdroy Avenue. The Certifying Authority must ensure that the building plans, the written approval from Council and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the requirement of this condition.

(Reason: To provide barriers for crossing of small animals to the adjoining property)

Surrender of Previous Development Consent

C19. The applicant/developer is required to surrender Development Consent (D200/19) within 60 days from the date of this consent to ensure clarity and certainty for the subject site.

The Certifying Authority must ensure that the written confirmation from Council and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the requirement of this condition.

(Reason: To ensure clarity and certainty on development within the subject site)

Single Occupancy

11. The subject four-storey detached dwelling, including all residential accommodation on ALL levels, must be used as a single occupancy at all times.

No approval granted or implied in this consent for the use of the subject property other than a single occupancy.

(Reason: To ensure the use of the existing dwelling as a single occupancy)

5. LPP04: 101 Blues Point Road, McMahons Point – DA 8/21

Applicant: Peter Princi Architects

Report of Hugh Shouldice, Development Assessment Planner

This development application seeks the North Sydney Local Planning Panel (NSLPP) approval for alterations and additions to a heritage item, which includes new administration areas associated with the medical centre and a first-floor addition in the form of shop top housing.

This application is reported to North Sydney Local Planning Panel for determination because the development application involves partial demolition of a heritage item. The development application is therefore, required to be determined by the North Sydney Local Planning Panel in accordance with the Minister's directions.

The notification of the application is in accordance with the North Sydney Community Participation Plan 2019. At the end of the notification period, Council received nine (9) submissions raising particular concerns about over-scaled development, heritage impacts, non-compliant works, loss of solar access impacts, view loss, visual privacy impacts, site coverage non-compliances, side setbacks, rear setbacks, car parking non-compliances and potential construction impacts. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

In August 2020, unauthorised demolition work was undertaken to the heritage listed building (former dwelling). The unauthorised demolition work included the loss, removal and potential destruction of a number of sandstone blocks from the south-western corner façade of the former dwelling. The site and premises are both identified in Schedule 5 of NSLEP 2013 as a heritage item of local significance, being Heritage Item No. I0411. The development application seeks to formalise the unauthorised demolition work. The unauthorised demolition work is not supported by Council's Conservation planner due to the significant and unsatisfactory impacts of the proposal on the heritage significance of the heritage item.

The proposal includes residential works in the form of a first-floor addition, which includes references and an internal layout for a self-contained 'flat' above a ground floor "medical centre" at the first-floor level. The proposal describes the addition as a "doctor's residence",

However, a 'residence' in conjunction with a medical centre, as proposed, is not permissible under NSLEP 2013, which incorporates template instrument provisions, and is therefore prohibited. Even if the issue around the permissibility is addressed, the design of the first-floor addition not supported on heritage grounds. The permissibility issues of the residential works in the form of a first-floor addition are discussed later in the report.

The application is deemed unsatisfactory and is recommended for refusal for the reasons outlined throughout the report.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, *refuse Development Application 8/21* for both alterations and additions to a heritage item, which include new administration areas associated with the medical centre and residential works in the form of a first floor addition described as a ‘doctors residence’, on land at 101 Blues Point Road, McMahons Point, for the following reasons:

1. Heritage Impacts

The proposed works would have an adverse impact on the heritage item and are contrary to the objectives outlined in the EP&A Act 1979 (as amended), NSLEP 2013 and NSDCP 2013.

Particulars:

- (a) The proposal is considered to be inconsistent with subclause (f) in Section 1.3 - Objects of the Act in the Environmental Planning and Assessment Act 1979 (as amended).
- (b) Clause 1.2 Aims of Plan, subclause (2)(c)(ii) and (2)(f).
- (c) Clause 5.10 Heritage Conservation, subclause (1)(a) and subclause 5.10 (1)(b);
- (d) 13.1.1 Guiding Statement: in terms of managing North Sydney’s heritage for present and future generations in accordance with the principles of intergenerational equity as per the Burra Charter;
- (e) 13.1.2 General objectives O4 and O5;
- (f) 13.5.1 Protecting heritage significance O1, O3, O4, O5, O7, P4 and P5;
- (g) 13.5.2 Form, massing, scale O1, O2, P1, P4 and P5;
- (h) 13.5.3 Additional storeys O1, P1 and P2;
- (i) 13.5.4 Roofs O1, P1, P2, P3 and P6;
- (j) 13.5.5 Interior layouts O1, P1, P2, P3, P4, P5, P6, P7 and P8;
- (k) 13.6.1 General Objectives O1 and O2;
- (l) 13.6.2 Form, Massing and Scale P1 and P9;
- (m) 13.6.3 Roofs O1 and P1;
- (n) 13.6.4 Additional storeys and levels O1 and P1;
- (o) 13.8 Demolition O1 and P1;
- (p) 13.11 Guidelines for Non-Residential Business Types (Retail Building and Shops) O4 and P6; and
- (q) Section 9.7.7 ACA - Uncharacteristic Elements, P1

2. Prohibited Development (Permissibility - ‘Doctor’s residence’ (Proposed First Floor Addition))

The proposed first floor addition above the commercial building (operating as a medical centre) is prohibited development under Clause 2.3 of the NSLEP 2013.

Particulars:

- (a) The proposal is considered to be inconsistent with subclause (c) in Section 1.3 - Objects of the Act in the Environmental Planning and Assessment Act 1979 (as amended).
- (b) The proposed residential works are considered to be defined as prohibited development under Clause 2.2 of the NSLEP 2013.
 - i. The proposed residential works located above the approved use a *medical centre* as a “residence” are more accurately defined as *Shop*

- top housing*, which means one or more dwellings located above ground floor *retail premises* or *business premises*. A *business premises* does not include *medical centre* as part of the definition.
- ii. The proposed works above the *medical centre* cannot be described as *Shop top housing*.
 - iii. The proposed works above the *medical facility* are therefore not permissible within the B1 Neighbourhood Centre Zone.
- (c) The proposed residential works are inconsistent with the zone objectives for the B1 Neighbourhood Centre Zone outlined in Clause 2.3 of the NSDCP 2013.

3. *Non-compliances with the NSDCP 2013*

The proposed works result in a number of non-compliances with the applicable sections of the NSDCP 2013, which are considered to have adverse impacts to adjoining properties.

Particulars:

- (a) B2.1.1 General Objectives O5;
- (b) B2.3.6 Awnings P1 and P2;
- (c) B2.3.7 Solar Access O3 and P2;
- (d) B2.3.11 Visual Privacy O1 and P3;
- (e) B2.4.3 Setbacks P7(a);
- (f) B2.4.8 Balconies – Apartments P1;
- (g) B2.4.10 Streetscape P4 and P7;
- (h) B2.5.1 Accessibility P1;
- (i) B2.5.9 Garbage Storage P2 and P3;
- (j) B10.3 Design and Layout P3; and
- (k) B10.5 Bicycle Parking and Associated Facilities P1 and P6.

4. *Reliance on Unauthorised Work - Part Demolition of a Heritage Item*

The site and premises are identified in Schedule 5 of NSLEP 2013 as a heritage item of local significance, being Heritage Item No. I0411. Unauthorised demolition work was carried out to the heritage listed building (former dwelling) in August 2020.

- (i) The proposed works rely upon access created by the unauthorised work to provide access to the proposed upper ground floor office areas and the proposed first floor residences.

Particulars:

- (a) The unauthorised demolition work included the loss, removal and potential destruction of a number of sandstone blocks from the south-western corner façade of the former dwelling.
- (b) The unauthorised demolition work is not supported by Council's Heritage planner due to the significant impacts of the proposal on the heritage significance of the heritage item.
- (c) No lawful approval is in place which permits the unauthorised demolition works.
- (d) Council cannot grant retrospective development consent to any development which relies upon these works, including for the purposes of access.
- (e) Insufficient evidence is provided in the development application documentation to support the unauthorised works. The submitted Heritage Impact Statement does not directly address or support the unauthorised works.

- (f) The unauthorised demolition of the dwelling cottage should be rectified by replacement of lost sandstone block work, under supervision of a suitably qualified conservation consultant that is acceptable to Council.

5. Public Interest

The proposal is not in the public interest.

Particulars:

- (a) The notification of the application received nine (9) submissions against the proposal.

6. LPP05: 64 Bank Street, North Sydney – DA 282/20

Applicant: Kimberley Williams

Report of Luke Donovan, Senior Assessment Officer

The application seeks development consent for alterations and additions to a heritage listed dwelling including a new two storey rear addition on land at 64 Bank Street, North Sydney.

The application is reported to North Sydney Local Planning Panel for determination as the proposal involves demolition works to a heritage listed item that would be considered more than “minor” or “partial”. In accordance with the delegation of functions provided by the LPP on 4 November 2020 relating to “*Delegation of decisions relating to part demolition of Heritage items*”, and the Minister’s directions dated 30 June 2020 Council Officers do not have delegation to determine the subject application.

Currently located on the site is a single storey weatherboard house with a corrugated iron gable roof and skillion front verandah supported by timber posts with a central front door and flanking double hung sash windows. The dwelling is significant for being part of a richly varied collection of mid to late nineteenth and early twentieth century residential buildings, with free-standing cottages predominant.

The original proposal provided an over scaled linking structure between the cottage and rear two storey addition. The linking structure significantly altered the existing gable and skillion roof form and did not conserve the heritage significance of the cottage and was not supported by Council.

The amended proposal provides a modest scaled linking structure that enables a majority of the principal roof form of the cottage to remain intact. The two-storey addition will not be highly visible from the public domain noting that it is located behind the existing cottage. The first-floor addition retains the same alignment to the northern boundary as the existing cottage to minimise visual dominance. The proposal also reinstates the original configuration of the front rooms and central hall and largely retains the existing significant fabric within these rooms with the demolition confined to the latter additions specifically the rear kitchen, bedroom and deck. There is an inset in the northern elevation and the sloping roof over the southern part to differentiate the new addition from the original cottage. The amended proposal is considered to conserve the heritage significance of the heritage item and the Union/Bank/Thomas Street conservation area.

The amended proposal will not result in any unreasonable privacy or solar access impacts for adjoining properties. The proposed rear building alignment generally matches that of other similarly sized properties along Bank Street including No.60 Bank Street.

The notification of the proposal has not attracted any public submissions.

Following this assessment, the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority **grant consent** to Development Application No. 282/20 for alterations and additions to a heritage listed dwelling including a new two storey rear addition on land at 64 Bank Street, North Sydney subject to the following site specific condition and the attached standard conditions:-

Heritage Amendments

- C1. Prior to the issue of a construction certificate the following amendments must be made to the plans forming part of Condition A1 of this consent:
- a) The inclusion of a small “notch” in the timber cladding along the southern elevation to demarcate the new addition from the original cottage.
 - b) A detailed internal elevation and section of the new lower ground floor living room, detailing the changes to the chimney.
 - c) A detailed section indicating the intersection of the new roof over stair (to master bedroom) and the existing skillion roof form.

Plans and specifications complying with this condition must be submitted to the written satisfaction of Council’s Conservation Planner prior to the issue of a Construction Certificate.

(Reason: To conserve the heritage significance of the dwelling)

7. LPP06: 10 Oak Street, North Sydney – DA 41/20

Applicant: Simon Rosewell Pty Ltd

Report of Lara Huckstepp, Executive Planner

On 2 September 2020, the North Sydney Local Planning Panel (NSLPP) refused DA41/20 for alterations and additions to a semi-detached heritage listed dwelling on land at 10 Oak Street, North Sydney. The applicant seeks a review of the determination under s8.2 of the *Environmental Planning & Assessment Act, 1979 (EP&A Act)*.

The application was originally reported to the NSLPP for determination, as directed by the Minister for Planning, Industry and Environment, as the proposal involves demolition work to a local heritage item. In accordance with the provisions of Section 8.3(5) of the *Environmental Planning & Assessment Act, 1979 (EP&A Act)* the review of a determination made by a local planning panel is also to be conducted by the Panel and the review is referred back to the Panel for determination accordingly.

Council’s notification of the proposal attracted one submission raising concerns about form and scale of the rear two level addition, adverse impacts upon the heritage Item and Conservation Area, streetscape, loss of solar access, loss of visual and acoustic privacy and general inappropriate form of the proposed addition. The assessment has considered these concerns as well as the performance of the application against Council’s planning requirements.

The proposal includes amended plans which proposes a number of amendments compared to the refused scheme. The rear addition has been reduced in scale, setbacks to the west have been increased, a single storey link creates a greater

separation between the existing building and proposed addition, site coverage has been reduced, landscaped area has been increased and privacy screening is proposed to the first floor west-facing windows.

With regards to the form and design, Council's Conservation Planner supports the amended scheme, considering that the proposal is considered to satisfy clause 5.10 of NSLEP 2013 in that the primary form and front facade will be retained and the works to the interior of the original cottage will still allow the interpretation of the original room configuration, and also that there will be adequate retention of interior detailing. Conditions are recommended in relation to the materials and requiring the retention of internal features.

The rear addition proposes a compliant western setback, setting back the first floor to 2.3m wherein a minimum 1.5m is required in accordance with Section 1.4.6 NSDCP 2013.

Section 1.5.5 NSDCP 2013 sets a maximum site coverage on the site of 60%. The proposal provides 62.75%. Whilst this results in a technical non-compliance, it is considered that the site compliance is not considered to be uncharacteristic. Further, given that the site has a size of 160sqm, the actual non-compliance of 2.75% equates to 4.4sqm. For reasons further set out within the report, the numerical non-compliance is supported in this instance.

The adjoining property at No.8 Oak Street is largely overshadowed by surrounding buildings between 9am and 3pm during the midwinter and equinox. Additional overshadowing resulting from the proposed additions are demonstrated to be largely within existing shadowing lines.

Privacy screening is proposed to the west-facing first floor windows and conditions are recommended to ensure that louvres are fixed to the bedrooms and stairway windows, and the obscure glazing is provided to the bathroom window, all provided to a height of 1.6m above finished floor level. This is considered to ensure an appropriate impact on visual to the adjoining property at No. 8 Oak Street.

Existing western screen planting will be required to be retained through the imposition of conditions.

Following this assessment and having regard to the provisions of Section 4.15 and Sections 8.2-8.5 (inclusive) of the *Environmental Planning & Assessment Act 1979*, the application is recommended for **approval**.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority grant consent to Development Application No. 41/2020 for alterations and additions to a semi-detached heritage listed dwelling on land at 10 Oak Street, North Sydney subject to the following site specific and attached standard conditions:-

Interior Decorative Features

C1. No consent is given or implied to the removal of the fireplace grate and mantle from the front room (south-eastern corner of site), original flooring, skirtings, picture rails, cornices or ceiling roses in the original cottage except where approved for removal on the plans.

Plans and specifications which comply 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.

(Reason: To retain the heritage significant fabric.)

New Windows and Doors

C2. New windows and doors to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber-framed.

Plans and specifications which comply 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.

(Reason: To be sympathetic to the character of the original dwelling)

Privacy

C3. The following privacy devices are to be provided:

(a) The first floor west-facing windows serving Bedroom 1, Bedroom 2 and the stairwell shall be provided with louvres having a minimum height of 1.6m above finished floor level. These louvres shall be fixed and angled to ensure that no down-viewing can occur into the ground level private open space or windows within No.8 Oak Street.

(b) The first floor west-facing window serving the bathroom shall be provided with a fixed lower pane and the lower pane shall be obscured to a height of 1.6m above finished floor level.

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.

(Reason: To ensure an adequate level of privacy is provided to adjoining property located at 8 Oak Street, North Sydney)

Amendments to the Landscape Plan

C25. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- A detailed Landscape Plan shall be provided showing plant species, numbers and pot sizes
- The proposed courtyard shall not be paved, or otherwise covered with a hard surface. It may include an area of steppingstones set within groundcover planting (eg. *Ophiopogon japonicus* ‘Nana’, *Violacea hederacea* etc), and shall comprise some area dedicated solely to planted gardens. It shall include at least 1 x tree that will reach 5m minimum height at maturity (45l)
- Plant species chosen (particularly for the front gardens) shall be sympathetic to the heritage value of this site
- Levels shall be shown for the proposed bin storage and courtyard along the western boundary of the subject site, and no excavation or change in levels that is likely to negatively impact the continued health and vigour of the 3 x protected trees along the eastern boundary of 8 Oak Street shall be permitted.

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)

8. LPP07: 35 Myrtle Street, North Sydney – DA 204/18/3

Applicant: MODOG Pty Ltd

Report of Lara Huckstepp, Executive Planner

This application under Section 4.55 of the Environmental Planning and Assessment Act 1979 seeks to modify Council's consent for an approved shop top housing development.

The original development application was determined by the North Sydney Local Planning Panel and a subsequent modification was also determined by the North Sydney Local Planning Panel. The subject modification is reported to the Panel for determination in accordance with the Ministerial Direction that Section 4.55(2) modifications must be referred back to the Panel where they seek to amend conditions previously imposed by the Panel. The applicant seeks to vary the car parking requirements that were imposed by the Panel therefore the Panel is the consent authority for the modification application.

Council's notification of the proposal has attracted four submissions raising particular concerns about the number of previous proposals and modifications for this development site, noise and amenity impacts from the proposed vehicular turntable and air conditioning units, car parking provisions, amenity considerations and impacts during construction. The assessment has considered these concerns as well as the performance of the modification against Council's planning requirements.

The modification seeks to reconfigure the car parking level resulting in an increase from 5 (approved) to 6 proposed car parking spaces. The resultant number of car parking spaces will comply with Council's maximum DCP car parking rates. Five apartments and one commercial tenancy has been approved and one car parking space is proposed to be allocated to each.

Previously imposed conditions required all car parking spaces to be limited on title as 'small car parking spaces' however the applicant has rearranged the car parking configuration and it is considered that only 2 car parking spaces are now required to be limited to small spaces. Conditions are recommended to modify this requirement.

The rearrangement of the car parking level includes the introduction of a vehicular turntable to assist vehicles in ensuring they enter and exit the car park in a forward direction. Conditions are recommended to require the use of the turntable to comply with acoustic requirements. Noise from the turntable is anticipated to be similar to a vehicle entering or leaving the property.

New air-conditioning systems are also proposed and conditions are recommended to ensure these can comply, including certification to be provided prior to the issue of an occupation certificate.

Other internal and external changes have been assessed within this report, including changes to conditions as being acceptable.

Overall, the proposed modifications generally retain the existing building envelope and approved materials and are considered to be substantially the same development as approved.

Following this assessment, the application to modify Council's consent is considered to be reasonable in the circumstances and is recommended for approval.

Recommending:

PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Planning Panel exercising the functions of Council approve the modification of development consent 204/2018 dated 3/4/2019 in respect of a proposal for various modifications to an approved shop top housing development at 35 Myrtle Street, North Sydney, under the provisions of Section 4.55 of the Environmental Planning and Assessment Act only insofar as will provide for the following:

1. Condition A1 is amended as follows:

Development in accordance with Plans

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp

Plan No.	Rev	Title	Dated	Prepared by	Received on
DA101	C	Ground floor plan	16/1/2019	Cracknell & Lonergan	24/1/2019
DA102	C	First floor plan	16/1/2019	Cracknell & Lonergan	24/1/2019
DA103	C	Second floor plan	16/1/2019	Cracknell & Lonergan	24/1/2019
DA104	C	Third floor plan	16/1/2019	Cracknell & Lonergan	24/1/2019
DA105	C	Roof floor plan	16/1/2019	Cracknell & Lonergan	24/1/2019
DA201	C	Elevation east and west	16/1/2019	Cracknell & Lonergan	24/1/2019
DA202	C	Elevation north and south	16/1/2019	Cracknell & Lonergan	24/1/2019
DA301	C	Cross Section A	16/1/2019	Cracknell & Lonergan	24/1/2019
DA302	C	Cross Section B	16/1/2019	Cracknell & Lonergan	24/1/2019
DA303	C	Cross Section C	16/1/2019	Cracknell & Lonergan	24/1/2019
DA304	C	Cross Section D	16/1/2019	Cracknell & Lonergan	24/1/2019
DA305	C	Cross Section E	16/1/2019	Cracknell & Lonergan	24/1/2019
DA306	C	Longitudinal Cross Section F	16/1/2019	Cracknell & Lonergan	24/1/2019

Except as amended in highlighting on the following plans:

Plan No.	Rev	Title	Dated	Prepared by	Received on
S4.55 01	E	Site & roof plan	20/7/2020	Max Wessels	20/7/2020
S4.55 02	E	Ground and first floor plan	20/7/2020	Max Wessels	20/7/2020
S4.55 03	E	Second floor plan	20/7/2020	Max Wessels	20/7/2020
S4.55 04	E	Third floor plan	20/7/2020	Max Wessels	20/7/2020
S4.55 05	E	Roof floor plan	20/7/2020	Max Wessels	20/7/2020

Except as amended in highlighting on the following plans:

Plan Nos.	Revision No	Title	Received	Prepared by	Dated
S4.5501	G	Floor plans	25/3/2021	Max Wessels	25/3/2021
S4.5502	G	Floor plan and elevations	25/3/2021	Max Wessels	25/3/2021
-	O	Images	8/2/2021	Max Wessels	8/2/2021

2. Add new Condition C36 as follows:

Air Conditioners in Residential Premises

C36. The use of any air conditioner installed on the premises must comply

with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00am or after 10.00pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

3. Condition G13 is amended as follows:

Damage to adjoining properties

G13. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying that:

- a) whether any damage to adjoining properties has occurred as a result of the development
- b) the nature and extent of any damage caused to the adjoining property as a result of the development
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

~~Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.~~

The report must document whether access has been granted to adjoining properties. In circumstances where access has been denied all reasonable attempts must be made to obtain access to adjoining

properties for the purposes of compliance with this condition. These reasonable attempts must be documented in the report and be to the satisfaction of Council prior to the issue of the occupation certificate for the whole of the building.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To document damage to adjoining properties and facilitate appropriate civil arrangements to be made to rectify damage arising from the development)

4. Condition G16 is amended as follows:

Allocation of spaces

G16. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance with the following:

Five ~~four~~ spaces – residential tenancies with a maximum of one space allocated to any one residential apartment

One space – ground level non-residential tenancy

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to the issue of an Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development. In the case of strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement and one parking space is to be allocated to the commercial unit.

(Reason: To ensure that adequate parking facilities to service the development are provide on the site)

5. Add new Condition G18 as follows:

Covenant for Restriction of Vehicle Access

G18. An instrument pursuant to Section 88E of the Conveyancing Act 1919 and one copy must be submitted to Council in registrable form, providing for:

- a. a covenant and restriction as to user in favour of North Sydney Council burdening 35 Myrtle Street requiring maintenance of the vehicular crossing, layback and garage/parking area and also that car spaces **detailed as Lots 1 & 3** cannot be used by vehicles other than small vehicles, due to the design constraints of the garage/parking; and
- b. North Sydney Council being nominated in the Instrument, North Sydney Council's official seal will be affixed to these documents, prior to lodgement at the Land & Property Information Office for registration.

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council's official seal will be affixed to these documents, prior to lodgement at the Land & Property Information Office for registration. The Instrument creating the covenant under s88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use on the site, whichever is earlier.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the

person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the requirement Instrument.

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

(Reason: To ensure owners, or intending owners of the subject property are aware of the limitation of vehicles capable of using the crossing without damage)

6. New Condition G19 is imposed as follows:

Noise Certification (vehicular turntable and air conditioning units)

G19. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent here-in.

In relation to air-conditioning units, the acoustic consultant shall review the selection of air conditioning equipment and shall certify that the air conditioning systems shall meet all relevant noise criteria as well as relevant conditions, with all air conditioning systems operating contemporaneously and at maximum capacity, at all times of the day and night.

In relation to the vehicular turntable, the acoustic consultant shall review the selection of plant and shall certify that the vehicular turntable shall meet all relevant noise criteria as well as relevant conditions, at all times of the day and night.

Appropriate acoustic treatments shall be implemented in consultation with the Acoustic Consultant, as set out in the Acoustic Statement dated 23/2/2021, should compliance be unable to demonstrated

(Reason: To ensure adequate acoustic amenity)

7. New condition I2 is imposed as follows

Noise and Vibration Impact

I2. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)