



## NORTH SYDNEY COUNCIL

Council Chambers  
30 July 2020

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 5 August 2020 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**

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### BUSINESS

**1. Minutes**

Confirmation of Minutes of the previous Meeting held on Wednesday 1 July 2020.

(Circulated)

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**2. LPP01: 314-316 West Street, Cammeray (V) - DA 21/20**

Applicant: Platino Properties Pty Ltd

Report of Lisa Kamali, Senior Assessment Officer, 27 July 2020

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for the demolition of existing dwellings and construction of a multi-dwelling housing development providing seven (7) dwellings and basement parking with associated tree removal and excavation, on land at Nos. 314-316 West Street, Cammeray.

The application is reported to the NSLPP for determination, as directed by the Minister of Planning, Industry and Environment, as the proposal involves a non-compliance with a development standard (building height) exceeding 10%, and the application has attracted more than 10 unique submissions.

The subject site is zoned R3 (Medium Density Residential) where multi dwelling housing is permissible with consent from Council, and the development would provide for additional housing in the Palmer Neighbourhood, where the desired future character is for medium to high density residential development.

The proposal provides for a building of an appropriate overall scale and massing with a modulated built form which will reflect the existing subdivision pattern and break up the massing. The external materials including face brick and neutral exterior colours will complement those seen in the local area. The development will further contribute towards neighbourhood character by retaining a significant tree to the southwest corner of the site and providing well landscaped front setbacks to soften the street edge.

The proposed development exceeds the maximum height limit for the site by up to 16.8%, generally in the area of the roof and lift overrun, however the submitted justification under Clause 4.6 in NSLEP is well founded given that the height breach is unlikely to result in material environmental impacts compared with those arising from a fully compliant scheme, including impacts on views, solar access and privacy, and the development is generally consistent with the objectives of both the building height control and the objective of the R3 Medium Density Residential Zone.

The proposed development complies with key controls within NSLEP and NSDCP, including site coverage, landscaped area and setbacks, and there would be no unreasonable impacts on the amenity or stability of surrounding properties subject to conditions relating to a geotechnical report, dilapidation reports and privacy devices, along with various other conditions discussed in this report.

The development provides for a compliant quantum of car and cycle parking to satisfy the needs of future residents. The increase in vehicle movements resulting from this development will not be significant and traffic and parking conditions around the site are unlikely to be unduly compromised.

Following this assessment having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended), the application 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 assume the concurrence of the Secretary of The 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 (Building Height) and **grant consent** to

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Development Application No. 21/20 for demolition of existing buildings, excavation and tree removal, and construction of a multi dwelling development comprising 7 dwellings with basement car parking, at 314-316 West Street, Cammeray, subject to the attached conditions.

**3. LPP02: 58 Cowdroy Avenue, Cammeray (V) - DA 56/20**

Applicant: Paul Etherington & Renata Etherington, C/- COSO Architects  
Report of Lisa Kamali, Senior Assessment Officer, 20 July 2020

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for the demolition of an existing dwelling, and the construction of a new dwelling with associated tree removal and earthworks on land at No. 58 Cowdroy Avenue, Cammeray.

The application is reported to the NSLPP for determination, as directed by the Minister of Planning, Industry and Environment, as the proposal involves a non-compliance with a development standard (building height) exceeding 10%.

The written statement seeking a variation to the building height control is inadequate as it has failed to accurately quantify the extent of the non-compliance and has also failed to adequately demonstrate that compliance with the standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to support the variation to the building height control. The breaches to the building height control are not considered to be in the public interest given that the proposal is not consistent with the objectives of the building height control or the E4 Environmental Living zone.

The proposed development is also significantly non-compliant with other planning controls including a 50% exceedance of the maximum site coverage control, significantly non-compliant landscaped area, and uncharacteristic rear setback resulting in a development of excessive bulk, scale and mass that is incompatible with the predominant character in the vicinity of this waterfront site.

The proposed development would lead to significant loss of amenity surrounding residential properties particularly in terms of loss of significant views and outlooks, with additional impacts including an unsatisfactory loss of daylight, and likely loss of visual and acoustic privacy.

The proposal would also involve the removal of all nine (9) trees from the site, including several which are significant in size providing a high amenity value, and there is insufficient landscaping to provide space for replenishment trees to provide canopy cover and to soften the built form.

Council's notification of the application attracted (5) submissions against the application which raised a number of issues including those outlined above.

Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning & Assessment Act 1979* (as amended), the application is recommended for **refusal**.

**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, **refuse** Development Application No. 56/20 for demolition of an existing detached dwelling, excavation, tree removal and

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construction of a new detached dwelling, on land at No. 58 Cowdroy Avenue, for the following reasons:-

**1. Inadequate written request pursuant to Clause 4.6 in North Sydney Local Environmental Plan 2013.**

The written request pursuant to Clause 4.6 in the NSLEP 2013 seeking a variation to the height of building development standard in Clause 4.3(2) in NSLEP 2013 has not correctly identified the non-compliance and is not considered to be well founded.

**Particulars:**

- a) The proposed development significantly breaches the 8.5m maximum height of building development standard specified in Clause 4.3(2) in NSLEP 2013 across most of the proposed building.
- b) The written request seeking a variation to the height of building development standard required by Clause 4.6 (3) in NSLEP 2013, has failed to accurately identify the full extent of the breach.
- c) The written request submitted with the application seeking a variation to the maximum height of building development standard has inadequately addressed the matters required to be addressed in subclause (3) in Clause 4.6 in NSLEP 2013. The written request has failed to adequately demonstrate that compliance is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the height of building development
- d) The proposed development is not considered to be in the public interest as the development is not consistent with the objectives of the height of building standard in Clause 4.3(1) in NSLEP 2013 and the objectives of the R2 Low Density Residential zone (dot points 4 and 5).

**2. The proposed development is not appropriate in its waterfront context and is incompatible with the built form and landscape character of the area.**

The proposed development is not appropriate to its context or compatible with the existing and future character of the Cammeray foreshore by virtue of its excessive height, bulk and scale, its excessive building footprint and inadequate landscaped area, its incongruous built form and materiality, and its failure to respond to the natural topography of the site.

**Particulars:**

- a) The proposed development has a large sloping roof form, high side walls and internal floor to ceiling heights of up to 7.74 metres with the majority of the building exceeding the height of building development standard. Surrounding dwellings provide a significantly reduced volume and overall proportions. The proposed development is therefore not compatible with the predominant scale of the area, contrary to Aims of NSLEP 2013, specifically Clause 1.2(2)(a) and 1.2(2)(b)(i) and (iii), Clauses 4.3(1)(e) and (f) in NSLEP 2013 (Height of Buildings - Objectives), the Objectives of the E4 Environmental Living zone, Objective O5 in Part B Section 1.1.1 in NSDCP 2013 (General Objectives), and Objective O1 and Provisions P1 and P3 in Part B Section 1.4.7 in NSDCP 2013.
- b) The proposed development does not follow the natural topography of the site through a stepping of the built form contrary to Aims of NSLEP 2013, specifically Clause 1.2 (2)(e)(i), Clause 4.3(1)(a) in NSLEP (Height of Buildings - Objectives), Objective O8 in Part B Section 1.1.1 (General Objectives), ) the Objectives of the E4 Environmental Living zone, Objective

- O1 and Provisions P1, P3, P4 and P5 in Part B Section 1.3.1 (Topography), and Provision P5 in Part C Section 4.2.3 (Cammeray Neighbourhood) in NSDCP 2013.
- c) The proposed development has a site coverage of 60% which is substantially noncompliant with the maximum site coverage of 40% specified in P1 in Part B, Section 1.5.5 in NSDCP 2013. The proposed development fails to satisfy Objectives O1, O2, O3 and O4 in Part B Section 1.5.5 in NSDCP 2013.
  - d) The proposed development has a landscaped area of 22% which is substantially noncompliant with the minimum landscaped area of 30% specified in P1 in Part B, Section 1.5.6 in NSDCP 2013, and fails to satisfy Objectives O1(f), (h) and (i) in Part B, Section 1.5.6 in NSDCP 2013, and Objectives O1, O3, O4 and Provisions P1, P2, P3, P5, P6, P7, P9 of Part B Section 1.5.8 in NSDCP 2013.
  - e) The proposed rear setback well forward of the western neighbours, combined with the height, building bulk and inadequate stepping to the built form at the rear of the building, fails to satisfy Objectives O2 and O4 of Part B Section 1.4.6 in NSDCP 2013.
  - f) The proposed height, bulk and scale of the building, its incongruous materiality, and the extensive works and removal of vegetation within the foreshore area, incompatible with the waterfront natural environment. The development is therefore contrary to Aims of NSLEP 2013, specifically Clause 1.2(2)(a) and 1.2(2)(b)(i) and (iii), Clauses 4.3(1)(e) and (f) in NSLEP (Height of Buildings - Objectives), Clause 6.9 (1), (3)(a), (b), and (g), the Objectives of the E4 Environmental Living zone specifically dot point 1), Objectives O4 and O5 in Part B Section 1.1.1 in NSDCP 2013, Objective O1 and Provisions P2, P4, P5, P7, P8, P9 and P10 in Part B Section 1.3.4 in NSDCP 2013, Objective O1 and Provision P2 in Part B Section 1.4.12 in NSDCP 2013, Provision P8 in Part B Section 1.3.4 in NSDCP 2013, and Objective O1 and Provision P3 in Part B Section 1.4.7 in NSDCP 2013.
  - g) The proposed side setbacks, which provide no stepping at the upper levels, fail to satisfy objectives O2, O3 and O4 of Part B Section 1.4.6 in NSDCP 2013.
  - h) The proposed development is not considered to maintain, protect and enhance the visual qualities of Sydney Harbour by virtue of the excessive height, bulk and scale of the building along with the extensive works and removal of vegetation within the foreshore area contrary to the planning principles in Clauses 13(f) and 14(d) and Clause 25 of SREP (Sydney Harbour Catchment) 2005.

**3. The proposed development will adversely impact on existing views and result in an unreasonable level of view sharing for surrounding properties.**

The proposed development, by way of its height, scale and siting, will result in unreasonable view loss for several properties around the site and particularly the neighbour to the immediate west.

**Particulars:**

- a) The proposed development does not retain existing views for properties around the site. The impact on existing views is generally caused by elements of the proposed development that fail to comply with Council's maximum building envelope controls.
- b) Having regard to the view sharing principle established in *Tenacity Consulting v Warringah Council [2004]* NSWLEC 140 the majority of the views that are to be impacted are significant including water views with land

and water interface. These views whilst across side boundaries are from primary living spaces and for the western neighbour the view impacts would be considered moderate to severe from all primary living areas.

- c) Occupants of the new dwelling will obtain unobstructed views at the expense of the neighbouring properties. This is not considered reasonable view sharing.
- d) The proposed development is contrary to Clause 1.2(2)(c)(i) Aims of Plan in NSLEP 2013, the Objectives of the E4 Environmental Living zone and Objective O2 and P4 in Part B, Section 1.3.6 in NSDCP 2013.

**4. The excessive excavation and fill and building footprint for the proposed development would result in the unjustified removal of significant trees and natural features of the site and may affect the structural integrity of neighbouring land and buildings.**

The proposed development involves extensive excavation or fill across the majority of the site and construction of a new dwelling with significantly non-complaint site coverage, which results in the removal of all trees from the site including significant trees and natural features of the site.

**Particulars:**

- a) The application proposes the removal of all trees from within the site including several significant trees which would be likely to reduce the visual amenity and ecological performance of the site within its waterfront location within close proximity to bushland. The tree removal has not been adequately justified in the submitted arborists report. The development is therefore contrary to Clause 1.2(2)(e)(i) Aims of Plan in NSLEP 2013, Objectives O1, O2, O3 and O4 in Part B, Section 1.5.7 in NSDCP 2013, Objectives O1, O3 and O4 and provisions P1, P2, P3, P5, P6, P7, and P9 in Part B, Section 1.5.8 in NSDCP 2013, Objective O1 of Part B Section 16.2.1 in NSDCP 2013 and Provisions P2, P3, P4 in Objective O1 of Part B Section 16.2.2 in NSDCP 2013.
- b) The application has failed to provide clarity as to the extent of excavation and any required retaining walls near site boundaries, and limited details are provided in respect of measures that may be necessary to support the excavation, including whether support extending into neighbouring land will be required. The proposed excavation is contrary to the Objectives of Clause 6.10 in NSLEP 2013, and Provisions P4 and P5 in Part B, Section 1.3.1 in NSDCP 2013.

**5. Unreasonable privacy impacts to the neighbouring properties**

The proposed development would result in unreasonable loss of visual and acoustic privacy for neighbours.

**Particulars:**

- a) The proposed large elevated terrace to the north side of the building would enable close and/or direct views into neighbours windows and outdoor amenity areas resulting in a loss of visual privacy, and due to its size may also create noise nuisance, contrary to the Aims of NSLEP 2013, specifically (2)(c)(i); (Residential amenity); the Objectives of the E4 Environmental Living zone, specifically dot point 3, Objective O4 in Part B, Section 1.1.1 in NSDCP 2013, Objective O1 and Provisions P6 and P8 in Part B, Section 1.3.10 in NSDCP 2013, and Objective O1 in Part B, Section 1.3.8 in NSDCP 2013.

**6. Unreasonable loss of sky outlook and ambient for the neighbouring properties**

The proposed development would result in unreasonable loss of sky outlook and ambient light for neighbours.

**Particulars:**

- a) The proposed development, by way of its excessive scale, bulk and height, and non-compliant rear setback would result in a significant loss of sky outlook and ambient light for neighbours, contrary to the Aims of NSLEP 2013, specifically (2)(c)(i); (Residential amenity); the Objectives of the E4 Environmental Living zone, specifically dot point 3, Objective O4 in Part B, Section 1.1.1 in NSDCP 2013, and Objectives O2 and O4 and Provision P4 in Part B, Section 1.4.6 in NSDCP 2013.

**7. Contrary to the public interest and not suitable for the subject site**

**Particulars:**

- a) The above matters were raised in the five (5) submissions from nearby residents. The proposal is, therefore, not considered to be in the public interest or suitable for the site contrary to Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

**4. LPP03: Units 1 and 2, 85 Bay Road, Waverton (W) - DA 61/20**

Applicant: O2 Architecture Pty Ltd

Report of Luke Donovan, Senior Assessment Officer, 17 July 2020

The applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to shop top housing, specifically the addition of an attic to units 1 and 2 at 85 Bay Road, Waverton. The property is identified as a Contributory Item within the Bay Road Heritage Conservation Area.

The application is reported to the NSLPP for determination because elements of the proposed works are greater than 10% above the permissible height limit of 8.5m pursuant to Clause 4.3(2) in NSLEP 2013.

Council's notification of the original proposal attracted one (1) submission raising concerns about overshadowing. The amended proposal was not required to be notified in accordance with Section 3.6 of the North Sydney Community Participation Plan.

The applicant has submitted two (2) amended written requests pursuant to Clause 4.6 in NSLEP 2013 seeking variations to Clauses 4.3 (Building Height) and 4.4 (Floor Space Ratio) in NSLEP 2013. The amended written requests are considered to be well founded given that they have both adequately addressed the matters required under subclause (3) in Clause 4.6 in NSLEP 2013 and are in the public interest as the proposed additions are consistent with the objectives of the relevant development standards and the B1 Neighbourhood Centre zone. The amended proposal has provided an increased setback from Whatmore Street which has assisted in reducing its visual impact from the public domain. Council's Conservation Planner supports the amended proposal subject to standard conditions of consent.

The Applicant has demonstrated that the attic addition to Units 1 and 2 will not result in any unreasonable view or solar access impacts for surrounding properties. Furthermore, the attic addition to Units 1 and 2 assists in reinforcing an objective of the B1 Neighbourhood Centre zone which to "*encourage development for the purpose of shop top housing*".

Having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended), the application is considered to be

satisfactory and recommended for **approval** subject to the attached 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, exercising the functions of Council as the consent authority, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 NSLEP2013 with regards to the non-compliance with Clause 4.3 (Building Height) and Clause 4.4 (Floor Space Ratio) and grant consent to Development Application No. 61/20 for alterations and additions to shop top housing, specifically the addition of an attic to units 1 and 2 on land at 85 Bay Road, Waverton, subject to the attached conditions.

**5. LPP04: 35 Myrtle Street, North Sydney (W) - DA 204/18/2**

Applicant: Modog Pty Ltd

Report of Lara Huckstepp, Executive Planner - 27 July 2020

This modification application seeks development consent from the North Sydney Local Planning Panel (NSLPP) for various modifications to an approved shop top housing development at No.35 Myrtle Street, North Sydney. The modification application is reported to the NSLPP for determination, as directed by the Minister for Planning, Industry and Environment, due to the number of submissions received.

Council's notification of the proposal has attracted 13 submissions raising particular concerns with overshadowing, privacy, amenity impacts, streetscape, noise and acoustic privacy, impacts of car parking and the extent of the modifications being not substantially the same as the approved development.

Amended plans have been received which have deleted a number of elements including the deletion of a proposed 2m front (northern) extension to the third level and also the deletion of a proposed car stacker.

On balance, the resultant modifications are considered to result in acceptable impacts on the surrounding locality with regards to streetscape, solar access, outlook, privacy and amenity. The provision of a garage roller door is considered to be reasonable and conditions are recommended to be imposed to ensure its ongoing maintenance to minimise noise impacts.

The assessment has considered submitters concerns as well as the performance of the application against Council's planning requirements.

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

**Recommending:**

PURSUANT TO SECTION 4.55(2) OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

**THAT** the North Sydney Local Planning Panel grant consent to Modification Application No.204/18/2 for various modifications to an approved shop top housing development, on land described as 35 Myrtle Street, North Sydney, subject to the attached conditions.

**1. Condition A1 is amended as follows:**

**Development in accordance with plans/documentation**

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 where amended by the following conditions of this consent.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**2. Condition A4 is replaced as follows:**

**External Finishes & Materials**

A4. External finishes and materials must be in accordance with the submitted schedule on DA S4.55 10 E, dated 21/7/2020, titled Materials, finishes and colours, prepared by Max Wessels Pty Ltd, and as modified by all relevant conditions of this consent, unless otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**3. Condition C12 (Level 3 External materials) is replaced as follows:**

**Level 3 External materials**

**C12.** The Level 3 western façade shall be constructed using a metal façade in *Colourbond – Windspray*, where it is set forward (north) of the alignment of the adjacent building at 13 Eden Street (within approximately 16m from the northern Myrtle Street boundary).

The remainder of the western façade which is set back behind the alignment of No.13 Eden Street (approximately 16m or greater from the northern Myrtle Street boundary) shall be constructed using bricks to match the adjoining property at No.13 Eden Street, as shown on the approved plans.

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 minimise the visual impacts of the addition on the neighbours and to address visibility within the Conservation Area)

**4. Condition C32 is modified as follows:**

**BASIX Certificate**

C32. Under Clause 97(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **935555M\_02** for the development are fulfilled. Plans and specifications complying with this

condition must be submitted to the Certifying Authority for approval prior to the issue of a 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 proposed development will meet the Government's requirements for sustainability and statutory requirements)

**5. New Conditions C33 and C34 are imposed as follows:**

**Eaves line**

**C33.** The eaves line of the new roof shall be strengthened in appearance along its full length to maintain a unified element and the new glazing below (sloping section) shall be tinted in a darker glaze to recede its visual impact.

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 retain the legibility and character of the existing building)

**Homogenous planting within Level 3 Planter**

**C34.** A suitable management plan to maintain the homogenous planting character within the eastern planter boxes at third floor level, along the eastern perimeter of the building, as indicated on the plans shall be implemented. The Plan shall include details of suitable plantings and shall be submitted to Council to the written satisfaction of Council's Landscape Development Officer, prior to the issue of a Construction Certificate.

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: Compatibility with Conservation Area)

**6. Condition G16 is modified 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:

**5 spaces – residential tenancies with one space allocated to each individual residential apartment**

**~~1 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.

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

**7. New condition I3 is imposed as follows:**

**Garage door**

I3. The roller door to the garage shall be maintained at all times to:

- Ensure that the door panels do not rattle, and the smooth operation of any door guides, roller etc is smooth;
- Door motors shall be fitted with a soft start/stop controller to minimise noise while the door shall be stopped approximately 5mm from the slab/ground to ensure the base of the door does not contact the concrete slab.

Ensure compliance with all noise requirements set out as conditions of consent. (Reason: To ensure compliance with the requirements of the Acoustic Report prepared by Acoustic Logic, dated 16/4/2020 on an on-going basis)

**6. LPP05: 34 McLaren Street, North Sydney (W) – DA 124/20**

Applicant: Anglican Church Property Trust Diocese of Sydney  
Report of Hugh Shouldice, Assessment Officer - 27 July 2020

This development application seeks North Sydney Planning Panel (NSLPP) approval for minor demolition and internal alterations to a heritage item within a conservation area at No. 34 McLaren Street, North Sydney.

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

The proposal seeks approval for minor internal demolition work and internal alterations to the Vestry of St Thomas Anglican Church which is a heritage item of local significance that is contained within the McLaren Street Conservation Area (CA19).

The application was referred to Council's Heritage Officer who raised no objections to the proposal subject to standard and site specific conditions. Council supports the application and recommends approval on the basis that the proposed works do not result in significant environmental or heritage impacts. The development application has been assessed against all applicable environmental planning instruments and was found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and 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, acting as the consent authority under the Directions of the Minister, grant development consent to Development Application No. 124/20 for internal alterations on land at No. 34 McLaren Street, North Sydney, subject to the following site specific conditions and attached standard conditions.

**Heritage Amendments**

C1. The following amendments and information are required to be satisfied prior to CC as outlined below:

1. That the bulkhead and nib walls are to be retained between the existing Vestry and office areas to enable an ongoing understanding of these spaces in relation to their construction in the 1940s.
2. That a photographic record of the existing Vestry building should be made and submitted to Council prior to the issue of any CC.

3. That an overall conservation policy be developed for the ongoing management and conservation of the Church building.

(Reason: To develop conservation management policies to inform decisions relating to St Thomas' Church and that can form part of a future Conservation Management Plan for the place).

**7. LPP06: Unit 14, 95A Ridge Street, North Sydney - DA 116/20**

Applicant: Justin Pettit (Strata Manager)

Report of Hugh Shouldice, Assessment Officer, 27 July 2020

This development application seeks the North Sydney Local Planning Panel (NSLPP) approval for "air conditioning unit to Unit 14 of an existing residential flat building".

This application is reported to North Sydney Local Planning Panel for determination because the proposed works breach the height limit by greater than 10% and requires determination by the panel.

The subject application was notified to adjoining property owners and the Stanton Precinct from the 19 June 2020 to the 3 of July 2020. Nil (0) submissions were received as part of the application.

The proposed installation of an air conditioning unit to Unit 14 is above the 12-metre height limit specified in Clause 4.3 of the North Sydney Local Environmental Plan 2013. A Clause 4.6 Variation Statement is therefore required to justify the non-compliance with the Council's building height control.

The applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013. The applicant's submission has been considered with reference to the L&E Court's decision in *Four2Five Pty Ltd vs Ashfield Council [2015] NSWLEC 90* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given that the proposal would not change the building envelope or the height of the existing building.

**Recommending:**

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

**THAT** the North Sydney Local Planning Panel, grant development consent to Development Application No. 116/20 for installation of an air conditioning unit to the balcony within an existing residential flat building on land at Unit 14, 94A Ridge Street, North Sydney, subject to the attached standard conditions.

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## **NORTH SYDNEY LOCAL PLANNING PANEL**

### **DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 1 JULY 2020, AT 2.00PM.**

#### **PRESENT**

##### **Chair:**

Grant Christmas

##### **Panel Members:**

Jan Murrell, Panel Member

Ian Pickles, Panel Member

Veronique Marchandeanu, Community Representative

##### **Staff:**

David Hoy, Team Leader Assessments

Marcelo Occhiuzzi, Manager Strategic Planning

##### **Administrative Support**

Peita Rose, Governance Officer (Minutes)

**Apologies:** Nil.

#### **1. Minutes of Previous Meeting**

The Minutes of the NSLPP Meeting of 3 June 2020 were confirmed following that meeting.

#### **2. Declarations of Interest**

Jan Murrell declared a conflict of interest for Item 1 and took no part in the public meeting or subsequent deliberations by the Panel in relation to Item 1.

#### **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.*

*Panel Members were instructed and have inspected sites independently and have had access to Council's electronic file, including details of all written submissions, plans, site photographs and supporting documentation. This meeting was recorded for the purposes of preparing minutes in accordance with the NSW Panel Secretariat's Panel Operating Guidelines.*

*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>	<b>DA95/20</b>
<b>ADDRESS:</b>	<b>6 Shellbank Parade, Cremorne</b>
<b>PROPOSAL:</b>	<b>Construction of an upper balcony roof and associated works over previously approved rear balconies.</b>
<b>REPORT BY NAME:</b>	<b>Lisa Kamali, Senior Assessment Officer</b>
<b>REASON FOR NSIPP REFERRAL:</b>	<b>Max. building height exceedance of over 10%</b>
<b>APPLICANT:</b>	<b>Wei Li</b>

**Public Submissions**

1 x written submission from the applicant

<b>Submitter</b>	<b>Applicant/Representative</b>
Brian Holt	Philippa Hayes (Planner)
James Spenceley	Guy Paroissien (Arborist)
	Greg Patch (Architect)
	Doris (Wei) Li (Owner)

**Panel Determination**

The Panel was only able to inspect the site to the extent that was visible from the roadway. However, the Panel had access to comprehensive digital information as well as access to the Council file, including detailed site inspection photos and the public submissions.

The Council Officer's Report and Recommendation for approval subject to conditions is endorsed by the Panel.

Pursuant to the provisions of clause 4.6 of the North Sydney Local Environmental Plan 2013 ("the LEP"), the Panel was 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 addressed the required matters in clause 4.6 of the LEP. The Panel agreed that the written request demonstrated that compliance with the development standard was unnecessary in the circumstances of the case. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings standard and the objectives for development within the E4 zone in which the development is proposed to be carried out.

Panel Reasons: The Panel notes the history of the proposed development of a balcony and roof for two levels of the dwelling at the rear of the subject site. However, the Panel must consider the proposal before it, which is to provide a roof over a balcony that has been approved. In this regard, the proposed roof is consistent in form and scale with nearby dwellings and would not cause material amenity impacts for adjoining properties. In particular, the Panel does not consider that the roof will result in any significant view impacts and would not have any impact on privacy of adjoining properties as any such impact is caused by the use of the balcony (which has already been approved), not the use of the roof.

The Panel also considered that the branch pruning of the Lemon Scented Gum required to construct the roof was acceptable.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Grant Christmas	X		Veronique Marchandau	X	
Ian Pickles	X				

## **ITEM 2**

<b>DA No:</b>	<b>40/20</b>
<b>ADDRESS:</b>	<b>55A Carter Street, Cammeray</b>
<b>PROPOSAL:</b>	<b>Demolition of existing building, construction of two semi-detached dwellings and subdivision into two lots</b>
<b>REPORT BY NAME:</b>	<b>George Youhanna</b>
<b>REASON FOR NSIPP REFERRAL:</b>	<b>&gt;10% variation to minimum lot size control (technical variation only due to exclusion of right of access)</b>
<b>APPLICANT:</b>	<b>New Generation Housing Pty Ltd</b>

### **Public Submissions**

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

### **Panel Determination**

The Panel has undertaken independent site inspections prior to the meeting and have noted the submissions received.

The Panel endorsed the Officer's Report and Recommendation for approval subject to conditions.

Pursuant to the provisions of clause 4.6 of the North Sydney Local Environmental Plan 2013 ("the LEP"), the Panel was satisfied that the written requests in relation to:

- (a) The contravention of the Height of buildings development standard in clause 4.3 of the LEP adequately addressed the required matters in clause 4.6 of the LEP. The Panel agreed that the written request demonstrated that compliance with the development standard was unnecessary in the circumstances of the case. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings standard and the objectives for development within the R3 zone in which the development is proposed to be carried out.
- (b) The contravention of the Minimum subdivision lot size development standard in clause 4.1 of the LEP adequately addressed the required matters in clause 4.6 of the LEP. The Panel agreed that the written request demonstrated that compliance with the development standard was unnecessary in the circumstances of the case. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the Minimum subdivision lot size standard and the objectives for development within the R3 zone in which the development is proposed to be carried out.

The Panel considered that the deferred commencement condition AA1 should become an operational condition which is to be satisfied prior to the issuing of the Construction Certificate. The reason for deferral is deleted condition AA1 is to be deleted and renumbered to condition A4.

Panel Reasons: The proposed development will have an acceptable impact on surrounding dwellings, subject to conditions of consent, and is satisfactory in terms of bulk and scale and visual impact, views, overshadowing and privacy.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Grant Christmas	X		Veronique Marchandean	X	
Jan Murrell	X				
Ian Pickles	X				

### **ITEM 3**

<b>DA No:</b>	<b>DA 82/20</b>
<b>ADDRESS:</b>	<b>182-186 Blues Point Road, McMahons Point</b>
<b>PROPOSAL:</b>	<b>Fit out on Levels 3 and 4 and associated works including an interconnecting staircase</b>
<b>REPORT BY NAME:</b>	<b>David Hoy, Team Leader Assessments</b>
<b>REASON FOR NSIPP REFERRAL:</b>	<b>The proposed works, at 17.49m in height, are 8.99m (105.8%) over the 8.5m building height development standard pursuant to Clause 4.3 of North Sydney Local Environmental Plan 2013.</b>
<b>APPLICANT:</b>	<b>David Magdic The A2 Milk Company</b>

### **Public Submissions**

<b>Submitter</b>	<b>Applicant/Representative</b>
	Paul Rappoport – Applicants Heritage Consultant
	Chris Ferreira – Applicants Planner (Ethos Urban)

### **Panel Determination**

The Panel has undertaken independent site inspections prior to the meeting.

The Council Officer's Report and Recommendation for approval subject to conditions is endorsed by the Panel.

Pursuant to the provisions of clause 4.6 of the North Sydney Local Environmental Plan 2013 ("the LEP"), the Panel was 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 addressed the required matters in clause 4.6 of the LEP. The Panel agreed that the written request demonstrated that compliance with the development standard was unnecessary in the circumstances of the case. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings standard and the objectives for development within the IN2 zone in which the development is proposed to be carried out.



Panel Reasons: The proposal is within the existing building height and envelope and the non-compliance with the height development standard is technical in nature and acceptable in the circumstances of the case.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Grant Christmas	X		Veronique Marchandean	X	
Jan Murrell	X				
Ian Pickles	X				

#### **ITEM 4**

<b>DA No:</b>	<b>311/2019</b>
<b>ADDRESS:</b>	<b>2/146 Kurraba Road, Kurraba Point</b>
<b>PROPOSAL:</b>	<b>Alterations and additions to a duplex including a swimming pool, extend rear verandah, landscape works, roof storage and strata subdivision adjustment</b>
<b>REPORT BY NAME:</b>	<b>Robyn Pearson, Team Leader Assessments</b>
<b>REASON FOR NSLPP REFERRAL:</b>	<b>Over 10% building height variance.</b>
<b>APPLICANT:</b>	<b>A Total Concept Landscape Architects C/- Kenny Russell</b>

#### **Public Submissions**

No persons elected to speak on this item.

#### **Panel Determination**

The Panel has undertaken independent site inspections prior to the meeting and have noted the submission received. The Panel has also noted the addendum which includes the general terms of approval provided by Heritage NSW.

Pursuant to the provisions of clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel was 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 addressed the required matters in clause 4.6 of the LEP. The Panel agreed that the written request demonstrated that compliance with the development standard was unnecessary in the circumstances of the case. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings standard and the objectives for development within the R3 zone in which the development is proposed to be carried out.

The Council Officer’s Report and Recommendation is endorsed by the Panel and approval is granted subject to conditions.

Panel Reasons: The Panel considers the impacts will not have any unreasonable impact on adjoining properties and the application does not adversely impact the heritage significance of this state listed item.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Grant Christmas	<b>X</b>		Veronique Marchandean	<b>X</b>	
Jan Murrell	<b>X</b>				
Ian Pickles	<b>X</b>				

The public meeting concluded at 4.15pm.

The Panel Determination session commenced at 4.35pm.

The Panel Determination session concluded at 6.30pm.

Endorsed by

Grant Christmas

Chair North Sydney Local Planning Panel, 1 July 2020