



NORTH SYDNEY COUNCIL

Council Chambers
28 May 2020

I wish to inform you that a Meeting of the **NORTH SYDNEY LOCAL PLANNING PANEL** will be held in the Council Chambers, North Sydney at 2.00pm on Wednesday 3 June 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

BUSINESS

1. Minutes

Confirmation of Minutes of the previous Meeting held on Wednesday 6 May 2020.
(Circulated)

2. LPP01: 2 Folly Point, Cammeray (T) – DA 397/19

Applicant: Yiu Chung Yuen

Report of Michael Stephens, Assessment Officer, 26 May 2020

This development application seeks consent for alterations and additions to an existing dwelling house at 2 Folly Point, Cammeray. The alterations and additions generally comprise internal alterations to the layout of the dwelling, placement windows and awnings, use of part of the existing roof area for a vehicle turning bay and a new canopy over the entry walkway.

The application is reported to North Sydney Local Planning Panel (NSLPP) for determination as a portion of the proposed alterations and additions are above the maximum building height development standard of 8.5 metres pursuant to Clause 4.3(2) in NSLEP 2013. The existing dwelling has a maximum height of 15.6m and the maximum height of the proposed alterations is 13.88m, resulting in a variation to the development standard of 63.3%.

The applicant has submitted a clause 4.6 submission seeking a variation to the building height standard which is considered to be well founded as compliance with the development standard is considered unreasonable and unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the variation. The alterations are generally consistent with the existing built form and would not result in adverse impacts to the residential amenity of the surrounding area.

Council's notification of the application resulted in two submissions. Notification of the amended plans resulted in one further submission, however, the issues raised in the original submissions have generally been addressed by the amended plans and the remaining issue relates to the proposed finishes.

The proposed alterations and additions are compatible with the existing built form character of the dwelling within the foreshore area and do not result in adverse impact to the amenity of the surrounding residential properties with regard to views, privacy or overshadowing.

The proposed development is recommended for approval subject to site specific conditions.

Recommending:

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

THAT the North Sydney Planning Panel, exercising the function of Council, assume the concurrence of the Director General of the Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 with regard to the exception to the development standard for building height, **grant consent** to Development Application No. 397/2019 for alterations and additions to an existing dwelling house on land at No. 2 Folly Point, Cammeray, subject to the following site specific conditions and the attached standard conditions of consent:

Bollards

C10. Permanent bollards are to be installed along the northern and eastern edges of the vehicle turning bay restricting the area of the vehicle turning bay to have a depth of 4m measured from the sliding gate to the north and a width of 3.2m measured from the eastern edge of the granite tile area to the west.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To limit the size of the vehicle turning bay in accordance with the consent and to ensure the safety of the rooftop area is maintained)

Front Fence

C11. The front fence including the pedestrian gate and sliding vehicle gate are to be reduced in height to have a maximum height of 1.5m.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the dominance of the fence on the street)

Vehicle Turning Bay

I2. The vehicle turning bay is to have a depth of 4m measured from the sliding gate to the northern end and a width of 3.2m measured from the eastern edge of the granite tile area.

The vehicle turning bay must only be used for vehicle turning movements made in conjunction with entering and exiting the property and must not be used to park vehicles for any period of time.

(Reason: To ensure that the development is in accordance with the consent as applied for under this Development Application)

Non-trafficable Roof Top Area

I3. The rooftop areas finished with pebbles as marked "PB1" on the Level 5 Plan as referenced in condition A1 are to be non-trafficable in perpetuity, except for maintenance purposes, and is not to be used for recreational or entertaining purposes.

(Reason: To ensure that residential amenity is maintained with the surrounding residential area)

3. LPP02: 44 Jeffreys Street, Kirribilli (V) – DA 39/20

Applicant: Urbanism

Report of Robyn Pearson, Team Leader Assessments, 22 May 2020

This development application seeks North Sydney Local Planning Panel (NSLPP) approval for alterations and additions to a dwelling including the replacement of the hatch to roof terrace with glass door at 44 Jeffreys Street, Kirribilli, a heritage-listed Victorian terrace house that has operated as a boarding house since at least the 1950s.

This application is reported to NSLPP for determination because the proposed works breach the height limit by greater than 10% and requires determination by the panel.

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 *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be unsatisfactory due to the impact the proposal would have on view loss arising from the breach in height.

Council received three (3) submissions during the notification period raising heritage impacts and view loss of the Sydney Opera House and Sydney Harbour. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

Consequently, the application has been recommended for refusal due to the adverse impact of the proposal on view sharing arising from the significant breach of the height limit.

Having regard to these view loss concerns; the development application is considered to be unsatisfactory and 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 of delegations of Council, **refuse** development consent to Development Application No. 39/20 for the construction of a glass hatch to provide access to the roof terrace at No. 44 Jeffreys Street, as shown on plans 01, 02, and 03 for the following reasons: -

1. The proposed development does not satisfy the aims of North Sydney Local Environmental Plan 2013 (NSLEP 2013) as listed in Clauses 1.2 (2)(a), (2)(c)(i), (3)(b)(i), and 3(f) in Part 1 of NSLEP 2013 to ensure developments are appropriate and compatible to the context, character and heritage significance of an area and minimise any adverse impacts on the amenity of the neighbouring properties.

2. The proposed development does not satisfy the objective of the R3 (Medium Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the adverse impacts of the proposed development on the amenity of the neighbouring properties in terms of the loss of significant views.

3. The applicant's Clause 4.6 Variation is considered to be unsatisfactory due to the amenity impacts the proposal would have on iconic and significant view sharing across the site's roof terrace for neighbouring dwellings to the Sydney Opera House and Sydney Harbour arising from the breach in height.

4. The proposed replacement roof terrace doorway hatch fails to satisfy the development controls for the Section 1.3.6 (Views) in Part B of the North Sydney Development Control Plan 2013 (NSDCP 2013) as it would have an unacceptable view loss impact to adjoining properties due to the height and bulk of the hatch, which would partially block and obscure iconic views to the south towards the Sydney Opera House and Sydney Harbour surrounds for the roof terraces of the adjoining dwellings to the north of the subject site at Nos. 46, 48 and 50 Jeffreys Street, Kirribilli. It is also considered that there exist several alternative designs that would be more sensitive to the site constraints and have a significantly reduced or removed impact for neighbours.

5. The proposed development does not satisfy the Area Character Statement for the Kirribilli Planning Area in Section 8.5 in Part C of NSDCP 2013 - The proposal will adversely and unreasonably impact upon the view sharing to the south from Jeffreys Street for the northern neighbours of the subject site at Nos. 46-50 Jeffreys Street and is contrary to the Environmental Criteria that specifies that "*extensive views of the Sydney Harbour and the Sydney CBD from open space areas, lookouts, private dwellings are shared and not obscured by structures and landscaping*". The proposed development also fails to satisfy the Area Character Statement for the Jeffreys Street Conservation Area in Section 8.5.6 in Part C of NSDCP 2013 - The proposal is contrary to the Characteristic built elements in Section 8.5.6 P9 in relation to view sharing from Jeffreys Street to the south.

4. LPP03: 49 Reynolds Street, Cremorne (T) - DA 416/19

Applicant: Damian O'Toole, Damian O'Toole Town Planning & Heritage Services

Report of Lisa Kamali, Senior Assessment Officer, 25 May 2020

This application was reported to the North Sydney Local Planning Panel on 15 April 2020 proposing additions and alterations to a detached dwelling, including a new first floor addition, a new carport, a replacement swimming pool and landscaping, on land at 49 Reynolds Street, Cremorne, with a recommendation for approval subject to a deferred commencement condition requiring several design changes.

At the above meeting, NSLPP deferred the matter to allow the applicant the opportunity to address the issues raised in the Officer's report and submit amended plans. The original application was reported to NSLPP because 10 or more unique submissions have been received, and the proposal involved an exceedance of a NSLEP development standard by 10%, both of which require determination by NSLPP as directed by the Minister for Planning, Industry and Environment.

The applicant has submitted amended plans as requested by NSLPP and the plans have met the criteria as detailed in the Minutes from the meeting held on 15 April 2020. The amended plans have further reduced the scale and bulk of the proposed development, and the building height is now compliant with the 8.5m development standard within NSLEP 2013.

Following re-notification of the amended plans, Council received two (2) further submissions that raised concerns about excessive scale and bulk, loss of views and outlook, and loss of privacy. The submissions have been considered in the assessment of the application where it is concluded that the proposal is unlikely to give rise to any unreasonable amenity impacts given the amended proposal is now compliant with the key planning controls including site coverage and building height.

Council Officers are of the opinion that the amended development is satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies. The application is therefore 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, **grant consent** to Development Application No. 416/19 for additions and alterations to an existing dwelling, at 49 Reynolds Street, subject to the attached conditions.

5. LPP04: Unit 68, 171 Walker Street, North Sydney (W) – DA 87/20

Applicant: Daniel Ng

Report of Hugh Shouldice, Assessment Officer, 20 May 2020

This development application seeks North Sydney Planning Panel (NSLPP) approval for the enclosure of three (3) balconies to Unit 68 within an existing residential flat building at 171 Walker Street, North Sydney.

This application is reported to NSLPP for determination because the height of the balcony enclosures is over the 12m building height standard specified in Clause 4.3 of the North Sydney Local Environmental Plan 2013. The proposed works breach the building height limit by greater than 10% and 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 nil (0) submissions.

The proposal seeks approval for the demolition of the existing glass and aluminium balustrades and enclosing all existing balconies to Unit 68 with new aluminium framed glazing. The glazing colour will be dark bronze with tinted glazing to match the materials used for the enclosure of other balconies within the existing residential flat building.

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 satisfactory due to minimal environmental impact and the sufficient environmental planning grounds provided in the Clause 4.6 written variation to contravene the building height standard.

Following this assessment, the development application is considered to be 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, under the delegation of the General Manager as the consent authority, assume the concurrence of the Director General of the Department of Planning and Environment and invoke the provisions of Clause 4.6 to the provision of Clause 4.3 (Height of Buildings) of NSLEP 2013 and **grant consent to Development Application No. 87/20** for the enclosure of three (3) balconies to Unit 68 on land at 171 Walker Street, North Sydney, subject to the attached standard conditions and following site specific conditions:

Curtains and Blinds

I1. The use of curtains, blinds, and the like within the enclosed balconies is prohibited.

(Reason: Integrated and consistent building façade and design and functionality of balconies)

Openings to Balcony Enclosures

I2. Existing door and window hardware openings onto the enclosed balconies are to remain in place and be maintained to separate existing rooms from the enclosed balcony.

(Reason: Integrated and consistent building façade and design and functionality of balconies)



NORTH SYDNEY LOCAL PLANNING PANEL

DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 6 MAY 2020, AT 2.00PM.

PRESENT

Chair:

Jan Murrell

Panel Members:

Sandra Robinson - Panel Member
Garry Fielding - Panel Member
Virginia Waller - Community Representative

Staff:

Stephen Beattie, Manager Development Services

Administrative Support

Melissa Dunlop, Governance Co Ordinator (Minutes)

Apologies: Nil.

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of 1 April 2020 were confirmed following that meeting.

2. Declarations of Interest

Nil

3. Business Items

The North Sydney Local Planning Panel is a NSW Government mandated Local Planning Panel exercising the functions of North Sydney Council, as the Consent Authority, under Section 4.8(2) of the Environmental Planning and Assessment Act, 1979 as amended, and acts pursuant to a Direction of the Minister for Planning issued under Section 9.1 of the Act, dated 23 February 2018.

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

DA No:	DA 322/19
ADDRESS:	116 Military Road, Neutral Bay (T)
PROPOSAL:	Substantial alterations and additions to the existing ‘Big Bear’ Shopping Centre and ‘Aurecon’ office building including ancillary works.
REPORT BY NAME:	Luke Donovan, Senior Assessment Officer
APPLICANT:	Cerno Management Pty Ltd

Public Submissions

Submitter	Applicant/Representative
	Phillip Rodrigues – Cerno Management – Project Manager
	Michael Rowe – Ethos Urban – Planner
	Mark Curzon – Fender Katsalidis – Architect
	Paul Di Cristo – Cerno Management – Project Manager

Panel Determination

The Panel considered the applicant’s Clause 4.6 written request to contravene the maximum Building Height development standard within Clause 4.3 of North Sydney Local Environmental Plan 2013 and formed the view the applicant’s written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel is satisfied the proposal is consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent is in the public interest.

The Panel has the benefit of a site inspection and the submissions received both oral and written.

The Council Officer’s Report and Recommendation is generally endorsed by the Panel with the exception of the Deferred Commencement conditions. In this regard the Panel has determined that condition AA1 be deleted and the plans be approved that show the 43sqm incorporated into the retail space of Liquorland and the condition regarding the colour of the cladding becomes an operational condition as amended below, and the consent also contains other conditions as follows:

Condition A4 to be added to read as follows:

Colour of cladding tiles

A4. A colour scheme for the cladding tiles to the front façade is to be provided to the written satisfaction of Council’s Manager of Development Services which utilises a colour tone that is more complementary to the upper floor brick façade of the adjoining Oaks Hotel.

(Reason: To ensure the colour tone is more complementary to the adjoining Oaks Hotel).

Condition C27 ‘Section 7.11 Contributions’ is to be amended as a result of the reinstatement of the 43m² Liquorland extension. This 43m² was excluded from the Section 7.11 contribution in Condition C27 of the Council report.

Section 7.11 Contributions

- C27. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan for the public amenities/services detailed in Column A below and, for the amount detailed in Column B below, must be paid to Council.

A	B (\$)
Administration	\$6,071.74
Community Centres	\$14,803.94
Child Care Facilities	\$25,708.74
Library and Local Studies Acquisitions	\$3,018.86
Library Premises & Equipment	\$9,176.93
Multi-Purpose Indoor Sports Facility	\$3,474.05
Olympic Pool	\$11,315.51
Open Space Acquisition	\$11,065.68
Open Space Increased Capacity	\$21,935.16
North Sydney Public Domain	-
St Leonards Public Domain Improvements	-
Public Domain Improvements	\$23,465.52
Traffic Improvements	-
The total contribution is	\$130,036.13

The contribution MUST BE paid prior to the issue of any Construction Certificate. The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution. A copy of the North Sydney Section 7.11 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development).

Seating in Bus Waiting Area

- C33. Prior to the issue of the relevant construction certificate, an additional 5 linear metres of seating is to be provided within the new bus waiting area.

Plans and specifications complying with this condition are to be submitted to the certifying authority.

(Reason: To improve the amount of seating within the bus waiting area as a community benefit).

Panel Reason:

The Panel is satisfied that with the recommended conditions, and those above, the development will provide an appropriate contribution to the streetscape, as well as providing well defined seating for the bus waiting area.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Virginia Waller	Y	
Sandra Robinson	Y				
Garry Fielding	Y				

ITEM 2

DA No:	DA 50/20
ADDRESS:	80 Pacific Highway, North Sydney (W)
PROPOSAL:	Re-Cladding of Parts of Upper Level Facades (Level 13 & Above).
REPORT BY NAME:	Robyn Pearson, Team Leader Assessments
APPLICANT:	Spectrum Property & Projects

Public Submissions

No persons elected to speak on this Item.

Panel Determination

The Panel considered the applicant's Clause 4.6 written request to contravene the maximum Building Height development standard within Clause 4.3 of North Sydney Local Environmental Plan 2013 and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel is satisfied the proposal is consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent is in the public interest.

The Panel has the benefit of a site inspection.

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

Panel Reason:

The Panel is satisfied the development is necessary to remove the existing combustible cladding and replace it with non-combustible cladding.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Virginia Waller	Y	
Sandra Robinson	Y				
Garry Fielding	Y				

ITEM 3

DA No:	DA 173/18/5
ADDRESS:	73 Miller Street, North Sydney
PROPOSAL:	To modify Development Consent DA173/18 to allow for out of hours construction activity between 5pm and 12midnight (Monday to Friday) for works associated with new lift installation.
REPORT BY NAME:	Lara Huckstepp, Executive Planner
APPLICANT:	Buildcorp

Public Submissions

No persons elected to speak on this Item.

Panel Determination

The Panel has the benefit of a site inspection and the written submissions received.

The Council Officer's Report and Recommendation is endorsed by the Panel with an amendment to Condition E23(g) to include the following words, "the advice is to provide details of when the trial period commences and ends."

Panel Reason:

The Panel concurs with the Officer's Report and considers the trial period is important given the number of residential receptors within the area.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Virginia Waller	Y	
Sandra Robinson	Y				
Garry Fielding	Y				

The public meeting concluded at 2.51pm.

The Panel Determination session commenced at 3.00pm.

The Panel Determination session concluded at 3.40pm.

Endorsed by

Jan Murrell

Chair North Sydney Local Planning Panel, 6 May 2020