



**NORTH SYDNEY COUNCIL**

Council Chambers  
31 May 2023

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 7 June 2023 when your attendance is requested.

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

I would like to acknowledge the traditional owners of these lands in which we meet and to pay our respect to the ancestors, and spirits past and present.

**THERESE MANNS  
GENERAL MANAGER**

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**BUSINESS**

**Minutes**

Confirmation of Minutes of the previous Meeting held on Wednesday 3 May 2023.

(Circulated)

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**LPP01: 13 Shellcove Road, Kurraba Point – DA 3/23**

Applicant: Karen Chow C/- APlus Architecture

Report of Annelize Kaalsen of AK Planning

This development application seeks approval from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to the heritage listed dwelling house including the demolition of one of the existing single garages and the reconstruction thereof in the same location (like-for like); excavation to allow for four (4) levels under the existing dwelling; a pool, internal and external alterations and associated landscaping works, at No. 13 Shellcove Road, Kurraba Point.

**The application is referred to the North Sydney Local Planning Panel for determination because the application attracted more than 10 unique public submissions. The application also involves part demolition of a heritage item with any such application requiring determination by NSLPP under the Minister's Directions.**

The subject site is identified as an item of environmental heritage in Part 1 of Schedule 5 in NSLEP 2013 as well as being located within the Kurraba Point Conservation Area.

The proposal is not supported by Council's Heritage Officer, since the works detract from the significance of the subject heritage listed building, the context of the adjacent heritage item, and the Kurraba Point Conservation Area.

The heritage officer notes that the proposal is considered to be unsupportable with regard to heritage "... as it will result in detrimental impact to the dwelling's setting, character as well as its aesthetic and historic significance. In addition, it will detract from the aesthetic significance of the streetscape and the character of the Kurraba Point Conservation Area".

The proposed alterations and additions would overwhelm the existing heritage dwelling and are not considered to be sympathetic or in keeping with the character of the Arts and Craft style of the heritage item.

The notification period attracted a total of twenty seven (27) submissions. In summary the submissions raised particular concerns with; impact on the heritage item itself and the adjoining heritage item; the extent of excavation proposed; overshadowing; acoustic and visual privacy; new tree planting impacting on views; traffic and parking during construction; structural stability and damage to properties; noise and vibration impacts as well as stormwater measures on the site being insufficient.

The assessment has considered these concerns as well as the performance of the application against Council's planning requirements. In this regard, the application does not comply with the objectives of the maximum site coverage or side setback provisions within North Sydney DCP 2013. The cumulative impact of these non-compliances together with the detrimental impact on the heritage character and scale of the dwelling; is considered unacceptable and is not supported.

As such, following this assessment, and having regard to the provisions of S4.15(1) of the Environmental Planning & Assessment Act 1979, it is recommended that the proposed development be **refused** for the reasons as set out in this report.

**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. 3/23 for alterations and additions to existing dwelling house and associated works, for the following reasons:-**

1. **The application does not meet Objective (f) in Section 1.3 of the Environmental Planning and Assessment Act 1979 (as amended) because it would not result in the orderly and sustainable management of land due to the adverse impacts on the significance of the heritage item and the Kurraba Point Heritage Conservation area.**

2. **Insufficient and inadequate information**

The applicant has not submitted sufficient and/or adequate information as requested by Council under Part 6, Division 1 Clause 54 of the EPA Regulation 2000 to enable a reasonable assessment under the applicable legislation.

**Particulars:**

- a) The following information was requested, however not provided to Council:-
  - i. demolition plan to include all structures proposed for demolition;
  - ii. sections through the proposed swimming pool showing proposed finished RL's of the pool; the coping and adjoining land, as well as any retaining wall details if applicable;
  - iii. elevational shadow diagrams which identify the existing and proposed shadows;
  - iv. view loss analysis in consultation with an AQ5 qualified arborist.
- b) The application lacks sufficient detail to make an informed assessment particularly with respect to determining the extent of overshadowing; potential view loss; existing and finished ground levels; and relationship / impact to adjoining neighbours.

3. **Not considered to be in the public interest or suitable for the subject site.**

The proposed development is not considered suitable for the subject site nor in the public interest.

**Particulars:**

- a) The proposed development would set an undesirable precedent for not only the heritage item but also the Kurraba Point Conservation area and is considered to be unsuitable for the subject site contrary to Section 4.15(c) of the Environmental Planning and Assessment Act 1979 (as amended)
- b) A total of twenty seven (27) public submissions were received against the application raising particular concerns about significant impact on the heritage item and conservation area; extent of excavation; as well as structural damage to properties; overshadowing and potential view loss. The proposal is not considered to be in the public interest contrary to Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

4. **The application results in adverse impacts on the heritage significance of the dwelling and the Kurraba Point Conservation Area due to its failure to satisfy the heritage requirements of Clause 1.2 and Clause 5.10 of the North Sydney Local Environmental Plan 2013 as well as the heritage requirements of Section 13 the North Sydney Development Control Plan 2013.**

**Particulars:**

- a) Clause 1.2(2) Aims in Part 1 of NSLEP 2013, specifically aim (f) to protect the natural, archaeological and built heritage of North Sydney and ensure that development does not adversely affect its significance;
- b) Clause 5.10(1) in Part 5 of the NSLEP 2013, specifically objective (a) and (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views;
- c) Clause 5.10(4) in Part 5 of the NSLEP 2013, specifically the adverse effect of the proposed development on the heritage significance of the item and the Kurraba Point Conservation area;
- d) The proposal will detract from the setting of the adjoining heritage item inconsistent with Section 13.4 *“Development in the vicinity of heritage items”* of the NSDCP 2013;
- e) The proposed development is inconsistent with:-
  - objectives O1 of Section 13.5.1 *“Heritage Item”* of the NSDCP 2013 as it fails to ensure that changes to the heritage item are based on an understanding of the heritage significance of the heritage item;
  - provision P5 of Section 13.5.1 *“Heritage Item”* of the NSDCP 2013 as it fails to locate change away from original areas of the heritage item that are intact;
  - objectives O1 of Section 13.5.2 *“Form massing and scale”* of the NSDCP 2013, as it fails to allow for alterations and additions to the heritage items which do not impact on the heritage significance of the heritage item;
  - objectives O1 of Section 13.5.3 *“Additional Storeys”* of the NSDCP 2013, as it fails to minimise the visual dominance of the new work from public places;
  - objective O1 of Section 13.5.5 *“Interior layouts”* of the NSDCP 2013 as it fails to ensure that significant interior elements are retained and preserved;
  - Objective O1 of Section 13.6.1 *“General objectives”* of the NSDCP 2013 as it fails to ensure that new development is designed to retain and complement the character and significance of the conservation area;
  - Objectives O2 of Section 13.9.3 *“Verandahs and balconies”* of the NSDCP 2013 as it fails to retain the original front verandah especially where it is significant or contributory to the individual building;

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- Objective O1 of Section 13.9.4 “*Materials, colours and finishes*” of the NSDCP 2013 as it fails to ensure that materials and finishes are consistent with the characteristic elements of the heritage item;
  - Objective O1 and provision P5 of Section 13.9.5 “*Garages and Carports*” of the NSDCP 2013 as it fails to ensure that vehicular accommodation does not determinately impact on the significance of the heritage item and failing to retain the original garages for heritage items;
  - Provision P1 of Section 13.9.6 “*Fences*” of the NSDCP 2013 as it fails to retain the original street boundary fence and gate;
  - Provision P3 of Section 13.9.7 “*Gardens*” of the NSDCP 2013 as it fails to retain the strong visual relationship to the existing terraced gardens and topography;
  - Provision P2 of Section 13.10.3 “*Larger scale single dwellings*” of the NSDCP as it fails to locate new additions forward of the original eastern building façade altering its perceived storey height.
5. **The proposed excavation is considered excessive resulting in a detrimental impact on neighbouring uses, heritage item and features of the surrounding land, pursuant to Clause 6.10(1) of the North Sydney Local Environmental Plan 2013 as well as the requirements of Section 1.3.1 the North Sydney Development Control Plan 2013.**
- Particulars:**
- a) The proposed excavation is inconsistent with O4 of Section 1.3.1 of NSDCP 2013, as the proposal will result in major site disturbance due to the amount of excavation proposed not just the depth but also beyond the existing building footprint;
  - b) The extent of the excavation would result in the removal of sandstone retaining wall and the sandstone base of the heritage listed dwelling contrary to P2 of Section 1.3.1 of NSDCP 2013;
  - c) New finished floor levels will be greater than 500mm below existing ground level contrary to P3 Section 1.3.1 of NSDCP 2013;
  - d) New habitable rooms will be located more than 1m below existing ground level for more than 50% of the rooms floor area contrary to P4 of Section 1.3.1 of NSDCP 2013; and
  - e) Proposed excavation along the southern boundary occurs 900mm from the common boundary contrary to P5 of Section 1.3.1 of NSDCP 2013.
6. **Uncharacteristic form of development**
- The application results in a built form which is not subservient to the heritage item. The proposed development would have a detrimental impact upon the characteristics features of the heritage item resulting in a massing that is likely to overwhelm the heritage item contrary to the following provisions within NSDCP 2013.**
- Particulars:**
- a) Objectives of the R2 Low Density zone, specifically dot point 3;
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- b) The proposal fails to retain the visual character of the dwelling, contrary to objective O1 in Part B, Section 1.3.5 *Visual Impact* in NSDCP 2013;
- c) The proposed bulk and scale within the side setbacks results in a massing which dominates the heritage item contrary to Objective O2, in Part B, Section 1.4.6 *Setbacks* in NSDCP 2013;
- d) Objective O1 in Part B, Section 1.4.7 in NSDCP 2013 (*Form, massing & scale*);
- e) Objective O1 in Part B, Section 1.4.8 in NSDCP 2013 (*Built form character*);
- f) Provision P6 in Part B of Section 1.5.1 in NSDCP 2013 (*High quality residential accommodation*);
- g) Objective 1 in Part B Section 1.5.2 in NSDCP 2013 (*Lightwells and Ventilation*);
- h) Provision P3 of Section 1.5.4 in NSDCP 2013 (*Vehicle access and parking*);
- i) The proposal provides excessive site coverage across the site contrary to O1 and O2 in Part B, Section 1.5.5 *Site Coverage* in NSDCP 2013;
- j) Objectives O1 and O2 in Part B Section 1.5.8 in NSDCP (*Front Gardens*).

## **LPP02: 131-139 Holt Avenue, Cremorne – DA 239/21/2**

Applicant: Helm Pty Ltd

Report of Michael Stephens, Senior Assessment Officer

This application made under Section 4.56 of the Environmental Planning and Assessment Act 1979 seeks consent to modify development consent DA239/2021 for excavation (not including demolition) and construction of a part four- part five- storey mixed use development with basement parking, and stratum subdivision at Nos. 13-15 Allister Street, Cremorne.

**The application is reported to the North Sydney Local Planning Panel for determination as the application relates to a s4.56 modification which involves a new variation to a development standard by more than 10%. A public determination meeting is not required because less than 10 submissions by way of objections have been received by Council.**

The proposed modifications resulting in new or varied variations to the height of building development standard in Clause 4.3 in NSLEP 2013 involve an increase to the lift overrun heights, an additional balcony roof awning, and roof details and have been considered having regard to the reason for approval of the original application and have been assessed having regard to the objectives of the development standard itself. The proposed modifications are consistent with the objectives given that the variations would not substantively alter the bulk and scale of the approved development and would not give rise to any additional material impacts on the amenity of the surrounding properties or the character of the area.

The proposed modifications are consistent with the approved development and primarily involve improvements to the layout and function of the

apartments, some of which have arisen through the detailed construction documentation for the development which often occurs during the preparation of the construction certification.

The application was notified in accordance with Council's Community Engagement Protocol and two submissions objecting to the proposed modifications were received at Council. The submissions raised issues regarding the increased variations to the height of buildings development standard and increases to the bulk and scale of the approved development.

On balance the modification application is considered to be reasonable 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, exercising the functions of Council, as the consent authority, under Section 4.56 of the EP&A Act grant consent to modify Development Consent DA239/2021 for excavation (not including demolition) and construction of a part four-part five storey mixed use development with basement parking, and stratum subdivision on land at No 131-139 Holt Avenue, Cremorne only so far in so

**A. Impose Condition A development in accordance with Plan (S4.56 Modifications)**

Plan Nos.	Issue	Description	Prepared by	Dated
DA.02	E	Site Plan	Brick Architecture "HELM"	12 May 2023
DA.10	D	Ground Floor Plan		12 May 2023
DA.11	C	Level 1		27 January 2023
DA.12	C	Level 2		27 January 2023
DA.13	D	Level 3		27 January 2023
DA.14	D	Level 4		27 January 2023
DA.15	C	Roof Level		27 January 2023
DA.19	C	Elevation - South		27 January 2023
DA.20	C	Elevation - West		27 January 2023
DA.21	D	Elevation - North		27 January 2023
DA.22	D	Elevation - East		27 January 2023
DA.23	D	Section A-A		27 January 2023
DA.24	D	Section B-B		27 January 2023
DA.25	D	Section C-C		27 January 2023
DA.45	B	Section D-D		27 January 2023
DA.54	B	Section E-E		27 January 2023
DA.55	B	Section F-F		27 January 2023
DA.35	C	Adaptable Apartments 1		27 January 2023
DA.36	C	Adaptable Apartments 1		27 January 2023
DA.45	B	Section D-D		27 January 2023

**B. Amend conditions C24, C27, C44, C45 and E15.**

**Section 7.11 Development Contributions**

C24. 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's 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 (\$)
Open space and recreation facilities:	\$194,760.71
Public domain:	\$107,153.14
Active transport:	\$6,115.90
Community facilities:	\$39,118.60
Plan administration and management:	\$5,190.60
<b>Total:</b>	<b>\$352,338.95</b>

#### **Indexation**

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

#### **Timing of Payment**

The contribution must be paid to Council prior to issue of any Construction Certificate.

Deferred payments will not be accepted.

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

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

#### **Tree Protection Measures to be shown on Construction Drawings**

C27 The tree protection measures contained in the arborist report prepared by Arborist Network, dated **19 March 2021**, shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. 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. Stormwater and other utilities shall not be directed through the TPZ of any protected tree where possible, but where not feasible are to be approved by the Project Arborist and installed using non-invasive excavation methods that are to be undertaken only under the supervision of the Project Arborist, with no roots greater than 40mm to be severed.

Plans and specifications showing the stormwater routing measures must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate CC1.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)



**Security Deposit/Guarantee Schedule**

C44. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

<b>Security deposit/ guarantee</b>	<b>Amount (\$)</b>
Street Tree Bond (on Council Property)	\$50,000.00
Infrastructure Damage Bond	\$72,000.00
Drainage Construction Bond	\$100,000.00
Engineering Construction Bond	\$43,000.00
Others	
<b>TOTAL BONDS</b>	<b>\$265,000.00</b>

Note: The following fees are applicable

<b>Fees</b>	<b>Amount (\$)</b>
Section 7.11 Contribution	\$352,338.95
<b>TOTAL FEES</b>	<b>\$352,338.95</b>

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

**BASIX Certificate**

C45. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **1189674M\_03**, dated **27 February 2023** 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 Construction Certificate CC3. 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)

**Protection of Trees**

E15 All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by Arborist Network dated **19 March 2021** must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from

Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.

- b. An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

### **LPP03: 127-129 Willoughby Road, Crows Nest – DA 2/22**

Applicant: Ultraflex Holdings Pty Ltd

Report of Damon Kenny, Executive Planner

This development application seeks approval for the demolition of existing structures and construction of a new mixed use building containing 10 apartments, commercial space and basement parking.

The application is reported to the North Sydney Local Planning Panel for determination as the applicant is a sensitive development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies and makes a request to contravene the building height development standard of 10m, prescribed by cl. 4.3 North Sydney Local Environmental Plan 2013 (the LEP) by more than 10%.

The request to breach the prescribed height maximum is examined by this report. According to the request to contravene the standard, the maximum height breach is mainly caused by the topographical constraints of the site. The maximum height standard is 10m and the greatest degree of the breach 12.8m is satisfactory, having satisfied the requirements of cl. 4.6 of the LEP. The applicant's request demonstrates that compliance is unreasonable in the circumstances of the case, and that there are environmental planning grounds to justify the non-compliance. The breach is also in the public interest, being consistent with objectives of the development standard and the B4 Mixed Use zone affecting the subject land.

The applicant has submitted a written request pursuant to Clause 4.6 in NSLEP 2013 to contravene Clause 4.4A of NSLEP 2013. The proposed development provides a non-residential floor area of 310m<sup>2</sup>, representing a non-residential FSR of 0.47:1. The non-compliance is represented by a floor area of 16.9m<sup>2</sup>. In the circumstances, the proposed development will provide a continuous and active street frontage. Further, the proposed development will materially improve the activation of the street frontages relative to the existing buildings on the site. The proposal is assessed as meeting the objectives of the non-residential FSR development standard and the objectives for the B4 Mixed Use Zone.

The proposed development is considered satisfactory when evaluated against the Design Quality Principles in Schedule 1 to SEPP 65 – Design Quality of Residential Apartment Development and is generally consistent with the objectives of the Apartment Design Guide and NSDCP 2013.

The application was notified in accordance with the Community Engagement Protocol. Council received three (3) submissions objecting to issues including the proposed height variation, non-residential floor space variation, amenity impacts, traffic congestion, noise and safety.

The development application has been assessed against the North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013 and the relevant State Planning Policies and generally found to be satisfactory in consideration of the site constraints, context and circumstances.

The assessment of the proposal has considered the concerns raised in the submissions as well as the performance of the application against Council's planning requirements. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), 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, assume the concurrence of the Secretary of The Department of Planning and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and Clause 4.4A, and grant consent to Development Application No. 2/22 for the demolition of existing structures and construction of a new mixed use building containing 10 apartments, commercial space and basement parking on Land at 127-129 Willoughby Road, Crown Nest, subject to the conditions attached to this report.

#### **LPP04: 2 Byrnes Avenue, Neutral Bay – DA 348/22**

Applicant: Fadi Fadhil, Creative Spaces Architects  
Report of Andrew Beveridge, Assessment Officer

The applicant is seeking development consent for partial demolition of a heritage item and significant alterations and additions to the rear of the dwelling located at No. 2 Byrnes Avenue, Neutral Bay.

**The application is reported to the North Sydney Local Planning Panel for determination because the application involves significant demolition to a heritage item that requires determination by NSLPP in accordance with the Minister's Directions. A public meeting is not required given that there were only three submissions.**

The proposed rear addition would not be seen from the public domain so there would be no adverse impact upon the significance of the heritage item as agreed by Council's Conservation Planner. The new addition would replace an existing latter rear addition that has little heritage significance.

The proposal complies with the permitted height limit under clause 4.3 in NSLEP 2013 and there would be no view loss and/or unreasonable overshadowing arising from the proposed two storey rear addition. There would be no increase in site coverage whilst the application would reduce the built upon area and increase the landscaped area to satisfy the intent of sections 1.5.5 and 1.5.6 in NSLEP 2013.

The non-compliance with the first floor side setback is acceptable given that this part of the building would not be seen from the public domain and there would be no unreasonable impacts for the adjoining dwellings.

Council received two submissions as well as comments from the Parks Precinct that raised concerns about a loss of outlook, excessive overshadowing, adverse impacts upon the heritage item and unsatisfactory bulk and scale. The previously mentioned matters are discussed in the report where it was found that the impacts were acceptable in the site circumstances.

Following a detailed assessment of the subject, the proposal was found to be satisfactory and is, therefore, recommended for approval subject to appropriate conditions of consent.

**Recommending:**

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

**THAT** NSLPP exercising the functions of Council as the consent authority **grant consent** to Development Application No. 348/22 proposing alterations and additions to the existing semi-detached dwelling upon land at No. 2 Byrnes Avenue, Neutral Bay, subject to the attached 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,  
AT 2PM WEDNESDAY 3 MAY 2023**

**PRESENT**

**Chair:**

Jan Murrell in the Chair.

**Panel Members:**

Grant Christmas (Panel Member)  
John McInerney (Panel Member)  
John Bohane (Community Representative)

**Staff:**

Stephen Beattie, Manager Development Services  
Jim Davies, Executive Planner  
Miguel Rivera, Senior Assessment Officer  
David Hoy, Team Leader Assessments  
Rachel Wu, Graduate Assessment Officer

**Administrative Support:**

Miranda Shoppee, Team meeting Administrator (Minutes)

This meeting was conducted by remote (Zoom) means.

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

A public meeting was held for Item 1 as it received more than 10 objections. Items 2 and 3 were determined in closed session as these items received less than 10 unique submissions each.

**Apologies:**

Nil

**1. Minutes of Previous Meeting**

The Minutes of the NSLPP Meeting of Wednesday, 5 April 2023 were confirmed following that meeting.

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## 2. Declarations of Interest

There were no declarations of interest.

## 3. Business Items

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

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

### Public Meeting

#### ITEM 1

<b>DA No:</b>	60/22
<b>ADDRESS:</b>	58 Cowdroy Avenue, Cammeray
<b>PROPOSAL:</b>	Demolition of existing dwelling and associated works and construction of a dwelling house and associated works
<b>REPORT BY NAME:</b>	Sophie Perry, Planning Ingenuity
<b>APPLICANT:</b>	P Etherington C/- COSO Architecture

#### 6 Written Submissions

##### Registered to Speak

Submitter	Applicant/Representative
Raymond Ng from Play Co Architect - Resident	Anthony Solomon - COSO Architecture - Architect
Tim & Carolyn Keith - Resident	
Min Wang – Resident (observing)	
Thomas Blamey - Resident	

##### Panel Determination

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

The request made in accordance with clause 4.6 of the LEP is considered to adequately demonstrate that strict compliance with the maximum height of building standard is unnecessary, as the objectives of the standard are achieved despite the contravention. The request also demonstrated sufficient environmental planning grounds to vary the development standard.

The Council Officer's Report, Recommendation and Conditions are generally endorsed subject to the imposition of a Deferred Commencement Condition that requires design changes as identified below:.

Consequently, the Notice of Determination is to be amended to include the following Deferred Commencement Condition:

**AA1. Deferred Commencement Condition**

This consent shall not operate until the following deferred commencement condition has been satisfied.

- **Amended plans and documentation as required by the particulars specified below must be submitted to Council's Manager Development Services for approval.**

**The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 6 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 6 months of the date of the grant of this consent this consent will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider same and form a view as to whether the deferred commencement conditions are satisfied or not.

**The particulars of this condition are as follows:**

(1) The roof to the upper level (open plan living area Level 03) shall be re-designed to achieve a lower profile as follows:

- a) The rooftop garden shall be deleted;
- b) The maximum floor to ceiling height at the northern edge shall be 2800mm;
- c) Maximum roof pitch of the roof shall not exceed 5 degrees;
- d) A step may be provided from the mid-line of the roof to accommodate clerestory windows for natural light and ventilation to the open plan living room.

(2) Fixed louvred/slatted privacy screens a minimum 1.6m high, measured from finished floor level shall be installed on the eastern and western edges of the balcony to the Upper Level (Level 03) adjacent to the open plan living room.

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- a) A fixed privacy screen 1.8m high, measured from the finished floor level of the patio to the eastern side of the outdoor kitchen space at the Lower Level (Level 01).
  - b) The balustrade to the northern edge of the steps and retaining walls below the foreshore building line shall be an open palisade form and finished in black.
  - c) The swimming pool coping level, retaining walls and planter beds surrounding the swimming pool are to be lowered (and or/the pool may be re-oriented). The swimming pool coping level shall be reduced to generally comply with the requirements of Part B Section 1 Control 1.5.10 to the North Sydney Development Control Plan 2013. The swimming pool and associated structures must be setback a minimum 1.2m from the side boundaries. Screen planting is to be provided between the pool and the western site boundary. Details shall be indicated on the amended Landscape Plan.
  - d) The landscaped area immediately north of the swimming pool and patio area currently shown at RL 9.8 (approx.) shall include cascading plants along the northern edge of the retaining wall.
  - e) All retaining walls including ancillary drainage management and footings must be contained entirely within the site boundaries.
  - f) Additional canopy trees that with a mature height of 4 to 5m are to be planted within the foreshore area (between levels RL4.2 to RL4.8). The location and species are to be nominated in the amended Landscape Plan.
  - g) The understorey to the 3 x *Corymbia maculata* (100l) shall be densely planted with suitable species of low maintenance native shrubs in addition to the 3 x *Cyathea australis* to optimize the variety of planting in the deep soil area. Additional planting shall be included in the amended Landscape Plan.
  - h) The pathway from the Cowdroy Avenue boundary to the front door within the tree root zone of this required *Angophora costata* must remain substantially unpaved to minimise soil compaction and to enable water infiltration for future growth and vitality of the tree. Details of the pathway construction are to be specified in the construction and landscape plans and be approved by the project arborist.
  - i) The existing *Jacaranda Mimosifolia* (Tree 1 in the Arborists Report) shall be retained and protected in accordance with the recommendations of the Jacksons Nature Works report dated 8 March 2021.
  - j) The tree protection measures contained in the arborist report shall be shown clearly on the Architectural drawings and amended Landscape Plan.

**Panel Reason:**

The Panel considers the proposed development subject to the amendments above is satisfactory in the context of the area and surrounding development. Furthermore, with the

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amendments to the roof line the principle of view sharing has been considered having regard to the extent of views from the waterfront properties in the area. The Panel notes that the steep topography in the vicinity translates into significant variations to the height standard.

The Panel does not support the height of the retaining wall to accommodate the swimming pool on the western boundary is appropriate and amended plans for the pool and associated facilities and landscaping are required .

With respect to the processing of the development application the Panel is satisfied this complies with the necessary requirements. Similarly the survey levels have been verified.

The Panel has determined that approval is warranted subject to a Deferred Commencement.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	Y		John Bohane	Y	
Grant Christmas	Y				
John McInerney	Y				

You are also advised of your appeal rights under clause 95(6) of the Environmental Planning and Assessment Regulation 2000, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of Section 8.3 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

### **Items considered in Non-Public Meeting**

#### **ITEM 2**

<b>DA No:</b>	296/22
<b>ADDRESS:</b>	50 Blues Point Road, McMahons Point
<b>PROPOSAL:</b>	Alterations and additions to an existing semi detached dwelling
<b>REPORT BY NAME:</b>	Miguel Rivera, Senior Assessment Officer
<b>APPLICANT:</b>	P Redmond

**No Written Submissions**

### Registered to Speak

Submitter	Applicant/Representative
	James Philips – Heritage Consultant - Weir Philips Heritage - representing applicant
	Kristin Utz -Architect - Utz Sanby Architects - representing applicant

### Panel Determination

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

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel is satisfied that the written requests to the contravention of the Height of Buildings development standard in clause 4.3 and Clause 6.6 (1) (c) of the LEP, adequately address the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written requests demonstrates that compliance with the development standard is unnecessary in the circumstances of the case and the written requests identified sufficient environmental planning grounds to justify the contraventions. Further, the Panel considers that the development is in the public interest because it is generally consistent with the objectives of the standard and the zone objectives.

The Council Officer’s Report, Recommendation and Conditions are generally endorsed by the Panel subject to the deletion of the condition C1 requiring removal of the front dormer and requiring the existing wall vegetation to be retained and continued, and the imposition of the additional condition to have the effect of the rear extension on the boundary to be set back 623mm. This condition will read as follows:

#### **Condition C# Design Changes – Southern Wall**

The new southern wall that is situated in the lower ground, ground and first floor levels of the dwelling must have a minimum setback from the side (southern) boundary to align with the setback of the existing southern wall.

*Panel Reason:* To mitigate the impact on the adjoining property and maintain the view corridor from the public domain to the water.

#### **Panel Reason:**

The Panel considers on balance the addition of a dormer will provide internal amenity while not unreasonably impacting on the heritage conservation area for this neutral item that has been significantly altered.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		John Bohane	Y	
Grant Christmas	Y				
John McInerney	Y				

### ITEM 3

<b>DA No:</b>	405/22
<b>ADDRESS:</b>	36 Victoria Street, McMahons Point
<b>PROPOSAL:</b>	Alterations and addition to a single dwelling and associated landscaping works.
<b>REPORT BY NAME:</b>	Rachel Wu, Graduate Assessment Officer
<b>APPLICANT:</b>	Rebecca Lim

#### 1 Written Submission

##### Registered to Speak

Submitter	Applicant/Representative
	Miriam Green – Architect – Atelier M Architects

#### Panel Determination

The Panel members have undertaken independent site inspections prior to the meeting.

The Panel has determined the application warrants approval subject to a number of design changes that require the approval of Council's Manager of Development Services.

The Council Officer's Report, Recommendation and Conditions are generally endorsed by the Panel subject to the following conditions being amended:

A5 is to be reworded to read as follows:

##### ***Proposed Extensions of Front Balcony on Lot 4***

- A5. *The proposed first-floor front balcony on Lot 4 is to retain its existing dimensions. Details of materials and finishes are to be submitted with the deferred commencement requirements. The proposed balcony on its three elevations is to utilise timber or metal slats that satisfy minimum height requirements for BCA and the western elevation of the proposed balcony is to have a minimum height from first-floor finished level same as existing.*

**Panel Reason:** To ensure consistency in front setbacks in compliance with Area Character Statement in NSDCP 2013.

A6 is to be amended as follows:

***Setback of the Front Entry Corridor***

A6. *The setback of the entry door between the sandstone cottage on Lot 3 and the contemporary addition on Lot 4 is to be 3m from the front façade external wall of the sandstone cottage. The steel canopy is to extend 150mm forward of the entry door.*

**Panel Reason:** To protect the heritage significance of the sandstone cottage by retaining a clear distinction in heritage terms; residential amenity.

A9 being amended to delete the second sentence.

**Panel Reason:** To clarify that the existing sandstone is retained and not as indicated by crazy paving on the plans. The plans are also to be amended prior to issuing of the construction certificate.

A10 wording to be amended as follows:

***Replacement of Bathroom Door***

A10. *The replacement of the existing bathroom door is to be selected to be of the period appropriate to the stone cottage. Details of the proposed door together with detail of the existing architraves and skirtings to be replaced in this area, are to be to the satisfaction of the heritage architect required by Condition C9. Certification of the door design, architrave and skirting is to be provided by the Heritage architect and submitted to Certifying Authority for approval with the Construction Certificate.*

*Details relating to the above are to be to the satisfaction of the heritage architect required by Condition C9, with certification to be submitted to Certifying Authority for approval prior to the issue of any Construction Certificate.*

**Panel Reason:** To ensure appropriate detailing is incorporated for internal features of the cottage)

A11 wording to be amended as follows:

***Replacement of Mantle in Study & Bed 1***

A11. *The replacement of the mantle relating to the fireplace in the Study and Bed 1 is to be a mantle appropriate to the period of the cottage. Details relating to the above are to be submitted to Council for approval prior to the issue of any Construction Certificate.*

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*Panel Reason:* To protect the character and significance of the heritage conservation area, the heritage item, its setting, and that of the heritage items within the vicinity of the site.

A12 and A13 are to be retained.

*Panel Reason:* The Panel considered the request of the applicant that the alcove area could be enclosed however considered that the existing arrangement was an appropriate reflection of the heritage significance of the cottage and that a reconfiguration of the kitchen area could preserve the relationship between the rear additions and provide greater functionality.

A14 is deleted.

C15 ..... Add the words *“if impacted by the works”* in the table after *“vegetation”*.

The Panel Delegates determination of this application to the Manager Development Services under the provisions of S.2.20(8) of the EP & A Act 1979. The amended plans required by the above are to be submitted to Council, to the satisfaction of the Manager Development Services, within 4 weeks of the Panel meeting date.

**Panel Reason:**

The Panel considers the development subject to the above changes will maintain the heritage significance of the item and provide additional amenity for the occupants.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	Y		John Bohane	Y	
Grant Christmas	Y				
John McInerney	Y				

The meeting concluded at 3.25pm.

The Panel Determination session commenced at 3.40pm.

The Panel Determination session concluded at 5pm.

Endorsed by Jan Murrell  
North Sydney Local Planning Panel  
**3 May 2023**