



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING
HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
AT 2PM WEDNESDAY 6 SEPTEMBER 2023**

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Sandra Robinson (Panel Member)
Peter Brennan (Panel Member)
Kenneth Robinson (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
Miguel Rivera, A/Team Leader, Assessments
David Hoy, Team Leader, Assessments
Jim Davies, Executive Assessment Planner
Andrew Beveridge, Assessment Officer
Josie Maejiirs, Assessment Officer

Administrative Support:

Peita Rose, Governance Officer (Minutes)

This public 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.

Apologies:

Nil.

1. Declarations of Interest

Nil.

2. 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.

Following the public meeting the Panel considered the following Business Items and resolves to determine each matter as described within these minutes.

ITEM 1

DA No:	279/21/2
ADDRESS:	30 Myrtle Street, North Sydney
PROPOSAL:	To modify a consent to delete Condition C14(c) pertaining to the east-facing windows in the first floor master bedroom and to amend Condition C14(d) pertaining to the reduced balcony width, and extension of approved sliding doors, addition of two (2) skylights on the ground floor and deletion of window (W-03) in first floor bedroom.
REPORT BY NAME:	Miguel Rivera, A/Team Leader Assessments
APPLICANT:	M. Halmos

No Written Submissions

Registered to Speak:

Submitter	Applicant/Representative
	Marian Halmos - Architect
	Sarah Pohlen - Owner

Panel Determination

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to the imposition of an additional condition to provide for a small tree that has a mature height of 4 to 5 metres in the south-eastern deep soil area. The tree species selected is to be suitable to the location and positioned to filter viewing from the balcony to 34 Myrtle Street. The landscape plan is to be amended accordingly.

Condition C14 is to be amended to reflect the landscaping requirement.

Panel Reason:

The Panel considers that with the balustrade as conditioned to be solid/non transparent with the only access from a bedroom, and the additional condition for a tree to filter sight lines to the rear of No. 34, then the proposal for the balcony to be increased in depth to 1.2m is satisfactory.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Kenneth Robinson	Y	
Sandra Robinson	Y				
Peter Brennan	Y				

ITEM 2

DA No:	112/23
ADDRESS:	Unit 6, 19 Belmont Avenue, Wollstonecraft
PROPOSAL:	Alterations and additions to Unit 6 within an existing residential flat building including garage conversion and additions to roof terrace.
REPORT BY NAME:	Miguel Rivera, A/Team Leader Assessments
APPLICANT:	Performance Building Consultants

No Written Submissions**Registered to Speak:**

Submitter	Applicant/Representative
Sean McNamara - Secretary SP 87918 - 19 Belmont Ave	Jessica Wray - Architect
Roland Rosenbach - Owner - 19 Belmont Ave (observing only)	

Panel Determination

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel is satisfied that the written request to contravene the height of buildings development standard in clause 4.3 of the LEP adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and the written request identified sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel.

The Panel notes that Conditions G1 and K1 provide for a by-law to be created to restrict the use of the parking space to a small car only, with provision for a sign to be installed and maintained on site.

Panel Reason:

The Panel is satisfied the proposal is satisfactory with no significant impacts on the built or natural environments, subject to conditions.

The Panel was requested by the Chairman of the Strata Committee (SP 87918) and the Owner of Unit 6 to consider the deletion of any conditions requiring the updating the Strata Plan. On reviewing this request, the Panel has decided to retain the respective conditions for updating the Strata Plan to provide greater certainty and clarification, including for future purchasers. The proposed development will result in the removal of the existing planter boxes (as shown on the Strata Plan) and the replacement of these elements with an enclosed space comprising a home office/sun room/bathroom, and the 'small car space only' in front of the garage that is to be converted to a media room.

Granting consent to the development requires the Strata Plan to be amended and updated to accurately reflect the existing/retained/new components of the building. With an updated Strata Plan a Section 88B Instrument is not necessary as the restriction of the small car space only attached to Unit 6 is to be shown.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Kenneth Robinson	Y	
Sandra Robinson	Y				
Peter Brennan	Y				

ITEM 3

DA No:	51/23
ADDRESS:	5 Little Wonga Road, Cremorne
PROPOSAL:	Alterations and additions to the existing dwelling for a new garage, lift, rumpus room and balconies.
REPORT BY NAME:	Josie Maejiirs
APPLICANT:	Jan Taljaard

One Written Submission

Registered to Speak

Submitter	Applicant/Representative
	Jan Taljaard - Applicant/Owner

Panel Determination

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

Pursuant to the provisions of clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel is satisfied that the written request to contravene the height of buildings development standard in clause 4.3 of the LEP adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and the written request identified sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

The Council Officer’s Report, Recommendation and Conditions are endorsed by the Panel subject to an additional condition, as shown below, that requires the premises to be used as a single dwelling at all times.

The following condition is to be imposed:

I. On-Going / Operational Conditions

Single Occupancy

- 11. Nothing in this consent authorises the use of the premises other than for a single occupancy.

(Reason: To ensure compliance with the terms of this consent)

Panel Reason:

The Panel is satisfied that the development would provide for remedial works to the dwelling to allow the continued use of Unit 5 as a single dwelling. The proposal does not impact on the environment and is worthy of approval.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Sandra Robinson	Y				
Peter Brennan	Y				

ITEM 4

DA No:	186/23
ADDRESS:	27 Elamang Avenue, Kirribilli
PROPOSAL:	Alterations and additions to an existing dwelling including a bedroom addition and an extension of a deck on the upper level.
REPORT BY NAME:	Andrew Beveridge, Assessment Officer
APPLICANT:	John White C/- Corben Architects

Three Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
James Lovell - James Lovell and Assoc - representing neighbours at 8/27B Elamang	Philip Corben - Architect - Chapman Planning Pty Ltd
	Garry Chapman - Town Planner - Chapman Planning Pty Ltd
	John White - Applicant

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

Panel 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 request to contravene the height of buildings development standard in clause 4.3 of the LEP adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and the written request identified sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

The Council Officer’s Report, Recommendation and Conditions are endorsed by the Panel.

Panel Reason:

The Panel carefully considered the view impacts arising from the development and is aware of the conditions of the previous development approval relating to this issue. The Panel notes this application provides for view sharing from the living areas of adjoining properties and is satisfied that the view intrusion is minor and reasonable in the circumstances given the views are diagonally across two side boundaries from units on the street side. The Panel is satisfied on a merits assessment the minor impact would not warrant refusal of the application.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Kenneth Robinson	Y	
Sandra Robinson	Y				
Peter Brennan	Y				

ITEM 5

DA No:	358/22
ADDRESS:	20-22 Waruda Street, Kirribilli
PROPOSAL:	Alterations and additions to residential flat building to convert 27 strata titled flats into 7 apartments, landscaping and associated works.
REPORT BY NAME:	Jim Davies, Executive Assessment Planner
APPLICANT:	The Trustee for the Stable Innovations Sydney Harbour Unit Trust

Two Written Submissions

Registered to Speak

Submitter	Applicant/Representative
Siddharth Parameswaran - Resident	Jeff Mead - Planning Ingenuity
Alex Allen - Resident	Jeremy Bishop - Nettleton Tribe - Architects
Leslie Martin - Resident	Michael Morgan - Nettleton Tribe - Architects
Robert de Waal - Resident (observing only)	Ed Horton - Stable Innovations Sydney Harbour
	Danny Flynn - Stable Innovations Sydney Harbour

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

Panel 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 request to contravene the height of buildings development standard in clause 4.3 of the LEP adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and the written request identified sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to the requirements to provide amendments at 'i' to 'iv' of the officer's recommendation and an additional requirement that a final materials and finishes board be submitted with plans to be approved by the Council's Manager Development Services.

Under the Provisions of S.2.20(8) of the E P & A Act the Panel Delegates to the Manager of Development Services the power to determine the application subject to the amended plans and additional information required as follows:

- a) the applicant submitting plans and information, within 30 days of the date of this resolution, to satisfactorily address the following matters:
 - i. Removing the carport and driveway from the setback area between the Beulah Street site boundary and the building, towards the site's northwestern corner.
 - ii. Replacing the existing vehicle crossing adjacent to this driveway with kerb and gutter to match existing and making good the footpath to match levels of the existing footpath's surface and gradient.
 - iii. Landscaping the area where the carport and driveway are to be removed, including a pedestrian path to the building and a shady, vegetation-screened seating area for use of building occupants and their guests.
 - iv. Relocating the parking space to be removed from the Beulah Street frontage to the ground level parking area and making it and another parking space suitable for access by people with disability, in accordance with AS4299-1995, including a minimum floor to ceiling clearance of 2.5m, for the parking space and the adjacent shared space. Alternatively, convert 2 of the 10 remaining car parking spaces for accessible use on the lower ground level, in accordance with the cited Australian Standard.
 - v. A revised materials sample board using colours and finishes to be consistent with the Kirribilli Heritage Conservations area, to be agreed with Council staff before submission.

In addition to the above, the Panel determines that the application is worthy of approval, with the following additional standard conditions:

- b) The conditions of consent attached to the report are to be amended to incorporate the following conditions:

Noise and Vibration

- E1. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.
(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Compliance with Construction Noise Management Plan

- E2. All works conducted on site which form part of this development must be carried out in accordance with the Construction Noise Management Plan submitted with the Construction Certificate and all conditions of consent.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

Landscaping

- G1. The landscaping shown in the approved landscape plans numbered LP01 to LP06 (Rev L) prepared by Dangar Barin Smith dated 29 August 2023 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Maintenance of Approved Landscaping

- I2. The owner of the premises is to maintain the landscaping approved by this consent generally in accordance with drawing number/s dated LP01 to LP06 (Rev L) prepared by Dangar Barin Smith dated 29 August 2023, except as modified elsewhere by conditions of this consent.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

Panel Reason:

The Panel has carefully considered all submissions, both written and oral, and is satisfied the development is worthy of approval subject to the recommended conditions.

With respect to impact on views from properties the Panel is satisfied the design of the roof elements and extended footprint provides for continued view sharing.

The Panel is not persuaded that the additional crossover to Beulah Street should be retained and accepts the recommended conditions.

The Panel considers that final approval is necessary of the key materials to ensure they satisfy Policy 2.2 of the Conservation Management Plan for the UNESCO listed Sydney Opera House. The Panel agrees with the recommendation that requires the development adopt darker tones, with appropriate finishes. As such, when the physical samples are available a finishes board is to be submitted for the approval of the Manager of Development Services.

The Panel considers the development will provide an improved built form outcome for the site in the conservation area while allowing the re-use of a significant amount of existing fabric.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Kenneth Robinson	Y	
Sandra Robinson	Y				
Peter Brennan	Y				

ITEM 6

DA No:	5/22
ADDRESS:	24 East Crescent Street, McMahons Point
PROPOSAL:	Demolition of an existing residential flat building and construction of a 5 storey residential flat building of 5 dwellings with basement parking for 7 vehicles, landscaping and associated works, and strata subdivision of the completed development.
REPORT BY NAME:	Jim Davies, Executive Assessment Planner
APPLICANT:	Lighthouse Project Management Pty Ltd

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

Two Written Submissions

Registered to Speak

Submitter	Applicant/Representative
Brett Brown - Ingham Planning - Representing neighbours 22 East Crescent St	Greg Boston BBF Planners Planner - representing applicant
David McCredie - Resident	Paul Buljevic - PBD Architects - representing applicant
Emeritus Professor James Weirick- Resident	David Allen - Client - da@daproperties.com.au <u>(observing only)</u>
Michael Gheorghiu - Tudor Planning and Design - representing neighbour at 26 East Crescent	Nicholas Gassmann - Lighthouse Project Management - (observing only)
Greg Sita - Resident	Michael Stanton - Lighthouse Project Management - (observing only)

Panel 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 request to contravene the height of buildings development standard in clause 4.3 of the LEP adequately addresses the required matters in clause 4.6 of the LEP. In the opinion of the Panel the written request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and the written request identified sufficient environmental planning grounds to justify the contravention. Further, the Panel considers that the development is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel, subject to the following amendments to the Recommended Conditions.

Design amendments

To insert before the existing condition C1, a new condition C1:

- C1. The following details are to be shown on plans submitted with the relevant construction certificate application:
- a) Details of screening of the Fire Hydrant Booster to conceal the facility from view, from Middle Street and adjacent properties.
 - b) On levels 1 and 2, on the eastern end of the building and on the northern and southern elevations, privacy screening on the sides of the balconies shall be removed.
 - c) The landscape plan must be amended as follows:
 - i) One of the two *Tristaniaopsis laurina* 'Luscious' (Water Gum) in the eastern garden is to be substituted with one *Angophora costata* (Sydney Smooth-barked Apple), and
 - ii) The *Ceratopetalum apetalum* (Coachwood) in the eastern garden is to be substituted with one *Plumeria acutifolia* (Frangipani Tree).

(Reason: To ensure compliance and satisfactory environmental impacts, and to maintain neighbourhood amenity)

To make the following amendments to the specified conditions,

- Amend condition A1 to update the reference to Temporary Shoring letter,
- Amend condition C19 so that rainwater is used for irrigation only, deleting the words "toilet flushing",

Stormwater Management and Disposal Design Plan - Construction Issue Detail

- C19. On site rainwater retention must be provided, water is to be re-used for irrigation. Any overflow is to be directed into the on-site detention tank. The completed works shall be certified as compliant with Australian Standard 3500.3.2, National Plumbing and Drainage Code and Sydney Water regulations upon completion.

(Reason: To ensure appropriate provision is made for the management of stormwater generated by the development, and to ensure that public infrastructure in Council’s care and control is not overloaded))

- Amend the fourth sentence of condition C26 as set out below:

Pruning of Trees

C26. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Trees that may Require Pruning	Location	Height
T7 Plumaria rubra var. Acutifolia	Southern boundary, rear setback 26 east Cr St	5x5m
T8 Olea africana	Southern boundary, rear setback 26 east Cr St	4x4m
T9 Schefflera acutifolia	Southern boundary, rear setback 26 east Cr St	6x4m

Minor pruning only shall be permitted. No more than 10% canopy shall be removed. Owner’s permission is required prior to pruning.

Scaffolding and any associated building works shall be designed so as to minimise/negate the need for ant canopy pruning to any protected tree.

No canopy pruning shall be permitted to T3 Jacaranda mimosifolia (10x12m) & T4 Acmena smithii (14x8m) located on the Northern boundary, front setback 22 east Cr St unless otherwise approved by Council.

A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

- Delete conditions C28 and G8 – as the basement does not require pump-out drainage, and
- Amend all relevant conditions to refer to “the relevant” construction certificate where required.
- Conditions C2, C3, C5 & C6 are to be amended to require the owner’s of No. 22 to be provided with copies of the documents required by each condition.

- To include standard condition: C71 Construction Noise Management Plan to read as follows:

Construction Noise Management Plan

C71. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- (a) Identification of noise affected receivers near to the site.
- (b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- (c) Details of work schedules for all construction phases.
- (d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority's Construction Noise Guideline.
- (e) Representative background noise levels should be submitted in accordance with the ICNG.
- (f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
- (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.
- (j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
- (k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

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

The Construction Noise Management Plan must be submitted to the Principal Certifier and a copy provided to Council prior to the issue of the Construction Certificate.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

Panel Reason:

The Panel has considered the representations, both verbal and in writing, made by the submitters. The Panel also undertook a site inspection to understand the context of the area and has the benefit of the Council Officer’s Assessment report.

After careful deliberation, the Panel is satisfied the proposed development has sufficient merit to warrant approval in the R4, ‘High Density Residential Zone’. The Panel notes that the plans have been amended to have regard to the adjoining heritage item at No. 26, the residential amenity at Nos. 22 and 26 East Crescent Street and the character and amenity of East Crescent Street and Middle Street. The amended plans are also in response to the Design Review Panel comments and those of the Council’s heritage officer. The Council’s Assessment officer’s Report comprehensively addresses the planning controls and the DCP guidelines.

The Panel accepts the Officer’s Assessment Report that the view impacts from adjoining properties are acceptable in the context of the total extent of views obtained from those properties.

The solar impact assessment shows there will be a reduction of solar access for the property to the south, No. 22 East Crescent Street, however, the panel accepts the officer’s assessment this would not warrant refusal of the application.

The Panel is also satisfied that the amended landscape setting is appropriate, despite not strictly meeting the definition of landscape area for those spaces over the basement accessway and fire stair. The deep soil area to East Crescent Street will support canopy trees to contribute to the character and vegetation of the area.

The Council’s heritage expert has assessed the development in the context of the adjoining heritage item and the conservation area and the panel accepts the advice that the development is satisfactory in its context.

The Panel determines the application is worthy of approval and meets the objectives of the zone, while mitigating adverse impacts on adjoining properties, in an area where change to higher density would be anticipated by the zoning.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Kenneth Robinson	Y	
Sandra Robinson	Y				
Peter Brennan	Y				

The meeting concluded at 4:30pm.

The Panel Determination session commenced at 4:40pm.

The Panel Determination session concluded at 6:05pm.

Endorsed by Jan Murrell

North Sydney Local Planning Panel

6 September 2023