



NORTH SYDNEY COUNCIL

Council Chambers
29 November 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 6 December 2023.

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

BUSINESS

LPP01: 184 Kurraba Road Kurraba Point - DA 266/23

Applicant: Maryann Beregi

Report of Jeremy Swan, Consultant Town Planner

This development application seeks consent for alterations and additions to an existing dwelling house including part demolition / excavation works, additional level, landscaping, tree removal and associated works at 184 Kurraba Road, Kurraba Point. The application is an amended proposal, which was not required to be notified because the changes were a reduction in the size of the building to address concerns of view loss and building height.

The application is reported to the North Sydney Local Planning Panel for determination as the applicant and land owner is a councillor and the development attracted more than 10 submissions by way of objection. A public determination meeting is required in accordance with the Ministers Direction. A total of 15 submission were received raising objections regarding issues including the proposed height variation; view loss; conflict of interest; excavation; construction management; landscaping and site coverage, bulk and scale, setbacks, materials and finishes, privacy Impacts, roof form, overshadowing impacts, zone objectives, foreshore building line; and insufficient information.

The key issues in the assessment of this DA are view loss impacts and the height exceedance with Council's 8.5m height limit. During the assessment of the DA, inspections were undertaken where available of properties where view loss was identified, this resulted in the applicant preparing a view loss analysis. Following receipt of this analysis, the applicant was advised that the height variation was not supported as a result of the view loss impact. Subsequently, the applicant amended their development application to reduce the extent of the top storey which reduced the view loss impact on adjoining properties and reduced the height exceedance.

The proposed application includes a non-compliance with the 8.5m height of buildings development standard in Clause 4.3 of North Sydney Local Environmental Plan (NSLEP) 2013. The extent of non-compliance is identified below using 2 methods which are discussed further in the report.

Measure	Bettar Approach (Max)	Merman Approach (Max)
Existing Building	9.05m	11.25m
Proposed Building	9.16m	11.27m
Exceedance (as a %)	7.76%	32.59%

The written request submitted pursuant to Clause 4.6 in NSLEP 2013 demonstrates that compliance with the development standard is unreasonable and unnecessary as the objectives of the standard are achieved notwithstanding the variation, and that there are sufficient environmental planning grounds to justify the variation in the circumstances of the case. The variation would be in the public interest as the proposed development is consistent with the objectives of the standard and the objectives of the R2 Low Density Residential zone.

The development application was assessed against relevant State Planning Polices, as well as Council policies including the NSLEP 2013 and North Sydney Development Control Plan 2013 (NSDCP 2013). The amended proposal is considered acceptable having regard to the constraints of the site, the existing impact and the applicable environmental planning controls. 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 approved 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, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 Height of Building and grant consent to Development Application No. DA266/23 for alterations and additions to an existing dwelling house and associated works at 184 Kurraba Road, Kurraba Point subject to the attached standard conditions.

LPP02: 184B, 186 and 190 Kurraba Road, Kurraba Point - DA 343/22

Applicant: PB & Co

Report of Jonathan Joseph of Planning Ingenuity

This development application seeks approval for the demolition of existing structures and construction of two x residential flat buildings, two x dual occupancies, basement parking, landscaping, internal boundary realignment and subdivision. During the assessment process, a Request for Additional Information Letter was issued, in which the proposal was amended. The amended scheme is the subject of this Report. Specifically, the following is proposed:

- Site preparation works, including demolition of existing structures and excavation;
- Construction of two x residential flat buildings containing 1 x 2 bedroom, 4 x 3 bedroom and 1 x 4 bedroom apartments;
- Construction of two x dual occupancies (attached), containing 4 x 3 bedroom dwellings;
- Construction of one level of basement parking below each residential flat building and secure parking garages for each dual occupancy;
- Landscaping and associated works;
- Internal boundary realignment; and
- Subdivision.

Council's notification of the proposal attracted sixty-two (62) submissions raising concern with regard to various non-compliances, including building height, building envelope, setbacks, landscaped area and site coverage, misleading or incorrect plans and documentation, traffic impacts and safety,

construction traffic and safety, excavation impacts, stormwater impacts, privacy, solar impacts and view loss.

Determination of the application by the North Sydney Local Planning Panel is required due to the application receiving 10 or more unique objections.

The proposed development has been assessed with respect to the objects and relevant Sections of the EP&A Act, as well as the objectives, merit-based provisions, development standards and prescriptive controls of various State Environmental Planning Policies, the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. Other plans and policies were also considered such as the North Sydney Section 7.11 Contributions Plan.

The development complies with the majority of relevant development standards in North Sydney LEP 2013. However, the proposal seeks a variation to the maximum building height development standard where both the 8.5m and 12m standard applies within the site. The development is generally consistent with the North Sydney DCP, however, there are a number of key non-compliances as discussed in this Report.

Council's Design Excellence Panel has considered the proposal and the Panel's advice has generally been adopted in the amended development. It is noted that *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65) does not apply to the subject development. That is, whilst each residential flat building exceeds three storeys in height, each building does not contain four or more dwellings. As such, SEPP 65 and the Apartment Design Guide (ADG) do not apply.

Whilst the development has been amended following correspondence with Council and this is commended, there remain a number of critical issues which have not been resolved and as such, the application is recommended for **refusal**. These are discussed throughout this Report and are summarised as follows:

- Inconsistency and lack of sufficient information with regards to various requirements of the North Sydney Local Environmental Plan 2013, including building height, heritage, excavation, foreshore area and residential flat buildings;
- Non-compliance and lack of sufficient information as it pertains to site coverage, landscaped area, un-built upon area and incline plane requirements within the North Sydney Development Control Plan 2013;
- Traffic impacts due to the reliance upon on-street waiting bay serving Buildings B and D;
- Extent of excavation is excessive and unacceptable;
- Unresolved heritage issues; and
- Insufficient information to allow for the thorough and robust assessment of matters relating to the application.

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. 343/22 for the demolition of a dwelling house, two (2) dual occupancies and a swimming pool and construction of two x residential flat buildings and 2 x dual occupancies, with basement parking and access provided by car lifts, associated landscaping and civil works and internal boundary realignment and subdivision, for the following reasons:

1. The proposed development fails to satisfy Clause 1.2(2) Aims in Part 1 of the North Sydney Local Environmental Plan 2013

- a) The application does not promote a development which enhances the amenity of the community and environment and is inconsistent with Clause 1.2(2)(a);
- b) The application exceeds the maximum site coverage and is deficient in landscaped area resulting in the development being incompatible with the desired future character of the area and inconsistent with Clause 1.2(2)(b)(i);
- c) The application fails to ensure that new development does not adversely affect residential amenity in terms of solar access and view sharing and is inconsistent with Clause 1.2(2)(c)(i); and
- d) The application fails to protect the natural, archaeological and built heritage of North Sydney and does not ensure that development does not adversely affect its significance and is inconsistent with Clause 1.2(2)(f).

2. The proposed development does achieve the objectives of the zones

- a) The proposal does not satisfy the objectives of the R2 Low Density Residential zone because:
 - i. The proposed dual occupancies do not satisfactorily acknowledge the heritage significance of heritage items in the vicinity of the site and its setting amongst heritage items;
 - ii. The proposal relies on on-street waiting areas for vehicles entering the site which is detrimental to the safe and efficient movement of vehicles in Kurraba Road.
- b) The proposal does not satisfy the objectives of the R4 High Density Residential zone as:
 - i. The proposed residential flat buildings compromise the natural and cultural heritage of the area as the development does not satisfactorily acknowledge the heritage significance of heritage items in the vicinity of the site and its setting amongst heritage items;
 - ii. The proposal relies on on-street waiting areas for vehicles entering the site which is detrimental to the safe and efficient movement of vehicles in Kurraba Road.
 - iii. The site coverage is excessive and the landscaped area insufficient to result in a development compatible with the desired future character of the locality.

3. The proposed development does not comply with the following provisions pursuant to the North Sydney LEP 2013.

- a) The development is non-compliant with the maximum building height development standard and Clause 4.3 of NSLEP 2013. The maximum building height has been measured from the extrapolated topography, as opposed to the existing ground level, and is not in accordance with the building height definition. As such, the maximum building height cannot be supported due to the provision of insufficient information to quantify the full extent of the non-compliance.
- b) The development is not consistent with Clause 5.10 Heritage Conservation as the established heritage character of the subject site and direct association with Trygve Halvorsen the notable Norwegian-Australian ocean sailor has not been made. This does not meet Criterion B – Associative Significance in “*Assessing heritage significance - Guidelines for assessing places and objects against the Heritage Council of NSW criteria*” (DPE 2023)
- c) The development does not satisfy Clause 6.9 Limited development in foreshore areas due to the provision of inconsistent information regarding the potential encroachment of buildings beyond the foreshore building line.
- d) The development does not satisfy Clause 6.10 Earthworks as significant excavation is proposed between Buildings A and B.
- e) The development does not satisfy Clause 6.12 Residential flat buildings as it has not been adequately demonstrated that amalgamation has been considered for No. 184A Kurraba Road to the north.

4. The proposed development does not comply with the following provisions pursuant to the North Sydney DCP 2013.

- a) Part B, Section 1.3.1 Topography in NSDCP 2013;
- b) Part B, Section 1.3.6 Views in NSDCP 2013;
- c) Part B, Section 1.4.6 Setbacks in NSDCP 2013;
- d) Part B, Section 1.4.7 Form, massing and scale in NSDCP 2013;
- e) Part B, Section 1.4.8 Built form character in NSDCP 2013;
- f) Part B, Section 1.5.4 Vehicular Access and Car Parking in NSDCP 2013;
- g) Part B, Section 1.5.5 Site Coverage in NSDCP 2013; and
- h) Part B, Section 1.5.6 Landscape Area in NSDCP 2013.

5. The application results in adverse impacts to the safe and efficient movement of traffic and pedestrians and is detrimental to the amenity of the general public and future residents of the development

- a) The application relies on an on-street waiting area to allow for access to the car lift serving Building B and D. This is not supported.

- b) This will have adverse impacts to the traffic movement and circulation along Kurraba Road.
 - c) The reliance upon an on-street waiting bay will also impact the safety of pedestrians and vehicles of both the general public, and future residents on the subject site.
- 6. The application does not satisfy the provision of State Environmental Planning Policy (Resilience and Hazards) 2021**
- a) The application does not satisfy the provision of SEPP (Resilience and Hazards) 2021, specifically, Part 2.2 Development controls for coastal management areas, Division 3 Coastal environment area and Division 4 Coastal use area in that the proposal will result in development with excessive site coverage and insufficient landscaped area.
 - b) The application does not satisfy the provisions of SEPP (Biodiversity and Conservation) 2021, specifically, Chapter 6 Water catchments in that the development does not protect or enhance terrestrial vegetation.
- 7. Insufficient information**
- Insufficient information has been provided to allow for the robust and thorough assessment of the application in accordance with Section 4.15 of the EP&A Act, 1979.
- 8. 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 and does not satisfy Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

LPP03: 172 Kurraba Road, Kurraba Point - DA 130/21/2

Applicant: The owner

Report of Jim Davies Executive Planner

This application under Section 4.55 of the Environmental Planning and Assessment Act 1979 seeks to modify the consent for alterations and additions to a dual occupancy and is reported to the Panel for determination as the modification seeks approval to amend a design alteration conditioned by the Panel, when a deferred commencement consent was granted at the Panel's meeting on 3 August 2022.

The key change made by the Panel was replacing a proposed curved profile of the roof's leading eastern edge and two upper level balconies of the extension, to a flat profile that did not protrude in front of the extant building, a contributory item in the Kurraba Point Heritage Conservation Area.

This modification application seeks to restore the curved form of the roof and balconies, although with a more subtle curve than originally proposed. Excerpts of the drawings for the originally submitted design, the approved design and the now proposed design are included in the description of the proposal in this report's body.

Council's notification of the proposal has attracted one submission, raising concerns about view sharing impacts of the modified proposal. The assessment has considered these concerns as well as the performance of the modification against applicable planning requirements.

Following this assessment the application to modify the consent is recommended for approval, subject to the design retaining the flat profile of the eastern extension's roof and balconies, as originally approved. Council's conservation planner recommends this, so the addition does not compete visually with the original form and so the building maintains its contributory value to Kurraba Point's heritage conservation area.

Recommending:

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

THAT the North Sydney Planning Panel exercising the functions of Council approve the modification of development consent DA 130/21/2 in respect of the approved alterations and additions to a dual occupancy at 172 Kurraba Road Kurraba Point, under the provisions of Section 4.55 of the Environmental Planning and Assessment Act 1979, only insofar as the modification will provide for the following:

1. The table to condition A1 being replaced with the following table:

Plan No.	Issue	Title	Drawn by	Received
A00	E	Coversheet	BTB Architecture Studio	July 2023
A02	E	Proposed site plan	BTB Architecture Studio	July 2023
A03	E	Proposed lower ground plan	BTB Architecture Studio	July 2023
A04	E	Proposed ground floor plan	BTB Architecture Studio	July 2023
A05	E	Proposed first floor plan	BTB Architecture Studio	July 2023
A06	E	Proposed roof plan	BTB Architecture Studio	July 2023
A07	E	Proposed elevation - north	BTB Architecture Studio	July 2023
A08	E	Proposed elevations - south	BTB Architecture Studio	July 2023
A09	E	Proposed elevations - west/section D	BTB Architecture Studio	July 2023
A10	E	Proposed elevations - east	BTB Architecture Studio	July 2023
A11	E	Proposed section A	BTB Architecture Studio	July 2023
A12	E	Proposed section B	BTB Architecture Studio	July 2023
A12.1	D	Proposed section C	BTB Architecture Studio	16/08/22
A12.2	D	Proposed section E and F	BTB Architecture Studio	16/08/22
A12.3	D	Proposed section G	BTB Architecture Studio	16/08/22
A13	E	Proposed material and finishes schedule	BTB Architecture Studio	July 2023
A14	D	Erosion and sediment control plan	BTB Architecture Studio	16/08/22
A24		BASIX and general notes	BTB Architecture Studio	16/08/22
DEM01	E	Ground floor demolition plan	BTB Architecture Studio	July 2023
DEM02	E	First floor demolition plan	BTB Architecture Studio	July 2023
DEM03	E	Roof demolition plan	BTB Architecture Studio	July 2023
LA-001	E	Schedules and landscape calculations	Jane Irwin Landscape Architecture	10/11/2021
LA101	E	Site pan	Jane Irwin Landscape Architecture	10/11/2021
LA-201	F	Landscape plan	Jane Irwin Landscape Architecture	10/11/2021
SWD1876 Sheet 1/2	-	Stormwater general notes	BMB Engineers	23/02/2021
SWD1876	-	Stormwater concept plan	BMB Engineers	23/02/2021

Sheet 2/2			
-----------	--	--	--

2. The following being inserted at the end of condition A1:

In relation to certain details as shown on various drawings itemised in the table, the following amendments must be made to drawings submitted with an application for a construction certificate:

- a) The north-eastern modifications including bow front balcony additions and associated bow front roof are not approved. These details are to be included in construction certificate drawings and constructed as shown in the stamped approved plans for DA 130/21 dated 19 September 2022.
- b) Amended door D08 on the northern gable end is not to be glazed but is to be constructed from a solid material and painted to match the rough cast rendered gable surrounds such that it is visually unobtrusive. These details must also be included in a construction certificate application.

(Reason: To ensure significance of the dwelling and character of the Conservation Area is retained.)

3. Condition A4 being replaced by the following:

External Finishes & Materials

A4. External finishes and materials must be in accordance with the submitted schedule dated July 2023, prepared by BTB Architecture Studio and received by Council on 4 August 2023, unless otherwise modified by another condition of this consent or by Council in writing.

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

LPP04: 173-179 Walker Street, 11, 15 & 17 Hampden Street North Sydney - 367/22 (PAN 283364)

Applicant: CBUS Property Pty Ltd

Report of Jim Davies Executive Assessment Planner

The proposal

This development application seeks approval to demolish two dwelling houses and five residential flat buildings on the site, situated on or near the intersection of Hampden Street and Walker Street, North Sydney.

It is understood that the applicant's key objective in obtaining approval to carry out the work is because extant residential buildings are uninhabitable and will continue to decay. In their current condition these buildings present increasing risks to the applicant and owner of the site, and more broadly, the general community.

Determination of the application by the North Sydney Local Planning Panel is required due to the application being the subject of more than 10 submissions.

Background

The site has been the subject of intense public scrutiny for several years, beginning with several planning proposals, including the last one, approved by the Sydney North Planning Panel. This proposal led to a consequent amendment to the North Sydney Local Environmental Plan 2013 increased the height limit and introduced a floor space ratio for the site in 2021, with complementary site-specific design controls introduced to the North Sydney Development Control Plan 2013, in 2022.

Original DA to construct residential development

The subject application was preceded by another development application from the same applicant, to erect residential development of up to 29 storeys in three buildings, comprising 189 dwellings, with a three level basement accommodating 240 cars, 208 bicycles, storage and other utilities required for a residential complex of such magnitude.

Appeal lodged

That application was lodged 5 July 2022. On 29 August 2022, the applicant filed a Class 1 deemed refusal appeal with the Land and Environment Court. During the course of proceedings, the application has been notified three times, amassing over 180 submissions, the majority (about 90%) opposing the proposed development.

The first notification period occurred in July/August 2022. The second and third periods occurred respectively in April/May 2023 and August/September 2023, these latter notifications brought about by amendments to the design being filed with the Court, for consideration in the appeal.

On 12 December 2022, the Court presided over a conciliation conference. Several objectors spoke at the pre-conference site meeting, which was attended by 80-100 members of the public. Following the conference, several iterations of revised plans were submitted to Council, without a satisfactory result.

In April 2023, because the conciliation process had not produced an approvable development, the Court brought the conference process to a conclusion and scheduled a hearing for September 2023. As the applicant had not prepared revised plans to meet this timeframe, the hearing was rescheduled for 20 – 28 November 2023. For reasons now outlined, the appeal was discontinued.

Non-compliance with FSR

Statements of Facts and Contentions were revised twice subsequent to the original statement's preparation. On each occasion additional contentions were raised due to the proposal's failure to comply with numerous controls. Resulting from newly introduced maximum parking rates for the site, being in a 'high accessibility area' identified by the North Sydney Development Control Plan 2013, the application exceeded this maximum, causing the DA to exceed the FSR standard established by the LEP.

The DCP had been so amended on 4 May 2023, significantly reducing the maximum parking permitted for residential development, a preceding study having demonstrated parking demand reduces with better proximity and

access to public transport, and to promote greater use of transit and reduce travel by private vehicle.

The effect of this DCP amendment, was that the proposal would require removal of over 90 parking spaces and access thereto, effectively one basement level of parking, from the development, to comply with the maximum floor space ratio allowed. Along with the height standard for the site, a written request to contravene the floor space ratio standard is unable to be made, being specifically excluded from clause 4.6 of the LEP, which otherwise permits development to be approved despite non-compliance with statutory development controls.

As a result, the appeal that was to consider the application to construct residential development on the site has been discontinued, as the applicant cannot proceed with a lawful development, as proposed.

Current status of the residential development DA

On 9 November 2023, at the applicant's request, the Land and Environment Court vacated the dates for the hearing of the appeal for DA 197/22, to construct residential accommodation on the site.

Because approval cannot be granted to the application without modification, and the appeal being discontinued, the applicant formally withdrew the application on 13 November 2023.

At the time of writing, the Court was expected to consider the matter of costs before formally discontinuing proceedings, in the week commencing 20 November 2023.

The subject DA to demolish buildings and other works

This, the subject application to demolish existing buildings and other structure and carry out other works, was submitted on 29 November 2022, just weeks before the Conciliation Conference held by the Court on 12 December 2022.

The application was notified on two occasions, from 11 January 2023 until 1 February 2023, and when the application was amended, from 27 October 2023 to 10 November 2023. At the time of writing, 43 submissions from 30 correspondents had been received. All have objected to the application, raising these key issues:

- For several reasons detailed later, approval to demolish existing buildings should not be considered before consent for the proposed residential development is granted,
- Traffic congestion and further traffic disruption, for example, from the need to stop traffic on Walker Street to allow large/heavy vehicles to access the site via Hampden Street, and
- The risk to adjoining properties from site excavation works and loss of amenity and environmental qualities of the locality, from demolition, engineering and tree removal works.

A comprehensive summary of issues raised by submitters and responses to them is included in this report.

Key planning matters addressed in this report include:

- Benefits and disbenefits of the site preparation/demolition application being approved in advance of approval being granted for the site's redevelopment,
- Traffic management, including consideration of other development occurring and likely to occur in the locality,
- Geotechnical conditions and stability of adjacent land, private buildings and public infrastructure, and
- Matters raised by submissions, principally concerned with environmental, health and amenity impacts.

Recommendation for deferred commencement consent

Having considered issues raised by submissions and applicable planning controls, a deferred commencement consent is recommended. In usual circumstances, conditions are included in an operational consent requiring design amendments, or preparation of other plans and reports before a construction certificate is issued.

Because demolition is not construction, a construction certificate is not needed. Consequently, prerequisite preparation of plans to manage the conduct of demolition works and to address these and other matters discussed in the report, are recommended as conditions of a deferred commencement consent:

1. A comprehensive traffic and parking management plan is to be submitted to effectively address (inter alia) aggregate impacts of the proposal and other development in the locality, including measures to reasonably maintain access to Hampden Street and Walker Street for pedestrians and vehicles, resident/public parking along the street immediately adjacent to the site.
2. All recommendations of the submitted geotechnical report being implemented, with noise and vibration management plans being prepared to be consistent with implementation of the geotechnical report's recommendations.
3. Upon completion of all demolition and site preparation works, the site being properly reformed, restored, landscaped and maintained in accordance with a comprehensive site rehabilitation and management plan, until such time as a construction certificate is issued to commence works in accordance with another consent to construct residential accommodation, or other development permitted on the site.

Drainage works could require a construction certificate however matters regarding proposed stormwater works are included deferred commencement conditions as design amendments are required. Stormwater works when undertaken in isolation from other works, and by or on the behalf of a public authority, can be undertaken as development without consent in accordance with the Transport and Infrastructure SEPP (clause 2.137).

Finally, the proposed sewerage diversion works, provided they are carried out by or on behalf of the Sydney Water Corporation (or other "prescribed circumstances"), do not require development consent per the Transport and Infrastructure SEPP (clause 2.126). These works will also require Sydney

Water's approval under other legislation. Despite this and according to standard practice, standard conditions are recommended in the operational consent requiring the applicant to seek Sydney Water approval for the sewerage diversion.

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 deferred commencement development consent to Development Application No. 367/22 to undertake demolition of all buildings and site preparation works, removal of two trees and relocation of a sewer line and install a new sewer connection, and diversion of stormwater infrastructure, subject to the deferred commencement conditions and operational conditions of consent, attached to this report.

LPP05: 201 Miller Street, North Sydney (CBD) - DA 145/23

Applicant: Urbis Pty Ltd

Report of Rachel Wu, Graduate Assessment Officer

This development application seeks consent for the replacement of existing window shrouds and repairs and maintenance of the façade of a 23-storey commercial building, being a heritage-listed item of local significance located at 201 Miller Street, North Sydney.

The subject site is located within the E2 Commercial Centre zone and has a primary frontage to Miller Street (SP2 Classified Road) and a rear frontage to a Right of Way known as Bullivant Lane. The site is occupied by the existing commercial office tower with a significant landscaped setback to Miller Street as part of the Miller Street setback. The immediate area is primarily characterised by commercial office towers, a large education establishment (Monte Sant Angelo's), licensed premises and some small retail activity consisting of ground floor retail café uses and light commercial uses.

The application is reported to the North Sydney Local Planning Panel for determination as a sensitive development involving the partial demolition of a local heritage item (I0904) in accordance with Minister's Direction.

The heritage item is described in the State Heritage Inventory as "a highly integrated office tower in the Late Twentieth Century International style of considerable quality and distinctive detailing designed and built by prominent construction firm Sabemo Pty Ltd, contributing much to the urban streetscape of this high-rise area. It was notable when first completed in 1972-1973 for its unusual and prominent, orange-coloured fibreglass exterior and finish."

The Applicant advises that the proposed replacement of the window shrouds and changes to the façade is necessary to address issues associated with water ingress, "galvanic corrosion", aging of the existing fibreglass shrouds, to address building condition and to improve compliance with current standards under the Building Code of Australia.

The application has been referred to Council's Conservation Planner and the Design Excellence Panel for consideration due to the scope of works involving substantial recladding to a highly distinctive building. Both the DEP and Council's Conservation Planner consider that the current proposal should not be accepted on the basis that the proposed design and fabrication of the window shrouds and the selected white powder coated aluminium finish would diminish the heritage significance of the building and further improvement should be considered to the building.

Council has requested that the Applicant consider amendment to the scope of works to revise the fabrication standard of the proposed window portal structures, as well as amend colour selection for the façade to match the original orange building façade. The Applicant has yet to indicate agreement to the requested changes. Considering the potentially significant change in the scope of works, the Panel is requested to consider the application in its current form.

Notification of the proposal has attracted nil (0) submissions.

On the basis of the advice of Council's Conservation Planner and DEP, the current proposal is recommended for deferral with conditional support for determination that requires amended plans and additional information addressing the colour scheme, unitary fabrication, deletion of works to reveal the building's exoskeleton on the Northern Elevation, and removal of the portico to the main forecourt for the reinstatement of the original supporting column profiles.

The Panel is recommended to delegate to the Manager Development Services pursuant to Section 2.20(8) of the EP&A Act 1979 for consideration and determination of the amended information. In the event that amended plans are not lodged by the Applicant, for the application to be referred back to Panel for determination.

Recommending:

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

A. THAT the North Sydney Local Planning Panel, exercising the functions of Council as the consent authority, resolve to defer the development Application No.145/23 and request the applicant prepare and lodge amended plans and additional information incorporating the following amendments: -

1. Amended Architectural Plans detailing:

- a. Proposed window shroud design to be a unitary structure fabrication to be installed as modular façade units for each window shroud
- b. The original distinctive "orange" colour scheme for the proposed window shrouds
- c. No existing window units on the Northern Elevation to be deleted to reveal the exoskeleton
- d. The removal of the portico to the main forecourt and reinstatement of the original supporting column profiles evident

in photographs of 1972 from Stanton Heritage Centre, Local History Collection (n.d.).

2. An amended Schedule of Colours and Materials reflecting the original distinctive “orange” colour scheme

B. THAT the Panel delegates to the Manager Development Services pursuant to Section 2.20(8) of the Environmental Planning & Assessment Act 1979 the following functions in respect of Development Application No.145/23:

- (i) *in the event that amended plans are lodged by the applicant, to determine whether or not to notify the amended application in accordance with the North Sydney Community Participation Plan; and*
- (ii) *in the event that amended plans are lodged by the applicant, to determine the application having regard for the stated issues and concerns in (A) of this resolution.*
- (iii) *in the event that the Manager Development Services determines DA145/23 by way of granting consent, that standard conditions of consent and the following site-specific conditions shall form part of any consent:*

Statement of Significance and Ongoing Heritage Conservation Strategy

A5. That the statement of significance relating to the subject heritage item be updated and that an overall heritage strategy for the site be devised incorporating the historical findings and works carried out to date to assist in the ongoing management of the site as well as establish an agreed set of exemptions to support its ongoing conservation.

(Reason: To ensure the ongoing protection and management of the heritage significance of the site)

Screening Plants

A6 The empty planter bed containing dead stumps of past trees along the northern boundary of the subject site is to be planted with *Bambusa textilis* var ‘Gracilis’ (45L).

(Reason: To provide appropriate landscaping to enhance the aesthetics of the heritage building)

C. THAT the Panel in the deferral for conditional support of the Development Application No.145/23, and in the event of the Applicant lodging an appeal to the Land and Environment Court against any conditions of any consent of the application, the Council pursuant to Section 377 of the Local Government Act 1993 grants delegated authority to the General Manager to resist such appeal having regard to the reasons for the conditions identified above.

Reasons for the deferral of the development consent to request the Applicant to provide amended plans and additional information addressing the above changes are detailed below:

Impact on Heritage Significance

1. The proposed works would unreasonably diminish the heritage significance of a unique heritage listed commercial building.

Particulars

- i) The heritage item is described in the State Heritage Inventory as *“a highly integrated office tower in the Late Twentieth Century International style of considerable quality and distinctive detailing designed and built by prominent construction firm Sabemo Pty Ltd... It was notable when first completed in 1972-1973 for its unusual and prominent, orange-coloured fibreglass exterior and finish”*.
- ii) The existing window shrouds and coloured glazing make a positive contribution to the heritage significance of the existing building, including the orange reflective glazing;
- iii) The removal of 88 window shrouds/panels from the northern elevation would significantly diminish the distinctive detailing of a distinctive heritage item that is highly visible from the Miller Street streetscape;
- iv) The design and construction resolution of the façade is important to the future connection between Miller Street and the area identified as Ward Street Precinct.
- v) The design and fabrication of the proposed window shrouds would not be of sufficient design quality to reinforce or reflect the original building design. The inclusion of prominent seams in the highly modular fabrication process would diminish the visual quality of the façade and would introduce an undesirable element into the façade.
- vi) The selected white powder coated aluminium finish is contrary to the building’s distinctive original “orange” façade colour, currently reflected in the existing glazing.
- vii) Proposal in its current scope would not achieve the following relevant provisions relating to heritage listed commercial buildings in North Sydney:

NSLEP 2013

- a. Cl.1.2 (Aims of Plan) (2)(aa), (a), (b)(i) & (ii), (d)(i), (e) & (f)
- b. Cl.5.10 (Heritage Conservation) Objectives (1)(a) & (b)

NSDCP 2013

- c. Part C (s2.0) North Sydney Planning Area Character Statement – Built Form
- d. Part C (s2.1.2)(P6), (P15), (P20)

Public Interest, Zone Objectives and North Sydney Centre

2. The proposal in its current form would not be in the public interest, would contravene the objectives of the E2 Commercial Zone and would not be in accordance with the objectives for development in the North Sydney Centre:

Particulars

- i) The following relevant objectives would not be achieved under the current scheme:
- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
 - *To encourage investment in commercial development that generates employment opportunities and economic growth.*
 - *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
 - *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.”*
- ii) **Public Interest:** A revised scheme which does not diminish the heritage significance of the place would better achieve then public interest and address the objectives for the E2 zone ;
- iii) **Zone Objectives (E2 Commercial Centre):** The proposal would not achieve the zone objective at Point 5
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- The proposal would mute the distinctiveness of the heritage item that contributes to a positive, vibrant and diverse frontage and streetscape.
- iv) **North Sydney Centre:** The proposal is considered to contravene the objective (a) & (i) of this division as it adversely affects the heritage significance of a major commercial building that provides interest in the physical fabric of the area as well as promote the rich development history of the North Sydney Centre as a major commercial centre. The proposal also adversely impacts on the desired future character of the North Sydney Centre to create a vibrant place and streetscape for people and the vision of Miller Street as the civic heart of North Sydney (Refer further detail in Part C s2.1.2).

LPP06: Unit 9, 17 Wyagdon Street, Neutral Bay (C) – DA 242/23 (PAN-355107)

Applicant: COSO Architecture

Report of Andrew Beveridge, Senior Assessment Officer

This development application seeks NSLPP approval for the addition of an enclosed pergola and replacement balustrades to the existing rooftop terrace of Unit 9, an existing two-bedroom unit within an existing residential flat building at 17 Wyagdon Street, Neutral Bay.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to SEPP 65 development, seeking a variation to a development standard by more than 10% and creates additional height to the building.

Development for the purpose of a residential flat building is not permitted within the R2 Low Density Residential zone. However, it is considered that the subject site benefits from existing use rights on the basis of North Sydney Council's original approval from 1980.

The proposed development breaches the maximum permitted building height of 8.5m by approximately 9.84m, equating to a maximum variation of 1.34m or 15.7%. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's submission has been considered with reference to the Land and Environment 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 satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the views or general amenity of adjoining properties. The application was notified in accordance with the community engagement protocol and Council received no submissions. The amenity impacts upon adjoining properties in regard to views, solar access, and privacy, have been assessed and are considered to be relatively minor and acceptable within the site circumstances. The works will also maintain a sympathetic scale that is consistent with the existing building and accords with the built form of the neighbourhood and the sloping topography of the site.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the streetscape character will be maintained.

Nevertheless, the proposed development would not be in the public interest as the submitted written request is not considered to be well founded and worthy of support.

Having regard for the potential impacts upon the amenity of adjoining properties and the surrounding neighbourhood, subject to conditions, the development application is considered to be satisfactory and is recommended for **approval**.

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

Recommending:

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 **grant consent** to Development Application No. 242/23 for alterations and additions to an existing Unit 9, on land at 17 Wyagdon Street, Neutral Bay, subject to attached site specific and standard conditions.

LPP07: 54A Cowdroy Avenue, Cammeray - DA 345/22

Applicant: Jason Li

Report of Robin Tse, Senior Assessment Officer

This development application seeks consent for alterations and additions to an existing four (4) storey dwelling including internal alterations, external changes to the Level 4 bedroom, a new external staircase, and a pergola over the existing double garage.

The application is reported to the North Sydney Local Planning Panel for determination as the application seeks a variation to the LEP maximum building height development standard by more than 10% and the notification of the proposal has attracted a total of ten (10) submissions in accordance with the Minister's Direction.

The notification of the original and amended proposal has attracted a total of ten (10) submission raising concerns about non-compliance with the LEP building height control, excessive bulk and scale, view loss impacts and the loss of privacy for the adjoining/nearby properties.

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

The development application has been assessed against the relevant planning principles relating to existing uses rights, *North Sydney LEP 2013*, *North Sydney DCP 2013*, *SREP (Sydney Harbour Catchment) 2005* and *Sydney Harbour Foreshores and Waterways DCP* and was found to be generally satisfactory.

The written request made pursuant to Clause 4.6 *Departure to development standards* in *NSLEP 2013* demonstrates that compliance with the development standard is both unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the variation. The proposal would maintain the overall built form of the existing semi-detached dwelling and the proposed works would have no material impacts on the amenity of the adjoining properties in terms of the loss of significant views, privacy, and solar access subject to the imposition of appropriate conditions. The matters raised in the submission have been addressed in the report.

The proposed development is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in *NSLEP 2013* with regards to the non-compliance with Clause 4.3 Height of Buildings and grant consent to Development Application No. DA345/2022 for alterations and additions to existing semi-detached dwelling on land at No. 54A Cowdroy Avenue, Cammeray subject to the following site specific and standard conditions

Design Modifications/Requirements

- C1. The following design modifications shall apply to the proposed development:
- (a) Balustrade with obscure glazing panels shall be installed along the entire western edge of the Level 3 balcony to the west of W3.4, W3.5 and W3.6 to provide privacy protection for the adjoining property;
 - (b) The height of the obscure glazing for W2.3 and W2.4 shall be increased to 1.5m as measured from the finished floor level of bedroom 2 to provide privacy protection for the adjoining property;
 - (c) The height of boundary fencing along the proposed ladder within the western side setback shall be increased to provide a minimum of 1.5m above the level of the ladder to ensure visual privacy protection of the adjoining property;
 - (d) The height of the planter on the western and northern edge of the Level 4 northern balcony shall not exceed one (1) metre as measured from the finished floor level;
 - (e) The pergola above the existing garage must be of an open construction. Plans showing the above design amendments must be submitted for approval by Council's Team Leader Assessment prior to the issue of a Construction Certificate.

The Certifying Authority must ensure that the building plans, documentation, and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To protect the amenity of adjoining properties)

Landscape Plan

- C2. A landscape plan must be submitted showing the landscape treatments of the areas affected by the proposed works within the subjects.

The plan must include the layout of any new planting, the species, the number to be planted and plot size.

Plans showing information about the landscaping treatments to be applied must be submitted for approval by Council's Team Leader Assessment prior to the issue of a Construction Certificate.

The Certifying Authority must ensure that the building plans, documentation, and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure landscape quality)

No Encroachment of Works

- C3. All works, including earthworks and construction works, must not encroach onto the adjoining property at No.54B Cowdroy Avenue.

The Certifying Authority must ensure that the building plans, documentation, and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

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

LPP08: Land Adjoining 306 Military Road, Cremorne - DA 102/23

Report of Annelize Kaalsen (Ak Planning)

The purpose of this Supplementary Report is to provide consideration for the additional information submitted by the applicant in response to the deferral by the North Sydney Local Planning Panel (NSLPP) of four (4) development applications on 13 September 2023 “to allow the Applicant to submit a package that would provide details of the 13 stand-alone advertising / communication structures and the 13 bus shelters proposed for the North Sydney LGA”.

Recommending:

That the Panel note this supplementary report and determine the applications in accordance with the previous recommendation for approval subject to changes to conditions described below.

A. Conditions that Identify Approved Plans**Time-limited Consent**

A4. This consent shall cease to be in force on the expiration of 7 years after the date on which the consent becomes effective and operates in accordance with Section 8.13 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.

(Reason: To satisfy the provisions of SEPP (Industry & Employment) 2021)

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated).

Delete

~~Design Changes (maximum height)~~

~~C1. The following design change/s must be incorporated into all documentation (including final plans/drawings) that are to be submitted as part of any application for a construction certificate:~~

- ~~• The digital advertising panel must have a maximum height of 2.6m as measured from the finished footpath level to the top most point of the panel.~~

~~(Reason: To ensure appropriate forms of signage that are consistent with Council's controls)~~

LPP09: Land Adjoining No 476 Miller Street, Cammeray - DA 104/23

Report of Annelize Kaalsen (Ak Planning)

The purpose of this Supplementary Report is to provide consideration for the additional information submitted by the applicant in response to the deferral by the North Sydney Local Planning Panel (NSLPP) of the development application on 13 September 2023 “to allow the Applicant to submit a package that would provide details of the 13 stand-alone advertising / communication structures and the 13 bus shelters proposed for the North Sydney LGA”.

Recommending:

That the Panel note this supplementary report and determine the application in accordance with the previous recommendation for approval subject to changes to conditions described below.

I. Ongoing/Operational Conditions

Delete

~~Fixed display (school zone hours)~~

~~I1. The digital advertising panel must be switched to a fixed display during school zone hours in accordance with criteria as the set out in 2017 Transport Outdoor Advertising and Signage Guidelines Table 3. (Reason: To satisfy the provisions of SEPP (Industry & Employment) 2021)~~

A. Conditions that Identify Approved Plans**Time-limited Consent**

A4. This consent shall cease to be in force on the expiration of 7 years after the date on which the consent becomes effective and operates in accordance with Section 8.13 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.

(Reason: To satisfy the provisions of SEPP (Industry & Employment) 2021)

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated).

Delete

~~Design Changes (maximum height)~~

~~C2. The following design change/s must be incorporated into all documentation (including final plans/drawings) that are to be submitted as part of any application for a construction certificate:~~

- ~~• The digital advertising panel must have a maximum height of 2.6m as measured from the finished footpath level to the top most point of the panel.~~

~~(Reason: To ensure appropriate forms of signage that are consistent with Council's controls)~~

LPP10: 7/599 Pacific Highway, St Leonards (W) - DA 183/23 (PAN- 338661)

Applicant: L Goulimis, Solid Void Design

Report of David Hoy, Team Leader Assessments

This development application seeks consent for change of use of premises to an indoor recreation facility, being an existing commercial premises within a mixed-use building on land at 7/599 Pacific Highway, St Leonards.

The proposed premises is to operate as personal training gym, with up to 20 people on premises at any one-time, inclusive of 2-3 staff members. The

proposed facility is described as a “personal training studio” that is to operate between the hours of 5:30am to 8:00pm Monday to Friday, between 5:30am to 1pm Saturday and closed on Sunday.

The application is reported to the North Sydney Local Planning Panel for determination as the application has attracted more than 10 submissions by way of objection. A public determination meeting is required in accordance with the Ministers Direction.

Notification of the proposal has attracted forty two (42) submissions raising particular concerns about Noise and Vibration impacts, early operating Hours, inadequate Statement of Environmental Effects, Inadequate Plan of Management, Inadequate Acoustic Report, Inadequate Access Report and BCA Report based on incorrect NCC Classification, Compliance with preceding consent, availability of numerous existing gyms in close proximity, impact of queues on the pedestrian footpath, Owners Consent not given and failure to comply with By-Laws.

The application is supported by a Plan of Management and an acoustic report which have been considered by Council’s Environmental Health Team. The acoustic report has not demonstrated that the proposed use can comply with required acoustic standards applicable for mixed use buildings noting the construction standard of the building incorporates post-tensioned concrete slabs.

The North Sydney Development Control Plan 2013 provides that the operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background noise level during the day and evening and must not exceed the background level at night when measured at the boundary of the property.

Concern is raised that the submitted acoustic testing, relies upon assumptions made to provide expected noise impacts and has not conducted sufficient insitu recordings to support of recommendations and proposed mitigation measures to be implemented.

Consideration has also been given to the operating restrictions to be imposed under the Plan of Management. These restrictions are however not considered to be sufficient to address acoustic and vibration impacts likely to be experienced within the building.

On the basis that compliance could be achieved with applicable acoustic standards the proposal is considered to be unreasonable in the circumstances. The application is therefore recommended for refusal.

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council as the consent authority, resolve to refuse development consent to Development Application No. 183/23 for development involving a change of use of premises to an indoor recreation facility on land at 7/599 Pacific Highway, St Leonards as shown for the following reasons:-

Unreasonable noise and vibration impact

1. The proposed use is considered likely to result in unreasonable impacts on residential amenity for existing units within the building, contrary to the provisions for development in the MU1 Mixed Use zone.

Particulars:

- i. The application has not demonstrated that compliance could be achieved with acoustic standards required by Council's Development Control plan 2013 and therefore is considered to be unreasonable in the circumstances.
- ii. Acoustic testing submitted with the application is insufficient for the premises, noting the construction standard of the building includes the use of post-tensioned concrete slabs of 250mm or less between the premises and the residential unit located above the first floor.
- iii. The operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background maximum 1 hour noise level (LAeq 1 Hour) during the day and evening and not exceeding the background level at night when measured at the boundary of the property.
- iv. The noise and vibration measures recommended by the acoustic consultant are based on assumptions and have not taken into account the high potential for noise transfer through vibration through structural columns.
- v. The mitigation measures outlined in the submitted plan of management would be insufficient to ensure reasonable residential amenity for adjoining units could be maintained;
- vi. The proposed plan of management could not reasonably be enforced at all times during operation.

Hours of operation incompatible with residential amenity

2. The proposed hours are not consistent with the stipulated late night trading hours for the MU1 (Mixed Use) Zone as outlined in Section 7.3 of the North Sydney DCP 2013.

Particulars:

- i. Late night trading hours permit use of premises from 7am in the MU1 Mixed-Use zone.
- ii. The proposed commencement of training sessions from 5:30am, with groups of 20 people within the premises from 6am, on six days a week would unreasonably and regularly impact on the residential amenity of units directly above the tenancy.
- iii. The mitigation measures outlined in the submitted plan of management would be insufficient to ensure reasonable residential amenity for adjoining units could be maintained;

LPP11: Land adjoining Nos 79-81 Berry Street, North Sydney -DA 96/23

Report of Annelize Kaalsen (Ak Planning)

The purpose of this Supplementary Report is to provide consideration for the additional information submitted by the applicant in response to the deferral

by the North Sydney Local Planning Panel (NSLPP) of the development application on 13 September 2023 *“to allow the Applicant to submit a package that would provide details of the 13 stand-alone advertising / communication structures and the 13 bus shelters proposed for the North Sydney LGA”*.

Recommending:

That the Panel note this supplementary report and determine the applications in accordance with the previous recommendation for approval subject to changes to conditions described below.

A. Conditions that Identify Approved Plans

Time-limited Consent

A4. This consent shall cease to be in force on the expiration of 7 years after the date on which the consent becomes effective and operates in accordance with Section 8.13 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.

(Reason: To satisfy the provisions of SEPP (Industry & Employment) 2021)

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated).

Delete

~~**Design Changes (maximum height)**~~

~~C1. The following design change/s must be incorporated into all documentation (including final plans/drawings) that are to be submitted as part of any application for a construction certificate:~~

- ~~• The digital advertising panel must have a maximum height of 2.6m as measured from the finished footpath level to the top most point of the panel.~~

~~(Reason: To ensure appropriate forms of signage that are consistent with Council's controls)~~

LPP12: Land adjacent to Mount Street, North Sydney - DA 123/23

Applicant: JCDecaux Australia Trading Pty Ltd

Report of Annelize Kaalsen of AK Planning

This development application seeks approval for the installation and operation of a freestanding advertisement structure for the purposes of Council communication and third-party advertising. The digital advertising panel will be located within Brett Whiteley Place on the corner of Mount Street and Pacific Highway, North Sydney.

Generally, development for which the land owner is the Council, is reported to the North Sydney Local Planning Panel (NSLPP). Accordingly, the application requiring determination by NSLPP under the Minister's Directions.

The site is zoned SP2 Infrastructure “classified road” pursuant to the NSLEP 2013. The proposal is defined as an ‘advertising structure’ which is a form of ‘signage’ pursuant to Clause 1.4 of the NSLEP 2013. Signage is listed as an additional permitted use under Schedule 1 of the NSLEP 2013.

The notification of the application attracted four (4) submissions. In summary the submissions raised particular concerns with respect to compromised visual clutter; impact on heritage item significance; detracting from the character of the place; adverse impact on pedestrian movement and distracting to motorists; significant public amenity impacts; lose public amenity and undo good place-making work done in Brett Whiteley Place.

The assessment has considered these concerns as well as the performance of the application against State and Council’s planning requirements.

The subject site is not listed as a heritage item but is located within the vicinity of a number of heritage items. Councils’ heritage officer does not support the advertising panel noting that: “The advertising pillar will dilute and disrupt the character formed by the group of North Sydney heritage items by the introduction of a contemporary element into the streetscape. The proposal is considered to be visually intrusive to the former bank at No. 51 Mount Street. In addition, Councils Arts and Culture do not support the location of the proposed panel in proximity to the Robert Woodward fountains specifically the Panels impact on the curtilage of the artwork, which undermines its integrity. The proposed advertising panel will detract from the established characteristics of Brett Whiteley Place

The application was referred to the Transport for NSW in accordance with Clause 2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021 and under Section 138 of the Roads Act 1993. TfNSW does not support the application and did not grant concurrence. Pursuant to Clause 138(2) of the Roads Act 1993, consent may not be given with respect to a classified road (Pacific Highway being a State Road) except with the concurrence of TfNSW. Accordingly, Council cannot grant consent as it would fail in its role as consent authority under Section 4.13 of the EP&A Act.

The application does not satisfy the objective of Chapter 3 - Clause 3.1(10(a)) of the SEPP (Industry and Employment) 2021 and it is not acceptable in terms of its impacts, nor does it satisfy the land use compatibility criteria nor is it consistent with the characteristics of the site pursuant to the Transport corridor outdoor advertising and signage guidelines; it fails to satisfy Clause 5.10 of the North Sydney LEP 2013 and Section 9 and Section 13.4 of the North Sydney DCP 2013. 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. 123/23

for the installation and operation of a freestanding advertising structure for the purposes of Council communication and third-party advertising, for the following reasons:-

1. 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 detracts from the significance of the adjoining heritage listed buildings and surrounding streetscape and public open space setting 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 four (4) public submissions were received against the application raising particular concerns about visual clutter; impact on heritage item significance; detracting from the character of the place; adverse impact on pedestrian movement and distracting to motorists; significant public amenity impacts; lose public amenity and undo good place-making work done in Brett Whiteley Place.
- c) The cumulative effect of the non-compliances with State and Councils controls, particularly the adverse impact on the heritage significance of the adjoining heritage items; inconsistency with the established character of Brett Whiteley Place as a community place and motorist and pedestrian safety the application is not considered to be in the public's interest contrary to Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

2. Failing to satisfy Chapter 3 and Schedule 5 of SEPP (Industry and Employment) 2021

The proposal is not acceptable in terms of its impacts.

Particulars:

- a) The proposal fails to be consistent with the objective of Chapter 3 Clause 3.1(1)(a)(i) of the SEPP for the following reasons:-
 - o its proximity to a group of heritage items will detract from the amenity or visual quality of the heritage items in the immediate vicinity as well as the curtilage of the public artwork, and
 - o the proposed advertising panel is not considered compatible with the existing or desired future character of Brett Whiteley Place / public open space.
- b) Failing to satisfy 1 Character of the area; 2 Special area; 3 Views and Vistas; 4 Streetscape setting and 5 Site and building of Schedule 5 of the Industry SEPP;
- c) Failing to satisfy 8. Safety of Schedule 5 of SEPP (Industry and Employment) 2021, as it and has the potential to distract motorists at driver decision making point and reduce the pedestrian level of service.
- d) Failing to satisfy the land use compatibility criteria and inconsistent with the characteristics of the site pursuant to the transport corridor outdoor advertising and signage guidelines

3. Failing to satisfy Clause 5.10 of the NSLEP 2013***Particulars:***

- a) Out of character with the special area (group of heritage items and cultural setting) compromising the significance of the place
- b) The proposed advertising pillar will be a visual intrusion to the setting of the heritage items, drawing attention away from the heritage facades and the established character of Brett Whiteley Place as a community place.
- c) The freestanding advertising panel will render the streetscape less authentic and subject to commercialism. Advertising in the context of the heritage listed buildings will therefore detract from the established cultural character and landscape setting of Brett Whiteley Place.

4. Inconsistent with Section 9 of NSDCP 2013***Particulars:***

- a) the proposal does not satisfy the General objectives of Section 9.1 specifically O2; O3 and O7
- b) Inconsistent with Section 9.5 Location
- c) Inconsistent with Section 9.8 Pedestrian and road safety
- d) Inconsistent with Section 9.9 Signs on heritage item – impact on significance of heritage items
- e) Inconsistent with section 9.11 Specific sign type, specifically Provisions P16; P20; P24; P26 and P27

5. Inconsistent with Section 13.4 of NSDCP 2013***Particulars:***

- f) The proposal is inconsistent with O1 and will detract from the streetscape setting of the group of heritage listed buildings and its setting as it will introduce visual clutter and will dilute the established character of Brett Whiteley Place.
- g) Inconsistent with Provisions P1; P4 and P5 of Section 13.4 of the NSDCP 2013.



NORTH SYDNEY LOCAL PLANNING PANEL

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL
MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON WEDNESDAY 1 NOVEMBER 2023, AT 2.00PM.**

PRESENT

Chair:

Helen Lochhead

Panel Members:

Jan Murrell (Panel Member)
Brendan Randles (Panel Member)
John Bohane (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
Isobella Lucic, Team Leader Assessments
David Hoy, Team Leader Assessments
Thomas Holman, Assessment Officer
Andrew Beveridge, Assessment Officer
Rachel Wu, Graduate Assessment Officer
Surb Bhatti, Conservation Planner/Heritage Officer

Administrative Support:

Peita Rose, Governance Officer (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.

Apologies:

Nil

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 4 October 2023 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.

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

Public Meeting**ITEM 1**

DA No:	38/23
ADDRESS:	21 Cowdroy Avenue, Cammeray
PROPOSAL:	Demolition of a dwelling house and construction of a new dwelling house
REPORT BY NAME:	Andrew Beveridge, Assessment Officer
APPLICANT:	Dr George Lewkovitz

One Written Submission**Registered to Speak**

Submitter	Applicant/Representative
John Jamieson - Resident	Dr George Lewkovitz - Applicant
Sienna Moses- Morgan - Resident	
Natasha Benari - Resident	
Jamie Kelly - Resident (Observing Only)	
Nanette and Peter O'Carroll - Resident (Observing Only)	

Panel Determination

Panel members have undertaken a site inspection prior to the meeting and all Panel members have considered all written submissions prior to determination.

The Council Officer's Report and Recommendations are endorsed by the Panel:

Panel Reasons:

The Panel noted the height and bulk in this context to be the most significant issue, and considered the removal of the upper level could deliver a substantial and compliant development.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		John Bohane	Y	
Jan Murrell	Y				
Brendan Randles	Y				

ITEM 2

DA No:	81/23
ADDRESS:	7 Ryries Parade, Cremorne
PROPOSAL:	Demolition of existing dwelling and construction of a new two storey dwelling.
REPORT BY NAME:	Thomas Holman, Assessment Officer
APPLICANT:	David Lai Kwon

One Written Submission

No persons elected to speak on this item.

Panel Determination

Panel members have undertaken a site inspection prior to the meeting and all Panel members have considered all written submissions prior to determination.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to the following typographical corrections and an amendment to C24:

Typographical errors to be fixed on conditions A1, A4, C22, C23, E10, D5 and I2.

Amendments to the Landscape Plan

C24. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- Screening plants must be provided within the rear garden along the north-east and south-west boundary. Nominated screen plant specimens must be capable of attaining a mature height of 2.0 - 3.0 metres above finished ground levels.
- The landscape plan must provide for the additional planting of 1 x Camelia sasanqua 'Plantation Pink' (75l) within the council verge in front of 7 Ryries Parade.
- Ground levels within the TPZ of all protected trees shall be retained except where necessary to construct the dwelling and driveway. The existing ground level of the rear setback/garden shall also be maintained.
- The driveway shall be modified removing 6m² of the hard stand/concrete driveway to be replaced with landscaping inclusive or grasses and/or groundcovers.

- In total 4 x *Tristaniopsis laurina* (Pot Size 75lt) shall be provided, 2 x *Tristaniopsis laurina* in the front setback and 2 x *Tristaniopsis laurina* in the rear setback. The trees must be sited at least 1 metre from any boundary.

An amended landscape plan complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity and to enhance the landscape setting)

Panel Reason:

Additional trees have been included to provide additional shade, habitat and amenity.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		John Bohane	Y	
Jan Murrell	Y				
Brendan Randles	Y				

ITEM 3

DA No:	137/23
ADDRESS:	5-7 Lower Wycombe Road, Neutral Bay
PROPOSAL:	Demolition of existing residential flat building and construction of new residential flat building containing six (6) apartments and construct swimming pool adjacent to the foreshore.
REPORT BY NAME:	David Hoy, Team Leader Assessments
APPLICANT:	Brett Brown, Ingham Planning

One Written Submission

Registered to Speak

Submitter	Applicant/Representative
Branko Cerecina - Resident	Brett Brown - Ingham Planning
Dr Sue-Anne Walker - Resident (Observing Only)	Paul Brace - PBD Architects
	Ben Salon - Mills Oakley - Legal
	Tom Virgona - Vergome Pty Ltd - Owner (Observing Only)

Panel Determination

Panel members attended a site inspection prior to the meeting and all Panel members 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 request to the contravention of 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 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 generally consistent with the objectives of the standard and the zone objectives.

The Council Officer’s Report, Recommendation and Conditions are endorsed by the Panel subject to the following amendments:

1. **Condition A1 (Plans)** is to be amended to correct plan references for the section drawings to read “301 (Section A)” and 302 (Section B) respectively.
2. **Condition A2 (Design Amendments)** is to be amended to include the following design changes:

Design Amendments

- A2. The architectural plans referred to in Condition A1 are to be amended to incorporate the following changes:
 - a. The curved blade walls to Unit LG.01, GF.02 and L1.02 are to be redesigned to be in line with the plane of the eastern elevation and reduced so as not to protrude beyond the master balcony edge of GF.02 and L1.02.
 - b. The balconies and planters to Units GF.01 and L1.01 are to be set back from the front boundary to match the main facade of the two storey section of No. 3 Lower Wycombe Street; The blade walls, planter and balcony edges are to be set a minimum of 3.8metres from the street boundary with Lower Wycombe Road.
 - c. The car lift is to remain an unroofed/open structure. The safety fencing associated with the car lift is to remain visually transparent utilising vertical pickets or similar. Any safety barrier facing the street frontage is to be set back 1.5 metres from the boundary to match the alignment of the fencing to the east of the car lift;
 - d. The hydrant booster assembly and “bin-store” shown in the northern western corner of the site is to be relocated to the north-eastern corner of the site, with the bin - store located behind the hydrant booster and notated to be a “holding area only”. Additional landscaping is to be shown provided in the north-western corner including an additional canopy tree;

- e. All Fencing shown within the landscaped areas of the site to Lower Wycombe Street and the waterfront areas are to be open metal palisade or vertical blade fencing design with a maximum height of 1.2m above finished site level. All fencing is to be in a dark recessive colour;

The amendments required by this condition are to be incorporated in the Construction Certificate drawings and approved by the Certifying Authority prior to the issue of any Construction Certificate

(Reason: To maintain view sharing between the building and No. 9 Lower Wycombe Road, to improve streetscape articulation and reduce the impact of the car lift structure on the street)

3. The following additional conditions are to be imposed:

Car lift and safety barrier

- C52. The car lift and lift platform is to be designed and installed to return to street level when not in use. The safety barrier facing the Lower Wycombe Street frontage is to remain in the “closed” position when the car lift is not in use. The car lift is not to be left open to the street. The safety barrier is to be designed to match the metal palisade front fence..

(Reason: To ensure pedestrian safety and improve the presentation to Lower Wycombe Road)

Sea Wall Materials to be provided to Council

- C53. Prior to the issue of the relevant Construction Certificate, the finishes and materials for the sea wall works are to be submitted to Council for approval. The materials and colours are to be faced with neutral or natural rock coloured material to complement the foreshore rock faces.

(Reason: Minimise the visual impact of the sea wall on the harbour foreshore area)

Amalgamation of Lots

- G28. The existing Lots 19 and Lot 20 in DP 3183 and Lot 1061 in DP 752067 are to be amalgamated prior to the issue of the first Occupation Certificate or Subdivision Certificate, whichever occurs first.

(Reason: To provide for orderly development of land)

4. **Condition Nos. C25, C26, E16, G14** are to be amended to ensure Trees T11 and T13 (*Casuarina cunninghamiana*) are retained and protected during construction work.
5. **Condition C28** (Amendments to the Landscape Plan) is to be amended to include the following additional bullet points:

- Trees T11 and T13 (*Casuarina cunninghamiana*) are to be shown to be retained;
- An additional canopy tree is to be shown within the front set back in the north west corner.
- An Additional 3 x Water gums (*Tristaniopsis laurina*) and 1 x Coastal Banksia (*Banksia integrifolia*) are to be included in suitable locations in the rear south-western portion of the site.

Panel Reason:

The Panel was satisfied that the amended proposal provided an appropriate response to the site constraints and character noting that additional trees have been retained and others added to provide additional shade, habitat and amenity and to enhance the streetscape and harbour settings. Palisade fencing has been nominated to street and pool setting to enhance the public interface. The bin and fire booster enclosure have been relocated to also improve the streetscape and landscape setting.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		John Bohane	Y	
Jan Murrell	Y				
Brendan Randles	Y				

ITEM 4

DA No:	178/23
ADDRESS:	3 Commodore Crescent, McMahons Point
PROPOSAL:	Alterations and additions to a heritage listed dwelling including partial demolition, addition of garden pavilion and reconstruction of double height southern verandah.
REPORT BY NAME:	Rachel Wu, Graduate Assessment Officer
APPLICANT:	Geoffrey Vere Reed, Planning Ingenuity

One Written Submission

Registered to Speak

Submitter	Applicant/Representative
	David Waghorn - Planning Ingenuity
	Michael Cumming - Architect
	Anne Warr - Heritage Consultant
	Geoff Reed Owner
	Caitlin Young - Student Planner - Planning Ingenuity (Observing Only)

Panel Determination

Panel members have undertaken a site inspection prior to the meeting and noted there were no written submissions.

The Council Officer’s Report, Recommendation and Conditions are endorsed by the Panel subject to the following amendments:

Proposed Pavilion Design Amendments

- A8. a. All fixed and operable doors on the southern and western elevations of the proposed rear pavilion are to be fitted with clear glazing.
- b. The glazing to the rear pavilion must be low-glare and low reflectivity. A sample to demonstrate the low reflectivity of the glass is to be submitted as below.
- c. Retractable Louvres are to be installed on the southern and western elevations.
- d. The overhang of the eaves on the western and southern elevations to the pavilion is to be a nominal 600mm.

Details of the design are to be provided to Council for approval of the Manager Development Services prior to the issue of the relevant Construction Certificate. The Certifying Authority must be satisfied that the CC drawings comply with the requirements of this condition.

(Reason: To mitigate excessive glare or reflectivity nuisance from glass pavilion ; To protect the significance of an important Heritage Item and significant views from public places)

Work to Western Deck to Be Deleted

- A10. No consent is granted for any works to the western deck with the exception of the removal of raised elements on the western deck and reinstatement of decking deck to RL25.52 as depicted in the plan DA05, Issue B, prepared by Michael Cumming Architect, dated 30 October 2023.

(Reason: To protect the significance of an important Heritage Item and significant views from public places)

Panel Reason:

To protect the significance of the heritage item and significant views from the public domain while providing additional amenity for contemporary living.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Helen Lochhead	Y		John Bohane	Y	
Jan Murrell	Y				
Brendan Randles	Y				

The meeting concluded at 3:05pm.

The Panel Determination session commenced at 3:07pm.
The Panel Determination session concluded at 4:35pm.

Endorsed by Helen Lochhead
North Sydney Local Planning Panel
1 November 2023