



NORTH SYDNEY COUNCIL

Council Chambers
31 January 2024

I wish to inform you that a Meeting of the **NORTH SYDNEY LOCAL PLANNING PANEL** will be held in the Council Chambers, North Sydney at 2.00pm on Wednesday, 7 February 2024.

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: 115 Blues Point Road, McMahons Point 2060 (L/E) - DA 205/23

Applicant: Felicity King

Report of Rachel Wu, Graduate Assessment Officer

This development application is an amended development application which seeks approval for alterations and additions to an existing semi-detached dwelling including a new lift, formal vehicular access from lane and new landscaping at the rear. The proposed alterations and additions are in a contemporary architectural form and primarily affect internal areas and the rear of the existing dwelling.

The application is reported to North Sydney Local Planning Panel for determination as a departure from the requirements of Clause 4.3 (Height of Building) development standard by greater than 10% in an R3 zone. In accordance with the Minister's Directions the application must be determined by the Local Planning Panel.

The applicant has provided a written submission pursuant to Clause 4.6 of the LEP 2013 which satisfactorily addresses that compliance with the development standard Clause 4.3 (Height of Buildings) would be unreasonable and unnecessary in the circumstances as the development achieves the objectives of the height development standard. The written request includes sufficient environmental planning grounds to justify the contravention and adequately demonstrates that the proposal would achieve the objectives for the R3 (Medium Density Residential) zone.

The subject site is a contributory item located on the east of Blues Point Road within the R3 Medium Density zone. The subject site contains a semi-detached, three-storey brick terrace dwelling with metal roof and no formal garage space. The site adjoins a number of terrace style shops that are of a similar scale and rhythm, but which are located in an adjoining zone, being the E1 Local Centre zone.

Council's Conservation Planner has raised concern in relation to the impacts of the proposal on the rear laneway given the contemporary form of the proposed additions. The proposal has been amended to address these concerns and to reduce the overall scale of the additions at the rear, whilst retaining a contemporary form. The amended proposal has partly addressed the concerns raised. Conditions are recommended to require further detailed design amendments to reduce the impact of the additions on the heritage significance of the building and those in the vicinity of the site whilst retaining improved amenity for occupants.

Notification of the proposal has attracted nil (0) submission. The assessment however concludes that conditions will be required to manage potential impacts on privacy and to require additional landscaping to be provided within the rear courtyard space.

Following this assessment the development application 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 and grant consent to Development Application No. 205/23 for alterations and additions to a semi-detached dwelling on land at 115 Blues Point Road, McMahons Point subject to the following site specific and standard conditions:-

Low Level Plantings on Second Floor Rear (Eastern) balcony

A5. Low Level Plantings are to be planted along the edges of the Second-Floor balcony (eastern elevation) in the form of planter boxes.

(Reason: Visual Privacy for subject site and adjoining dwellings)

Design Amendments

C18. The plans referred to in condition A1 are to be amended to provide for the following changes:

- i. The proposed second floor balcony and awning are to be reduced in width to match the width of the existing rear wing;
- ii. The wall return on the southern elevation at Level 1 is to be reduced to have a minimum 1.5metres set back from the rear elevation and is to be finished in traditional masonry to match existing;
- iii. The cladding to the second floor balcony is to be of solid masonry form to match the masonry cladding;
- iv. The wall return on the eastern elevation of the proposed Bin and Bike Store is to increase in rear setback by a minimum of 0.5m from that proposed.
- v. The proposed lift on the northern boundary is to be constructed within the building in the approximate location between the proposed Ground Floor Bath 1 and Laundry.
- vi. The non-trafficable pebble roof proposed above the ground floor rear portion of the dwelling is to be converted into a green roof.
- vii. The section of the northern wall to the existing Ground Floor Storage proposed for demolition is to be retained commencing at the landing of the existing stairs.
- viii. The proposed roof material being Klip Lok steel roof is to be a changed to corrugated metal roof.

The Certifying Authority must ensure the amendments required by this condition are included in the Construction Certificate Drawings.

(Reason: To reduce the impact of the contemporary built form to the laneway and to ensure development minimises impact on heritage significance of the contributory building and consistency with DCP objectives and controls)

LPP02: 13 Milner Crescent, Wollstonecraft - DA 324/23

Applicant: Mark Oxenham

Report of Thomas Holman, Senior Assessment Officer

This development application seeks consent for alterations and additions to a heritage listed dwelling house at 13 Milner Crescent, Wollstonecraft. The proposed works consist of additions and alterations to the main dwelling including single storey additions at the rear of the dwelling and to an existing garage, together with an additional storey addition to the garage. Alterations are also proposed to the existing landscaping including additional landscaping within the rear garden.

The application is reported to the North Sydney Local Planning Panel for determination as the proposal involves part demolition/removal of building fabric within a heritage listed item which requires determination by the Panel in accordance with Directions of the NSW Minister of Planning Housing & Infrastructure. The application requires consideration of the potential effect significance of the heritage item and determination by the Panel.

The development responds to the constraints of the site maintaining the heritage significance of the dwelling and designing a more contemporary addition separate from the dwelling.

The rear addition is appropriately designed as a single storey link between the dwelling and garage thereby maintaining the built form character of the existing dwelling and minimising any impact upon the heritage significance of the buildings in terms of its built form characteristics. The rumpus room/attic addition is supported due to its subordinate and sympathetic design and scale, sufficient separation to adjoining boundaries and limited impact to neighbouring amenity.

The development has a positive landscaped area and un-built upon area outcome removing paving within the side and rear setbacks of the site to be replaced with grass lawn and garden beds. Furthermore, the single storey addition proposes a green roof which contributes to the amenity of the site and contributes to additional planting within the site. The removal of one tree within the rear garden is supported noting its low retention value and evident signs of borer/sunscald damage as well as dead central stem.

Council received five (5) submissions which included a two (2) submissions in support of the development. The submissions raised concerns with overshadowing, non-compliances with side setbacks, the potential adverse privacy impact to neighbouring properties and insufficient landscaping to mitigate against privacy. The landscape issues are considered to be satisfied with amended landscape plans retaining all trees apart from one and providing an improved landscape outcome within the setbacks of the site. The content of the submissions has been discussed in this report and where appropriate conditions of consent are recommended to manage privacy and ensure appropriate landscaping.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site specific 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 as the consent authority grant consent to Development Application No. 324/23 for alterations and additions to a dwelling house on land at 13 Milner Crescent, Wollstonecraft subject to the following site specific and attached standard conditions:-

Heritage Requirements

- C6. 1. The proportions of the new doorway from the entry hallway to the living room are to be of a traditional scale complementary to the period of the dwelling and be set below the existing picture rail with a subservient scale to enable appropriate interpretation of the earlier layout.
2. The proposed new window (W7) to bedroom 2 shall be complementary to the existing window to this room and be of timber construction.
3. The works relating to the further adaptation of the previous sleep-out area, (now used as a walk-in-wardrobe to bedroom 1), with an ensuite bathroom and extension of the wardrobe area be such that it is reversible by ensuring,
- a. the original wall between the existing walk-in-wardrobe occupying the previous verandah area is to remain in-situ and be adapted with an appropriately scaled opening retaining nib walls and a bulkhead above linking the existing space with the new extension to the wardrobe,
 - b. the infill fenestration in the eastern elevation of the original verandah be retained in-situ and be covered over internally to enable the installation of the new ensuite. All ensuite utility fittings etc are to be carried out from below the floorboards.
4. That the width of the rear projecting bay relating to the existing living room is to remain as is whereby deleting the proposed joinery area to retain the dimensions of this space with the existing roof alignment and eaves.

The Certifying Authority must also ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the heritage significance of 13 Milner Crescent)

Tree Planting

- C12. The following tree is required to be planted and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Container Size (l)
1 x local native tree. Suitable local native tree species are listed on Council's website.	Within rear setback of 13 Milner Crescent	75l

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that tree planting provided enhances environmental and landscaped amenity)

Tree Protection measures to be implemented

D2. The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist shall be established before work commences.

(Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised Tree protection measures)

Protection of Public Trees

D3. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
T1 <i>Lophostemon confertus</i> (11x14m)	In-road planting in front of rear of 13 Milner Cr (Selwyn St frontage)	Trunk, branch & root protection
T2 <i>Callistemon viminalis</i> (5x5m)	Council verge- rear of 11A Milner Cr (Selwyn St frontage)	1.8m high steel mesh tree protection fencing
1 x <i>Photinia robusta</i> (not shown on plans) 3x6m	council verge in front of 11A Milner Cr	1.8m high steel mesh tree protection fencing
T8 <i>Lophostemon confertus</i> (14x14m)	In-road planting in front of 13 Milner Cr	Trunk, branch & root protection
T9 <i>Corymbia gummifera</i> (9x6m)	In-road planting in front of 13 Milner Cr	Trunk, branch & root protection

Trunk protection to be installed by first wrapping the stem of the tree in hessian or like material then strapping timber battens over the top. It is recommended that timber battens with the dimensions of length 2000mm, width 75mm and depth 50mm are used. The battens are not to be directly screwed or nailed into the tree.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

LPP03: 9 Gundimaine Avenue, Kurraba Point - DA 381/22

Applicant: Felicity King, Studio Barbara

Report of Robin Tse, Senior Assessment Office

This development application seeks consent for and additions to an existing detached dwelling including a first-floor addition and a double garage at No.9 Gundimaine Avenue, Kurraba Point.

The application is reported to the North Sydney Local Planning Panel for determination as the application seeks a variation to a development standard by more than 10% in accordance with the direction of the Minister of Planning and Public Spaces.

The application was notified to the owners of the adjoining properties and the Kurraba and Bennett Precinct Committees. A total of five (5) submissions were received at the close of the notification period including one (1) submission in support of the proposal. One (1) submission objecting to the proposal was subsequently withdrawn. The concerns raised in the submission including the height of the proposed addition, adverse impacts on the amenity of the neighbouring properties and the encroachment of an adjoining property. The issues raised in the submissions received have been addressed in this report. Development for the purpose of alterations and additions to an existing detached dwelling is permitted within the R2 (Low Density Residential) zone. The development application has been assessed against the *North Sydney LEP 2013* and North Sydney DCP 2013 and was found to be unsatisfactory for reasons discussed herein.

Consideration has also been given to the Clause 4.6 request for a variation to the LEP's building height development standard as submitted by the applicant. The variation to the building height development standard is not supported because the uncharacteristic design of the building elements, including those above the LEP maximum building height limit, that would result in the loss of the Interwar character of the original dwelling. Furthermore, the uncharacteristic nature of the proposal and its impacts on the conservation area do not demonstrate public benefit. Therefore, a variation to the LEP building height control is not considered to be well-founded and strict compliance with the standards is necessary.

The proposed development is contrary to the objective of the R2 (Low Density Residential) zone because the proposal would detract from the significance of the conservation area.

The proposal does not comply with DCP's site coverage, unbuilt upon area and landscape area requirements. Additionally, the proposed landscaping treatments are unsatisfactory.

The application was referred to Council's Conservation Planner who considered the proposal unsatisfactory because of the adverse impacts on the significance of conservation area.

Accordingly, the proposed development is recommended for refusal.

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, resolve to refuse development consent to Development Application D381/22 for alterations and additions to an existing attached dual occupancy at No.9 Gundimaine Avenue, Kurraba Point for the following reasons:-

1. The written request pursuant to clause 4.6 of NSLEP is not supported

The written request pursuant to clause 4.6 of NSLEP seeking a variation to the height of building development standard in clause 4.3 of NSLEP is not considered to be well founded.

Particulars:

- (i) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not comply the 8.5m maximum height of building development standard specified in clause 4.3(2) in NSLEP 2013.
- (ii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the written request submitted with the application seeking a variation to the maximum height of building development standard has inadequately addressed the matters required to be addressed in subclause (3) in clause 4.6 in NSLEP 2013.
- (iii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the written request has failed to adequately demonstrate that compliance is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the height of building development standard.
- (iv) The proposed development is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a) and (e) of the *Environmental Planning and Assessment Act 1979* in that the development is not consistent with the objectives of the height of building standard in clause 4.3(1) in NSLEP 2013 and the objectives of the R2 (Low Density Residential) zone (dot point 4) under NSLEP 2013 and is therefore not in the public interest.

2. Unacceptable Heritage Impacts

The proposed development is unacceptable because of the adverse impacts on the subject dwelling and the conservation area.

- (i) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy Clause 5.10(1)(a), Clause 5.10(1)(b) and Clause 5.10(4) in Part 5 of NSLEP 2013 due to the detrimental impacts of the proposed development on the subject building and the conservation area, in particular the loss of the interwar character of the original dwelling with the removal of the existing roof over and the uncharacteristic design of the new building elements.
- (ii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) of the *Environmental Planning and*

Assessment Act 1979 in that the proposal does not satisfy the aims of North Sydney Local Environmental Plan 2013 (NSLEP 2013) as listed in Clauses 1.2 (2)(a), (2)(b)(i), and (2)(f) in Part 1 of NSLEP 2013.

- (iii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the objective of the R2 (Low Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the adverse impacts of the proposed development on the significance of the conservation area, particularly dot point 3.
- (iv) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that proposed development does not satisfy the Area Character Statement for South Cremorne Planning Area in Section 6.0 in Part C of North Sydney DCP 2013 (NSDCP 2013) given that the proposal does not promote the character within the conservation area because the design of the proposal fails to reflect and reinforce the characteristic built form as identified in the Area Character Statement.
- (v) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that it fails to satisfy the development controls for the following sections in Part B of the NSDCP 2013 and is therefore considered unacceptable:
 - a. Section B – 13.6.1 – General Objectives
 - b. Section B – 13.6.2 – Form Massing and Scale
 - c. Section B – 13.6.3 – Roofs
 - d. Section B – 13.6.4 – Additional Storey and levels
 - e. Section B – 13.6.5 – Internal Layout
 - f. Section B – 13.6.8 – Demolition
 - g. Section B – 13.9.3 – Verandah and Balconies
 - h. Section B – 13.9.4 – Materials
 - i. Section B – 13.9.5 – Garages and Carports
 - j. Section B – 13.9.6 – Fences
 - k. Section B – 13.9.7 – Gardens
 - l. Section B – 13.10.3 – Larger Scale Single Dwelling

3. Inappropriate context, excessive height, bulk and scale and built form

The proposed development is unacceptable because of the proposed works will result in an appropriate built form within the locality.

Particulars

- (i) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is inappropriate to its context being a dwelling within a conservation area with uncharacteristic building elements which is contrary to aim 1.2 (2)(a) in NSLEP 2013 as well as section 1.4.1 in Part B of

NSDCP 2013.

- (ii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is contrary to Section 1.4.5 in Part B of NSDCP 2013 because the uncharacteristic siting of the double garage with extensive paving and the loss of a garden setting within the western building setback.
- (iii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development contrary to Section 1.4.6 in Part B of NSDCP 2013 because the front building setback is not consistent with the front building setback of the group of dwellings along the Shell Cove foreshore.
- (iv) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is contrary to Section 1.4.7 and 1.4.8 in Part B of NSDCP 2013 because the proposed addition will increase the bulk and scale of the existing building with an uncharacteristic built form.
- (v) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* in that proposed development is contrary to Sections 1.4.10 and 1.4.11 in Part B of NSDCP 2013 because of the inappropriate roofing materials.

4. Overdevelopment

The proposed development is an overdevelopment of the subject site because of the non-compliance with site coverage, unbuilt upon area and landscaped area requirements.

Particulars

- (i) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is an overdevelopment of the subject site and is contrary to aim 1.2 (2)(a) in NSLEP 2013 as well as sections 1.5.5 and 1.5.6 in Part B of NSDCP 2013.
- (ii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the objective of the R2 (Low Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the proposed development with a non-complying site coverage and the reduction in landscaped area does not promote a high level of residential amenity.
- (iii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(ii) of the *Environmental Planning and*

Assessment Act 1979 in that the proposed development is contrary to Section 1.5.5 in Part B of NSDCP 2013 because the proposal is not consistent with the objectives of site coverage and does not comply with the maximum site coverage requirements.

- (iv) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is contrary to Section 1.5.6 in Part B of NSDCP 2013 because the proposal is not consistent with the objectives of landscaped area and does not comply with the minimum landscaped area and maximum unbuilt upon area requirements.

5. Landscaping

The proposed development is unacceptable because the proposal is unsatisfactory and fails to address the concerns raised by Council's Landscape Officer.

Particulars

- (i) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is contrary to aim 1.2 (2)I in NSLEP 2013 as well as section 1.5.7 in Part B of NSDCP 2013.
- (ii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the objective of the R2 (Low Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the proposed landscape treatments do not promote a high level of residential amenity.
- (iii) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is contrary to Section 1.5.7 in Part B of NSDCP 2013 because the proposal does not achieve a landscaping outcome that will clearly satisfy the DCP objectives and provisions for landscaping.

6. Public Interest

The proposed development is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* in that the approval of the proposed development is not in public interest because of the adverse impacts on the significance of conservation area and the adverse impacts on the residential amenity of the locality.

LPP04: 50 Tobruk Avenue, Cremorne – DA 349/22

Applicant: V Parker C/- Auae Architecture

Report of Jim Davies, Executive Planner

This development application seeks approval to demolish a dwelling house and replace it with an attached dual occupancy of 2-4 storeys, with parking for four cars.

The application is reported to the North Sydney Local Planning Panel for determination as the proposed building exceeds the 8.5m height limit by up to 2.85m or 33.5%. The application, as originally submitted, also brought into question a non-numeric development standard, whether the building looks like a dwelling house. Despite this, amendments to the design render the proposal consistent with this requirement.

The application was notified twice and at the time of writing 16 submissions had been received. Key issues of concern were:

- Amenity impacts,
- Variation of height and setback standards, and
- Adequacy of drainage and sewerage infrastructure.

The report has considered these concerns in an appraisal of the application having regard to relevant State and Council planning requirements.

This assessment concludes the application is generally satisfactory, having been amended to conform with applicable planning objectives and comply with statutory requirements.

Accordingly, granting of consent is recommended.

Recommending:

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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, North Sydney Local Environmental Plan 2013 with regard to the non-compliance with Clause 4.3 and grant consent to Development Application No. 349/22 for demolition of the existing dwelling house and associated works and construction of an attached dual occupancy, landscaping and associated works, on land at 50 Tobruk Avenue, Cremorne, subject to the conditions attached to this report.

LPP05: 126-128 Willoughby Road, Crows Nest - DA 279/22

Applicant: Ken Demlakian

Report of Damon Kenny, Executive Planner

This development application seeks approval for alterations and additions to an existing building to create a mixed use development of 2 levels and a mezzanine of commercial and retail premises, and 4 residential units on the upper 2 levels and associated works

The application is reported to the North Sydney Local Planning Panel for determination as the applicant is a sensitive development to which *State*

Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and makes a request to contravene the building height development standard of 10m, prescribed by cl. 4.3 North Sydney Local Environmental Plan 2013 (the LEP) by more than 10%.

The request to breach the prescribed height maximum is examined by this report. The maximum height standard is 10m with the proposal demonstrating a maximum height of 16.05m. The written request made pursuant to Clause 4.6 Departure to development standards in NSLEP 2013 fails to demonstrate 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 proposed development is not considered satisfactory when evaluated against the Design Quality Principles in Schedule 1 to SEPP 65 – Design Quality of Residential Apartment Development and is inconsistent with the objectives of the Apartment Design Guide.

The development application has been assessed against the North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013 and the relevant State Planning Policies and found to be unsatisfactory.

The proposed development is not considered to be in keeping with the established and desired future character of the area and will result in adverse impacts on the streetscape. The proposal fails to allow for a height, bulk and scale which is compatible with the existing and desired future character of the area and fails to ensure that new development does not adversely affect residential amenity in terms of visual privacy.

The application was notified in accordance with the Community Engagement Protocol. Council received no submissions.

Following this assessment and having regard to the provisions of S4.15(1) of the Environmental Planning & Assessment Act 1979, the application is recommended for **refusal** 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, and **refuse** Development Application No. 279/22 for alterations and additions to an existing building to create a mixed use development of 2 levels and a mezzanine of commercial and retail premises, and 4 residential units on the upper 2 levels and associated works, for the following reasons:-

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is contrary to the objectives of the aims of plan of North Sydney Local Environmental Plan 2013 pursuant to Clause 1.2 in that the proposal is inconsistent with:
 - (a) The proposal does not provide development that is appropriate to its context and is does not enhance the amenity of the North Sydney community and environment (Clause 1.2(2)(a));

- (b) The proposal is not compatible with the desired future character in terms of its height, bulk and scale (Clause 1.2(2)(b)(i));
 - (c) The proposal adversely affects the residential amenity of adjoining properties in terms of visual privacy (Clause 1.2(2)(c)(i));
2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the variation to the building height development standard pursuant to Clause 4.3(2) of North Sydney Local Environmental Plan 2013 lodged pursuant to Clause 4.6(3) has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify the contravention of the development standard. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed development as a whole does not ensure that a high level of amenity is achieved and maintained. The Clause 4.6 Statement in respect to the non-compliance with Clause 4.3 Height of Building standard is not considered to be well founded or in the public interest.
 3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the design quality of the proposal when evaluated in accordance with the design quality principles is unacceptable, contrary to Clause 28(2)(b) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') and adequate regard has not been demonstrated to the design quality principles contrary to Clause 30(2)(a) of SEPP 65. Consent must not be granted as the proposal does not demonstrate that adequate regard has been given to the design quality principles. In particular, the proposal is inconsistent with the following design quality principles:
 - (a) Principle 1 - Current and Neighbourhood Character: The four storey building does not respect the existing context of Willoughby Road. The height of the development is inconsistent with the desired future character and built forms envisaged by the NSLEP 2013 and NSDCP 2013.
 - (b) Principle 2 - Built Form and Scale: The height, bulk and scale is inconsistent with the existing and desired future character of the locality.

The development is not consistent with the current built forms permissible under North Sydney Local Environmental Plan 2013 or the built forms envisaged under the St Leonards and Crows Nest Planning Area. The built form would produce a dominating presence within the streetscape.
 - (c) Principle 3 - Density: The floor space provided by a building that exceeds height standards results in an overdevelopment of the site.
 4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment

Act 1979 as there are numerous inconsistencies with the Apartment Design Guide pursuant to Clause 28(2)(c) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') which result in an unsatisfactory impact to amenity, adjoining properties and the streetscape, including the following:

- (a) Part 3F: Apartments 3 and 4 allow for direct overlooking onto No.33 Albany Street living areas and private open space.
 - (b) Part 3J: the proposal fails to provide adequate bicycle parking facilities.
5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with various parts of Part B of the North Sydney Development Control Plan 2013 in that:
 - (a) The proposed development does not satisfactorily respond to Part B Section 2.1.1 General Objectives - O8 as it does not provide an acceptable level of amenity to adjoining properties.
 - (b) The proposed development does not satisfactorily respond to Part B Section 2.4.1 in that the proposed developments height, bulk and scale is not in context with the surrounding development.
 6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the waste management objectives and requirements of Section 19 Waste Minimisation and Management of the North Sydney Development Control Plan 2013 in that the proposed waste management arrangements are unacceptable and do not adequately demonstrate compliance with the requirements including:
 - (a) A functional bulky waste storage area has not been provided to hold household clean up material. This must be separate from the garbage room.
 7. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the built environment with respect to the impact upon the streetscape and amenity to adjoining properties.
 8. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed development in its current form is not suitable for the site.
 9. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (e) of the Environmental Planning and Assessment Act 1979 as the proposal in its current form given its height, bulk and scale and massing, is not in the public interest as it is inconsistent with the relevant planning controls in relation to the adverse impacts on the streetscape and amenity of immediately adjoining properties. The proposal also lacks good urban design and will negatively affect the character and nature of the neighbourhood. It is considered to be an inappropriate outcome for the site and will establish an undesirable precedent in the area which will not be in the public interest.

**NORTH SYDNEY LOCAL PLANNING PANEL****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL
MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON WEDNESDAY 6 DECEMBER 2023, AT 2.00PM.****PRESENT****Chair:**

Jan Murrell

Panel Members:

Ian Pickles (Panel Member)
Gerard Turrisi (Panel Member)
Ken Robinson (Community Representative)

Independent Town Planning Consultants

Jeremy Swan, The Planning Hub (Item LPP01)
David Waghorn, Planning Ingenuity (Item LPP02)
Jonathan Joseph, Planning Ingenuity (Item LPP02)
Annelize Kaalsen, AK Planning (Item LPP08, LPP09, LPP11 & LPP12)

Staff:

*Council staff did not attend the site inspection or briefing for items LPP01 and LPP02.
Council Administrative staff aided the Panel in the preparation of minutes for items LPP01 and LPP02 only.
No Council staff participated in the Panel deliberations for these items.*

Stephen Beattie, Manager Development Services
Isobella Lucic, Team Leader Assessments
David Hoy, Team Leader Assessments
Jim Davies, Executive Assessment Planner
Michael Hornery, Executive Assessment Planner
Robin Tse, Senior Assessment 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, 1 November 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:	266/23
ADDRESS:	184 Kurraba Road, Kurraba Point
PROPOSAL:	Alterations and additions to an existing dwelling house including part demolition/excavation works, additional level, landscaping, tree removal and associated works.
REPORT BY NAME:	Jeremy Swan, Consultant Town Planner
APPLICANT:	Maryann Beregi

1 Written Submission**Registered to Speak**

Submitter	Applicant/Representative
Simon Smith - SJB Planning representing G01 & 201/182 Kurraba Rd, Kurraba Point	Thomas Beregi - owner representing applicant
Rod and Ros Hills - resident	Jason Perica - Perica & Associates Urban Planning - representing applicant
John Diddams - neighbouring property	
David Rahme -resident	
Ross Gardner - representing the owners at 182 Kurraba Rd, Kurraba Point	
Randon Ilic – resident	

Panel members have undertaken a site inspection prior to the meeting and Panel members have carefully considered all written submissions, and oral submissions made at the public meeting, prior to making a determination. The Panel also has the benefit of the Independent Planner's assessment report and this includes a view impact analysis of the amended plans. He also attended the site inspection to assist the Panel in an understanding of where the height exceedance occurred as consideration of this in terms of the Clause 4.6 written request is a threshold question.

The Panel notes the plans were amended and placed on the NSW Government Planning Portal and made available on Council's website on 20 November 2023. The changes were accepted by the consultant as not requiring re-notification as they resulted in reduced impacts, and this is consistent with Clause 3.6 of Council's Community Engagement Protocol.

Panel Determination

After careful consideration the Panel has determined as follows:

- 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 Panel on a merits assessment concludes the application as shown in the amended plans warrants approval. The Consultant Planner's Report, Recommendation, and conditions are endorsed subject to the following amendments of the conditions:

1. **Design change condition to be imposed to require the submission of amended plans to delete the new turning circle and driveway extension prior to the issuing of construction certificate.**
2. **Amend Condition B1 in respect of Construction Management Details as follows (added works applied in a) x, and xi:**

Construction Management Program –North Sydney Council Traffic Division Approval

B1. A Construction Management Program prepared by a suitably qualified and experienced traffic consultant must be submitted and approved in writing by North Sydney Council's Traffic Division PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property will require appropriate approvals prior to any work commencing. At a minimum, the Construction Management Program must specifically address the following matters:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - I. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways;
 - II. The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
 - III. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
 - IV. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
 - V. Locations of hoardings proposed;
 - VI. Location of any proposed crane standing areas;

- VII. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - VIII. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - IX. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
 - X. **Storage of building materials, waste and construction related vehicles are not to be sited within the right of way or Council's footpath or block the public way.**
 - XI. **The shared right of way is to be specifically referenced and include methods to ensure the shared right of way is kept clear.**
- b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.

The proposed phases of works on the site, and the expected duration of each phase.

- c) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process.
- d) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.
- e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer and must not involve any permanent or temporary encroachment onto Council's property.
- f) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways.
- g) A Waste Management Plan. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

All traffic control work and excavation, demolition and construction activities must be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved Program. A certificate of compliance with this condition must be obtained from Council's Traffic and Transport engineers.

The certificate and the approved Construction Management Program must be submitted as part of the documentation lodged with the application for approval of a construction certificate.

A copy of the approved Construction Management Program and any conditions imposed on that Program, must be kept on the site at all times and made available to any officer of Council upon request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible, as a **minimum six (6) weeks assessment period** is required.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

3. Amend Condition C12 to remove new turning area / driveway works as follows:

Privacy Measures

C12. The following privacy measures are to be **incorporated into the development prior to the issue of a Construction Certificate** ~~provided~~:

- (a) The size of the upper balcony on the second-floor level is to be reduced in size to a maximum of 18m² **and is not to project beyond the northern wall of the upper wall of the upper level extension.**
- (b) **The proposed works to the driveway and turning bay are to be deleted and do not form part of the approval of this application for the subject site.**

(Reason: To maintain visual amenity and privacy between the subject dwelling and adjoining properties and to remove works outside the description of the subject site . Furthermore, the height of the extended driveway works are over 3 metres above natural ground in part and would have unreasonable impacts on the adjoining property)

4. Amend Condition C20 as follows with change to tree T11 & T12:

Protection of Trees

C20. The following trees are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
T4 <i>Gleditsia triacanthos</i>	Southern setback 178B Kurraba Rd	12x10m
T5 <i>Acer palmatum</i>	Front setback 184 Kurraba Rd	6x8m
T9 <i>Camellia japonica</i>	Eastern setback 184A Kurraba Rd	5x6m
T11 <i>Melaleuca 'revolution Gold'</i>	Northern setback 184 186 Kurraba Rd	4x5m
T12 <i>Glochidion ferdinandii</i>	Northern setback 186 178B Kurraba Rd	14x16m
T10 <i>Dicksonia antarctica</i>	Front 184 Kurraba Rd-to be transplanted	3x4m
All Existing vegetation	Adjacent to drive-184A Kurraba Rd	var

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

All trees shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

5. Amend Condition C23 as follows with deletion of first 2 dot points as amended landscape plan demonstrates these.

Amendments to the Landscape Plan

C23. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- An amended and detailed Landscape Plan is required prior to the release of the CC. ~~This plan shall include replacement planting of minimum 4 x canopy trees (75l min) capable of attaining a mature height of at least 7m. These trees shall be treated as specimen trees to be grown to maturity, and not form part of a hedge.~~
- ~~T10 Dicksonia antarctica shown for removal shall be transplanted elsewhere on site~~
- Areas shown as “existing established garden” where it cannot be demonstrated that existing planting will withstand proposed works, shall be readdressed with new planting shown on amended LS plan.
- Vegetation shall be used for screening and for softening of built form, particularly within northern setback, and at base of proposed sandstone wall forming eastern building line, lower ground floor
- The proposed location of stockpile shown on Erosion and sediment Plan prepared by antonio caminiti dated 14/8/23 is within the TPZ of protected trees, and requires relocation outside of any such TPZ.

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

(Reason: To ensure an appropriate landscaped setting and maintain residential amenity)

Panel Reasons:

The Panel determines on a merits assessment the development, as shown in the amended plans, is satisfactory and that the adverse impacts on both the natural and built environment are minimized and acceptable. The Panel concurs with the independent consultant’s assessment that the view impacts are minimal and limited to a confined area.

With respect to the extension of the driveway/turning area the Panel notes this is beyond the boundary of the site the subject of the development application and therefore is not approved. Furthermore, on a merits assessment the impacts on the adjoining property are unreasonable.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 2

DA No:	343/22
ADDRESS:	184B, 186 and 190 Kurraba Road, Kurraba Point
PROPOSAL:	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.
REPORT BY NAME:	Jonathan Joseph of Planning Ingenuity
APPLICANT:	PB & Co

1 Written Submission

Registered to Speak

Submitter	Applicant/Representative
Andrew Duggan- Ethos Urban - representing 192&192a Kurraba Rd	Susan E Francis - Gyde
Davide & Lena Foti - neighbouring property	Tina Christy - Gyde
Sean Barrett - neighbouring property	Rebecca Crockett - Gyde
Matthew Bartinel - Concise Planning Pty - representing 184 Kurraba Rd	Rafe Wilson - Koichi Takada
	Alex Liu - Koichi Takada
	Micheal Pesochinsky - Stan Tec
	Edward Bun - PB & CO
	Brett Maynard - PB & CO
	Fiona Binns - Urbis
	Nick Sisam -Urbis
<u>Observing Only</u> Helen O'Loughlin, Resident Peter Gill, Resident Thomas Beregi, Resident	

Panel members have undertaken a site inspection prior to the meeting and all Panel members have considered the written submissions and verbal submissions made at the public meeting prior to making a decision. This includes the request from the Applicant’s town planner to defer determination of the application to allow the matters raised in the assessment report to be considered and addressed.

The Consultant Planner’s Report and Recommendation has been noted.

Panel Determination

The Panel has resolved to defer the application to allow the Applicant the opportunity to address issues of concern. The applicant has until 31 January 2024 to submit further information, including amended plans. In the event further information is not received by Council the Panel will determine the application on the basis of the information at hand by electronic means.

Panel Reason:

The Panel notes the applicant advised that despite the dual zoning of R2 and R4 the ultimate built form is proposed as a single integrated development, and the fact the development is permissible this doesn’t preclude the RFB being considered as part of a mixed use development that would include the dual occupancies. The Applicant indicated that site will be consolidated but the panels notes that this cannot occur as the dual occupancies need to stand on their own allotments for them to be permitted, otherwise the built form on the R2 land would be otherwise categorised as multi unit housing, which is prohibited development.

Given the development cannot be consolidated as one development, each lot must be assessed individually in reference to the landscaping and site coverage. In addition, the panel considers that the car lift should be integrated into building B.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 3

DA No:	130/21/2
ADDRESS:	172 Kurraba Road, Kurraba Point
PROPOSAL:	To modify a consent, for alterations and additions to an attached dual occupancy.
REPORT BY NAME:	Jim Davies, Executive Assessment Planner
APPLICANT:	Mr P. Berkemeier

1 Written Submission**Registered to Speak**

Submitter	Applicant/Representative
	Paul Berkemeier- Applicant/Architect

Panel Determination

Panel members attended a site inspection prior to the meeting and Panel members have considered the written submissions, and the Applicant's verbal submission prior to determination.

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

Panel Reason:

After careful consideration The Panel concurs with the recommended condition that requires the balcony to be straight lines rather than curved given the heritage significance of the item. The condition as imposed will allow the same functionality of the balcony/terrace while not impacting with the character of the original facade and this resolution is more acceptable to maintain the heritage value of the dwelling.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 4

DA No:	367/22
ADDRESS:	173-179 Walker Street, 11, 15 & 17 Hampden Street, North Sydney
PROPOSAL:	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.
REPORT BY NAME:	Jim Davies, Executive Assessment Planner
APPLICANT:	CBUS Property Pty Ltd

2 Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
	Andrew Duggan- Ethos Urban
<u>Observing</u>	
Helen Rosen - CBUS	
Kyra Donoso - CBUS	
Mr Jethro Yuen - Ethos Urban	
Ms Patricia Geris - Ethos Urban	
Elizabeth Jimikis - Galileo Group	
Neil Werrett - Galileo Group	

Background

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

In the public meeting the Panel raised the issue of the need for information to allow an assessment of the loss of affordable housing as required in the Housing SEPP 2021 Part 3. This provision is a prerequisite prior to any determination.

Panel Decision and Reason:

The Panel has therefore decided to defer determination of this matter to allow the Applicant to submit the information to satisfy the requirements of the Housing SEPP 2021. This is to be submitted within 3 months from the date of this deferral.

The Council Officer's Report, Recommendation and Conditions are noted and on the receipt of the necessary information above a supplementary report is to be prepared by Council and submitted to the Panel in a timely manner.

The Panel notes the Applicant's request for an extension to 2 years for the 'deferred commencement conditions' to be satisfied and considers this a reasonable request in the circumstances given the extent of information and works required. With respect to the number of deferred commencement matters the Panel notes this appears to be the most effective mechanism as no 'construction certificate' is required.

In the event the information is not forthcoming the Panel will determine the application on the basis of the current information.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 5

DA No:	145/23
ADDRESS:	201 Miller Street, North Sydney
PROPOSAL:	Replacement of existing window shrouds and repairs and maintenance of the façade of a 23-storey commercial building and heritage-listed item.
REPORT BY NAME:	Rachel Wu, Graduate Assessment Officer
APPLICANT:	Urbis Pty Ltd

No Written Submission

Registered to Speak

Submitter	Applicant/Representative
	Abigail Cohen – LaSalle Investment Management – representing applicant
	Nick Sissons – Architect
	Matthew Bailey – LaSalle – on behalf of the Applicant

Panel Consideration and Decision

Panel members have undertaken a site inspection prior to the meeting and notes there are no written submissions. The Council Officer's Report and recommendation is also noted.

The Panel's decision is to defer the determination of the application for the reasons below.

The Panel notes the North Sydney LEP 2001 amendment 9 gazetted 28/02/2003 and LEP 2013 gazetted 02/08/2013 is based on the NSW Heritage Inventory Statement listing and describes the building as being significant for the following reason:

'An example of 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. Although substantially modified in 1989 in the Post-modern style, which included interiors, a new Pavilion building, and the change of the orange exterior to more muted green and later grey colours, the building retains its distinctive original exterior form and construction'.

Having regard to the above reason for the State Heritage listing, the Panel considers that it is unreasonable to require that the colour scheme for the building should be orange to match the original building colour given that the building has already undergone colour changes as noted in the listing above. At the same time the proposed colour scheme is not supported for this heritage item.

The Panel considers that the Applicant's preferred scheme for replacement of the window shrouds in a modular, assembled system could be supported.

At the same time, however, the Panel also considered that the materiality of the heritage item, whilst substantially changed in earlier refurbishments, remained an important feature which should be reflected in an amended scheme of materials.

The Panel therefore considers the application requires further refinement to ensure its heritage value of "it's distinctive original exterior form and construction" is respected.

The Panel has decided that the matter be deferred for amended plans to be submitted to include the following changes:

Amended Architectural Plans:

- a. Proposed window shroud design to be a ~~unitary~~ modular 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~~
A revised colour scheme, including glazing colour, that is more complementary of the heritage significance of the building is to be achieved. The selected colour is to be distinctive and better reflect the design quality and expression of the original building façade. Stark white is not supported.
- c. ~~No existing window units on the Northern Elevation to be deleted to reveal the exoskeleton~~
- d. Consideration of 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.).

The deferral of this matter is to allow the Applicant to submit amended plans and changes information.

The amended plans are required to be submitted within 3 months from the date of this deferral and for a supplementary report to be prepared by Council Officers and submitted to the panel in a timely manner. In the absence of amended plans and documentation the Panel will move to determine the matter on the basis of information at hand.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 6

DA No:	242/23
ADDRESS:	Unit 9, 17 Wyagdon Street, Neutral Bay
PROPOSAL:	Construction of semi-enclosed pergola and replacement of balustrades within a roof terrace of an existing unit (Unit 9) within a residential flat building
REPORT BY NAME:	Andrew Beveridge, Senior Assessment Officer
APPLICANT:	COSO Architecture

No Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
	Anthony Solomon - Architect - COSO Architecture
<u>Observing</u> Sibilla Macens - Coso Architecture Laurence Field - Resident	

Panel Determination

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

Panel Reason:

The Panel is satisfied the development will have minimal impacts.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 7

DA No:	345/22
ADDRESS:	54A Cowdroy Avenue, Cammeray
PROPOSAL:	Alterations and additions to an existing four (4) storey dwelling house including internal alterations, external changes to the Level 4 bedroom, a new internal lift, a new external staircase, and a pergola over the existing double garage.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	Jason Li

1 Written Submission**Registered to Speak**

Submitter	Applicant/Representative
Min Wang - neighbouring property	David Hunt – Architect - representing applicant
Micheal Fountain - MFA on behalf of 54B Cowdroy	Nicole Lennon – Planik
	Jason Li - Applicant

Panel Determination

Panel members attended a site inspection prior to the meeting and all Panel members have considered the written submission, and oral submissions at the public meeting, 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 amendments to the conditions as follows:

Amend Condition C1 to read as follows:**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 improve the amenity for applicant and protect the amenity of adjoining properties)

Amend Condition C18 to read as follows:

C18. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.
- (b) Cause "offensive noise" as defined in the Protection of the Environment Operations Act 1997.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Principal Certifier, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

"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 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 receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for the adjoining property)

Amend Condition G7 to read as follows:

G7. Prior to the issue of any Occupation Certificate, Conditions C1, C2, C3, C18 and C19 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

Panel Reason:

The Panel is satisfied that the development subject to the amended conditions, warrants approval and the impacts to adjoining properties has been mitigated.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 8

DA No:	102/23
ADDRESS:	Land adjoining 306 Military Road, Cremorne
PROPOSAL:	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 <i>“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.</i>
REPORT BY NAME:	Annelize Kaalsen (AK Planning)
APPLICANT:	JC Decaux Australia Trading Pty Ltd

7 Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
	John Wynne - Urbis representing applicant

Panel Determination

Panel members attended 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 Recommendation is noted by the Panel.

The Panel, on a merits assessment, considers that the proposed free standing advertising structure is not well located and the application should be refused 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 is it in the public interest.

Particulars:

- a) Inconsistency with State controls, particularly the adverse impact on safety and restriction of pedestrian movement, the application is not considered to be suitable for the subject site and is contrary to Section 4.15(c) of the Environmental Planning and Assessment Act 1979 (as amended).
- b) The application results in the proliferation of signs and is not considered to be in the public’s interest and is 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 proposed digital panel has the potential to adversely affect the safety of motorists and pedestrians failing to be consistent with the objective of Chapter 3 Clause 3.1(1)(a)(i) of the SEPP (industry and Employment) 2021.
- b) Failing to satisfy Clause 3.11(1)(b) of the Industry SEPP, as the application is not considered to be acceptable in terms of its impacts resulting in a proliferation of signage and the reduction in the unobstructed path of travel.
- c) Failing to satisfy 4 Streetscape, setting or landscape of SEPP (Industry and Employment) 2021, as the panel results in visual clutter compromising the streetscape and failing to contribute to the visual interest of the streetscape.
- d) Failing to satisfy 8. Safety of Schedule 5 of SEPP (Industry and Employment) 2021, as the panel has the potential of creating a pinch point in the footpath, particularly during peak pedestrian periods, and having regard for its proximity to the school and McDonalds.
- e) The proposal fails to satisfy the sign location criteria pursuant to Section 3.2 of the Transport Corridor Outdoor Advertising and Signage Guidelines as it obstructs the movement of pedestrians and bicycle riders.
- f) The proposal fails to satisfy the sign spacing criteria pursuant to Section 3.2.4 of the Transport Corridor Outdoor Advertising and Signage Guidelines, being in close proximity to the existing McDonalds and other road signage resulting in visual clutter.

Panel Reason:

The Panel considers the location of the advertising structure is not appropriate on the basis of the reasons above.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 9

DA No:	104/23
ADDRESS:	Land adjoining 476 Miller Street, Cammeray
PROPOSAL:	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 <i>“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.</i>
REPORT BY NAME:	Annelize Kaalsen (AK Planning)
APPLICANT:	JC Decaux Australia Trading Pty Ltd

3 Written Submission**Registered to Speak**

Submitter	Applicant/Representative
	John Wynne - Urbis - representing applicant

Panel Determination

Panel members attended 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 amendments to Condition C2 and additional condition(s) as follows.

Design Changes (Panel Location)

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 location of proposed sign shall be moved south to be 2000mm from the centre of the adjoining street tree and to be generally in line with the end of the masonry portion of the shop front. The sign must still be located a minimum of 600mm from the kerb.

(Reason: Protection of existing environmental infrastructure and community assets. At the same time having regard to not obstructing view of the shop front windows)

Community Benefit

A#. Prior to the issue of the construction certificate, the applicant must provide Council with information on what will be included on the community messaging (Side B) of the freestanding advertising panel.

(Reasons: Public interest)

Hours of Illumination

I#. Illumination of the signs approved by this consent must cease illumination between the hours of 11pm and 6am on any day.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Panel Reason:

Conditions are imposed to mitigate impacts on the trees and urban design consideration.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 10

DA No:	183/23
ADDRESS:	Shop 7, 599 Pacific Highway, St Leonards
PROPOSAL:	Change of use of premises to an indoor recreation facility (Gym) with hours of operation 5:30am to 8:00pm (Monday to Friday) and 5:30am to 1:00pm (Saturday), no trade Sunday.
REPORT BY NAME:	David Hoy, Team Leader Assessments
APPLICANT:	L Goulimis, Solid Void Design

1 Written Submission**Registered to Speak**

No persons spoke on this item.

Panel Determination

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

The Panel endorses the Council Officer's Report and Recommendations and the application is refused for the reasons set out in the Officer's report.

Panel Reason:

The Panel concurs that the premises are not a suitable location for gym premises and the acoustic report has not considered the particular constraints of the building.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 11

DA No:	96/23
ADDRESS:	Land adjoining 79-81 Berry Street, North Sydney
PROPOSAL:	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 <i>"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.</i>
REPORT BY NAME:	Annelize Kaalsen (AK Planning)
APPLICANT:	JC Decaux Australia Trading Pty Ltd

3 Written Submission**Registered to Speak**

Submitter	Applicant/Representative
	John Wynne - Urbis - representing applicant

Panel Determination

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

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to amendments to Condition C2 and additional condition(s) as follows.

Community Benefit

A#. Prior to the issue of the construction certificate, the applicant must provide Council with information on what will be included on the community messaging (Side B) of the freestanding advertising panel.

(Reasons: Public interest)

Hours of Illumination

I#. Illumination of the signs approved by this consent must cease illumination between the hours of 11pm and 6am on any day.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Panel Reason:

The Panel determine that there are no outstanding issues that would warrant refusal of the application.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

ITEM 12

DA No:	123/23
ADDRESS:	Land adjacent to Mount Street, North Sydney
PROPOSAL:	Installation and operation of a freestanding advertisement structure for the purposes of Council communication and third-party advertising.
REPORT BY NAME:	Annelize Kaalsen (AK Planning)
APPLICANT:	JC Decaux Australia Trading Pty Ltd

3 Written Submission

Registered to Speak

Submitter	Applicant/Representative
	John Wynne - Urbis - representing applicant

Panel Determination

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

The Council Officer's Report and Recommendations are endorsed by the Panel. The Panel agreed that the application should be refused for the reasons outlined in the consultant planner's report.

Panel Reason:

The Panel concurs with the reasons for refusal and considers on a merits assessment that the location of the advertising structure is not in the public interest and must be refused.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Ian Pickles	Y				
Gerard Turrisi	Y				

The meeting concluded at 5:05pm.

The Panel Determination session commenced at 5:10pm.

The Panel Determination session concluded at 6.40pm.

Endorsed by Jan Murrell

North Sydney Local Planning Panel

6 December 2023