



NORTH SYDNEY COUNCIL

Council Chambers
28 February 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, 6 March 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: 9 Oak Street, North Sydney 2060 (E) - 320/23**

Applicant: Michael Sandel

Report of Rachel Wu, Assessment Officer

This development application seeks approval for alterations and additions to an existing semi-detached dwelling and associated works and is reported to North Sydney Local Planning Panel for determination due to demolition proposed to the local heritage item identified as 'House' (I0948) under Schedule 5 of NSLEP 2013.

The application is referred to the North Sydney Local Planning Panel for determination in accordance with the Minister's Directions for development involving the demolition, including partial demolition of a heritage item.

The subject site is identified as a scheduled heritage item [I0948] and is located within the Edward Street conservation area (CA17).

The site is part of a distinctive group of dwellings dominated by Victorian and Victoria-Georgian-style terraces and attached/semidetached cottages on slender sites. These items are significant for being part of important relics of early township development in North Sydney, which with 'Don Bank' house form an enclave of the smallest form of terrace houses in the middle of large modern commercial buildings. The workers cottages visually appear as a continuous group of eight, with two physically separated groups of four dwellings. Collectively, the early workers cottages in Oak and Edward Street contribute to the low scale development that forms the early township development of North Sydney.

Typically, the residences have vehicular access and parking off either Oak Lane or Wheeler Lane. It is noted that the properties at No.1, 11 and 13 Oak Street were granted approval for first-floor additions.

A detailed assessment of the potential impact to the heritage significance of the dwelling has been undertaken in the following assessment. The proposal is considered to achieve the Heritage conservation provisions of the North Sydney DCP 2013 and complies with objectives of NSLEP 2013 cl 5.10 (1)(a) and (b) and is supported on heritage grounds.

Conditions are recommended to require the retention and re-use of a double hung window from the existing kitchen to the new study area, retention of the existing sandstone base and brick wall skin along the eastern side of the service wing; and appropriate re-use of bricks from the new window openings to brick up the existing kitchen window opening.

Notification of the proposal has attracted nil (0) submissions. The application otherwise complies with the maximum permissible height of buildings and is consistent with the scale and form of similar development on adjoining sites within the group of dwelling fronting Oak Street.

The design of the proposal is considered to be appropriate to the heritage significance of the dwelling and is compatible with the pattern of development in Oak Street. The application has been assessed against Council's planning

requirements and found to be satisfactory. The application 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 as the consent authority grant consent to Development Application No. 320/23 for alterations and additions to a semi-detached dwelling and associated works on land at 9 Oak Street, North Sydney subject to the following site specific and standard conditions:-

Reuse of heritage significant materials

A5. Prior to the issue of any Construction Certificate, plans containing the following revisions are to be submitted to Council for approval showing the potential for:

- i. Re-use of the double hung window from the existing kitchen to the new study area.
- ii. Retain the sandstone base and brick wall skin along the eastern side of the service wing below the secondary roof element and reposition the proposed new window.
- iii. Re-use bricks from the new window openings to brick up the existing kitchen window opening.

(Reason: To protect the character of the contributory item and the Crows Nest conservation area)

Retention of Front and Rear Chimneys

C18. Prior to the issue of any Construction Certificate, the plans are to include details of this condition for the externally visible areas of the existing front and rear chimneys to be retained.

The Principal Certifier 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 character of the contributory item and the Crows Nest conservation area)

Tree Protection Measures

D4. The tree protection measures detailed in the Arboricultural Impact Assessment, prepared by *Complete Arborcare dated 2/8/2023* 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)

LPP02: 41 Mc Laren Street North Sydney - 269/23

Applicant: J Cottee, Built Developments Pty Ltd
Report of Jim Davies, Executive Planner

This development application seeks approval for the second stage of a concept approval (Stage 1 consent included with the concept approval) granted by the Department of Planning Housing and Infrastructure on 7 November 2023. The concept approval is for the adaptive reuse as a school (K-12) of an existing commercial building at 41 McLaren Street North Sydney.

Determination by the North Sydney Local Planning Panel is required, as more than 10 submissions (15) were received when the application was notified. Correspondents raised concerns about loss of amenity, namely visual and sonic privacy, sunlight access, various cumulative impacts of the proposal and other development, particularly regarding traffic congestion and overdevelopment in the locality, heritage, the prevalence of schools in the locality and suitability of the building and site for a school. While many of these concerns were considered in the State assessment prior to the granting of consent, this report has considered these concerns and has evaluated the application's performance against State and Council planning requirements.

Following this assessment the proposed development is deemed to be satisfactory. Being the second stage of a concept approval, meaning the use of the whole building for the purpose of a K-12 school is already approved, the development application is recommended for conditional approval, the proposed stage 2 works being consistent with the concept approval and complementary to the stage 1 approval. It is also recommended that pending receipt of additional design details for an item of outdoor play equipment, the Manager Development Services be delegated authority to grant the consent, as recommended 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 delegate this authority to Council's Manager Development Services to:

- (a) grant consent to Development Application No. 269/23 for Stage 2 of an approved concept application for the adaptive reuse as a school (K-12), of the existing building at 41 McLaren Street North Sydney, subject to the conditions attached to this report, and
- (b) subject to receipt of amended plans and other details as required:
 - i. to reduce the overall height of the lightweight vertical play structure proposed for the north-western corner of the terrace at level 2, to sit below the underside of the level 3 terrace, and
 - ii. details of the play structure's materials, which must be recessive in colours and finishes and complementary to the heritage qualities of the building, to the satisfaction of Council.

LPP03: 17 Elamang Avenue, Kirribilli - D216/23

Applicant: Teresa Jane Harvey

Report of Robin Tse, Senior Assessment Officer

This development application seeks NSLPP approval for alterations and additions to an existing heritage listed attached dual occupancy and a change of use to a single dwelling including internal alterations, a new roof addition, a new swimming pool and associated landscape works at No.17 Elamang Avenue, Kirribilli.

The application is referred to the North Sydney Local Planning Panel for determination because the proposal is subject to a variation to the building height development standard is greater than 10%, which requires determination of the application by the Panel in accordance with the directions from the Minister of Planning.

Notification of the proposal has attracted no submissions.

The assessment has considered the performance of the application against Council's planning requirements.

The development application has been assessed against the *North Sydney LEP 2013* and North Sydney DCP 2013 and was found to be generally satisfactory.

The proposed alterations and additions to an existing heritage listed dual occupancy for use as a single dwelling that is a permissible form of development in an R2 Low Density Residential Zone.

This report has considered a written request submitted by the applicant seeking a variation to Clause 4.3 in *North Sydney LEP* concerned with the height of buildings height pursuant to Clause 4.6 of the LEP.

The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have an adverse impact on the character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and loss of privacy subject to the imposition of appropriate conditions.

Council's Conservation Planner has raised no objection to the proposal subject to the imposition appropriate conditions of consent.

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved subject to the imposition of appropriate 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, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 in *NSLEP 2013* with regards to the non-compliance with Clause 4.3 of *NSLEP 20013* and grant consent to Development Application No. 216/23, at No.17 Elamang Avenue, Kirribilli, subject to the following site specific and attached standard conditions

Heritage Requirements

C1 The following heritage requirements are to be met to ensure that the heritage status of the dwelling is retained:

- (a) No demolition of the chimney breasts within the dwelling is given or

implied;

- (b) Original floorboards, skirting boards, picture rails, architraves and doors to be retained except where noted on the plans for demolition;
- (c) All original plaster ceilings, cornices and ceiling roses to be retained on Level 3 within the proposed kitchen, proposed dining room, proposed living room and existing hallway;
- (d) The original fireplace cast iron grate and timber mantle piece on Level 3 are to be salvaged, including the tiles, for re-use in the proposed dining room. Any elements damaged during removal are to be repaired or replaced with similar Federation style products;
- (e) The proposed new hearth and firebox to the proposed living room are to be Federation in style and to utilise a salvaged Federation style timber mantle piece;
- (f) New windows and doors are to be timber framed;
- (g) Original interior sliding glazed doors on Level 3 to be retained;
- (h) New balustrades to East Elevation to have a painted finish;
- (i) Existing kitchen exhaust fan to the front entrance porch is to be removed and infilled to match existing brickwork; and
- (j) New front fence and gates to have a painted finish.

Plans and specifications which comply with this condition must be submitted for the written approval of Council's Team Leader Assessment in consultation with Council's Conservation Planner.

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 original heritage fabric is retained and new fabric is sympathetic to its heritage listing)

External Finishes & Materials

- C2 External finishes and materials must be in accordance with the submitted schedule on Drawing DA25 Revision B, dated 3 November 2023, prepared by Corben Architects and received by Council on 30 June 2023 unless otherwise modified by Council in writing.

Plans and specifications which comply 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 the form of the development undertaken is in accordance with the determination of Council, Public Information)

No encroachment of works

- C3 The proposed works must not encroach onto any adjoining properties. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition. (Reason: To ensure no encroachment onto the adjoining properties.)

LPP04: 19 Walker Street, Lavender Bay - DA 300/22

Applicant: Blake Letnic

Report of Damon Kenny, Executive Assessment Planner

This development application seeks approval for Alterations and additions to existing dwelling house and removal of identified trees, including rear extension, internal reconfigurations and alterations to garage rooftop.

The application is reported to the North Sydney Local Planning Panel for determination as the applicant makes a request to contravene the building height development standard of 8.5m, 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 8.5m and the greatest degree of the breach 10.33m. The written request made pursuant to Clause 4.6 Exemptions 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 proposed development was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and generally found to be satisfactory, subject to the satisfaction of recommended conditions of consent.

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 surrounding properties, and the significance of the respective heritage conservation area and the quality of the streetscape are maintained. The proposed development will also not result in any unreasonable impacts to the amenity of adjoining properties including impacts to views, overshadowing or loss of privacy.

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

The application was notified in accordance with the Community Engagement Protocol. Council received six (6) 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 approval for the reasons as set out in this report.

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. 300/22 for the alterations and additions to existing dwelling house and removal of identified trees, including rear extension, internal reconfigurations, and alterations to garage rooftop. on Land

at 19 Walker Street, Lavender Bay, subject to the conditions attached to this report.

LPP05: 160 Kurraba Road, Kurraba Point - DA 191/23

Applicant: SJB Architects

Report of Thomas Holman, Senior Assessment Officer

This development application seeks consent for internal alterations as well as alterations to the façade and additions to an existing residential property converting four apartments into two apartments thereby changing the use of the site from a residential flat building (RFB) to a dual occupancy (attached).

The development application is reported to the North Sydney Local Planning Panel for determination because the proposed development contravenes a development standard imposed by an environmental planning instrument by more than 10% in accordance with the Ministers Direction “Local Planning Panel Direction – Development Applications” dated 30 June 2020, published to the NSW Planning Portal.

The development proposes a replacement rooftop (Level 2) addition that has a maximum height of 11.5m, being a variation of 35% which does not comply with the maximum permitted height of 8.5m in Clause 4.3 in NSLEP 2013. The contravention of the development standard for height is justifiable and reasonable as the works involve replacement of existing structures at Level 2 which would have negligible amenity impacts on neighbouring properties, would improve the appearance of the building in the street and would result in a reduction in the overall height of the structure. The resulting development would be an improved design compared to the existing rooftop conservatory style addition.

The proposed development seeks to change the use of the site from a RFB to a dual occupancy. The dual occupancy does not comply with Cl. 6.6(1)(a) & (c) because the form of the building will remain not as a dwelling, but an Interwar residential flat building and the existing site area is less than 450 square metres. A written request pursuant to Clause 4.6 in NSLEP 2013 has been provided to address the provisions of Cl. 6.6 which is considered to be well founded because the change of use positively responds to the significance of the site to the surrounding conservation area, the dual occupancy provides an improved level of amenity for residents and adjoining properties area and the change of use will be substantially within the fabric of the existing building conserving the appearance and significant fabric of the building.

The rooftop addition is appropriately designed sympathetic with the Interwar building style and the rooftop addition is an improved outcome for the street and character of the conservation area removing the existing uncharacteristic conservatory style roof addition with operable metal screens.

Council received three (3) submissions and where appropriate conditions of consent are recommended to manage dust emission, noise and vibration during construction and a construction management plan is recommended by

condition to ensure appropriate traffic and operational measures are prepared and approved prior to construction.

Following this assessment, 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, Housing, and Infrastructure and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 & 6.6 of NSLEP 2013 and grant consent to Development Application No. 191/23 for alterations and additions and a change of use from a residential flat building to a dual occupancy (attached) on land at 160 Kurraba Road, Kurraba Point subject to the following site specific and standard conditions.

**NORTH SYDNEY LOCAL PLANNING PANEL****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING
PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH
SYDNEY,
ON WEDNESDAY 7 FEBRUARY 2024, AT 2.00PM.****PRESENT****Chair:**

Jan Murrell

Panel Members:

Michel Reymond (Panel Member)
Linda McClure (Panel Member)
Karla Castellanos (Community Representative)

Staff:

Stephen Beattie, Manager Development Services
Isobella Lucic, Team Leader Assessments
David Hoy, Team Leader Assessments
Jim Davies, Executive Assessment Planner
Damon Kenny, Executive Assessment Officer
Robin Tse, Senior Assessment Officer
Rachel Wu, Assessment Officer
Surb Bhatti, Conservation Planner
Lucinda Varley, Conservation Planner

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 6 December 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: | 205/23 |
| ADDRESS: | 115 Blues Point Road, McMahons Point |
| PROPOSAL: | Alterations and additions to a dwelling including new lift, formal vehicular access from lane, and new landscaping. |
| REPORT BY NAME: | Rachel Wu, Assessment Officer |
| APPLICANT: | Felicity King C/- Studio Barbara |

No Written Submissions

Registered to Speak

| Submitter | Applicant/Representative |
|-----------|---|
| Nil | Felicity King - Studio Barbara Architecture & Interiors |
| | Daniel Barber- Paro Consulting |
| | Bruce Smith - Owner |
| | James Hundt from Fin Abode P/L |

Panel Determination

Panel members have undertaken a site inspection prior to the meeting and noted there were no written submissions. The applicant's representatives addressed the Panel.

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 new and amended conditions as shown below:

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 ~~1.5m~~ 1metre 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 roofing material for the First-Floor stair addition to the southern elevation is to be 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 the development minimises impact on the heritage significance of the contributory building and to be consistent with the DCP objectives and controls.)

The following additional conditions are to be imposed:

Boundary walls to wholly within the site

C#. Prior to the issue of the relevant Construction Certificate the boundary walls to the northern and laneway boundaries are to be shown to be constructed wholly within the site boundaries. A survey report and peg out of the wall footing is to be carried out by a registered surveyor to ensure the wall(s) will be constructed wholly within the property boundaries.

(Reason: To ensure all structures are wholly within the site)

Survey Report to be obtained – boundary walls

G# Prior to the issue of the Final Occupation Certificate a report prepared by a registered surveyor is to be provided which states that the boundary walls to the northern and laneway boundaries have been constructed wholly within the site boundaries.

(Reason: To ensure all structures are wholly within the site)

Panel Reasons:

The applicant's architect requested amendments to the conditions and the Panel determined the minor changes to the conditions are reasonable.

The Panel is satisfied that the proposal maintains the heritage significance of the building and will not impact on the conservation area, including the streetscape. While at the same time the alterations and additions will allow for an increase in the amenity of the building and approval is warranted. -

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|----------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Karla Castellanos | Y | |
| Michel Reymond | Y | | | | |
| Linda McClure | Y | | | | |

ITEM 2

| | |
|------------------------|--|
| DA No: | 324/23 |
| ADDRESS: | 13 Milner Crescent, Wollstonecraft |
| PROPOSAL: | Alterations and additions to a dwelling house including single storey rear addition, first floor addition to existing garage and alterations to landscaping. |
| REPORT BY NAME: | Thomas Holman, Senior Assessment Officer |
| APPLICANT: | Mark Oxenham |

1 Written Submission**Registered to Speak**

| Submitter | Applicant/Representative |
|---|---|
| Sean Radford - Nobbs Radford Architect- representing 11A Milner- | Mark Oxenham - Castlepeak Architecture – Applicant |
| | Kieren Chidgey - Owner |

Panel Determination

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

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

- **Condition C12** is to be amended to provide for the replacement of the Golden Elm (*Ulmus glabra* 'Lutescens'), with the same advanced species.

- **Condition Nos. C25 and G7** - are to be amended to require the following changes:
 - To reflect the amended species required by Condition C12;
 - Additional street planting in Selwyn Street is to be shown as either a Jacaranda, Water Gum or other suitable canopy tree species as nominated, in consultation, by Council's Landscape team;
 - replacement of the Camellias are to be shown on the western boundary with suitable advanced Camellias (minimum 75ltr pot size).
- **Condition G7 and I2** are to be amended to provide for advanced replacement and maintenance of the row of Camellias on the western boundary in the event that the existing ones fail to survive.
- **Condition C15.** Regarding security bonds for street trees is to be amended to delete the last three trees in the Schedule with a reduction in the total bond being reduced to \$15,000.
- **Condition C23** is to be amended to reflect the reduced street tree bond amount.
- **An additional condition** is to be included to require access for construction to be only via Selwyn Street and not Milner Crescent. The following condition is to be imposed:

Construction access

E22. Construction activities and works approved under this consent must be restricted to access/entry from Selwyn Street only.

(Reason: Protection of existing environmental and community assets on Milner Crescent)

- **Condition C20** is to be amended to require Window W3 to have translucent glass up to 1.5m above finished floor level. The condition is to be amended to read as follows:

Privacy

C20. The following privacy devices are to be provided:

- a) Fixed lightweight louvred or lattice privacy screen shall be attached to the western side boundary, with a minimum height of 1.8m above the ground level opposite the location of the ground floor side window of the rear addition (Window W3). The location of the privacy screen is shown clouded in red on the Proposed Ground Floor Plan, DA02.*
- b) Window W3 to have translucent glass up to 1.5m above finished floor level.*

Plans and specifications 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 building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure an adequate level of privacy is provided to the adjoining property located at 11A Milner Crescent)

Panel Reason:

The Panel has carefully considered all submissions made and is satisfied that the extent of overshadowing in mid-winter on No. 11A Milner Crescent-would not warrant refusal of the application. In its determination the-Panel has imposed additional conditions to maintain the amenity and privacy for the adjoining property at No.11A to provide window treatment and landscaping.

The Panel considers the extension will provide for increased accommodation while allowing the heritage significance of the dwelling to be maintained and impacts on adjoining properties are mitigated.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Jan Murrell | Y | | Karla Castellanos | Y | |
| Michel Reymond | Y | | | | |
| Linda McClure | Y | | | | |

ITEM 3

| | |
|------------------------|--|
| DA No: | 381/22 |
| ADDRESS: | 9 Gundimaine Avenue, Kurraba Point |
| PROPOSAL: | Alterations and additions to an existing detached dwelling including a first floor addition and a double garage. |
| REPORT BY NAME: | Robin Tse, Senior Assessment Officer |
| APPLICANT: | Felicity King C/- Studio Barbara |

No Written Submission

No persons elected to speak on this item.

The Panel Members have only been able to undertake a limited site inspection from the front street entry area prior to the public meeting.

Panel Determination

The Panel has considered all written submissions, the Council Officer's report, and the documentation submitted for the application prior to making a determination. The Panel has thus relied on the photographic evidence available to it to make its assessment.

The Council Officer's Report and Recommendation-are accepted by the Panel and the development application is determined by the refusal of consent.

Panel Reason:

When the Panel arrived to make the prearranged site inspection of the property the owner declined to allow access so the Panel could undertake an independent inspection, and therefore, the Panel has no further evidence and relies on the assessment report, including photographs, submissions and the material and documentation lodged with the application. The opportunity to present and address the Panel at the public meeting was also declined.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|----------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Karla Castellanos | Y | |
| Michel Reymond | Y | | | | |
| Linda McClure | Y | | | | |

ITEM 4

| | |
|------------------------|---|
| DA No: | 349/22 |
| ADDRESS: | 50 Tobruk Avenue, Cremorne |
| PROPOSAL: | Demolition of existing dwelling and construction of an attached dual occupancy, landscaping and associated works. |
| REPORT BY NAME: | Jim Davies, Executive Planner |
| APPLICANT: | V Parker C/- Auraa Architecture |

2 Written Submissions

Registered to Speak

| Submitter | Applicant/Representative |
|--|------------------------------------|
| Rosalind Fischal - Neighbouring Property | Steven De Souza- Auraa - Architect |
| George Lloyd | Vicki and Geoff Parker - Owners |
| Julie Brown | Brett Brown - Ingham Planning |
| <u>Observing Only</u> | |
| Ian Cheung | |

Panel Determination

Panel Members have undertaken a joint site inspection prior to the meeting and the Panel has considered all written and oral 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 amendment to include the following additional condition(s):

Amendments to Landscape Plans

A3. The landscape plans cited in condition A1 are amended by:

- a) Replacing the three *Elaeocarpus reticulatus* ‘Blueberry Ash’ trees proposed to be planted centrally on the boundary with No 48 Tobruk Avenue with a suitable number of trees appropriate to the area, to achieve a screen along the boundary and provide shade during summer to the proposed building. The replacement species is to be selected from the range of trees identified in North Sydney Council’s recommended tree species list published on Council’s website, for trees included having a mature height of between 5 to 10 metres.

(Reason: To establish landscaping that provides environmental benefits and maintains amenity)

Amendments to Architectural Plans

- A4. The awning over the main entry to dwelling No 2 being reduced so it is at least to be setback a minimum of 1.0m from the boundary with No. 52 Tobruk Avenue Cremorne.

(Reason: To maintain the neighbour’s amenity.)

Panel Reason:

With respect to the height exceedance the Panel notes that the leading-edge that creates the greatest view loss is the front portion of the building and this is on average about 1 metre below the height control standard. The portion that exceeds the height plane is to the northwest where the topography is steep, and this will not lead to view impacts that are materially greater than a complying development.

The Panel has considered the proximity of the awning on the side entry and requires that it be setback 1 metre to the north-eastern boundary to maintain the amenity for the adjoining property.

The Panel considers the landscaping is generally appropriate and the provision of canopy trees will enhance the environmental benefits and provide appropriate filtering between properties. The inclusion of Water Gums in the landscape plan will still allow for views through to the water as well as providing environmental benefits. Some minor amendments have been made to respond to neighbours concerns with respect to side boundary plantings.

The Panel in its determination has carefully considered all matters and is satisfied that the development application, subject to conditions, is worthy of approval.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|----------------|-----|----|--------------------------|-----|----|
| Jan Murrell | Y | | Karla Castellanos | Y | |
| Michel Reymond | Y | | | | |
| Linda McClure | Y | | | | |

ITEM 5

| | |
|------------------------|--|
| DA No: | 279/22 |
| ADDRESS: | 126-128 Willoughby Road, Crows Nest |
| PROPOSAL: | 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. |
| REPORT BY NAME: | Damon Kenny, Executive Planner |
| APPLICANT: | Ken Demlakian |

1 Written Submission

Registered to Speak

| Submitter | Applicant/Representative |
|------------------|--|
| | Ken Demlakian - Keystone Property Consultants- Applicant |
| | Scott Milner – Into Architecture – Architect |
| | Mark Schofield – Gyde |

Panel Determination

The Panel members have undertaken a joint site inspection prior to the meeting and noted there were no written submissions. The Applicant’s representatives made submissions at the public meeting, and these have been considered by the Panel in its determination.

Pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (“the LEP”), the Panel is not 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. As such, being a threshold question, the application is determined by the refusal of consent.

The Council Officer’s Report and Recommendation is endorsed by the Panel subject to the reasons for refusal being amended as follows:

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.
 - (d) **Principle 6 - Amenity: The amenity of apartment 2 is compromised due to the use of light wells for the provision of light and ventilation.**
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.

(c) Part 4D: Apartment 4 exceeds the maximum habitable room depth.

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.

Panel Reason:

It is considered that the proposal is inconsistent with the character and scale demonstrated by the Willoughby Road main street to the south of Albany Street and is one full story over the current height limit of 10 metres. The plans do not demonstrate that the proposed development would sit comfortably in the Willoughby Road streetscape.

It is further considered that the amenity of the proposed apartments is not adequate and could be improved to respond more appropriately to foreseeable development on adjoining sites.

Voting was as follows:

| Panel Member | Yes | No | Community Representative | Yes | No |
|---------------------|------------|-----------|---------------------------------|------------|-----------|
| Jan Murrell | Y | | Karla Castellanos | Y | |
| Michel Reymond | Y | | | | |
| Linda McClure | Y | | | | |

The meeting concluded at 4:00pm.

The Panel Determination session commenced at 4.10pm.

The Panel Determination session concluded at 5:51pm.

Endorsed by Jan Murrell
 North Sydney Local Planning Panel
7 February 2024