



NORTH SYDNEY COUNCIL

Council Chambers
31 July 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 August 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 COLE
CHIEF EXECUTIVE OFFICER

BUSINESS**LPP01: 45 Ben Boyd Road, Neutral Bay - DA 359/23**

Applicant: Linda Ingaldo c/o Sydesign Pty Ltd

Report of Jack Varka, Assessment Officer

This development application seeks consent for alterations and additions to the heritage semi-detached dwelling at 45 Ben Boyd Road, Neutral Bay.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to the partial demolition of a heritage item. In accordance with the Minister's Directions the application must be determined by the Local Planning Panel.

The subject site is legally known as Lot 32 in Deposited Plan 565595. The site is a heritage item, I0571, and is located on the eastern side of Ben Boyd Road and currently contains a single-storey semi-detached brick dwelling. The subject site is an irregular allotment with a frontage width to Ben Boyd Road of 5.505m. A single-storey dwelling that forms the other half of the semi-detached pair is located directly north of the subject site at No. 47 Ben Boyd Road. This site is also listed as a heritage item, I0572.

Council's Heritage Officer raised no objections to the proposed alterations and additions, as the proposal retains the primary building form and primary street front façade. The new works will be acceptably submissive in form, massing, and scale. The front two primary rooms will be retained, and the third primary room, living room, will be modified by the addition of a new partition wall to create a bedroom however, the chimney breast, fireplace, and marble mantelpiece will be retained as the central focal point of the space.

It is proposed to remove trees T5 & T6 *Celtis sinensis* (15x15m). The TPZs of these trees are not impacted by proposed works. Despite their classification as a 'weed' species, T5 and T6 provide valuable tree canopy cover to the rear setback of both the subject site and neighbouring property at 47 Ben Boyd Road. Council's Landscape Officer's recommendation to retain T5 and T6 is concurred with.

Notification of the proposal has attracted one (1) submission. Concerns were raised regarding the potential for demolition or similar impacts upon the neighbouring property (47 Ben Boyd Road) including the property's laundry and rear deck. An inspection of the neighbouring property at 47 Ben Boyd Road was conducted on 11 March 2024. It was not clear at the time of the inspection whether the structures located on the subject site or neighbouring property intersected or straddles the common boundary due to the unique 'zig-zag' shape of the boundary.

The applicant provided additional information, including a Boundary Identification Survey, and supporting letter from the surveyor, which stated that all structures are located as identified on the submitted survey and architectural plans, including those belonging to 47 Ben Boyd Road, and that the proposed demolition and construction works are wholly located within the subject site.

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 as the consent authority grant consent to Development Application No. 359/2023 for alterations and additions to the existing heritage dwelling on land at 45 Ben Boyd Road, Neutral Bay subject to the following site specific and standard conditions:

Tree Protection Measures

D5. 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)

Project Arborist Engaged

D6. A project arborist to be engaged:

- The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.
- The project arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
- The project arboriculturist must contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.
- Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.
- The practicing arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

(Reason: Tree protection measures.)

Protection of Public Trees

- D7. 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
3 x <i>Magnolia</i> 'Little Gem'(to 2m)	Council verge in front of 47, 45 & 43A Ben Boyd Rd	1.8m high steel mesh tree protection fencing

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.

1.8m high steel mesh tree protection fencing shall be erected such that any unprotected section of council verge within TPZ of protected trees shall be completely enclosed.

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.)

Arborist to be commissioned

- E25. An experienced AQF Level 5 consulting arborist must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to tree matters.

Written details of the engagement of the experienced arborist must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Note: This condition, and any advice given by the consulting arborist, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to trees are resolved and recorded using best practice.)

Tree Protection

- E26. To ensure the protection of all trees to be retained, the following measures are to be undertaken:

a) All documentation for the Construction Certificate application must show the site trees to be retained, and retention of the adjoining trees, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.

b) All plans and correspondences must refer to the required compliance with the approved Tree Protection and Management

- Plan, and clearly show the assigned number of each tree on site, adjoining and Council land.
- c) A Consulting Arboriculturist (“the project arboriculturist”), who holds a minimum Australian Qualification Framework Level 5 in Arboriculture, is a registered consulting member of a nationally recognised arboricultural organisation or association, and who does not remove or prune trees in the North Sydney local government area, shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.
 - d) The project arboriculturist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.
 - e) The contact details of the project arboriculturist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.
- (Reason: Tree protection measures.)

LPP02: 171 Miller Street, North Sydney – DA 37/24

Applicant: The Trustee for Etymon Projects Trust
Report of Kim Rothe, Senior Assessment Officer

This development application seeks consent for the fit-out and use of a food and drink premises located at 171 Miller Street, North Sydney within the through-site link known as ‘1 Little Miller, North Sydney and is also identified as the Victoria Cross over Station Development.

The ground floor of the premises will be a café premises with hours of operation of 7:00am - 12:00am, Monday to Sunday, patron capacity: 100 patrons comprising outdoors, 56 patrons and indoors, 44 patrons.

The first-floor level is to be for a restaurant with hours of operation of 10:00am – 12.00am, Monday to Sunday and patron capacity of 100 patrons.

The second-floor level is to be for a bar premises with hours of operation of 10:00am - 12.00am, Monday to Sunday and patron capacity of 200 patrons.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to a new licenced premises. In accordance with the Ministers direction of 6 May 2024 a public determination meeting is required due to the application is for a new licenced premises.

The application was notified in accordance with the community engagement protocol where Council received no submissions raising concerns with the proposal

The proposal is generally in accordance with the provisions of the North Sydney commercial core provisions and *Part B Section 2 Commercial and Mixed-Use Development* and *Part B Section 7 Late Night Trading Hours*. The use reflects

the types of uses typically promotes for a E2 Commercial Centre zoned site of the primary Central Business district of the municipality.

The application is considered an appropriate development in locality and will promote economic and social activity in the North Sydney city centre. Accordingly, the proposal is recommended for **approval** subject to site specific and standard 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. 037/24 for the fit-out and use of a food and drink precinct, including café, restaurant, and bar premises, within the Victoria Cross Station Over-Station Development on land at 171 Miller Street, North Sydney subject to the attached recommended conditions.

LPP03: 13-15 Allister Street, Cremorne – DA 291/22/3

Applicant: Winim Developments

Report of Jim Davies Executive Planner

This application seeks approval to modify the consent granted by the North Sydney Local Planning Panel at its meeting held on 5 July 2023, for alterations and additions to an existing residential flat building, demolition of remaining structures, amalgamation of lots and the provision of a 4-storey addition, on land at 13-15 Allister Street Cremorne.

The application must be determined by the Panel because the modifications sought require amendment of condition C42, a condition amended by the Panel in the granting of deferred commencement consent to the original development application (the consent became operational on 13 March 2024). Condition C42 specifies a maximum level of RL 88.3 for mechanical exhaust ventilation to be mounted on the roof. The proposed modification increases this level to RL88.69m.

The application has been considered by the North Sydney Design Excellence Panel, required by Clause 146 SEPP (Housing) 2021 as the architect who signed the design verification statement for the subject modification is not the same designer who designed the approved development.

The main amendments proposed to the design result from finished levels of the approved development requiring adjustment due to more accurate survey data being obtained for developing the design for construction and the design being adjusted to reflect the correctly surveyed levels. This has caused the maximum height of the building to increase, by 0.49m², at the southwestern corner of the extension. The maximum height is 14.47m, 2.47m or 20.5% above the 12.0m maximum, as proposed by the subject application. The maximum height of the approved development is 13.98m, 1.98m (16.5%) over the LEP-prescribed limit.

Potential impacts

While the height increase on the southern side of the extension has caused acceptable, minor, additional overshadowing of the multi dwelling housing at 1-11 Allister Street adjacent to the site, the submitted amendment would have caused the northwestern corner of the extension's level 3, a media room and bedroom, to become overly bulky and dominate the existing heritage-listed inter-war apartment building, which forms the northern part or element of the project.

The approved development was comparatively more balanced in composing the two elements, the contemporary extension and the heritage building, when viewed from the street. The originally proposed design change would have had unacceptable impacts on heritage values of the item, and have a jarring, disruptive effect on the streetscape and be arguably incompatible with local character. This was also observed when the modifications were reviewed by the Design Excellence Panel.

Design refinements

Resulting from a site meeting and subsequent discussions, the design has been further modified to reconfigure the level 3 unit by relocating the media room to increase its setback to the front boundary, from 13.5m to 17.6m and to the side (northern) boundary, from 8.0m to 11.4m. This design refinement acceptably reduces the potential impacts described. It results in this bulk being shifted to the rear (the rear setback of level 3 reduces from 12.55 to 9.4m), which has no privacy impacts causes limited additional overshadowing.

These amendments result in the apparent height and scale of this element of the building being markedly reduced, as shown in the montages below, comparing the development as approved (above), as originally submitted with the subject application (middle), and as recommended for approval (below). In the author's opinion, the result improves the originally approved design.



Approved development (Rothelowman Architects)



Submitted modification application (Team 2 Architects)



Recommended modification, following amendments (Team2 Architects)

The application was notified to nearby residents and the Bennett-Harrison Precinct Committee. Eight submissions were received, raising the following key reasons for objecting to the proposal:

- Additional height will have unacceptable impacts on heritage and character.
- Overshadowing of housing south of the site is caused by the proposal.
- Reduced visitor parking will increase on-street parking demand.
- The top floor unit could be removed to ameliorate impacts.
- Original entry doors to individual apartments in the heritage building should remain in-situ and not allowed to be relocated as proposed.

This assessment concludes that the proposed modifications are satisfactory. Renotification was not deemed necessary, as the amended application resolves key concerns.

The proposed modifications as recommended, are reasonable and the application is recommended for **approval**.

Recommending:

PURSUANT TO SECTION 4.55 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority grant consent to Application No. 291/22/3 to modify the consent for modification of the development consent to enable alterations to the approved development and amendment of specified conditions of consent, for alterations and additions to an existing residential flat building, demolition of remaining structures, amalgamation of lots and the provision of

a 4-storey addition on land at 13-15 Allister Street Cremorne, subject to the amended conditions in the Schedule to this report.

A. Modify condition A1 to read:

Development in Accordance with Plans/Documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan Nos.	Issue	Description	Prepared by	Dated
DA01.03	P9	Site Plan	Team 2 Architects	08 July 2024
DA01.04	P8	Existing (Demolition) Ground Floor Plan	Team 2 Architects	08 July 2024
DA01.05	P10	Existing (Demolition) Level 1 Floor Plan	Team 2 Architects	08 July 2024
DA01.06	P10	Existing (Demolition) Level 2 Floor Plan	Team 2 Architects	08 July 2024
DA01.07	P7	Existing (Demolition) Level 3 Floor Plan	Rothelowman	30 January 2023
DA01.11	P15	Basement 02 Floor Plan	Team 2 Architects	06 February 2024
DA01.12	P17	Basement 01 Floor Plan	Team 2 Architects	25 March 2024
DA01.13	P20	Ground Floor Plan	Team 2 Architects	08 July 2024
DA01.14	P17	Level 1 Floor Plan	Team 2 Architects	08 July 2024
DA01.15	P17	Level 2 Floor Plan	Team 2 Architects	08 July 2024
DA01.16	P19	Level 3 Floor Plan	Team 2 Architects	08 July 2024
DA01.17	P17	Roof Plan	Team 2 Architects	08 July 2024
DA02.01	P13	Elevations	Team 2 Architects	08 July 2024
DA02.02	P13	Elevations	Team 2 Architects	08 July 2024
DA02.03	P9	Elevations	Team 2 Architects	08 July 2024
DA03.01	P11	Sections	Team 2 Architects	08 July 2024
DA03.02	P12	Sections	Team 2 Architects	08 July 2024
DA03.03	P5	Sections	Team 2 Architects	08 July 2024
DA 1/2	F	Landscape Site Plan	Andrew Davies	24 January 2023
DA 2/2	F	Landscape Plant Schedule and Notes	Andrew Davies	24 January 2023

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

B. Amend all relevant conditions to:

- I. replace the term "any Construction Certificate" or similar, with the term "the relevant Construction Certificate",
- II. replace the term "any Occupation Certificate" or similar, with either the term "the relevant Occupation Certificate" or "final Occupation Certificate" as appropriate, and
- III. replace the term "Certifying Authority" or similar, with the term "Principal Certifier".

C. Modify condition C1 to read:

Heritage Requirements

C1. The following heritage requirements are to be met for the existing building to be retained located on No. 15 Allister Street:

- a) Face brickwork and decorative brickwork on the exterior and the interior of the original dwelling is not to be painted.
- b) Unpainted original interior Interwar joinery is not to be painted.
- c) **Original timber framed Interwar glazed doors to the balconies are to be either retained or replaced with new doors in the Interwar style with similar width frames and transoms that respond to the existing character of the heritage building. Salvaged doors are to be re-used on site, sold or distributed to the community to retain the heritage asset.**
- d) Original glazed apartment front doors **are** to be either retained or be salvaged for re-use elsewhere on the site, sold or distributed to the community to retain the heritage asset. **New replacement doors are to be designed in the Interwar style and are to be reflective of the design of the original front doors. ~~Should changes be required for fire upgrades, they are to be modified on the interior side with fire rated material.~~**
- e) Interior doors that are to be removed as part of the demolition works are to be salvaged for re-use on site, sold, or distributed to the community to retain the heritage asset. **New replacement doors are to be designed in the Interwar style and are to be reflective of the design of the original doors.**
- f) New **exterior** windows and doors are to be timber-framed **on the heritage item except for the balconies if necessary to comply with the NCC.** ~~or aluminium framed to match existing.~~ **Metal framed windows and doors may be used on the contemporary addition.**
- g) Original tiles in the common area lobby are to be retained and conserved.
- h) Original wrought balustrade in the common area staircase is to be retained.
- i) **Where original decorative Art Deco ceilings and cornices are removed, these are to be replaced with ceilings and cornices to match the original style.**

Written concurrence with this condition is to be provided by the consultant heritage architect to the ~~Certifying Authority~~ **Principal Certifier** prior to the issue of ~~any the relevant~~ construction certificate. The ~~Certifying Authority Principal Certifier~~ must also ensure that the building plans and specifications submitted, referenced on and accompanying ~~the issued the relevant~~ Construction Certificate, fully satisfy the requirements of this condition.

(Reason: ~~To ensure the building is conserved.~~ To retain the character and detailing of the heritage item.)

D. Modify Condition C20 to read:

Allocation of Spaces

C20. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

Residential	Parking Spaces
One Bedroom Apartments (1 space per apartment)	3
Two Bedroom Apartments (1 space per apartment)	4
Three Bedroom Apartments (Including 3 Accessible Parking Spaces) (1 or 2 spaces per apartment)	9
Visitor	3 2
Total	19

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

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

E. Modify Condition G18 to read:

Damage to Adjoining Properties

G18. On completion of the development the subject of this consent, ***a report is to be prepared by an appropriately qualified consultant and is to be provided to Council within 12 months of the final Occupation Certificate being issued.*** The report is to address all relevant matters, including and not limited to:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the ~~Certifying Authority~~ **Principal Certifier** in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of ~~an~~ **the final** Occupation Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

F. *It is proposed to amend condition C42:*

Mechanical Exhaust Ventilation

C42. A statement from an appropriately qualified and practising Mechanical Engineer is required detailing how the exhaust ventilation system will be installed in accordance with AS1668. The ~~Certifying Authority~~ **Principal Certifier** must ensure that the building plans and specifications submitted, referenced on and accompanying the **relevant issued** Construction Certificate, fully satisfy the requirements of this condition.

The mechanical exhaust ventilation ducting mounted on the roof of the building is to have a maximum RL of **88.69**.

(Reason: To increase the maximum height allowed for this plant in line with the above-described adjustments resulting from accurate survey data and the need to align the levels of the extension and the existing building)

G. Amend condition C34 to read:**Garbage and Recycling Facility**

C34. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a) all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2 m from the street boundary of the property;
- d) if a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2 m from the street boundary of the property, **and the holding bay is to be accessible both from the street for emptying and from within the property for conveying bins from the basement to the holding bay;**
- e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- f) garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Plans and specifications which comply with this condition must be submitted to the ~~Certifying Authority~~ **Principal Certifier** for approval prior to the issue of ~~any~~ **the relevant** Construction Certificate.

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

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

H. Amend Condition C50 to read as follows:

BASIX Certificate

C50. Under Section 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1339113M_03 dated 14 December 2023 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of 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 the proposed development will meet the Government's requirements for sustainability and statutory requirements)

I. Insert the Condition below after Condition G7 Utility Services, and adjust condition numbering in Section G of the conditions thereafter:

Covenant and Restriction (Stormwater Control Systems)

G8. An Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act* 1919 and one copy must be submitted to Council in registrable form, providing for:

- a) a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 13-15 Allister Street Cremorne requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines);
- b) North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;
- c) the wording in the Instrument making reference to the Council files which hold:
 - (a) the Construction plans; and
 - (b) the "Work-as-Executed" (as built) plans;

The terms of the Instrument must be executed by an authorised delegate of North Sydney Council prior to submission to the NSW Land Registry Services for registration.

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of the relevant Occupation Certificate or commencement of use of the site, whichever is the earlier. Typical wording for the Instrument can be sourced from Council's "Specification for the Management of Stormwater".

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of the relevant Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and adequate maintenance of drainage system)

LPP04: 6/18-20 Cremorne Road, Cremorne Point - DA 713/02/3

Applicant: Mona Karam

Report of Andrew Beveridge, Senior Assessment Officer

This development application seeks NSLPP approval for the modification of Condition 12 of DA713/02 to increase the permitted number of users on the rooftop terrace of Apartment No.6 to a maximum capacity of 84 people at a maximum of six times per year.

The application is reported to the North Sydney Local Planning Panel for determination as the application has received more than ten (10) objecting submissions.

The application was notified in accordance with the North Sydney Community Engagement Protocol, and Council received twenty-eight (28) submissions, of which 26 were objections that raised significant concerns regarding the potential privacy (acoustic and visual) impacts, traffic/street parking impacts, inadequate fire safety and facilities concerns, and general amenity/character impacts upon the surrounding area, arising out of the proposed intensification of use of the roof terrace.

The concerns raised in the submissions and the amenity impacts upon the neighbourhood have been assessed and are considered to be significant, particularly with regard to privacy, the low density residential character of the surrounding area, and the potential on-street parking impacts. As such, the increased number of persons and frequency of such events, as proposed, is not

considered to be a reasonable intensification of the use of the existing roof terrace as approved under DA 713/02.

Nevertheless, it is considered that the existence, size, and use of the roof terrace is able to accommodate some level of intensification, without resulting in significant additional impacts upon the surrounding area. As such, it is recommended that the original restriction of 15 persons remain throughout the year, with the exception of New Years (31 December-1 January) and one additional occasion per year when an intensification to a maximum of 84 persons be permitted. It is not considered reasonable to permit such an intensification for an additional five occasions per year. Additional restrictions are also recommended, including mandatory reporting to Council prior to such events, as well as a condition which clarifies that the roof terrace space is not to be used for commercial purposes at any time.

Subject to these amendments, and having regard for the potential impacts upon the amenity of adjoining properties and the surrounding neighbourhood, the modification application is nevertheless considered to be satisfactory and is recommended for conditional **approval**.

Recommending:

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

THAT under the provisions of section 4.55(2) of the Act, North Sydney Local Planning Panel, in accordance with the Ministers Direction dated 30 June 2020, grant consent to modify Development consent DA 713/02 for alterations and additions to an existing residential flat building, application Ref. DA 713/02/3, on land at 18-20 Cremorne Road, Cremorne Point, only so far as to provide the following:

1. Condition I2 is amended as follows:

Number of People

12. The use of the proposed roof terrace is to be generally restricted to 15 persons at any one time for Unit 6 and 15 persons at any one time for Unit 7.

The roof terrace can be occupied by up to 84 persons at any one time for Unit 6 only, on a maximum of two times per year, including New Years (31 December-1 January). Council must be given a minimum of one week's advance notice of these times occurring.

No other units within the apartment building are entitled to use the roof terrace. A By-Law is to be created and enforced by the Owners Corporation of SP 13516 to this effect, and evidence of this By-Law provided to Council with the Construction Certificate documentation. This By-Law is to be updated as approved under DA/713/02/3.

(Reason: Residential Amenity and Safety)

2. A new Condition I3 is inserted as follows:

No Commercial Use

13. The use of the roof terraces are to be generally restricted to private use by the owners/residents and their guests of Units 6-7. No approval

is granted or implied for any commercial or similar use of the roof terraces.

(Reason: Residential Amenity)

LPP05: 20 Folly Point, Cammeray - DA 79/24

Applicant: Alex Roth, Roth Architecture Workshop Pty Ltd

Report of Andrew Beveridge, Senior Assessment Officer

This development application seeks NSLPP approval for alterations and additions to an existing semi-detached dwelling including an internal reconfiguration and installation of a lift, at 20 Folly Point, Cammeray.

The application is reported to the North Sydney Local Planning Panel for determination as the application is seeking a variation to a development standard by more than 10%.

Although the existing maximum height of the dwelling on the site of 12.5m (a variation of 4m or 47.05%) is not being altered, the proposed development breaches the maximum permitted building height of 8.5m by 1.95m or 22.9%. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the general amenity of adjoining properties.

The application was notified in accordance with the community engagement protocol and Council received no submissions. The amenity impacts upon adjoining site have been assessed and are considered to be negligible and acceptable within the site circumstances. The works will also maintain a sympathetic scale that is consistent with the existing building and surrounding buildings, and accords with the built form of the neighbourhood and the sloping topography of the site.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the streetscape character will be maintained. The proposed development would be in the public interest as the submitted written request is considered to be well founded and worthy of support.

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

Recommending:

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning and Environment and invoke the provisions of Clause 4.6 in *NSLEP*

2013 with regards to the non-compliance with Clause 4.3 and **grant consent** to Development Application No. 79/24 for alterations and additions to an existing semi-detached dwelling, on land at 20 Folly Point, Cammeray, subject to the following standard conditions.

LPP06: 2 Folly Point, Cammeray – DA 397/19/3

Applicant: Mark Solomon, Plan Urbia

Report of Andrew Beveridge, Senior Assessment Officer

This application seeks approval to modify development consent DA397/2019 for alterations and additions to an existing dwelling house, including various minor amendments to the balconies and rooftop elements, internal floorplan layouts, and other minor elements. The amendments are primarily structural or aesthetic and would not differ significantly from the approved built form. The application is reported to the North Sydney Local Planning Panel (NSLPP) for determination as the application relates to a variation to a development standard by more than 10%, and is beyond delegation as it applies to the C4 Environmental Living zone.

The proposed development, as modified, is considered to be substantially the same development as that originally approved and has regard to the reasons for approval.

A portion of the proposed modifications are greater than 10% above the maximum building height development standard of 8.5 metres pursuant to Clause 4.3(2) in *NSLEP 2013*. The existing dwelling has a maximum height of 15.8m and the maximum height of the approved additions is approximately 13.4m resulting in a variation to the development standard of 57.64%. The proposed modifications above the height limit relate to the change of the height of a section of the roof parapet to 1m, and the removal of a planter. It is also proposed to substitute the specified material finish of the approved rooftop walkway awning structure.

An amended written request to vary a development standard pursuant to clause 4.6 in *NSLEP 2013* is not required as the modification of a consent is distinguished from the granting of consent. Regardless, the proposed modifications have been considered with regard to the objective of the height of buildings development standard and the objective of the zone. The alterations are generally consistent with the existing built form and would not result in adverse impacts to the amenity of the surrounding area.

The proposed development, as modified, would not result in any additional impacts to the amenity of the surrounding dwellings with regard to the retention of views, privacy and solar access. The proposed development remains consistent with the existing character of the dwelling and the surrounding foreshore area.

The application was notified in accordance with Council's Community Engagement Protocol, and one submission was received raising concern about the potential usability of the Level 5 roof area. The original large-sized pebbles and limited trafficability of the roof level as approved under DA 397/19 remain

unchanged and the proposed modifications will not have any additional impact upon the usability of the roof level that would create additional privacy impacts.

The proposed modifications would not require the amendment of a number of conditions that were originally imposed by the Panel. Whilst the proposed modifications are considered to achieve the reasons for the conditions, the application is still required to be referred to the Panel for determination. The proposed modifications are considered reasonable and therefore the application is recommended for approval.

Recommending:

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

THAT under the provisions of section 4.55(1A) of the Act, North Sydney Local Planning Panel, in accordance with the Ministers Direction 30 June 2020, grant consent to modify Development consent DA 397/18 for alterations and additions to an existing dwelling house, application Ref. DA 397/19/3, on land at 2 Folly Point, Cammeray, only so far as to provide the following:

1. Condition A1 is amended as follows:

Development in Accordance with the Plans (S4.55 Modification)

A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp: -

Plan No	Title	Dated	Prepared	Received
S4.55 A101 – A	Site / Roof Plan	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A211 – A	Proposed Level 5	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A212 – A	Proposed Level 4	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A213 – A	Proposed Level 3	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A214 – A	Proposed Level 2	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A215 – A	Proposed Level 1	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A304 – A	Proposed Southern Elevation	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A311 – A	Proposed Northern Elevation	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A312 – A	Proposed East Elevation	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A313 – A	Proposed West Elevation	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A411 – A	Long Section	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A412 – A	Cross Section	22/01/2021	Play Co Pty Ltd	01/03/2021
S4.55 A605 – A	Level 2 Eastern Balcony Screen Details	21/01/2021	Play Co Pty Ltd	01/03/2021

Except as modified as such on the following drawings for DA 397/19/3:

No.	Revision	Title	Drawn by	Date	Received
A101	B	Site Plan/Roof Plan	Play Co Pty Ltd	10/05/2024	22/05/2024
A211	B	Proposed Level 5	Play Co Pty Ltd	10/05/2024	22/05/2024
A212	B	Proposed Level 4 Plan	Play Co Pty Ltd	10/05/2024	22/05/2024
A213	B	Proposed Level 3 Plan	Play Co Pty Ltd	10/05/2024	22/05/2024
A214	B	Proposed Level 2 Plan	Play Co Pty Ltd	10/05/2024	22/05/2024
A215	B	Proposed Level 1 Plan	Play Co Pty Ltd	10/05/2024	22/05/2024
A311	B	Proposed North Elevation	Play Co Pty Ltd	10/05/2024	22/05/2024
A312	B	Proposed East Elevation	Play Co Pty Ltd	10/05/2024	22/05/2024
A313	B	Proposed West Elevation	Play Co Pty Ltd	10/05/2024	22/05/2024

A320	B	Proposed Material Finishes Schedule	Play Co Pty Ltd	10/05/2024	22/05/2024
A411	B	Proposed Section 1	Play Co Pty Ltd	10/05/2024	22/05/2024
A412	B	Cross Section	Play Co Pty Ltd	10/05/2024	22/05/2024
A601	B	Sliding & Swing Gate Details	Play Co Pty Ltd	10/05/2024	22/05/2024
A602	B	Balustrade Details	Play Co Pty Ltd	10/05/2024	22/05/2024
A710	B	Davit Drawing	Play Co Pty Ltd	10/05/2024	22/05/2024

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

2. The following conditions are to be amended to reflect the amended plan references

External Finishes & Materials

A4. External finishes and materials must be in accordance with the submitted Proposed Material Finishes Schedule, drawing ref: A320, Revision B, dated 10 May 2024, and received by Council on 22 May 2024, unless otherwise modified by Council in writing.

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

Installation of Irrigation System

C13. An automated irrigation system is to be installed on the roof level to irrigate the approved landscaping shown on drawing A211, Revision B, drawn by Play Co Pty Ltd, dated 10 May 2024, and received by Council on 22 May 2024.

(Reason: To ensure that the approved landscaping is able to be adequately maintained)

Landscaping

G1. The landscaping shown in the Level 5 Plan numbered A211, Revision B, prepared by Play Co Pty Ltd, dated 10 May 2024, and received by Council on 22 May 2024, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Maintenance of Landscaping

I4. The owner of the premises at 2 Folly Point, Cammeray is to maintain the landscaping approved by this consent generally in accordance with drawing number A211, Revision B, drawn by Play Co Pty Ltd, dated 10 May 2024, and received by Council on 22 May 2024. The automated irrigation system installed as required by condition C13 Installation of Irrigation System is to be appropriately programmed to provide sufficient irrigation to the planters.

The landscaping is to be maintained to ensure that the height does not exceed 1.8m above the finished floor level of the rooftop area.

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

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

LPP07: 10 Larkin Street, Waverton - DA 45/24 -

Applicant: Chapman Planning Pty Ltd

Report of Thomas Holman, Senior Assessment Officer

This development application seeks consent for the erection of a retractable awning structure extending from the existing lift foyer. The development application is lodged concurrently with a Building Information Certificate (C3/2014 - BIC 26878) to address works erected on the site without consent inclusive of support posts associated with the proposed retractable awning structure, roof and doors to existing lift foyer.

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 proposed awning is 11.29m in height measured vertically from existing ground level and exceeds the development standard of 8.5m by 2.79m (32.8%). It is considered that there are sufficient environmental planning grounds in the circumstances of the case as outlined in the submitted written request seeking to justify the contravention of the development standard.

The retractable awning structure meets the zone objectives, the relevant height of building objectives and the development will have negligible amenity impacts. Further, the retractable awning will not add excessive bulk and scale to the existing building.

The subject application was notified to adjoining properties and the Waverton Precinct for 14 days where two submissions were received raising concerns with the exceedance in height which will result in an unwanted precedent contribute to an additional floor level and will have a detrimental visible impact. The submissions are addressed within the report and conditions are recommended to the retractable awning.

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, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 regarding the non-compliance with Clause 4.3 and grant consent to Development Application No. 45/2024 for a retractable awning structure on land at 10 Larkin Street, Waverton subject to the following site specific and attached standard conditions of consent.

Terms of Consent

A4. Approval is granted for the use of the awning structure and proposed works stipulated in Condition A1 of this consent. No approval is given or

implied for any works undertaken prior to the date of determination of this consent associated with the use of the awning structure. The consent holder may consider the lodgement of a building information certificate application to regularise any such works.

The retractable awning is to be a Markilux Pergola 110/210 tracfix awning system which is not fixed and the colour of the awning shall be neutral as stipulated in the submitted Statement of Environmental Effects dated 20 February 2024 prepared by Chapman Planning.

(Reason: To ensure the terms of consent are clear)

Retractable Awning

A5. When the roof terrace area is not in use, the retractable awning is to be returned to its furled or unopened state. No consent is given for the retractable awning to be left permanently in its opened or unfurled state. The elevations of the awning structure shall remain open and not enclosed.

(Reason: To ensure the terms of consent are clear)

Structural Adequacy

A6. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the additional loads imposed on it from the rooftop awning shall be submitted to Council prior to the installation of the proposed awning retractable structure.

(Reason: To ensure the structural integrity of the building is maintained)

LPP08: 10 Colin Street, Cammeray - DA 311/23

Applicant: Ken Demlakian

Report of Robin Tse, Senior Assessment Officer

This development application seeks consent for alterations and additions to a detached dwelling and a secondary dwelling including demolition, construction of a first floor addition, a garage building and a swimming pool at No.10 Colin Street, Cammeray.

The application is reported to the North Sydney Local Planning Panel for determination as the application has attracted more than 10 submission by way of objection.

The notification of the application, including amended plans, has attracted a total of 11 (eleven) submissions raising concerns about excessive bulk and scale, heritage impacts and adverse amenity impacts for the neighbouring properties.

The proposal has been considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and was generally found to be satisfactory subject to the imposition of deferred commencement conditions requiring design modifications to the roof addition. The proposal for alterations and additions to an existing detached dwelling is a permissible form of development on land within an R2 Zone (Low Density

Residential) with consent from Council. The proposed dwelling complies with LEP's maximum building height limit.

The subject site is located within the Plateau Conservation Area and the imposition of the deferred commencement conditions relating to the roof addition would result in a dwelling design that would be more compatible with the character of the conservation area. Furthermore, a deferred commencement condition is recommended to further improve the level of compliance with site coverage and landscape area requirements. These amendments would not require further assessment as they have been considered herein.

The proposed development would not cause unreasonable impacts on the amenity of the adjoining properties in terms of the loss of significant views, privacy and solar access subject to the imposition of appropriate conditions in order to ensure reasonable amenity of the adjoining properties.

The issues raised in the submissions have been discussed in this report and/or addressed with appropriate conditions of consent.

It is considered to be reasonable in the circumstances and is recommended for a deferred commencement **approval** subject to conditions of consent.

Recommending:

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

THAT the North Sydney Local Planning Panel, grant deferred commencement consent to Development Application No. 311/23 for alterations and additions to an existing detached dwelling and the secondary dwelling on land at No.10 Colin Street, Cammeray, subject to the following site specific conditions and the attached conditions:-

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement conditions have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*.

Deferred Commencement Matters

Heritage Requirements

AA1. The following heritage requirements are to be met:

- (a) The following design modifications are required for the first floor addition:
 - (i) The plant and attic storage rooms are to be deleted from the first floor addition;
 - (ii) The gable end addressing the street shall be amended to a hipped roof plane that has a traditional Federation style roof pitch sympathetic to the subject dwelling;

- (iii) The two eastern gabled dormers closest to the street and their associated shed style dormers are to be deleted;
 - (iv) Dormers are to be fully dimensioned and demonstrate compliance with DCP's proportion requirements.
 - (b) New roof tiles to be unglazed terracotta roof tiles in Marseilles pattern. New metal roof sheeting to have a corrugated profile
 - (c) New windows W1 - W5 and W9 - W17 are to be timber framed.
- (Reason: To ensure that the proposed development is sympathetic to the character of the conservation area.)

Design Modifications

- AA2. The design of the proposed development shall be modified as follows:
- (a) The proposed passageway connecting the main dwelling and the secondary dwelling at the rear shall be deleted and shall be replaced by soft landscaping;
 - (b) A 900mm setback shall be provided between the western building line of the proposed garage building and the rear (western) property boundary. Soft landscaping shall be provided on the land affected by this requirement;
 - (c) The northern edge of the proposed swimming pool shall provide a 1.2m setback from the northern property boundary to minimise construction impacts on the adjoining property to the north;
 - (d) Frosted/obscure glazing shall be applied to the lower panes of the proposed dormer windows on the northern and southern elevations;
 - (e) Frosted/obscure glazing shall be applied to ground floor windows W9, W10 and W11.
- (Reason: To ensure quality development outcomes, compliance with planning controls and protection of the adjoining properties.)

This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.

- B. Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following and site specific conditions:

No encroachment of works

- C1. The proposed works must not encroach onto any adjoining properties, in particular the adjoining property at No.8 Colin Street, Cammeray.
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)

Revised Landscape Plan

- C2. The applicant must submit a revised landscape plan, based on the submitted landscape plan (Drawing numbered L01 prepared by A total Concept and dated 14 September 2023) incorporating the following:

- (a) Soft landscaping shall be provided on the areas affected by the deletion of the enclosed passageway and the provision of a 900mm setback for the proposed garage building from the rear (western) property boundary as required by Condition AA2;
- (b) The 1 x *Magnolia* 'Teddy Bear' (45lt) shown to be planted in the centre of the rear setback shall be replaced with a more upright small to medium tree (75lt) with a vase-shaped open canopy (eg *Lagerstroemia indica*) capable of achieving a mature height of 7m min planted towards one of the southern corners of the rear setback;
- (c) The *Viburnum odoratissimum* (200mm) shown to be planted along the narrow northern rear boundary adjacent to the secondary dwelling shall be replaced with a species (300mm) better suited to this narrow space in dry shade beneath the eaves of the dwelling (Note: Consideration shall also be given to maintenance requirements/access when considering plant choice);
- (d) Pot size of all *Viburnum odoratissimum* shall be increased from 200mm to 300mm;
- (e) 1 x *Tristanopsis laurina* 'Luscious' (100lt) shall be planted in the council verge (northern end) in front of 10 Colin Street.

The revised landscape plan, architectural 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 a desirable landscaping outcome for the subject site and the locality)

LPP09: Unit 20 & 23/11 Amherst Street, Cammeray – DA 350/23

Applicant: Roberto Bianco

Report of Robin Tse, Senior Assessment Officer

This development application seeks consent alterations and additions to existing roof terraces of a four (4) storey shop top housing development including the removal of existing pergolas/retractable awnings and installation of new pergolas, new retractable screens and associated work for the roof terraces on the roof level at Units 20 and 23, 11 Amherst Street, Cammeray.

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 Ministers Direction.

Notification of the proposal has attracted no submissions. The assessment has considered the performance of the application against Council's planning requirements.

The subject site is located on land zoned E1 (Local Centre) where shop top housing is a form of development permissible within the zone.

Consideration has been given to the relevant planning controls and the submission seeking a variation to the LEP maximum building height control for the proposed works. It is concluded that the proposal is unlikely to give rise to material amenity impacts, including significant views as seen for the adjoining properties. The design, height, bulk and scale of the proposed development are considered to be acceptable and is reasonably consistent with potential outcomes anticipated by the relevant controls.

Having regard to the merits of the proposal, the application is recommended for approval subject to 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, assumes 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 – maximum building height and grant consent to Development Application No. 350/23 on land at Units 20 & 23, 11 Amherst Street, Cammeray subject to the attached 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 5 JUNE 2024, AT 2.00PM.

PRESENT IN THE SUPPER ROOM

Chair:

Dr Gary Shiels AM

Panel Members:

Brendan Randles (Panel Member)

Robert Montgomery (Panel Member)

Meredith Trevallyn-Jones (Community Representative)

Staff:

David Hoy, Acting Manager Development Services

Isobella Lucic, Team Leader Assessments

Kim Rothe, Acting Team Leader Assessments

Administrative Support:

Peita Rose, Governance Officer (Minutes)

This meeting was otherwise conducted by remote (Zoom) means.

The Chair acknowledged the Cammeraygal people being the traditional owners 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 May 2024 were confirmed following that meeting.

2. Declarations of Interest

Meredith Trevallyn-Jones declared an interest in Item No. 4, 40 Brightmore Street, Cremorne.

No Council Officers were present during the public meeting or deliberations for Item 1 other than the minute taker.

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.

ITEM 1

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

Three Written Submissions**Registered speakers**

Submitter	Applicant/Representative
Christine Covington - Submitter	Tina Christy - Gyde
Jason Perica - Perica and Associates - representing 184A Kurraba Rd	Rafe Wilson - Koichi Takada
Thomas Beregi - Submitter	Micheal Pesochinsky - Pezo
Davide Foti - Submitter	Jane Maze-Riley - Urbis
Sean Barrett - Submitter	
Renee Stavroulakis - Ethos Urban - representing 192 and 192a Kurraba Rd	

Panel Determination

As there was a potential conflict, an independent consultant was engaged by Council to assess the development application. All Council Officers were absent for the site inspection and the deliberation of this item.

The Panel members have undertaken a site inspection prior to the meeting and inspected the proposed development from the objector's adjoining property. The Panel considered a number of written submissions and heard from six submitters as well as the applicant's representatives during the meeting.

The Independent Consultant's Report, and Recommendations are endorsed by the Panel and the application is refused for the reasons included in the consultant's report and the additional reason below.

The Panel noted that it is not able to approve the development application in its current form as there are aspects of the development which are prohibited by the zoning.

Panel Reason:

The Panel notes that there are a number of unresolved issues and therefore agrees with the independent consultant’s report and recommendation.

It has been brought to the Panel’s attention that part of the residential flat building component encroaches on the R2 zone, and therefore the Panel is without power to do anything other than refuse the application.

The Panel also noted that an additional reason for refusal should be added to the recommendation identifying the legal impediments for its approval.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Meredith Trevallyn-Jones	Y	
Brendan Randles	Y				
Robert Montgomery	Y				

ITEM 2

DA No:	302/23
ADDRESS:	42 and 42A Milson Road, Cremorne Point
PROPOSAL:	Substantial alterations and additions to lower ground, ground level and first floor additions and demolition of garage and replacement with a three bay garage with green roof.
REPORT BY NAME:	Thomas Holman, Senior Assessment Officer
APPLICANT:	Amrit Pal Singh

One Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
	Peter Hosking - Architect
	Samantha Polkinghorne - Heritage consultant
	Lance Doyle - Doyle Consulting

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting.

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 for the exceedance 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. The Panel was not satisfied that the written request demonstrated that compliance with the development standard was unnecessary in the circumstances of the case or that the written request identified sufficient environmental planning grounds to justify the contravention. The Panel considered that approval of the development would not be in the public interest and would be inconsistent with the provisions and objectives of the standard and the zone objectives.

The Council Officer’s Report and Recommendations are endorsed by the Panel and the application is refused for the reasons stated in the report.

Panel Reason:

The Panel would like to identify the following matters which have not been properly addressed by the applicant, including:

- Insufficient and conflicting details on plans and documentation;
- Extended glazing facing the foreshore reserve;
- Excessive bulk of the roof when viewed from Milson Road;
- The unrefined nature of the dormer;
- The design fails to capture the arts and crafts character of the building.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Meredith Trevallyn-Jones	Y	
Brendan Randles	Y				
Robert Montgomery	Y				

ITEM 3

DA No:	355/23
ADDRESS:	114 Atchison Street, Crows Nest
PROPOSAL:	Alterations and additions to an existing dwelling including two storey rear addition and alterations to an existing outbuilding 'Barn'
REPORT BY NAME:	Thomas Holman, Senior Assessment Officer
APPLICANT:	The Trustee for Paul O'Keefe Architects Trust

One Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
	Paul O'Keefe - O'Keefe Architects

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting.

The Council Officer's Recommendation is endorsed by the Panel and the application is refused for the reasons set out in the report.

Panel Reason:

The panel would like to identify the following matters which have not been properly addressed by the applicant, including:

1. The Panel was concerned with the legal status of the barn and considered that it should be regularised.
2. The proposed staircase should be contained wholly within the fabric of the new addition.
3. The eastern side setback on the first-floor level should comply with the DCP.
4. The western side setback should be justified in heritage terms.
5. The site coverage be justified in heritage terms.
6. Insufficient and conflicting details on plans and documentation.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Meredith Trevallyn-Jones	Y	
Brendan Randles	Y				
Robert Montgomery	Y				

ITEM 4

DA No:	409/22
ADDRESS:	40 Brightmore Street, Cremorne
PROPOSAL:	Demolition of an existing apartment building and construction of a new four (4) storey apartment building with associated parking and landscaping.
REPORT BY NAME:	Robin Tse, Senior Assessment Officer
APPLICANT:	ABC Planning Pty Ltd

Meredith Trevallyn-Jones declared an interest in this item and did not attend the site inspection or the deliberations.

Two Written Submissions**Registered to Speak**

Submitter	Applicant/Representative
Tamina Mistry - Submitter	Anthony Betros (planner) - ABC Planning - applicant
Mark Walsh - Submitter	

Panel Determination

The Panel members have undertaken a site inspection prior to the meeting and considered the written submissions and the oral representations by the submitters and the applicant's consultant at the meeting.

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 for the exceedance 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 identifies sufficient environmental planning grounds to justify the contravention. Additionally, the Panel considers that the development is in the public interest and is 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 condition AA1:

Design Modifications

AA1. The design of the proposed development must be modified as follows:

Apartment Building:

- (a) The height of the proposed apartment building be lowered by 200mm to minimise the building height and bulk/scale of the building with the roof parapet at RL50.500 and the lift overrun at RL50.900; and

- (b) The floor levels/RLs of the lower levels of the proposed apartment building be revised accordingly.

Integrated Waste Storage Facility:

- (c) The garbage bin storage and bulky waste storage rooms, located to the west of the proposed mechanical car stacker facility, shall be deleted and replaced with a garbage bin storage cabinet along the western wall of the proposed car stacker structure;
- (d) The cabinet shall provide storage for general waste and recycle materials bins for the proposed development and accessed from the inside of the car stacker structure;
- (e) A 2m landscape strip shall be provided between the western building line of the proposed car stacker structure and the western property boundary of No. 40 Brightmore Street.

Plans/drawings showing the modified design must be submitted for the written approval of Council’s Manager Development Services.

(Reason: To minimise building height, bulk and scale of the proposed development and to protect the amenity of the surrounding properties.)

Panel Reason:

The Panel agrees with the officer’s assessment and has taken into consideration the concerns of the neighbouring property owners to the west in relation to impact on their amenity. Accordingly, the Panel has required a setback of the structure of 2m with the appropriate landscaping. The Panel also considers the height of the building should be lowered by 200mm rather than the 500mm as recommended in the assessment report.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Gary Shiels	Y		Meredith Trevallyn-Jones	Absent	
Brendan Randles	Y				
Robert Montgomery	Y				

The public meeting concluded at 3.40pm.
 The Panel Determination session commenced at 3.50pm.
 The Panel Determination session concluded at 5.23pm.

Endorsed by Dr Gary Shiels AM
 Chair
 North Sydney Local Planning Panel
5 June 2024