

COUNCIL ASSESSMENT REPORT

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-612 – DA 30/25 (PAN-509039)
PROPOSAL	Demolition of existing structures, construction of a part 4/5 storey residential flat building containing 23 units & basement parking across 3 levels, landscaping and associated site works.
ADDRESS	118-124 Benelong Road and 72 Gerard Street, Cremorne
APPLICANT	Helm No. 20 Pty Ltd
OWNERS	Michael Cresswell O'Reilly (118 Benelong) Eric Graham Wigglesworth and Pauline Maria Bramwell (120 Benelong) Leah Cleary (122 Benelong) Regal Benelong Pty Ltd (124 Benelong) Vera Stoyanoff and the Estate of the Late Blagoya Stoyanoff (72 Gerard) <i>Note: The combined site has been noted as sold in May 2025.</i>
DA LODGEMENT DATE	5 March 2025
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Cost of estimated development greater than \$30 million.
EDC	\$33,534,000 (excluding GST)
CLAUSE 4.6 REQUESTS	None
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>

	<ul style="list-style-type: none"> • <i>North Sydney Local Environmental Plan 2013</i> • North Sydney Development Control Plan 2013
TOTAL & UNIQUE SUBMISSIONS	Five (5)
KEY ISSUES IN SUBMISSIONS	Bulk and scale, stormwater, traffic, views
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Attachment 1 – Conditions of Consent • Attachment 2 – Architectural Plans – Brick Architects (03/02/2025) • Attachment 3 – Urban Design Study – Bonus & Associates (06/02/2025) • Attachment 4 – Landscape Plans – Space Landscape Designs (06/02/2025) • Attachment 5 – Minutes of the North Sydney Design Excellence Panel (13/05/2025) • Attachment 6 – RFI Response – Helm Pty Ltd (26/05/2025) • Attachment 7 – Design Verification Statement – Brick Architects (07/02/2025) • Attachment 8 – Waste Management Plan – Helm Pty Ltd (02/02/2025) • Attachment 9 – Remediation Action Plan – JK Environments (07/02/2025) • Attachment 10 – List of submitters and summary of issues
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Yes (Housing and Productivity Contribution)
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	YES – 02 July 2025 – additions conditions recommended by the Applicant, and requested staging also included
SCHEDULED MEETING DATE	9 July 2025
PLAN VERSION	3 February 2025 Version No A
PREPARED BY	Andrew Beveridge, Senior Assessment Officer, North Sydney Council / Isobella Lucic, Team Leader Development Assessment, North Sydney Council
DATE OF REPORT	13 June 2025

EXECUTIVE SUMMARY

This application lodged on 5 March 2025, seeks consent for the demolition of the existing residential buildings and construction of a 4-5 storey residential flat development comprising:

- 23 flats comprising: 7 x 2-bedroom units; 15 x 3-bedroom units, and 1 x 4-bedroom unit.
- Construction of three (3) basement levels for 37 car parking spaces (31 resident spaces + 6 visitor spaces) with vehicular access via Gerard Lane;
- Communal lounge/meeting room, open space, gym, and golf room.
- Decommissioning of existing driveways servicing existing dwellings and consolidation of vehicular access via a double crossover to Gerard Lane.
- Landscaping works and associated public domain works are also proposed.

At the time of submission, the DA referred to the relevant EPI in its supporting documentation being the North Sydney Local Environment Plan 2013.

However, since the DA was lodged Chapter 6 of the *SEPP (Housing) 2021* came into effect. Section 8 of the SEPP provides where there are any inconsistencies with development standards in other EPI's, the SEPP prevails, and therefore Councils is not required to consider the noncompliance with Clause 4.3 of the *NSLEP 2013* and the associated Clause 4.6 written variation request. The provisions of the SEPP prevails.

The subject site comprises five lots with three (3) road frontages including Benelong Road to the west, Gerard Street to the south, and Gerard Lane to the north. Existing development on the site consists of a number of buildings, being 5 single dwellings dating from the 1910s and a detached dual occupancy/secondary dwelling dating from 1987.

The site is located in an area of transition from the high density residential flat buildings along Gerard Street and closer to Military Road to the south, to the predominantly low to medium density residential development area which surrounds the site to the north further down Benelong Road. The site itself is zoned R4 High Density Residential, and the proposal is in accordance with this zoning.

Council notified the application in accordance with the Community Engagement Protocol and 5 submissions were received. Issues of concern include:

- View loss,
- Bulk and scale and neighbourhood character
- Traffic congestion, and pedestrian safety

Issues raised by submissions have been considered in the application's assessment.

A briefing was held with the Panel on 30 April 2025 where key issues were discussed, including potential view loss impacts, the exceedance of the LEP development standards of height, and waste management provisions. The proposal involved a breach of Clause 4.3 of *NSLEP 2013* (2.59m or 21.5% on a 12m height limit) and was accompanied by a Clause 4.6 Statement of Variation to account for this non-compliance. However, under the SEPP, a non-discretionary 22m height limit applies to residential flat buildings under six storeys on R4-zoned sites within 400m walking distance of the Cremorne Town Centre.

Council's Design Excellence Panel considered the proposed development on 13 May 2025. In summary, although generally supportive of the proposal, additional matters raised by the Panel included:

- Issues with the layout/location of some apartments and communal space and solar access.
- Suggestions to amend bulk and scale addressing the corner with Benelong Road and Gerard Street.
- Additional measures for sustainability include food waste, battery storage, and sun shading to windows.

The Panel's comments and recommendations are considered later in this report.

A referral to Ausgrid and Transport for NSW pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* and Sydney Water Corporation pursuant to the *Sydney Water Act 1994* were sent and raised no objections, subject to appropriate conditions.

Several referrals were also made to Council officers, including the Landscape Development Officer, who recommended several amendments to the landscape plans and the replacement of several street trees for an improved streetscape outcome. Council's Waste Management Team also raised several issues, including the lack of a waste chute and garbage compactor, garbage bin provisions, and separate bulk waste storage. These comments have been considered later in this report, and where accepted are resolved by way of condition.

The proposed development has been assessed to have regard to the applicable provisions of the *Environmental Planning & Assessment Act 1979*, *State Environmental Planning Policies* (SEPPs), the *North Sydney Local Environmental Plan 2013*, the *North Sydney Development Control Plan 2013*, and the *North Sydney Local Infrastructure Contributions Plan* and has been found to be acceptable.

Approval is recommended, subject to the conditions in Attachment 1. These conditions are necessary to ensure acceptable environmental impacts, maintenance of public safety, convenience and amenity, and compliance with applicable provisions of the *North Sydney Local Environmental Plan 2013* and *Development Control Plan*, and other relevant policies

1. THE SITE AND LOCALITY

1.1 The Site

The site comprises five (5) properties known as Nos. 118, 120, 122, and 124 Benelong Road, and 72 Gerard Street, Cremorne, and is legally described as:

- Lot 1 DP 932946 (118 Benelong)
- Lot 1 DP 932513 (120 Benelong)
- Lot 1 DP 171543 (122 Benelong)
- Lot 1 DP 169417 (124 Benelong)
- Lot 1 DP 791296 (72 Gerard)

The site has an approximate area of 2,081.8m² and is rectangular in shape. It is bounded by Gerard Street to the south (41.47m), Benelong Road to the west (50.29m), and Gerard Lane to the north. An existing multi-dwelling housing development of four dwellings at No. 74 Gerard Street adjoins the site on its eastern boundary. The entire site is zoned R4 High Density Residential in accordance with *NSLEP 2013*.

The site has a fall towards the north and east (Gerard Lane) of approximately 9m from the southwestern to the northeastern corner.

All five individual lots of the subject site formed part of the Parraween Estate and were acquired in 1911 by the Warringah Property Company, owned by prominent local builders in the North Sydney and Mosman areas, Helier Harbutt and Percy Harbutt. Currently, the site is occupied by five detached single dwelling houses and one detached dual occupancy:

- No. 118 Benelong Road is a circa 1911-13 Federation period dwelling with a single hard stand parking space accessed via Benelong Road and a detached single garage with deck above approved in 1995 facing Gerard Lane.
- No. 120 Benelong Road is a circa 1911-13 Federation period dwelling with a single garage in the front setback approved in 1952, and a first-floor addition approved in 2002.
- No. 122 Benelong Road is a circa 1911-13 Federation period dwelling with a single garage in the front setback, a first-floor addition approved in 2013, and a swimming pool and enclosed cabana added in the rear yard in 2021.
- No. 124 Benelong Road is a circa 1911-13 Federation period dwelling, with a detached single garage in the rear setback facing Gerard Street approved in 1964.
- No. 72 Gerard Street is a circa 1911-13 Federation period dwelling at the southern end of the site, with a dual occupancy (detached) dwelling located above a triple garage at the northern end facing Gerard Lane, which was approved in 1987.



Figure 1. Corner of Benelong Road and Gerard Lane



Figure 2. Corner of Benelong Road and Gerard Street

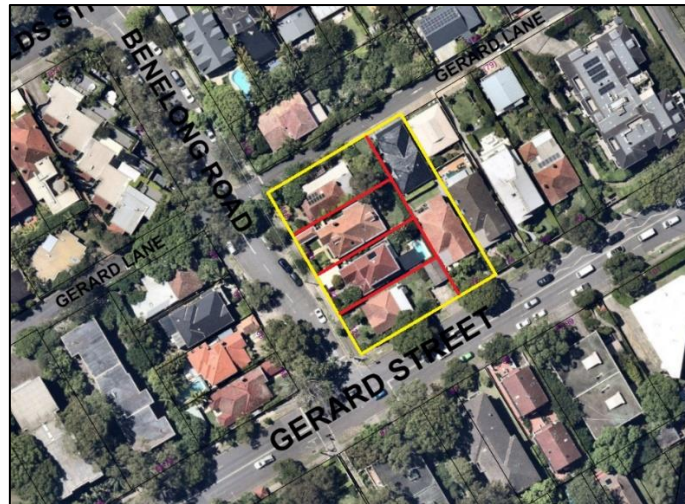


Figure 3. Aerial photo of the locality

1.2 The Locality

- The surrounding area is entirely residential with high density residential flat buildings further to the east and west, and south along Gerard Street, and lower densities of residential development to the north. A 4-unit multi dwelling housing development adjoins the site to the east at 74 Gerard Street, while detached single dwellings are located immediately to the north across Gerard Lane, and to the west across Benelong Road.
- The development is in relatively close proximity to the Cremorne and Neutral Bay Town Centres, and has access to public transport via bus services along Gerard Street and further afield on Military Road. These services provide links to the northern beaches, the Sydney City CBD, Sydney metro and heavy rail.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The development application is for the demolition of the existing residential buildings and construction of a 4-5 storey residential flat development comprising:

- 23 flats comprising:
 - 7 x 2-Bedroom
 - 15 x 3-Bedroom
 - 1 x 4-Bedroom
- Construction of three (3) basement levels for 37 car parking spaces (31 resident spaces + 6 visitor spaces) with vehicular access via Gerard Lane;
- Communal lounge/meeting room, open space, gym, and golf room.

Landscaping works and associated public domain works are also proposed. It is noted that the Applicant and the documentation submitted has remained silent on lot amalgamation, and as such a condition has been imposed to consolidate the site to ensure orderly development of the land.

The key development data is provided in **Table 1**.

Table 1: Development Data

Control	Proposal
Site area	2,081.8m²
FSR (retail/residential)	N/A
Clause 4.6 Requests	No – While there is a breach of Clause 4.3 of <i>NSLEP 2013</i> (2.59m/21.5% on a 12m height limit), this is superseded by Chapter 6 (Low and mid rise housing) of the <i>State Environmental Planning Policy (Housing) 2021</i> , whereby a 22m height limit applies to residential flat buildings under six storeys on R4-zoned sites within 400m walking distance of the Cremorne Town Centre.
No of apartments	23
Max Height	14.59m
Site Coverage	48%
Landscaped area	45.8%
Unbuilt-upon area	6.2%
Car Parking spaces	37
Setbacks	<ul style="list-style-type: none"> • Lower Ground - Level 1: 6 – 8.6 m • Level 2: 6 – 9 m • Level 3: 10.5 – 12 m

2.2 Background

The development application was lodged on **5 March 2025**. A chronology of the development application since lodgement is outlined below, including the Panel's involvement (briefings, deferrals etc), in **Table 2**.

Table 2: Chronology of the DA

Date	Event
06 March 2025	DA formally lodged with Council
07 March 2025	DA referred to internal agencies
7 March 2025	DA referred to external agencies
13 March 2025	Exhibition of the application between 28 March 2025 and 11 April 2025
9 April 2025	Site inspection undertaken
15 April 2025	Site inspection to submitter's site (1/74 Gerard Street) undertaken.
30 April 2025	Panel kick off briefing.

13 May 2025	Meeting of the North Sydney Design Excellence Panel (DEP).
20 May 2025	Minutes of the DEP issued to the applicant.
	A Request for Information (RFI) letter issued to applicant raising various matters for amendment/clarification.
26 May 2025	The applicant provided a response to Council's RFI letter. No amended plans were received.

2.2.1 Request for Additional Information

Council's RFI outlined the following issues:

1. *Waste Management*
2. *Landscape Impacts*
3. *Design Excellence*
4. *Affordable Housing*
5. *Historical Interpretation*

With respect to points, 1,2 and 3, the Applicant requested these matters be dealt conditionally. These requests have been considered within their respective sections of the assessment herein. The Applicant provided written confirmation with respect to point 4, and noted Council's comments relating to point 5. Further consideration of these matters have been appropriately outlined within this report.

2.3 Site History

- 7 September 2022 – Development Application No. 323/21 for the demolition of the existing buildings and construction of a 4-storey boarding housing of 20 rooms on the site of 124 Benelong Road only, was refused development consent by the North Sydney Local Planning Panel.

This decision was appealed by the applicant in the NSW Land and Environment Court in *Regal Benelong Pty Ltd v North Sydney Council* [2024] NSWLEC 1042, which was resolved by the appeal being upheld based on a revised 3-storey proposal by way of a conciliated agreement section 34 of the *Land and Environment Court Act 1979* on 9 February 2024. This consent remains active and valid until 9 February 2029, but has not commenced.

- 18 November 2024 – Complying Development Certificate No. Z255/2024 for the demolition of the existing dwelling and carport, and the construction of a two-storey, three-bedroom single dwelling, with an uncovered parking space within the front setback on the site of 120 Benelong Road only. This consent remains active and valid until 18 November 2029, but has not commenced.

- 4 December 2024 – Complying Development Certificate No. Z267/2024 for the demolition of the existing dwelling, detached dual occupancy, and garages, and the construction of a two-storey, three-bedroom single dwelling, with a detached double garage to Gerard Lane on the site of 72 Gerard Street only. This consent remains active and valid until 4 December 2029, but has not commenced.
- 12 December 2024 – Complying Development Certificate No. Z276/2024 for the demolition of the existing dwelling and garage, and the construction of a two-storey, three-bedroom single dwelling, with a detached single garage to Gerard Lane on the site of 118 Benelong Road only. This consent remains active and valid until 12 December 2029, but has not commenced.
- 19 December 2024 – Complying Development Certificate No. Z285/2024 for the demolition of the existing dwelling and carport, and the construction of a two-storey, three-bedroom single dwelling, with an uncovered parking space within the front setback on the site of 122 Benelong Road only. This consent remains active and valid until 19 December 2029, but has not commenced

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be Integrated Development (s4.46), Designated Development (s4.10), requiring concurrence/referral (s4.13), or Crown Development (s4.33).

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *North Sydney Local Environmental Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
<i>State Environmental Planning Policy (Biodiversity & Conservation) 2021</i>	Chapter 2: Vegetation in non-rural areas Chapter 6: Water Catchments	Y Y
<i>State Environmental Planning Policy (Sustainable Buildings) 2021</i>	No compliance issues identified subject to imposition of conditions on any consent granted.	Y
<i>State Environmental Planning Policy (Housing) 2021</i>	Chapter 2: Affordable Housing No affordable rental housing has been identified on the site, nor proposed.	Y
	Chapter 4: Design Quality of Residential Apartment Development The proposal is generally consistent with the design quality principles, and the proposal is generally consistent to the ADG requirements.	Y
	Chapter 6: Low and mid rise housing The Applicant's as lodged documentation is silent on the provisions under this chapter. Council notes that the site is	Y

	subject to the LMR, and consideration of this is detailed further in this report.	
<i>State Environmental Planning Policy (Planning Systems) 2021</i>	Chapter 2: State and Regional Development <ul style="list-style-type: none"> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6. 	Y
<i>SEPP (Resilience & Hazards)</i>	Chapter 4: Remediation of Land <ul style="list-style-type: none"> Section 4.6 - Contamination and remediation have been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	Y
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	Chapter 2: Infrastructure <ul style="list-style-type: none"> Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. Section 2.118(2) - Development with frontage to classified road Section 2.119(2) Impact of road noise or vibration on non-road development Section 2.121(4) - Traffic-generating development 	Y
<i>North Sydney Local Environmental Plan 2013</i>	<ul style="list-style-type: none"> Clause 2.3 – Permissibility and zone objectives Clause 4.3 – Height of Buildings (LEP height control superseded by SEPP height control) Clause 6.10 – Earthworks Clause 6.12 – Residential Flat Buildings 	Y N Y Y
<i>North Sydney Development Plan 2013</i>	<ul style="list-style-type: none"> Part B Section 1 (Residential Development) <ul style="list-style-type: none"> 1.2.1 Population Mix Merit assessment on variation provided in SEE: <ul style="list-style-type: none"> 30% 2-Bedroom units (35-45% required) 69.5% 3 & 4-Bedroom units (10-20% required) 1.5.5 Site Coverage – 45% maximum control, proposed 3% non-compliance – Merit assessment. Part B Section 10 (Car Parking and Transport) Part B Section 14 (Contamination and Hazardous Building Materials) Part B Section 15 (Bushland) – Bushland Buffer Zone B (300m) for 118 and 120 Benelong Road only Part B Section 16 (Tree and Vegetation Management) Part B Section 17 (Erosion and Sediment Control) Part B Section 18 (Stormwater Management) Part B Section 19 (Waste Minimisation and Management) – additional details and amendments required – See comments below. 	 N N Y Y Y Y Y Y N Y

	<ul style="list-style-type: none"> Part C Section 5 (Area Character Statements – North Cremorne Planning Area) – 5.3 Waters Neighbourhood 	
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Further consideration of the relevant EPI's is outlined herein.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2: Vegetation in non-rural areas

Section 2.6 of the Policy specifies that a person must not clear declared vegetation in a non-rural area of the State without the consent of Council. The Policy confers the ability for Council to declare vegetation that consent is required in a Development Control Plan. Section 16 of Part B in NSDCP 2013 specifies declared trees for the purpose of the SEPP.

The proposal involves the removal and replacement of several large, declared trees, including a number of mature *Plumeria* sp., but most notably T1 *Melaleuca quinquenervia* (15x10m) located in the centre of the amalgamated site. However, it is recognised that any requirement for the retention of this tree under the proposal would sterilize the site. The proposed landscaping scheme for the site is considered to provide for a well-detailed landscaped outcome overall, including new site and street trees, that is likely to provide a greatly enhanced landscaped outcome, particularly in the longer term when the new trees reach maturity.

Consequently, the proposed development would not have a long term significant impact upon the surrounding area or nearby bushland areas. Appropriate conditions have been recommended for the protection of significant trees and the maintenance of an appropriate landscaped context. The proposed development has also been referred internally to Council's Landscape Development Officer for review who has provided comments and conditions, as discussed throughout this report.

Chapter 6: Water Catchments

Chapter 6 of this SEPP applies to this site and is required to be considered in the assessment of the application. The site is not within the mapped Foreshores and Waterways Area and does not adjoin or include any foreshore land. The proposal is unlikely to have an adverse environmental impact as the works are sufficiently set back from the waterway and will not physically damage or interfere with the ecological or water qualities of Sydney Harbour. In summary, the proposed works are considered to be satisfactory having regard for the SEPP's aims and objectives.

State Environmental Planning Policy (Sustainable Buildings) 2022

The *State Environmental Planning Policy (Sustainable Buildings) 2022* applies to the proposal. The application is accompanied by a BASIX Certificate (No. 1782460M, dated 6 February 2025). The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Housing) 2021

Chapter 2: Affordable Housing

The proposal involves the replacement of 5 single dwellings and 1 dual occupancy (detached). The applicant has provided evidence that demonstrates that the detached dual occupancy is not rented out and consequently is not considered to be an affordable rental dwelling within the meaning of the SEPP. Accordingly, the proposal is consistent with the aims of the chapter of this SEPP.

Chapter 4: Design Quality of Residential Apartment Development

Being a new residential flat building, chapter 4 of this SEPP and the attendant Apartment Design Guide (ADG) apply to the proposed residential apartments. The design principles in Schedule 9 of the SEPP are discussed as follows:

Principles 1 and 2: Context, Built Form and Scale

The subject site is located within an R4 High Density Residential zone and the proposal for the demolition of the existing 5 detached dwellings and 1 detached dual occupancy and the construction of a 23-unit residential flat building would generally be suitable for the site context and be compatible with the desired future character for development within this section of Cremorne.

While the existing building does not comply with the NSLEP height controls for the area, the development is compliant with the height control established under Chapter 6 of the SEPP, and the scale and form of the building is generally consistent with other similar developments within the locality, including a large group of existing flat buildings to the south of the subject site.

Principle 3: Density

The zoning of the sites supports higher density developments. The proposed units will generally achieve a high level of amenity for residents, and the additional residential yield for the site will generally be consistent with the area's projected population.

Principle 4: Sustainability

The proposal generally achieves a high level of sustainability through 73% of apartments achieving both solar access and cross-ventilation. The proposed development also incorporates energy efficient devices such as screens, rainwater storage for irrigation and car washing, the significant provision of deep soil planting and overall site landscaping, and the addition of solar panel system to the roof to minimise energy usage.

Principle 5: Landscape

The applicant has proposed significant additional soft landscaping, including the planting of new trees and deep soil planting areas across 45.8% of the site. As indicated earlier in this report, several conditions are recommended to ensure the protection of significant trees and the enhancement of the proposed landscaping scheme, including new street trees.

Principle 6: Amenity

All apartments comply with the ADG requirements to ensure reasonable levels of internal amenity. The proposed building is appropriately designed and sited to minimise any adverse amenity impacts in terms of the loss of privacy and solar access for adjoining properties. The proposal is also likely to retain significant views enjoyed by neighbouring sites. The proposal is generally consistent with surrounding area, and is unlikely to significantly impact upon the amenity and wellbeing of nearby residents.

Principle 7: Safety

The main pedestrian entry for the development located on the Benelong Road frontage is clearly defined and is a generally open space with a secure gate and intercom/camera for visitors. Vehicular access for residents and visitors is also clearly defined with driveway access located off Gerard Lane with an intercom and automatic garage door. The apartments which address the street also have balconies that will allow for passive surveillance of the public spaces. The proposed development is considered to satisfy the requirements of Crime Prevention Through Environmental Design and the overall design allows for passive / natural surveillance of the street.

Principle 8: Housing Diversity and Social Interaction

The proposed development is located in an area with access to public transport via bus services on Gerard Street and Military Road, and good access to amenities in the Neutral Bay and Cremorne town centres. The proposed unit mix, comprising seven 2-bedroom units, 15 3-bedroom units, and one 4-bedroom unit, will provide a range of options for housing diversity. While the proposal does not include any 1-bedroom or studio units, there is a demonstrated need for residential units with higher bedroom provisions, particularly for the market identified by the applicant as being the older downsizing/retirement market. The proposal also includes adaptable apartments which responds to this identified market and will help ensure the building responds to the changing needs of its residents and the ageing population.

The development provides a range of communal facilities to facilitate social interaction and amenity amongst residents, including a large lounge/meeting with kitchenette, open space with barbeque, gym, and a golf simulation room.

Principle 9: Aesthetics

The design of the development is considered to be generally sympathetic to the surrounding area, which comprises a mix of early Twentieth Century low density housing and Late Twentieth Century high density residential flat buildings. The contemporary style of the building has a highly articulated and balanced form that responds well to the sloping nature of the site and the multiple street facades that requires a built form that responds in some way to each side. The design presents a range of high quality natural and muted finishes and colours that will help to soften the overall appearance of the development, including stone cladding, and wood-finished aluminium batten screens.

It is concluded that the proposed development was found to be generally consistent with the key SEPP design principles and therefore is supported.

Apartment Design Guide (ADG)

The proposed development has been assessed against the ADG and is considered to be generally acceptable as detailed in the table below:

Amenity	Design Criteria	Comment	Compliance
2F - Building Separation	<i>Minimum separation distances for buildings are:</i>	In the instance of the proposed development, building separation has only been considered to buildings on adjoining sites.	Yes
	<i>Up to four storeys (approximately 12m):</i> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	<p><i>Eastern Elevation</i> The proposal will provide substantial setbacks from the multi-dwelling housing development at 74 Gerard Street: being 6m from the boundary at Ground Level and Level 1, 6-9m at Level 2, and 10.4-11.9m at Level 3.</p> <p><i>Northern, Southern, and Western Elevations</i> Given that the closest nearby buildings are separated from the site across Gerard Lane, Benelong Road, and Gerard Street, respectively, the proposed development is substantially compliant with this control.</p>	Yes
3B - Orientation	<i>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</i>	<p>The subject site has three street frontages, being Gerard Street, Gerard lane and Benelong Road. The proposed building is orientated to the street boundaries of this site, with the majority of the living/dining and balcony areas for the proposed units orientated towards these frontages, with the use of batten screening that optimises privacy for residents while also allow for solar and light to penetrate. Pedestrian access is provided via Benelong Road and vehicular access is proposed via Gerard Lane, decommissioning existing vehicular access arrangements.</p> <p>The proposed footprint has sufficient articulation in its form and setback from the eastern side</p>	Yes

	<i>Overshadowing of neighbouring properties is minimised during mid-winter.</i>	boundary so as to minimise solar access impacts to the multi-dwelling development at 74 Gerard Street. Due to the setbacks and orientation of the development on the site, it is unlikely that there will be any solar access issues for adjoining sites, particular for 74 Gerard Street.	
3C - Public domain interface	<p><i>Transition between private and public domain is achieved without compromising safety and security.</i></p> <p><i>Amenity of the public domain is retained and enhanced.</i></p>	<p>The lower ground and ground level apartments are designed to open towards the street frontages of the site, providing privacy, while also a level of passive surveillance. As a result of the topography of the site, direct street access for those apartments on the LG or G level is not appropriate.</p> <p>The proposed landscaping surrounding the building, including new trees, bronze steel palisade style fencing and stone clad walls, provide a positive landscaped context for the site that will contribute to the streetscape and the public domain interface. The new street trees and undergrounding of powerlines to Benelong Road, will also greatly improve the street presentation of the site.</p> <p>Fencing along Gerard Street is proposed at 1.5m and is a combination of metal and masonry palisade fencing. The setback of the fencing from the boundary enables planting and mitigates traffic noise. Fencing is further considered within the assessment of the DCP.</p> <p>Plant and equipment storage is appropriately located within the basement level.</p>	Yes

3D - Communal Open Space	<p><i>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</i></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</i></p> <p><i>Communal open space is designed to maximise safety.</i></p>	<p>The development provides 225m², or 11% of the site area, for the communal open space area located in the southeastern corner of the development. While this is 14% under the required minimum area, the development provides as substantial amount of private open space (1,1170.5m²), which will generally be a preferred type of open space. The communal open space is also supplemented by generous internal communal spaces in the form of the lounge/meeting room with kitchen, and the gym and golf room. The outdoor area is provided with a barbeque and landscaped/planted areas in addition to covered paved areas.</p> <p>The communal spaces will be highly visible within the building and are clearly separated from the public domain to indicate their use of residents/guests only.</p>	<p>On merit</p>
3E - Deep Soil Zones	<p><i>Deep soil zones are to meet the following mini-mum requirements:</i></p> <ul style="list-style-type: none"> <i>• 6m minimum width</i> <i>• 15% of the site area</i> 	<p>The proposed development would provide a total of 952m² (45.8%) of deep soil planting area within the building setbacks of the subject site. The proposal complies with the ADG requirements with 3 x the required amount, a significant and highly commendable outcome. As discussed earlier in this report, existing mature vegetation is not able to be retained in order to facilitate the building envelope.</p>	<p>Yes</p>
3F - Visual privacy	<p><i>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</i></p>	<p>Northern Setback</p> <p>The proposal includes a 7.3m setback to Gerard Lane. When combined with the 6m width of the lane, this creates a minimum setback of 13.3m. Additional separation is achieved via landscaping and the stepped built form.</p>	<p>Yes</p>

	<p><i>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</i></p>	<p>Eastern Setback As noted against 2F previously, the building provides significant setbacks, combined with a stepped and articulated built form that minimises impacts upon light/solar, privacy and views. It is noted that this articulated form will retain the majority of views to the north obtained from 1/74 Gerard Street.</p> <p>Despite the significant setbacks, the proposal includes some large side windows for primary living spaces that will overlook the adjoining site, particularly from the balcony of 1/74 Gerard Street. It is recommended that the east facing dining/living room windows of Units 103 and G03 feature additional privacy measures such as the angled privacy screens present the east-facing bedroom 2 window of Unit 301 (see Condition C37).</p>	On merit (Acceptable by condition)
3G - Pedestrian Access & Entries	<p><i>Building entries and pedestrian access connects to and addresses the public domain.</i></p> <p><i>Access, entries, and pathways are accessible and easy to identify.</i></p>	The proposal would provide a secured pedestrian entrance to the street level lift foyer on Benelong Road, which will also facilitate equitable access to the development. All of these entrances are easily identified, visible from, and accessible to, the public domain.	Yes
3H - Vehicle Access	<i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</i>	The proposal includes vehicular access to Gerard Lane at the lowest point of the site to minimise ramp requirements and is clearly identified, so as to minimise any conflicts with pedestrians.	Yes
3J - Bicycle and Car parking	<i>The car parking needs for a development must be provided off street</i>	The proposed parking provision is within the acceptable limits of Council's requirements. All parking is provided on site and does not rely upon street parking. With the decommissioning of existing crossovers, additional street parking	Yes

	<p><i>Parking and facilities are provided for other modes of transport</i></p> <p><i>Car park design and access is safe and secure.</i></p>	<p>will become available. Six visitor parking bays are provided.</p> <p>Bicycle storage facilities have been provided within the basement area, which will allow for additional modes of transport for the residents of the building.</p> <p>Furthermore, the subject site has access to public transport (buses) to the south of the site, on Gerard Street and Military Road, allowing for access to the wider Sydney transport network.</p> <p>The proposal is considered to be generally satisfactory in this regard.</p>	
4A - Solar and daylight access	<i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</i>	<p>The main living spaces for each unit are orientated to maximise solar access, with large balconies to improve sunlight access to all apartments.</p> <p>3 of 23 (13%) of the units receive no direct sunlight between 9am and 3pm at mid-winter. This is less than the maximum 15% limit, with 17 of 23 (73.9%) of the apartments achieving solar access in excess of the minimum 70% requirement of 2 hours direct sunlight between 9am and 3pm at mid-winter. The lower level units that have limited access to sunlight are also provided with substantial private open space to enable daylight access.</p> <p>The proposal also includes deep balconies, an articulated built form, and screening to minimise glare and provide shading to more exposed areas on the northern section of the building.</p>	Yes
4B - Natural ventilation	<i>All habitable rooms are naturally ventilated.</i>	All units will have natural ventilation, with 73.9% (17 of 23) units receiving natural cross flow ventilation.	Yes

	<i>The layout and design of single aspect apartments maximises natural ventilation.</i>	While 6 of the 23 units have a single aspect design, their depths are minimised and widths maximised to allow for sufficient ventilation and airflow.	
4C - Ceiling Heights	<i>Ceiling height achieves sufficient natural ventilation and daylight access</i>	Proposal includes floor-to-ceiling heights of 2.7m to all living/dining and bedrooms, with services located away from these areas so as to ensure that they do not intrude of ceiling heights.	Yes
4D 1-3 - Apartment size and layout	<i>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</i>	All units meet the minimum dimension and area requirements.	Yes
4E - Private open space and balconies	<i>Apartments provide appropriately sized private open space and balconies to enhance residential amenity</i>	<p>The proposal provides generously sized balconies to all units that are in excess of the minimum ADG requirements for area and depth.</p> <p>The apartments on the ground and lower ground levels are supplemented by large landscaped private open space areas in excess of the minimum ADG requirements for area and depth.</p>	Yes
4F - Common circulation and spaces	<i>The maximum number of apartments off a circulation core on a single level is eight</i>	<ul style="list-style-type: none"> - 3 apartments at lower ground - 6 apartments at ground and level 1 - 5 apartments at level 2 - 3 apartments at level 3. 	Yes
4G - Storage	<i>Adequate, well-designed storage is provided in each apartment.</i>	Satisfactory storage areas are provided within the apartments given the more generous size of each apartment above the minimum ADG requirements. Storage areas are also provided in the allocated basement parking areas in addition to 12 allocated storage areas in the lower ground level.	Yes

4H - Acoustic privacy	<p><i>Noise transfer is minimised through the siting of buildings and building layout</i></p> <p><i>Noise impacts are mitigated within apartments through layout and acoustic treatments</i></p>	The proposal has been designed to minimise noise impacts from surrounding uses, and traffic noise on Gerard Street, by orienting the living areas away from the southern elevation. Bedrooms are appropriately sited away from plant and communal areas like hallways, including by siting storage and non-habitable rooms as buffers.	Yes
4J - Noise and pollution	<i>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</i>	Not applicable, as the surrounding area is a quiet residential location that is not subject to high levels of noise and/or pollution.	N/A
4K - Apartment mix	<p><i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i></p> <p><i>The apartment mix is distributed to suitable locations within the building.</i></p>	The proposed unit mix will provide a range of options for housing diversity. While the proposal does not include any 1-bedroom or studio units, there is a demonstrated need for residential units with higher bedroom provisions, particularly for the market identified by the applicant as being the older downsizing/retirement market. The proposal provides a variety of apartment types on each floor, which also enables façade articulation and maximising solar access to units.	Yes
4L - Ground Floor apartments	<p><i>Street frontage activity is maximised where ground floor apartments are located</i></p> <p><i>Design of ground floor apartments delivers amenity and safety for residents</i></p>	The proposed units at ground and lower ground levels are generally well connected to the street level via their private open space. These private open space areas provide some natural surveillance and landscaped context to the street without compromising privacy.	Yes

4M - Facades	<i>Building facades provide visual interest along the street while respecting the character of the local area</i>	The proposed building facades are highly articulated, with a curved built form to emphasise prominence of the building for multiple viewpoints, and are enhanced through the use of high quality natural and muted finishes and colours	Yes
4N - Roof Design	<i>Roof treatments are integrated into the building design and positively respond to the street</i> <i>Roof design incorporates sustainability features</i>	The proposal integrates the roof treatments into the design by recessing/integrating lift and services on the top level. Articulation and curving of the roof elements also serve to break up the general massing of the building. The proposal includes shading/screening elements to minimise glare to apartments. Solar panels are also proposed for the roof.	Yes
4O - Landscape design	<i>Landscape design is viable and sustainable</i> <i>Landscape design contributes to the streetscape and amenity</i>	The proposed includes a significant landscape scheme across the site that will not only soften the built form of the site when viewed from the street, but service to enhance the landscaped context of the surrounding area through new trees and green areas.	Yes
4Q - Universal design	<i>Universal design features are included in apartment design to promote flexible housing for all community members</i>	The proposal includes provision of adaptable apartments, highly visible and level pedestrian access to the entire building directly from street level, generously sized apartments with circulation space are also supplemented by larger parking spaces to enable easier access.	Yes
4T – Awnings & signage	<i>Signage responds to the context and desired streetscape character</i>	The proposed building name is located on the Benelong Road frontage adjacent to the primary building entrance. It is modestly scaled and designed so as not to be an intrusive element in the street.	Yes
4U – Energy Efficiency	<i>Development incorporates passive environmental design</i>	The proposal provides a high level of passive environmental design with a high majority of units received sufficient solar access and cross ventilation. The unit balconies and openings are articulated to maximise solar amenity while reducing wind and solar glare.	Yes

4V – Water management	<i>Potable water use is minimised Flood management systems are integrated into site design</i>	The proposal includes provision for rainwater storage and use for landscaping. The proposal includes provision of OSD and rainwater storage for mitigating runoff.	Yes
4W - Waste management	<i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</i>	A separate garbage storage room is proposed at basement level. Conditions are recommended for ensuring the provision of made for a separate bulk waste storage area and food waste bin area.	Yes (By Condition)
4X – Building maintenance	<i>Building design detail provides protection from weathering Material selection reduces ongoing maintenance costs</i>	The proposal includes high quality of finishes and materials that will ensure that required maintenance is minimised into the longer term.	Yes

The proposal is considered satisfactory having regard to the design criteria specified in the ADG. Where strict compliance is not achieved, the non-compliances are considered minor, are ameliorated by conditions, and are unlikely to materially compromise the amenity of the apartments and neighbouring development.

Chapter 6: Low and mid rise housing

The subject site lies within 400m walking distance of the Cremorne Town Centre, and involves development for a residential flat building under six storeys on an R4 High Density Residential-zoned site. Whilst the subjectivity of ‘walking distance’ can be interpreted multiple ways, Council is of the opinion that there are multiple ways to walk to the site from the Cremorne Town Centre, all of which are well and truly within the inner / 400m area of the Town Centre.

Consequently, the provisions and non-discretionary development standards of Chapter 6 (Part 4) apply to this site, and an assessment against the relevant provisions have been provided in the table below.



Figure 4: LMR Housing Policy Indicative Map with approximate location of development site outlined in red (Source: NSW DPIE)

Part 4 Residential Flat Buildings and Shop Top Housing – Compliance Table
Division 1: Preliminary

174	<p>Development permitted with development consent <i>Development for the purposes of residential flat buildings is permitted with development consent on land to which this chapter applies in a low and mid rise housing area in Zone R2 Low Density Residential or R3 Medium Density Residential.</i></p>	Noted. The proposed development is permitted with consent.
175	<p>Development standards—low and mid rise housing inner area <i>(1) This section applies to land in a low and mid rise housing inner area in Zone R3 Medium Density Residential or R4 High Density Residential.</i> <i>(2) Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.</i> <i>(3) Development consent must not be granted for development for the purposes of a building containing shop top housing with a building height of up to 24m unless the consent authority is satisfied the building will have 6 storeys or fewer.</i></p>	Complies. a building height limit of 22m applies for sites zoned R4 High Density Residential in a low and mid-rise housing inner area. This height limit prevails over the 12m height limit established in Clause 4.3 of the <i>North Sydney Local Environmental Plan 2013</i> . Consequently, while the proposed development does not comply with the height limit of <i>NSLEP 2013</i> , having a height of 14.59m (a variation of 2.59m or 21.5%), the proposal is substantially below the 22m height limit established by the SEPP. The proposal is also fewer than six storeys in height. It is noted that a Clause 4.6 Statement was provided with the original DA submission. However, this has been superseded by the height controls established by the SEPP and does not apply with regard to this development.
177	<p>Landscaping—residential flat buildings or shop top housing <i>(1) This section applies to land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.</i> <i>(2) Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing unless the consent authority has considered the Tree Canopy Guide for Low and Mid Rise Housing, published by the Department in February 2025.</i></p>	The <i>Tree Canopy Guide for Low and Mid Rise Housing</i> has been considered and is addressed in the ADG table above.
178	<p>Minimum lot size for residential flat buildings or shop top housing <i>(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone</i></p>	Noted.

	<p><i>R3 Medium Density Residential or R4 High Density Residential.</i></p> <p><i>(2) A requirement specified in another environmental planning instrument or development control plan in relation to the following does not apply to development that meets the standards in section 180(2) or (3)—</i></p> <p><i>(a) minimum lot size,</i></p> <p><i>(b) minimum lot width.</i></p>	
Division 2: Non-discretionary Development Standards		
180	<p>Non-discretionary development standards—residential flat buildings and shop top housing in Zone R3 or R4</p> <p><i>(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.</i></p> <p><i>(2) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area—</i></p> <p><i>(a) a maximum floor space ratio of 2.2:1,</i></p> <p><i>(b) for residential flat buildings—a maximum building height of 22m,</i></p> <p><i>(c) for a building containing shop top housing—a maximum building height of 24m.</i></p> <p><i>(3) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing outer area—</i></p> <p><i>(a) a maximum floor space ratio of 1.5:1,</i></p> <p><i>(b) a maximum building height of 17.5m.</i></p>	<p>The maximum FSR for the proposed development is 1.64:1 with a total GFA of 3422.5m² and therefore complies.</p> <p>The maximum building height for the proposed development is 14.59m and therefore complies.</p>

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development for a residential flat building with a cost of development greater than \$30 million. Accordingly, the Sydney North Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

Chapter 4 of this SEPP requires Council to consider the likelihood of land contamination and any remediation necessary to rehabilitate the site. In order to facilitate this consideration, the applicant has provided a Remediation Action Plan including a preliminary site investigation for the site.

Council's records indicate that the site has previously been used for residential development since the original 1911 subdivision and as such is unlikely to contain any major sources of contamination. It is noted that Hazardous Building Materials Assessment has not been undertaken, and can be included as a condition of consent, given the likely occurrence of hazardous materials such as asbestos and lead paint etc.

The Remediation Action Plan provided with the application has however identified various sources of potential contamination in the form of imported fill material; use of pesticides; hazardous building materials; and off-site land uses (including dry cleaners and motor garages/service stations). The investigation of soil and ground water samples indicated an occurrence in lead, polycyclic aromatic hydrocarbons, and asbestos that trigger a need for remediation, and the removal/disposal of contaminated fill off-site.

The report concluded that the site can be made suitable for the development and continued residential use, subject to the implementation of a remediation action and management plan during and after construction, which can be implemented by way of a consent condition.

The proposal is considered to be consistent with the SEPP, subject to the imposition of relevant conditions of consent in relation to remediation works during demolition and construction on any consent granted.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2: Infrastructure

The subject site has a frontage towards a classified road (Gerard Street) and is therefore assessed against Chapter 2 of this SEPP. The proposal will also maintain a wide setback to the street, with no overt element proposed that would impact upon traffic sightlines. As a result, the proposal will have a negligible impact on the functioning of Gerard Street and therefore meets the requirements of the SEPP. TfNSW provided comments pursuant to Clause 2.119 of the SEPP, and this has been recommended within the conditions.

The Application has also been referred to Ausgrid pursuant to clause 2.48 of the SEPP. Council is also of the understanding that the Applicant has been in discussions with Ausgrid with regards to undergrounding the powerlines. Ausgrid's comments have been included within the recommended conditions.

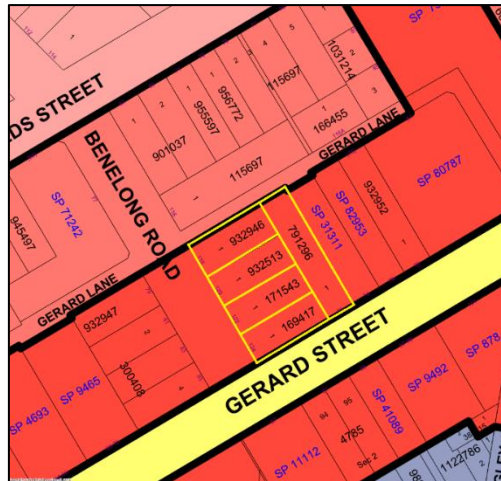
North Sydney Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the *North Sydney Local Environmental Plan 2013* ('the LEP'). The aims of the LEP (cl. 1.2) include that development is appropriate to its context and enhances the amenity of the North Sydney community and environment, and the residential development in particular does not adversely affect residential amenity in terms of visual and acoustic privacy, solar access and view sharing, and maintains/provides for an increase in dwelling stock. Subject to conditions recommended by this assessment, and as discussed elsewhere in this report, the proposal is generally consistent with these aims.

Zoning and Permissibility (Part 2)

The site is located within the R4 High Density Residential pursuant to Clause 2.3 of the *North Sydney Local Environmental Plan 2013*. The proposal is permissible in the zone with consent and is consistent with the zone objectives. The *NSLEP 2013* zoning map of the site is provided below:

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of a residential flat building which is a permissible use in zone R4 High Density Residential with consent in the Land Use Table in Clause 2.3.



The R4 zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposal will provide a significant increase in housing stock in a higher density residential area, going from 6 single dwellings to 23 residential unit dwellings.
- The proposal will provide a diversity of new dwellings in the form of 7 2-Bedroom, 15 3-Bedroom, and 1 4-Bedroom, units in the development.
- The proposal includes various amenities and common spaces for the benefit of residents.
- The proposal, subject to conditions, will provide an appropriate landscaped context with new trees and landscaping, and will not have any impact upon any heritage item or conservation area of North Sydney.
- A high level of residential amenity will likely be provided to the residents of the subject site and adjoining sites.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below noting the height of buildings control no longer applies:

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
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Height of buildings (Cl 4.3(2))	12 metres	With a maximum height of 14.59m at the north-western corner of the building, the proposed development does not comply with the LEP maximum height limit by up to 2.59m (21.5%).	No
Heritage (Cl 5.10)		The subject site does not contain a heritage item, is not within a conservation area, and is not within the vicinity of any heritage item. Consequently Clause 5.10 does not apply.	Yes
Earthworks (Cl 6.10)		See discussion below	Yes
Residential Flat Buildings (Cl 6.12)		The development will not result in any dwelling houses, dual occupancies or semi-detached dwellings being site isolated.	Yes

Clause 6.10 – Earthworks

The earthworks clause's purpose is ensuring development does not detrimentally affect the environment, neighbouring land uses, cultural or heritage items, or features of surrounding land. Its provisions apply to earthworks requiring consent, or development requiring consent that involves ancillary earthworks. The latter includes the subject proposal.

Below is an assessment of the proposed development regarding matters to be considered as set out in cl. 6.10 (3).

Likely disruption to drainage patterns and soil stability

The proposed entry on Gerard Lane prevents waters entering the premises indicated by the submitted stormwater plans. The proposal also includes substantial on-site detention alongside large portions of the site dedicated to landscaping and deep soil planting, which will enable gradual drainage and substrate penetration to minimise runoff. Permanent groundwater is expected to be well below maximum excavation.

Natural features and vegetation of the site and adjoining land

Being in a high-density, highly modified urban location, the site and adjoining land are not occupied by significant natural features or indigenous vegetation. While some substantial trees are being removed by this proposal, including a large *Melaleuca* tree in the centre of the site, this is considered to be acceptable within the site circumstances, particularly as the loss will be offset by substantial new landscaping and trees in the final landscaped scheme.

Effect of development on the likely future use or redevelopment of the land

The excavation would be unlikely to influence redevelopment of the land. The life expectancy of the building is expected to be at least 50 years. Just as the current proposal must deal with

current site conditions, including drainage and excavation, so too will the next iteration of the site's use and development.

Quality of fill or material to be removed

The proposal indicated silty sand/clay fill and sandstone bedrock from approximately 1.1-2m in depth. The contamination report has identified some potential issues which would not appear to impact on the site's ability to be developed for residential purposes. The consent is to be subject to the recommendations of the submitted remedial action plan.

Likely effects on existing and likely amenity of adjoining properties

The report identifies some potential for impact on adjoining properties, and the submitted geotechnical report recommends shoring and methods to minimise vibration risks during excavation. Further investigation and measures to protect adjacent property and public infrastructure are required by recommended conditions.

Source of fill and destination of excavated material

No fill will probably be required as excavation of the site is proposed to a depth of about 8m below the surface. Excavated material will have to be appropriately transported to a suitable location, details of which must be provided in a waste management plan, as required by a recommended condition of consent.

Proximity to and potential adverse effects on waterways, drinking water catchment, or environmentally sensitive land

Proposed soil erosion control during demolition, excavation and construction will prevent or reasonably minimise effects on water quality and more generally effects on surrounding land and development, there being no "environmentally sensitive" land near the site.

Upon completion and occupation of the building, on-site detention and associated water quality control facilities and waste management procedures will enable the development to eliminate or minimise impacts on Port Jackson and the local environment, to the standards prescribed by regulation and/or Australian Standards. These measures are detailed in the civil engineering report and drainage report (Attachments 8 & 9).

Measures to avoid, minimise, or mitigate impacts of the development

Implementing recommendations of the engineering and geotechnical reports and management of spoil from the site via a suitably comprehensive waste management plan, as recommended, will effectively manage likely impacts of the development.

Clause 4.6 Request: Clause 4.3 – Height of Buildings

The subject site has a maximum building height of 12m in accordance with Clause 4.3 of the *NSLEP 2013*. With a maximum height of 14.59m at the north-western corner of the building, the proposed development does not comply with the LEP maximum height limit by up to 2.59m (21.5%). The non-complying elements are as follows:

- Northern roof section of Level 2
- Upper Section of Level 3 at the northern end
- Non trafficable roof level above Level 3 at the northern end, including lift overrun.

Despite the non-compliance above, it is noted that the current proposal relies upon the provisions of Chapter 6 (Low and mid rise housing) of the *State Environmental Planning Policy (Housing) 2021*, whereby a 22m height limit applies to residential flat buildings under six storeys on R4-zoned sites within 400m walking distance of the Cremorne Town Centre per section 175. This is non-discretionary development standard per section 180 of the SEPP and supersedes the LEP height standard. In this respect, the proposal presents a height-compliant scheme by way of the SEPP, being 7.41m below the SEPP height limit.

Consequently, while the original application was accompanied by a Clause 4.6 Statement for a variation of the LEP height limit, this statement no longer applies as the proposed relies upon the non-discretionary standard within the SEPP. Nevertheless, the proposal is considered to comply with the objectives of Clause 4.3 of *NSLEP 2013*, in particularly as the amenity impacts are relatively minor, and the development has been appropriately designed to be sympathetic with the surrounding area.


(b) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *North Sydney Development Control Plan 2013* ('NSDCP 2013')

Part B Section 1- Residential Development					
Section	Complies	Comments			
1.2 Social Amenity					
Population mix	No – on merit	The proposed residential flat building contains 23 units and therefore the population mix specified in provision P3 applies and is assessed in the table below:			
		Dwelling Size	Control	Proposed	Complies
		Studio	10-20%	0 (0%)	No
		1 bedroom	25-35%	0 (0%)	No
		2 bedroom	35-45%	7 (30.43%)	No
		3 bedroom+	10-20%	16 (69.56%)	No
The proposed lack of studio and 1-bedroom, is considered acceptable as the proposed development would cater more for “downsizers”/retired and families by providing larger apartments, of which there are a limited number is the surrounding area.					
Universal Design and Adaptable Housing	Yes	The proposal includes provision of adaptable apartments, highly visible and level pedestrian access to the entire building directly from street level, generously sized apartments with circulation space are also supplemented by larger parking spaces to enable easier access.			
Maintaining residential accommodation	Yes	The residential accommodation for the site is being increased from five 3+bedroom houses and 1, 2-bedroom detached dual occupancy to seven 2-bedroom units and 16 3+bedroom units, substantial increasing the accommodation provision for the site.			

Affordable housing	Yes	The proposed works will not result in the loss of any affordable housing. Affordable housing is not included within this development.
Seniors/ Disability Housing	N/A	The proposal does not include specific housing allocated for seniors and/or disabled persons. However the proposal includes provision for adaptable apartments, and the building has a high level of accessibility overall, which will enable diverse and adaptable living.
1.3 Environmental criteria		
Topography	Yes	<p>The proposal has been designed to largely follow the topography of the surrounding area, with a stepped built form down to the north. The proposal includes provision of substantial landscaping (including deep soil) and stormwater mitigation measures to minimise runoff and impacts upon adjoining properties. Appropriate conditions have been recommended to minimise impacts in this regard.</p> <p>The proposed basement area has sufficient setbacks and minimised footprint to ensure that landscaped area and deep soil planting remain substantial and allow for meaningful landscaped context across the site. While some minor sandstone outcrops will be removed on the Gerard Lane frontage of the site, these are relatively minor landscape features and have been previously modified.</p>
Properties adjoining bushland	Yes	While the site does not adjoin bushland, the sites of 118 and 120 Benelong Road only are within a bushland buffer zone (300m). The proposal includes provision of a substantial landscaped scheme across the site, including new trees, and some native species planting.
Views	Yes	It is unlikely that there would be significant view loss for adjoining dwellings. Due to the significant elevation of nearby properties on the southern side of Gerard Street, it is unlikely that any significant views or otherwise to the north will be lost across the site.

		<p>While some district outlook to trees and buildings to the west from the rear balcony of 1/74 Gerard Street may be impacted by the proposal, the majority of this view will be retained to the north and north-east, including the feature of the skyline of Chatswood CBD. It is also to be noted that the proposed building remains beneath the 22m SEPP height limit. The proposal is therefore likely to meet the view sharing principles in <i>Tenacity Consulting v Warringah Council</i> [2004] NSWLEC 140.</p>  <p>3D view of the proposal as viewed from the north-facing balcony of No. 1/74 Gerard Street, showing the approximate impact upon the existing views.</p>
Solar access	Yes	<p>The levels of solar access for nearby properties will not substantially change as a result of the proposal. There are no shadow impacts on any adjoining property between 9am and 3pm on 21 June. The majority of shadows cast by the building will largely fall over Gerard Street to the south.</p> <p>17 of 23 (73.9%) of the apartments achieving solar access in excess of the minimum 70% requirement of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. The lower level units (13%) that have limited access to sunlight are also provided with substantial private open space to enable daylight access.</p>
Acoustic and Visual privacy	Yes	<p>See the discussion on the ADG requirements earlier in this report. The proposal is generally considered to be able to comply, with the exception of the potential for overlooking from the large side windows for primary living spaces that to the eastern adjoining site, particularly from the balcony of 1/74 Gerard Street. It is recommended that the east facing dining/living room windows of Units 103 and G03 feature additional privacy measures such as the angled privacy screens present the east-facing bedroom 2 window of Unit 301 (see Condition C37). Subject to the above modification, the proposal is considered to be acceptable. The proposal is likely to comply with the requirements for noise privacy, in particular the building is oriented away from the south elevation where the noise and vibration for Gerard Street traffic is greatest.</p>
1.4 Quality Built Form		

Context	Yes	The proposal is broadly consistent with the existing character of the surrounding area, which comprises a range of late 20 th and early 21 st century flat buildings, multi-dwelling developments, as well as lower density developments to the north. The proposal provides an appropriate transition from the higher density areas to the lower density areas and is softened by sufficient landscaping and setbacks.
Streetscape	Yes	Bonds are recommended to protect Council's footpath and street trees. Some street trees will be removed and replaced to facilitate the development and provide an improved streetscape outcome.
Laneways	Yes	The proposal will provide an acceptable presentation to the laneway that will not adversely impact upon its continued functionality. The proposed building has a 7.3m setback, while the proposed retaining walls have a 1.2m landscaped setback to the lane, thereby providing sufficient landscaped buffer.
Siting	Yes	The proposed north-west siting of the building is consistent with the prevailing character of the area, to take advantage of district views.
Setbacks	Yes	<p><u>Front</u> The proposed building will have a generous 7m front setback to Gerard Street, which is consistent and better than the front setbacks established along Benelong Road.</p> <p><u>Rear</u> The proposal will have substantial setbacks from the multi-dwelling housing development at 74 Gerard Street: being 6m from the boundary at Ground Level and Level 1, 6-9m at Level 2, and 10.4-11.9m at Level 3.</p> <p><u>Northern Side</u> The proposal includes a stepped setback to the northern side boundary to Gerard Lane of 7-16m.</p> <p><u>Southern Side</u> The proposal includes a setback of 6m to Gerard Street on the south, which complies with the minimum control.</p>
Form, massing & scale	Yes	<p>The proposed works are consistent with the built form, massing, and scale within the area by maintaining an appropriate height and scale that follows the sloping topography and the diverse development types surrounding the site, which comprises both lower and higher density developments.</p> <p>While the building does not comply with the LEP height controls for the area, the building benefits from the greater height controls set within the SEPP.</p>

Built form character	Yes	The design of the development is considered to be generally sympathetic to the surrounding area. The contemporary style of the building has a highly articulated and balanced form that responds well to the sloping nature of the site and the multiple street facades that requires a built form that responds in some way to each side. The design presents a range of high quality natural and muted finishes and colours that will help to soften the overall appearance of the development.																				
Dwelling entry	Yes	The proposed street level entrance to Benelong Road will provide level and accessible entry to the building via a new lift in a clearly defined and secure manner.																				
Roofs	Yes	The proposed flat roof of the building accords with the flat roofs of other flat buildings along Gerard Street and will minimise additional bulk and scale created by other roof types.																				
Colours and materials	Yes	The design presents a range of high quality natural and muted finishes and colours that will help to soften the overall appearance of the development, including stone cladding, and wood-finished aluminium batten screens.																				
Balconies - Apartments	Yes	See the comments in this report against the ADG requirements for balconies, which apply to this proposal.																				
1.5 Quality urban environment																						
High quality residential accommodation	Yes	The proposal will generally provide a high level of amenity for its residents, with a high level of indoor and outdoor amenity.																				
Vehicular access and parking	Yes	The proposal complies with the maximum parking rate allowed for the subject residential flat building and the requirements of Section 10 of NSDCP 2013. The proposed vehicular access arrangement via Gerard Lane will minimise the visual impact of the proposed basement parking, and the removal of the existing vehicular crossings and on-site parking will enable greater landscaping on site and verge, alongside additional on-street parking.																				
Site coverage, Landscaped area, Unbuilt-upon Area	No – on merit	<div>The proposed site coverage, landscaped area and un-built upon area is indicated in the table below.</div> <table><tr><th>Site Area: 2,082m²</th><th>Control</th><th>Existing</th><th>Proposed</th><th>Complies</th></tr><tr><td>Site Coverage</td><td>45% (max)</td><td>34.6% (908m²)</td><td>48% (1,001m²)</td><td>No</td></tr><tr><td>Landscaped area</td><td>40% (min)</td><td>34.8% (726m²)</td><td>45.8% (952m²)</td><td>Yes</td></tr><tr><td>Unbuilt-upon area</td><td>15% (max)</td><td>21.58% (448m²)</td><td>6.2% (129m²)</td><td>Yes</td></tr></table> <div>The proposal results in a non-compliance with site coverage of 3%. This is acceptable as the non-compliance for the following reasons:</div>	Site Area: 2,082m ²	Control	Existing	Proposed	Complies	Site Coverage	45% (max)	34.6% (908m ²)	48% (1,001m ²)	No	Landscaped area	40% (min)	34.8% (726m ²)	45.8% (952m ²)	Yes	Unbuilt-upon area	15% (max)	21.58% (448m ²)	6.2% (129m ²)	Yes
Site Area: 2,082m ²	Control	Existing	Proposed	Complies																		
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Landscaped area	40% (min)	34.8% (726m ²)	45.8% (952m ²)	Yes																		
Unbuilt-upon area	15% (max)	21.58% (448m ²)	6.2% (129m ²)	Yes																		

		<ul style="list-style-type: none"> The non-compliance is relatively minor, and the proposed development has a generally high level of compliance with Council's other controls. The proposal results in levels of landscaped area and unbuilt-upon area that are better than their respective minimum and maximum levels, enabling a better landscaped context to further soften and minimise the built form.
Safety and Security	Yes	See the comments against the ADG requirements for pedestrian entry and security.
Landscaping and front gardens	Yes	The proposal includes a comprehensive landscaping scheme comprising 45% landscaped area and deep soil planting that will enable the addition of significant trees and landscaped buffers on all sides to soften the development and provide significant amenity to residents and the surrounding area. New street trees are conditioned as part of this consent.
Private and Communal Open Space	Yes	<p>The site includes a communal open space that represents provides 225m², or 11% of the site area. While this is less than the suggested best practice figure of 25-30%, the proposal includes larger areas of private open space for residents, being well in excess of the minimum requirements.</p> <p>See the previous discussion against the ADG requirements for private open space, which apply to this proposal, where it was considered that the proposed amounts of private open space are acceptable.</p>
Garbage storage	Yes/No – on merit	See discussion under Key Issues section (5.1).
Site facilities	Yes	Lockable mailboxes are provided for residents on the Benelong Road frontage of the site. See also the previous discussion against the ADG requirements for storage, which apply to this proposal, where it was considered that the proposed amount of storage for the units was acceptable.
1.6 Efficient use of resources		
Energy efficiency Passive solar design Water conservation	Yes	A valid BASIX certificate has been submitted for the development within the building demonstrating compliance with the proposed works. Solar panel systems are proposed for the roof space. Appropriate charging facilities for electric vehicles is conditioned (G32).
Stormwater management	Yes	Council's Development Engineer has recommended appropriate conditions in this regard to ensure that the new works will not have an adverse impact upon the flow of stormwater from the site (see Condition C14, C16, C17, C18, G10, G11, and G12).

Waste management & minimisation	Yes	See discussion under Key Issues section (5.1).
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The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *North Sydney Local Infrastructure Contribution Plan 2020*

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to the payment of contributions towards the provision of local infrastructure. The contributions payable has been calculated in accordance with Council's Contributions Plan as follows:

Contribution amounts payable

Applicable contribution type	A	B
s7.11 contribution (Net population increase)	Open space and recreation facilities:	\$189,141.62
	Public domain:	\$105,289.54
	Active transport:	\$6,009.52
	Community facilities:	\$37,989.98
	Plan administration and management:	\$5,060.65
	Total:	\$343,491.30

A condition is recommended requiring payment prior to issue of any Construction Certificate (refer to **Condition C86**).

- *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024*

The Ministerial Order for Housing Productivity Contribution ('the order') came to effect on 1 July 2024. The order applies to land in that includes the Greater Sydney Region in which North Sydney Council is located.

The order applies to this development as the proposal is considered to fall under the definition of 'residential development', as defined in Cl.5(2)(b) and Schedule 1 of the order. Schedule 2 outlines exemptions for this contribution, of which does not include the development as proposed.

Division 2, Clause 7(1) of the order sets out the base contribution amounts for Medium or high-density residential development in the Greater Sydney Region as \$10,000 per new dwelling. The proposal results in 23 new dwellings, which therefore attracts a contribution of approximately \$224,923.72 in accordance with Clause 7 of the order. This Figure is to be confirmed once the Contribution Case on the NSW Planning Portal is completed.

A condition is recommended requiring payment under the order prior to issue of any Construction Certificate (refer to **Condition C42**).

(c) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(d) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the *2021 EP&A Regulation* contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed – provisions of AS 2601;

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the *2021 EP&A Regulation* are relevant to the proposal.

These provisions of the *2021 EP&A Regulation* have been considered and are addressed in the recommended draft conditions (where necessary).

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined throughout this report.

3.3 Section 4.15(1)(c) - Suitability of the site

The proposal involves a high density residential development in a high density residential zone, so the proposal is considered to be suitable for the subject site. The proposal is appropriately designed within its immediate context and whilst significant excavation is proposed to facilitate the basement works, the natural topography of the site has a significant cross fall and therefore the proposal is considered to have due regard to the position and nature of surrounding development, alongside an appropriate landscaped context.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposal would provide a high level of amenity for the residents without causing any unreasonable impacts to the area character, the streetscape, and/or the amenity of adjoining properties, so the proposal would not be contrary to the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Transport for NSW	S2.119 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> S138 – <i>Roads Act 1993</i>	TfNSW provides concurrence to the proposed kerb and gutter and any other civil works on Gerard Street subject to Council's approval and the design and construction of works being undertaken in accordance with relevant standards to the satisfaction of Council as the relevant road authority for this section of Gerard Street.	Y
Referral/Consultation Agencies			

Ausgrid	S2.48 – <i>State Environmental planning Policy (Transport and Infrastructure) 2021</i>	Ausgrid consents to the development subject to standard conditions (Condition C45).	Y
Sydney Water Corporation	S78 – <i>Sydney Water Act 1994</i>	Sydney Water raises no objection to the development subject to conditions (Conditions C46 and G20).	Y
Integrated Development (S 4.46 of the EP&A Act)			
N/A	N/A	N/A	N/A

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Design Excellence Panel	Various comments made and applicant response provided – refer to Attachments 5 and 6 and Key Issues discussion below (5.3).	Yes – Conditions recommended
Landscaping	No in-principle objection subject to resolutions of various landscaping/tree matters and standard conditions. See Key Issues discussed below (5.2).	Yes – Conditions recommended
Environmental Health	No in-principle objection subject to conditions.	Yes – Conditions recommended
Waste Management	Matters of concern raised – See Key Issues discussion below (5.1).	Yes – Conditions recommended
Traffic/Transport Officer	No in-principle objection subject to conditions. The following elements are noted: <ul style="list-style-type: none"> Construction Traffic: A Construction Traffic Management Plan (CTMP) must be submitted as part of any consent to mitigate impacts on Gerard Lane and Benelong Road. On-Street Parking Demand: The development provides adequate parking; however, ongoing monitoring should be implemented to assess on-street demand. Pedestrian Safety: Maintain clear pedestrian pathways, particularly along Gerard Lane. 	Yes – Conditions recommended

	<ul style="list-style-type: none"> Access to Classified Roads: Ensure vehicular access is managed to avoid any adverse impact on Gerard Street. 	
Building/Fire Safety	No objection subject to standard condition.	Yes – Conditions recommended

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the North Sydney Community Engagement Protocol from 28 March 2025 until 11 April 2025. The notification included the following:

- Several notification signs placed on the site;
- Notification letters sent to adjoining and adjacent properties;
- Notification on the Council's website.

The Council received a total of 5 unique submissions, comprising 4 objections and 1 submission in favour of the proposal. The issues raised in these submissions are considered in **Table 7** – See also Attachment 10 for the list of submitters.

Table 7: Community Submissions

Issue	Council Comments
<ul style="list-style-type: none"> The proposed development does not align with the quiet low-density nature of the area. Concern regarding the height breach at the corner of Gerard Lane/Benelong Road, with an excessive bulk and scale to the street. 	While the proposal will replace the existing low-density development with a high density one, the proposal is not considered to be significantly out of scale with the surrounding area. The proposal is in accordance with the existing R4 High Density zoning for the site. The proposed bulk and scale of the development, including at the corner of Benelong Road and Gerard Lane (which is partially non-compliant with the LEP height limit), is acceptable within the site context, given the proximity of other high-density developments along Gerard Street. It is also noted that the development is designed to step down the site and has significant setbacks from the boundaries to minimise bulk and scale to the street.
<ul style="list-style-type: none"> Additional traffic and parking demands arising from the development will further impact upon local infrastructure and make access more difficult for residents. Concern regarding the positioning of the 	The proposal was referred to Council's Traffic Management and Parking Team, which raised no objection to the proposal subject to appropriate conditions. The suggestions regarding repositioning the vehicular access and extending the paving/de-facto footpath along the site's Gerard Lane frontage are not considered to be warranted as they would have significant flow-on negative ramifications for the

<p>vehicular/garage access on Gerard Lane, as its one-way traffic may be affected by illegal turns and increased traffic. Suggest Gerard Street should be the driveway access.</p> <ul style="list-style-type: none"> Request that a pathway/paving be extended along the Gerard Lane frontage of the site to the intersection with Benelong Road, to improve pedestrian safety and access. 	<p>development, including reduced landscaping and accessibility for residents. The level of parking provided is acceptable with regard to the maximum requirements of NSDCP 2013.</p>
<ul style="list-style-type: none"> The proposal has the potential to block district views to the northwest and west. 	<p>See the discussion earlier in this report regarding views, where it has been opined that most of the views enjoyed by adjoining sites will be retained.</p>
<ul style="list-style-type: none"> Concern regarding stormwater measures and the potential for flooding to the basement parking. Concern regarding additional site coverage of stormwater runoff and request additional onsite detention be provided. 	<p>Council's Development Engineer has recommended appropriate conditions in this regard to ensure that the development will not have an adverse impact upon the flow of stormwater from the site.</p>

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Waste Management

Council's Waste Management Officer expressed concerns regarding the management of waste in the completed development, including the following matters:

1. The proposed development must adhere to the requirements of the North Sydney Development Control 2013 (NSDCP 2013), Part B Section 19 – Waste Minimisation and Management, and Part B: Section 1 – Residential Development (see Clauses 1.5.12 – Garbage storage, and 1.6.9 – Waste management & minimisation).
2. Properties with a lift must have a garbage chute and recycling bin on each level or dual garbage and recycling chutes.
3. The residential waste bins need a temporary bin holding area for collection off the street and within 2-10 meters of the street alignment. The proposed holding bay must fit the minimum 16 x 240L bins. Please check the bin holding area can accommodate these bins.
4. There needs to be functional bulky waste storage area to hold household clean up material. This room must be separate to the waste room.
5. Provision for a 120L food waste bin must be made in the basement and bin holding area.
6. Waste capacity is 80L per unit.
7. A temporary holding bay for collections must be provided of sufficient size to accommodate the required garbage and recycling bins and located within 2-10 metres from the street boundary.

Recommendation:

1. A dedicated garbage storage room is proposed for the Basement Level 1, which includes provision for 12 x 240L bins, which complies with the requirement based on the dwelling numbers for 8 garbage bins and 4 recycling bins per P2 of Section 1.5.12 of Part B Section 1 of NSDCP 2013.
2. The proposal is not compliant with P4 of Section 1.5.12 as it is a multi-dwelling development with a lift that does not have a garbage chute and waste compaction room. Nevertheless, Council accepts the position put by the applicant that this requirement is not needed given the particular circumstances of the development and the desired management arrangements of the building, which is not dissimilar to other developments in the North Sydney Area such as 98 Spofforth Street, Cremorne (approved 2019 – DA252/19), 36-42 Parraween Street, Cremorne (approved 2014 – DA427/13), and 9 Rangers Road Neutral Bay (approved 2015 – DA116/15).
3. As per the applicant's response to Council's RFI in Attachment 6 – the applicant has accepted the inclusion of a separate bulky waste storage area to hold household clean up material that is separate to the waste room, and the provision of space for a 120-litre food waste bin in the basement Refuse Room. These have been implemented by way of condition (See **Condition C1**).
4. The proposal includes sufficient space within close proximity to the Gerard Lane street boundary for easy garbage collection.

5.2 Landscaping and Trees

Council's Landscape Development Officer noted the following matters for amendment:

1. Council does not generally support the large scale removal of existing mature trees for the purpose of development. This proposal requires the removal of all site trees, including a number of mature *Plumeria* sp., but most notably T1 *Melaleuca quinquenervia* (15x10m) located in the centre of the amalgamated site. It is recognised that any requirement for the retention of this tree under the proposal would sterilize the site.
2. The planting of a lone *Livistona australis* in the centrally located planter box on the Benelong Road frontage as proposed, appears to be appear somewhat out of context and poorly considered. An alternative landscape treatment that includes additional tree canopy, more in proportion to the street presentation, that helps to soften the bulk and scale is required.
3. It is also considered that a better landscape outcome could be achieved by removing many of the existing street trees in poor condition and replacing and supplementing additional advanced street tree planting with conditioned undergrounding of overhead wires.

Accordingly the following landscape conditions are recommended:

- N3 *Jacaranda mimosifolia* (10x10m) located in the Council verge on the corner of Benelong Road and Gerard Lane shall be removed and replaced with 1 x *Jacaranda mimosifolia* (500-litre pot size) in approximately the same location.
- N6 *Callistemon viminalis* (5x4m), and N5 & N6 *Prunus cerasifera* 'Nigra' (to 3x3m) located in the council verge - Benelong Road frontage shall be removed. 6 x new *Tristaniopsis laurina* 'Luscious' (150-litre pot size) shall be planted between N3 and N7 (*Tristaniopsis laurina* 'Luscious').

- 1 x *Lophostemon confertus* (200-litre pot size) shall be planted in the Council verge on the Gerard Street frontage between N1 and N2 (*Tristaniopsis laurina*).
- All overhead services across both the Gerard Lane and Benelong Road frontages shall be undergrounded to allow for unimpeded canopy growth of site and public trees.
- An alternative landscape treatment to the planting of a lone *Livistona australis* in the centrally located planter box on the Benelong Road frontage, that better addresses street presentation, includes additional tree canopy, and helps to soften the bulk and scale, is required.

All the above raised matters have been resolved through recommended conditions of consent (see Conditions **C26** and **C36**).

5.3 Design Excellence Panel Comments

Council's Design Excellence Panel reviewed the proposal and, while generally supportive of the scheme, noted the following matters against the 9 Design Quality Principles set out in the *SEPP (Housing) 2021* and the NSW Apartment Design Guide (ADG) for further consideration and amendments:

- Principle 2 (Built form and Scale)** – The building mass at the corner of Benelong Road and Gerard Street was discussed with the panel, recommending some further study in this area. A more highly articulated corner could be provided that may involve the extension of the Level 3 floor plan at this corner.
- Principle 4 (Sustainability)** – The panel recommended that the basement level be organised to allow for FOGO waste removal, which is expected to commence in 2028. The design should also make allowance for electric vehicle recharging.

The use of photovoltaic solar panels is supported. The incorporation of battery storage should also be considered, in order to achieve a more self-sufficient development and benefit nighttime power usage.

The panel supports the use of fixed batten privacy screens, however recommends incorporation of additional sun-shading to bedrooms and living rooms particularly to the west elevation on Benelong Road. These should be consistent with Part 4A of the ADG.

- Principle 6 (Amenity)** – Apartment G05 is located substantially below ground (approximately 2.9m), leading to a sub-terranean appearance. Whilst this may provide some acoustic privacy benefit, this is not considered suitable, particularly given the southerly orientation. Consider replanning the ground level floor plan or the provision of a 2-storey dwelling in this location. It was also noted after the meeting, that the only outdoor communal open space (located at lower ground level), is situated approximately 3.9 m below the adjacent boundary level leading to a poor level amenity within this space. This should also be reviewed.

Apartments LG02, G02 and 102 are provided with snorkel bedrooms. These are not consistent with the ADG nor supported by the panel.

Apartments LG01, GO1 and 101 provide compromised apartment entrances with no daylighting or sightlines to the living room. They should be reviewed.

Apartments G06, 106 and 206 provide bedrooms to the building corner facing Gerard Street. The applicant explained that this was to ensure views from the living room towards the north-west, however it is not understood how this would be achieved. It should be demonstrated that genuine views and solar access are achieved to/from the living rooms. Alternatively consider relocating the living spaces to the building corner, where solar access could be maintained together with an outlook to the corner of Gerard Street and Benelong Road and oblique views towards the north-west.

- d) **Principle 7 (Safety)** – Street walls and fences should be sufficiently detailed to avoid security breaches and potential access to the narrow void space forward of the building entrance. Consider providing a zone for secure parcel delivery.
- e) **Principle 9 (Aesthetics)** – Areas featuring external render and paint finish such as tapered slab edges and balustrades should be reviewed further, to avoid material deterioration and the need for long-term maintenance. Consider natural finish reinforced concrete or other strategies.

Outcome:

- a) The suggested design modifications would have the result of unbalancing the Gerard Street façade of the building, while also increasing bulk to the Benelong Road façade, and so further design amendments are not considered to be warranted.
- b) The provision of a food waste bin has been resolved via condition (**Condition C1**). The suggestion for battery storage is noted but the applicant has noted that this is not currently feasible for the scale required in such a development. It is noted that the provision for future installation has been indicated by the applicant. The provision of additional sun shading on the Benelong Road elevation windows has been resolved by condition with wording suggested by the applicant (**Condition C1**).
- c) The position put by the applicant in their RFI response in Attachment 6 is considered to be acceptable and no further changes are required.
- d) The position put by the applicant in their RFI response in Attachment 6 is considered to be acceptable and no further changes are required.
- e) The position put by the applicant in their RFI response in Attachment 6 is considered to be acceptable and no further changes are required.

6. CONCLUSION

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of *NSLEP 2013*. While the proposal does not meet the height standard requirement in *NSLEP 2013*, this is superseded by the height limits provided in the *SEPP (Housing) 2021*. The proposal nevertheless is considered to meet the relevant objectives and provisions of Councils controls in *NSLEP 2013* and *NSDCP 2013*.

There would be no unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal given that the proposed residential flat building has been appropriately designed to follow the topography of the site and reflect the diverse built for character of the area. The proposed development meets the design principles in *SEPP (Housing) 2021* and is consistent with the design requirements of the Apartment Design Guide.

Notification of the proposal has attracted five submissions raising various matters. The issues raised are considered to be generally acceptable or have been addressed through conditions of consent.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily, including in the recommended draft conditions in **Attachment 1**.

On balance, the application is considered reasonable and is recommended for approval subject to site specific and standard conditions.

7. RECOMMENDATION

That the Development Application No. 30/25 for the demolition of existing structures, construction of a part 4/5 storey residential flat building containing 23 units & basement parking at 118-124 Benelong Road and 72 Gerard Street, Cremorne, be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment 1.

The following attachments are provided:

- Attachment 1 – Conditions of Consent
- Attachment 2 – Architectural Plans – Brick Architects (03/02/2025)
- Attachment 3 – Urban Design Study – Bonus & Associates (06/02/2025)
- Attachment 4 – Landscape Plans – Space Landscape Designs (06/02/2025)
- Attachment 5 – Minutes of the North Sydney Design Excellence Panel (13/05/2025)
- Attachment 6 – RFI Response – Helm Pty Ltd (26/05/2025)
- Attachment 7 – Design Verification Statement – Brick Architects (07/02/2025)
- Attachment 8 – Waste Management Plan – Helm Pty Ltd (02/02/2025)
- Attachment 9 – Remediation Action Plan – JK Environments (07/02/2025)
- Attachment 10 – List of submitters and summary of issues