

Department of Planning, Housing and Infrastructure

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Pathways Cremorne Seniors Housing

State Significant Development Assessment Report (SSD-49472213)

February 2025





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's assessment and evaluation of the State significant development (SSD) application for the Pathways Cremorne Seniors Housing development located at 50-88 Parraween Street and 59-67 Gerard Street, Cremorne in the North Sydney local government area. The application has been lodged by Skermanic Pty Ltd. The report includes:

- an explanation of why the project is SSD and who the consent authority is
- an assessment of the project against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the project during the assessment process
- an assessment of the likely environmental, social and economic impacts of the project
- an evaluation which weighs up the likely impacts and benefits of the project, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- an opinion on whether the project is approvable or not, along with the reasons, to assist the Independent Planning Commission in making an informed decision about whether development consent for the project can be granted and any conditions that should be imposed.

Executive Summary

This report details the Department of Planning, Housing and Infrastructure's (the Department) assessment of the State significant development (SSD) application for the Pathways Cremorne Seniors Housing development (SSD-49472213).

Skermanic Pty Ltd (the Applicant) proposes to construct and operate a four to seven storey seniors housing development at 50-88 Parraween Street and 59-67 Gerard Street, Cremorne in the North Sydney LGA.

The proposal has an estimated development cost (EDC) of \$87,462,938 and is expected to generate 150 construction jobs and 80 operational jobs.

The proposal is classified as SSD under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is a seniors housing development with an EDC of more than \$30 million, it includes a residential care facility (RCF) and there are no prohibited components of the development under an environmental planning instrument (EPI) as specified in section 28 of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).

The proposed development is permissible with consent under the provisions of section 81 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), effective on the date the application was made.

The Department exhibited the environmental impact statement (EIS) from Monday 21 August 2023 until Sunday 17 September 2023. During the exhibition period, the Department received:

- advice from 12 government agencies
- a submission from North Sydney Council (Council) objecting to the proposal
- 94 unique public submissions, of which 85 were objections, 6 supported the proposal and 3 provided comments.

The Independent Planning Commission (IPC) is the consent authority for the project under section 4.5(a) of the EP&A Act because it satisfies criteria under section 2.7(1) of the Planning Systems SEPP as Council objected to the proposal and 50 submissions objecting to the proposal were made during the EIS public exhibition period.

The Applicant lodged an amended application and submissions report on 13 August 2024 outlining amendments to the proposal to address the issues raised in submissions and agency advice. The Department exhibited the amended application from Friday 30 August 2024 until Friday 13 September 2024 (a total of 15 days).

The Department received advice from 10 government agencies, a further objection from Council and 57 unique public submissions (51 objections, four in support and two providing comments) in response to the exhibition of the amended application.

Key issues raised during both exhibition periods focused on building height, bulk and scale, heritage and character impacts, traffic and parking impacts and construction impacts. The Department has considered these issues as part of its assessment in **section 5**.

The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) of the EP&A Act, the issues raised in the submissions, the Applicant's responses and additional information.

Overall, the Department's assessment concludes that the proposal is acceptable as:

- it would support State government priorities to deliver well-located housing as it will deliver 58 new independent living units (ILUs) and 41 RCF beds to meet the changing needs of an ageing population in an accessible location close to Cremorne town centre
- it is permissible with consent and would provide a high-density housing development, and ancillary uses, consistent with the objectives of Zone R4 High Design Residential under the *North Sydney Local Environmental Plan 2013* (NSLEP 2013)
- the proposed four to seven storey building heights and forms would be compatible with the envisaged character of the area and provide an appropriate built-form relationship to adjoining eight to 15 storey development in Gerard Street and lower scale 3 to 5 storey development and existing heritage items in Parraween Street
- the development proposes the retention and adaptive reuse of six heritage listed cottages at 78 – 88 Parraween Street as part of the proposed RCF, allowing for their conservation and continued residential use, including the reinstatement and retention of original building elements and landscaping
- it would not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
- it would provide a high level of internal and external amenity for future residents of the ILUs and RCF in line with the principles and design criteria of the Apartment Design Guide (ADG) and Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004
- it would deliver public benefits including a public through-site link and landscaped park and generate up to 150 construction jobs and 80 operational jobs.

The Department has recommended conditions to appropriately address any residual issues.

Following its detailed assessment, the Department considers the proposal is in the public interest and recommends that the proposal be approved, subject to conditions.

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1 Introduction

1.1 The proposal

1. The Applicant seeks approval for the demolition of existing structures, tree removal, bulk excavation, remediation and the construction and operation of a four to seven storey seniors housing development at located at 50-88 Parraween Street and 59-67 Gerard Street, Cremorne (the site).
2. The project description and mitigation measures provided in section 2 and Appendix C of the Amendment Report are the subject of this report and will form part of the development consent if the project is approved.
3. An overview of the proposal is provided in section 2.

1.2 The site

4. The subject site is shown in Figure 1 and Figure 2. Further project location details are described in Table 1.

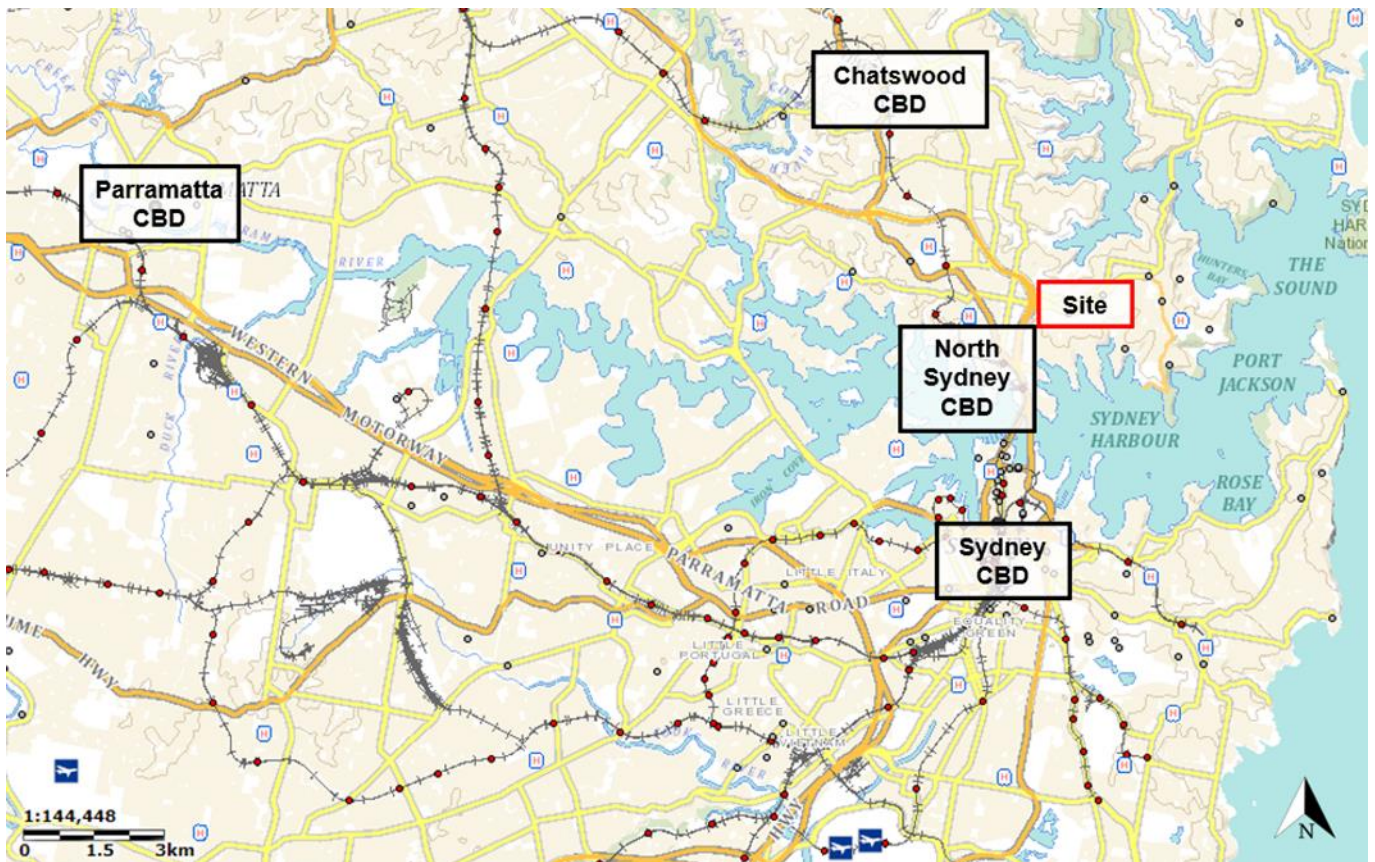


Figure 1 | Regional context map



Figure 2 | Local context map

Table 1 | Key aspects of the project site

Aspect	Description
Address	50-88 Parraween Street and 59-67 Gerard Street, Cremorne
LGA	North Sydney
Legal description	See Appendix B.
Site area	7,355.3 m ²
Existing development	<ul style="list-style-type: none"> Parraween Street – 5 dwelling houses and 15 semi-detached dwellings. Gerard Street – 1 dwelling house, 2 semi-detached dwellings and a residential flat building (RFB) containing 18 strata titled dwellings.
Surrounding roads/access	South eastern frontages to Parraween Street (143.64 m) and north western frontage to Gerard Street (50.42 m)

Aspect	Description
Topography	The site slopes gently north towards Gerard Street, with a fall of approximately 4 m.
Heritage	<p>The site contains six local heritage items listed under NSLEP 2013, including two semi-detached cottages at 78 and 80 Parraween Street and four detached cottages at 82, 84, 86 and 88 Parraween Street (Section 1.3.1).</p> <p>Other heritage items exist within the vicinity of the site (see Figure 3), including:</p> <ul style="list-style-type: none"> • Hayden Orpheum Picture Palace, which is locally listed under NSLEP 2013, was also listed on the State Heritage Register on 31 May 2024 and located opposite the site to the south • dwellings at 22 and 24 Gerard Street, locally listed under NSLEP 2013 and located approximately 160 m west of the site • St Peter's Anglican Church at 29 Waters Road, locally listed under NSLEP 2013 and located approximately 290 m west of the site • Former bank at 414-416 Military Road, Mosman, locally listed (Item 153) under <i>Mosman Local Environmental Plan 2012</i> and located approximately 150 m to the east of the site.
Flooding	The site is not mapped as being flood prone land.
Public transport	<ul style="list-style-type: none"> • Military Road bus stop located approximately 260 m walking distance to the south of the site via the Cremorne Garden Plaza. • Bus stop located on Gerard Street approximately 150 m walking distance east of the site. • Victoria Cross Metro Station located approximately 2.6 km south-west of the site.
Easements or covenants	<ul style="list-style-type: none"> • 64 Parraween Street (Lot B 412718) contains a 0.61 m wide easement for sewerage. • 88 Parraween Street (Lot 4 DP 19887) contains a 0.38 m wide easement for overhanging eaves and guttering.

1.3 Relevant planning background

1.3.1 Listing of local heritage items on the site

5. In November 2022, Council placed two Interim Heritage Orders on 50, 52, 54, 56, 70, 72, 78 and 80, and 82 – 88 Parraween Street. The IHOs were placed over these dwellings following the Applicant's request for Secretary's Environmental Assessment Requirements on 18 October 2022, which were subsequently issued by the Department's on 24 October 2022.
6. On 11 May 2023, the Department began its review of a Council initiated Planning Proposal which sought to amend NSLEP 2013, including identification of twelve properties (50-56, 70-72 & 78-88 Parraween Street) as local heritage items.
7. On 15 August 2023, the Applicant lodged their EIS and was subsequently placed on exhibition between 21 August 2023 until Sunday 17 September 2023.
8. On 17 May 2024 the semi-detached cottages at 78-80 Parraween Street and detached cottages at 82,84,86 and 88 Parraween Street were gazetted as items of local heritage significance under Schedule 5, Part 1 of the NSLEP 2013 (see Table 2 and Figure 3).
9. The proposal was amended in August 2024, in response to the heritage listings.

Table 2 | Local heritage items on the site under Schedule 5, Part 1 of the NSLEP 2013

1. Item Name	2. Address	3. Property Description	4. Significance	5. Item No
Parraween Street group - house	6. 78 Parraween Street	7. Lot 1, DP 441402	8. Local	9. I1138
Parraween Street group - house	10. 80 Parraween Street	11. Lot 2, DP 441402	12. Local	13. I1139
Parraween Street group - house	14. 82 Parraween Street	15. Lot 1, DP 19887	16. Local	17. I1140
Parraween Street group - house	18. 84 Parraween Street	19. Lot 2, DP 19887	20. Local	21. I1141
Parraween Street group - house	22. 86 Parraween Street	23. Lot 3, DP 19887	24. Local	25. I1142
Parraween Street group - house	26. 88 Parraween Street	27. Lot 4, DP 19887	28. Local	29. I1143

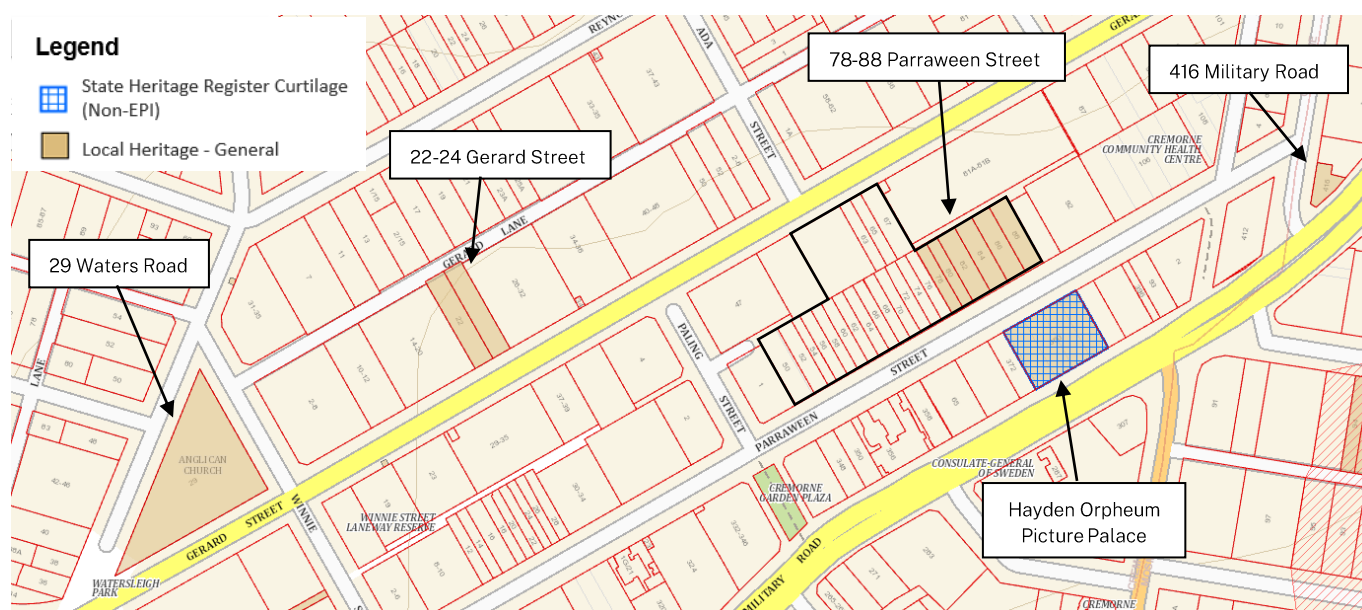


Figure 3 | Heritage context (source: NSW Planning Portal Spatial Viewer)

2 Proposal

2.1 Proposal overview

10. The key aspects of the project are provided in detail in the Project Description chapter of the Amendment Report (see **Appendix A**) and are outlined in **Table 3** and shown in **Figure 4** and **Error! Reference source not found.Figure 5**.

Table 3 | Key aspects of the project

Aspect	Description
Site preparation	<ul style="list-style-type: none"> • Demolition of existing dwellings (except 78-88 Parraween Street) • Bulk earthworks, excavation and site remediation
Gross floor area (GFA)	<p>A total of 13,831 m², comprising:</p> <ul style="list-style-type: none"> • Residential Aged Care Facility (RCF) 2,594 m² • Independent Living Units (ILUs) 8,442 m² • Carpark 1,942 m² • Public assembly 853 m²

Aspect	Description
Adaptive re use of 78-88 Parraween Street	<p>Retention and adaptive reuse of 78-88 Parraween Street, comprising:</p> <ul style="list-style-type: none"> • demolition of non-contributory rear elements and internal alterations • retention of primary contributory elements, including the main building form and structure and presentation to Parraween Street • Building Code of Australia (BCA) building alterations • enhancement of existing streetscape character through restoration works to reinstate front gardens and low picket fencing.
Building heights	<ul style="list-style-type: none"> • Building 1 (RCF): Four-storeys at 15.27 m • Building 2: Four-storeys at 15.48 m • Building 3: Four-storeys at 15.01 m • Building 4: Seven-storeys at 23.45 m
Seniors housing accommodation	<ul style="list-style-type: none"> • 58 ILUs including 1 x 1 bed, 26 x 2 bed, 30 x 3 bed and 1 x 4 bed units within Buildings 2, 3 and 4 • 41 RCF beds within Building 1 and four existing cottages
Basement	<p>Two-levels of basement known as lower ground floor and basement:</p> <p>Lower Ground Floor:</p> <ul style="list-style-type: none"> • 20 ILU car parking spaces, 3 RCF residential car parking spaces, 8 RCF car staff parking spaces, loading dock and plant • RCF facilities including hair salon, lounge and dining areas • RCF servicing facilities such as laundry, kitchen and staff facilities • Pool, gymnasium and change rooms <p>Basement:</p> <ul style="list-style-type: none"> • 57 ILU car parking spaces, 20 bicycle spaces
Access	<ul style="list-style-type: none"> • Basement vehicle access via Parraween Street driveway • Pedestrian entrances via Parraween Street and Gerard Street
Communal open space and ancillary amenities	<ul style="list-style-type: none"> • 615 m² of open space comprising sitting areas and terraces • Indoor ILU and RCF administration and resident amenity spaces including:

Aspect	Description
	<ul style="list-style-type: none"> ○ RCF servery, staff and administration, activities, dining, lounge and reception on ground floor of Building 1 and the two eastern-most cottages on Parraween Street ○ RCF kitchen, laundry, dining and bar on lower ground beneath Building 1 ○ ILU foyer and reception, administration in Building 2 ○ Café on ground floor of Building 3 adjacent to public through-site link ○ Gym, change rooms, spa, salon and pool on lower ground
Parking	<ul style="list-style-type: none"> • 88 seniors housing car parking spaces • 10 motorcycle spaces and 20 bicycle parking spaces • Two loading bays which can provide for ambulance parking
Landscaping and public domain	<ul style="list-style-type: none"> • Through-site link connecting Gerard and Parraween Streets providing 1,261 m² of publicly accessible open space • 1469.2 m² of deep soil zone (19.9% of total site area) • Tree removal and replanting, including tree retention and relocation.
Stormwater, flooding and utilities	<ul style="list-style-type: none"> • Construction of new stormwater infrastructure, including a below ground rainwater reuse and onsite detention tanks beneath the through-site link • Connections to Sydney water's existing network and Council's drainage system along Parraween Street • Construction of a new kiosk substation located along the north-eastern corner of the site facing Gerard Street
Hours of operation	<ul style="list-style-type: none"> • RCF: 24-hour access, 7 days a week (residents, families and visitors have 24-hour access) • Ancillary café: 6 am to 10 pm, 7 days a week • Publicly accessible open space and through-site link: 24-hour access, 7 days a week
Employment	<ul style="list-style-type: none"> • 150 construction jobs • 80 operational jobs
EDC	\$87,462,938

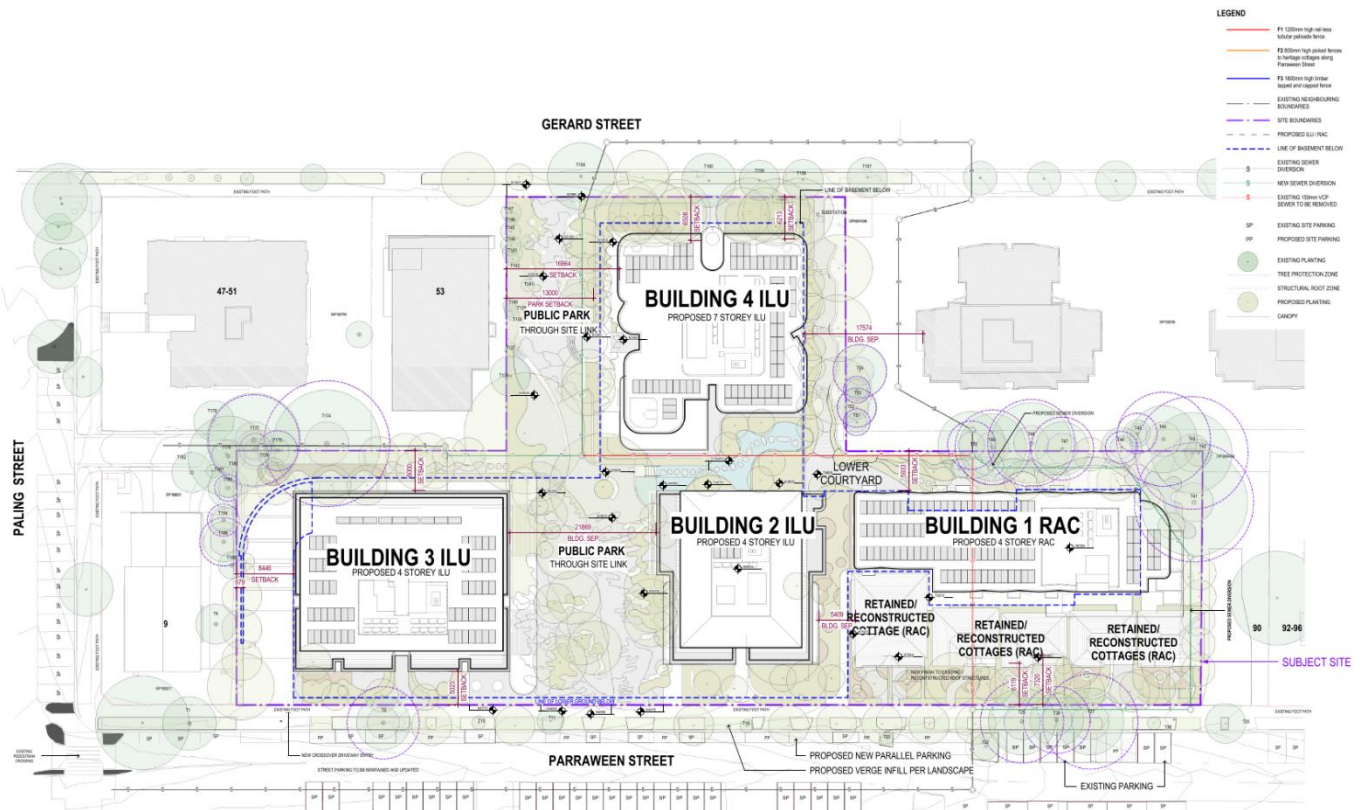


Figure 4 | Proposed site layout (Source: Amendment Report)



Figure 5 | Photomontage of proposal looking west along Parraween Street (source: Applicant's amended DA)

3 Policy and statutory context

3.1 Housing supply

11. The NSW Government has an aspirational target of 377,000 well-located homes over the next 5 years. This policy is in support of the National Housing Accord that provides an aspirational national target of delivering 1.2 million new, well-located homes over 5 years.
12. To support the delivery of seniors housing across NSW, in November 2021 an SSD pathway was introduced for large scale seniors housing developments that include residential care facilities. This SSD application has been submitted pursuant to these initiatives that aim to support the delivery of well-located and accessible seniors housing.

3.2 Permissibility and assessment pathway

13. Details of the legal pathway under which consent is sought and the permissibility of the project are provided in Table 4 below.

Table 4 | Permissibility and assessment pathway

Consideration	Description
Assessment pathway	<p>State significant development</p> <p>The project is declared SSD under section 4.36 of the EP&A Act as it satisfies the criteria under section 2.6(1) and section 28 of Schedule 1 of the Planning Systems SEPP being seniors housing. The proposal will provide seniors housing with an EDC of more than \$30 million, includes a residential care facility (RCF) and there are no prohibited components of the development under an EPI.</p>
Consent authority	<p>The IPC is the consent authority under section 4.5(a) of the EP&A Act and section 2.7(1) of the Planning Systems SEPP as Council objected to the proposal and the proposal received 85 submissions objecting to the proposal during the public exhibition.</p>
Permissibility	<p>Permissible with consent</p> <ul style="list-style-type: none">• The site is zoned R4 High Density Residential under the NSLEP 2013.• Seniors housing is permissible under section 81 of the Housing SEPP (version as 1 May 2023) as section 79 of the Housing SEPP lists Zone R4 High Density Residential as a zone to which Part 5 of the Housing SEPP applies.• While retail uses are prohibited in Zone R4, the scale and intended operation of the café, salon, spa and gym is considered minor and sufficiently related to the

Consideration	Description
	proposed seniors housing development, and therefore can be approved as ancillary to the predominant use of the site as seniors housing.

3.3 Other approvals and authorisations

14. Under section 4.41 of the EP&A Act, several other authorisations required under other Acts are not required for SSD. This is because all relevant issues are considered during the assessment of the SSD application.
15. Under section 4.42 of the EP&A Act, certain approvals cannot be refused if they are necessary to carry out the SSD (e.g. approvals for any works under the *Roads Act 1993*). These authorisations must be substantially consistent with any SSD development consent for the proposal.
16. The Department has consulted with and considered the advice of the relevant government agencies responsible for these other authorisations in its assessment of the proposal (see **Section 4** and **Section 5**). Suitable conditions have been included in the recommended conditions of consent (see **Appendix F**).

3.4 Planning Secretary's environmental assessment requirements

17. The Department's review determined that the EIS addresses each matter set out in the Planning Secretary's environmental assessment requirements (SEARs) issued on 24 October 2022 and is sufficient to enable an adequate consideration and assessment of the project for determination purposes.

3.5 Mandatory matters for consideration

18. Mandatory matters for consideration include:
 - Matters of consideration required by the EP&A Act
 - Objects of the EP&A Act and ecologically sustainable development (ESD)
 - Biodiversity development assessment report
 - Matters of consideration required by the EP&A Regulation
 - Matters of consideration required by environmental planning instruments.
19. The Department's consideration of these matters is summarised in **Appendix D**.
20. As a result of this consideration, the Department is satisfied that the development meets statutory requirements.

4 Engagement

4.1 Exhibition of the EIS

4.1.1 Public exhibition of the EIS

21. After accepting the development application (DA) and EIS, the Department:
 - publicly exhibited the proposal from Monday 21 August 2023 until Sunday 17 September 2023 on the NSW Planning Portal
 - notified occupiers and landowners in the vicinity of the site about the public exhibition
 - notified and invited comment from relevant government agencies and Council.
22. The Department undertook a site visit on 22 September 2023 to gain a better understanding of the site context and the issues raised in submissions.

4.1.2 Public exhibition of the amendment report

23. On 13 August 2024, the Applicant made an application for an amendment to the DA on the NSW planning portal. On 16 August 2024, the Department approved the application to amend the DA.
24. After accepting the amended DA, the Department:
 - publicly exhibited the amendment report from 30 August 2024 until 13 September 2024 on the NSW Planning Portal
 - notified occupiers and landowners in the vicinity of the site and previous submitters about the public exhibition
 - re-notified and invited comment from relevant government agencies and Council.

4.1.3 Summary of advice received from government agencies

25. The Department received advice from nine government agencies on the EIS. Advice from 10 government agencies was subsequently received on the amended DA, four of which had no additional comments.
26. A summary of the agency advice is provided in **Table 5**. A link to the full copy of the advice is provided in **Appendix A**.

4.1.4 Summary of advice received from government agencies

Table 5 | Summary of agency advice

Agency	Advice summary
Ausgrid	Ausgrid provided advice relating to necessary applications to be made to Ausgrid for any new substation required and in relation to Ausgrid underground cables and overhead powerlines are in the vicinity of the development.
NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) – Biodiversity, Conservation and Science Group (BCS)	BCS reviewed the Applicant's Biodiversity Development Assessment Report (BDAR) and recommended conditions relating to microbat surveys and vegetation clearing works and fauna protection.
Heritage NSW (Aboriginal Cultural Heritage) (HNSW ACH)	<p>HNSW ACH reviewed the Applicant's Aboriginal Cultural Heritage Assessment Report (ACHAR) and generally agreed with the recommendations. It noted that the breaks in consultation with Registered Aboriginal Parties (RAPs) may not constitute continuous consultation, however additional consultation was not requested in this instance.</p> <p>HNSW ACH recommended conditions in relation to the protection of Aboriginal Heritage and the implementation of an Aboriginal Cultural Heritage Management Plan.</p>
Heritage NSW (Heritage Council)	<p>HNSW Heritage Council noted the proposal would not impact on the heritage significance of the Orpheum Theatre heritage item (listed on the State Heritage Register (SHR) on 31 May 2024) and supported the assessment in the Applicant's HIS that the proposal will have no impact on its state heritage significance.</p> <p>HNSW Heritage Council also advised that advice on local heritage items be sought from Council, but provide the following advice:</p> <ul style="list-style-type: none"> • additional information be provided on the proposed interior demolition of the cottages at 78-88 Parraween Street and alterations to the front façade of the house at 86 Parraween Street • it supported the Applicant's HIS that the proposal will have no impact on other off-site locally listed items in the vicinity

Agency	Advice summary
	<ul style="list-style-type: none"> supported the recommendations in the Applicant's Historical Archaeological Assessment (HAA), however requested the HIS be updated to accurately reference findings of the HAA.
Transport for New South Wales (TfNSW)	<ul style="list-style-type: none"> TfNSW advised that the proposal is unlikely to have a significant impact on the classified road network.
NSW SES	<p>SES noted that the site is a high flood island and provided the following advice:</p> <ul style="list-style-type: none"> recommended careful consideration of the suitability of the proposed evacuation route requested the Flood Emergency Response Plan (FERP) be rewritten to reflect current NSW SES terminology and procedures recommended consultation with any third-party facility included in the FERP recommended considering climate change impacts on the level and frequency of flooding on the site emphasised that NSW SES did not support shelter in place or imposition of conditions requiring private flood evacuation plans over application of sound land use planning and flood risk management.
NSW Health – Northern Sydney Public Health Unit (NSPHU)	<p>NSW Health provided comments on:</p> <ul style="list-style-type: none"> compliance with relevant legislation and guidelines remediation and the preparation of a long-term Environmental Management Plan (EMP) in accordance with the Applicant's Remediation Action Plan (RAP), including noting the site must not be occupied unless validation of the remediation works as per the RAP have been completed and confirmed to be suitable for the intended use treatment of contaminated soils, groundwater and associated odour adequate community/neighbour consultation prior and during works.
NSW Police – North Shore Police Area Command (NSPAC)	<p>NSW Police NSPAC provided recommendations relating to access, safety, signage, security and surveillance. In addition, an after-hours contact for the facility, and copy of the recommended emergency control and evacuation plan be provided to the NSPAC.</p>

Agency	Advice summary
Sydney Water	Sydney Water had no additional comments, having issued the Applicant a feasibility letter in June 2023. Advice was also provided in relation to servicing requirements, relevant approvals and next steps.
Civil Aviation Safety Authority (CASA)	CASA raised no objection to the proposal and agreed with the conclusions in the Applicant's advice prepared by AviPro Aviation Management and Safety Advisors dated 4 July 2023. It was also noted the proposal under the Outer Horizontal Surface (OHS) for Sydney Airport by a comfortable margin, and cranes that infringe on the OHS will most likely be approved.

4.1.5 Summary of North Sydney Council's submission

27. North Sydney Council made submissions on the EIS and amended DA, objecting to the proposal.
28. Issues raised by Council are summarised below and a link to its submissions in full is provided in Appendix A.
 - heritage impacts, including a lack of information relating to extent of demolition and alterations to heritage items and inadequate curtilage
 - excessive height, scale and form
 - tree removal and landscaping
 - traffic and parking
 - design and management of green link (through-site link).

4.1.6 Summary of public submissions

29. The Department received a total of 131 submissions during public exhibition of the EIS from individuals and special interest groups (94 of which were classified as unique submissions¹). Of the 94 unique submissions received, 85 objected to the proposal, six were in support and three provided comment.

¹ Each petition or submission that contains the same or substantially the same text is counted as one submission in accordance with section 2.7(6) of the Planning System SEPP.

In response to the exhibition of the amended proposal, the Department received a total of 60 submissions (57 of which were classified as unique submissions²). Of the 57 unique submissions received, 51 submissions objected to the proposal, four were in support and two provided comments.

30. The key issues raised in the public submissions is listed in **Table 6** and a link to all submissions in full is provided in **Appendix A**.

31. The Department's consideration of the public submissions is provided in **Appendix C**.

Table 6 | Key issues raised in public submissions on the EIS and amended DA

Issue	Number and % of EIS Submissions	Number and % of amended DA Submissions
Heritage impacts	59 (62.77%)	38 (66.67%)
Traffic	59 (62.77%)	47 (82.46%)
Character	59 (62.77%)	26 (45.61%)
Height, bulk and scale	50 (53.19%)	45 (78.95%)
Parking	40 (42.55%)	34 (59.65%)
Construction impacts	36 (38.30%)	20 (35.09%)
Pedestrian safety	24 (25.53%)	21 (36.84%)
Trees	20 (21.28%)	Nil
View impacts	14 (14.89%)	Nil
Amenity	12 (12.77%)	Nil
Overshadowing	Nil	19 (33.33%)

² Each petition or submission that contains the same or substantially the same text is counted as one submission in accordance with section 2.7(6) of the Planning System SEPP.

4.2 Response to submissions and amendment of development application

32. Following the public exhibition period, the Department requested the Applicant to respond to the issues raised in submissions and the advice received from government agencies.
33. The Department also requested the Applicant respond to the proposed local heritage listing of the properties forming part of the site as part of its response to submissions (RTS).
34. The Applicant submitted an amendment report, which was accepted by the Department on 16 August 2024. The amendment report also included a submissions report which responded to the issues raised during exhibition of the EIS and the gazettal of the heritage significant cottages at 78-88 Parraween Street as local heritage items (see **Appendix A**).
35. Following the public exhibition of the amended DA, the Department asked the Applicant to respond to the issues raised in submissions and the comments received from government agencies.
36. The Applicant provided a further submissions report to the Department on 8 November 2024 (see **Appendix A**) which was published on the NSW Planning Portal.
37. No further submissions or advice was received on the further submissions report.

5 Assessment

38. The Department has assessed the proposal, considering all documentation submitted by the Applicant, all issues raised in submissions and all advice provided by government agencies.
39. The Department considers the key assessment issues associated with the proposal are:
 - heritage
 - built form
 - external amenity impacts
 - internal residential amenity
40. The Department's consideration of other issues is described in **section 5.5** and the appendices of this report.

5.1 Heritage

41. The site is located adjacent to the Cremorne Town Centre, in a transitional area with a mix of existing low, medium and high density rise residential development and commercial and shop-top housing developments.
42. As outlined in **Section 1.3.1**, the site contains six locally significant heritage items which are listed under Schedule 5 of the NSLEP 2013 and is located opposite the SHR listed Hayden Orpheum Picture Palace.
43. The proposal initially sought to retain, reconstruct and adaptively reuse nine cottages at 52-56 and 70-80 Parraween Street. However, in response to concerns raised by Council, in public submissions, and the subsequent heritage listing of the six cottages at 78-88 Parraween Street, the proposal was amended to retain these six cottages (in lieu of the previously proposed nine cottages). It also proposes works including partial demolition of rear non-contributory elements, interior alterations and internal reconfiguration to allow for the adaptive reuse as part of the RCF.
44. The proposed adaptive reuse of the cottages as part of the RCF will provide accessible residential suits, a communal lounge area and the main RCF entrance and reception area, which will be located in 86 Parraween Street.
45. Works are also proposed to the cottage facades and gardens to reinstate the original streetscape presentation and front gardens, including a low 1.2 m timber picket fence from 78-88 Parraween Street (see **Figure 6**).



Figure 6 | Proposed retention of the heritage cottages, new landscaping and fencing (source: Svalbe & Co and Brendan Moar)

Applicant's assessment of heritage Impacts

46. The Applicant provided a Heritage Impact Statement (HIS) with its EIS, which was updated with the amended DA. The Applicant's HIS concluded:
- the significance of the six heritage listed cottages primarily relates to their exterior condition, their contribution to the streetscape opposite the Orpheum Theatre and their group value as buildings attributed to the developer 'Harbutt Brothers'
 - the proposed demolition of the rear wings and internal alterations would not impact the heritage significance of the cottages and will retain their primary contributory elements, being their presentation to Parraween Street including their form, front garden and potential for street trees (see Error! Reference source not found.)
 - the curtilage of the heritage items that contributes to their streetscape significance relates to the main building form (i.e., not including the non-contributory elements proposed to be demolished) and associated front yards
 - the proposal will enhance the items' overall contribution and connection to the streetscape and the recovery of the streetscape character, through the restoration of the street presentation by removing the multiple driveways and parking within the front setbacks and provision of consistent low timber picket fencing (see Figure 6)
 - the adaptive reuse of the six heritage listed cottages enables positive conservation work through retaining the original form of 78-88 Parraween Street, including the reinstatement and retention of original elements such as facebrick facades, terracotta roof, original windows and doors and the front garden and landscaping
 - the scale and massing of the proposed development will allow for the primary form of 78-88 Parraween Street to remain legible, this includes the proposed alignment of

front setbacks of proposed buildings 2 and 3 and the rear setting of proposed building 1

- the adaptive reuse would necessitate certain alterations in terms of ramps and door widths in accordance with BCA access provisions.
47. The Applicant also provided Peer Review which considered the impact of its proposal on its the heritage listed cottages and the conclusions outlined in its HIS. The Peer Review supported the conclusions of the HIS and additionally, concluded:
- the planned restoration of the external elevations will significantly enhance the streetscape contribution of the items
 - the new landscaping would assist in mitigating part of the impact of the interior demolition.
48. The Peer Review included two recommendations relating to conservation works and a test removal patch to assess for damage during removal of the render from the façade of 88 Parraween Street.
49. The Applicant also provided correspondence prepared by a structural and civil engineer that confirmed the proposed basement excavation works and construction would be unlikely to impact the heritage listed cottages, subject to mitigation measures.

Submissions and agency advice

50. Council and public submissions raised concerns about the assessment of significance of the heritage items within the Applicant's HIS and in particular:
- the lack of information and assessment regarding the internal demolition works to the on-site heritage items to determine the extent of heritage impact
 - impact of the proposed new buildings on the heritage curtilage of 78-88 Parraween Street
 - impacts of the proposal on the heritage significance of the heritage items on site and the SHR listed Hayden Orpheum.
51. HNSW Heritage Council confirmed they support the findings of the Applicant's HIS and agreed that the proposal will not impact the heritage significance of the SHR listed Hayden Orpheum. HNSW also provided advice noting that the proposal would not impact on the heritage significance of other off-site locally listed items in the vicinity.
52. HNSW Heritage Council also provided advice in relation to the impact of internal demolition and alterations to the heritage cottages.

Independent heritage advice

53. The Department engaged Lisa Trueman Heritage Advisor to provide independent heritage advice on the proposal to assist with its assessment (see **Appendix A**).
54. Ms Trueman reviewed the Applicant's amended DA report, RtS, HIS, the Applicant's HIS Peer Review and architectural drawings, as well as the advice provided by HNSW on the amended DA. Ms Trueman concluded that the adaptive reuse and incorporation of the heritage cottages into the development would ensure the original form and presentation to Parraween Street is retained and conserved, allowing for the primary significance of the cottages to be protected and enhanced. Further, Ms Trueman considered the proposed demolition works will have minor and acceptable impacts on the significance of the group.
55. To ensure conservations works undertaken and the original heritage fabric of 78-88 Parraween Street is protected during construction, Ms Trueman recommended conditions of consent relating to:
- implementing all HNSW Heritage Council's recommended conditions relating to Aboriginal cultural heritage assessment and Archaeological finds
 - Commission of a Heritage Conservation Architect for the duration of the project to guide conservation works and resolve heritage conservation matters
 - preparation of a Schedule of Conservation works to be provided with the Construction Certificate
 - the protection of significant original fabric of the heritage cottages at 78-88 Parraween Street during construction (e.g., location of construction vehicles and equipment clear of the cottages)
 - preparation of a Photographic Archival Record of the existing cottages at 78-88 Parraween Street.

Department's consideration

56. The Department has carefully considered the Applicant's HIS, peer review, engineering advice, the on-going concerns raised by Council and the community, the advice provided by HNSW Heritage Council and the independent advice provided by Ms Trueman as part of its assessment.
57. The Department supports the significant amendments that the Applicant made to the proposal post exhibition to enable the retention of the six locally heritage listed cottages. The Department however acknowledges ongoing concerns about the extent of demolition and alterations to the cottages and the impacts of the proposed new buildings on the curtilage of the cottages.

58. On balance, the Department is satisfied that heritage impacts of the proposal are acceptable as:

- the proposed partial demolition and internal reconfiguration will remove non-contributory elements and allow for the conservation works to restore and retain original fabric, where possible
- the adaptive reuse will enable continued residential use of the cottages as per their historic and intended residential use, and the garden settings will be reinstated
- the retention of the cottages and restoration of external elements will improve and conserve the streetscape quality by removing parking and driveways and restoration of gardens and low fences
- the conservation measures will ensure the ongoing care of the heritage items under single ownership
- the combination of building setbacks and proposed sitting of new built form within the site behind the heritage cottages will ensure that the primary significance of the heritage cottages, informed by the curtilage around the primary building form and front yards, is maintained along the Parraween Street streetscape
- proposed conservation works to the heritage cottages to enhance and reinstate their streetscape presentation to Parraween Street will be complimented through the proposed use of brick references, deep reveals and window details in the design of the proposed RCF and ILU buildings.

59. The Department is satisfied the proposal will not result in adverse impacts to the heritage items through the proposed adaptive reuse, subject to recommended conditions relating to vibration impacts and conservation works.

5.2 Built form

60. The Department considers the following aspects are key in determining the suitability of the built form for the proposal:

- building height
- density
- site layout and design
- visual impacts.

5.2.1 Building height

61. The NSLEP 2013 provides a maximum building height for the site of 12m.
62. The Housing SEPP provides additional 3.8m building heights (and additional FSR bonuses of up to 25%) for seniors housing on sites where RFBs or shop top housing is permitted and the site has an area of at least 1,500m². The Applicant however has not applied this additional height under the Housing SEPP, noting that the site does not have a FSR control under the NSLEP 2013 and therefore may not be eligible for a FSR or height bonus.
63. The proposal seeks approval for building heights between 15.01 m to 23.45 m (i.e., four to seven-storeys) which exceeds the maximum permissible height by between 3 and 11.45 m, as outlined in Table 7 and shown in Figure 7 to Figure 9.
64. The Applicant notes that if the 3.8m bonus height was able to be applied, three of the four buildings would comply with the maximum building height.

Table 7 | Building height summary table

Building	Proposed building height	Variation above 12 m NSLEP 20123 height
Building 1 (RCF)	15.27 m (4 storeys)	3.27 m (27.25%)
Building 2 (ILU)	15.48 m (4 storeys)	3.48 m (29%)
Building 3 (ILU)	15.01 m (4 storeys)	3 m (25%)
Building 4 (ILU)	23.45 m (7 storeys)	11.45 m (95.4%)

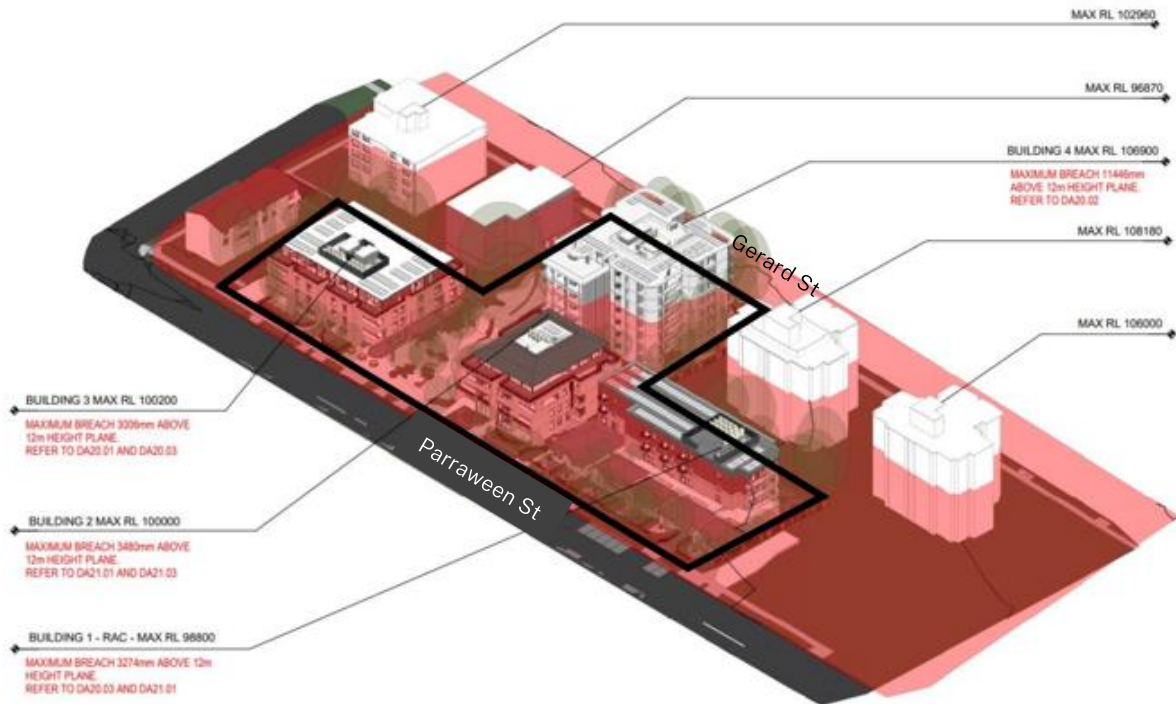


Figure 7 | NSLEP 2013 height of buildings standard shown in red and location of the proposed height exceedances. Note that site is outlined in black and existing adjoining buildings are shown for context (source: Applicant's clause 4.6 variation request)

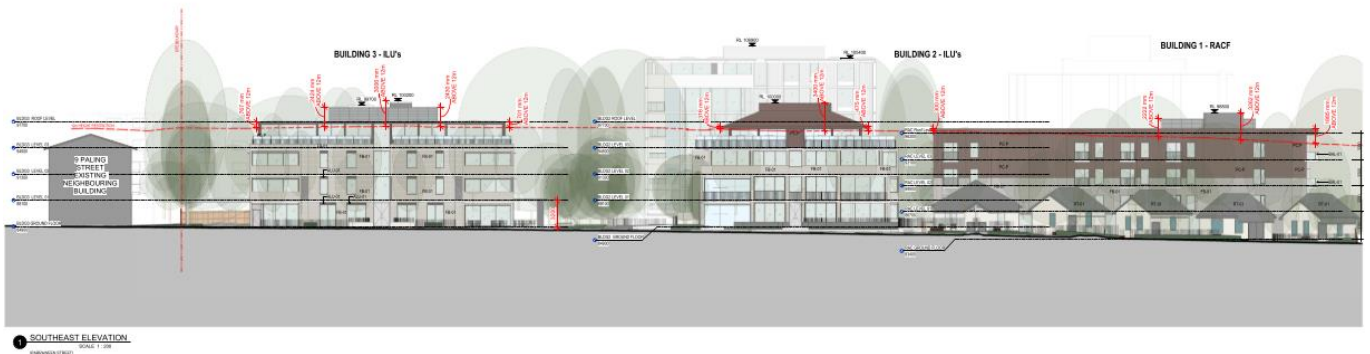


Figure 8 | Parraween Street Elevation (CHROFI and MDP Architects)

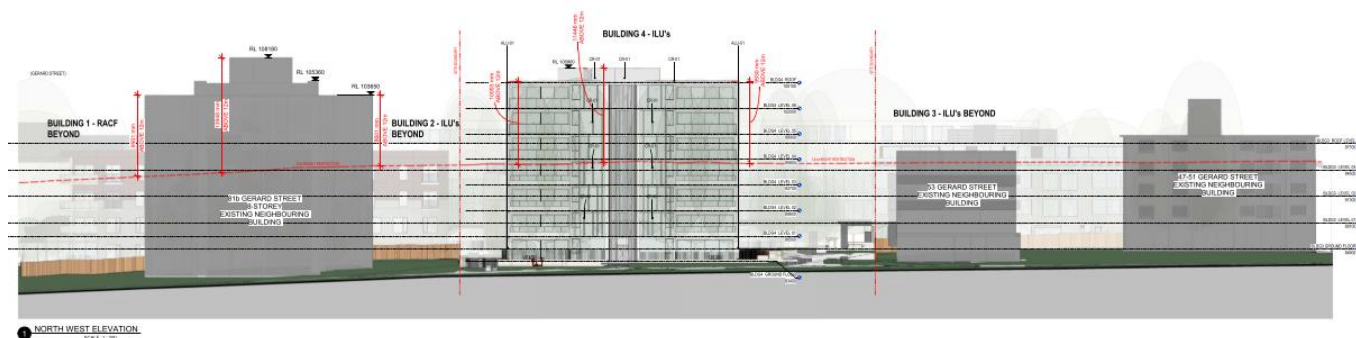


Figure 9 | Gerard Street Elevation with existing neighbouring buildings shown in grey (Source: CHROFI and MDP Architects)

65. Council raised concerns that the built form and scale of Building 4 on Gerard Street appears to rely heavily on context and the scale of existing adjoining buildings which were approved many years ago under historical planning controls. Council considers this approach inappropriate and is not in accordance with, nor adequately responds to, the existing and desired future character of the area.
66. Public submissions raised concerns that the height and scale of Building 4 is inappropriate and would set a precedence for others in the area.
67. The Applicant has submitted a written request under clause 4.6 of the NSLEP 2013 to vary the maximum height of buildings control at clause 4.3 of NSLEP 2013.
68. The Applicant has stated that the proposed building heights are justified because:
 - the proposal meets the objectives of Zone R4 High Density Residential and will be of a height and scale that is in keeping with surrounding development on both Gerard and Parraween Streets
 - strict compliance would result in a reduced public and social benefit by reducing seniors housing accommodation and removing the ability for the development to accommodate the proposed public park and though-site link
 - the seven-storey building height of proposed Building 4 is not inconsistent with adjoining buildings on Gerard Street (e.g., eight-storey building at 81B Gerard Street) and its siting ensures that no adverse impacts are generated by the height variation
 - the non-compliant building height of Buildings 1, 2 and 3 is largely limited to the lift overruns and plant on the roofs, or provision of a pitched roof (Building 2).
69. The Department acknowledges the proposal seeks to vary the maximum building height under clause 4.3 of the NSLEP 2013 and appreciates Council's and the community's concerns surrounding building heights.

70. The Department has carefully considered the proposed building height variation request in Appendix E. In summary, the Department is satisfied the height exceedances are acceptable, there are sufficient environmental planning grounds to justify the variation and that compliance is unreasonable or unnecessary as:
- the proposal meets the objectives of the height of building control, as:
 - the proposed 8-storey building height of Building 4 will be consistent with the existing taller 8 to 15-storey residential flat buildings on Gerard Street, including the 8-storey residential flat building immediately adjacent to the east at 81B Gerard Street
 - the proposed 4-storey height along the Parraween Street frontage opposite the Cremorne town centre Zone B4 Mixed Use zone will ensure a compatible built form outcome that complements the scale of the existing town centre
 - visual impacts generated by the proposal are considered reasonable and new through-site vistas are established by the proposed through-site link
 - the proposal will not result in any unacceptable solar, overshadowing, privacy, heritage, residential amenity or private view impacts to adjoining properties
 - the proposed massing and location of building height has been carefully considered and reviewed by the State Design Review Panel (Section 5.3.2) and provides for an improved built form and public domain outcome, including the delivery of a generous publicly accessible landscaped through site link linking Parraween and Gerard Streets, which would not be delivered if the proposal had to be designed to fully comply with the maximum building height
 - the proposal is compatible with the existing and desired future character of the Waters Neighbourhood in the North Cremorne Planning Area as identified in Council's Development Control Plan (DCP) 2013 and the objectives of the R4 High Density Residential zone as the proposal will:
 - deliver housing within a high-density residential environment that contributes to the diversity of housing within the North Sydney LGA by providing new seniors housing
 - provide a high density residential built form outcome that does not detrimentally compromise the amenity of the surrounding area and allows for the retention and adaptive reuse of existing on-site heritage items
 - deliver development that is generally consistent with the envisaged height of generally four to five storeys for the Waters Neighbourhood, with the height of

the taller Building consistent and sympathetic to the scale of existing development within the immediate surroundings of the site on Gerard Street

- respond positively to both streetscapes on Parraween and Gerard Streets through the use of front setbacks and recessed upper storeys which provide a transition between the two sides of the site, reinforcing the scale and proportions of surrounding buildings
- result in the retention and conservation of the heritage listed cottages, removal of their driveways and reinstatement of contributory front garden elements
- the design and siting of the development is generally consistent with ADG to minimise adverse amenity impacts to existing adjoining residents and future residents
- strict compliance with the building height control would result in a development outcome that is inconsistent with the surrounding development, fails to meet the objectives of Zone R4 High Density Residential and removes the opportunity to deliver a public benefit on the scale that is currently proposed (i.e. public through-site link).

71. The Department concludes the proposed building heights across the four buildings are acceptable and that the variations are justified given the circumstances of the case, as the proposal is consistent with a high density residential environment and would not compromise the residential amenity or heritage values of the site or the surrounding area.

5.2.2 Density

72. A maximum floor space ratio (FSR) or density control under NSLEP 2013 does not apply to the site.
73. Council and the public objected to the proposed density of the proposal, raising concerns that the density was excessive and amounted to a built form that was out of character with the locality, and would result in overpopulation and strain on local infrastructure.
74. The Applicant considers that the proposed density is appropriate as it:
- is similar to what would be expected if the design complied with the height provisions, but built smaller and “fatter” buildings along all street frontages
 - locates the density throughout the site to achieve a central public through site link and landscaped park, retention of the heritage cottages along Parraween Street and the provision of a taller/narrower building fronting Gerard Street compatible with the surrounding buildings in that street (Figure 1010).

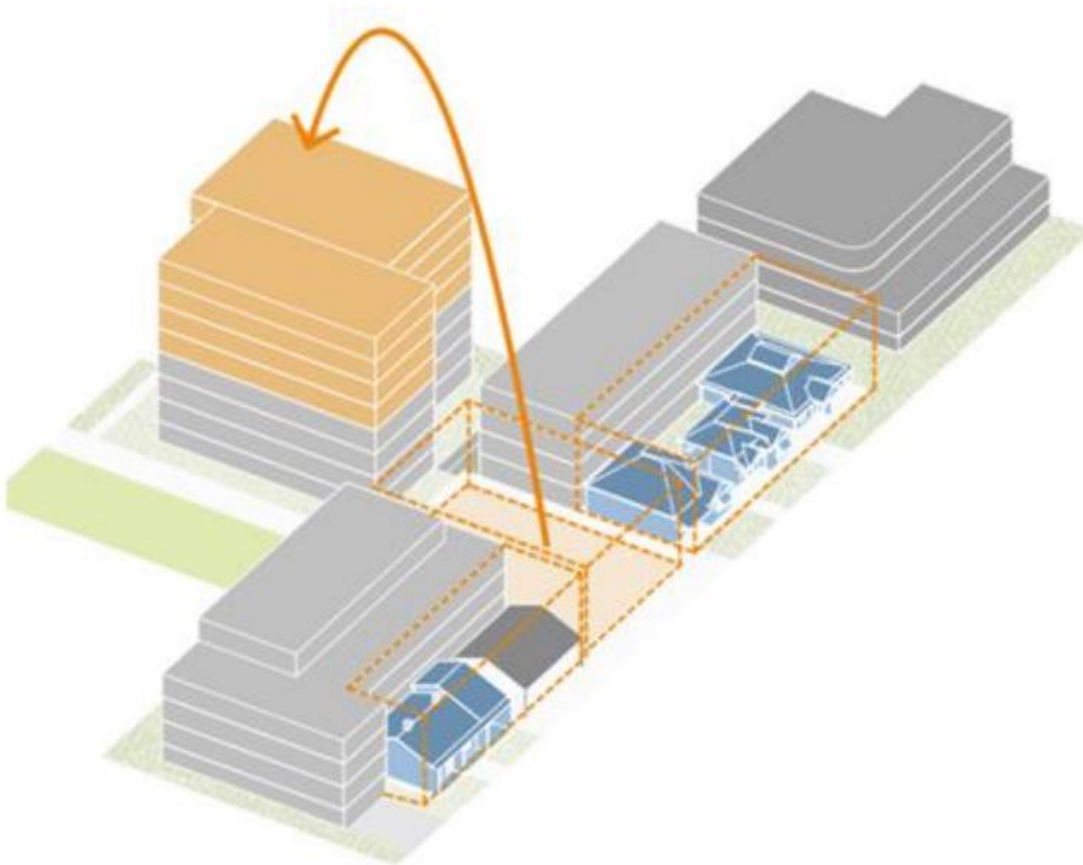


Figure 1010 | Proposed approach to build form and massing. Note this in an earlier scheme presented to the SDRP, however demonstrates the rationale for redistributing the floor space (Source: CHROFI and MDP Architects)

75. The Department has carefully considered the concerns raised by Council and the public in relation to density. In the absence of a FSR control for the site, the Department considers that the density of the development should be informed by an assessment of the building form (e.g., height, setbacks, design quality), traffic, infrastructure capacity and amenity impacts.
76. In this regard, the Department has assessed the density of the proposed development and considers it acceptable for the following reasons:
 - the proposed building height and massing has been refined through a design review process by the State Design Review Panel (as outlined in Section 5.2.3) and further amended in response to submissions to allow for the retention of the six heritage listed cottages and creation of a new publicly accessible through site link and landscaped park
 - the proposed 4-storey buildings along Parraween Street and 8-storey building along Gerard Street reinforces the existing character of the site and surrounding properties

- the height and density are focused on the northern part and centre of the site, and provides adequate setbacks to boundaries to protect the amenity of neighbouring properties
- the proposed variations to building height would not result in unacceptable overshadowing, privacy, heritage, residential amenity or private view impacts as outlined in Sections 5.2.1, 5.2.4 and 5.3
- the proposal would provide a high level of residential amenity for future residents as discussed in Sections 5.4 Appendix D
- the proposal would not cause any adverse traffic impacts as the additional traffic generated by the proposal can be accommodated within the existing road network and nearby intersections will continue to operate at satisfactory levels with spare capacity, as discussed in Section 5.5
- the design and density of the proposal aligns with the local character statement for the North Cremorne Planning Area under Council's DCP, including the Waters Neighbourhood, within which the site is located
- the proposal's design response for the site ensures that the existing Parraween Street heritage cottages will be retained and enhanced through their integration and adaptive reuse as part of the RCF within Building 1, with the density and scale of Building 1 contributing to the transition from the single storey heritage items to high density residential built form.

77. The Department concludes that the density of the proposal is appropriate for the site, its existing urban context and is consistent with the desired character of site pursuant to the existing Zone R4 High Density Residential and planning controls that apply to the land and would not result in adverse impacts.

5.2.3 Site layout and design

78. The proposed development was referred to and considered by the SDRP on two separate occasions prior to the lodgement of the SSD application and EIS. On each occasion, the SDRP expressed their general support for the following elements of the proposal:

- the sitting and massing strategy, including the distribution of building mass away from Parraween Street to Gerard Street and transition in height
- preservation of the historic cottages
- the maintenance and enhancement of the community focus on Parraween Street and proximity to local amenity

- the extension of Ada Street as a public through-site link, including the design outcome that allows for the middle harbour view to be pulled through to Parraween Street
79. The SDRP recommended that design amendments be explored to allow for the relocation of the common areas and ancillary facilities (i.e., bar, swimming pool) from the basement to ground level.
80. The Department notes that the design and layout of the buildings were substantially amended to allow for the retention of the heritage cottages. Notwithstanding, key design elements initially supported by the SDRP have been carried over to the amended DA, including:
- the built form massing strategy
 - the proposed delivery of a new public through-site link and community focused design response.
81. Additionally, the amended design outcome for the site has allowed for the retention and protection of the heritage cottages by altering the design and massing of Buildings 1 and 2 to retain and adaptively reuse 78-88 Parraween Street.
82. The Department notes that the amended design retains the proposed communal bar, a portion of the RCF dining facilities and other ancillary facilities (e.g., swimming pool, gym and beauty spa) within the basement level. The Department has considered the Applicant's design response and the comments provided by the SDRP and considers, on balance, the location of these facilities at the basement level is acceptable as:
- the proposal was amended to accommodate and protect 78-88 Parraween Street which has restricted the ability to accommodate these facilities at ground level
 - suitable access is provided via lifts and stairs to these facilities without requiring conflict with back-of-house areas or the basement car park
 - a comprehensive landscape design is proposed for the lower courtyard that is generally open to the sky that will offer an acceptable outlook and high levels of amenity and sunlight access.
83. The Department has considered the advice of the SDRP and is satisfied that, through the SDRP review process, the proposal provides an appropriate high-quality architectural response within its context while delivering high amenity for future occupants.

5.2.4 Visual impacts

84. Public submissions raised concerns relating to visual impacts of the proposed development.

85. The Applicant provided a Visual Impact Assessment (VIA) which assesses the visual impacts of the development compared to a compliant development (four-storey built form with setbacks in line with the ADG) from key viewpoints from the public realm (see Figure 11 and Figure 12) from neighbouring properties.

86. The Applicant's VIA concludes:

- impacts on the public domain and Parraween Street and Gerard Street streetscapes would mostly be negligible to moderate, with the visual impact along Ada Street to the south towards the site assessed as being moderate-high
- impacts to private properties would generally be negligible from most adjoining properties, with the exception of low-moderate impacts to the lower ground level of 53 Gerard Street and westerly views from western facing units on 81B Gerard Street (i.e., ground level to level 4).

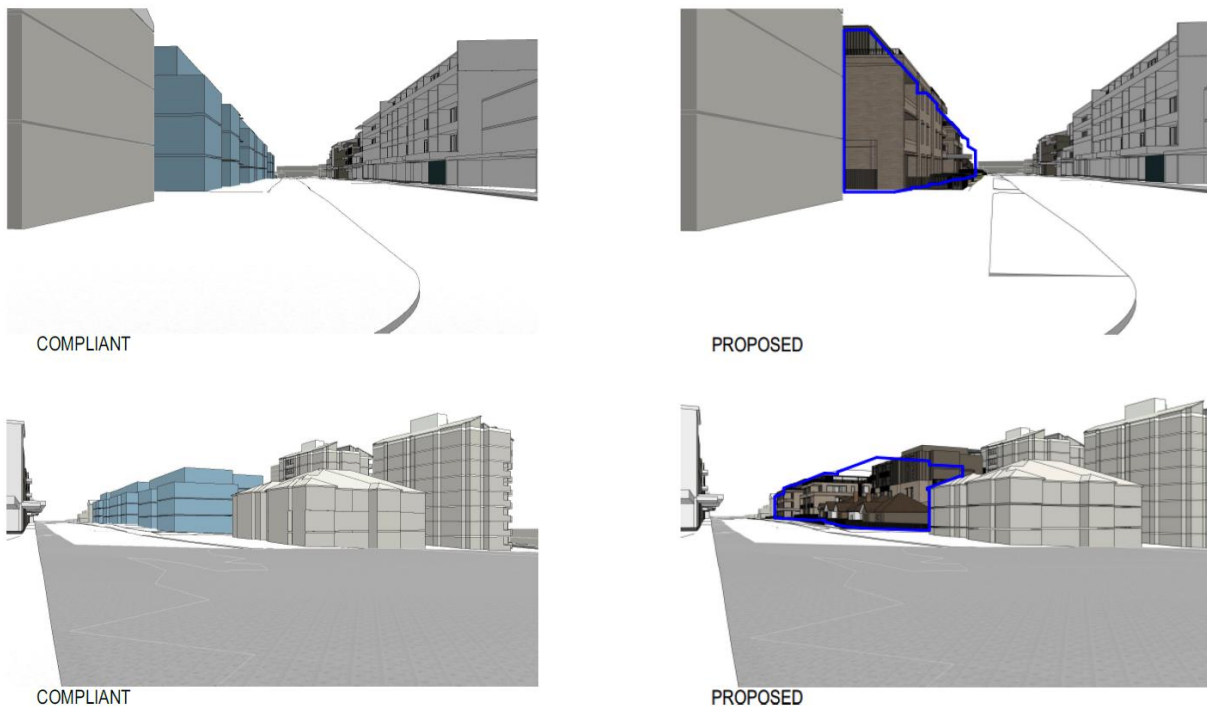


Figure 11 | Parraween Street Visual Analysis: Complaint Scheme vs Proposed (Source: Chrofi Architects and Morison Design Partnership Architects)

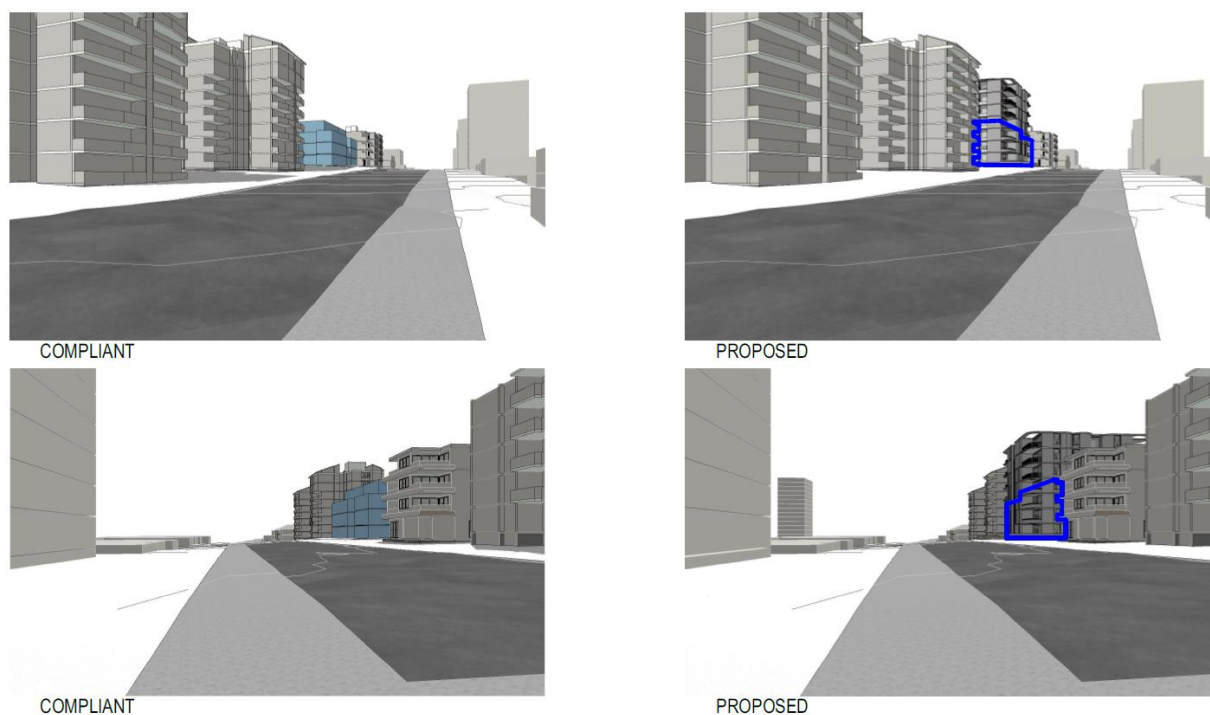


Figure 12 | Gerard Street Visual Analysis: Complaint Scheme vs Proposed (Source: Chrofi Architects and Morison Design Partnership Architects)

87. The Department has considered the Applicant's assessment of the visual impacts of the proposal on the public realm and the concerns raised by the community. The Department considers that the design and scale of the proposed buildings will be compatible with the existing streetscape and would not result in adverse visual impacts because:
- the retention of the cottages at 78-88 Parraween Street will maintain and enhance the streetscape setting
 - Building 1 (i.e., four storey RCF) is setback behind the heritage cottages on Parraween Street which reduces its visual prominence in the streetscape
 - Buildings 2 and 3 (i.e., the four-storey ILU buildings along Parraween Street) provide a built form outcome that is generally consistent with a complaint development outcome and generates no greater visual impact
 - Building 4 (i.e., seven storey ILU building on Gerard Street), although 11.45m (approximately three-storeys) taller than the NSLEP 2013 control, would result in a height and scale which is compatible with the eight storey buildings along the southern side of Gerard Street (Figure 12).
88. The Department has also considered the impacts to private properties below in Error! Reference source not found..

Table 8 | Visual impact assessment

Property	Location	Extent of impact
<p>59-63, 65-71, 73 & 75 Parraween Street (five to six storey shop-top housing RFBs)</p> <p>North facing aspect, including:</p> <ul style="list-style-type: none"> district and sky outlook street outlook 	<ul style="list-style-type: none"> Living rooms Balconies 	<p>District outlook towards the north across the site are partially interrupted by existing large high density residential development.</p> <p>The proposal will marginally diminish the existing views experienced with 82 – 95% of the existing views retained compared to a compliant scheme.</p> <p>The Department agrees with the Applicant's VIA that impacts would be negligible.</p>
<p>92 Parraween Street (three storey RFB)</p> <p>West facing aspect, including:</p> <ul style="list-style-type: none"> garden outlook sky outlook 	<ul style="list-style-type: none"> Living rooms 	<p>District and sky outlook to the west are partially interrupted by existing high density residential development.</p> <p>The Department agrees with the Applicant's VIA that impacts would be negligible.</p>
<p>53 Gerard Street (four storey RFB)</p> <p>West facing aspect, including:</p> <ul style="list-style-type: none"> garden outlook 	<ul style="list-style-type: none"> ground floor living room 	<p>The ground floor unit at 53 Gerard Street is the only unit within the building that does not have living areas fronting the street.</p> <p>The unit has garden outlook to the east, which is currently disrupted by the existing RFB at 61 Gerard Street (located on the development site and proposed to be demolished) which is currently setback 6 m.</p> <p>The proposal will improve the building separation and marginally impact on existing outlook compared to a compliant scheme.</p> <p>The Applicant's VIA assesses the impacts as being low. The Department supports the Applicant's assessment, but considers the impact could also be assessed as negligible on the basis that outlook to the sky is maintained under the current proposal.</p>
<p>81B Gerard Street (eight storey RFB)</p> <p>Primary north facing aspect, including:</p> <ul style="list-style-type: none"> sky and district outlook 	<p>Primary</p> <ul style="list-style-type: none"> Balcony Living room <p>Secondary</p>	<p>District and sky outlook from the primary northern aspect would be maintained and unimpacted by the proposal giving its siting west of 81B Gerard Street.</p> <p>The Applicant's VIA concludes impacts would be negligible.</p>

Property	Location	Extent of impact
Secondary west facing aspect, including: <ul style="list-style-type: none"> sky and district outlook 	<ul style="list-style-type: none"> Living room 	<p>District and sky outlook from the secondary western aspect are presently interrupted by existing large high density residential development on the northern side of Gerard Street (e.g., up to 15-storey RFBs at 20, 26-32, 36 & 48 Gerard Street).</p> <p>The height of Building 4 would further disrupt the westerly outlook of levels 5-7. There would be no additional impact to the outlook of the lower levels to ground level when compared to a compliant development.</p> <p>The Department agrees with the Applicant's VIA that impacts would be between negligible (at the lower levels) to moderate (at the upper levels).</p>

89. The Department has reviewed the Applicant's VIA and notes that the existing outlook from the surrounding residences is partly obscured by existing buildings within the locality.
90. In this context, the Department is satisfied that the Applicant has adequately demonstrated that surrounding residential properties would not experience any unacceptable adverse impacts to existing outlooks experienced when compared to an alternate complaint scheme. While the Department acknowledges that the proposal would interrupt existing outlook from the upper levels of 81B Gerard Street, the Department notes that the westerly outlook is secondary in nature compared to the primary northerly outlook from the same living rooms, which are maintained and unimpacted by the proposal.
91. The Department recognises in some instances a greater extent of private outlook would be retained if the proposal, particularly Building 4, was amended to comply with the maximum building height. However, the Department considers that a reduction in height to comply is unwarranted as the worst-case impacts are reasonable in this context as:
- affected district and sky outlooks do not include iconic views (e.g., Opera House, Harbour Bridge)
 - the affected properties would retain large components of existing district and sky outlook around the development.

5.3 External amenity impacts

Overshadowing

92. Council raised concerns in relation to unreasonable overshadowing due to the height breaches from Building 4, despite removal of the rooftop communal space and deletion of a storey from the scheme proposed under the EIS.
93. Public submissions raised concerns in relation to overshadowing to the southern side of Parraween Street, especially to outdoor alfresco dining areas. Residents of 92-96 Parraween Street and 1-9 Paling Street raised concerns of overshadowing from the proposed development.
94. The Applicant provided a shadow analysis for midwinter (22 June) which demonstrated that offsite shadowing impacts from the proposal would be minimal and confirmed there would be minimal shadow impacts on the southern side of Parraween Street where there is outdoor public seating for existing cafés.
95. The Department's assessment of the shadow analysis of the proposal has found that:
 - the redistribution of the built form bulk to the centre and northern part of the site ensures adequate building separation and results in minimal adverse overshadowing impacts on adjoining properties and the public domain
 - the additional height of Building 4 would result in minimal additional overshadowing impacts to 53 Gerard Street, compared to a compliant scheme, which is limited to before 10am at all times of the year
 - resulting overshadowing does not reduce solar access to windows serving main living rooms of adjoining residents to below two hours between 9 am – 3 pm mid-winter
 - 92-96 Paling Street (to the east) is not impacted by overshadowing from the proposal
 - windows to habitable rooms on the eastern elevation of 1-9 Paling Street (three storey RFB) will experience some mid-winter overshadowing impacts until 10 am, but is unaffected by the proposal after this time
 - overshadowing impacts to the eastern elevation of 53 Gerard Street are increased at 9 am during mid-winter but improve thereafter when compared to the impacts generated by the existing RFB on the site at 61 Gerard Street
 - properties on southern side of Parraween Street are not impacted by mid-winter shadows until late afternoon.

96. The Department concludes the proposal does not resulting in any unacceptable or adverse overshadowing impacts and the affected properties would continue to maintain more than two hours direct sunlight during mid-winter.

5.4 Internal residential amenity

97. The Housing SEPP, including the Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004, and the ADG and provide planning guidance and principles to ensure acceptable levels of amenity are provided to RCF beds and independent living units.
98. The Department has considered and assessed the proposal against the Housing SEPP, the Urban Design Guide and ADG at **Appendix D**, and concludes the proposal has been designed to provide a high level of amenity for future residents in accordance with the objectives and design guidance of these guidelines while maintaining a reasonable level of amenity to existing adjacent residents.
99. The Department is satisfied that the design of the proposed ILUs are generally consistent with the key ADG design criteria, with the exception of building separation, which is discussed below.
100. The Department has also considered concerns raised by Council and the community about solar access to the development below.

5.4.1 Building separation and visual privacy

101. Objectives 2F and 3F-1 of the ADG set out design criteria to ensure appropriate separation between buildings, windows and balconies is achieved for visual privacy, sunlight access and landscaping, recommending new buildings be sited and designed to ensure that habitable rooms/balconies are separated by a distance of (half the distance when measured to the boundary):
- up to four storeys (approximately 12 m):
 - 12 m between habitable rooms/balconies
 - 9 m between habitable and non-habitable rooms
 - 6 m between non-habitable rooms
 - five to eight storeys (approximately 25 m):
 - 18 m between habitable rooms/balconies
 - 12 m between habitable and non-habitable rooms
 - 9 m between non-habitable rooms

- no building separation is typically necessary where buildings contain blank walls.

102. The ADG does not apply to the RCF, and in this regard the Department has considered the proposed building separation and setbacks of Buildings 2 to 4 to neighbouring property boundaries, having regard to the ADG recommendations as outlined in Table 9 and Table 10.
103. The Applicant considers the proposal is largely consistent with the recommended privacy and building separation ADG design criteria and that balconies and windows have been turned away or offset to preserve privacy and maximise solar access.
104. Public submissions raised concern about potential privacy issues from overlooking from the proposal.

Table 9 | Department's consideration of building setbacks to boundaries to neighbouring residential properties

Building	ADG recommended setback	Proposed	Consistent (Yes/No)
Building 4 to 81B Gerard Street	<ul style="list-style-type: none"> • 6 m (up to 4 storeys) • 9 m (5 to 7 storeys) 	<ul style="list-style-type: none"> • 6.038 m from living/dining/bedrooms/ balconies between ground level to level 7 	<p>Yes, for up to and including level 4.</p> <p>No, above 5 storeys, however the proposed separation for habitable rooms located on levels 5 to 7 boundary is considered satisfactory noting that a total separation of 17.57 m is provided between Building 4 and the adjoining RFB.</p>
Building 4 to 53 Gerard Street	<ul style="list-style-type: none"> • 6 m (up to 4 storeys) • 9 m (5 to 7 storeys) 	<ul style="list-style-type: none"> • 16.86 m 	Yes
Building 3 to 53 Gerard Street	<ul style="list-style-type: none"> • 6 m (up to 4 storeys) 	<ul style="list-style-type: none"> • 6 m 	Yes
Building 3 to 50 Parraween Street	<ul style="list-style-type: none"> • 6 m (up to 4 storeys) 	<ul style="list-style-type: none"> • 8.4 m 	Yes.

Table 10 | Department's consideration of internal building separation between buildings on the site

Building	ADG recommended internal separation	Proposed	Consistent (Yes/No)
Building 1 (RCF) & Building 2	<ul style="list-style-type: none"> 12 m (up to 4 storeys) 	<ul style="list-style-type: none"> 4.25–8.7 m 	No, but acceptable noting the eastern elevation of the north-eastern corner of Building 2 has been designed predominantly without any windows openings. Windows provided are offset to ensure privacy is maintained.
Building 2 & retained cottage at 78 Parraween St	<ul style="list-style-type: none"> 12 m (up to 4 storeys) 	<ul style="list-style-type: none"> 5.4 m 	<p>No, but acceptable subject to conditions.</p> <p>An existing window on the western elevation of 78 Parraween Street will be retained, to provide daylight to a proposed RCF bedroom living room space within the existing heritage cottages. The existing window is directly opposite a slot window to an ILU bedroom on the ground level of Building 2.</p> <p>The Department recommends a condition requiring additional privacy treatments to the slot window to ensure satisfactory privacy levels are achieved for future residents.</p>
Building 2 & Building 3	<ul style="list-style-type: none"> 12 m (up to 4 storeys) 	<ul style="list-style-type: none"> 21.86 m 	Yes
Building 2 & Building 4	<ul style="list-style-type: none"> 12 m (up to 4 storeys) 	<ul style="list-style-type: none"> 6.07–11.9 m 	<p>No, but acceptable for the following reasons:</p> <ul style="list-style-type: none"> where a 6 m separation is proposed, the northern elevation of Building 2 does not contain any openings that provide a direct line of sight towards Building 4 and give rise to privacy concerns balconies on the northern elevation of Building 2 are appropriately offset so a direct line of site towards the habitable rooms of Building 4 privacy will be enhanced for habitable rooms in Building 4 that are only separated 6 m through

Building	ADG recommended internal separation	Proposed	Consistent (Yes/No)
			<p>the use of pre-cast concrete battens to the window exterior</p> <ul style="list-style-type: none"> the 11.9 m separation is considered appropriate, noting that northern elevation of level 4 of Building 2 does not contain any openings ensuring privacy between occupants of each building at the upper levels is maintained to a satisfactory level.

105. The Department has carefully considered the concerns raised in public submissions, however is satisfied that the proposal meets or exceeds the ADG recommended building setbacks to boundaries in all instances as outlined in **Table 9**, which are acceptable for the reasons outlined above. On this basis, the Department concludes that the proposal is unlikely to result in unacceptable overlooking/privacy impacts to neighbouring properties.
106. The Department is also satisfied that the proposed internal building separation is generally satisfactory and where recommended numerical criteria are not achieved, privacy would be maintained through the room/window orientation and use of solid/blank and screen walls and screening blades.
107. The Department recommends additional treatment to a proposed slot window to the ground level ILU on the eastern ground floor to ensure satisfactory privacy to the RCF bedroom in 78 Parraween Street is achieved. A condition requiring the recommended privacy treatment has been proposed.
108. In conclusion, the Department is satisfied that the proposal provides acceptable setbacks and separation to ensure an acceptable level of visual privacy is provided for future residents and adjoining properties, subject to recommended conditions.

5.4.2 Solar access

109. The Housing SEPP requires 70% of apartments within an ILU building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm mid-winter. The ADG also recommends that no more than 15% of apartments within a building receive no sunlight at mid-winter.
110. Council raised concerns in relation to the overshadowing of the plaza, the lower ground levels of Building 1 and north facing balconies of Building 2. Public submissions raised concerns in relation to overshadowing of the public through-site link.

111. The Department has considered the concerns raised by Council and the public and the Applicant's shadow diagrams, SEPP 65 Design Verification Statement and Urban Design Report and concludes that the levels of solar access achieved for the proposal is satisfactory as:

- the public through-site link will achieve at least 2 hours sunlight to at least approximately 50% of the space at all times, with associated seating located throughout to take advantage of the moving sun path
- more than 70% of all ILU apartments will achieve a minimum of 2 hours sunlight in accordance with the non-discretionary development standard at section 108(2)(g) of the Housing SEPP and as recommended in the ADG, while only two ILUs would receive no direct sunlight
- the lower ground level RCF/bar area (which does not contribute to the RCF's minimum communal open space requirements) has been designed with a dense landscaped outlook receives intermittent levels of sunlight throughout mid-winter which is adequacy complimented by the satisfactory levels of sunlight received at the internal and external communal open space areas at the eastern end of Building 1
- all ILU floor layouts have been designed to maximise amenity for future occupants by:
 - locating main living spaces adjacent to the primary private open space (i.e., balconies and terraces) which have been oriented northwest, northeast or southeast to maximum daylight access
 - achieving natural cross ventilation to between 94-100% of all apartments
 - providing private open space areas more than the minimum areas specified under the Housing SEPP.

5.5 Other issues

112. The Department's consideration of other issues is summarised in Table 11 below.

Table 11 | Assessment of other issues

Consideration	Recommended conditions
Permissibility / Land Use Public submissions raised concern that the SSD pathway was used to bypass existing planning controls and Council's vision for the area. It was also questioned whether seniors housing was needed over general	No changes or conditions required.

Consideration	Recommended conditions
<p>residential and affordable housing in the current housing crisis, in particular at such a highly serviced location.</p> <p>In response, the Applicant noted:</p> <ul style="list-style-type: none"> the proposal as a CIV of more than \$30 million, comprises both ILUs and RCF beds and is located in metropolitan Sydney and is therefore identified in section 28, Schedule 1 of the Planning Systems SEPP as SSD for the purposes of the EP&A Act the Housing SEPP allows for the delivery of seniors housing in a zone that permits residential flat buildings, as such, the development is permissible the proposal would significantly increase the overall housing yield on the site, providing housing stock for an ageing population that is also experiencing housing shortages <p>The Department is satisfied that the proposal satisfies the requirements for being SSD under the Planning Systems SEPP and on this basis is unable to be assessed as local or regionally significant development. The Department also notes the SSD assessment process is a rigorous assessment process (that applies development standards in the same way as they would otherwise apply), including engagement with Council, the community and relevant stakeholders and that all issues raised have been considered in this assessment report.</p> <p>The Department notes that seniors housing is permissible with consent on the site and considers the site, with access to facilities and services, is suitable for seniors housing as outlined in Appendix D.</p>	
<p>Construction impacts</p> <p>Public submissions raised concern with the impact of construction on the locality and amenity of surrounding residents, in particular concerns related to traffic generation, noise, dust/odour, etc impacts, the duration of construction due to the scale of the development and concern regarding compliance with construction requirements.</p> <p>The EIS, Amendment Report and RTS included:</p> <ul style="list-style-type: none"> Preliminary Construction Traffic Management Plan (CTMP) which included consideration of construction traffic, parking and access. The report included several recommendations relating to the 	<p>Conditions C1 to C20, C23 to C25, D3 to D25 of Appendix F</p>

Consideration	Recommended conditions
<p>preparation of a detail CTMP, control of construction vehicle movements and works zones.</p> <ul style="list-style-type: none"> Noise Impact Assessment that included: <ul style="list-style-type: none"> a construction noise and vibration assessment, which predicted construction noise levels between 44-92 dBA $L_{Aeq\ 15\ mins}$ at nearby sensitive receivers during all construction phases that would exceed 75 dBA $L_{Aeq\ 15\ mins}$ (i.e., above highly noise affected level) provided recommendations to ensure predicted construction noise and vibration impacts are mitigated to minimise impacts to nearby sensitive receivers, including but not limited to, consultation with sensitive receivers, noise monitoring, implementing appropriate safe working distances, minimising/preventing simultaneous noise generate works and locating noise generating work away from sensitive receivers Construction and Demolition Waste Management Plan which considered construction waste removal, recycling practices and minimisation and provided recommendations where relevant. <p>The Department has recommended several conditions to ensure the construction does not cause unreasonable impact to the amenity of adjoining residents or result in any damage to adjoining development and public domain.</p> <p>The Department is satisfied that Construction impacts associated with the proposal can be appropriately managed, subject to conditions of consent.</p>	
<p>Noise and vibration (operational)</p> <p>The Applicant's NIA provides recommendations for acoustic treatments to mitigate impacts to neighbouring properties and ensure the future residential development meets the relevant residential noise criteria. These include:</p> <ul style="list-style-type: none"> glazing recommendations external wall and roof construction requirements mechanical ventilation and plant equipment requirements, to mitigate impacts for future occupants and surrounding residents 	<p>Conditions B17, E13 and F14.</p>

Consideration	Recommended conditions
<ul style="list-style-type: none"> operational management recommendations for the communal areas, including no more than 50 persons utilising the space at any one time and restricted usage and no amplified music. <p>The Department has considered the findings and recommendations of the NIA. The Department is satisfied that any noise and vibration impacts are acceptable and will not adversely impact the amenity of existing and future residents, subject to conditions.</p>	
<p>Traffic</p> <p>Public submissions raised concern with the increase traffic generation from the proposed development and the potential safety and congestion impacts of the single entry/exit driveway proposed. Council raised concern about potential impacts at the intersection of Winnie Street and Military Road (which is a classified road). However, TfNSW were satisfied that the proposal is unlikely to have significant impacts on the classified road network.</p> <p>The Applicant provided a Traffic and Parking Impact Assessment (TPIA) that included SIDRA modelling of prominent intersections surrounding the site. The TPIA concluded that:</p> <ul style="list-style-type: none"> the development would generate 16-19 vehicle trips during peak AM and PM periods, which is 6-8 trips less than the existing residential use of the site the intersection of Winnie Street and Military Road would continue to operate at level of service A in the am peak and B in the pm peak, with acceptable delays and spare capacity the proposed entry/exit driveway to the site will operate at a high level of efficiency. <p>The Department has carefully considered the concerns raised in submissions however is satisfied that the Applicant's TPIA has demonstrated that the surrounding intersections and road network have sufficient capacity to cater for traffic generated by the proposed development and on this basis the proposal is unlikely to cause adverse impacts.</p>	<p>No recommended conditions.</p>

Consideration	Recommended conditions
<p>Car parking</p> <p>The Housing SEPP provides non-discretionary development standards (NDDS) in relation to car parking for ILUs and RCFs. The proposal initially sought approval for 134 car parking spaces, however was amended to reduce the total car parking provision to 88 spaces, which meets the Housing SEPP requirements (for at least 85 spaces) as follows:</p> <ul style="list-style-type: none"> • 3 spaces for the 41 bed RCF (1 space per 15 RCF beds) • 8 staff parking spaces (1 space per 2 employees on duty at the same time (15 staff)) • 77 resident car parking spaces (0.5 spaces per bedroom) <p>The proposal also provides an ambulance parking space in accordance with the Housing SEPP NDDS and a car wash bay.</p> <p>The Applicant's TPIA also confirms that the spaces will comply with the parking requirements under section 107, section 108 and Schedule 4 of the Housing SEPP.</p> <p>Council and some public submissions initially raised concerns about the excess car parking, and other submissions raised concern about the lack of parking and demand for on-street parking on Parraween Street.</p> <p>The Department has carefully considered the concerns raised in submissions, however considers that the proposal provides for an appropriate amount of parking for residents and staff in line with the Housing SEPP. The Department further notes that the 18 existing driveways along Parraween Street and one Gerard Street driveway would be removed and replaced with one entry/exit driveway for the development on Parraween Street (in the location of the existing driveways to 50 and 52 Parraween Street) which will increase the amount of on-street parking opportunities along both site frontages.</p> <p><u>Bicycle Parking</u></p> <p>The proposal provides 20 bicycle spaces, exceeding the North Sydney Development Control Plan (NSDCP) which recommends 15 bicycle parking spaces for staff.</p> <p>The Department considers the proposed 20 bicycle parking spaces to be satisfactory.</p>	

Consideration	Recommended conditions
<p>Pedestrian safety</p> <p>Public submissions raised concern with pedestrian safety, particularly in relation to residents accessing services across Military Road, and safety concerns for residents crossing Parraween Street due to an increase in traffic from the development.</p> <p>Both Parraween Street and Military Road have been designed with traffic calming devices and pedestrian safety devices to control pedestrian movements.</p> <p>Parraween Street provides a pedestrian ('zebra') crossing to the west of the site, directly across from a through-site link to Military Road. Military Road provides fencing along the street frontage to prevent pedestrians from being able to cross the road at any point except the signalised pedestrian crossing.</p> <p>The Department is satisfied that the existing pedestrian infrastructure is sufficient to provide adequate safety for all pedestrians as well as future residents accessing services on either side of Military Road and pedestrian movements in the immediate vicinity of the site.</p>	<p>No conditions required.</p>
<p>Landscaping, Tree Removal and Biodiversity</p> <p>The Applicant's proposal is supported by a Landscape Design Report, landscape plans and an Arboricultural Impact Assessment Report. Approval is sought for the removal of 110 mature trees from the site, the majority of which are mainly introduced or invasive species. The landscape design for the proposal will also accommodate the relocation of nine existing trees</p> <p>The Department and BCS issued a BDAR waiver for the proposal on the basis that the site is in a highly urbanised environment, the existing vegetation is not naturally occurring and provides little potential for threatened species habitat.</p> <p>BCS also reviewed the proposal and provided recommended conditions in relation to:</p> <ul style="list-style-type: none"> microbat threatened species surveys being undertaken prior to a construction certificate being issued and for management practices to be implemented during tree removal 	<p>Conditions B13, C15, C16 and D18</p>

Consideration	Recommended conditions
<ul style="list-style-type: none"> the requirement for an experienced wildlife handler to be present to re-locate any displaced fauna that may be disturbed during works. <p>Council, however, raised concerns with the loss of tree canopy cover and that if any approval is granted, suitable mature replacement canopy trees must be provided. Public submissions also raised concerns about impacts on existing trees, the number of trees proposed to be removed and the insufficient amount of landscaping proposed.</p> <p>The Department notes the Applicant's landscape design includes significant tree planting and landscaping over the site, including the through-site link and public domain. This includes 183 new canopy trees as well as 23 trees that will be retained and protected onsite (inclusive of the nine relocated trees).</p> <p>The total number of proposed new, retained and relocated trees equates to a 45% tree canopy coverage across the site at the time of maturity. The planting palette selected responds to the scale of the existing and proposed built form, drawing on a range of local endemic and adapted species.</p> <p>The Department considers the landscape response for the proposal to be satisfactory and adequately compensates for the proposed loss of trees.</p> <p>The Department considers the proposal would result in a high-quality landscape outcome which would positively contribute to the character of the site and surrounding streetscape and would not adversely impact biodiversity.</p>	
<p>Public through-site link</p> <p>Public submissions and Council suggested that the through-site link be designed and managed as genuinely accessible public space and ensure CPTED principles have been considered in the design.</p> <p>The Applicant provided a CPTED Report and a Plan of Management (PoM) for the public space. The Applicant also confirmed it would create an easement over the link to allow public access.</p> <p>The Department has considered the Applicant CPTED report and PoM and considers that the public through-site link has been appropriately designed to ensure clear demarcation between public and private areas through landscaping and fencing design along the western and eastern edges.</p>	<p>Condition E38 and F7.</p>

Consideration	Recommended conditions
<p>The Department is satisfied the proposed design of the through-site link has satisfactorily considered and incorporated CPTED principles through the implementation of appropriate lighting, CCTV cameras, wayfinding devices, and accessible distress alarms.</p> <p>The Department recommends conditions of consent requiring an easement for public access, implementation of the CPTED measures and ongoing maintenance of the through site link.</p>	
<p>European Archaeology</p> <p>The Applicant prepared a Historical Archaeological Assessment (HAA) to assess the potential archaeological potential within the development site and identified areas of moderate to high archaeological potential. The HAA outlined the following recommendations in order to protect historical archaeology on the site:</p> <ul style="list-style-type: none"> • an Archaeological Research Design and Excavation Methodology (ARD&EM) to establish a protocol for the management of finding potential archaeological remains, including testing, monitoring and/or salvage • all site workers must undertake a heritage induction as part of a Construction Heritage Management Plan to ensure workers are aware of their statutory obligations under the Heritage Act and the penalties for breaching these obligations. • implementation of an unexpected finds protocol, including the ceasing of work in the vicinity of the find and contacting an archaeologist immediately to assess the find. <p>HNSW Heritage Council advised it supports the recommendations of the HAA.</p> <p>The Department is satisfied that with the implementation of the recommendations of the HAA, potential items of archaeological significance are able to be salvaged and protected.</p>	<p>The Department recommends a condition requiring implementation of the recommendations of the HAA.</p>
<p>Aboriginal Cultural Heritage</p> <p>The Applicant provided an ACHAR which considered the potential impacts of the development on Aboriginal cultural heritage and archaeology.</p> <p>The ACHAR found that no Aboriginal objects or areas of archaeological potential were identified within the site. The ACHAR provided</p>	<p>The Department recommends the inclusion of HNSW (ACH) conditions</p>

Consideration	Recommended conditions
<p>recommendations including continued consultation with registered Aboriginal parties and an unexpected finds protocol in relation to Aboriginally specific relics or remains.</p> <p>HNSW (ACH) reviewed the ACHAR and generally agreed with the conclusions of the assessment. HNSW (ACH) recommended condition of consent in relation to ongoing engagement with Registered Aboriginal Parties and management of unexpected finds.</p> <p>Subject to compliance with conditions, the Department is satisfied that sufficient consideration has been given to the Aboriginal cultural heritage of the site, and recommendations for the management of the discovery of significant relics and remains have been provided.</p>	
<p>Community engagement</p> <p>Public submissions raised concerns about a lack of genuine community consultation, negative property negotiations for site acquisition, review periods as being short and little consideration to objections raised.</p> <p>The Applicant submitted an engagement report with the EIS, stating that community engagement was carried out in accordance with the Department's 'Undertaking Engagement Guidelines for State Significant Projects'. In addition, the Applicant provided a RTS on both exhibition of the EIS and the Amended DA detailing matters raised, responses provided and amendments to the proposal, including the retention of heritage items, in response to issues raised by Council, agencies and the community.</p> <p>The Department's engagement is summarised in section 4.</p> <p>The Department considers consultation and engagement on the proposal has been reasonable and proportionate.</p>	No conditions recommended
<p>Flooding</p> <p>The Applicant provided a Stormwater and Flooding Report and Flood Impact Assessment (FIA) which identifies that the site is not flood affected, nor does it become isolated during a PMF event. However, the supporting technical reports identify that surrounding road networks may become inundated for short periods (e.g., less than one hour) during such events up to approximately 0.2 m in depth.</p>	The Department recommends a condition requiring implementation of the FERP.

Consideration	Recommended conditions
<p>The proposal would not have any further impacts on the flooding conditions of the surrounding areas, including depths, areas impacted or duration.</p> <p>The SES recommended the Applicant develop a Flood Emergency Response Plan (FERP) to mitigate risks associated with site isolation due to flooding, further modelling for rainfall runoff and consideration of above-ground car parking options to reduce risks associated with basement car parks.</p> <p>The Applicant submitted a FERP as part of the RtS, which:</p> <ul style="list-style-type: none"> • details the flooding surrounding the site, • details an evacuation route to the nearest hospital (i.e., Royal North Shore) • provides general advice for monitoring and when decisions should be made. • dictates that no person, except emergency services, should drive through flood waters at any time • the site would have continued access to electricity and water • recommends that vulnerable residents requiring constant medical attention be relocated prior to extreme rainfall events, or to shelter in place until the event passes. <p>The Department is satisfied with the proposed flood measures and recommends a condition requiring the mitigation strategies identified in the FERP are implemented.</p>	
<p>Forced relocation of existing residents</p> <p>Public submissions raised concerns that the proposal would result in forced relocation of existing residents.</p> <p>The Department notes that the site is currently occupied by 24 dwellings (mixture of semi attached and detached dwellings) and one RFB. Under planning legislation, applications for SSD cannot be approved without landowner's consent. The Department has received signed landowners consent for the proposed SSD application to be carried out over the properties which form the proposal.</p>	<p>No conditions recommended.</p>

Consideration	Recommended conditions
<p>Pathways operational issues</p> <p>Public submissions raised concerns that the future facility will not provide suitable care to senior residents.</p> <p>The Department is satisfied that the proposal has been designed to meet and comply with the relevant standards outlined in the Housing SEPP, including required accessibility standards for seniors housing developments.</p> <p>The Department also notes the operation and management of seniors housing facilities is subject to separate legislation and policy, including the Retirement Villages Act 1999 and Retirement Villages Amendment (Operator Obligations) Regulation 2022 that regulates the operation, management and reporting of data.</p>	<p>No conditions recommended.</p>
<p>Property values</p> <p>A concern was raised that the proposal would negatively impact on property values.</p> <p>The Department has assessed the merits of the proposal in detail within section 5 of this report and concludes, subject to conditions, the development has acceptable impacts. The Department is therefore satisfied the proposal is unlikely to result in any significant adverse amenity impacts.</p>	<p>No conditions recommended.</p>
<p>Community benefit</p> <p>Public submissions raised concern with the lack of social or community benefit of the proposal and that the proposal was not in the interests of the Cremorne community and was only being undertaken to benefit the developer.</p> <p>The proposed seniors housing will increase the supply of housing for an aging population which is considered to be in the public interest. The proposal will also deliver tangible community benefits in the form of a publicly accessible though site link, as well as payment of local infrastructure contributions in accordance with the North Sydney Local Infrastructure Contributions Plan 2020.</p>	<p>The Department recommends conditions requiring the payment of local contributions. The Department also recommends a condition requiring an easement and/or restriction or public positive covenant to provide for public access within the through the through-site link.</p>

Consideration	Recommended conditions
<p>Incompatible land use</p> <p>Public submissions noted that the surrounding locality was growing (e.g., restaurants and bars) and the streets and vibrancy were improving and raised concerns that future seniors housing occupants would likely object to these proposals leading to earlier closing times and reduced vibrancy.</p> <p>The Applicant's Noise Impact Assessment outlines that the proposed ILU apartments and RCF beds would be acoustically treated (e.g., glazing and façade treatments) to ensure the internal noise level criteria for habitable spaces is met and satisfactory amenity levels are achieved. Such measures will help to minimise any external noise emissions from impacting on future residents.</p> <p>The Department notes that any future application or proposal for development within the surroundings would be considered by the relevant consent authority in accordance with the relevant legislation.</p>	<p>The Department recommends conditions requiring the recommendations of the Applicant's NIA to be implemented, including window glazing specifications.</p>
<p>Developer political donations</p> <p>Submissions questioned whether the Applicant or associated parties have made any political donations.</p> <p>The EP&A Act requires the public disclosure of donations or gifts when lodging or commenting on development proposals to improve transparency of the planning system.</p> <p>It is the responsibility of the Applicant to ensure they have met the requirements specified under the EP&A Act. Disclosure requirements also apply to individuals or entities lodging submissions in objection or support to these types of proposals.</p> <p>At the time of lodgement, the Applicant did not disclose any political donations or gifts.</p>	<p>No conditions recommended.</p>
<p>Affordable seniors housing</p> <p>A submission raised concerns that there was no provision for low income seniors housing beds (i.e., affordable seniors housing) and that there was a need for such housing for the seniors community.</p> <p>The Department notes that there is no legislative requirement or local provisions under NSLEP 2013 mandating the requirement to provide affordable housing or affordable seniors housing.</p>	<p>No conditions recommended.</p>

6 Evaluation

113. The Department's assessment has considered the relevant matters and objects of the EP&A Act, including the principles of ESD, advice from government agencies, local council and public submissions, and government policies and plans.
114. The Department's assessment concludes that the proposal is acceptable as:
- It would support State government priorities to deliver well-located housing as it will deliver 58 new ILUs and 41 RCF beds to meet the changing needs of an ageing population in an accessible location close to Cremorne town centre
 - It is permissible with consent and would provide a high-density housing development, and ancillary uses, consistent with the objectives of Zone R4 High Design Residential under the NSLEP 2013
 - the proposed four to seven storey building heights and forms would be compatible with the envisaged character of the area and provide an appropriate built-form relationship to adjoining eight to 15 storey development in Gerard Street and lower scale 3 to 5 storey development and existing heritage items in Parraween Street
 - the development proposes the retention and adaptive reuse of six heritage listed cottages at 78 – 88 Parraween Street as part of the proposed RCF, allowing for their conservation and continued residential use, including the reinstatement and retention of original building elements and landscaping
 - it would not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
 - it would provide a high level of internal and external amenity for future residents of the ILUs and RCF in line with the principles and design criteria of the ADGO and Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004
 - it would deliver public benefits including a public through-site link and landscaped park and generate up to 150 construction jobs and 80 operational jobs.
115. The Department has recommended a range of conditions to manage any residual environmental impacts. See the recommended conditions of consent at **Appendix F**.
116. The Department considers the impacts of the development are acceptable and can be appropriately managed or mitigated through the implementation of recommended conditions of consent. Consequently, the Department considers the proposal is in the public interest and is approvable, subject to conditions.

Appendices

Appendix A – List of referenced documents, submissions and advice

The following documents can be accessed at <https://www.planningportal.nsw.gov.au/major-projects/projects/pathways-cremorne-seniors-housing>

- Environmental Impact Statement
- Amendment report
- Response to submission report
- Applicant's additional information
- Biodiversity Development Assessment Report
- Submissions (public and Council)
- Government agency advice
- Independent heritage advice

Appendix B – Site legal property descriptions

Street Number	Street	Lot/Section/Plan
50	Parraween Street	1/-/DP1050050, 30/2/DP4785
52	Parraween Street	A/-/DP366345
54	Parraween Street	B/-/DP366345
56	Parraween Street	C/-/DP366345
58	Parraween Street	A/-/DP419832
60	Parraween Street	B/-/DP419832
62	Parraween Street	A/-/DP412718
64	Parraween Street	B/-/DP412718
66	Parraween Street	1/-/DP1001062
68	Parraween Street	2/-/DP1001062
70	Parraween Street	X/-/DP442664
72	Parraween Street	Y/-/DP442664
74	Parraween Street	A/-/DP438187
76	Parraween Street	B/-/DP438187
78	Parraween Street	1/-/DP441402
80	Parraween Street	2/-/DP441402
82	Parraween Street	1/-/DP19887
84	Parraween Street	2/-/DP19887
86	Parraween Street	3/-/DP19887
88	Parraween Street	4/-/DP19887
59-61	Gerard Street	CP/- /SP95237, 1/- /SP95237, 2/- /SP95237, 3/- /SP95237, 4/- /SP95237, 5/- /SP95237, 6/- /SP95237, 7/- /SP95237, 8/- /SP95237, 9/- /SP95237, 10/- /SP95237, 11/- /SP95237, 12/- /SP95237, 13/- /SP95237, 14/- /SP95237, 15/- /SP95237, 16/- /SP95237, 17/- /SP95237, 18/- /SP95237
63	Gerard Street	A/-/DP442573
65	Gerard Street	B/-/DP442573
67	Gerard Street	81/-/DP978497

Appendix C – Department’s consideration of submissions

Table 12 | Consideration of submissions

Issue	Consideration
Permissibility / Land Use	<p>The proposal is SSD under section 2.6(1) and section 28 of Schedule 1 of the Planning Systems SEPP, as it is a seniors housing development on land in the Greater Sydney region with an estimated development cost of more than \$30 million, includes a residential care facility and other components of the development are not prohibited on the land under an EPI.</p> <p>The site is suitable for the seniors housing development as it is permissible in the R4 High Density zone under section 81 of the Housing SEPP, is consistent with the objectives of the zone and would provide housing for seniors and people with a disability in an existing urban area with access to services, amenities and infrastructure.</p>
Height, bulk and scale	<p>The Department has considered the height bulk and scale of the proposal at Section 5.2 and Appendix E and is satisfied that the proposal is acceptable as:</p> <ul style="list-style-type: none"> the height and scale will be consistent with the existing character of the locality and is consistent with the site’s R4 High Density Residential zoning the distribution of built form and mass will allow for the retention and adaptive reuse of six local heritage cottages on the site and public benefits in terms of a publicly accessible through site link it would not result in unacceptable adverse visual, overshadowing, privacy or other amenity impacts to neighbouring properties.
Heritage impacts	<p>The proposal was amended to enable the retention of the six locally heritage listed cottages.</p> <p>As outlined at Section 5.1, the Department acknowledges the proposal will result in some impact to the heritage items, however, on balance considers these impacts acceptable.</p> <p>Recommended conditions of consent are proposed to ensure the heritage impacts are minimised (e.g., basement works, external façade restoration) and to manage works to support their adaptive reuse.</p>
Character	<p>The Department is satisfied that the proposal aligns with the local character statement for the North Cremorne Planning Area under Council’s DCP, including the Waters Neighbourhood, within which the site is located. In particular, the proposal has been designed to focus increased heights in the</p>

Issue	Consideration
	<p>north of the site consistent with the existing taller 8 to 15-storey buildings along Gerard Street and four storey development which is compatible with the scale of the existing town centre along Parraween Street.</p> <p>The proposed retention of the six heritage listed cottages will also enhance the connection to the streetscape and the recovery of the streetscape character, through the restoration of the street presentation by removing the multiple driveways and parking within the front setbacks and provision of consistent low timber picket fencing.</p>
Traffic	<p>The proposal is expected to generate 16-19 vehicle trips during peak AM and PM periods which would not result in any adverse impacts to the existing 'levels of service' at surrounding intersections. The proposed single entry/exit driveway will operate at a high level of efficiency.</p> <p>The Department is therefore satisfied that the proposal would not generate unacceptable impacts on the surrounding road network or cause increased delays at surrounding intersections.</p>
Parking	<p>The proposal includes 88 car parking spaces (i.e., 77 for the ILUs and 11 for the RCF) and 20 bicycle parking spaces.</p> <p>The Department has considered the Applicant's TTA and proposed parking and is satisfied that the requirements under sections 107 and 108 and Schedule 4 of the Housing SEPP have been met.</p> <p>The proposed retention and adaptive reuse of the dwellings fronting Parraween Street will also allow for the removal of 17 existing driveways servicing these dwellings, generating additional on-street parking for the local community. The Department also notes that the proposed bicycle parking provisions are in excess of that which is required under NSDCP.</p>
Pedestrian safety	<p>The Department notes that the proposal incorporates complaint and accessible levels across the site and at its interfaces. Both Parraween Street and Military Road have been designed with traffic calming devices and pedestrian safety devices to control pedestrian movements.</p> <p>The Department is satisfied that the existing pedestrian infrastructure is sufficient to provide adequate safety for all pedestrians as well as future residents accessing services on either side of Military Road and pedestrian movements in the immediate vicinity of the site.</p>

Issue	Consideration
Construction impacts	<p>The Department is satisfied that construction impacts associated with the proposal can be appropriately managed, subject to conditions of consent in line with the recommendations of submitted impacts assessments and management plans.</p> <p>The Department has recommended several conditions to ensure the construction does not cause unreasonable impact to the amenity of adjoining residents or result in any damage to adjoining development and public domain.</p>
Residential amenity	<p>The Department considered the proposed internal building separations are considered generally satisfactory. Where recommended numerical criteria are not achieved, privacy can be achieved through the room/window orientation and use of solid/blank and screen walls and screening blades.</p> <p>Further, the combination of both building setbacks and associated separation distances to adjoining properties are considered satisfactory and provide a sufficient distance that will ensure any potential offsite amenity impacts are satisfactorily minimised.</p> <p>The potential visual impacts of the proposal on the public realm is also considered to be appropriate and would not generate adverse impacts on the existing streetscape.</p>
View impacts	<p>The Department is satisfied that surrounding residential properties would not experience any adverse impacts to existing outlooks as outlined in Section 5.2.3.</p>
Overshadowing	<p>The Department is satisfied that the proposal does not resulting in any unacceptable or adverse overshadowing impacts and the affected properties would continue to maintain more than two hours direct sunlight during mid-winter.</p>
Trees / biodiversity/ landscaping	<p>The Department considers the proposal would result in a high-quality landscape outcome which would positively contribute to the character of the site and surrounding streetscape and would not adversely impact biodiversity. The proposed planting of 183 new canopy trees as well as 23 trees that will be retained and protected onsite (inclusive of the nine relocated trees) is satisfactory and adequately compensates for the proposed loss of 110 trees.</p> <p>It is also noted that a BDAR waiver was issued for the proposal and BCS raised no objections to the proposal and provided recommended conditions of consent.</p>

Issue	Consideration
Through-site-link	<p>The Department considers that the publicly accessible through-site link has been appropriately designed to ensure clear demarcation between public and private areas through landscaping and fencing design along the western and eastern edges.</p> <p>The Applicant intends to create an easement over the link to allow public access and this will form a condition of consent. The Department also recommends condition of consent to ensure the maintenance of landscaping and amenity of this space is the responsibility of the Applicant and satisfactorily maintained in perpetuity.</p> <p>The Department is satisfied the proposed design of the through-site link has satisfactorily considers and incorporated CPTED principles through the implementation of appropriate lighting, CCTV cameras, wayfinding devices, and accessible distress alarms.</p>
Consultation	<p>The Department is satisfied with the public consultation undertaken by the Applicant, as outlined in its EIS, prior to the lodgement of the SSD application.</p> <p>The Department also notes that the EIS and Amended DA were publicly exhibited in accordance with the relevant policies and legislation and considers consultation and engagement on the proposal has been reasonable and proportionate.</p>
Other issues	<p>Several other issues were raised in public submissions that raised matters that are not directly relevant to the assessment of the proposal.</p> <p>Regarding the impact of the proposal on existing residents of the site, landowner's consent was provided with the application satisfying the relevant requirements for lodging a development application.</p> <p>The Department's assessment also concludes that the proposal can operate in a satisfactory manner in accordance with the relevant legislation subject to the implementation of mitigation measures to reduce any potential impacts, including construction noise and traffic managements and operation to reduce potential impacts to neighbouring properties.</p>

Appendix D – Statutory considerations

Matters of consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is shown in Table 13 below.

Table 13 | Matters for consideration

Matter for consideration	Department's assessment
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Appendix D
EP&A Regulation	Appendix D
Likely impacts	See Section 5 (Assessment) of this report
Suitability of the site	See Section 2 – (Project background), Section 3 – (Policy and statutory context) and Section 5 – (Assessment)
Public submissions	See section 4 (Engagement) and section 5 (Assessment)
Public interest	See Section 4 (Engagement), Section 5 (Assessment) and Section 6 (Evaluation)

Objects of the EP&A Act

In determining the application, the consent authority should consider whether the project is consistent with the relevant objects of the EP&A Act (section 1.3) including the principles of ESD. Consideration of those factors is described in Table 14 below.

As a result of its analysis, the Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ESD.

Table 14 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	<p>The proposal promotes the social and economic welfare of the community by providing employment and seniors housing with good access to transport and urban services, and, in doing so, contributes to the achievement of State, regional and local planning objectives.</p> <p>The proposal does not impact any natural or artificial resources, agricultural land, or natural areas.</p>
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	<p>The proposal includes ESD initiatives and sustainability measures, which would allow the proposal to meet the BASIX requirements and achieve an average 6.45 NatHERS rating.</p>
(c) to promote the orderly and economic use and development of land,	<p>The proposal promotes the orderly and economic use and development of land as it will increase employment and housing opportunities near existing services and public transport.</p>
(d) to promote the delivery and maintenance of affordable housing,	<p>The proposal will assist in alleviating supply-pressure on the local market for seniors housing, which is necessary to improve the quantity and diversity of affordable housing options in the locality.</p>
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<p>The proposal will not adversely affect the protection of the environment. Also see the consideration of the biodiversity in this section.</p>

Object	Consideration
<p>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</p>	<p>The proposal includes the adaptive reuse of six NSLEP local heritage listed cottages on Parraween Street.</p> <p>The proposal is also located opposite the 'Hayden Orpheum Picture Palace (formerly Cremorne Orpheum Theatre)' which is listed on the State Heritage Register (SHR).</p> <p>As discussed at section 5, the Department concludes the proposed alterations and additions to the local heritage items on site are acceptable. Further the proposal would not result in adverse heritage impacts to the SHR listed item opposite the proposal.</p> <p>The proposal is accompanied by an Aboriginal Cultural Heritage Assessment Report and European Archaeological Report which confirm the proposal will not have any unreasonable heritage impacts.</p>
<p>(g) to promote good design and amenity of the built environment,</p>	<p>The proposal has been designed to minimise amenity impacts to neighbours and the surrounding environment and to provide good levels of internal amenity.</p> <p>Other amenity impacts would be managed by either the form of the development or by the recommended conditions of consent for mitigation measures during the construction and operational phase of the development.</p>
<p>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</p>	<p>The proposal demonstrates that construction work will be undertaken in accordance with national construction standards, relevant regulation and the site-specific construction management plan. Any impacts during this phase will be monitored and managed in keeping with the conditions of consent set out to mitigate any impacts.</p>

Object	Consideration
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal as outlined in Section 4. This included consultation with Council and other government agencies, and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	<p>The Department publicly exhibited the application and the amendment report which included notifying adjoining landowners, previous submitters and displaying the application on the Department's website.</p> <p>The Applicant's RTS and additional information was made available on the Department's website. Engagement activities carried out by the Department are detailed in Section 4.</p>

Ecologically sustainable development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

The Applicant has committed to achieving the following minimum sustainability targets:

- achieve minimum average of 6.45 star NatHERS rating
- meet or exceed BASIX minimum Energy and Water requirements
- meet the BASIX thermal performance requirements.

The development also provides for good sustainable design through the provision of adequate cross-ventilation and solar access.

The Department has considered the proposed development in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making

process via a thorough and rigorous assessment of the environmental impacts of the proposed development. The conservation principle has been applied through the provision of new landscaping around, on and within the development and the valuation principle has been applied through the efficient use of the site, application of sustainability measures and creation of new employment opportunities.

The Department has recommended conditions requiring the implementation of ESD measures and minimum sustainability targets.

Subject to the above conditions, the proposed development would be consistent with ESD principles, and the Department is satisfied the future detailed development is capable of encouraging ESD, in accordance with the objects of the EP&A Act.

Biodiversity development assessment report

Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD applications to be accompanied by a BDAR unless the Planning Agency Head and the Environment Agency Head determine that the project is not likely to have any significant impact on biodiversity values (as identified in the BC Act and in the *Biodiversity Conservation Regulation 2017*).

A BDAR waiver request dated 28 June 2023 was submitted to the Department. The Environment Agency Head and Team Leader, Social and Affordable Assessments, as delegate of the Planning Secretary, determined that the development is not likely to have any significant impact on biodiversity values. A BDAR waiver was granted on 5 July 2023.

The amended proposal required an updated BDAR waiver to reflect the changes to the original proposed development. An updated BDAR waiver request dated was submitted to the Department with a BDAR waiver granted on 4 September 2024 for the amended proposal.

EP&A Regulation

The EP&A Regulation requires the applicant to have regard to the *State Significant Development Guidelines* when preparing their application. In addition, the SEARs require the applicant to have regard to the following:

- *Social Impact Assessment Guideline for State Significant Projects*
- *Undertaking Engagement Guidelines for State Significant Projects*

The Department considers that the Applicant has considered the requirements of the EP&A Regulation including the above guidelines, as relevant to the application. The application includes a SIA and the Applicant has consulted with the local community and key stakeholders.

Environmental Planning Instruments (EPIs)

SEPP (Planning Systems) 2021

The proposal is SSD under section 2.6(1) and section 28 of Schedule 1 of the Planning Systems SEPP, being seniors housing development on land in the Greater Sydney region with an estimated development cost of more than \$30 million (\$87,462,938), includes a residential care facility and other components of the development are not prohibited on the land under an EPI.

State Environmental Planning Policy (Housing) 2021

The Housing SEPP seeks to enable the development of diverse housing types that meet the needs of the community, provide housing in areas of existing infrastructure and services, provide housing that minimises environmental impacts and reflects / enhances its locality, support short-term rental accommodation and mitigate the loss of existing affordable rental housing.

Housing SEPP – Housing Amendment

On 14 December 2023, the *State Environmental Planning Policy Amendment (Housing) 2023* (Housing Amendment) was gazetted and the Seniors Housing Design Guide (SHDG) was adopted. The Housing Amendment, among other things, included changes to Seniors Housing requirements, including non-discretionary development standards and design principles the SHDG includes design guidelines for Seniors Housing development.

The Housing Amendment included savings and transitional provisions which confirm that the changes within the Housing Amendment (including the SHDG) do not apply to applications lodged before the commencement date. As the application was lodged prior to 14 December 2023 the Housing Amendment and SHDG do not apply to the proposal.

Chapter 3 Diverse Housing

Chapter 3 of the Housing SEPP includes provisions related specifically to seniors housing development and RCFs. An assessment of the development against the relevant considerations of the Housing SEPP (excluding the Housing Amendment) and Seniors Living Policy: Urban design guidelines for infill development, March 2004 is provided below at Table 15 to Table 17.

Table 15 | Consideration of the relevant sections of the Housing SEPP

Housing SEPP section / requirement		Department's Consideration
CHAPTER 3 – PART 5 HOUSING FOR SENIORS AND PEOPLE WITH A DISABILITY		
Division 1 – Land to which Part Applies		
79. Land to which Part applies		The site is zoned R4 High Density Residential under the NSLEP.

Housing SEPP section / requirement	Department's Consideration
<p>This Part applies to land in the following zones—</p> <p>(c) Zone R4 High Density Residential</p>	
<p>81. Seniors housing permitted with consent</p> <p>Development for the purposes of seniors housing may be carried out with development consent—</p> <p>(a) on land to which this Part applies, or</p> <p>(b) on land on which development for the purposes of seniors housing is permitted under another environmental planning instrument.</p>	<p>Development for the purposes of seniors housing is permitted with development consent on the site under the provisions of section 81 of the Housing SEPP.</p>

Division 3 – Development Standards

<p>84. Development standards—general</p> <p>(1) This section applies to development for the purposes of seniors housing involving the erection of a building.</p> <p>(2) Development consent must not be granted for development to which this section applies unless—</p> <p>(a) the site area of the development is at least 1,000m², and</p> <p>(b) the frontage of the site area of the development is at least 20m measured at the building line, and</p> <p>(c) for development on land in a residential zone where residential flat buildings are not permitted—</p> <p>(i) the development will not result in a building with a height of more than 9.5m, excluding servicing</p>	<p>(1) The proposal includes the erection of a building. This section applies.</p> <p>(2)</p> <p>(a) Complies.</p> <p>(b) Complies.</p> <p>(c) N/A. Residential flat buildings are permitted within the R4 zone under the NSLEP.</p> <p>(3)</p> <p>(a) Complies</p> <p>(b) Complies</p> <p>(c) The proposal seeks a variation to the height control under the NSLEP (see section 5.2.1 and Appendix E)</p> <p>(4) N/A. The Applicant is not a social housing provider.</p>
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Housing SEPP section / requirement	Department's Consideration
<p>equipment on the roof of the building, and</p> <p>(ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m — the servicing equipment complies with subsection (3), and</p> <p>(iii) if the development results in a building with more than 2 storeys — the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.</p> <p>(3) The servicing equipment must —</p> <p>(a) be fully integrated into the design of the roof or contained and suitably screened from view from public places, and</p> <p>(b) be limited to an area of no more than 20% of the surface area of the roof, and</p> <p>(c) not result in the building having a height of more than 11.5m.</p> <p>(4) Subsection (2)(a) and (b) do not apply to development the subject of a development application made by the following —</p> <p>(a) the Land and Housing Corporation,</p> <p>(b) another social housing provider.</p>	

Housing SEPP section / requirement	Department's Consideration
<p>85. Development standards for hostels and independent living units</p> <p>(1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4.</p> <p>(2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4, sections 2, 7–13 and 15–20 if the development application is made by, or by a person jointly with, a social housing provider.</p>	<p>(1) Complies. The relevant sections of Schedule 4 have been considered at Table 16.</p> <p>(2) N/A. The Applicant is not a social housing provider.</p>
<p>87. Additional floor space ratios</p> <p>(1) This section applies to development for the purposes of seniors housing on land to which this Part applies if—</p> <p>(a) development for the purposes of a residential flat building or shop top housing is permitted on the land under another environmental planning instrument, or</p> <p>(b) the development is carried out on land in Zone E2 Commercial Centre or Zone B3 Commercial Core.</p> <p>(2) Development consent may be granted for development to which this section applies if—</p>	<p>(1) Residential flat buildings are permitted with consent under the NSLEP within the R4 High Density Zone.</p> <p>(2)</p> <p>(a) the site has an area of 7,355.3 m²</p> <p>(b) The proposal includes ILUs and RCF beds however there is no mapped maximum FSR under the NSLEP 2013.</p> <p>(c) The Applicant has submitted a clause 4.6 variation request to vary the NSLEP 2013 building height development standard.</p>

Housing SEPP section / requirement	Department's Consideration
<ul style="list-style-type: none"> (a) the site area of the development is at least 1,500m², and (b) the development will result in a building with the maximum permissible floor space ratio plus — <ul style="list-style-type: none"> (i) for development involving independent living units — an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or (ii) for development involving a residential care facility — an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or (iii) for development involving independent living units and residential care facilities — an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and (c) the development will result in a building with a height of not 	

Housing SEPP section / requirement	Department's Consideration
<p>more than 3.8m above the maximum permissible building height.</p>	
<p>88. Restrictions on occupation of seniors housing</p> <p>(1) Development permitted under this Part may be carried out for the accommodation of only the following –</p> <ul style="list-style-type: none"> (a) seniors or people who have a disability, (b) people who live in the same household with seniors or people who have a disability, (c) staff employed to assist in the administration and provision of services to housing provided under this Part. <p>(2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in subsection (1) will occupy accommodation to which the development relates.</p>	<p>(1) Complies.</p> <p>(2) The Department recommends conditions to ensure occupation is restricted to only persons specified by section 88 and the EP&A Regulation.</p>
<p>91. Fire sprinkler systems in residential care facilities</p> <p>(1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system.</p> <p>(2) Development for the purposes of the installation of a fire sprinkler system in a residential care facility may be carried out with development consent.</p>	<p>Complies.</p> <p>The proposal includes a fire sprinkler system and fire hydrant would be installed, in addition to a 100kL fire servicing water tank is located within the basement.</p>

Division 4 – Site Related Requirements

93. Location and access to facilities and services – independent living units

- (1) Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services –
- (a) by a transport service that complies with subsection (2), or
 - (b) on-site.
- (2) The transport service must –
- (a) take the residents to a place that has adequate access to facilities and services, and
 - (b) for development on land within the Greater Sydney region –
 - (i) not be an on-demand booking service for the transport of passengers for a fare, and
 - (ii) be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day, and
 - (c) for development on land that is not within the Greater Sydney region – be available both to and

- (1)
- (a) Complies.
 - (b) Complies. The proposal also includes on-site amenities and services for future residents including café, lounge/dining, gymnasium, indoor pool and spa, salon, media room and home care services.
- (2)
- (a) Public transport services operate along Gerard Street (approximately 70 m walking distance) and Military Road (approximately 180 m in walking distance), which includes bus routes to Sydney CBD, North Sydney, Royal North Shore Hospital and the Northern Beaches.
 - (b)
 - (i) Complies.
 - (ii) Complies.
 - (c) Complies
- (3)(a) Complies. The site is located approximately 160 m from the Cremorne Town Centre, and the main closest bus stop is approximately 180 m walking distance on Military Road.
- (b) Complies. (c) Complies.

Housing SEPP section / requirement	Department's Consideration
<p>from the site during daylight hours at least once each weekday.</p> <p>(3) For the purposes of subsections (1) and (2), access is adequate if—</p> <p>(a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and</p> <p>(b) the distance is accessible by means of a suitable access pathway, and</p> <p>(c) the gradient along the pathway complies with subsection (4)(c).</p>	
<p>94. Location and access to facilities and services—residential care facilities</p> <p>(1) Development consent must not be granted for development for the purposes of a residential care facility unless the consent authority is satisfied that residents of the facility will have access to facilities and services—</p> <p>(a) on-site, or</p> <p>(b) by a transport service other than a passenger service.</p>	<p>(1) (a) Complies. Allied health and support services will be provided on-site.</p> <p>(b) Complies. A variety of public bus options are available within 400m of the site that provides access to facilities and services.</p>
<p>95. Water and sewer</p> <p>(1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will—</p> <p>(a) be connected to a reticulated water system, and</p> <p>(b) have adequate facilities for the removal or disposal of sewage.</p>	<p>(1) (a) and (b)</p> <p>The Applicant has submitted a Utility Infrastructure Servicing Report detailing existing and proposed servicing and network utility arrangements for the site. The Department is satisfied adequate provisions and connections can be made for essential services subject to conditions. (2)</p> <p>(a) Complies. Sydney Water has the proposed development can be serviced from the existing 150mm water main located in Gerard Street. In relation to sewerage, it was advised the existing 225 mm SGW sewer main located within the site is</p>

Housing SEPP section / requirement	Department's Consideration
<p>(2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority—</p> <p>(a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or</p> <p>(b) if reticulated services are not available—must satisfy the relevant authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.</p>	<p>conflicting with the proposal and the Applicant is required to adjust/deviate this main. A condition has been recommended to this effect.</p> <p>(b) N/A.</p>
<p>96 Bush fire prone land</p> <p>(1) A consent authority must not consent to development under this Part on bush fire prone land unless the consent authority is satisfied the development complies with the requirements of Planning for Bushfire Protection.</p>	<p>N/A. The site is not mapped as bush fire prone land.</p>
<p>Division 5 – Design Requirements</p>	
<p>97 Design of in-fill self-care housing</p> <p>In determining a development application for development for the purposes of in-fill self-care housing, a consent authority must consider the Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004, published on the Department's website.</p>	<p>Complies. The proposal has been designed in consideration of the Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004.</p>

Housing SEPP section / requirement	Department's Consideration
<p>98. Design of seniors housing</p> <p>A consent authority must not consent to development for the purposes of seniors housing unless the consent authority is satisfied that the design of the seniors housing demonstrates adequate consideration has been given to the principles set out in Division 6</p>	<p>Complies. Refer to the following assessment of Division 6 Design Principles.</p>

Division 6 – Design Principles

<p>99. Neighbourhood amenity and streetscape</p> <p>Seniors housing should be designed to—</p> <p>(a) recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation, and</p> <p>(b) recognise the desirable elements of—</p> <p>(i) the location's current character, or</p> <p>(ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area, and</p> <p>(c) complement heritage conservation areas and heritage items in the area, and</p>	<p>(a) Building 1 and the adaptive reuse of the cottages to form the RCF has been appropriately designed with a focus on high-care, inclusive of dementia care. The facility is completely integrated with the retained cottages to ensure a domestic scale in environment with a minimalist glazed connection at the rear providing undercover access between the new building and retained cottages.</p> <p>(b) The proposal has been appropriately designed to respond to the different scales of Parraween Street and Gerard Street. The proposal retains the six heritage listed cottages on the site, designing the new built forms to sympathetically transition from low scale frontages along Parraween Street, to four-storeys in the centre of the site, then to seven-storeys on Gerard Street which is consistent with its neighbouring buildings and overall streetscape and character.</p> <p>(c) The proposal retains the heritage listed cottages on Parraween Street (78-88 Parraween Street) for adaptive reuse as part of the RCF. The proposed restoration of the external elevations will enhance the streetscape contribution of the items with the new landscaping mitigating part of the proposed interior alterations as discussed at section 5.2. The Department has recommended a condition to ensure conservation works are to be undertaken to the heritage items prior to issue of a Construction Certificate.</p>
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Housing SEPP section / requirement	Department's Consideration
<p>(d) maintain reasonable neighbourhood amenity and appropriate residential character by —</p> <ul style="list-style-type: none"> (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and <p>(e) set back the front building on the site generally in line with the existing building line, and</p> <p>(f) include plants reasonably similar to other plants in the street, and</p> <p>(g) retain, wherever reasonable, significant trees, and</p>	<p>(d) The Department has considered the design and appearance of the building and its relationship to adjoining buildings and the surrounding neighbourhood at section 5.3. The Department concludes that the building height, scale and design is appropriate for the site and within the surrounding urban context.</p> <p>(e) The proposal has appropriate front building setbacks to both Parraween Street with Buildings 2 and 3 in line with the retained heritage cottages and along Gerard Streets, generally in accordance with the adjoining buildings at 53 and 81B Gerard Street. (f) The proposal includes landscaping that is in keeping with the surrounding area with proposed tree relocation and new tree planting.</p> <p>(g) The Applicant has retained the identified significant Sydney Blue Gum tree located in the north-east corner of the site, which has informed the design of the built form and landscape on the site. (h) The site does not contain, and is not within the vicinity of a riparian zone.</p>

Housing SEPP section / requirement	Department's Consideration
(h) prevent the construction of a building in a riparian zone.	
<p>100. Visual and acoustic privacy</p> <p>Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and residents by —</p> <p>(a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>(a) The development has been designed to include appropriate building separation and orientation, screening and landscaping, which will provide for an appropriate level of privacy for adjoining neighbours and future occupants. (b) The building has been designed to ensure an appropriate internal acoustic environment. The Department has recommended conditions to ensure operational noise is appropriately managed and mitigated where necessary.</p>
<p>101. Solar access and design for climate</p> <p>The design of seniors housing should —</p> <p>(a) for development involving the erection of a new building — provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>(a) The proposal provides for appropriate levels of solar access to ILUs, communal and public open spaces and has an acceptable impact on neighbouring properties as discussed in section 5. (b) The proposal has been designed in accordance with ESD principles to reduce energy demands. The proposal exceeds the ADG recommended number of naturally cross ventilated units.</p>
<p>102. Stormwater</p> <p>The design of seniors housing should aim to —</p>	

Housing SEPP section / requirement	Department's Consideration
<ul style="list-style-type: none"> (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses. 	<ul style="list-style-type: none"> (a) The Department has considered stormwater and flooding in detail at section 5.5 and concludes the development would provide for adequate stormwater and flooding infrastructure and mitigation measures subject to conditions. b) The development includes an OSD system.
<p>103. Crime prevention</p> <p>Seniors housing should—</p> <ul style="list-style-type: none"> (a) be designed in accordance with environmental design principles relating to crime prevention, and (b) provide personal property security for residents and visitors, and (c) encourage crime prevention by— <ul style="list-style-type: none"> (i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and (ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and (iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door. 	<p>The proposal seeks to maximise passive surveillance within the development and towards the adjoining public streets and spaces. The development would include secure entry points to the buildings. The application includes a Crime Prevention through Environmental Design Report (CPTED), which makes recommendations to ensure the development provides for a safe and secure environment.</p> <p>The Department has recommended a condition requiring the CPTED recommendations be implemented prior to occupation of the development.</p>
<p>104. Accessibility</p>	

Housing SEPP section / requirement	Department's Consideration
<p>Seniors housing should—</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>(a) Vehicle and pedestrian accesses are clearly identifiable and have been separated to minimise conflicts. The Department has considered pedestrian links and safety at section 5.5.</p> <p>(b) The Applicant has designed the proposal, in particular the lower ground and basement levels, in consideration of pedestrian safety and circulation with Pedestrian Access Plans accompanying the application.</p>
<p>105. Waste management</p> <p>Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>The Applicant provided an Operational Waste Management Plan as part of its EIS. It is proposed a private waste contracted be engaged to service the retail waste and recycling bins per an agreed schedule.</p> <p>The Department is satisfied that adequate waste facilities are provided, and that the operational waste needs of the development can be appropriately managed and impacts mitigated subject to a recommended condition of consent.</p>

Division 7 – Non-Discretionary Development Standards

<p>106. Interrelationship of Division with design principles in Division 6</p> <p>Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.</p>	<p>Adequate consideration has been given to the principles set out in Division 6.</p>
<p>107. Non-discretionary development standards for hostels and residential care facilities—the Act, s. 4.15</p> <p>(2) The following are non-discretionary development standards in relation to development for the purposes of hostels or residential care facilities —</p>	

Housing SEPP section / requirement	Department's Consideration
<p>(a) No building has a height of more than 9.5m, excluding servicing equipment on the roof of a building.</p> <p>(b) Servicing Equipment on the Roof of a Building which results in the building having a height of more than 9.5m –</p> <p>(i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and</p> <p>(ii) is limited to an area of no more than 20% of the surface area of the roof, and</p> <p>(iii) does not result in the building having a height of more than 11.5m.</p> <p>(c) The density and scale of the buildings when expressed as a floor space ratio is 1:1 or less.</p> <p>(d) Internal and external communal open spaces with a total area of at least –</p> <p>(ii) for a residential care facility – 10m² for every bed.</p> <p>(e) At least 15m² of landscaped area for every bed.</p> <p>(f) A deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least</p>	<p>(a) The RCF building (Building 1) has a maximum height of 15.27 m. The Applicant has submitted a clause 4.6 variation request to vary the maximum building height under the NSLEP (Appendix E).</p> <p>(b) The building exceeds 9.5 m and:</p> <p>(i) the servicing equipment is integrated into the rooftop design.</p> <p>(ii) rooftop plant does not exceed 20% of the surface area of the roof of Building 1.</p> <p>(iii) exceeds 11.5 m in height. The Applicant has submitted a clause 4.6 variation request to vary the maximum building height under the NSLEP.</p> <p>(c) No FSR applies to the site under NSLEP. Notwithstanding, based on the GFA of the RCF, the FSR is 0.35:1. (d) Complies. 615 m² combined RCF internal / external communal open space is provided (15 m² for each RCF bed).</p> <p>(e) Complies. 715 m² RCF landscaped area is provided (51 m² for each RCF bed).</p> <p>(f) 511.03 m² (26.8%) deep soil area is provided proportionate to RCF development area of 1906.72 m². (h) 3 RCF visitor parking spaces are provided which meets the minimum requirement.</p> <p>(i) 8 RCF staff parking spaces are provided which meets the minimum requirement.</p> <p>(j) An ambulance parking bay is provided as part of the loading dock.</p>

Housing SEPP section / requirement	Department's Consideration
<p>65% of the deep soil zone is located at the rear of the site.</p> <p>(h) For a residential care facility— at least 1 parking space for every 15 beds in the facility,</p> <p>(i) At least 1 parking space for every 2 employees who are on duty at the same time,</p> <p>(j) At least 1 parking space for the purpose of ambulance parking.</p>	
<p>108 Non-discretionary development standards for independent living units – the Act, s 4.15</p> <p>(2) The following are non-discretionary development standards in relation to development for the purposes of independent living units—</p> <p>(a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,</p> <p>(b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m—</p> <p>(i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and</p> <p>(ii) is limited to an area of no more than 20% of the surface area of the roof, and</p> <p>(iii) does not result in the building having a height of more than 11.5m,</p>	<p>(a) The tallest ILU building (Building 4) has a maximum height of 23.45 m. The Applicant has submitted a clause 4.6 variation request to vary the maximum building height in the NSLEP(Appendix E).(b) The buildings exceed 9.5 m and:</p> <p>(i) the servicing equipment and lift overruns are sufficiently setback from roof edge to minimise visibility, fully integrated into the design and suitably screened from view.</p> <p>(ii) rooftop plant does not exceed 20% of the surface area of the roofs of Buildings 2, 3 and 4.</p> <p>(iii) the development has a height greater than 11.5m. The Applicant has submitted a clause 4.6 variation request to vary the maximum building height in the NSLEP (Appendix E).</p> <p>(c) No FSR applies to the site. (d) N/A. The Applicant is not a social housing provider.</p> <p>(e) Based off a development area of the ILUs (5448.58 m²), the proposal achieves 1,779 m² of landscaped area (32.70%).</p> <p>(f) 958.17 m² (17.6%) deep soil area is provided. (g) 50 of 58 (86%) of ILUs receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter. (h) (i) and (ii) Complies. The ground floor ILUs achieve a minimum of 15 m² with minimum dimensions of 3m accessible from the living area.</p> <p>(i) Complies. All non-ground floor units achieve a minimum 10 m².</p> <p>(j) The Applicant is not a social housing provider. (k) Complies. The proposal provides 77 car parking spaces allocated to the ILU, which is at least 0.5 spaces per bedroom.</p>

Housing SEPP section / requirement	Department's Consideration
<ul style="list-style-type: none"> (c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less, (d) for a development application made by a social housing provider — at least 35m² of landscaped area per dwelling, (e) if paragraph (d) does not apply — at least 30% of the site area is landscaped, (f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site, (g) at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces, (h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building — <ul style="list-style-type: none"> (i) at least 15m² of private open space per dwelling, and (ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor, (i) for a dwelling in a multi-storey building not located on the ground floor — a balcony 	

Housing SEPP section / requirement	Department's Consideration
<p>accessible from a living area with minimum dimensions of 2m and—</p> <p>(i) an area of at least 10m², or</p> <p>(ii) for each dwelling containing 1 bedroom— an area of at least 6m²,</p> <p>(j) for a development application made by, or made by a person jointly with, a social housing provider— at least 1 parking space for every 5 dwellings,</p> <p>(k) if paragraph (j) does not apply— at least 0.5 parking spaces for each bedroom.</p>	

Table 16 | Consideration of the relevant sections of Schedule 4 of the Housing SEPP

Housing SEPP Schedule 4 section / requirement	Consideration
Part 1 Standards applying to hostels and independent living units	
<p>1 Application of standards in this Park</p> <p>The standards set out in this Part apply to any seniors housing that consists of hostels or independent living units</p>	<p>The proposal includes ILUs and therefore Schedule 4 Part 1 applies.</p>
<p>2 Siting standards</p> <p>(1) Wheelchair access If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.</p> <p>(2) If the whole of the site does not have a gradient of less than 1:10—</p> <p>(a) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient</p>	<p>The Applicant has provided an Access Report as part of its proposal confirming compliance in that access is provided to all dwellings by pathway from adjoining streets and to all common areas.</p> <p>(a) Complies.</p> <p>(b) Complies.</p> <p>(c) Complies.</p>

Housing SEPP Schedule 4 section / requirement	Consideration
<p>of less than 1:10, or 50%, whichever is the greater, and</p> <p>(b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.</p> <p>(3) Common areas Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</p>	
<p>3 Security</p> <p>Pathway lighting –</p> <p>(a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and</p> <p>(b) must provide at least 20 lux at ground level.</p>	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>
<p>4 Letterboxes</p> <p>Letterboxes –</p> <p>(a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and</p> <p>(b) must be lockable, and</p> <p>(c) must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry.</p>	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>
<p>5 Private car accommodation</p> <p>If car parking (not being car parking for employees) is provided –</p>	<p>(a) 77 ILU car parking spaces have been provided in accordance with AS2890.6, making up 100% of the ILU car parking spaces allocated for residents.</p>

Housing SEPP Schedule 4 section / requirement	Consideration
<ul style="list-style-type: none"> (a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and (b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date. 	<ul style="list-style-type: none"> (b) Complies. The proposal includes at least 8 car parking spaces that can be enabled to increase the width of the spaces to 3.8 m. (c) Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.
<p>6 Accessible entry</p> <p>Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.</p>	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>
<p>7 Interior: general</p> <ul style="list-style-type: none"> (1) Internal doorways must have a minimum clear opening that complies with AS 1428.1. (2) Internal corridors must have a minimum unobstructed width of 1,000 millimetres. (3) Circulation space at approaches to internal doorways must comply with AS 1428.1. 	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>
<p>8 Bedroom</p> <p>At least one bedroom within each dwelling must have—</p> <ul style="list-style-type: none"> (a) an area sufficient to accommodate a wardrobe and a bed sized as follows— <ul style="list-style-type: none"> (i) in the case of a dwelling in a hostel—a single-size bed, (ii) in the case of an independent living unit—a queen-size bed, and (b) a clear area for the bed of at least— <ul style="list-style-type: none"> (i) 1,200 millimetres wide at the foot of the bed, and 	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>

Housing SEPP Schedule 4 section / requirement	Consideration
<ul style="list-style-type: none"> (ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and (c) 2 double general power outlets on the wall where the head of the bed is likely to be, and (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and (e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and (f) wiring to allow a potential illumination level of at least 300 lux. 	
<p>9 Bathroom</p> <p>(1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1—</p> <ul style="list-style-type: none"> (a) a slip-resistant floor surface, (b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1, (c) a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future— <ul style="list-style-type: none"> (i) a grab rail, (ii) portable shower head, (iii) folding seat, (d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it, (e) a double general power outlet beside the mirror. 	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>

Housing SEPP Schedule 4 section / requirement	Consideration
(2) Subsection (1)(c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.	
10 Toilet A dwelling must have at least one toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.
11 Surface finishes Balconies and external paved areas must have slip-resistant surfaces.	Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.
12 Door hardware Door handles and hardware for all doors (including entry doors and other external doors) must be provided in accordance with AS 4299.	Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.
13 Ancillary items Switches and power points must be provided in accordance with AS 4299.	Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.

Part 2 Additional standards for independent living units

14 Application of standards in this Part The standards set out in this Part apply in addition to the standards set out in Part 1 to any seniors housing consisting of independent living units.	The proposal includes ILUs and therefore Schedule 4 Part 2 applies.
15 Living room and dining room (1) A living room in an independent living unit must have— <ul style="list-style-type: none"> (a) a circulation space in accordance with clause 4.7.1 of AS 4299, and (b) a telephone adjacent to a general power outlet. 	Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.

Housing SEPP Schedule 4 section / requirement	Consideration
<p>(2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.</p>	
<p>16 Kitchen</p> <p>A kitchen in an independent living unit must have —</p> <p>(a) a circulation space in accordance with clause 4.5.2 of AS 4299, and</p> <p>(b) a circulation space at door approaches that complies with AS 1428.1, and</p> <p>(c) the following fittings in accordance with the relevant subclauses of clause 4.5 of AS 4299 —</p> <ul style="list-style-type: none"> (i) benches that include at least one work surface at least 800 millimetres in length that comply with clause 4.5.5(a), (ii) a tap set (see clause 4.5.6), (iii) cooktops (see clause 4.5.7), except that an isolating switch must be included, (iv) an oven (see clause 4.5.8), and <p>(d) “D” pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and</p> <p>(e) general power outlets —</p> <ul style="list-style-type: none"> (i) at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and (ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed. 	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>
<p>17 Access to kitchen, main bedroom, bathroom and toilet</p> <p>In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.</p>	<p>Complies. No split level ILUs are proposed, with access provided to each of the required spaces within each dwelling.</p>

Housing SEPP Schedule 4 section / requirement	Consideration
<p>18 Lifts in multi-storey buildings</p> <p>In a multi-storey building containing separate independent living units on different storeys, lift access must be provided to dwellings above the ground level of the building by way of a lift complying with the <i>Building Code of Australia</i>, Volume 1, E3D7 and E3D8.</p>	<p>Complies. Lifts are included in the proposal providing access to ILUs on different levels across the development.</p>
<p>19 Laundry</p> <p>An independent living unit must have a laundry that has—</p> <ul style="list-style-type: none"> (a) a circulation space at door approaches that complies with AS 1428.1, and (b) provision for the installation of an automatic washing machine and a clothes dryer, and (c) a clear space in front of appliances of at least 1,300 millimetres, and (d) a slip-resistant floor surface, and (e) an accessible path of travel to any clothes line provided in relation to the dwelling. 	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>
<p>20 Storage for linen</p> <p>An independent living unit must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299.</p>	<p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>
<p>21 Garbage</p> <p>A garbage storage area must be provided in an accessible location.</p>	<p>The proposal includes communal operational waste storage areas in convenient and accessible basement locations.</p> <p>Capable of compliance. The Department recommends a condition requiring verification of compliance with all standards within Schedule 4 prior to the issue of the construction certificate.</p>

An assessment of the proposal against the Seniors Living Policy is provided at Table 17.

Table 17 | Consideration of Seniors Living Policy

Design principle	Consideration
1. Responding to context	<p>The proposal is located on a site with frontages to both Parraween and Gerard Streets, within the North Sydney LGA suburb of Cremorne. The surrounding area is characterised by a mixture of built forms and scales.</p> <p>The site lies adjacent to the Cremorne town centre, with the streetscape and built form characters changing between each site frontage from tall, high density residential buildings along the Gerard Street frontage to a mix of small to high density residential buildings on Parraween Street. The site contains six locally listed heritage cottages and has been designed to retain and adaptively reuse the cottages by integrating them into the function of the proposed RCF.</p> <p>The Department has considered the height, scale and design of the development at Section 5.2 and concludes the proposal responds to the existing context of the site and surrounding area and maintains adequate levels of amenity for existing neighbouring properties.</p>
2. Site planning and design	<p>The sitting and massing of the proposal has been designed to respond to the site context and its surroundings, including the six locally listed heritage cottages and the SHR listed The Hayden Orpheum, located opposite the site's Parraween Street frontage. Key to the site planning was the design and delivery of a large public through-site link, with the taller form and mass of Building 4 located on Gerrad Street away from the lower scale built form on Parraween Street.</p> <p>The Department supports the significant amendments that the Applicant made to the proposal post exhibition to enable the retention of the six locally heritage listed cottages and considers the proposal responds to the relevant urban design objectives.</p>
3. Impacts on streetscape	<p>The proposed built form adequately defines the public domain and through-site link and contributes to the character of the streetscape through the retention and adaptive reuse of the heritage listed cottages.</p> <p>The proposed retention and enhancement of the heritage listed cottages will enhance the overall contribution and connection to the streetscape and allow for the recovery of some of the original streetscape character of the locality.</p>

Design principle	Consideration
	The proposed scale and massing of the proposed development is consistent with the built form scale and character in the area and has been sited to allow for the primary form of 78-88 Parraween Street to remain legible within the streetscape.
4. Impacts on neighbours	The proposal has been designed to ensure potential impacts on neighbours are minimised to an acceptable level. The Department has considered the neighbour impacts, including overshadowing, privacy and amenity, views and building separation in Section 5 .
5. Internal site amenity	<p>The proposed design of the ILUs and RCF buildings and site layout will ensure that the required amounts of private and communal open space are provided and will receive the minimum levels of solar access.</p> <p>Building entries and paths have been designed to ensure safe and legible movements are achievable for all residents, and will meet the relevant accessibility standards specified at Schedule 4 of the Housing SEPP. Parking and back-of-house facilities have been designed within the basement levels to reduce their dominance and conflict.</p>

State Environmental Planning Policy No. 65 – Residential Apartment Development, including Apartment Design Guide

SEPP 65 seeks to improve the design quality of residential apartment developments and encourage innovative design. The ADG is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential apartment developments.

State Environmental Planning Policy Amendment (Housing) 2023 – Repeal of SEPP 65

The Housing Amendment, among other things, incorporated SEPP 65 and its associated Apartment Design Guide and then repealed SEPP 65.

The Housing Amendment included savings and transitional provisions which confirm that the changes within the Housing Amendment do not apply to applications lodged before the commencement date. As the application was lodged prior to 14 December 2023 the Housing Amendment and the repeal of SEPP 65 does not apply to the application.

Noting the above, an assessment of the development against the relevant provisions of SEPP 65 and the ADG is provided in the following section.

SEPP 65 Aims and Objectives

The Department has assessed the proposal against the SEPP 65 aims / objectives at **Table 18** and the ADG best practice design principles is provided at **Table 19**.

Table 18 | Consideration of aims and objectives of SEPP 65

SEPP 65 Principle	Consideration
6. Context and Neighbourhood Character	<p>The proposal is located adjacent to the Cremorne town centre and has frontage to both Parraween and Gerard Streets which have differing streetscapes. The proposal responds to the character of both street frontages, retains the heritage items for adaptive reuse, is consistent with what is expected in a high-density zone adjacent to a town centre, provides adequate separation and articulation to its adjacent and surrounding developments.</p> <p>The Department has considered the height, scale and design of the development at section 5.2 and concludes the proposal responds to the existing context of the site and surrounding area and maintains adequate levels of amenity for existing neighbouring properties.</p>
7. Built Form and Scale	<p>The height and scale of the development is appropriate in this location and context and the development is considered to achieve a high standard of layout, design and appearance (section 5.2). The built form adequately defines the public domain and through-site link and contributes to the character of the streetscape through the retention and adaptive reuse of the heritage listed cottages.</p>
8. Density	<p>The density of the proposal is acceptable and would not have adverse built form, traffic or amenity impacts (section 5).</p>
9. Sustainability	<p>The development has been designed in accordance with ESD principles and satisfies BASIX requirements in relation to energy efficiency, water conservation and thermal comfort.</p>
10. Landscape	<p>The proposal includes a number of landscaped areas utilising existing trees and new plantings, as detailed in the Landscape Plans. The provision of the publicly accessible through-site link and site-wide landscaping is considered to provide a high level of amenity for future residents and improve the landscape outcomes on the site.</p>
11. Amenity	<p>The proposal is generally consistent with the key ADG criteria and would achieve a relatively high level of residential amenity for future residents (see Section 5 and Table 19).</p>

SEPP 65 Principle	Consideration
12. Safety	The application includes a CPTED Report and mitigation measures and the development would provide for passive and active surveillance of the surrounding area. The Department has recommended a condition requiring the implementation of the CPTED Report mitigation measures.
13. Housing Diversity and Social Interaction	The development will improve housing supply and choice for seniors and provides for a mix of ILU apartment types and a RCF to cater for a range of senior households and needs. The provision of new seniors housing and the public through-site link will aid in social interaction and the creation of a mixed and balanced community.
14. Aesthetics	The proposal includes appropriate building articulation, modulation and setbacks to complement the desired character for the site and the local context. The palette of materials and finishes would appropriately articulate the building form. The architectural detail responds appropriately to the site's opportunities and constraints and provides for contemporary buildings, while remaining sympathetic to the retained heritage cottages.

Apartment Design Guide

An assessment of the proposal against the ADG best practice design principles is provided at Table 19.

Table 19 | Consistency with ADG design criteria

ADG – Relevant Criteria	Department's Consideration
3A Site Analysis	Consistent
3B Orientation	<p>Considered acceptable as discussed below.</p> <p>The architecture of the proposal responds to both street frontages, with most apartments oriented towards the north, north east and north west to optimise solar access, privacy and available outlook.</p> <p>The Department considers the proposed building heights to be acceptable and consistent with what is expected in Zone R4 High Density Residential. The resulting overshadowing does not reduce solar access to main living rooms to below two hours of solar access between 9am and 3pm on winter solstice.</p>

ADG – Relevant Criteria	Department's Consideration
3C Public Domain Interface	Consistent
3D Communal and Public Open Space	Consistent.
3E Deep Soil Zones	Consistent
3F Visual Privacy	<p>Considered acceptable as discussed below.</p> <p>The proposal generally provides building separation in line with the ADG recommendation as discussed in section 5.4.1. In instances where building separation within the site is not achieved, acoustic privacy is achieved through solid walls, screen walls and screening blades.</p>
3G Pedestrian Access to Entries	Consistent
3H Vehicle Access	Consistent
3J Bicycle and Car Parking	Consistent
4A Solar and Daylight Access	Consistent
4B Natural Ventilation	Consistent
4C Ceiling Heights	Consistent
4D Apartment Size and Layout	Consistent
4E Private Open Space and Balconies	Consistent
4F Common Circulation and Spaces	Consistent
4G Storage	Consistent
4H Acoustic Privacy	<p>Considered acceptable as discussed below.</p> <p>The proposal generally provides building separation in line with the ADG recommendation as discussed in section 5.4.1. In instances where building separation within the site is not achieved, acoustic privacy is achieved through solid walls, screen walls and screening blades.</p>
4J Noise and Pollution	Consistent
4K Apartment Mix	Consistent

ADG – Relevant Criteria	Department's Consideration
4L Ground Floor Apartments	Consistent
4M Facades	Consistent
4N Roof Design	Consistent
4O Landscape Design	Consistent
4P Planting on Structures	Consistent
4Q Universal Design	Consistent
4R Adaptive reuse	Consistent
4S Mixed Use	N/A
4T Awnings and signage	Consistent
4U Energy efficiency	Consistent
4V Water Management and Conservation	Consistent
4W Waste Management	Consistent
4X Building Maintenance	Consistent

State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP)

Chapter 2 of the T&I SEPP is relevant to this proposal and identifies matters to be considered in the assessment of development adjacent to particular types of infrastructure development. It also requires consultation with relevant public authorities about certain development during the assessment process.

Section 2.48 requires the consent authority to notify the relevant utility authority about the proposal. The Department consulted Ausgrid and its response is summarised at [section 4](#). The Department has recommended conditions requiring the Applicant consult with utility providers and obtain appropriate approvals for any necessary service connections and infrastructure augmentations ([section 5.5](#)).

Section 2.119 requires vehicle access be provided from a non-classified road if possible and the development not impact the operation of the classified road. The site has a frontage to Gerard Street which is a classified road, however vehicular access to the site is via Parraween Street as

TfNSW advised the Applicant during early consultation that vehicular access to the proposal could not be obtained from Gerard Street.

Section 2.120 sets noise levels for development on land adjacent to busy roads. An acoustic report was submitted with the EIS which confirmed subject to construction and design recommendations of the report relevant noise requirements can be complied with. A memorandum submitted with the amended proposal confirmed the acoustic report remained suitable and accurate. The Department has recommended conditions requiring the construction and design recommendations be incorporated into the detail design stage.

Section 2.122 requires the consent authority notify TfNSW of the proposal. The future development which proposes 58 ILUs and 41 RCF beds is not considered traffic generating development to be referred to TfNSW under the Transport and Infrastructure SEPP. Notwithstanding, the proposal was referred to TfNSW who advised the proposal is unlikely to have a significant impact on the classified road network.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Chapter 4 of the Hazards SEPP is relevant to this proposal and aims to provide a State-wide planning approach to the remediation of contaminated land, reduce risk of harm to human health and the environment and ensure that potential contamination issues are considered in the determination of a development applications.

The proposal was accompanied by a Detailed Site Investigation (DSI), Remediation Action Plan (RAP) and Preliminary Site Investigation (PSI) prepared by JKENvironments which provide a summary of likely contaminants, recommendations on further investigation, remediation and management and the suitability of the site for its intended use. The proposal was also accompanied by a detailed Construction and Demolition Waste Management Plan, outlining the proposed procedures for the handling, management and disposal of demolition and construction waste generated during works.

The DSI concludes that whilst various contaminants have been identified onsite, the site can be made suitable for the proposed development with appropriate remediation works.

The RAP provides a detailed assessment of the remediation required and the various methodologies available to make the site suitable for the proposed use. The RAP concludes that the most appropriate remediation method is removal of all contaminated material from the site. Any contaminated material that cannot be removed will be capped and contained; this will primarily be underneath the heritage dwellings on Parraween Street to be retained as part of the proposal.

The removal of contaminated material is considered to be the most appropriate remediation option as:

- the proposed development includes substantial excavation of the site which is anticipated to result in the removal of all fill from the basement footprint by default
- excavation of the fill, including that which falls outside the proposed basement footprint, will require the shortest timeframe for the remedial works and will minimise the potential for cross contamination too occur
- on and off-site treatment technologies are not considered to be economically viable or technically achievable
- a 'cap and contain' strategy in all areas that fall outside the basement would require a substantial clean soil cap to minimise the potential for exposure to the underlying fill. Achieving an adequate clean cap in the landscaped areas will be technically difficult to achieve. Furthermore, long-term management of a residential site via an EMP can be problematic and may be opposed by Council. Hence an EMP would only be considered where necessary.

The Department considers the site can be made suitable for the proposed development, subject to the remediation works and has recommended conditions accordingly.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Relevant chapters of this SEPP aim to protect the biodiversity values of vegetation in non-rural areas and to protect the water quality and quantity of water catchments.

The Department considers the proposed tree removal, relocation and planting is acceptable (see section 5.5) and that that water quality would be appropriately addressed through the implementation of proposed water sensitive urban design measures.

State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP)

This SEPP encourages sustainable residential development by setting targets that measure efficiency of buildings in relation to water and energy use and thermal comfort.

A BASIX certificate was submitted demonstrating the proposal achieves compliance with the BASIX water, energy and thermal comfort requirements under this SEPP. The Department recommends a condition of consent requiring compliance with the BASIX certificate.

North Sydney Local Environmental Plan 2013

A summary of the Department's considerations of the relevant standards contained in the North Sydney Local Environmental Plan 2013 (NSLEP 2013) are provided in Table 20 below and concludes the development is consistent with the NSLEP.

Table 20 | Consideration of the relevant clauses of the NSLEP 2013

Clause	Consideration and comments
Clause 2.3 Zone objectives and Land Use Table	<p>The site is zoned R4 High Density Residential. Permissibility is considered in section 3.</p> <p>The proposal is considered the achieve the objectives of the zone as it:</p> <ul style="list-style-type: none"> • provides high quality housing in a high-density residential environment • provides a variety of housing types through a mix of ILUs and RCF beds • provides other land uses that provide facilities and services to meet the day to day needs of future residents • responds to the surrounding area and does not compromise the natural or cultural heritage of the area • provides and maintains a reasonable level of residential amenity
Clause 4.3 Height of buildings	<p>The Department has considered the height of buildings at Section 5.2 and Appendix E.</p>
Clause 4.4 FSR	<p>There is no FSR development standard which applies to the site under NSLEP.</p>
Clause 4.6 Exceptions to development standards	<p>The Application has submitted variation requests relating to height of buildings (clause 4.3) under the provisions of clause 4.6.</p> <p>The Department has considered the variations at section 5.2 and Appendix E and considers the variation is acceptable in this instance.</p>
Clause 5.10 Heritage conservation	<p>A locally listed group heritage item forms part of the site, being 'Parraween Street group-house' at 78 – 88 Parraween Street (I1138, I1139, I1140, I1141, I1142 and I1143). Locally listed 'Hayden Orpheum Picture Palace' (formerly Cremorne Orpheum Theatre) is located opposite the site on the southern side of Parraween Street which is also listed on the State Heritage Register.</p> <p>As detailed in Section 2 the proposal seeks to adaptively reuse the cottages to form part of the RCF.</p> <p>The Department has considered heritage impacts in section 5.1 and section 5.5.</p> <p>The Department considers the proposal has acceptable impacts to the heritage items on site subject to conditions. The Department is also satisfied the proposal would have no impact on the heritage significance of the SHR Hayden Orpheum.</p>

Clause	Consideration and comments
Clause 5.21 Flood planning	<p>The Department has considered flooding at section 5.5.</p>
Clause 6.10 Earthworks	<p>The proposal includes basement levels and requires earthworks associated with the redevelopment of the site.</p> <p>The application includes a DSI and RAP to address contamination and has considered impacts on archaeology, stormwater and dewatering impacts.</p> <p>The Department has considered earthworks, contamination and archaeology and has recommended conditions to manage and mitigate impacts.</p>

Appendix E – Clause 4.6 variation request

The NSLEP 2013 includes development standards relating to height of buildings over the site, with the proposal exceeding those standards as shown at **Figure 13** and summarised at **Table 21**.

The proposal exceeds the height standard as identified at **Figure 14** and **Figure 15** below. Detailed height variations are illustrated in the Applicant's Architectural Plan set at **Appendix A**.

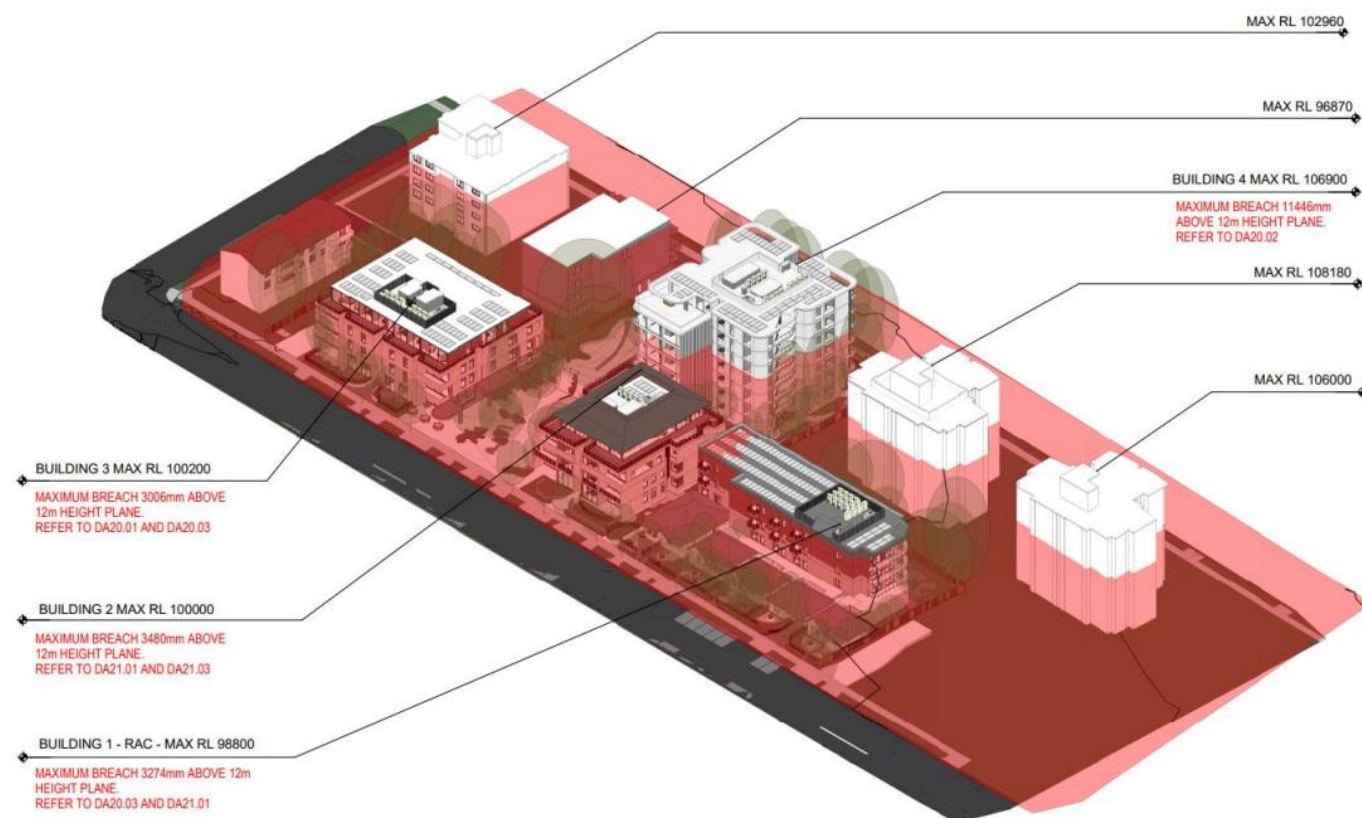


Figure 13 | NSLEP 2013 height of buildings standard shown in red and location of height exceedances (source: Applicant's clause 4.6 variation request)

Table 21 | Building height summary table

LEP max. building height	Building	Proposed building height	Variation
12m	1 (RCF)	15.27m	3.27m (27.25%)
	2 (ILU)	15.48m	3.48m (29%)
	3 (ILU)	15m	3m (25%)
	4 (ILU)	23.45	11.45m (95.4%)

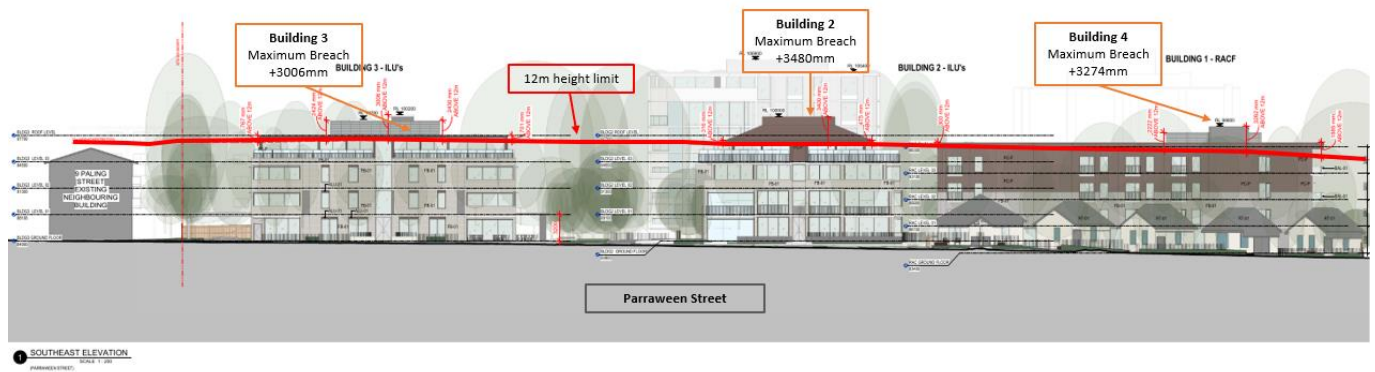


Figure 14 | Southeast elevations identifying height exceedances (Base source: Applicant's Architectural Plans)

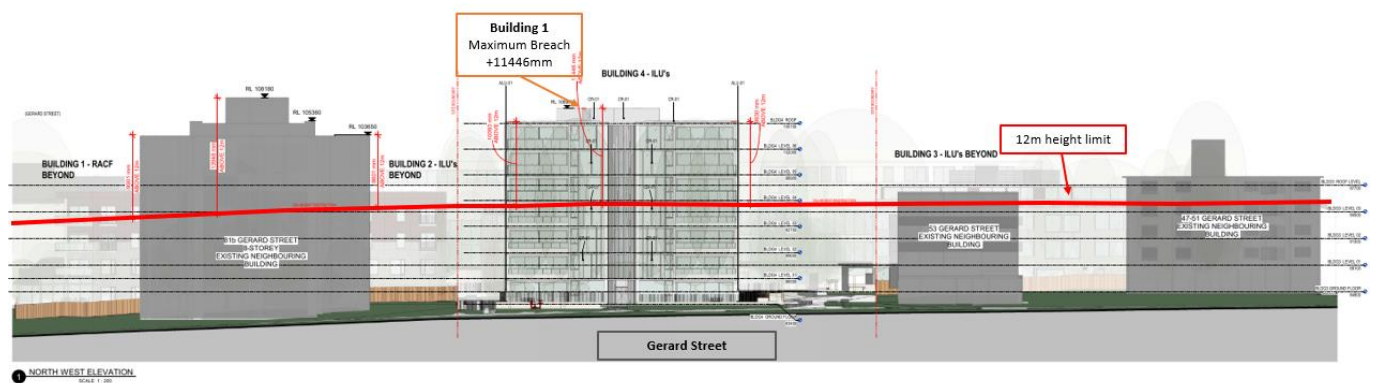


Figure 15 | Northwest elevations identifying height exceedances (Base source: Applicant's Architectural Plans)

Clause 4.6 of the NSLEP 2013 permits the consent authority to consider a variation to a development standard imposed by an EPI. The aims of clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. In consideration of the proposed variation, clause 4.6 requires the following:

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the Applicant has demonstrated that—*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

In accordance with section 35B of the Environmental Planning and Assessment Regulations 2021, the Applicant has prepared written requests to vary the development standards under clause 4.6 of the NSLEP 2013 (see Appendix A).

The Department has considered the proposed exception to the clause 4.3 height of building development standard under clause 4.6 of the NSLEP 2013, applying the tests and having regard to the following NSW Land and Environment Court (Court) judgements:

- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118,
- *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34].

1. *Has the consent authority considered a written request demonstrating compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?*

The Applicant has submitted a written request (see **Appendix A**) seeking variation to clause 4.3 height of building development standard that applies to the site.

In summary, the Applicant's clause 4.6 request demonstrates that compliance with the standard is unreasonable and unnecessary in the circumstance of the case as:

- the development is consistent with the objectives of clause 4.3
- the underlying objective or purpose of the height of buildings development standard would be defeated, thwarted or undermined if compliance was required.

The Applicant's request demonstrates the proposal responds to the objectives of clause 4.3 under the NSLEP 2013 in keeping with the first test of the five part tests in *Wehbe v Pittwater Council* [2007] NSWLEC 82 as follows:

- the site falls approximately 4 m from Parraween Street to Gerard Street with the proposed development designed to be kept as close to existing ground level as possible to reflect consideration of the natural gradient of the land
- the additional height does not result in any additional density on the site that could be otherwise provided through a fully compliant development. Strict compliance would result in a reduced public benefit, removing the proposed publicly accessible open space and though-site link between Parraween and Gerard Streets
- the proposed development will generate new view impacts as the proposed buildings are taller than the existing buildings on site (discussed further at section 5.2.1), however impacts are considered reasonable as the existing views are already disrupted by existing surrounding built form and the design and sitting of the development and building separation provides for through-site vistas
- the proposed development has been designed to meet ADG building setbacks and separation to ensure views and vistas between buildings are unimpacted

- the siting and design of the bulk and scale of the development ensures adequate separation between the proposed four buildings to minimise any adverse solar impacts on the development, adjoining neighbours or the future proposed public through-site link, with solar access to the main living rooms of adjoining residents and a minimum 70% of ILUs maintained above two hours between 9am – 3pm mid-winter
- the design and siting of the four buildings ensures adequate separation between habitable rooms and non-habitable rooms in keeping with the ADG criteria, while balconies and windows have been designed to be offset, or turned away from other buildings, to preserve privacy for existing adjoining residents and future residents of the development
- the proposal has been designed in keeping with the surrounding development, consistent with Zone R4 High Density Residential and adjoining Zone MU1 Mixed Use, by distributing the GFA away from the lower scale development on Parraween Street (3 – 5 storeys) to taller residential flat building development on Gerard Street (up to 15-storeys), with the proposed 95.4% variation to Building 4 resulting in the building height still below adjacent 81B Gerard Street (8 storeys)
- high density residential development is intended for this specific location given the site's Zone R4 High Density Residential zoning under the NSLEP 2013. The development meets the objectives of the zone as it will provide for the diverse housing for seniors within a high-density residential environment while maintaining a reasonably high level of residential amenity
- the existing and future character of the area is respected and reinforced, and the scale and size of the proposal is compatible with the locality as the heights of buildings are comparable with existing surrounding development with building articulation and appropriate setbacks to reduce perceived height and scale of the buildings.

The Applicant's request also outlines that the objective (f) of clause 4.3 of NSLEP 2013 would be undermined if compliance was required in keeping with the third test of the five part tests in *Wehbe v Pittwater Council [2007] NSWLEC 82* as follows:

- the existing character is contributed to by existing buildings in Gerard Street which range in height between 8 to 15 storeys, much taller than the identified 12 m height of buildings development standard
- the variation to the height of buildings development standard is a direct result of the design of the proposal in response to the character of the locality and surrounding development, with the GFA being distributed away from the lower scale development on Parraween Street to taller residential flat building development on Gerard Street

- the variation creates no increase in density and site coverage permitted under North Sydney Development Control Plan 2013 and has allowed for the provision of a publicly accessible open space/through site link and retention and adaptive reuse of six heritage listed dwellings
- built form that responds to the 12 m height of buildings development standard would be a suboptimal response to the character of the locality and limit the ability to deliver the proposed publicly accessible open space which will establish district views through the site to connect the town centre with existing residential communities to the north and relieves the harsh Gerard Street environment by creating both a physical and visual connection through this space.

The Department has reviewed the Applicant's request and accepts that compliance with clause 4.3 height of buildings standard is unreasonable or unnecessary given the circumstances of the case as no purpose is served by requiring strict compliance.

2. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard?

The Department considers there are sufficient environmental planning grounds to justify the proposed contravention to the height of buildings development standard in the circumstances as provided in the Applicant's written request. The Department also considers the proposal will deliver a better planning outcome for the site and that the additional height is acceptable as:

- the proposal is compatible with the desired future scale and character of the locality which envisages high density residential development on the periphery of the Cremorne town centre in accordance with the Zone R4 High Density Residential site zoning
- the retention and reuse of the six local heritage items and setbacks of the 4 storey buildings with minor height variations fronting Parraween Street is sympathetic to the existing form and scale of built form fronting Parraween Street
- the scale and height of Building 4 fronting Gerard Street, which comprises the larger height variation, is consistent with the existing higher density buildings adjoining the site and supports a stronger contextual fit to the character of the area
- the proposal will not result in any adverse impacts on neighbouring development which would not be expected within a high density residential zone in terms of view loss, overshadowing, bulk and scale or privacy
- the proposal incorporates a well-thought-out distribution of built form and massing to enable a new publicly accessible open space and through-site link to be accommodated on site that will in turn connect nearby residential communities (both visually and physically) to the north of the site to the Cremorne Town Centre

- strict compliance would result in development with a built form and character that is inconsistent with the surrounding development, fails to meet the objectives of Zone R4 High Density Residential and remove the opportunity to deliver a public benefit on the scale that is currently proposed (i.e. publicly accessible through-site link).

3. *Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard?*

The Department considers the proposal is consistent with the relevant objectives of clause 4.3 of the NSLEP 2013 and the policy principles of the Housing SEPP, despite the height exceedances.

4. *Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?*

The Department is satisfied the Applicant's written request has sufficiently demonstrated the development would be consistent with the objectives of Zone R4 High Density Residential under the NSLEP 2013 despite the proposed variation.

Conclusion

Having considered the written request, the Department considers the Applicant has provided sufficient environmental planning grounds to justify the contravention of the maximum permissible height of building development standard and the matters required to be demonstrated have been adequately addressed.

Based on the discussion above, the Department concludes the Applicant's written request adequately addresses the matters required to be demonstrated under clause 4.6 of the NSLEP 2013. The proposed development is in the public interest because it is consistent with the building height objectives in the NSLEP 2013 and the objectives for development within the zone.

Further, the proposal will not result in any unreasonable impacts on the surrounding area and the site is ideally located to accommodate higher densities, being located within a highly accessible area.

Appendix F – Recommended instrument of consent

<https://www.planningportal.nsw.gov.au/major-projects/projects/pathways-cremorne-seniors-housing>