



NSLPP MEETING HELD ON 05/07/2023

Attachments:

1. Site Plan
2. Architectural and Landscape Plans
3. Clause 4.6 Height of Buildings
4. Interim Heritage Order (Lapsed)
5. Design Excellence Panel Minutes

ADDRESS/WARD:	13-15 Allister Street, Cremorne
APPLICATION No:	DA291/2022
PROPOSAL:	Demolition of the existing multi-dwelling housing (No. 13 Allister Street) and partial demolition of the existing residential flat building (No. 15 Allister Street), and alterations and additions to the existing residential flat building to construct a residential flat building on both lots, containing 13 apartments above two levels of basement parking, and associated works and landscaping.
PLANS REF:	Refer to Attachment 2 - Architectural Plans
OWNER:	Proprietors of SP 19383 Proprietors of SP 17970
APPLICANT:	WINIM Property
AUTHOR:	Michael Stephens, Senior Assessment Officer
DATE OF REPORT:	26 June 2023
DATE LODGED:	26 September 2022
DATE AMENDED:	14 February 2023
SUBMISSIONS:	Twelve (12)
RECOMMENDATION:	Approval

EXECUTIVE SUMMARY

This development application seeks consent for demolition of the existing multi-dwelling housing (No. 13 Allister Street) and partial demolition of the existing residential flat building (No. 15 Allister Street), and alterations and additions to the existing residential flat building to construct a part 3, part 4 storey residential flat building encompassing both lots, containing 13 apartments above two levels of basement parking, and associated works and landscaping at Nos. 13-15 Allister Street, Cremorne.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to SEPP 65 development, seeks a variation to a development standard by more than 10% and attracted more than 10 submissions by way of objection. A public determination meeting is required in accordance with the Ministers Direction.

Given its potential to be of heritage significance No. 15 Allister Street was subject to an interim heritage order authorised by Council, under delegation, and published to the Government Gazette on 3 June 2022. The interim heritage order lapsed on 3 June 2023, meaning it has no effect on the determination of the subject application. The interim heritage order served its purpose by allowing the progression of further investigations into the potential heritage significance and the commencement of a planning proposal to amended NSLEP 2013 to include No. 15 Allister Street in Schedule 5 *Environmental Heritage* as an item of local significance.

The planning proposal received gateway on 19 December 2023 and was subject to public consultation between 6 March 2023 and 17 April 2023. The planning proposal is a relevant matter for consideration under Section 4.15(1)(a)(ii) as a draft planning instrument. The Planning Proposal was endorsed by Council at its meeting of 22 May 2023 for forwarding to the Department of Planning for making of the LEP amendment. The application has therefore been considered against Clause 5.10 *Heritage and conservation* in NSLEP 2013, as if No. 15 Allister Street were a heritage item and has been found to be satisfactory.

The proposed development breaches the maximum permitted building height of 12m by up to 1.98m, in part, equating to a maximum variation of 16.5%. The proposed variation relates to the roof form, lift overrun and solar panels for the four storey addition towards the southern side where the land falls towards the southwest. The applicant has submitted a written request to vary the development standard pursuant to Clause 4.6 in NSLEP 2013 which satisfactorily demonstrates that compliance with the development standard is both unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation. The submitted written request is considered to be well founded and worthy of support.

The proposed development is considered satisfactory when evaluated against the Design Quality Principles in Schedule 1 to SEPP 65 – Design Quality of Residential Apartment Development and is generally consistent with the objectives of the Apartment Design Guide and NSDCP 2013.

The application was notified in accordance with the Community Engagement Protocol. Council received twelve (12) submissions objecting to issues including the proposed height variation, impacts to heritage and neighbourhood character, amenity impacts, tree removal, traffic congestion and construction impacts including excavation and construction traffic congestion.

On balance the application is considered to be reasonable and is recommended for **approval**, subject to a **deferred commencement condition** to undertake further geotechnical investigations and structural engineering design.

LOCATION MAP

† Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The development application seeks consent for demolition of the existing multi-dwelling housing (No. 13 Allister Street) and partial demolition of the existing residential flat building (No. 15 Allister Street) and alterations and additions to the existing residential flat building to construct a part 3, part 4 storey residential flat building encompassing both lots, containing 13 apartments over two levels of basement parking, and associated works and landscaping at Nos. 13-15 Allister Street, Cremorne.

Residential Flat Building

The proposed residential flat building would be constructed through the retention of the existing residential flat building at No. 15 Allister Street, including significant internal alterations, and the construction of a significant addition to the south encompassing the land at No. 13 Allister Street. The proposed addition appears as an additional building form adjacent to the existing buildings and is a more contemporary interpretation of the existing built form character. Each level involves:

Ground Floor Level – RL 74.900

- Removal of internal walls within the existing garages, laundry and subfloor, and partial removal of external walls along the southern elevation of the existing residential flat building.
- Construction of 3 one-bedroom apartments and 1 three-bedroom apartment.
- Construction of a new building entry, foyer and hallway, lift, and fire egress stairs.

First Floor Level – RL 78.000 & Second Floor Level – RL81.100

- Removal of internal walls and partial removal of external walls along the southern elevation of the existing residential flat building.
- Construction of 2 two-bedroom apartments and 2 three-bedroom apartments
- Hallway, lift and fire egress stairs.

Third Floor Level – RL 74.900

- Partial demolition of southern side of existing roof form of the existing residential flat building.
- Construction of 1 four-bedroom penthouse apartment with internal lift and staircase.

Basement

The proposed basement is constructed partly below the existing residential flat building to be retained and requires significant underpinning of the existing building. The basement is shifted towards the southern side boundary, set back at least 1m from the boundary, to minimise the extent of underpinning required for the existing building. The basement levels involve:

Basement 02 – RL 69.100

- 10 resident parking spaces (including 2 accessible spaces)
- 2 visitor parking spaces (including a car wash bay)
- Bicycle parking spaces and storage cages
- Lift and fire egresses
- One lane bi-directional curved ramp to Basement 01 with traffic lights system

Basement 01 – RL 71.900

- 7 resident parking spaces (including 1 accessible space)
- Waste storage room
- Bicycle parking spaces and storage cages
- Lift and fire egresses
- Fire pump room, meter room, mechanical exhaust room
- One lane bi-directional curved ramp to Basement 02 with traffic lights system
- Two lane driveway with a security door
- OSD tank below the driveway
- Rainwater tank above driveway entry

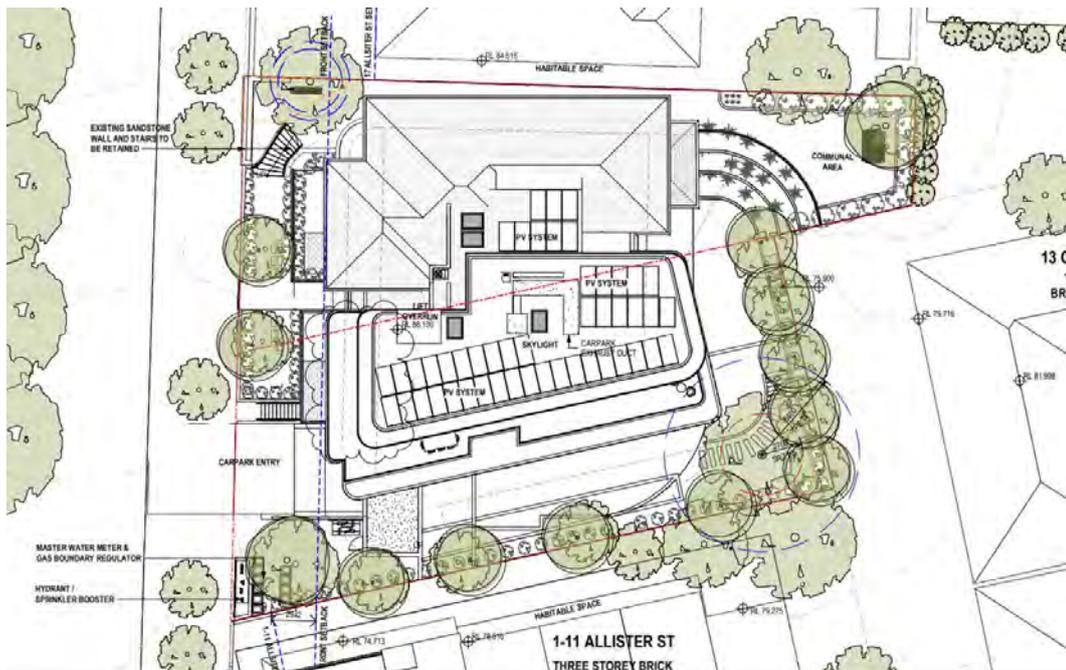


Figure 1. Proposed Site Plan



Figure 2. Proposed Western Elevation (Allister Street)



Figure 3. Proposed Northern Elevation



Figure 4. Proposed Eastern (Rear) Elevation



Figure 5. Proposed Southern Elevation



Figure 8. Street Perspective

STATUTORY CONTROLS

Heritage Act 1979

- Interim Heritage Order – No. 15 Allister Street

Environmental Planning and Assessment Act 1979

- s7.11/12 Infrastructure Contributions

North Sydney Local Environmental Plan 2013

- Zoning – R4 High Density Residential
- Item of Heritage – No, however No. 15 Allister Street Draft Item of Heritage – PP8/2023
- In Vicinity of Item of Heritage – State Items I0045 (7 Cranbrook) and I0046 (11 Cranbrook)
- Conservation Area - No

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021

POLICY CONTROLS

North Sydney Development Control Plan 2013

Apartment Design Guide

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The subject site comprises two lots being SP17970 and SP19383 and is known as Nos. 13-15 Allister Street, Cremorne. The site is located on the eastern (high) side of Allister Street between Cranbrook Avenue to the north and Rangers Road to the south. The site has an irregular shape and with a 35.8m frontage to Allister Street and a depth of between 35-44m, equating to a site area of 1215sqm. The land falls irregularly from the north to the south by approximately 4.2m along the street and falls from the rear boundary to the street by approximately 0.6-1.2m.

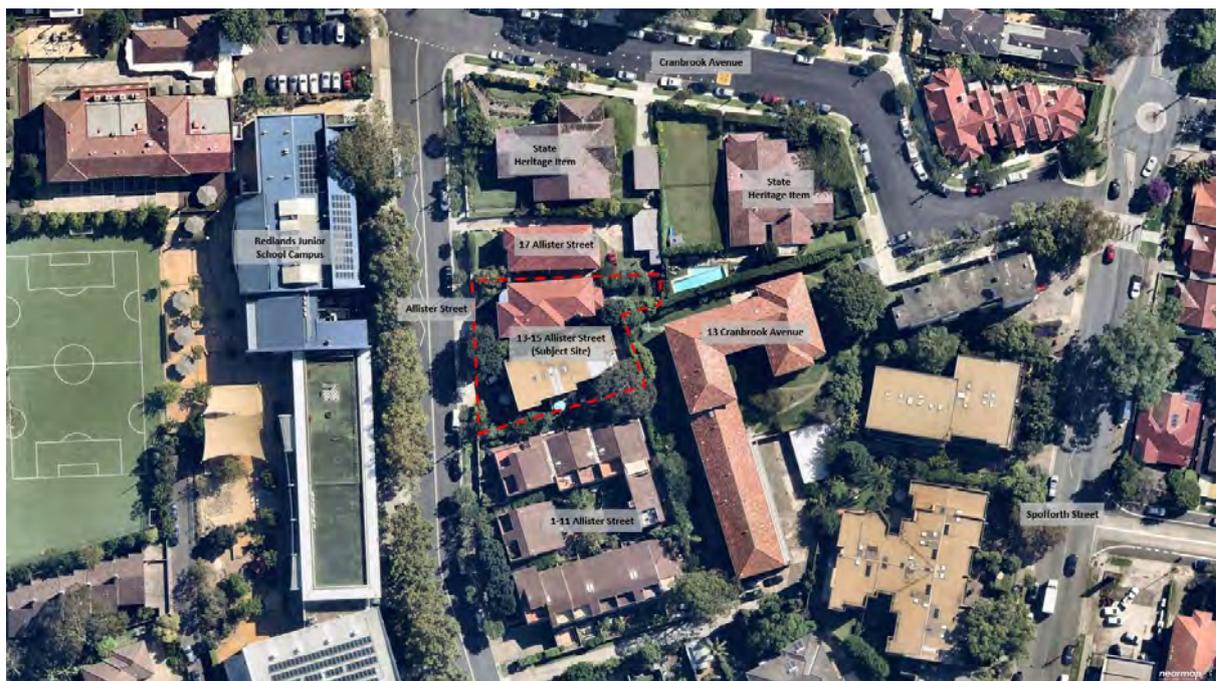


Figure 9. Aerial Image of the subject site and surrounds (Nearmap 19 March 2023)

The site is zoned R4 High Density Residential and is located within the Murdoch Neighbourhood character area. No 13. Allister Street contains an existing multi-dwelling housing development containing three dwellings and No. 15 Allister Street contains an existing two storey residential flat building containing four apartments. The surrounding land is also zoned R4 High Density Residential with the exception of the Redlands Junior School Campus to the west which is zoned SP2 Infrastructure – Educational Establishment.

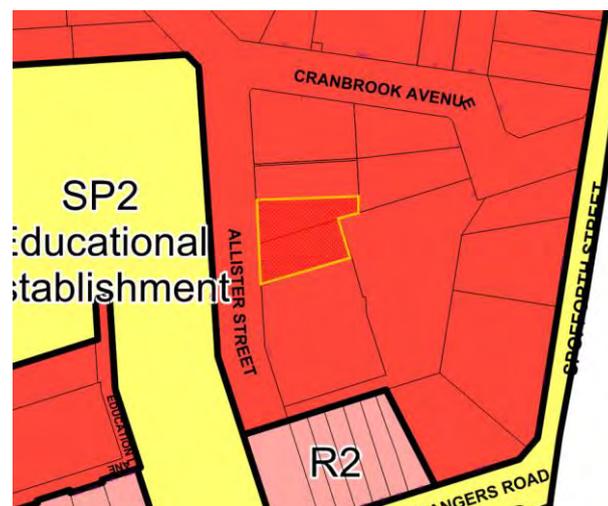


Figure 10. NSLEP 2013 Land use zoning map with the subject site shown outlined in yellow.

The existing residential flat building, designed by architect Clifford H. Finch was constructed in 1938 in the Inter-war Functionalist style. The building is constructed of brown brick, with decorative patterned details, on a sandstone base. The building has curved balconies with brick balustrades and a flat balcony roof concealed by a brick parapet. Windows are timber framed with horizontal glazing bars. The building has a hipped terrecota tiled main roof. There is an original sandstone staircase and wall located in the northwestern corner of the site providing access to the northern side passage where the main building entry is located. The building entry and foyer includes art deco detailing, stained glass windows, decorative tiling and the original staircase and timber and wrought iron balustrades. A secondary services staircase is located on the southern side of the building and provides external access to the subfloor laundry and storage area. Various internal fabric remains including dark stained joinery, fireplaces and ceilings which are generally original.



Figure 11. No. 15 Allister Street (existing residential flat building to be retained)



Figure 12. Nos. 13-15 Allister Street (including existing multi-dwelling housing to be demolished)

The surrounding development typology includes a mix of residential development, predominantly residential flat buildings and some dwelling houses along Cranbrook Avenue. The Redlands Junior School Campus is located opposite the subject site on Allister Street.

There are five existing street trees *Photinia so.* on the verge in front of the subject site. Significant trees on the site include an *Angophora costata* in the southeastern corner of the site, a *Glochindion ferdinandi* near the front boundary of the site and a *Gordonia axillaris* in the northwestern corner of the site.

The subject site is not currently listed as a heritage item or within a conservation area as identified in Schedule 5 to NSLEP 2013, however, Planning Proposal PP8/2022 seeks to list No. 15 Allister Street as a heritage item of local significance in Schedule 5 to NSLEP 2013. Additionally, the site is also located in proximity to two heritage items of State significance, being Items I0045 “Belvedere” (7 Cranbrook Avenue) and I0046 “Egglemont” (11 Cranbrook Avenue) and two heritage items of local significance, being I0067 and I0068 “Redland Junior School Campus”.

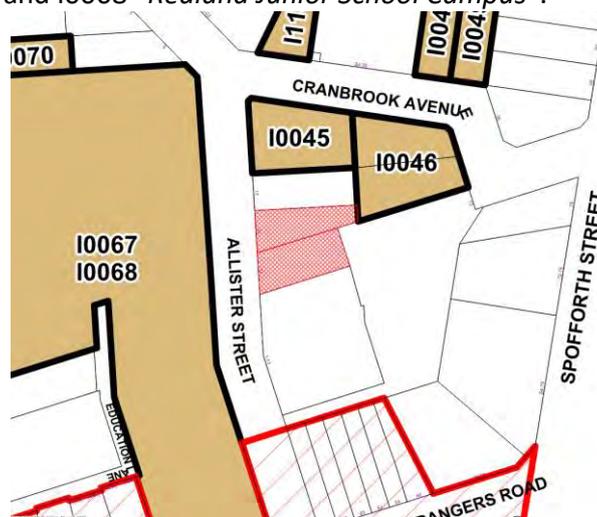


Figure 13. NSLEP 2013 Schedule 5 Heritage items (gold)

Additional photos of the subject site and surrounding area are provided below.



Figure 14. Site photo of southern elevation of No. 17 Allister Street



Figure 15. Site photo of northern elevation brick detailing



Figure 16. Site photo of sandstone staircase and outcrop at No. 15 Allister Street



Figure 17. Site photo of window details of No. 15 Allister Street

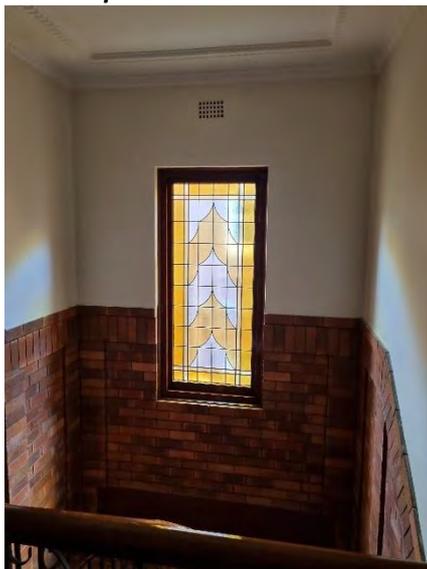


Figure 18. Site photo common stairwell of No. 15 Allister Street



Figure 19. Site photo common stairwell of No. 15 Allister Street



Figure 20. Site photo of an apartment entry door of No. 15 Allister Street



Figure 21. Site photo of the rear elevation of No. 15 Allister Street



Figure 22. Site photo of southern elevation No. 15 Allister Street towards the rear



Figure 23. Site photo No. 13 Cranbrook Avenue to the rear



Figure 24. Site photo No. 13 Cranbrook Avenue to the rear



Figure 25. Site photo of T4 and existing sandstone retaining wall



Figure 26. Site photo of the canopy of T4



Figure 27. Site photo of Nos. 1-11 Allister Street to the south



Figure 24. Site photo of Nos. 1-11 Allister Street to the south

RELEVANT DEVELOPMENT HISTORY

Development Application **DA375/2021** for demolition of the existing multi-dwelling housing (No. 13 Allister Street) and the existing residential flat building (No. 15 Allister Street) and construction of a four storey residential flat building, containing 13 apartments over 2 levels of basement parking, and associated works and landscaping was lodged 11 November 2021.

Interim Heritage Order **IHO2/2022** for No. 15 Allister Street was authorised by Council's Acting General Manager, under delegation, and published on the Government Gazette 3 June 2022.

Development Application **DA291/2022** was lodged on 26 September 2022 ('the subject application').

Development Application **DA375/2021** was withdrawn on 5 October 2022 ('the withdrawn application').

The Interim Heritage Order was subject to a Class 1 appeal in the Land and Environment Court **No.2022/188395**. The appeal was discontinued by the Appellant on 20 January 2023.

Planning Proposal **PP8/2022** to list No. 15 Allister Street in Schedule 5 to NSLEP 2013 received gateway on 19 December 2022. The Planning Proposal was subject to public consultation from 6 March 2023 to 17 April 2022.

Regarding Planning Proposal **PP8/2022**, Council at its meeting of 22 May 2023 resolved the following:

- 2. THAT** Council endorse the Planning Proposal, as exhibited, forming Attachment 1 to this report.
- 3. THAT** Council as a delegated Local Plan Making Authority make the Plan in accordance with section 3.36 of the Environmental Planning and Assessment Act 1979, consistent with the Gateway Determination.
- 4. THAT** Council forward a copy of Council resolution and the Planning Proposal, as exhibited to the Parliamentary Counsel's Office and the DPE for the legal drafting of the instrument, to give effect to the Planning Proposal.

The gazettal of No. 15 Allister Street as a heritage item may therefore be regarded as imminent. An application **HA2/2023** for Heritage Approval under s60 of the Heritage Act 1977 was made to Council on 9 March 2023. The application was publicly notified from 17 March 2023 to 11 April 2023.

However, the interim heritage order lapsed on 3 June 2023 and therefore the application for heritage approval is now redundant. The application has nether the less been assessed as if it were a Heritage item.

The Planning Proposal **PP8/2022** was forward to Parliamentary Counsel on _ June 2023.

RELEVANT APPLICATION HISTORY

Date	Assessment
26 September 2022	The subject application was lodged with Council via the NSW Planning Portal.
5 October 2022	The application was notified in accordance with Council's Community Engagement Protocol from 14 October 2022 to 28 October 2022.
8 November 2022	The application was considered by Council's Design Excellence Panel.
18 November 2022	A site inspection was undertaken by Council Assessment Staff.
8 December 2022	A preliminary assessment letter was sent to the Applicant raising issues regarding the height variation, extent of excavation, southern side setback, form, massing and scale, built form character, and heritage, engineering and landscaping advice. Amended plans were requested.
18 December 2022	A meeting was convened with the Applicant to discuss potential amendments to resolve the issues raised in Council's preliminary assessment letter.
14 February 2023	Amended plans were lodged with Council via the NSW Planning Portal.
13 March 2023	The amended application was notified from 17 March 2023 until 31 March 2023.
21 April 2023	Additional amended plans incorporating minor amendments and additional detail were received.

REFERRALS

Design Excellence

The application was considered by Council's Design Excellence Panel on 8 November 2022. The Panel were generally supportive of the proposed development although where unable to support the proposal in its current form. The Panel identified the following issues that were considered fundamental to the success of the proposal:

- *Providing further definition to the linkage element between the existing and new building masses.*
- *Striking a better balance between the scale of the upper most level of the new building mass and its relationship to the existing building*
- *Increase the proposed setbacks to the southern boundary to achieve building separation to No. 11 Allister Street.*
- *The street frontage setback of the new section should align with the existing building.*
- *Improve the accessibility and amenity of the proposed communal open space areas.*
- *Provide internal communal space and facilities which are available for residents at all times.*
- *Windows on street façade should incorporate protection from western sunlight as well as providing some privacy at the ground level in particular.*

A copy of the Panel Minutes is provided in **Attachment 5** of this report.

The amended plans received on 14 February 2023 incorporated the following changes:

- Increased the southern side setback from 4.5m to 6m to comply with the ADG.
- Increased the front setback to align with the existing building to be retained.
- A reduction in the height of the upper most level to minimise the variation to the height of buildings development standard and to better manage the bulk and massing of the upper level adjacent to the existing hipped tiled roof form of the existing building to be retained.
- Increased the width and depth of the indent between the existing and proposed building masses to further define and reinforce the linkage element.
- Improved proportioning of the windows in the front elevation to reduce the extent of glazing and increase the ratio of solid elements to better reflect the character of the existing building to be retained.
- The inclusions of some additional seating areas within the front garden to compliment the communal open space proposed at the rear.
- A more refined the materials and finishes palette.

The amended plans are considered to reasonably take into account the advice of Council's Design Excellence Panel.

Building

The application was referred to Council's Building Surveyors and standard conditions were recommended. The following advice was provided:

The proposed building is classified by the NCC 2019 as a Class 2, 7a and 7b building of Type A construction.

The application is supported by a NCC Compliance Report dated 14 September 2022 prepared by AI Consulting which concludes that the proposed development can comply with the NCC via a combination of satisfying the Deemed to Satisfy provisions of the NCC and use of Performance based Solutions.

The application is further supported by an Access Report dated 31 January 2023 prepared by I-Access Residential which concludes that the proposed development can achieve a high level of accessibility and compliance with the Disability (Access to Premises – Buildings) Standards 2010.

Given the scale of the proposed building works and that the new addition is to be united with a retained building part, upgrade of the retained building part is required pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021.

Generally, the proposed works are able to comply with the NCC 2019, Volume 1.

A detailed assessment of compliance with the National Construction Code 2019 will be undertaken by an appropriately registered certifier at the Construction Certificate Stage of the proposed development.

Heritage

The application was referred to Council's Conservation Planner who raised no objection to the proposed development.

The application has been assessed as if No. 15 Allister Street is a heritage item as PP8/22 which proposes to include the property in Schedule 5 *Environmental Heritage* to NSLEP 2013 is considered a draft environmental planning instrument and is a relevant matter for consideration in accordance with Section 4.15(1)(b) of the EPA & Act. The gazettal of No. 15 Allister Street as a heritage item is regarded as imminent following the resolution of Council on 22 May 2023. The IHO lapsed on 3 June 2023. The IHO served its purpose in protecting the property until such time its heritage significance could be further assessed and its listing in the LEP pursued.

The following assessment was provided:

1. **Heritage Status and Significance**

The subject site includes two buildings. No. 13 Allister Street is a c1980s, three dwelling multi-dwelling housing building with two garages in the sub-floor. It has a flat roof and spandrels of faux shingles to the street facade. It has no heritage significance, and no objection is raised to its demolition.

No. 15 Allister Street is a circa 1937 Interwar residential flat building designed by architect Clifford H Finch, most probably as an investment property for client Mrs J Boulton. Finch is a notable architect known for his collaboration with John Burcham Clamp for the design of the dwelling house at No. 36 Henry Street Gordon which is listed on the NSW Register of Significant Buildings (Australian Institute of Architects) and the Woy Woy Fire Station which is currently being considered for State heritage listing.

*The subject brick building is designed in the Art Deco style with some Functionalist features. Its exterior is characterised by curved balconies, patterned brickwork, a sandstone base, sandstone crazy paving and two garages. It retains intact interiors including the tiled entrance foyer and staircase with exposed brick walls, timber and wrought iron balustrading. Within the apartments there are extant decorative cornices, joinery and exposed brick fireplaces. A copy of the original plans appears at **Figure 25** below.*

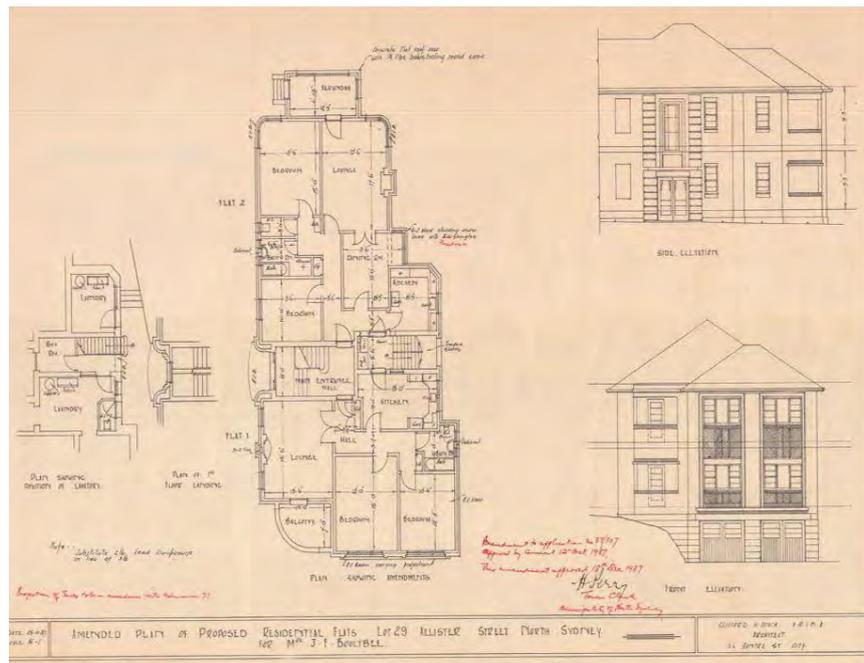
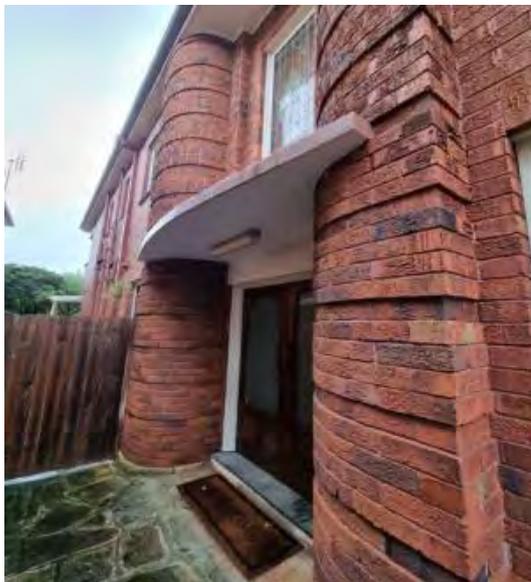
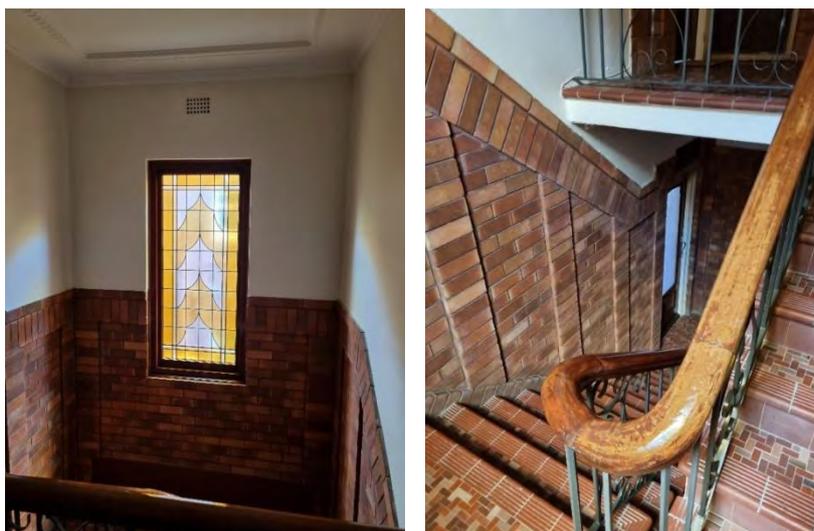


Figure 25. 1937 plan by architect Clifford H Finch



Figures 26. & 27. Site photos of Art Deco features including horizontal banding, curved features and zig-zag patterning



Figures 28. & 29. Site photos of original tiles, wrought ironwork, exposed brickwork and leadlights

2. Heritage Impact Assessment

a. NSLEP 2013 Clause 5.10 Heritage Conservation

An assessment of the impacts on the draft heritage item, with reference to the following Clause of the North Sydney LEP 2013 has been made:

The proposed development will satisfactorily retain the setting and curtilage of the nearby heritage items located at Nos. 7, 11 and 24 Cranbrook Avenue.

The Interwar building at 15 Allister would largely retain its external form as well as its character and primary façade with only minor changes. Many of its significant internal architectural features such as the common area stairwell would also be retained. The proposed works would be connected via a linkage element to the Interwar building on its southern side which has a lower level of significance as it is a secondary facade.

The top level on the southern addition would be visible from the public domain and would potentially detract from the significance of the proposed heritage item, 15 Allister Street as its perceived scale would be greater than the proposed heritage item. Its storey height would also be greater in that it would be four storeys plus whilst the proposed heritage item is two storeys plus the sandstone sub-floor with a hipped tiled roof form. However, the proposed additional setback to recess the upper level is considered adequate to minimise the bulk and scale of the upper most level adjacent to the hipped roof form so that is it less perceivable from the public domain.

The proposal could readily satisfy this clause with minor amendments as discussed below.

b. North Sydney DCP 2013 Heritage and Conservation

An assessment of the impacts to the draft heritage item, with reference to Part B Section 13 of the North Sydney DCP 2013 has been made with the following controls being of note:

13.4 Development in the Vicinity of Heritage Items - The proposed development would not detract from the existing heritage items in the vicinity and their streetscape presentation, including the State heritage listed Nos. 7, 11 and 24 Cranbrook Avenue. Other listed heritage items in the wider locality are separated from the subject site by the road, intervening development, or have no direct visual or physical connection to the subject site.

13.5.1 Heritage Items – Objective O1 – Ensure changes to heritage items are based on an understanding of the heritage significance of the heritage item - The proposal retains the Interwar building at No.15 Allister Street and would largely retain its external form and character as well as its primary façade with only minor changes. Many of its important internal architectural features including the side entrance, the common area stairwell and would also be retained. The proposed development would be connected via a linkage element to the Interwar building on its southern side which has a lower level of significance as it is a secondary facade.

13.5.2 Form, Massing and Scale - Objective O1 To allow new alterations and additions to heritage items, where new work does not impact on the heritage significance of the heritage item - It is considered that the upper most level of the new works would be visible from the public domain and may detract from the significance of the proposed heritage item, 15 Allister Street. The perceived scale of the development would be greater than the proposed heritage item and also its storey height would be greater in that it would be four storeys whilst the proposed heritage item is two storeys plus the sandstone base. The massing of the proposed development will be greater than that of the proposed heritage item, however, the additional setback for the upper most level is considered adequate to minimise the bulk and scale of the upper most level adjacent to the hipped roof form so that it is less perceivable from the public domain. The width of the addition is also considered to be acceptable as the building form is articulated and the southern balconies are set marginally behind the front building line of the proposed heritage item.

13.5.4 Roofs – Objective O1 To ensure that original roofs, their hierarchy and materials are maintained - No objection is raised to the flat roof on the proposed addition as it would be sympathetic to the Interwar Functionalist style of the Interwar building.

13.5.5 Interior Layouts – Objective O1 To ensure that significant interior elements are retained and preserved- The proposed works would introduce habitable spaces into the former sub-floor parking area. No objection is raised as it is an area of low significance and the garage door openings would remain interpretable. The interior spaces will be modified by the removal of walls although some nib walls have been retained to ensure that the original room configuration remains evident.

13.5.6 Upgrading for Fire Safety, BCA – Objective O1 To ensure that buildings are constructed to an appropriate standard to ensure the safety of its occupants, whilst retaining heritage significance - The proposed fire hydrant would be located to the south of the heritage item. Other required changes for the fire upgrade are also considered to be acceptable.

13.7 Subdivision – Objective O1- To ensure that the character of heritage conservation areas are not adversely affected from inappropriate development - The new strata subdivision would have minimal impact upon the character and the significance of the building. No objection is raised to the proposed new apartments within the former garage spaces as discussed above.

13.9.1 Skylights, Solar Panels and Satellite Dishes – Objective O1 To ensure that skylights, solar panels and satellite dishes do not detrimentally impact upon the significance of heritage items and heritage conservation areas - The two skylights on the draft heritage item are acceptable as they would not be easily seen from the public domain.

13.9.3 Verandahs and Balconies – Objective O2 To encourage the retention and reinstatement of original verandahs and balconies, especially where they are significant or contributory to an individual, row or group of buildings - The curved balconies on the draft heritage item would be retained. The proposed new balconies on the addition are sympathetic to the draft heritage item in that they adopt a curved form with a solid balustrade.

13.9.4 Materials – Objective O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas- No objection is raised to the proposed materials used on the new works as they are sympathetic to the draft heritage item, including Austral 'Gertrudis Brown' brickwork, Austral 'Capital Red' brick panelling, split face sandstone wall cladding, and Colorbond wall cladding in the colour 'Mangrove'.

13.9.5 Garages and Carports – Objective O1 To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area- The proposed adaptation of the existing two garages into habitable space is acceptable as the openings would remain interpretable as former garages. No objection is raised to the new car parking under the proposed addition.

13.9.6 Fences – Objective O1 To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area- The retention of the existing sandstone retaining wall on the front boundary is supported. No objection is raised to the proposed new sandstone front wall, metal front gate and palisade fence set behind.

13.10.5 Apartment Buildings – Objective 1 Ensure that changes are sympathetic to significant fabric and building elements and do not have a detrimental impact on the heritage significance of the building- The proposed addition to the south would overscale the Interwar building given that it will have a greater storey height and scale, however, the additional setback for the upper most level is adequate to mitigate the potential impact of the additional storey.

3. Conclusions

The proposed works to the draft heritage item located at No. 15 Allister Street are considered acceptable having retained significant fabric to ensure the conservation of the draft heritage item and the proposed additions would not visually overwhelm the existing building. The proposed development is considered to satisfy Clause 5.10 in NSLEP 2013.

The following conditions are recommended:

Conditions A2, A3, C1, C10, D1, E1 were recommended.

Engineering

The amended application was referred to Council's Development Engineers who raised no objection to the proposed development. Standard and site specific engineering conditions were recommended and are included in the attached conditions.

Traffic

The amended application was referred to Council's Traffic Engineers who provided the following advice:

The proposed development would generate approximately 5.8 vehicle trips per peak hour compared to the current traffic generation of 5 vehicle trips per peak hour. The minor increase would not have an unacceptable traffic impact on the existing road network capacity.

The proposed development includes a total of 19 on-site parking spaces allocated for 17 resident spaces and 2 visitor spaces. This represents an excess of 1 residential parking space and a shortfall of 1 visitor parking spaces. Bicycle parking spaces are required at a rate of 1 per apartment and 1 visitor parking rail per 10 apartment, therefore requiring 2.

Comment: **Conditions C20 and G23** are recommend reallocating one residential parking space as a visitor parking space. **Condition C18** is recommend ensuring 15 bicycle parking spaces are provided, including a rail for two visitor spaces.

The proposed development is required to provide a car wash bay within the basement given that the residential flat building contains more than 4 dwellings.

Comment: The amended plans received 24 April 2023 includes a car wash bay within the basement of use by the residents.

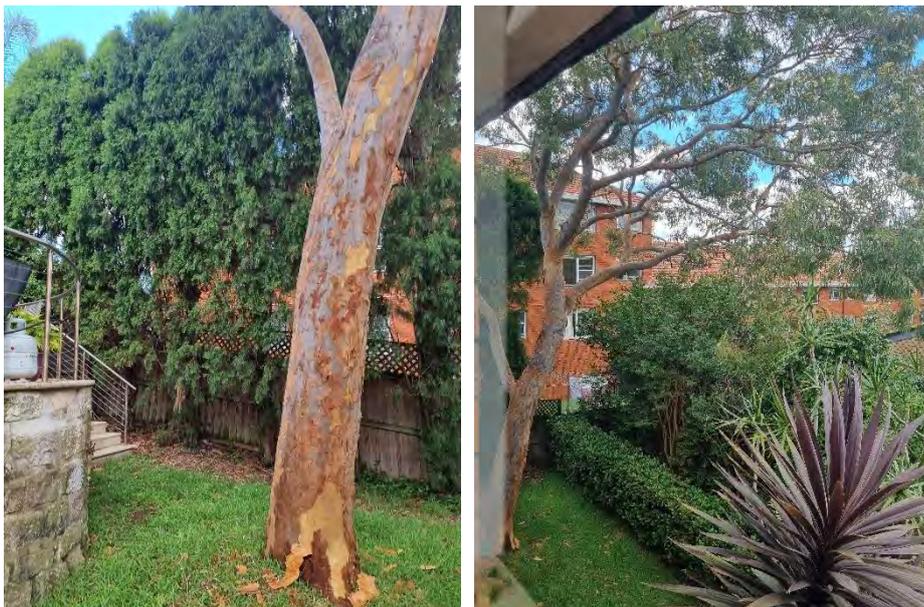
Standard traffic conditions were recommended and are included in the attached conditions. The conditions include the preparation of a Construction Traffic Management Plan to be approved by the North Sydney Traffic Committee.

Landscape

The amended application was referred to Council's Landscape Development Officer. The following assessment was provided.

The proposed development requires the removal of six protected trees including one street tree *Photinia* sp. (4m) located on the verge. The proposed tree removal is considered acceptable having regard to the quality of the existing landscaping, impacts of the proposed construction and proposed replacement planting. The removal of T5 *Glochindion ferdinandi* (10m) would ordinarily not be supported, however, the impact of the proposed basement and more specifically the underpinning works to retain the existing building is considered to be satisfactory justification for its removal. The proposed removal of a street tree *Photinia* sp. (4m) is also considered acceptable because the proposed new vehicle access would allow for the removal of the redundant vehicle crossings and provide further opportunity to plant two additional street trees. A bond of \$20,000 is recommended to provide security for the other four street trees *Photinia* sp. to be retained (Refer to **Condition C29**).

The proposed basement encroaches the tree protection zone (TPZ) of T4 *Angophora costata* (11m) located within the southeastern corner of the site although is considered acceptable provided that there is no over excavation to construct the basement wall. The encroachment to the TPZ is calculated to be 10.8% which ordinarily would be considered a major encroachment, however, the existing curved retaining wall, proposed to be retained in situ, reduces the new encroachment area to 4.3% which is considered to be an acceptable impact. There is no encroachment to the structural root zone (SRZ). Pruning to this tree is also to be limited to no more than 5% with details provided to Council's Landscaped Development Officer before work is undertaken. Construction work, including use of piling rigs or installation of scaffolding, is also required to avoid any damage to or additional pruning of the tree canopy.



Figures 30. & 31. Site photos of T4 to be retained and existing retaining wall.

Various amendment to the landscape plans were also required to ensure appropriate species, pot sizes and spacings are utilised (Refer to **Condition C52**). Standard and site specific tree protection conditions were also recommended and are included in the attached conditions.

EXTERNAL REFERRAL ADVICE

AUSGRID

The application was referred to AUSGRID who raised no objection and provided general advice regarding works in proximity to overhead powerlines.

Sydney Water

The application was referred to Sydney Water who raised no objection and confirmed that potable water and wastewater servicing should be available via existing infrastructure within Allister Street. Amplifications, adjustments, and/or minor extensions may be required.

The developer is required to obtain a Section 73 Compliance Certificate under the Sydney Water Act and submit the plans to Sydney Water's Tap In service.

SUBMISSIONS

The development application was notified in accordance with Council's Community Engagement Protocol from 14 October 2022 until 28 October 2022. Eight submissions were received by Council.

The amended plans received on 14 February 2023 were renotified in accordance with Council's Community Engagement Protocol from 17 March 2023 until 31 March 2023. Four further submissions were received by Council.

The additional amended plans received 21 April 2023 incorporate only minor changes, including a minor increase to the setback for the upper most level, and were not considered to have the potential to cause any new or additional impacts and therefore were not further renotified.

The issues raised in the submissions to both notified schemes remain relevant and are included in the summary of submissions below and are addressed later in this report. A copy of all submissions is also available to the Panel for their consideration.

Form, massing and scale

- *The proposed development exceeds the maximum permitted building height in Clause 4.3 in NSLEP 2013.*
- *The written request submitted pursuant to clause 4.6 in NSLEP 2013 should not be supported because the proposed development fails to achieve objectives:
 - d) regarding privacy; and
 - f) regarding scale and density*
- *The proposed building is four storeys whereas the surrounding character is a maximum of three storeys.*
- *The proposed building does not respond to the topography of the site because the building has not been stepped to follow the fall of the land.*
- *The bulk and scale of the new building mass would dominate the streetscape and existing building on the site.*

Heritage and character

- *The whole of No. 15 Allister Street should be retained given its heritage significance as the building is a locally rare example of Inter-war Functionalist style residential flat building.*
- *The retention of only the façade of No. 15 Allister Street is not sufficient heritage conservation. The existing building should be conserved as a stand along building.*
- *The proposed development has not been designed sympathetically with the several other heritage items within the vicinity of the subject site.*
- *The proposed development is inconsistent with objectives e), f) and g) of Section 13.1.1 of Part B in NSDCP 2013.*
- *The proposed development is incompatible with the character of the neighbourhood.*
- *The proposed flat roof is incompatible with the surrounding characteristic pitch roof typology.*

Traffic and congestion

- *Additional traffic generated by the proposed development would contribute to the traffic congestion caused around school drop off and pickups times for the school located opposite the subject site.*
- *There would be an increased demand for on-street parking which is already limited.*
- *The Traffic Report has not sufficiently justified the need for 20 on-site parking spaces.*

- *The existing dwellings to be retained do not require additional basement parking.*
- *The recent Draft DCP amendment encourages reduced onsite parking rates.*

Residential amenity

- *The bulk and scale of the proposed building would result in a loss of solar access and privacy for adjoining properties.*
- *The proposed fenestration and balconies along the southern side of the building would result in a loss of privacy for the adjoining dwellings to the south.*
- *The proposed 4.5m southern side setback is insufficient and should be increased to 6m to comply with the DCP given that the southern façade contains windows for habitable rooms.*
- *The existing views of the neighbourhood are primarily of trees and rooftops and would be interrupted by the proposed additional storey.*
- *There would be mutual overlooking between surrounding buildings and the proposed additional apartments.*
- *The proposed development would impact the light and airflow to surrounding properties.*
- *The proposed development would cause a loss of views from a residential flat building in Cranbrook Avenue, including loss of water and city skyline views over the front boundary from a kitchen and living rooms, caused by non-compliant elements.*

Excavation and construction impacts

- *Concerns regarding construction traffic congestion and construction traffic management, including risks to public safety.*
- *Concerns regarding the cumulative impact of the proposed development and other developments within the surrounding area on traffic congestion and safety.*
- *Concerns regarding the excessive depth of excavation given the proposed three level basement.*
- *Concerns regarding the length of excavation and associated vibration impacts.*
- *Concerns regarding dewatering of excavation, changes to ground water and subsoil seepage.*
- *The proposed basement exceeds 70% of the site area.*
- *The basement excavation zone of influence should not impact adjoining buildings.*
- *Potential for the excavation and construction works to damage the surrounding heritage items.*
- *Consent has not been granted for rock anchors across the southern side boundary.*
- *There would be privacy impacts caused by erection of scaffolding during construction.*

Landscape and habitat

- *The proposed tree removal would cause a loss of habitat.*
- *The proposed development does not comply with the 40% minimum required landscaped area provision in Council's DCP.*
- *The non-compliant permeable surfaces would cause additional runoff to the adjoining property to the south.*

Miscellaneous

- *The proposed development may exceed the capacity of the existing utility services.*

CONSIDERATION

HERITAGE ACT 1977

At the time the development application was lodged, No. 15 Allister Street was subject to an interim heritage order issued under Section 25 of the Heritage Act. The interim heritage order lapsed on 3 June 2023 and therefore the provisions of the Heritage Act are no longer of effect, however, the process is outlined below given that the provisions applied at the time of lodgement and in part effected or informed the processing of the development application.

Part 4 Effect of interim heritage orders and listing on State Heritage Register

Section 57

Where an interim heritage order applies, a person must not do any of the following things except in pursuance of an approval granted by the approval body under Subdivision 1 of Division 3—

- (a) demolish the building or work,*
- (b) damage or despoil the place, precinct or land, or any part of the place, precinct or land,*
- (c) move, damage or destroy the relic or moveable object,*
- (d) excavate any land for the purpose of exposing or moving the relic,*
- (e) **carry out any development in relation to the land on which the building, work or relic is situated, the land that comprises the place, or land within the precinct,***
- (f) **alter the building, work, relic or moveable object,***
- (g) display any notice or advertisement on the place, building, work, relic, moveable object or land, or in the precinct,*
- (h) damage or destroy any tree or other vegetation on or remove any tree or other vegetation from the place, precinct or land.*

Pursuant to Subsection 4.46(4) of the EP&A Act, development is not integrated development in respect of the approval required under Section 57 of the Heritage Act if the approval that is required is approval of a council.

Pursuant to Section 56 *Definitions* of the Heritage Act, Council is the *approval body* for the heritage approval because Council issued the interim heritage order and therefore the application is not integrated development.

Pursuant to Subsection 63(2) of the Heritage Act, an application for a Heritage Approval to demolish the 'whole of the building' must be refused. This is a matter for consideration under the application for Heritage Approval, however, the proposed development does not seek to demolish the whole of the building.

Section 60

The Applicant made an application under Subdivision 1 of Division 3 of the Heritage Act to carry out the proposed development (the subject of the development application) which includes doing things listed in Section 57 on land, No. 15 Allister Street, to which an interim heritage order applies. The application for a heritage approval is registered in Council's property system as HA2/2023 and would be required to be reported to the Council for determination.

The above application (HA2/2023) was notified in accordance with Section 61 of the Heritage Act.

It is noted that this is a fairly uncommon type of application and that a number of submissions received by Council commented on the proposed development in general, rather than specifically in respect to the application made under the Heritage Act.

For completeness, the matters raised in submissions are summarised below:

- *Detrimental impact to the heritage significance of No. 15 Allister Street and surrounding buildings. No. 15 Allister Street should be fully, rather than just substantially, retained.*
- *Character of the area and streetscape.*
- *Bulk and scale of the proposed development, including the proposed height variation and style of roof form.*
- *Extent of basement excavation and potential impacts to neighbouring properties.*
- *Potential amenity impacts including reduction in solar access and privacy.*
- *Loss of trees and landscaping.*
- *Construction impacts.*
- *Increased traffic and parking congestion.*

A number of these matters do not directly relate to the notified application seeking approval under the Heritage Act, however, have been considered for completeness given the interrelationship between the planning proposal, development application and heritage approval and are satisfactorily addressed under the submissions heading below.

The Interim Heritage order lapsed on 3 June 2023, from which time the requirement to obtain an approval under the Heritage Act is no longer required for the proposed development and therefore the application made under Section 60 of the Heritage Act is now redundant and has been withdrawn.

Environmental Planning and Assessment Act 1979

The relevant matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in Non-Rural Areas

Section 2.6 of the Policy specifies that a person must not clear declared vegetation in a non-rural area of the State without consent of Council. The Policy confers the ability for Council to declare vegetation that consent is required in a Development Control plan. Section 16 of Part B in NSDCP 2013 specifies declared trees for the purpose of SEPP (B & C) 2021.

The proposed development seeks consent to remove six declared trees and has the potential to impact one other declared tree. Council's Landscape Development Officer has reviewed the proposed development and is satisfied that the removal of trees is acceptable having regard to the matters for consideration in Provision P3 of Section 16.2.2 of Part B in NSDCP 2013 as addressed in the referral advice provided above and that the potential impact to T4 *Angophora costata* can be appropriately managed to ensure that the health and stability of the tree is maintained.

Therefore, the provisions of Chapter 2 of the Policy have been met.

Chapter 6 – Sydney Harbour Catchment

The subject site is not overly visible from Sydney Harbour or its foreshores. The proposal therefore would not impact upon the ecological significance, water quality or scenic quality of Sydney Harbour or its waterways and is considered acceptable regarding the provisions of Chapter 10 of the Policy.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A valid BASIX certificate (Certificate No. 1339113M, dated 5 February 2023) has been provided for the seven proposed apartments within the new building form located mostly on No. 13 Allister Street.

An alternate assessment pathway is sought for the six remaining dwellings located within the existing residential flat building located mostly on No. 15 Allister Street on the basis that the existing building is a draft heritage item and therefore retention of significant fabric and existing constraints prevent the issuance of a BASIX Certificate under the usual pathway. A separate BASIX Certificate (Certificate No. (Certificate No. 1339489M_02, dated 2 June 2023) has been approved by the Department of Planning and Environment under the alternative assessment pathway for these six remaining dwellings.

The alternate assessment pathway seeks exemptions from some of the thermal comfort requirements because there is no opportunity to alter some of the existing glazing or insulation within the existing building because it would be detrimental to the heritage fabric of the existing building to be retained which is identified to be of heritage significance.

Conditions C50 and G14 require the development to be constructed in accordance with the BASIX Certificates

State Environmental Planning Policy (Housing) 2021

Chapter 2, Part 3 *Retention of existing affordable rental housing* of the Policy does not apply to the proposed development. The Policy does not apply to multi-dwelling housing in accordance with Subsection 46(1) of the Policy and therefore does not apply to the demolition of No. 13 Allister Street. The Policy applies to residential flat buildings, however, does not apply to the alterations or additions to No. 15 Allister Street in accordance with Subsection 46(2) of the Policy because the building has previously been Strata subdivided.

State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 of the Policy requires the consent authority to consider whether the land is contaminated, and if so whether the land is suitable for the intended use or any remediations measures required to make the land suitable for the intended use. Council's records indicate that the site has historically been used for residential development and as such is unlikely to contain any contamination. The subject site is therefore considered suitable for the proposed use given that contamination is unlikely.

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

The application was referred to Council's Design Excellence Panel as required under Subsection 28(2)(a) of the Policy. The advice of the Panel has been taken into account as addressed above.

The design quality of the proposed development is evaluated below against the Design Quality Principles in Schedule 1 to the Policy as required under 28(2)(b) of the Policy.

Principle 1: Context and neighbourhood character

The subject site is located within a R4 High Density Residential zoned area. The proposed development includes the retention and redevelopment of the existing residential flat building at No. 15 Allister Street which is identified to be of heritage significance. The proposed development allows the redevelopment of the development site whilst retaining significant heritage fabric both internally and externally and ensuring its contribution to the streetscape and character of the area is maintained.

Principle 2: Built form and scale

The proposed additional building mass to the south of the existing building to be retained allows for the development of No. 13 Allister Street and has a more contemporary although complementary design. The massing of the proposed additional building mass and separation between the building forms created by the indent above the building entry reflects the existing subdivision pattern and rhythm of the streetscape. Further, the proposed additional building mass is of an acceptable bulk and scale adjacent to the existing building to be retained and has been designed to reflect the scale of the existing building with a ground level sandstone base, two levels constructed of brick, like the existing building, and a recessed upper level adjacent to the hipped roof form of the existing building.

Should No. 13 Allister Street have been developed in isolation of No. 15 Allister Street, it is likely that a similar building massing would be achieved, i.e., a four storey scale residential flat building adjacent to the existing residential flat building proposed to be retained. However, it is noted that there would be a degree of difference in the built form and potential yield given the need to provide additional setbacks between the buildings.

Principle 3: Density

The proposed development complies with the maximum permitted site coverage provision in NSDCP 2013 and provide reasonable setbacks to all boundaries, taking into consideration of the existing setback to the northern side boundary. The number of apartments achieved is commensurate to the site of the site and the achieves a reasonable mix of apartment sizes.

Principle 4: Sustainability

The adaptive reuse of the existing residential flat building at No. 15 Allister Street would have a positive sustainability outcome by reducing the amount of waste created and new materials required which have an embodied energy cost.

Valid BASIX Certificates have been provided. It is noted that dwellings within the existing building to be retained are assessed under the alternative assessment process because the existing building is of heritage significance and therefore provides some constraints.

A large photo voltaic cell array is proposed on the roof and would provide renewable energy to be used throughout the building.

A rainwater reuse tank is proposed and would collect rainwater for reuse within the building and gardens.

Principle 5: Landscape

The proposed development complies with the deep soil requirements and generally complies with the landscape area requirements in NSDCP 2013, noting that there is some landscaping on structure which does not numerically contribute to the assessed landscaped area having regard to the definition in NSDCP 2013, however, would provide substantial landscaping within the southern side setback area. The proposed development includes the retention of two significant trees and provides opportunity to plant nine additional canopy and feature trees. The proposed landscaping scheme also includes well planted garden areas and utilises landscaping to increase privacy between dwellings and communal open spaces.

Principle 6: Amenity

The proposed development would achieve a high level of residential amenity. The proposed development complies with, and exceeds, the minimum solar access and natural cross ventilation requirements in the ADG. The size and layout of apartments and courtyards and balconies are also well considered and would provide functional and comfortable spaces.

Principle 7: Safety

A reasonable level of safety and security is provided having regard to the residential setting. The site is fenced with a low scale front fence to separate the public and private domain and the orientation of apartments would provide passive surveillance over the public domain and communal areas.

The proposed vehicle access is located separately from the pedestrian entry and compliant sightlines from the driveway to the footpath have been achieved to maintain pedestrian safety.

Principle 8: Housing diversity and social interaction

The proposed development provides a reasonable mix of dwelling sizes to comply with Section 1.2.1 of Part B in NSDCP 2013. Additionally, a high quality and functional communal open space area is provided to the rear of the building and additional garden seating areas are provided within the front setback area.

Principle 9: Aesthetics

The character and aesthetics of the existing residential flat building is retained and the character and aesthetics of the proposed additional building mass to the south has a similar and complementary character, although is a more contemporary interpretation. The use of similar materials and finishes, with some used in a more modern way, results in a complementary built form appearance.

The proposed materials and finishes schedule is considered to be of a high quality and is well considered having regard to the character and appearance of the existing building to be retained. The use of sandstone, brown brick including patterned elements, and the darker recessive olive green and brass metal elements and cladding provides sophisticated appearance.

The proposed landscaping would also contribute to the garden setting of the development.

Schedule 3 - Traffic Generating Development.

The proposed development does not meet the thresholds to be classified as traffic generating development and therefore referral to TfNSW is not required.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

Permissibility

The subject site is zoned R4 High Density Residential. The proposed development is for the purpose of a residential flat building which is a permitted use within the zone.

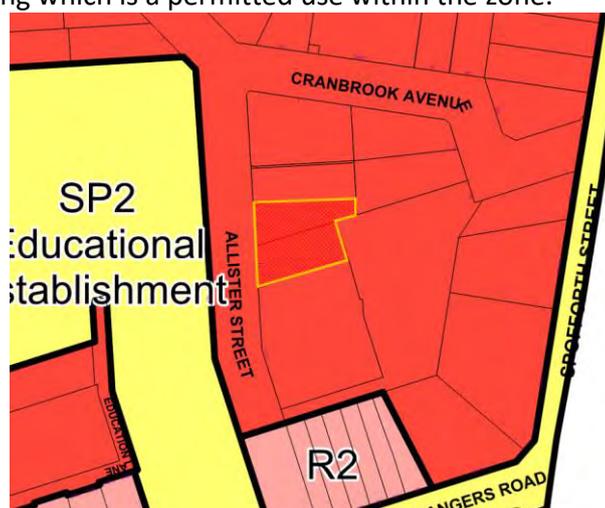


Figure 32. NSLEP 2013 Land use zoning map with the subject site shown outlined in yellow.

Objectives of the zone

The objectives of the **R4 High Density Residential zone** are as follows:

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

The proposed development would provide for the housing needs of the community within a high density residential environment by increasing the number of dwellings on the site from 7 to 13 and providing an appropriate mix of dwelling sizes to contribute to the variety of housing options.

The proposed development would facilitate the retention of the existing residential flat building which is identified to be of heritage significance and allows for the redevelopment of the site having regard to the heritage significance and character of the existing building proposed to be retained. The proposed development would achieve a high level of residential amenity for the proposed apartments and would maintain reasonable levels of residential amenity for the surrounding dwellings.

Clause 4.3 - Height of buildings

The subject site has a maximum permitted building height of 12m pursuant to clause 4.3(2) in NSLEP 2013. The proposed building results in a maximum variation to the height of building development standard by up to 1.98m or 16.5%. The variations occur towards the southern portion of the roof form of the proposed building and are greatest towards the southwestern corner of the building. The variations are partly caused by the lift over run and solar panel array which are located above the roofline. The variations do not give rise to additional yield and are a reflection of the roof form and services where the proposed building is located on a sloping site.

	Non-compliant Building Element	Control	Height	Variation
A.	Lvl 3 roof (southwestern corner)	12m	13.98 (RL 87.8)	1.98 (16.5%)
B.	Lvl 3 roof awning (southwestern corner)		13.05 (RL87.3)	1.05 (8.75%)
C.	Lift over run		12.7m (RL 88.1)	0.6m (5.0%)
D.	Solar Panels		13.8 (RL88.1)	1.8m (15.0%)



Figure 33. Height Plane Diagram indicating the extent of the proposed variations

Clause 4.6 - Contravention of a Development Standard

A written request to contravene the height of buildings development standard has been submitted and has been considered below. The written request is provided at **Attachment 3** of this report.

Clause 4.6(3)(a) Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

Chief Judge Preston in *Wehbe v Pittwater Council* [2007] NSWLEC 827 established a five-part test that may be used to demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case. The applicant relies on Test 1.

Test 1 states “the objectives of the standard are achieved notwithstanding noncompliance with the standard”. The applicant’s written request has demonstrated that the objectives of the standard are achieved notwithstanding the noncompliance as discussed below.

- (1)(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The written request has demonstrated that the proposed development conforms to and reflects the existing slope of the land as far as practical. The site falls by approximately 4.2m from the northern side to the southern side and has a crossfall towards the front boundary for the length of the site. The proposed building has continuous floor plates, allowing the retention of the existing residential flat building and providing an appropriate relationship between the existing and proposed building forms. As a result, there is not an opportunity to set the non-conforming portion of the building lower on the site, albeit the proposed ground level still relates well to the existing ground level towards the southern side of the site where the land falls away.

Additionally, to reflect the fall of the land towards the southwestern corner, the upper most level where the variations occur has been set back significantly further from the front (western) and southern boundaries and would step down in appearance.

(1)(b) to promote the retention and, if appropriate, sharing of existing views,

The written request has demonstrated that the proposed development would not result in any significant loss of views or outlook in comparison to a complaint built form. The written request has described the location of the non-complying elements which are located similar to or below other compliant elements of the buildings and have been set back further than other elements to maintain any view corridors.

The written request has also described the surrounding development and any potential opportunities for views over or past the proposed development. Views from surrounding buildings are likely already impacted by the existing developments. It is likely that views are gained from the taller building along Cranbrook Avenue towards the south, however, views would be retained over the subject site as the non-complying elements are consistent with the maximum height of compliant elements (in terms of the RLs) when viewed from the north and would appear as relatively minor elements in the context of the views given the distance between the properties and changes in elevation.

Despite the generality of statements in the written request, no other significant views were identified in the course of the assessment that have not been dealt or would be required to be dealt with in the written request.

(1)(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The written request has identified the potential overshadowing to the adjoining residential flat buildings to the south (Nos. 1-11 Allister Street) and west (No. 13 Cranbrook Avenue). The extent of the non-compliant building envelope is relatively minor in comparison to the complaint portion and therefore the potential impact of any non-compliant portion is therefore also minor.

Nevertheless, there would be some additional overshadowing to the adjoining dwellings to the south within the northern building of Nos. 1-11 Allister Street. The additional overshadowing caused by the non-complying elements would affect the first floor level floor level windows of the adjoining dwellings which contain bedrooms. The potential impact is similar to that caused by the complying elements and the potential impact has been minimised through the increased setbacks including the additional setback for the upper most level where the non-compliances occur. Furthermore, sufficient solar access is retained to Nos. 1-11 Allister Street between 9:00am and 3:00pm in mid-winter having regard to the ADG requirements.

Similarly, there would be some additional overshadowing to the dwellings within the adjoining residential flat building (No. 13 Cranbrook Avenue) from 2pm onwards in mid-winter. The height of

the proposed building basically complies at the rear with a near negligible variation of the southeastern corner. The potential overshadowing is consistent with that of a compliant building. Furthermore, sufficient solar access is retained to Nos. 1-11 Allister Street between 9:00am and 3:00pm in mid-winter having regard to the ADG requirements.

The potential overshadowing impacts are consistent with the orientation of the adjoining properties in relation to the subject site, the fall of the land and the extent of development envisaged within the R4 High Density Residential zone.

(1)(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The written request has demonstrated that reasonable levels of privacy would be maintained for existing residents of the surrounding buildings. The non-complying elements generally relate to the roof form, lift over run and solar panels, and would not have any associated privacy impacts.

Where the upper portion of the glazing within the eastern and southern elevations of the upper most level does not comply, the building is set back 10m from the southern side boundary and provides adequate privacy for the adjoining residential flat buildings (Nos. 1-11 Allister Street) in accordance with the building separation and setback requirements in the ADG and DCP.

(1)(e) to ensure compatibility between development, particularly at zone boundaries,

The written request demonstrates that the proposed development would be compatible with the surrounding development as the proposed building would fit comfortably within its context. The proposed development is consistent with the desired future character of the Murdoch Neighbourhood described in the character statement in Part C of NSDCP 2013. The proposed development has been designed to be sympathetic to the existing residential flat building to be retained. The upper most level of the proposed additional building mass is recessed to limit the perceived visual and physical impacts of the proposed variations. The recessed massing also reflects the topography of the site which falls towards the southwestern corner where the variation is greatest.

The proposed development also considers the surrounding mixed development context which includes a variety of residential building typologies and a school. The proposed development is compatible with the streetscape and has an appropriate relationship with the surrounding development notwithstanding the proposed variation.

(1)(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The written request demonstrates that the proposed development would have an appropriate scale and density, having regard to the character of the surrounding area. The 12m height control anticipates a four storey building. The proposed development, including the non-complying elements is four storeys and the variation are limited to a relatively minor portion of the overall built form where the land falls away to the southwest. The proposed additions are compatible with the character of the residential flat building to be retained, being a sympathetic contemporary addition, and aligns with the existing floor levels and follows the topography of the site. The proposed upper most level where the non-compliance occurs is set back further from the front and southern side boundaries to ensure the scale of the proposed development remains appropriate and not to exacerbate the potential non-compliance that would occur if a sheer 12m elevation was proposed. Some of the proposed non-complying elements relate to the roof equipment and lift overrun and

have been designed to be incorporated with the roof form to minimise any additional bulk. The scale of the proposed non-complying elements would not appear noticeably different from the complying elements noting how the building has been designed with modulations of the building mass and changes in materials through the building.

The scale and density of the proposed development also would not exceed that anticipated outcome arising from the relevant development controls as the proposed development generally complies with the site coverage and setback provisions and in part remains only three storeys where the existing residential flat building is proposed to be retained.

Clause 4.6(3)(b) Whether there are sufficient environmental planning grounds to justify contravening the development standard?

The environmental planning grounds advanced in the written request are considered to be sufficient to justify the contravention of the development standard in the circumstances of the case. The following justifications were provided on pages 8-12 of the submitted written statement and have been summarised and discussed.

- *The variation reflects the significant cross fall of the site.*

The written request identifies the irregular and significant fall of the land across the site towards the southwest which is a site specific constraint. Much of the northern side of the proposed additional building mass complies with the development standard and the variation occurs where the land falls away towards the south and southwestern corner of the site. The proposed development allows for the continuation of the existing floorplates to promote equitable access throughout the existing and proposed building forms. The proposed building provides horizontal modulation consistent with the existing building but steps down towards the south where the land falls away by providing increased setbacks at the upper most level.

- *The non-compliances are isolated to limited parts of the site and are part of a building which are of good design.*

The proposed upper most level of the additional building mass causes the non-compliances although the variations are limited to the southern side, particularly in the southwestern corner, and elements such as the lift overrun. The upper most level is well integrated into the design of the contemporary building form and has been recessed from both the front and southern (side) elevation of the building. The architectural expression of this level is also lightweight with the materiality being differing from the levels below and additional glazing to minimise the visual massing of this level.

The proposed design and setbacks of the upper most level also seeks to minimise any potential impacts to the amenity of the surrounding properties.

The proposed four storey scale of the additional building mass supports the retention of the existing building which is identified to be of heritage significance. Any further redistribution of floor area within lower levels of the building would require further intervention into the existing building or increase the site coverage of the development that is likely to lead to an unfavourable outcome. The proposed development has otherwise appropriately responded to the constraints of the site.

The proposed built form is compatible with the existing building to be retained and would have an acceptable presentation within the wider streetscape within the Murdoch Neighbourhood.

- *The non-compliance related to the photovoltaic panels allows for a sustainable design outcome.*

The proposed non-compliances related to the photovoltaic panels would assist in delivering a sustainable building and would not detract from the bulk, scale of character of the development.

- *Deletion of the upper most level would not be orderly and economic use of the land.*

The deletion of the proposed upper most level where the variation occurs would be unreasonable on the basis that the variation is caused by the topography and would limit the provision of housing within the area that otherwise is consistent with the objectives of the R4 High Density Residential zone.

- *The impacts of the height variation would be imperceptible.*

There is an absence of significant material impacts caused by the proposed variations to the development standard. The proposed development would reasonably retain existing view, solar access and privacy having been assessed against the relevant development controls and objectives of the development standard.

- *The impacts of the height variation would satisfy relevant environmental planning instruments.*

The proposed development achieves the Objects in section 1.4 the EP&A Act, specifically to:

- promote the orderly and economic use and development of the land in accordance with Object 1.3(c).
- promote good design and amenity of the built environment through a well-considered design which responds to the setting and context of the building in accordance with Object 1.3(g).

The proposed development achieves the Aims of SEPP 65 – Design Quality of Residential Apartment Development to support the provision of quality and sustainable housing.

Clause 4.6(4)(a)(ii) Whether the proposed development will be in the public interest?

The proposed variation is considered to be in the public interest as it has been demonstrated that the proposed development is consistent with the objectives of the zone and the objectives of the development standard as discussed above.

Clause 4.6(4)(b) Concurrence with Minister

The consent authority, but not a delegate due to the variation being greater than 10%, may assume concurrence with the Minister as per the Planning Circular PS 20-002.

Concluding Remarks

The written request to vary the development standard provided by the applicant is considered well founded. The written request demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation. The proposed development is considered to be in the public interest. It is recommended that the variation be supported in these circumstances.

Clause 5.10 - Heritage conservation

The subject site is not listed as a heritage item or within a conservation area in Schedule 5 to NSLEP 2013. The site is also located in proximity to two heritage items of State significance, being Items I0045 “Belvedere” (7 Cranbrook Avenue) and I0046 “Egglemont” (11 Cranbrook Avenue) and two heritage items of local significance, being I0067 and I0068 (Redland Junior School Campus). The Cremorne Conservation Area is located towards the south of the subject site.



Figure 34. NSLEP 2013 Heritage Map (Heritage Items Gold)

At the time the development application was lodged, No. 15 Allister Street was subject to an interim heritage order issued under Section 25 of the Heritage Act, however, Clause 5.10 in NSLEP 2013 did not require the consent authority to consider the effect of an interim heritage order. This would have been dealt with separately under Section 57 of the Heritage Act as addressed above. A separate application for a heritage approval under the Heritage Act has been made and is registered with Council as HA2/2023, however, once the interim heritage order lapsed on 3 June 2023, a heritage approval is no longer required and therefore the application is redundant.

However, No. 15 Allister Street is considered a draft heritage Item as Planning Proposal PP8/2022 seeks to list No. 15 Allister Street as a heritage item of local significance in Schedule 5 to NSLEP 2013. The planning proposal to amended NSLEP 2013 is considered a draft planning instrument for the purposes of Section 4.15(1)(b) of the EP&A Act and is a relevant matter for consideration. This report deals with the site as if No. 15 Allister Street was listed as a heritage item given that the LEP amendment is considered imminent.



Figure 35. Extract from PP8/2022 of existing and proposed NSLEP 2013 Heritage Map

Council's Conservation Planner has assessed the proposed development against Clause 5.10 of NSLEP 2013 as if No. 15 Allister Street were a heritage item and also with respect to the proximity to the two nearby heritage items of state significance and concluded that the proposed development satisfies this clause. Refer to heritage referral advice above.

Clause 6.10 - Earthworks

Subclause 6.10(3) in NSLEP 2013 requires the consent authority to consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on:*
 - (i) *drainage patterns and soil stability in the locality of the development, and*
 - (ii) *natural features of, and vegetation on, the site and adjoining land,*

The proposed excavation is predominantly to construct the proposed basement and building. Some changes in levels are also proposed, particularly within the rear set back area to address the irregular topography of the land. Level changes are proposed to be terraced with retaining walls and additional drainage to be installed to convey any runoff not absorbed by the landscaped area to the storm water system.

The proposed excavation would not have a detrimental impact on natural features of the site. Any excavation in proximity to tree T4 *Angophora costata* located within the southeastern corner of the subject site is to be undertaken sensitively to minimise the impact to the significant tree. The rocky outcrop within the northwestern corner of the site is to remain undisturbed.

- (b) *the effect of the development on the likely future use or redevelopment of the land,*

The proposed excavation would facilitate the development of the land and would not adversely impact the potential redevelopment of surrounding land.

(c) the quality of the fill or the soil to be excavated, or both,

A preliminary geotechnical assessment has been provided which includes borehole samples taken throughout the site. The existing soil depths are relatively shallow with sandstone bedrock encountered at 0.5m – 1.9m below ground level. Therefore, relevant conditions have been recommended requiring any material excavated from the site to be disposed of at a facility legally allowed to receive the excavated material. It is unlikely that the site is contaminated given the historical residential use of the land.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

The proposed excavation is set back from the adjoining properties. There are some changes to land levels outside the building footprint, however, the land levels are generally reduced through the terracing of landscaped areas and would not result in any material overlooking impacting the privacy of adjoining properties. The proposed changes in levels within the southern side setback area, and the existing land levels, have the potential to result in overlooking to the adjoining property to the south, as is the existing situation. A landscaped buffer has been provided along the southern side boundary to provide privacy for the adjoining dwellings (Nos. 1-11 Allister Street).

(e) the source of any fill material and the destination of any excavated material,

Conditions are recommended relating to a waste management plan and removal of excavated material. Subject to these conditions, there is no concern regarding the source of fill and destination of excavated material.

(f) the likelihood of disturbing Aboriginal objects or relics,

The proposed development is unlikely to disturb any Aboriginal objects or relics as the site has been previously developed and contains no undisturbed rocky outcrops or other features that would indicate the presence of Aboriginal objects or relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

The site is not located near any waterway or environmentally sensitive area and is therefore unlikely to adversely impact any waterway or environmental sensitive area. Relevant sediment and erosion control conditions have been recommended to ensure that eroded sediment does not enter Council's stormwater system which would subsequently effect local waterways.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

A preliminary excavation strategy developed by a geotechnical and structural engineer has been provided which details the proposed methodology to underpin the existing building and undertake the bulk excavation.

Council’s Development Engineer has recommended **Conditions AA1** and **E6**, as standard, requiring further geotechnical investigations and reporting, and oversight during the works. Given the scope of excavation and underpinning works, it is recommended that a deferred commencement consent be granted to ensure that the outcome of

Excavation within proximity to T4 *Angophora costata* within the southeastern corner of the site is also to be undertaken sensitivity to ensure that the excavation work does not cause any further encroachment to the TPZ of this tree (Refer to **Condition C28 & 31**).

Clause 6.12 - Residential flat buildings

The proposed development is zoned R4 High Density Residential and therefore this clause applies. The adjoining land zoned R4 High Density Residential does not contain any single dwellings, dual occupancies or semi-detached dwellings, with the exception of No. 11 Cranbrook Avenue, being a State listed heritage item, and therefore the proposed development would not cause any site to become isolated within the meaning of this clause.

POLICY CONTROLS

Apartment Design Guide (ADG)

The proposed development has also been considered against the Apartment Design Guide and is generally compliant as detailed in the table below:

Amenity	Design Criteria	Comment	Compliance
2C– Building Height	<p><i>Consider the height of surrounding buildings that are unlikely to change (such as contributory and heritage items)</i></p> <p><i>Development should respond to desired future scale and character.</i></p>	<p>The proposed development does not strictly comply with the maximum permitted building height in Clause 4.3 in NSLEP 2013, however, the proposed variation is well founded and is considered acceptable. The variation is caused by the fall of the land and retention of the existing floor levels. The proposed height of the building is consistent with the desired future character of the area, and the design of the proposed building reasonably responds to the character of the existing residential flat building, identified to be of heritage significance, on the site (No. 15 Allister Street).</p>	Acceptable

<p>2F - Building Separation</p>	<p><i>Minimum separation distances for buildings are: Up to four storeys (approximately 12 m):</i></p> <ul style="list-style-type: none"> • 12 m between habitable rooms/balconies (6m to boundary) • 9 m between habitable and non-habitable rooms (4.5m to boundary) • 6 m between non-habitable rooms (3m to boundary) 	<p>Northern Side</p> <p>The existing residential flat building is setback 1.1-1.6m from the northern side boundary adjoining No. 17 Allister Street. The adjoining building is also a two storey residential flat building set back 1.5m from the shared boundary.</p> <p>There are no changes proposed to the height or length of the building adjoining the side boundary. The reconfiguration of the existing layout within the building adjoining the northern boundary includes only bedrooms and bathrooms as opposed to any living areas or balconies and would not reduce the existing level of privacy between the two existing residential flat buildings. The introduction of privacy measures such as external screening or obscure glazing would have a detrimental impact on the heritage significance of the existing building and is not recommended in the circumstances. The proposed development reasonably addresses the constraint of the existing setback.</p> <p>Rear (Western)</p> <p>A minimum setback of 6m is proposed from the rear boundary and the building separation to the adjoining residential flat building (No. 13 Cranbrook Avenue) is approximately 15m.</p> <p>Sothern Side</p> <p>A minimum setback of 6m is proposed from the southern side boundary. The adjoining property (Nos. 1-11 Allister Street) contains residential flat buildings which are setback less than 6m from the boundary meaning that 12m building separation is not achieved. However, the proposed setback complies and would support compliant building separation should the adjoining property be redeveloped.</p>	<p>Existing</p> <p>Yes</p> <p>Yes</p>
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<p>3D- Communal Open Space</p>	<p><i>Communal open space has a minimum area equal to 25% of the site.</i></p> <p><i>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3.00 pm on 21 June (mid-winter)</i></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i></p>	<p>A communal open space area (COS) is provided at ground level at the rear of the existing building in the northeastern corner of the site. The proposed COS is 80sqm, which is less than the minimum 25% required, although provides adequate space and facilities for the size of the proposed building. The COS area is located in the irregular shaped portion of the rear of the site and responds to the site conditions and provides a private but attractive, well landscaped and inviting space for the residents.</p> <p>The COS area would receive more than 2hrs solar access to the principle usable portion in midwinter given the favourable northeastern aspect. Additional sitting areas are provided within the front setback area and are accessible.</p>	<p>Acceptable</p>									
<p>3E - Deep Soil Zones</p>	<p><i>Deep soil zones are to meet the following minimum requirements:</i></p> <ul style="list-style-type: none"> • 3 m minimum width • Minimum 7% of the site area <p><i>Design Guidance 15% of the site where the site area is greater than 1,500 sqm</i></p>	<p>A minimum of 25% deep soil landscaped area with a minimum width of at least 3m has been provided.</p>	<p>Yes</p>									
<p>3F - Visual privacy</p>	<p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</i></p> <table border="1" data-bbox="375 1400 750 1624"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> </tbody> </table>	Building Height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	<p>As addressed above regarding Objective 2F regarding building separation, the proposed building provides adequate setbacks from the southern and rear boundaries and retains the existing setback to the northern side boundary.</p> <p>The layout of the apartments adjoining the non-compliant existing northern side setback has been designed to minimise privacy impacts by locating living areas and balconies to the front and rear and having only bedrooms and bathrooms facing the adjoining building. The proposed outcome is considered acceptable having regard to the constraints of the site and the retention of the existing building which is identified to be of heritage significance.</p>	<p>Acceptable</p>
Building Height	Habitable rooms and balconies	Non-habitable rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										
<p>3G - Pedestrian Access and Entries</p>	<p><i>Building entries and pedestrian access connects to and addresses the public domain</i></p> <p><i>Access, entries and pathways are accessible and easy to identify</i></p>	<p>The proposed development has a new building entry located at the front of the building between the new and existing building forms. The building entry is recessed, however, is located in a prominent location visible from the public domain and is protected from the weather. The entry is also accessible at grade from the footpath.</p> <p>The existing building entry to No. 15 Allister Street located along the northern</p>	<p>Yes</p>									

		<p>side setback is also proposed to be retained given that it contributes to the heritage significance of the building.</p> <p>Separate pedestrian accesses have not been provided to each of the ground floor units (Units UG04 and UG.03) at the front of the building to avoid requiring additional paving within the front setback area given the extent of paving already required for communal pedestrian access, vehicle access, fire egress, and retention of heritage significant existing paving. In this instance, additional landscaping has been prioritised which has a net benefit for the streetscape and garden setting of the building.</p>	
3H - Vehicle Access	<p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality street-scapes</i></p>	<p>Vehicle access is provided via a two lane driveway from Allister Street located at the southern (low) end of the site to minimise the length of the ramp. The subject site does not have a rear lane or secondary frontage. Adequate lines of sight are provided for the driveway to the footpath. Pedestrian entries are separate from the vehicle access.</p>	Yes
3J - Bicycle and Car parking	<p><i>For development in the following locations:</i></p> <ul style="list-style-type: none"> <i>• on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i> <i>• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</i> <p><i>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</i></p> <p><i>The car parking needs for a development must be provided off street</i></p> <p><i>Parking and facilities are provided for other modes of transport</i></p>	<p>The subject site is not located within 800m of a railway station and therefore the parking provisions in Council's DCP apply.</p> <p>The proposed development includes 16 parking spaces for residents which complies with the maximum permitted number of parking spaces per dwelling equating to spaces. Condition G35 specifies the car parking allocation for each dwelling.</p> <p>Three of the resident parking spaces are accessible spaces to be allocated to the three adaptable apartments.</p> <p>Additionally, 3 visitor parking spaces are provided which complies with the minimum rate of 0.25 per dwelling (rounded down). Condition G35 specifies the car parking for visitors.</p> <p>Bicycle parking or storage areas are provided for 13 bicycles within the basement levels at the required rates for residents. A bicycle parking rail for two bicycles is located adjacent to the driveway in the front setback area for visitors.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Amenity	Design Criteria		
4A - Solar and daylight access	<i>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00 am and 3.00 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</i>	A total of 13/13 (100%) apartments would receive a minimum of 2hr solar access to living rooms and private open space areas in mi-winter which complies with this requirement.	Yes
4B - Natural ventilation	<i>All habitable rooms are naturally ventilated. The layout and design of single aspect apartments maximises natural ventilation. The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents - At least 60% of apartments are naturally cross ventilated</i>	A total of 9/13 (70%) apartments are naturally cross ventilated which complies with this requirement.	Yes
4C - Ceiling Heights	<i>Ceiling height achieves sufficient natural ventilation and daylight access - Minimum 2.7 m (habitable rooms), 2.4 m for second floor where it does not exceed 50% of the apartment area.</i>	The internal ceiling heights of the apartments comply with the relevant requirements.	Yes
4D 1 - Apartment size and layout	<i>Apartments are required to have the following minimum internal areas: 50 m² (1B), 70 m² (2B), 90 m² (3B) Additional bathrooms increase the minimum internal area by 5 m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m² each. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</i>	The internal floor space and configurations of apartments comply with the requirements. Apartments generally exceed the requirements and provide functional layouts. All habitable rooms have an external window for natural light and ventilation except for the media rooms for Units U1.01, U2.01 and U3.01 which have skylights or borrowed light, however, the NCC does not require natural light or ventilation for these types of rooms. Therefore this aspect of the proposed development is acceptable.	Yes

<p>4D 2 - Apartment size and layout</p>	<p>1. <i>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</i></p> <p>2. <i>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</i></p>	<p>All proposed apartments have a maximum room depth of 6m measured to the kitchen.</p>	<p>Yes</p>
<p>4D 3- Apartment size and layout</p>	<p>1. <i>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</i></p> <p>2. <i>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</i></p> <p>3. <i>Living rooms or combined living/dining rooms have a minimum width of:</i></p> <ul style="list-style-type: none"> • <i>3.6 m for studio and 1 bedroom apartments</i> • <i>4 m for 2 and 3 bedroom h</i> 	<p>All proposed bedrooms comply with the minimum internal dimensions.</p> <p>All apartments have an open plan kitchen, living and dining area and achieve the minimum width requirements.</p>	<p>Yes</p> <p>Yes</p>
<p>4E - Private open space and balconies</p>	<p><i>All apartments are required to have primary balconies as follows: Studio apartments – 4 m² 1 bedroom apartments – 8 m², minimum depth 2 m 2 bedroom apartments 10 m² minimum depth 2 m 3+ bedroom apartments 12 m² minimum depth 2.4 m</i></p> <p><i>The minimum balcony depth to be counted as contributing to the balcony area is 1.0 m</i></p> <p>2. <i>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m² and a minimum depth of 3 m</i></p> <p><i>Primary private open space and balconies are appropriately located to enhance liveability for residents.</i></p> <p><i>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</i></p> <p><i>Private open space and balcony design maximises safety.</i></p>	<p>The proposed development includes balconies or ground floor terraces and courtyards for each apartment complying with the minimum size and depth requirements with the exception of 2 two-bedroom apartments (Units U1.04 and U2.04) located within the existing building to be retained.</p> <p>The existing balconies are 5.7sqm in size and an irregular shape. The balconies are undersized by 2.3sqm, however, are consider acceptable given these are existing balconies and are significant to the heritage fabric of the existing building. The proposed development provides good communal open space in addition to the proposed private open space which can also be utilised by the residents of Units 1.04 and 2.04 to ensure adequate amenity is provided.</p>	<p>Acceptable</p>

4F - Common circulation and spaces	1. The maximum number of apartments off a circulation core on a single level is eight	A maximum of 4 apartments are located on each level.	Yes
4G -Storage	Studio apartments- 4 m ³ 1 bedroom apartments- 6 m ³ 2 bedroom apartments- 8 m ³ 3+bedroom apartments- 10 m ³	Storage cages are provided within the basement levels for each apartment.	Yes

Overall, the proposal is satisfactory having regard to the objectives and design criteria specified in the Apartment Design Guide.

North Sydney Development Control Plan 2013

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013 PART B - SECTION 1 - Residential Development																						
	Complies	Comments																				
1.2 Function																						
Section 1.2.1 - Mixed residential population	Acceptable	<p>The proposed residential flat building contains 13 units and therefore the population mix specified in Provision P1 applies and is assessed in the table below:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Dwelling Size</th> <th>Control</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>Min 2</td> <td>Nil</td> <td>No</td> </tr> <tr> <td>1 bedroom</td> <td>Min 2</td> <td>3</td> <td>Yes</td> </tr> <tr> <td>2 bedroom</td> <td>Min 2</td> <td>4</td> <td>Yes</td> </tr> <tr> <td>3 bedroom +</td> <td>Min 2</td> <td>6</td> <td>Yes</td> </tr> </tbody> </table> <p>The proposed development provides a reasonable mix of dwelling sizes and promotes a mixed residential demographic. The absence of any studio apartments is considered acceptable having regard to the more suburban location of the site.</p>	Dwelling Size	Control	Proposed	Complies	Studio	Min 2	Nil	No	1 bedroom	Min 2	3	Yes	2 bedroom	Min 2	4	Yes	3 bedroom +	Min 2	6	Yes
Dwelling Size	Control	Proposed	Complies																			
Studio	Min 2	Nil	No																			
1 bedroom	Min 2	3	Yes																			
2 bedroom	Min 2	4	Yes																			
3 bedroom +	Min 2	6	Yes																			
Section 1.2.2 - Universal Design and Adaptable Housing	Yes	A minimum of 20% of units are to be adaptable which equates to 2.6, so three dwellings. Three adaptable units have been provided (Units UG0.2, U1.02 and U2.02) with allocated accessible parking spaces.																				
Section 1.2.3 - Maintaining residential accommodation	Yes	The proposed development seeks to demolish seven existing two and three bedroom dwellings and construct 13 apartments and would result in a small net increase in dwellings.																				
Section 1.2.4 - Maintaining affordable housing	N/A	Part 3 <i>Retention of affordable rental housing</i> of SEPP (Housing) 2021 does not apply to either building.																				
1.3 Environmental Criteria																						
Section 1.3.1 - Topography	Yes	<p>The subject site slopes irregularly from the northern side to the southern side by approximately 4.2m and falls from the rear to the front boundary by appositely 0.6-1.2m.</p> <p>The internal floor levels of the proposed development have been established through the retention of the existing residential flat building although generally relate well to the existing topography. Some of the rooms within the proposed ground level apartments are partly located below existing ground level by up to 1.2m, however, open to garden or courtyard areas at ground level and would achieve adequate amenity.</p> <p>There are some changes in levels outside of the building footprint, however, the level changes relate well to the existing topography and landscaped terracing and retaining walls have been incorporated to support the level changes.</p> <p>Changes in levels are generally set back from boundaries and screened by landscaped planting along the boundaries.</p>																				
Section 1.3.6 - Views	Yes	The proposed development is unlikely to impact views from surrounding properties. Views are gained from various properties towards the south of																				

		<p>Sydney Harbour and its features, and the City of Sydney Skyline. Views are generally gained from taller buildings such as No. 30 Cranbrook Avenue. The properties directly to the north and northeast are single storey or two storey in height and would not have significant views over the subject site given the existing extent of development both on the subject site and surrounding land.</p>
		<p>The proposed additional built form is located behind the existing building when considering views towards the south from surrounding properties to the north. The proposed massing and scale of the proposed fourth storey adjacent to the existing roof form of the existing building to be retained would be visible and could potentially have some impact although this is unlikely to occur because it would either be consistent with the existing development or for properties located further away would be down slope and a significant distance away.</p> <p>With respect to apartments in the taller towers such as No. 30 Cranbrook Avenue towards the north, the potential impact would be minimal given the extent of the views and distance to the subject site which is also located down slope.</p>  <p><i>Figure 36. Photo from a south facing apartment in No. 30 Cranbrook Avenue</i></p>
<p>Section 1.3.7 - Solar access</p>	<p>Yes</p>	<p>The proposed development would achieve a minimum of 2hrs solar access to the living areas and private open space of each apartment.</p> <p>The proposed development, particularly the addition would cause some overshadowing to the adjoining residential buildings to the south and west.</p> <p>Nos. 1-11 Allister Street</p> <p>The adjoining property to the south contains residential flat buildings with five of the dwellings located adjacent to the southern side boundary of the subject site. Three of these apartments have living areas and courtyards orientated towards the north adjacent to the proposed development. Two of these apartments would not receive 2hrs of solar access in midwinter between 9:00am and 3:00pm, however, this is unchanged in comparison to the existing development. The remaining apartments would retain adequate solar access.</p> <p>Despite the additional overshadowing to the first floor level of the adjoining dwellings, there is no material increase in overshadowing to the ground level living rooms and private open space of the dwellings in comparison to the existing development.</p> <p>Furthermore, the overshadowing is caused by generally compliant elements. The building is set back 6m from the southern side boundary to comply with the ADG and complies with the 45degree building height plane setback in NSDCP 2013. The roof form of the upper most level results in a relatively minor non-compliance with the height of buildings development standard (in terms of the extent), however, is setback further, and the overshadowing primarily aligns with overshadowing from the storey below.</p> <p>No. 13 Cranbrook Street</p> <p>The adjoining property to the west (rear) contains a three storey residential flat building over a ground level parking level. The proposed development would result in some additional overshadowing to the southwestern side of some apartments from approximately 2:15 onwards in midwinter. However,</p>

		these windows are for bedrooms and bathrooms and there would be no impact to living areas or private open spaces and therefore the proposed development would not materially impact the amenity of these apartments.
Section 1.3.8 - Acoustic privacy	Yes	<p>The proposed design and layout of apartments adequately minimises potential noise transmission within and between dwellings. Bedrooms are located away from noise sources such as the lift and common hallways and rooms such as bathrooms or ensuites are co-located between apartments to limit noise transmission</p> <p>The proposed communal open space area is located at ground level and is adjacent to the rear set back areas of the adjoining residential flat buildings and dwellings. The potential acoustic impact of this space is commensurate with the R4 High Density Residential zoning of the site.</p>
Section 1.3.9 - Vibration	N/A	The subject site is not located near a rail corridor or busy road as defined in SEPP (Transport and Infrastructure) 2021 and therefore this provision does not apply.
Section 1.3.10 Visual privacy	Acceptable	<p>As addressed above regarding Objective 2F and 3F of the ADG regarding building separation and visual privacy, the proposed building provides adequate setbacks from the southern and rear boundaries and retains the existing setback to the northern side boundary. Reasonable levels of visual privacy are achieved considering the existing development of the site and surrounding properties.</p> <p>Condition C46 is recommended reinforcing the requirements to provide screen planting along the southern side boundary adjacent to the ground level courtyards located within the southern side setback area, as shown on the submitted landscape plans.</p> <p>The proposed communal open space area is located at ground level towards the rear of No. 15 Allister Street and includes screening planting and fencing surrounding the usable area which would minimise any potential overlooking to the adjoining properties.</p>
1.4 Quality Built Form		
Section 1.4.1 - Context	Yes	The proposed development seeks to retain and redevelop the existing residential flat building at No. 15 Allister Street which has been identified to be of heritage significance. The proposed development provides a complementary built form adjacent to the south of the existing building to be retained which has regard to the character of the existing building and provides for a contemporary addition.
Section 1.4.2 - Subdivision Pattern	Yes	The proposed development seeks to consolidate the two lots and the proposed building would be a single building form. However, the design of the building has been articulated with a recessed indent between the existing and new built forms which allows for interpretation of the existing subdivision pattern in accordance with Provision P3 and breaks down the bulk and massing of the building into smaller building forms that are more compatible with the scale of existing and surrounding development.
Section 1.4.5 - Streetscape	Yes	The proposed development seeks to remove one of the existing street trees, however, would allow for the planting of three additional street trees by reducing the number and extent of the vehicle crossings.
Section 1.4.5 - Siting	Yes	The siting of the existing building at No. 15 Allister Street is proposed to be retained and the proposed additional building mass is located adjacent in the same orientation. The southern and rear elevations are also parallel to the respective boundaries having regard to the irregular shape of the subject site.
Section 1.4.6 - Front Setback	Yes	The existing front setback of between 6-6.2m for the existing building to be retained would be retained and the proposed additional building mass continues the existing building line and would be set back between 6.2-6.4 from the front boundary.

<p>Section 1.4.8 - Built form character</p>	<p>Yes</p>	<p>The existing built form character of the existing building to be retained would be retained with minimal intervention to the front, northern side and rear facades which include significant original detailing including a sandstone base, patterned decorative brickwork, timber framed horizontally proportioned windows, curved balconies with brick balustrading, curved windows, and a hipped terrecota tiled roof. The interventions to the southern side façade to construct the proposed additional building mass to the south are considered acceptable because this is the less detailed façade, currently containing the rear service staircase and subfloor laundry and storage area, and where possible elements of the existing southern elevation have been retained in situ with elements remaining visible externally, within the entry foyer, and within apartments. Additionally, some original fabric is also retained although covered where new internal walls are required. The repurposing of the existing garaging would have some impact on the existing streetscape presentation of the building, however, this area is in part screened by the proposed fencing and landscaping and the proposed front elevation retains the existing openings and proportioning to allow interpretation of the existing arrangement.</p> <p>The proposed additional building mass to the south is a contemporary addition to the existing residential flat building to be retained but includes significant design and detailing elements that reflect and complement the character of the existing building. The retention and continuation of the existing internal floor levels respects the siting and scale of the existing building. The proposed additional massing is similarly sited on a sandstone ground level base and is constructed of face brick. An interpretation of the original brick patterning has been incorporated with panels of vertically stacked brick proposed within the external elevations. The proposed balustrading is similarly constructed of masonry and has curved elements at the corners as well. The proposed glazing has also been well proportioned and incorporates horizontally proportioned windows elements like those in the existing building.</p>  <p>Figure 37. Architectural render of proposed development</p> <p>The proposed additional building mass to the south has a flat roof. The upper most level is located adjacent to the existing hipped tiled roof of the existing building and is intended to respect the existing roof form whilst achieving the development potential of No. 13 Allister Street which does not have the same heritage constraints. The upper most level has been set back and utilises a different external wall material, being a dark green metal cladding, than the levels below to visually maintain the three storey scale of the original building, being constructed of masonry (sandstone and brick), where it is proposed to be extended towards the south.</p> <p>The upper most level element is recessed from the levels below and a degree of separation between it and the existing roof form is provided to reduce the scale of this level adjacent to the existing roof form.</p>
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Section 1.4.9 - Building entry	Yes	The proposed new building entryway is located predominantly at the front of the building and provides accessible access to the proposed development. Additionally, refer to the assessment regarding Objective 3G of the ADG above.
Section 1.4.10 - Roofs	Yes	<p>The proposed additional building mass to the south has a flat roof. The upper most level is located adjacent to the existing hipped tiled roof of the existing building and is intended to respect the existing roof form whilst achieving the development potential of No. 13 Allister Street which does not have the same heritage constraints.</p> <p>The upper most level has been set back from the level below and is clad with dark metal sheeting to appear visually recessive from the levels below. The colour of the external walls behind or intersecting with the existing roof form are to be finished in a similar colour to be visually recessive where the upper most level extends near the existing roof form towards the centre of the building.</p> <p>The proposed roof form, whilst not being the same as the existing building, is considered to complement the retention of the existing hipped tiled roof and avoids detracting from the appearance of the existing roof form.</p>
Section 1.4.12 - Colours and materials	Yes	As discussed above regarding the built form character, the proposed materials and finishes are consistent with the original building to be retained. The proposed materials for the additional building mass to the south are a more contemporary, although still complementary, reflection of the existing building character and external finishes. Condition A3 requires the proposed finishes and materials schedule to be implemented.
Section 1.4.13 - Balconies - apartments	Acceptable	The proposed development includes balconies or ground floor terraces and courtyards for each apartment complying with the minimum size and depth requirements with the exception of two two-bedroom apartments (Units U1.04 and U2.04) located within the existing building to be retained which is considered acceptable as per the assessment regarding Objective 4E of the ADG provided above.
Section 1.4.14 - Front fences	Yes	<p>The proposed front fencing is in part an extension of the retention of the existing sandstone wall at the northern end of the front boundary and is constructed of sandstone, stepping down the length of the frontage. The sandstone wall is between 0.6m – 1.2m in height.</p> <p>Additional sandstone walls with metal palisade fencing are provided behind to provide security and privacy for the courtyards of the ground floor apartments facing the street although are set back from the street. The proposed fencing is consistent with the desired fencing typology and provide an open garden setting for the proposed building.</p>
1.5 Quality urban environment		
Section 1.5.1 - High quality residential accommodation	Yes	The size and layout of the proposed apartments, including the adaptation of the existing residential flat building to be retained, provides for high quality residential accommodation and has also been assessed against the design criteria and guidance in the ADG above.
Section 1.5.3 - Safety and security	Yes	The proposed development would provide a reasonable degree of safety and security within a high density residential environment.
Section 1.5.4 - Vehicle Access and Car Parking	Yes	All proposed carparking is located within the basement of the building and is accessed via a two-way driveway from Allister Street at the low end of the site to minimise the length of the ramp.

<p>Section 10.2.1 – Parking Rates</p>	<p>Yes, subject to condition regarding parking allocation.</p>	<p>The proposed development includes 19 on-site parking spaces with two levels of basement. The proposed parking rates are assessed in the table below:</p> <table border="1" data-bbox="699 324 1433 537"> <thead> <tr> <th>Control</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>1 or 2 Bedroom Apartments (7) 1 per dwelling (7 spaces)</td> <td>7</td> <td>Yes</td> </tr> <tr> <td>3 Bedroom Apartment (6) 1.5 per dwelling (9 spaces)</td> <td>10</td> <td>No</td> </tr> <tr> <td>Visitor Parking (13 Dwellings) 0.25 per dwelling (3.25 Visitors)</td> <td>2</td> <td>No</td> </tr> </tbody> </table> <p>The current arrangement results in an excess of one resident parking space and shortfall of one visitor parking space. Conditions C20 and G22 are recommended requiring the parking spaces to be allocated to comply with the maximum resident parking rates and minimum visitor parking rates. Additionally, the conditions require three of the resident parking spaces to be accessible spaces which has been provided.</p> <p>One of the visitor spaces is proposed to be fitted out to be used as a car wash bay.</p> <p>Condition C2 has been recommended requiring the building to be fitted with or provision made to install Elective Vehicle charging facilities.</p>	Control	Proposed	Compliance	1 or 2 Bedroom Apartments (7) 1 per dwelling (7 spaces)	7	Yes	3 Bedroom Apartment (6) 1.5 per dwelling (9 spaces)	10	No	Visitor Parking (13 Dwellings) 0.25 per dwelling (3.25 Visitors)	2	No
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1 or 2 Bedroom Apartments (7) 1 per dwelling (7 spaces)	7	Yes												
3 Bedroom Apartment (6) 1.5 per dwelling (9 spaces)	10	No												
Visitor Parking (13 Dwellings) 0.25 per dwelling (3.25 Visitors)	2	No												
<p>Section 1.5.5 - Site Coverage</p> <p>Section 1.5.6 - Unbuilt Area and Landscaped Area</p>	<p>Yes</p> <p>Acceptable</p>	<p>The site has an area of 1,215sqm. Compliance with the site coverage, unbuilt upon area and landscaped area provisions for residential flat buildings is assessed in the table below:</p> <table border="1" data-bbox="769 1034 1362 1247"> <thead> <tr> <th>Control</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site coverage = Maximum 45%</td> <td>557.54sqm 45.85%</td> <td>No</td> </tr> <tr> <td>Landscaped Area = Minimum 40%</td> <td>475.1sqm 39.15%</td> <td>No</td> </tr> <tr> <td>Unbuilt Upon Area = Maximum 15%</td> <td>182.36sqm 15.00%</td> <td>Yes</td> </tr> </tbody> </table> <p>The minor non-compliance of less than 1% with the site coverage provision is minor in nature and relates to the secondary basement egress covered staircase. The structure is low in scale and is well integrated with the surrounding landscaping and retaining walls and would not adversely contribute to the bulk and scale of the proposed development and is therefore considered acceptable.</p> <p>The minor non-compliance of less than 1% with the minimum required landscaped area is caused by the extent of the basement outside of the building footprint which occurs because the basement has been shifted towards the south of the site to minimise the extent of excavation below the existing building. The basement layout is efficient and complies with the maximum parking rates. The non-compliance is considered to be reasonably offset by the provision of substantial planting above structures at ground level.</p>	Control	Proposed	Compliance	Site coverage = Maximum 45%	557.54sqm 45.85%	No	Landscaped Area = Minimum 40%	475.1sqm 39.15%	No	Unbuilt Upon Area = Maximum 15%	182.36sqm 15.00%	Yes
Control	Proposed	Compliance												
Site coverage = Maximum 45%	557.54sqm 45.85%	No												
Landscaped Area = Minimum 40%	475.1sqm 39.15%	No												
Unbuilt Upon Area = Maximum 15%	182.36sqm 15.00%	Yes												
<p>Section 1.5.8 – Front Gardens</p>	<p>Yes</p>	<p>The proposed front setback area includes a significant amount of hardscape and additional structures which is reflective of the proposed use as a residential flat building and the requirements to provide additional exits and fire hydrant equipment etc. The remaining setback area includes landscaping in the form of hedging, lawn and trees and appropriately designed to contribute to the garden setting of the building.</p>												
<p>Section 1.5.9 - Private and Communal Open Space</p>	<p>Yes</p>	<p>As addressed above regarding Section 1.4.13 – Balconies and Objective 3D and 4E of the ADG, the proposed development would provide adequate private open space and communal open space for the residents, having regard to the constraints of the existing building to be retained.</p>												
<p>Section 1.5.12 - Garbage storage</p>	<p>Yes</p>	<p>A waste and recycling bin room is proposed within the basement which has sufficient capacity for the required 5 x 240L waste bins and 2 x 240L comingled recycling bins in accordance with Table B1.10. A separate bulk waste storage room is also provided.</p> <p>Additionally, the proposed building incorporates a waste chute and recycling cupboard within the foyer of each level.</p>												

		A temporary waste and recycling bin enclosure to facilitate weekly collection from the street is provided within 2m of the front boundary of the site adjacent to the driveway and is screened from view from the street.
Section 1.5.13 - Site Facilities	Yes	Site facilities including mailboxes, temporary waste collection area, fire hydrant boosters and the like have been incorporated into the design of the proposed development and landscaping.
1.6 Efficient use of resources		
Section 1.6.1 – Energy Efficiency	Yes	Valid BASIX Certificates have been submitted.

Part C Character Statements – Section 5.5 Murdoch Neighbourhood

The subject site is located within the ***Murdoch Neighbourhood*** of the ***North Cremorne Neighbourhood***.

Desired Future Character

P1 Primarily high density residential accommodation, generally comprising residential flat buildings.

The proposed development is for the purpose of a residential flat building and includes the retention of the existing residential flat building at No. 15 Allister Street.

P3 The density of development generally reduces the further away a property is located from Military Road.

The proposed development is for the purpose of a residential flat building and is a permitted use in the R4 High Density Residential zone.

Desire Built Form

P7 Residential flat buildings have substantial front, rear and side setbacks

The proposed development maintains the existing minimum 6m set back to Allister Street and includes substantial 6m setbacks to the rear and southern side boundary. The existing 1.1-1.5m setback for the existing residential flat building to be retained would not comply with this provision, however, is acceptable because it facilitates the retention of the existing building identified to be of heritage significance.

NORTH SYDNEY LOCAL INFRASTRUCTURE PLAN 2020

The proposed development would increase the number of residents within the locality and therefore a contribution levied under Section 7.11 the Act is required in accordance with Council's Infrastructure Contributions Plan 2020.

s7.11 net population increase summary

Development Type	Existing Dwellings	Proposed Dwellings	Rate	Increase Residents
<i>1 bed dwelling</i>	0	3	1.4 Res/Dwelling	4.2
<i>2 bed dwelling</i>	4	4	2 Res/Dwelling	0
<i>3 or more bed dwelling</i>	3	6	2.6 Res/Dwelling	7.8

Total Resident Increase =	12
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The net population increase is 12 taking into account the credit provided for the existing dwellings. The levy would provide a contribution for the public amenities/ services detailed in column A below and, for the amount detailed in column B below:

A	B (\$)
Open space and recreation facilities:	\$58,722.84
Public domain:	\$32,689.27
Active transport:	\$1,865.78
Community facilities:	\$11,794.76
Plan administration and management:	\$1,571.18
The total contribution is	\$106,643.82

The total contribution payable is **\$106,643.82**. **Condition C48** is recommended requiring payment prior to the issue any Construction Certificate.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	N/A
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant s4.15(1) considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The development application was notified in accordance with Council's Community Engagement Protocol from 14 October 2022 until 28 October 2022 and 17 March 2023 until 31 March 2023.

A total of twelve (12) submissions were received which have been addressed below.

Form, massing and scale

- *The proposed development exceeds the maximum permitted building height in Clause 4.3 in NSLEP 2013.*
- *The written request submitted pursuant to clause 4.6 in NSLEP 2013 should not be supported because the proposed development fails to achieve objectives:*
 - d) regarding privacy; and*
 - f) regarding scale and density*

The amended plans reduced the proposed height of the building and the vertical and horizontal extent of the proposed variations to the development standard. Additionally, the setback to the front and southern side boundaries were also increased. The applicant submitted an amended written request which is considered to sufficiently demonstrate the matters required in Clause 4.6(4)(a) in NSLEP 2013 including, that the proposed development would achieve the objectives of the development standard notwithstanding the non-compliance.

- *The proposed building is four storeys whereas the surrounding character is a maximum of three storeys.*

The subject site has a maximum permitted building height of 12m which ordinarily allows a four storey development to be achieved. The proposed number of storeys is considered acceptable having regard to the level of compliance with the height of buildings development standard and the management of the associated bulk and massing through the siting of and additional setbacks for the fourth storey element.

- *The proposed building does not respond to the topography of the site because the building has not been stepped to follow the fall of the land.*

The subject site has an irregular cross fall from the north to the south by approximately 4.2m. The proposed development continues the existing floor levels of the existing building to be retained which has partly dictated the height of the building and the relationship to the existing topography. Notwithstanding, the proposed building is setback from the southern side boundary and includes an additional setback at the upper most level from the front and side boundaries to step the building form down towards the southwestern corner of the site when the land falls away.

- *The bulk and scale of the new building mass would dominate the streetscape and existing building on the site.*

The amended plans have reduced the bulk and scale of the proposed additional building mass by reducing the height of the building, increasing the setbacks to the southern side boundary and further recessing the upper most level. The bulk and massing is considered to be compatible with the existing buildings and sufficient separation have been provided through the recessed indentation between the respective existing and contemporary building forms to reflect the existing development pattern within the streetscape.

Heritage and character

- *The whole of No. 15 Allister Street should be retained given its heritage significance as the building is a locally rare example of Inter-war Functionalist style residential flat building.*
- *The retention of only the façade of No. 15 Allister Street is not sufficient heritage conservation.*

- *The existing building should be conserved as a stand along building.*

The proposed development would retain a significant proportion of the existing building. The proposed development still allows for the development of the site, which was first proposed for redevelopment under the subsequently withdrawn application, whilst ensuring the ongoing contribution of the existing building to the streetscape and conservation of significant heritage fabric as a record of the historical development of the area.

- *The proposed development has not been designed sympathetically with the other heritage items within the vicinity of the subject site.*

There is sufficient separation from the surrounding heritage items in the vicinity of the site to ensure that the proposed development does not adversely affect their heritage significance. It is also noted that the surrounding heritage items are of a different building typology, being dwelling houses and a school building, and therefore there is no requirement to achieve a uniform streetscape or the like that may be evident if the area was a conservation area. The proposed development was supported by Council's Conservation Planner.

- *The proposed development is inconsistent with objectives e), f) and g) of Section 13.1.1 of Part B in NSDCP 2013.*

The proposed development facilitates the retention of the existing building of heritage significance.

- *The proposed development is incompatible with the character of the neighbourhood.*

Having regard to the amended plans, the proposed development is considered to be compatible with the character of the Murdoch Neighbourhood. The bulk and massing of the additions has been reduced and setbacks increased to manage the density of the proposed development and its associate impact on the appearance of the streetscape and potential impacts to the amenity of the surrounding dwellings.

- *The proposed flat roof is incompatible with the surrounding characteristic pitch roof typology.*

The proposed flat roof typology for the additional building mass to the south of the existing is considered acceptable having regard to the contemporary, however, sympathetic built form character of the addition adjacent to the existing building of heritage significance which is proposed to be retained. The upper most level has been recessed from the level below to manage the bulk and massing of the building and achieve the objective relevant built form character control at Provision P8 of Section 1.4.7 of Part B in NSDCP 2013.

Traffic and congestion

- *The proposed development would generate additional traffic contributing to the traffic congestion caused around school drop off and pickups times for the school located opposite the subject site.*

It is noted that the subject site is located opposite one of the main drop off and pick up areas for the adjacent primary school. A level of congestion is anticipated around these times, however, the addition of six additional dwellings on the site is unlikely to give rise to any significant additional congestion, particularly around school drop off and pick up times. Council's Traffic Engineers raised no objection to the proposed development.

- *There would be an increase in the demand for on-street parking which is already is limited.*

Three visitor spaces are provided within the basement for use by visitors which complies with the required rates in Section 10.2 of Part B in NSDCP 2013.

- *The Traffic Report has not sufficiently justified the need for 20 on-site parking spaces.*

The proposed development has 19 parking spaces and complies with the maximum permitted parking rates in Section 10.2 of Part B in NSDCP 2013, including the provision of visitor parking. Council's Traffic Engineers raise no objection to the number of parking spaces or trip demand associated with the number of apartments.

- *The existing dwellings to be retained do not require additional basement parking.*

On site parking is provided in accordance with the maximum permitted parking rates in Section 10.2 of Part B in NSDCP 2013.

- *The recent Draft DCP amendment encourages reduced onsite parking rates.*

NSDCP 2013 establishes parking rates as a maximum and encourages reductions in onsite parking, however, the proposed development complies with the maximum rates and therefore the provision of parking is considered acceptable. The proposed amendments to NSDCP 2013 to reduce the parking rates for certain development would not apply to the subject sits as the proposed provisions relate to development surrounding train stations.

Residential amenity

- *The bulk and scale of the proposed building would result in a loss of solar access and privacy for adjoining properties.*

The proposed development was amended to reduce the height of the building and increase the southern side setbacks which would further minimise the potential overshadowing and overlooking caused by the proposed development. The proposed setbacks comply with the relevant ADG and DCP building separation requirements.

- *The proposed 4.5m southern side setback is insufficient and should be increased to 6m to comply with the DCP given that the southern façade contains windows for habitable rooms.*
- *The proposed fenestration and balconies along the southern side of the building would result in a loss of privacy for the adjoining dwellings to the south.*

The proposed development was amended to increase the southern side setback to 6m (and 10m at the upper most level) to comply with the relevant ADG and DCP requirements to minimise overlooking to the adjoining dwellings to the south.

- *The existing views of the neighbourhood are primarily of trees and rooftops and would be interrupted by the proposed additional storey.*

The proposed upper most level of the additional building mass to the south of the existing residential flat building is located adjacent to the existing hipped roof form, and whilst this would result in an increased bulk and massing in comparison to the existing development on the site it is not considered

unreasonable having regard to the relevant built form controls. The addition would be similarly nestled within the surrounding development and tree canopy.

- *There would be mutual overlooking between surrounding buildings and the proposed additional apartments.*

The proposed development complies with the relevant ADG and DCP building separation requirements, except for the retention of the existing northern side setback of the existing building to be retained. Any mutual overlooking between surrounding buildings and the proposed additional apartments would be consistent with the form of development anticipated within zone R4 High Density Residential.

- *The proposed development would impact the light and airflow to surrounding properties.*

The proposed development would result in some additional overshadowing to the adjoining properties to the south (Nos. 1-11 Allister Street) and rear (No. 13 Cranbrook Avenue). Sufficient setbacks have been provided allowing for natural airflow between buildings.

- *The proposed development would cause view loss from a residential flat building in Cranbrook Avenue, including loss of water and city skyline views over the front boundary from kitchen and living rooms, caused by non-compliant elements.*

The residential flat buildings located along Cranbrook Avenue are generally located at a higher elevation than the subject site and some of which are much taller buildings. Views are gained towards the south of Sydney Harbour and the City of Sydney CBD Skyline. The proposed development is commensurate with the surrounding development and is unlikely to have any significant impact given the proposed additions are located to the south, i.e. behind the existing building proposed to be retained, when viewed from the apartments along Cranbrook Avenue. Whilst there would be some additional massing which has the potential to cause view impacts, the distance between the building and the slope of the topography means that this impact is likely to be negligible in the context of the extent of views available.

Excavation and construction impacts

- *Concerns regarding construction traffic congestion and construction traffic management, including risks to public safety.*

Condition B1 requires the preparation and approval of a Construction Traffic Management Plan (CTMP) to manage construction traffic, including construction worker parking, deliveries and public safety.

- *Concerns regarding the cumulative impact of the proposed development and other developments within the surrounding area on traffic congestion and safety.*

As above, a CTMP is required to be prepared and would also need to address the cumulative impacts of surrounding construction sites within the area.

- *Concerns regarding the excessive depth of excavation given the proposed three level basement.*

The proposed basement has been reduced from three levels to two to reduce the extent of excavation required and is considered reasonable for the size of the proposed development and the site constraints.

- *Concerns regarding the length of excavation and associated vibration impacts.*

The proposed basement has been reduced from three levels to two to reduce the extent of excavation required to construct the proposed development. This would subsequently reduce the zone of influence and the length of the excavation period, thereby reducing the potential impacts to surrounding properties.

- *Concerns regarding dewatering of excavation, changes to ground water and subsoil seepage.*

Condition AA1 requires the geotechnical engineers to address the dewatering of the excavation area and changes to ground water seepage and subterranean flows.

- *The proposed basement exceeds 70% of the site area.*

The proposed basement excavation would impact less than 70% of the site and complies with Provision P9 in Section 1.3.1 of Part B in NSDCP 2013. It is noted that the submission has incorrectly calculated the basement area.

- *The basement excavation zone of influence should not impact adjoining buildings.*

As with any development of this scale, the zone of influence is likely to extend beyond the property boundaries and therefore excavation would have the potential to impact adjoining properties. Appropriate conditions have been recommended requiring the preparation of dilapidation reports, further geotechnical investigations, and engineering certification to ensure that the proposed works do not damage any surrounding properties in the first instance, and if so that there is sufficient information about the predevelopment condition to ensure that any damage can be remediated.

- *Potential for the excavation and construction works to damage the surrounding heritage items.*

The surrounding heritage items are located a considerable distance from the proposed excavation, however, as outlined above, conditions have been recommended to ensure that the proposed works do not cause damage to surrounding properties.

- *Consent would not been granted for rock anchors across the southern side boundary.*

The use of rock anchors is a matter for the detailed construction design and the installation of any rock anchors that affect adjoining land would require owners' consent from the relevant property owners (Refer to **Condition AA1**).

- *Privacy impacts caused by erection of scaffolding during construction.*

The erection of scaffolding would usually also incorporate an obscure external mesh to control dust and limit any overlooking. Nethertheless, the proposed scaffolding would be a temporary structure used to undertake the works and the objector's property is located a considerable distance form the subject site and would not be materially impacted.

Landscape and habitat

- *The proposed tree removal would cause a loss of habitat.*

The proposed tree removal has been assessed by Council's Landscape Development Officer and is considered acceptable. Significant replacement tree plantings are proposed to offset the loss of existing tree canopy and support biodiversity within the urban context.

- *The proposed development does not comply with the 40% minimum required landscaped area provision in Council's DCP.*

The application was amended to increase the landscaped area. The minor non-compliance with the minimum required landscaped area is caused by the portion of the basement that extends outside of the building footprint. The shortfall in landscaping is offset by the provision of some substantial landscaping above this structure and would achieve the minimum required landscaped area when included in the calculation to ensure that a garden setting is achieved for the proposed building to contribute to the tree canopy and landscaped character of the area.

- *The non-compliant permeable surfaces would cause additional runoff to the adjoining property to the south.*

The unbuilt upon area is fragmented throughout the site and interspersed with landscaping. Significant areas of unbuilt upon are such as the ground floor level courtyards would have drainage installed. Additional stormwater pits are also proposed within the landscaped area adjacent to the southern side setback. The proposed development also includes an onsite detention system and rainwater reuse tank to minimise and control water disposal from the site. Council's Development Engineers raised no objections to the proposed development.

Miscellaneous

- *The proposed development may exceed the capacity of the existing utility services.*

The application was referred to AUSGRID and Sydney Water. Each agency confirmed that there was existing capacity within the existing networks to service the proposed development.

SITE SUITABILITY

The subject site contains an existing residential flat building that is subject to a planning proposal to list the property as a heritage item of local significance. The site is zoned R4 High Density Residential and is considered suitable for the proposed development given that it would also facilitate the retention of the existing building, given its potential heritage significance, and the development of the adjoining lot having regard to the constraints of the site.

PUBLIC INTEREST

There are no matters raised in which approval of the application would not be in the public interest.

HOW THE COMMUNITY VIEWS WERE TAKEN INTO CONSIDERATION

The application, including the amended plans, was notified in accordance with Council Community Engagement Protocol 14 October 2022 until 28 October 2022 and 17 March 2023 until 31 March

2023. The submissions received in part informed the amended plans which included a reduction in building height, site coverage, extent of excavation and onsite parking, and reduced the potential impacts to the heritage significance of the existing building to be retained and the amenity of the surrounding properties and character of the area. The further submission received in response to the amended plans notification have been addresses in the assessment report.

CONCLUSION + REASONS

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 subject to the written request to vary a development standard made pursuant to Clause 4.6 *Height of buildings* of NSLEP 2013.

The written request made pursuant to Clause 4.6 *Departure to development standards* in NSLEP 2013 demonstrates that compliance with the development standard is both unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the variation. Approval of the variation would be in the public interest.

The interim heritage order effecting No. 15 Allister Street lapsed on 3 June 2023 and is no longer of effect. Therefore, a separate approval under Section 60 of the Heritage Act 1977 is no longer required to determine the development application or undertake the proposed development.

The proposed development is considered to satisfy Clause 5.10 *Heritage Conservation* in NSLEP 2013 having assessed the existing residential flat building as a heritage item given that Planning Proposal PP8/2022 to amended Schedule 5 *Environmental Heritage* to NSLEP 2013 is considered a draft environmental planning instrument, which is imminent, and is therefore a relevant matter for consideration under Section 4.15(1)(b) of the EP&A Act.

The proposed development is considered satisfactory when evaluated in accordance with the design quality principles in SEPP 65 – Design Quality of Residential Apartment Development and the proposed development performs well against the objectives of the ADG and NSDCP 2013.

A total of twelve (12) unique submissions were received raising objections regarding issues including the proposed height variation, impacts to heritage and neighbourhood character, amenity impacts, tree removal, traffic congestion and construction impacts including excavation and construction traffic congestion. The amended plans were developed in response, in part, to the submissions and sought to reduce the potential impact of the development.

On balance the application is considered reasonable and is recommended for approval subject a deferred commencement condition and other relevant site specific and standard conditions of consent.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Secretary, Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 of NSLEP 2013 and grant **deferred commencement consent** to Development Application No. 291/2022 for demolition of the existing multi-dwelling housing (No. 13 Allister Street) and partial demolition of the existing residential flat building (No. 15 Allister Street), and alterations and additions to the existing residential flat building to construct a residential flat building encompassing both lots, containing 13 apartments above two levels of basement parking, and associated works and landscaping on land at Nos. 13-15 Allister Street, Cremorne, subject to the following site specific conditions and the attached standard conditions

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement condition has been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement condition within 24 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement condition within 24 months of the date of the grant of this consent this consent will lapse in accordance with Section 4.53(6) of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under Section 76(5) of the Environmental Planning and Assessment Regulation 2021, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 97 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Structural/Geotechnical Reports

AA1 Prior to granting of an operative consent a Geotechnical/Civil Engineering report and Structural Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:

Structural

- a) A detailed structural design engineers report, including documentation of an inspection and detailed survey of the existing site/building conditions, confirming the proposed means of underpinning and support for the existing building at No. 15 Allister Street to ensure its retention and protection from potential damage.

Geotechnical

- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) The existing groundwater levels in relation to the basement structure, where influenced;
- e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and
- f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The reports, satisfying the requirements of this condition, must be submitted to the Council for approval prior to the issue of an operative consent.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

This consent shall not operate until such time as the written approval stating that the requirements of this condition has been satisfied.

Subject to the above deferred commencement condition being satisfied within 24 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following site specific and standard conditions:

Heritage Requirements

C1 The following heritage requirements are to be met for 15 Allister Street:

- a) Face brickwork and decorative brickwork on the exterior and the interior of the original dwelling are not to be painted.
- b) Unpainted original interior Interwar joinery are not to be painted.
- c) Original Interwar glazed doors to the balconies are to be retained.
- d) Original glazed apartment front doors to be retained. Should changes be required for fire upgrades, they are to be modified on the interior side with fire rated material.

- e) Interior doors that are to be removed as part of the demolition works are to be salvaged for re-use on site, sold, or distributed to the community to retain the heritage asset.
- f) New windows and doors to be timber framed.
- g) Original tiles in the common area lobby are to be retained and conserved.
- h) Original wrought balustrade in the common area staircase is to be retained.

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

(Reason: To ensure that the building is conserved)

Charging Facility for Electric Vehicles

- C2 Appropriate provisions/infrastructure must be incorporated in the design of the basement car park to allow the installation of charging facilities for electric vehicles at each designated parking spot.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate. The Certifying Authority must ensure that the building plans and specification submitted fully satisfy the requirements of this condition.

(Reason: To promote sustainability and energy efficiency)

MICHAEL STEPHENS
SENIOR ASSESSMENT OFFICER

ROBIN TSE
A/TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22

AA. *Deferred Commencement Conditions*

This consent shall not operate until the following deferred commencement condition has been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement condition within 24 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement condition within 24 months of the date of the grant of this consent this consent will lapse in accordance with Section 4.53(6) of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under Section 76(5) of the Environmental Planning and Assessment Regulation 2021, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 97 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Structural/Geotechnical Reports

AA1 Prior to granting of an operative consent a Geotechnical/Civil Engineering report and Structural Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:

Structural

- a) A detailed structural design engineers report, including documentation of an inspection and detailed survey of the existing site/building conditions, confirming the proposed means of underpinning and support for the existing building at No. 15 Allister Street to ensure its retention and protection from potential damage.

Geotechnical

- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) The existing groundwater levels in relation to the basement structure, where influenced;
- e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and
- f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 3 of 60

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The reports, satisfying the requirements of this condition, must be submitted to the Council for approval prior to the issue of an operative consent.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

This consent shall not operate until such time as the written approval stating that the requirements of this condition has been satisfied.

Subject to the above deferred commencement condition being satisfied within 24 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following site specific and standard conditions:

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 4 of 60

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

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

Plan Nos.	Issue	Description	Prepared by	Dated
DA01.03	P5	Site Plan	Rothelowman	21 April 2023
DA01.04	P6	Existing (Demolition) Ground Floor Plan		30 January 2023
DA01.05	P7	Existing (Demolition) Level 1 Floor Plan		21 April 2023
DA01.06	P7	Existing (Demolition) Level 2 Floor Plan		21 April 2023
DA01.07	P6	Existing (Demolition) Level 3 Floor Plan		30 January 2023
DA01.11	P13	Basement Level 02 Plan		30 January 2023
DA01.12	P14	Basement Level 01 Plan		21 April 2023
DA01.13	P15	Ground Floor Plan		21 April 2023
DA01.14	P13	Level 1 Floor Plan		30 January 2023
DA01.15	P13	Level 2 Floor Plan		30 January 2023
DA01.16	P16	Level 3 Floor Plan		21 April 2023
DA01.17	P12	Roof Plan		21 April 2023
DA02.01	P8	Elevations		21 April 2023
DA02.02	P8	Elevations		21 April 2023
DA02.03	P4	Elevations		21 April 2023
DA03.01	P7	Sections		21 April 2023
DA03.02	P8	Sections		21 April 2023
DA03.03	P2	Sections	30 January 2023	
DA 1/2	F	Landscape Site Plan	Andrew Davies	24 January 2023
DA 2/2	F	Landscape Plant Schedule and Notes		24 January 2023

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

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

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

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 5 of 60

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted Materials and Finishes Schedules on Drawings DA02.01, DA02.02 and DA02.03 as identified in Condition A1 and received by Council unless otherwise modified by Council in writing.

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

Construction and Traffic Management Plan North Sydney Council Traffic Division Approval

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

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
- i. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways;
 - ii. The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
 - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
 - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
 - v. Locations of hoardings proposed;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 6 of 60

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

All traffic control work and excavation, demolition and construction activities must be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved Program. A certificate of compliance with this condition must be obtained from Council's development engineers. The certificate and the approved Construction Management Program must be submitted as part of the documentation lodged with the application for approval of a construction certificate. A copy of the approved Construction Management Program and any conditions imposed on that Program, must be kept on the site at all times and made available to any officer of Council upon request.

Notes:

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

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 7 of 60

- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

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

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)

Heritage Requirements

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

- a) Face brickwork and decorative brickwork on the exterior and the interior of the original dwelling is not to be painted.
- b) Unpainted original interior Interwar joinery is not to be painted.
- c) Original Interwar glazed doors to the balconies are to be retained.
- d) Original glazed apartment front doors to be retained. Should changes be required for fire upgrades, they are to be modified on the interior side with fire rated material.
- e) Interior doors that are to be removed as part of the demolition works are to be salvaged for re-use on site, sold, or distributed to the community to retain the heritage asset.
- f) New windows and doors to be timber-framed.
- g) Original tiles in the common area lobby are to be retained and conserved.
- h) Original wrought balustrade in the common area staircase is to be retained.

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

(Reason: To ensure that the building is conserved)

Charging Facility for Electric Vehicles

- C2. Appropriate provisions/infrastructure must be incorporated in the design of the basement car park to allow the installation of charging facilities for electric vehicles at each designated parking spot.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate. The Certifying Authority must ensure that the building plans and specification submitted fully satisfy the requirements of this condition.

(Reason: To promote sustainability and energy efficiency)

Dilapidation Report Damage to Public Infrastructure

- C3. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C4. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 9 of 60

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies., prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C5. A photographic survey and dilapidation report of adjoining properties Nos. 1-11 Allister Street, 17 Allister Street, and 7, 11 and 13 Cranbrook Avenue detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Structural Adequacy of Adjoining Properties - Excavation Works

- C6. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property Nos. 1-11 Allister Street, 17 Allister Street, 7, 11 and 13 Cranbrook Avenue, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Structural Adequacy of Existing Building

- C7. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the building and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

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

Sediment Control

- C8. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 11 of 60

- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

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

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C9. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Heritage Architect to be Commissioned

- C10. An appropriately qualified and experienced heritage architect must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to heritage matters.

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

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 12 of 60

Note: If advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require an application under s4.55 of *the Environmental Planning and Assessment Act 1979* or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to significant fabric and spaces are resolved and recorded using best practice for heritage conservation)

Skylight(s)

C11. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 300 mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

External Finishes and Materials

C12. The external colours and finishes must be in accordance with the approved schedule of finishes and materials. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of development)

Reflectivity Index of Glazing

C13. The reflectivity index (expressed as a per centum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 13 of 60

Roofing Materials - Reflectivity

- C14. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

No External Service Ducts

- C15. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of the development)

Work Zone

- C16. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 14 of 60

Maintain Property Boundary Alignment Levels

- C17. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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

(Reason: To ensure interface between property and public land remains uniform)

Bicycle Storage and Parking

- C18. The bicycle storage area must accommodate a minimum of 13 bicycles, and a visitor parking bicycle rail shall be provided for 2 bicycles. The bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

Accessible Parking Spaces to be Provided

- C19. A total of 3 accessible parking spaces shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation)

Allocation of Spaces

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

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 15 of 60

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

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

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

Basement Car Park to Comply with Relevant Standards

- C21. The basement layout must comply with all requirements of Australian Standard AS2890.1. Certification from a suitably qualified and practicing Civil Engineer that the basement design will comply with the requirements of the Australian Standard must be provided to the Certifying Authority for approval prior to issue of any Construction Certificate.

(Reason: To ensure the basement layout complies with relevant standards)

Required Infrastructure Works - Roads Act 1993

- C22. Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development. To obtain the permit, an application must be made to Council on a *Application to satisfy development consent* form with payment of the adopted assessment/inspection fees. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative:

Road Works

- a) All redundant layback crossings on Allister Street must be reinstated as upright kerb gutter, grass verge and concrete footpath.
- b) Construction of a fully new replacement concrete footpath is required across the entire site frontage in Allister Street. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 16 of 60

- c) Construction of a fully new kerb and gutter is required across the entire site frontage in Allister Street. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- d) Cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.
- e) Construction of a fully new road shoulder (maximum grade 5% down towards new gutter) extending to 1.2 metres out from the gutter alignment and across the entire development site frontage.
- f) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- g) The width of the vehicular layback must be 6.5m (including the wings).
- h) The boundary footpath levels must match the existing levels and shall not be altered unless agreed to by Council.
- i) The crossing section over the footpath (between the property boundary and grass verge) must be perpendicular on a single straight grade of approximately 3% but no more than 4.5%, falling to the grass verge. The driveway crossing section over the grass verge (between the lip of the layback and footpath) must be perpendicular on a single straight which if necessary, may be greater than 4.5 %, but taking into account that the change in cross fall grade in between the road shoulder and driveway crossing is no more than 15%.
- j) All inspection openings, utility services must be adjusted to match the proposed footpath and/or driveway levels and location.
- k) The design detail has to be provided and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- l) A longitudinal section along the gutter line of Allister Street at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, **both** existing and proposed.
- m) A longitudinal section along the footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.
- n) The sections must show the calculated clearance to the underside of any overhead structure.

- o) All details of internal ramps between parking levels.
- p) A swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the parking spaces in accordance with AS 2890.1 2004 "Off Street Parking".

Drainage Works

Connection of the site stormwater system must be made directly to a newly constructed grated gully pit (with lintel), to front the site on Allister Street. To accommodate this requirement, the following drainage infrastructure works must be carried out on Council property at the Applicants expense:

- a) Construction of a standard grated gully pit with extended kerb inlet (1.8m lintel) in the kerb fronting the subject site in Allister Street. The pit must be constructed in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".
- b) Construction of a new in-ground drainage line under the kerb and gutter at standard depth. The line must connect the new gully pit to the existing Council pit located approximately 52m downstream of the site on Allister Street. The pipes within the road reserve are to be reinforced concrete class 2 with a minimum 375mm diameter and have bedding in accordance with Australian Standard AS 3725 – (Loads on buried concrete pipes). **The developer shall be responsible for carrying out any service investigations** to allow a gravity connection.
- c) Construction of another standard grated gully pit with extended kerb inlet (1.8m lintel) in the kerb downstream somewhere just before the street band fronting the site 9-11 Allister Street. The pit must be constructed in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".

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

Certifying Authorities must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

Note: *A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Stormwater Management and Disposal Design Plan - Construction Issue Detail

- C23. Prior to issue of any Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
 - b) Stormwater roof and surface runoff generated by the approved dwellings must be conveyed in a controlled manner by gravity via a direct connection to Council's stormwater gully pit in Allister Street, which is to be constructed. Runoff from driveway ramp and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by pump-out system to the same on-street gully pit. When a direct connection to the pit option is implemented then the pipeline within the footpath area shall have a minimum cover of 300mm.
 - c) All civil and drainage works within the road reserve must be designed and built in accordance with Council's current "Infrastructure Specification". Prior to issue of the Construction Certificate the applicant must have engineering plans and specifications, prepared by a qualified civil drainage design engineer. Council must approve the plans and specifications, in writing, prior to issue of any Construction Certificate by the Certifying Authority. The documentation must provide engineering construction detail for the following public infrastructure works that must be completed as part of the approved development. Council reserve the right of keeping all bonds on infrastructure works for 12 month defects liability period.
 - d) Video inspection must be carried out of completed drainage works that are to revert to council and a video tape forwarded to council's development engineer to support the certification. Bonds held by Council will be returned after receipt of satisfactory information.
 - e) The stormwater drainage system shall be designed for an average recurrence interval (A.R.I.) of 1 in 20 years.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 19 of 60

- f) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
- g) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer, shall be submitted with the application for a Construction Certificate.
- h) The design and installation of the Rainwater Tanks shall comply with Basix and **Sydney Water** requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.
- i) Provide subsoil drainage to all necessary areas with pump out facilities as required.

Details demonstrating compliance are to be submitted with the Construction Certificate.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason To ensure controlled stormwater management and disposal without nuisance)

On-site Stormwater Detention

- C24. On site detention must be provided to ensure that the maximum discharge from the site does not exceed discharge which would occur during a 1 in 5 year storm for the time of concentration determined for the particular site, for the existing site conditions. All other stormwater run-off from the site for all storms up to the 1 in 100 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

Determination of the required cumulative storage must be based on the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Runoff Volume 1, 1987 Edition.

Engineering calculations, design and certification complying with this condition must be provided by an appropriately qualified and practicing Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 20 of 60

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

- C25. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$110,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
 - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
 - c) remedying any defects in any such public work that arise within one year for stormwater and 6 months for major road works and two months for vehicular crossing and small associated footpath works, after the work is completed

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Upgrade of Existing Building - Fire Spread and Safe Egress

- C26. Pursuant to Section 94 of the EP&A Regulation 2021, aspects of the existing building must be brought into conformity with the Building Code of Australia (BCA).

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 21 of 60

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with Sections C, D & E of the NCC BCA 2019, Volume 1.

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Notes:

- 1) The Certifying Authority must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.
- 2) The Certifying Authority issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.
- 3) Where this condition specifies compliance with the performance requirements of the BCA, the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters.

(Reason: Application of Regulations relating to Fire and Life Safety)

Project Arborist to be Commissioned

- C27. An experienced AQF Level 5 consulting arborist must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to tree matters.

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

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

(Reason: Tree protection measures)

Tree Protection

- C28. To ensure the protection of all trees to be retained, the following measures are to be undertaken:
- a) All documentation for the Construction Certificate application must show the site trees to be retained, and retention of the adjoining trees, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 22 of 60

- b) All plans and documentation must refer to the required compliance with the approved Tree Protection and Management Plan, and clearly show the assigned number of each tree on the site and adjoining and Council land.
- c) A Consulting Arboriculturist (“the project arboriculturist”), who holds a minimum Australian Qualification Framework Level 5 in Arboriculture, is a registered consulting member of a nationally recognised arboricultural organisation or association shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.
- d) The project arboriculturist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.
- e) The contact details of the project arboriculturist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.
- f) The project arboriculturist is to submit a list of critical stages where joint site inspections with Council’s Landscape Development Officer may be required, with the adopted schedule to be complied with during the course of works, and include at minimum, the following hold points:
 - i. Prior to demolition of existing structures;
 - ii. At commencement of any excavation works within 7 metres of any tree to be retained.
 - iii. Prior to any tree crown or root pruning;
 - iv. At commencement of construction works within 7 metres of any tree to be retained.

(Reason: Tree protection measures)

Tree Bond for Public Trees

- C29. Prior to the issue of any construction certificate, security in the sum of \$20,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 23 of 60

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree Species	Location	Bond
4 x <i>Photinia</i> sp.	Council verge in front of No. 13-15 Allister Street,	4 x \$5,000 Total \$20,000

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Tree Protection Measures to be shown on Construction Drawings

C30. The tree protection measures contained in the arborist report prepared by [Blues Brothers, Version 6, dated 17 April 2023, and as subsequently amended by conditions of this development consent shall be shown clearly on Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

Protection of Trees

C31. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Height
4 x <i>Photinia</i> sp.	Council verge in front of No. 13-15 Allister Street	4-5m
T4 <i>Angophora costata</i>	Southeastern corner of the site	11x8m
T8 <i>Gordonia axillaris</i>	Northwestern corner of the site	7x6m

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

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 24 of 60

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

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

C32. The following tree(s) are approved for removal in accordance with the development consent:

Trees to be Removed	Location	Height
1 x <i>Photinia</i> sp.	Council verge in front of No. 13-15 Allister Street	4-5m
T2 <i>Camellia sasanqua</i>	Centre of the site	8x6m
T3 <i>Viburnum tinus</i>	Centre of the site	6x5m
T5 <i>Glochidion ferdinandi</i>	Front setback of the site	10x12m
T6 <i>Glochidion ferdinandi</i>	Northeastern corner of the site	8x6m
T7 <i>Olea europa</i>	Northeastern corner of the site	6x5m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

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

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

C33. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Tree	Location	Height
T4 <i>Angophora costata</i>	Southeastern corner of the site	11x8m

Pruning to T4 is to be limited to a maximum of 5% of the tree canopy. The construction tree protection plan is also to address the erection of scaffolding or use of piling rigs, cranes etc within the vicinity of any tree required to be retained to ensure no additional pruning is required.

Prior to undertaking any pruning, marked up pictures and accompanying statement form a suitable qualified arborist is to be provided to Council's Landscape Development Officer for written approval.

(Reason: Protection of existing environment public infrastructure, community

assets and significant trees)

Garbage and Recycling Facilities

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

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

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

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

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

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

Asbestos Material Survey

C35. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

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

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Location of Plant

C36. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Noise from Plant and Equipment

C37. The use of all plant and equipment installed on the premises must not:

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

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

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

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Vibration from Plant and Equipment

- C38. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in “Assessing Vibration: a technical guideline” issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

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

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

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and commercial premises and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected residence.

“contemporaneously” means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Air Conditioners in Residential Premises

- C39. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 28 of 60

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
- (i) before 8.00 am and after 10.00 pm on any Saturday, Sunday or Public Holiday; or
- (ii) before 7.00 am or after 10.00 pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

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

(Reason: To maintain residential amenity)

Acoustic Privacy (Residential Apartments)

- C40. Noise levels in sole occupancy units of residential apartments must not exceed the following:

Location	Maximum
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The “Maximum” limits are to apply in any hour of a 24-hour period with the windows of the sole occupancy unit closed.

“habitable room” has the same meaning as in the National Construction Code.

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level $L'_{nT,w}$ not more than 55dB when measured insitu in accordance with AS ISO 140.7-2006 “Field measurements of impact sound insulation of floors,” and rated to AS ISO 717.2-2004 “Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation.” This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 29 of 60

of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To comply with best practice standards for residential acoustic amenity)

Noise and Vibration Compliance Certification Prior to Issue of Construction Certificate

- C41. A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that suitable measures have been incorporated into the development and that the noise criteria contained in the conditions herein have been satisfied, must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Mechanical Exhaust Ventilation

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

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

Construction Noise Management Plan

- C43. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- (a) Identification of noise affected receivers near to the site.
- (b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- (c) Details of work schedules for all construction phases;
- (d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority's Interim Construction Noise Guideline ("ICNG").

- (e) Representative background noise levels should be submitted in accordance with the ICNG.
- (f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
- (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise?
- (i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.
- (j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
- (k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected residence.

The Construction Noise Management Plan and must be submitted to the Principal Certifying Authority and a copy provided to Council prior to the issue of the Construction Certificate.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

Provision of Accessible Paths of Travel

- C44. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises - Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 31 of 60

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

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>.

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Underground Electricity and Other Services

- C45. All overhead electricity and other lines (existing and proposed) must be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

Screen Planting

- C46. To maintain acceptable levels of privacy, screen planting must be installed and maintained adjacent to the southern side boundary of the site in locations shown clouded red on the stamped approved plans. The required screen planting must consist of suitable screening species capable of attaining a mature height of 2.5-3.0 metres above finished ground levels. Details of the screen planting required by this condition must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the details submitted fully satisfy the requirements of this condition.

(Reason: To preserve the privacy of adjoining properties)

Adaptable Housing

C47. Proposed apartments 3 are to be designed with accessible features for disabled persons and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299-1995. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure equity of access and availability of accommodation in the future for an ageing population)

Section 7.11 Contributions

C48. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is **\$106,643.82**.

A	B (\$)
Open Space and recreation facilities	\$58,722.84
Public domain	\$32,689.27
Active transport	\$1,865.78
Community Facilities	\$11,794.76
Plan Administration and Management	\$1,571.18
The total contribution is	\$106,643.82

Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 33 of 60

Security Deposit/Guarantee Schedule

- C49. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$20,000.00
Infrastructure Damage Bond	\$14,000.00
Drainage Engineering Bond	\$33,000.00
Engineering Construction Bond	\$63,000.00
TOTAL BONDS	\$130,500.00

Note: The following fees applicable

Fees	
Section 7.11 Contributions	\$106,643.82
TOTAL FEES	\$106,643.82

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

- C50. Under Section 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1339223M_02 dated 5 February 2023 and Certificate No. 1339489M_02, dated 2 June 2023 (issued under the Alternative Assessment Pathway) for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 34 of 60

Outdoor Lighting

C51. All outdoor lighting must comply with, where relevant AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

Amendments to the Landscape Plan

C52. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- 1 x *Jacaranda mimosifolia* (100l) shown to be planted in the northeastern corner of the subject site shall be 400l min pot size.
- 5x *Elaeocarpus reticulatus* (500mm) shown to be planted along the eastern boundary of the subject site shall be replaced with 5 x *Callicoma serratifolia* (500mm).
- 10x *Osmanthus fragrans* (300mm) shown as feature planting within the southern setback planters shall be reduced in number to 5 x *O. fragrans* alternated with 5 x less sparsely foliated plant of similar dimensions (300mm).
- 3 x new replacement *Photinia sp* (75minl) shall be planted in the council verge in front of Nos. 13-15 Allister (1 to replace that removed, + 2 x additional).
- 20x *Viburnum tinus* (200mm) are considered too susceptible to pest infestation in this location and shall be replaced with a more reliable species (eg. *Murraya paniculata*) (300mm).
- 2x 400mm *Pyrus calleryana* 'Cleveland Select' feature trees shown to be planted on either side of the pedestrian entrance within the front setback of 13-15 Allister Street shall be replaced with 2 x *Acer x freemanii* 'Jeffersred' (200l).
- 1 x *Corymbia maculata* (100l) shown to be planted in the SW corner of the subject site shall be replaced with 3 x *Corymbia maculata* (100l) planted as a grove.
- 40 x *Syzigium* 'Cascade' (250mm) shall be replaced with 40 x *Syzigium* 'Cascade' (300mm)
- Stormwater and associated works (including 3 x pits as shown) shall be diverted outside the TPZ of T4.

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

(Reason: To ensure residential amenity)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 35 of 60

Root Mapping

- C53. Non-invasive/non- destructive root mapping is to be undertaken within the tree protection zone (TPZ) (identified as per AS4970-2009) of the T4 located within the southeastern corner of the site to determine the size and depth of the tree roots prior to the design of any required piers/footings for any structures outside the footprint of the basement within the TPZ of this tree.

Root mapping is to be undertaken under the direct supervision of an AQF level 5 arborist. The said consulting/ project arborist is to prepare a written report, with images, addressing the following:

- a) describing the results of the root mapping;
- b) providing an assessment of potential tree impacts of the excavation; and
- c) making recommendations of protection measures to be implemented for the duration of excavation and construction activity to ensure the ongoing health and viability of the tree.

The report is to be provided to the Certifying Authority for approval (with a copy provided to Council) prior to the issue of any Construction Certificate. Plans and Specifications submitted to the Certifier for approval must comply with the recommendations of the arborist report referred to in this condition, and the development must be carried out in accordance with the said report.

(Reason: To ensure the protection of significant trees)

D. Prior to the Commencement of any Works (and continuing where indicated)

Photographic Survey (Heritage Items)

- D1. Prior to any works commencing a photographic survey recording, in accordance with the NSW Heritage Office Guidelines, "Photographic recording of Heritage Items using file or digital capture," is to be prepared for No. 15 Allister Street, Cremorne to the satisfaction of Council's Historian and Conservation Planner. Two (2) copies of the photographic survey must be provided to Council.

(Reason: To provide a historical record of heritage significant fabric on site for archival purposes)

Protection of Trees

- D2. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be

undertaken for the duration of works on the site.

Sensitive construction techniques including hand excavation, pier & beam construction & flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut. No excavation or construction shall be permitted beyond the proposed building line in the direction of T4. No canopy pruning other than that expressly permitted as per C34 shall be carried out. No stormwater or any other underground services shall be directed through the TPZ of any protected tree.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Tree Protection Measures

D3. The tree protection measures detailed in the approved Tree Protection and Management Plan prepared in accordance with condition C28, and as directed by the project arboriculturist shall be established before work commences.

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

Project Arborist to be Engaged

- D4.
- The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan as directed by the project arboriculturist before work commences.
 - The project arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
 - The project arboriculturist must receive written approval from Council's Landscape Development Officer in accordance with Condition C48 for any tree pruning. Should a joint site meeting be required, the tree contractor and Council's Tree Management Officer or Landscape Development Officer (giving at least two working days' notice) are to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council.
 - Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.
 - The project arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the Occupation Certificate.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 37 of 60

(Reason: Tree protection measures)

Protection of Public Trees

- D5. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Protection
4 x <i>Photinia</i> sp.	Council verge in front of No. 13-15 Allister Street.	1.8 m high steel mesh tree protection fencing, branch protection

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

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

(Reason: Protection of existing environmental and community assets)

Temporary Fences and Tree Protection

- D6. All protected trees on-site that are specifically nominated as per Condition C32 to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builders' waste are to be stored in the vicinity of the nominated tree/trees at any time.

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance - Works on Public Land

- D7. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 38 of 60

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Notification of New Addresses

- D8. Prior to the commencement of any building works, an application must be made and written confirmation received from North Sydney Council of the allocated street address (house number) and/or unit numbers of the completed project.

To assist Council, a plan for unit numbering should be submitted for concurrence. These details will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard relating to rural and urban addressing. A copy of the allocation confirmation must be submitted to the Certifying Authority with the application for a Construction Certificate.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Sydney Water Approvals

- D9. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes: **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Asbestos Material Survey

- D10. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 39 of 60

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- i. the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- ii. all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- iii. during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- iv. Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

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

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Commencement of Works' Notice

- D11. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work

Reuse of Sandstone

- E1. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site.

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 40 of 60

Parking Restrictions

- E2. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E3. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Service Adjustments

- E4. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Temporary Disposal of Stormwater Runoff

- E5. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Structural and Geotechnical Stability during Works

- E6. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the reports prepared to satisfy **condition AA1** and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

- E7. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

- a) Vehicular access; and associated road civil works
- b) Stormwater connection to Council's system.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 42 of 60

Progress Survey

- E8. In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, must be prepared by a Registered Surveyor showing the following:
- a) at the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
 - b) prior to placement of concrete at the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
 - c) prior to placement of concrete at each fifth-floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
 - d) prior to roofing, or completion of the highest point of the building showing the anticipated level of the completed work and its relationship to the boundary; and
 - e) at completion, works showing the relationship of the building to the boundary and showing the maximum height of the overall works and the height of the principal roof elements.

Progress certifications in response to points (a) through to (e) must be provided to the Certifying Authority for approval at the time of carrying out relevant progress inspections. In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Certifying Authority to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

Removal of Extra Fabric

- E9. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E10. The following must be complied with at all times:

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 43 of 60

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E11. The works must be undertaken in accordance with the "Interim Construction Noise Guideline," published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Compliance with Construction Noise Management Plan

- E12. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan submitted with the Construction Certificate and all conditions of consent.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

No Work on Public Open Space

- E13. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Applicant's Cost of Work on Council Property

- E14. The applicant must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 44 of 60

No Removal of Trees on Public Property

E15. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

E16. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by Blues Brothers, version 6, dated 17 April 2023 and as subsequently amended by conditions of this development consent must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- b. An application to modify this consent pursuant to Section 4.55 of *the Environmental Planning and Assessment Act 1979* will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Benchmarks

E17. All permanent survey markers must be retained, undamaged, and not relocated.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

E18. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the

event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

E.g., cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 46 of 60

- E19. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
Residential zones	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E20. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

- E21. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

- E22. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E23. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Community Information

- E24. Reasonable measures must be undertaken at all times to keep nearby residents informed about the proposed work, such as by way of signs, leaflets, public meetings and telephone contact numbers, to ensure that adjoining residents are aware of the likely duration of the construction works on the site.

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

Prohibition on Use of Pavements

- E25. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E26. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 48 of 60

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

E27. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

E28. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

a) in the case of work for which a principal contractor is required to be appointed:

i) the name and licence number of the principal contractor, and

- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**Page 50 of 60

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Mandatory Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Excavation/Demolition

- F7. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 51 of 60

- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate*

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**Page 52 of 60

Line Marking

- G2. A certificate prepared by an appropriately qualified and practising Civil Engineer certifying the construction, paving, line marking and signposting of 19 off-street carparking spaces, together with access driveways, in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate must be submitted to, and approved by, the Certifying Authority prior to issue of any Occupation Certificate.

(Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles)

Noise Certification

- G3. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent herein.

(Reason: To ensure acoustic amenity)

Certification - Civil Works

- G4. a) An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of an Occupation Certificate.
- b) An appropriately qualified and practicing Civil Engineer must certify to the Certifying Authority that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority), upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Works as Executed Drawings and Video

- G5. A works-as-executed survey drawing (W.A.E.) of the completed stormwater drainage system must be obtained. The W.A.E. survey drawing must show the alignment, depth and grade of the stormwater drainage pipelines, pits and ancillary plumbing. The W.A.E. survey drawing must be reviewed by a qualified and practising civil engineer and certification provided to the Certifying Authority that the as-built system achieves the design intent of the plans approved with the Construction Certificate. Certification must be provided with the W.A.E. survey drawing to the Certifying Authority prior to the issue of an Occupation Certificate.

A copy of the W.A.E. survey drawing and certification must be submitted to the Council if it is not the Certifying Authority.

(Reason: Compliance with the Consent)

Certification for Mechanical Exhaust Ventilation

- G6. Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to, and approved by, the Certifying Authority.

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

Utility Services

- G7. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Basement Pump-out Maintenance

- G8. Prior to issue of an Occupation Certificate a Maintenance Regime must be prepared for the basement stormwater pump-out system and submitted to the Principal Certifying Authority for approval with the Occupation Certificate documentation. The regime must specify that the system is to be regularly inspected and checked by qualified practitioners.

The basement stormwater pump-out system must be maintained in accordance with the approved Maintenance Regime at all times.

(Reason: To ensure future provision for maintenance of the drainage system)

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 54 of 60

Notification of New Address Developments

G9. Prior to any Occupation Certificate being issued, the person acting upon this consent must comply with the following:

- (a) Notify Australia Post of the address(es) as issued by Council and the location in plan form of any secondary, internal addresses, in relation to built public roads. Check Australia Post Website (www.auspost.com.au) to find your nearest Australia Post Delivery Facility.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Asbestos Clearance Certificate

G10. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos-based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

G11. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below:

Tree	Location	Height
4 x <i>Photinia sp.</i>	Council verge in front of No. 13-15 Allister Street	4-5m
3 x (new) <i>Photinia sp.</i>	Council verge in front of No. 13-15 Allister St	75l

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 55 of 60

T4 <i>Angophra costata</i>	Southeastern corner of the site	11x8m
T8 <i>Gordonia axillaris</i>	Northwestern corner of the site	7x6m
1 x (new) <i>Jacaranda mimosifolia</i>	Northeastern corner of the site	400l
3 x (new) <i>Corymbia maculata</i>	Southwestern corner of the site	100l
2 x (new) <i>Acer x freemanii</i> 'Jeffersred'	Front setback area of the site	200l

The report must detail the condition and health of the nominated tree(s) upon completion of the works and shall certify that the tree(s) has/have not been significantly damaged during the works on the site and has/have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

Signal System

- G12. Prior to the issue of an Occupation Certificate, a signal system must be installed at the street alignment and within the building to indicate traffic movement on the single lane ramp, and so designed that the signal indication at the point of ingress shall remain green except when an exiting vehicle is detected upon the ramp or driveway.

(Reason: To properly manage vehicle entry to, and exit from, the subject site)

Disposal Information

- G13. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:
- the total tonnage of all waste and excavated material disposed of from the site (including any tipping dockets); and
 - the disposal points and methods used.

(Reason: To ensure appropriate disposal methods are undertaken for auditing and inspection purposes)

Sydney Water

- G14. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

The final Section 73 Certificate must be submitted to the Certifying Authority prior to release of any linen plan for subdivision or prior to occupation of the development, whichever is the earlier.

Notes: Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index, or telephone 13 20 92.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 56 of 60

Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

(Reason: To ensure compliance with the statutory requirements of Sydney Water)

BASIX Completion Certificate

G15. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate, the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

House Numbering (Dwellings)

G16. Prior to any Occupation Certificate being issued an application must be made to North Sydney Council for written confirmation, or allocation, of the street address(es) or apartment number(s) for the completed project in accordance with Council's Property Addressing Policy. These are the numbers that will be recorded in Council records and must be displayed at the property in accordance with the provisions of AS/NZS 4819:2011.

Note: If apartments are to be sold off the plan, the applicant must have written confirmation from Council of the address and apartment numbering if the apartment number is to be identified on the contract.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties.)

Landscaping

G17. The landscaping shown in the approved landscape plans 1 and 2/2 prepared by Andrew Davies, dated 24 January 2023, as modified by Condition C53.

(Reason: To ensure compliance)

Damage to Adjoining Properties

G18. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

a) whether any damage to adjoining properties has occurred as a result of the development;

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 57 of 60

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

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

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

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

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

Verification Statement (External Finishes and Materials)

- G19. Prior to the issue of any Occupation Certificate, a verification statement from a qualified designer or architect (preferably the original designer), must be submitted to Council and the Certifying Authority certifying that the external finishes and materials are in accordance with the approved schedule of finishes and materials identified in this consent.

"qualified designer" means a person registered as an architect in accordance with the Architects Act 2003 cf 50(1A) EP&A Regs 2000.

(Reason: To ensure the design quality and finishes for residential flat development)

Required Tree Planting

- G20. On completion of works and prior to the issue of an Occupation Certificate trees in accordance with the schedule hereunder must be planted in Council's nature strip/footpath:

Schedule

Tree	Location	Height
3 x (new) Photinia sp.	Council verge in front of No. 13-15 Allister St	75l

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 58 of 60

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provided to enhance community landscaped amenity and cultural assets)

Unpaved Verge

G21. The unpaved verge area must be constructed/reconstructed with an appropriate species of grass prior to completion of the works at no cost to Council.

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

Intercom

G22. An intercom system must be provided in a convenient location adjacent to the visitor parking entry to enable easier and safe access to visitor parking prior to issue of any occupation Certificate.

(Reason: To ensure convenient access is available for visitors to the building)

Allocation of Spaces

G23. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

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

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

**13-15 ALLISTER STREET, CREMORNE
DEVELOPMENT APPLICATION NO. 291/22**

Page 59 of 60

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

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

Compliance with Certain Conditions

G24. Prior to the issue of any Occupation Certificate, Conditions C1 Heritage and C46 Screen Planting must be certified as having been implemented on site and complied with.

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

Covenant and Restriction (Use of Communal Areas)

G25. An Instrument pursuant to Sections 88B and 88E of the Conveyancing Act 1919 and one copy must be submitted to Council in registrable form, providing for:

- 1) a restriction as to user and positive covenant in favour of North Sydney Council burdening Nos. 13-15 Allister Street, Cremorne, restricting the use of the communal areas for residents and guest to be maintained as such and shall only be varied with approval of Council; and
- 2) North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument.

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council's official seal will be affixed to these documents, prior to submission to the Land & Property Information Office for registration.

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier.

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

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

(Reason: Compliance and maintain communal use of the communal area)

I. Ongoing/Operational Conditions**Maintenance of Approved Landscaping**

11. The owner of the premises at 13-15 Allister Street is to maintain the landscaping approved by this consent generally in accordance with Landscape Plans 1 and 2/2 prepared by Andrew Davies, dated 24 January 2023, as modified by Condition C52.

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

(Reason: To ensure maintenance of the amenity of the site)



AMENDED CLAUSE 4.6 – HEIGHT OF BUILDINGS

Alterations and additions to an existing residential flat building at No. 15 Allister Street, demolition of remaining structures, amalgamation of lots and the provision of a four-storey addition for a total of thirteen apartments above three levels of basement parking and landscaping

13-15 Allister Street
Cremorne

Prepared for: WINIM Developments Pty Ltd

REF: M210236

DATE: 31 January 2023



Clause 4.6 Variation - Building Height



Clause 4.6 Variation Statement – Height of Buildings (Clause 4.3)

1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of *North Sydney Local Environmental Plan 2013* to accompany the DA which seeks consent for alterations and additions to an existing residential flat building at No. 15 Allister Street, demolition of remaining structures, amalgamation of lots and the provision of a four storey addition for a total of thirteen apartments above three levels of basement parking and landscaping at Nos. 13-15 Allister Street, Cremorne ('the site').

2. PROPOSED VARIATION

Clause 4.3 of NSLEP 2013 prescribes the maximum building height for the site and refers to the *Height of Buildings Map*. Building height is defined as:

'...building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like...'

The relevant maps (HOB_003 and HOB_004) indicates that the maximum building height permitted at the subject site is 12m.



Figure 1 Extract from Height of Buildings Map [M=12m]

The maximum height control is a “development standard” to which exceptions can be granted pursuant to clause 4.6 of the LEP.



3. PROPOSED VARIATION TO HEIGHT OF BUILDINGS DEVELOPMENT STANDARD

The architectural plans indicate that the proposed development has a maximum height of 13.98m to the uppermost southern edge of the building in accordance with the definition of height under NSLEP 2013. There are additional components which exceed the maximum building height as follows:

- Photovoltaic panels of 13.8m – breach of 1.8m or 15%;
- Lift overrun of 12.5m – breach of 0.5m or 4%;
- Awning structure of 13.05m – breach of 1.05m or 8.75%; and
- External façade of 12.7m – breach of 0.7m or 5.8%.

The above encroachments primarily relate to the provision of building services, roof forms and external facades. Excluding these elements, the building predominately complies with the height limit. Notably, there is no residential habitable floor area within the part of the building affected by the non-compliance.

The proposal is therefore non-compliant with the development standard and seeks a maximum variation of 1.98m or 16.5% to the uppermost southern edge of the building. Refer to **Figures 2 to 4** below.

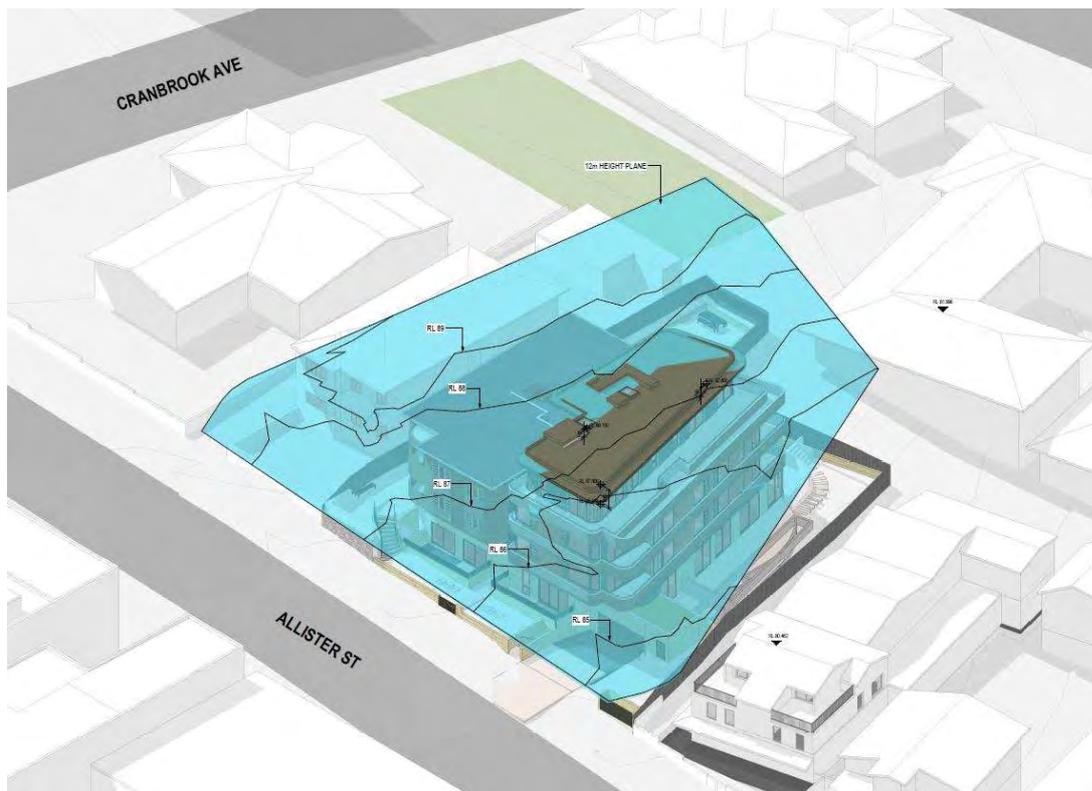


Figure 2 Height Blanket Diagrams – Maximum non-compliance of 1.98m to southern edge of building



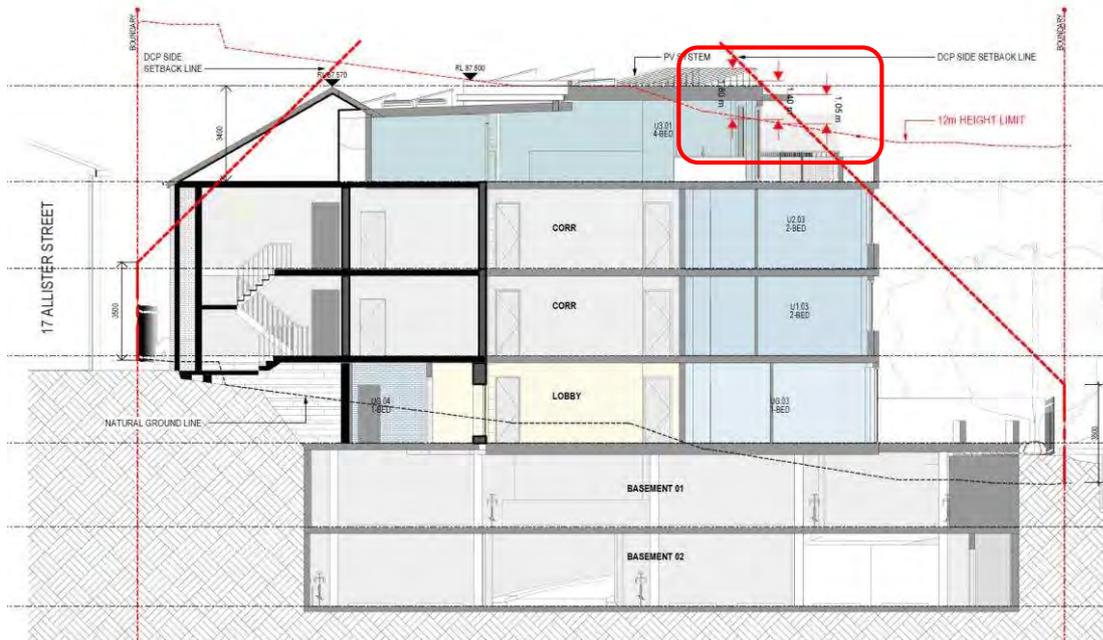


Figure 3 Section (1) illustrating maximum height non-compliance



Figure 4 Section (2) illustrating height non-compliance

4. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

- (1) *The objectives of this clause are as follows—*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
- (a) the consent authority is satisfied that—
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note— When this Plan was made it did not include all of these zones.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5,
- (ca) clause 4.3 in relation to land identified as “Area 1” on the Special Provisions Area Map, other than subject land within the meaning of clause 6.19C,
- (cab) clause 4.4, 5.6 or 6.19C in relation to land identified as “Area 1” on the Special Provisions Area Map,
- (cb) clause 6.3(2)(a) and (b),
- (cba) clause 6.19A,
- (cc) clause 6.20.
- (8A) (Repealed)

The development standards in Clause 4.3 are not “expressly excluded” from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) & (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, Subclause 4.6(6).

The proposal has a maximum building height of 13.98m to the uppermost southern edge (the highest point of the building structure). Other encroachments to the maximum building height are as follows:

- Photovoltaic panels of 13.8m – breach of 1.8m or 15%;
- Lift overrun of 12.5m – breach of 0.5m or 4%;
- Awning structure of 13.05m – breach of 1.05m or 8.75%; and
- External façade of 12.7m – breach of 0.7m or 5.8%.

It is hereby requested that a variation to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum building height of 13.98m which equates to a numerical variation of 1.98m and a percentage variation of 16.5%, noting that the maximum height relates to the uppermost southern edge of the building.

5. THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the

development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

“ The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

Clause 4.6(3)(a) requires that the written request to vary a development standard demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because:

- the development is consistent with the standard and zone objectives, even with the proposed variation (refer to Section 7 below);
- there are no additional significant adverse impacts arising from the proposed non-compliance; and
- important planning goals are achieved by the approval of the variation.

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

6. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Specifically, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (paragraph 24) states:



*The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The following planning grounds are submitted to justify contravening the maximum building height:

1. Significant cross fall

- a. The topography is considered to be the site specific reasons for this variation.
- b. The subject site has a cross fall of approximately 4.2m from the northern to southern side boundary. The undulating topography varies the extent of non-compliance across the entirety of the development.
- c. The cross fall of the site from northern to southern boundary exacerbates the extent of non-compliance to the uppermost level of the contemporary wing. That is, the non-compliance increases as the building approaches the southern (side) boundary given the topography of the land, despite providing a constant roof RL. The numerical difference between the northern and southern portions of the contemporary wing demonstrates that the sites topography has worsened the extent of non-compliance and identifies that this is a site specific condition which Clause 4.3 of the NSLEP does not anticipate.
- d. The proposed development has been designed to relate to the topography of the subject site and original building located at No. 15 Allister Street, as far as practicable. The proposed developments seeks to provide a balance between creating appropriate addition to the existing building and providing equitable access floorplates between the existing and proposed building.
- e. Following this, the proposal has been designed to retain and protect the existing building, whilst providing a contemporary addition to the south where the topographical decline is greatest. In this regard, the existing building to the north and portions of the contemporary wing are compliant with the building height development standard. As the topography declines to the south, the elements of non-compliance are present (and increase) due to the crossfall. The contemporary wing provides horizontal modulation and floorplates which are consistent with the original building, as to permit continuity of form and character (in addition to accessibility), which has contributed to the proposed variations.

2. The non-compliances are isolated to limited parts of the site and are part of a building which is agreed to be of good design

- a. The greatest extent of non-compliance, being the uppermost southern edge of the building, has been purposefully designed with a high quality, simplified contemporary character including flat roofing, balcony articulation, compatible materiality and glazed panelling. This element has been integrated with a recessed uppermost floor which incorporates increased setbacks from Allister Street, the southern (side) boundary and eastern (rear) boundary. This ensures that the non-compliant built form, as viewed from the public domain, will not be visually obtrusive or jarring.



- b. To the southern (side) boundary where the topography is steepest and the non-compliance greatest, the built form has been designed with a balcony element which wraps around the periphery of the uppermost most level. This provides considerable visual and physical separation to the neighbouring property where the height breach pertains to the southern portion of the built form. The separation proposed between the non-compliant elements and neighbouring properties mitigates the potential sense of enclosure as far as practicable and limits the visual impact of the variation. As detailed above, the non-compliant elements have been recessed and incorporate balcony articulation, glazed panelling and materiality to reduce the physical and visual bulk and scale of the development. This will provide an appropriate transition of built form between the allotments, despite non-compliance.
- c. In addition to the above, the built form of the lower levels has been designed with a 6m setback from the external façade opposing the southern (side) boundary, which is greater than what is anticipated the DCP. This increases building separation to the neighbouring properties which further limits the impact created by non-compliant upper levels. As discussed, the perceived bulk and scale of the proposal is consistent with the existing building on-site and desired future character of the locality. Strict compliance with the building height standard would require redistribution of floor area (within the lower levels) which would result in an inferior outcome. It follows that the proposed non-compliance represents a superior outcome with regards to the character of the development and amenity of neighbouring properties and should be given weight in consideration of this variation request.
- d. In terms of the lift overrun, this is located centrally within the built form as to ensure it will not be visually jarring or obtrusive from the public domain. This element relates to infrastructure serving the proposed building and do not relate to residential or habitable floor area. The lift overrun is also designed with a 16.1m setback to the front boundary, 15.3m setback to the southern (side) boundary and 23.2m setback to the eastern (rear) boundary and is also recessed beyond the building envelope below. The provided setbacks ensures that the extent of non-compliance will limit the visual and physical bulk and scale of the development as viewed from the public domain and neighbouring properties.
- e. It is also noted that the proposal provides a built form which is compatible with No. 15 Allister Street and is generally consistent with the NSDCP and ADG. Despite non-compliance, the proposal is compatible with the character of the existing building and nearby heritage items. Specifically, the proposal integrates specific design features within the non-compliant elements as to ensure that the contemporary wing is compatible with the existing built form on-site.
- f. Following this, the subject site is located in an area with an eclectic mix of buildings and varying density. The non-compliant elements have therefore been designed with sympathetic, contemporary architectural features and increased separation (where the proposal is non-compliant). Although the development provides a built form greater than the immediate neighbours, this is consistent with the NSLEP and NSDCP, and the design incorporates the relevant measures to reduce its visual impact.

3. The non-compliances to the photovoltaic panels allow for a sustainable design

- a. The variations as they relate to the photovoltaic panels permit the delivery of a sustainable development. It would be contrary to the public interest to require deletion of the photovoltaic panels to reduce the extent of non-compliance. Further to this, these non-compliant elements do not constitute physical built form and have no impact to the bulk, scale and character of the development.

4. Deletion of a floor would not be orderly and economic use of land

- a. The social benefits of providing additional housing stock within a highly sought after location should be given weight in the consideration of the variation request. It would be a loss to the

community (and contrary to the public interest) to deny the variation and require the removal of apartments due to the steep topographical incline of the topography.

- b. A shorter building would unnecessarily result in a suboptimal provision of housing on the site. This would reduce the contribution of the development to meeting the R4 zone objective to 'provide for the housing needs of the community within a high density residential environment'. Under-provision of housing within an R4 zone simply diverts people to be resident in areas with reduced opportunity for access to transport links or an urban environment well-suited for walking and cycling.

5. The impacts of the height breach will be imperceptible

- a. It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality.
- b. The extent of the additional height creates no adverse additional overshadowing impacts to adjoining properties when compared to a compliant building envelope. That is, despite the additional shadow cast by the non-compliant element, this is generally over the public domain and roof form of the adjoining developments, thus ensuring that the proposal will not impact the solar gain of the properties to the south and south-east. Furthermore and when compared to a compliant envelope, the additional impact is negligible. As such, additional overshadowing caused by the non-compliant elements would be insignificant.
- c. The height breach does not result in any adverse additional privacy impacts. Where the non-compliance pertains to the glazed openings, these have been designed with increased setbacks to the side boundaries and specific orientation of living areas to the front and rear boundaries. This ensures that that any additional loss of privacy caused by the non-compliant elements would be insignificant.
- d. The height of building breach does not result in view loss which is not reasonably anticipated within the planning controls and site context. When considering the extent of view sharing, it is noted that the height breach is a result of the site topography. As such, it is anticipated the extent of view loss caused by the non-compliant element would be insignificant or nil.

6. The impacts of the height breach will satisfy relevant environmental planning instruments

- a. The proposed development meets the objectives of the development standard and meets the objectives of the R4 High Density Residential zone (as further detailed in Section 7 below).
- b. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
 - i. The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilise site for residential uses (1.3(c));
 - ii. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).
- c. The variation to the height of buildings development standard will give better effect to the aims of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65). In particular:
 - i. The proposed variation will provide more sustainable housing in social and environmental terms and better achieve urban planning policies (clause 2(3)(a)(i));
 - ii. to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define (clause 2(3)(b));

- iii. to contribute to the provision of a variety of dwelling types to meet population growth (clause 2(3)(f));
- iv. Approval of the proposed variation will support a variety of housing types by providing a well-located and compact development that will be a better choice for families (clause 2(3)(g)).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly given the undulating and steep topographical incline of the site, which has a significant cross fall from the northern to southern (side) boundaries and retainment of the existing building at No. 15 Allister Street. The additional height does not significantly impact the amenity of the neighbouring properties (when compared to a compliant development) and has been designed in such a way to ensure the additional height is not visually jarring from the public domains.

7. CLAUSE 4.6(4)(a)

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard, this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

8. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(a)(ii))

8a. Objectives of Development Standard

The objectives of clause 4.3 height of buildings are as follows:

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) to promote the retention and, if appropriate, sharing of existing views,*
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*

(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,

(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.

In order to address the requirements of subclause 4.6(4)(a)(ii), the relevant objectives of clause 4.3 are addressed in turn below. It is noted that objective (g) does not apply to the proposal and is not considered.

Objective (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The proposed development has been designed to relate to the topography of the subject site as far as practicable. As indicated in this Variation, the site has a cross fall of approximately 4.2m from the northern to southern side boundaries and falls from rear to front boundary across the length of the site. Accordingly, the extent of variation varies across the entirety of the development due to the topographical characteristics. Furthermore, the proposal has also designed to respond to the existing building at No. 15 Allister Street as to provide level floorplates and an appropriate relationship between built forms. Ultimately, the topography and existing building has varied the extent of non-compliance across the site.

As demonstrated in the submitted architectural plans, the proposal will require excavation to accommodate the basement levels, to provide vehicular entry from Allister Street and ensure the provision of a compatible contemporary wing. As the proposal will retain the existing building, the northern portion of the site will remain as height compliant. However, as the site falls to the south, the redistribution of floor area away from the existing building and site boundaries, in addition to the provision of level floor plates, has resulted in the height variations. Despite non-compliance with the maximum building height, the proposed arrangement is considered to be a superior outcome in that the proposal will suitably relate to the existing building, will nestle comfortably within the topography of the site and will not impact the character or amenity of surrounding properties.

In order to more appropriately respond to the topography, the proposal also provides an increased setback to the uppermost level where non-compliant to the external façade, roof form and building services. This ensures consistency with the character, bulk and scale of the existing building and locality through the provision of a contemporary recessed form which is designed to purport a lightweight structure. The use of balcony articulation, glazing and flat roofing, in addition to visually lightweight materiality, ensures that the extent of non-compliance is successfully integrated into topography of the site. This demonstrates that despite non-compliance, the proposal is compatible with the topography of the site and surrounding properties.

As such, the proposal is satisfies objective (a) despite non-compliance.

Objective (b) to promote the retention and, if appropriate, sharing of existing views,

In terms of view loss, the proposed variation will not result in any significant loss of views or outlook compared to a building with a compliant height. The applicable planning controls effectively anticipate a continuous 12m high built form along Allister Street that will follow the topography. As such, the expectation to retain views through the permissible building envelope is considered unreasonable. The extent of the breach is limited to minor infrastructure elements and flat roofing, which has been designed with increased setbacks to permit view sharing from surrounding properties. Specifically, the lift overrun is located centrally and is minimal in area to protect predominant views throughout the locality. Further, the southern edge of the roof form is recessed as to protect the views from the neighbouring properties. Notwithstanding the above, there are no significant views obtained from the public domain or from the opposing educational facility, SCECGS Redlands.

When considering the properties to the north and south, any district views are obtained in an easterly direction and will not be impacted by the proposed development. That is, the building footprint and envelope of the proposal is consistent

with the existing buildings on the subject site and aligns with the setbacks of the neighbouring properties. This ensures any views from the abovementioned properties will be retained and will not be impacted by the height non-compliance.

In terms of the properties on the northern side of Cranbrook Avenue, these will not be adversely impacted by the proposed development. Importantly, the extent of non-compliances are limited in area and subordinate to the overall built form, thus ensuring that any significant views of the Sydney CBD will be protected. It is also onerous to require distant views to be maintained in a high density zone enjoyed across a roadway and the side boundary of the subject site.

As such, any potential view impact is a result of a generally compliant building envelope in accordance with the controls set by the LEP and DCP. It follows that there is a reasonable expectation that the views would be lost with any redevelopment of the site and therefore to preserve views must be considered against the back drop of the permissible planning controls. It is considered that the proposal satisfies objective (b).

Objective (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The proposed development has been purposefully designed to protect the solar gain of the residential properties to the south and south-east of the subject site, specifically, Nos. 1-11 Allister Street and No. 13 Cranbrook Avenue (respectively). Despite variation, the proposal has been designed with increased setbacks to the non-compliant elements to maintain appropriate solar access of the neighbouring properties. As demonstrated on the submitted architectural plans, the extent of non-compliance created by the proposed building envelope is negligible when compared to a compliant envelope. That is, the design measures implemented to the non-compliant elements (namely setbacks) ensure that the solar gain of neighbouring properties will not be adversely impacted despite the variation. A comparison between the existing and proposed shadows (provided within the architectural set) demonstrates the acceptable increase of shadows created by the proposal.

Specifically, Nos. 1-11 Allister Street will retain three hours of solar access to the western and eastern facades during mid-winter. Where overshadowing impacts pertain to the northern façade of this development, this is not worsened by the extent of non-compliance. That is, the shadows cast by the lift overrun, roof form and façade are onto Allister Street at 9am and over the roof form of Nos. 1-11 Allister Street at 12pm. This ensures that the proposal will have no further impact onto the solar gain of the northern façade of Nos. 1-11 beyond a compliant building envelope.

With regards to No. 13 Cranbrook Avenue, the extent of non-compliance will only result in additional overshadowing at 2pm to 3pm and is not any greater than a compliant building envelope. The neighbouring property to the south-east will receive three hours of solar access to its eastern façade from 9am to 12pm during mid-winter, and approximately 3 hours to the majority of its western façade from 12pm to 3pm. Although the proposal will result in additional overshadowing to the western façade, this is a result of a compliant building envelope which is not adversely impacted by the non-compliance.

Given the zoning of the locality, steep topographical incline and east-west orientation, it is reasonably anticipated that unavoidable overshadowing will occur to the buildings to the south. Notwithstanding and as discussed above, despite non-compliance the proposal will ensure that adequate levels of solar access will be provided to the neighbouring properties which is achieved through the aforementioned setbacks of the uppermost level and building services. It is also noted that the proposal will not result in any adverse impact to the solar gain of the public domain beyond what is reasonably anticipated by the development standards contained within the LEP and is therefore acceptable in this regard.

As such and despite non-compliance, the proposal will satisfy objective (c).

Objective (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The proposal has been purposefully designed to protect the visual privacy of surrounding properties through the orientation of living areas and balcony spaces to the front and rear boundary. When considering the non-compliant elements, these are limited to non-habitable building services, roof forms and awnings addressing the front, side and rear boundaries, in addition to glazed openings opposing the southern (side) boundary. Of relevance, the balcony spaces as accessed from level 3 (and located along the southern elevation) are compliant with the 12m development standard and therefore are acceptable in this regard.

Accordingly and when considering the proposed south facing openings on level 3, these are setback 10m from the boundary shared with the neighbouring property which provides considerable visual and physical separation as to limit overlooking to the neighbouring property at Nos. 1-11 Allister Street. Furthermore, the potential sight lines from these openings are obscured by the balcony serving these apartments and is therefore acceptable. Of relevance, the 10m setback is greater than the separation required under the ADG per Objective 3F-1 which ensures that the height non-compliance will not result in any further impact.

Accordingly, the proposal is considered to be acceptable with regards to objective (d).

Objective (e) to ensure compatibility between development, particularly at zone boundaries,

It is noted that objective (e) refers to being “compatible” with adjoining development. It is well established that “compatible” does not promote “sameness” in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of Roseth SC in Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191:

“22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”

In accordance with the above, the subject site is located within the ‘Murdoch Neighbourhood’ under *Part C – Character Statements* of the NSDCP 2013. The desired future character is specifically detailed in Section 5.5 and is reproduced below:

‘P1 Primarily high density residential accommodation, generally comprising residential flat buildings.

P2 Limited opportunities for attached dwellings dwelling houses, semi-detached houses, dual occupancies and multi dwelling housing.

P3 The density of development generally reduces the further away a property is located from Military Road.’

As detailed further below, the proposal is consistent with the abovementioned objectives. Importantly, the proposal has been designed to ensure compatibility with the development standards despite the height non-compliance and is sympathetic to the existing building to be retained, established heritage items and desired future character of the locality. The proposal is designed with a recessed uppermost level (where the height is varied) to limit the perceivable visual and physical impact of the non-compliance. This is achieved by virtue of a responsive massing that responds to the topography of the site, existing building at No. 15 Allister Street and an architectural design that takes into account the character of the locality through a sympathetic sandstone base, curved brickwork middle portion and light-weight upper level.

When considering the existing buildings directly to the south, east and north, these contain residential flat buildings of varying heights, architectural styles and ages. To the west and on the opposite side of Allister Street is an existing education facility which also contains a varying architectural character, including contemporary building forms and heritage items. Further to the north, two State significant heritage items are located which has also informed the

proposed design. On-site, the proposal will retain the existing art deco building at No. 15 Allister Street. The evidenced eclectic character of the locality must be considered and has been vital to informing the proposed architectural design.

Given the above, the proposed non-compliances have been designed to ensure they do not result in any perceivable increase in bulk or scale beyond what would be reasonably anticipated on the subject site and as established by the existing building on-site and neighbouring properties. That is, the non-compliances pertain to non-habitable roof top elements and do not result in an unreasonable increase of density or intensity beyond what is anticipated in the zone. The burden of strict compliance would result in the removal of level 3 which would be an unreasonable and unnecessary outcome given that the bulk, scale and character of the proposal is consistent with the existing and desired character of the R4 Zone and will not adversely impact on the amenity of the neighbouring properties.

The proposed development is permissible in the zone and is in fact, consistent with the desired future character per the DCP (*Murdoch Neighbourhood*). It is considered that the proposal will positively contribute to the existing and future character of the Cremorne locality when viewed with the buildings along Allister Street. Given the eclectic mix of developments in the immediate and wider locality, the proposed alterations and additions will deliver a sympathetic design which is inclusive of materiality and a colour scheme respecting the original building on-site and surrounding heritage items.

In accordance with the above, the proposal directly responds to the objectives set by the *Murdoch Neighbourhood* in the DCP. That is, the proposal achieves a scale of development that is appropriate to its location and proximity to shops, services and public transport. The proposal will retain the existing building at No. 15 Allister Street and provide a contemporary addition which is designed to respond to the established character, levels and to the topography of the site. This ensures that the proposal, including its non-compliances, provides an appropriate transition of built form from Military Road to the lower density developments to the south of Allister Street. Overall, the proposal achieves a visual outcome that is architecturally unique, however is compatible with the established character of the locality. It has a contemporary appearance with visual cues to the existing building and surrounding heritage items and is purposefully designed to conceal the non-compliant height thus ensuring a compatible streetscape character and relationship to neighbouring properties.

Therefore objective (e) is achieved despite the variation.

Objective (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,

The 12m height of buildings control effectively anticipates a four storey building can be constructed on the site. The proposed development retains the existing building at No. 15 Allister Street and provides a contemporary four storey addition. In this regard, it is the topography and siting of the existing building which results in a breach to the 12m height of buildings development standard. As such, the proposed alterations and additions are considered to represent the desired future character of the locality, with the non-compliances limited to relatively minor portions of the overall built form.

To the casual observer in Allister Street, the proposal will provide a sympathetic, contemporary four storey addition which aligns with the existing building and follows the topography of the site. The contemporary wing is designed to predominately comply with the development standard, noting the uppermost level (where the variations are proposed) is recessed to provide an appropriate scale and density as desired in the locality. The proposed building arrangement is therefore considered to be a significant visual improvement when compared to a sheer 12m building height as anticipated by LEP. The height breach to the building services and roof form is integrated into the built form and will not be alarming to the visual aesthetic of the streetscape. Furthermore, the variation for level 3 will not result in a scale of development that is noticeably different from the parts of the building that comply with the maximum building height development standard.

The burden of insisting on strict compliance would result in the removal of level 3, which would be an unreasonable and unnecessary planning outcome given the nature of the non-compliance. In fact, the removal of level 3 would result in a development that is lesser than the scale of buildings anticipated by the development standard and would be entirely inconsistent with the existing and desired future character of the locality. Of relevance, the variation pertaining to the roof and southern façade does not bring with it an increase of density not anticipated on the site. That is, the provision of 13 apartments on the subject site is entirely reasonable given the permitted development standards and controls.

As such, the proposal will positively contribute to the existing and desired future character of the Cremorne locality when viewed in conjunction with existing building on-site and surrounding buildings located along Allister Street. To the casual observer, the building will appear to have compliant height and has been tailored to create an improved relationship with the original building and neighbouring properties. Therefore, the density and scale of the building is consistent with established and emerging built form in the locality. Accordingly, the proposal satisfies Objective (f).

8b. Objectives of the Zone

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone R4 are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*

The proposal will provide 13 apartments including a number of 1, 2, 3 and 4 bedrooms which will meet the housing needs of the community within the R4 Zone.

- *To provide a variety of housing types within a high density residential environment.*

As above, the proposal will provide 2 x 1 bedroom, 5 x 2 bedroom, 5 x 3 bedroom and 1 x 4 bedrooms apartments which will increase housing variety in the locality. The proposal will also provide for 3 adaptable apartments which will increase diversity and accessibility in the locality.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is not antipathetic to this objective.

- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*

The proposal has been purposefully designed to ensure the amenity of neighbouring properties or the public domain will be appropriately retained, in addition to the character of the existing building and of the nearby local and state heritage items.

- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

The proposal will provide high levels of amenity for future residents satisfying solar access, ventilation and area requirements for each apartment.

For these reasons the development proposal meets the objectives for development in Zone R4. The height variation is not antipathetic to the objectives for the zone and for that reason the proposed variation is acceptable.

9. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice, attached to the

Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

10. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6(5)(a))

Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

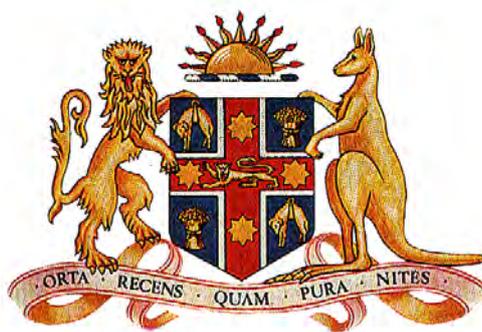
11. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the maximum building height. As such there is no public benefit in maintaining strict compliance with the development standard. Whilst the proposed building height exceeds the maximum permitted on the site by 1.98m (16.5%), the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

12. CONCLUSION

This written request has been prepared in relation to the proposed variation to the height of buildings development standard contained in Clause 4.3 of NSLEP 2013.

Having regard to all of the above, it is our opinion that compliance with the maximum height development standard is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach. Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation supported.



Government Gazette

of the State of

New South Wales

Number 241–Planning and Heritage

Friday, 3 June 2022

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To submit a notice for gazettal, see the Gazette page.

North Sydney Council

Heritage Act 1977

Interim Heritage Order No. 2/2022

15 Allister Street, Cremorne

Under Section 25 of the Heritage Act, 1977, North Sydney Council, do by this notice:

- I. Make an Interim Heritage Order to cover the items of the environmental heritage specified or described in Schedule 'A'; and
- II. Declare that the Interim Heritage Order shall apply to the curtilage or site of such items, being the land described in Schedule 'B'

This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either:

- (1) In the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
- (2) In the case of an item which in the council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.



Robert Emerson

Acting General Manager

North Sydney Council

Dated at North Sydney 31st May 2022

 SCHEDULE 'A'

The property situated at 15 Allister Street, Cremorne NSW 2090 on the land described in Schedule 'B'.

 SCHEDULE 'B'

The parcel of land known as SP 19383, shown edged heavy red on the plan catalogued NSC IHO 2/22.

IHO 2/22 – 15 Allister Street, Cremorne



North Sydney Council

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Further details can be obtained by calling (02) 9736 8100 or e-mail mapping@northsydney.nsw.gov.au



Scale 1 : 600 @ A4



DESIGN EXCELLENCE PANEL MEETING

DA No: DA291/2022
PAN: 265724
ADDRESS: 13-15 Allister Street, Cremorne
PROPOSAL: Demolition of the existing multi-dwelling housing and alterations and additions to the existing residential flat building (subject to an IHO) to construct a four-storey residential flat building containing 11 apartments over three levels of basement parking.

DATE 8 November 2022

ATTENDANCE

Chair Professor Peter Webber
Panel Members Kylie Legge, Peter St Clair, Dave Tordoff
Council staff Robyn Pearson, Team Leader Assessments and Michael Stephens, Senior Assessment Officer
Applicant Ben Pomroy – Rothelowman, Julie Horder – Planning Ingenuity, Chad Mackay and Scott Timmins – WINIM Developments, Graham Brookes – GBA Heritage

PANEL COMMENTS

Principle 1: Context and local character

The proposed development is a reasonable response to the recent proposed heritage listing of No. 15 Allister Street.

The adjoining property to the south contains a low-rise multi-dwelling housing development and is likely to be redeveloped at some stage in the future.

The adjoining property to the north contains a two storey inter-war residential flat building.

Principle 2: Built form, scale and public domain / urban design response

Linkage Element

The proposed link between the old and new building masses is generally well executed, however, further refinement should be provided on levels 1 and 2, and on the upper most level of the new building element. The linkage should be further enhanced by providing a wider and/or deeper slot between the building forms. There appears to be scope to do so by deleting the additional robe space on levels 1 and 2 and amending the upper level.

DESIGN EXCELLENCE PANEL MEETING

Setbacks

The proposed 4.5m setback to the southern side boundary does not comply with the ADG building separation requirements and should be increased to 6m to comply. The uppermost level, and all levels below, should comply with the 45-degree BHP requirement in Council's DCP to manage the bulk and massing of the building and minimise the potential amenity impacts on the adjoining property to the south.

The proposed development should not compromise the potential for No. 11 Allister Street to be redeveloped. If this occurs it is likely that living rooms will face north, directly towards the subject site. The proposed development should provide a 6m setback so that 12m building separation can be achieved with any future redevelopment of the adjoining site.

Uppermost Level

The upper most level should comply with the raked plane in Council's DCP.

The internal floor to ceiling height of level 3 appears to be greater than required and exacerbates the height and scale of the upper most level.

Street Setback

The front setback of the proposed new building mass should be adjusted to align with the heritage building.

Building Entry

The proposed central front entry provides a good sense of address and links the old and new building masses at ground level. Consideration should be given to setting back the entry further into the building, to maintain a greater portion of the southern elevation of No. 15 Allister and widening the entry to provide greater separation between the old and new building forms.

Retention of the existing building entry along the northern side of No. 15 Allister Street as a secondary building entry is supported given the extent of existing significant heritage fabric in this area.

The height of the proposed entry gates should remain low level to maintain reasonable security without alienating the public domain.

Roof form

The proposed upper-most storey of the new building mass has a poor interaction with the existing roof form and appears unrelated.

The applicant suggested that the roof forms could be blended to address this relationship. The Panel were of the view that greater separation should be provided to retain a greater portion of the existing roof form and avoid the additional level overwhelming the scale of the existing building. Bedroom 4 to the rear of the U3.01

DESIGN EXCELLENCE PANEL MEETING

encroaches unacceptably into the existing roof form, as does the lobby space and garbage chute.

The proposed roof form above the new building mass appears cluttered with plant and service equipment. Further consideration should be given to locating these elements elsewhere within the proposal.

Principle 3: Density

The non-compliance with the site coverage provision is noted. This non-compliance corresponds with the non-compliance with the southern side setback control, as above.

The proposed development provides some mix of dwelling sizes which is supported.

Principle 4: Sustainability, building performance and adaptability

Amendments to the western elevation are required to resolve the solar loading to the exposed glazing on levels 1 and 2. As presented, this glazing is completely unprotected.

The proposed photo-voltaic system on the roof is supported.

Principle 5: Landscape**Principle 6: Building configuration, planning, and amenity**Overshadowing

The non-compliances with height and building envelope controls, although relatively minor, result in additional overshadowing of the adjoining development to the south. The proposed development should comply with the building envelope controls to minimise amenity impacts to the south.

Solar access

The proposed development complies with the ADG solar access requirement.

Natural cross ventilation

The proposed development complies with the ADG natural cross ventilation requirement.

Apartment configurations

The amenity of some of the bedrooms along the southern side elevation has been compromised as a result of the non-compliant southern side setback. Providing a compliant 6m set back to the southern side boundary would allow other opportunities rather than the proposed corner windows that are orientated back towards one another (i.e. Units UG.02 and 1.02).

Balconies

The small courtyard areas in front of UG.01 and UG.04 could be extended towards the street, provided the fencing and landscape detailing are well executed, to provide larger ground level courtyards to further improve the amenity of the ground level apartments.

Utilities

All utilities including fire hydrant and services (substation if required), should be concealed and integrated into the fabric of landscape walls or building and not detract from the street presentation.

Principle 7: Safety

The proposal provides good passive surveillance along the full frontage.

Principle 8: Housing diversity and social interaction

The proposed development provides some mix of dwelling sizes which is supported.

Communal Open Space

The proposed communal open space to the rear of No. 15 Allister provides an opportunity for a large, consolidated area of communal open space, despite the difficulties accessing this area given the narrow path within northern side setback, adjacent bedrooms, and potential DDA issues. Nevertheless, this area should be further explored as there are opportunities to increase the size of the consolidated communal open space area by adjusting the curved terraced garden beds and to provide amenities such as a covered picnic table.

Other opportunities for causal interaction should be facilitated, such as by providing a small area adjacent to the building entry and/or within the front setback for people waiting to meet a friend or be picked up etc. It is important that some viable communal area should be accessible to all and welcoming to residents in all weather conditions.

Principle 9: Architectural expression and materiality

The proposed use of patinaed metal elements for balustrading, window framing etc. is well considered.

Further design detailing is to be provided to confirm the proposed brick detailing for the new building mass. The proposed use of a similar colored brick with a contemporary corbelling pattern is generally supported by the Panel.

The extent of unprotected glazing along the western elevation is not acceptable and the architectural expression should take this into account.

The potential to reuse sandstone from No. 15 Allister Street elsewhere within the

DESIGN EXCELLENCE PANEL MEETING

development should be prioritized where elements of the sandstone base cannot be retained in-situ. The existing sandstone staircase and rock wall within the northwestern corner of the site should be retained.

Recommendations to Achieve Design Excellence

The Panel cannot support the proposal in its current form. The following key issues are considered fundamental to the success of the proposal:

- Providing further definition to the linkage element between the existing and new building masses.
- Striking a better balance between the scale of the upper most level of the new building mass and its relationship to the existing building
- Increase the proposed setbacks to the southern boundary to achieve building separation to No. 11 Allister Street.
- The street frontage setback of the new section should align with the existing development.
- Improve the accessibility and amenity of the proposed communal open space areas. Provide internal communal space and facilities which are available for residents at all times
- Windows on street façade should incorporate protection from western sunlight as well as providing some privacy at the ground level in particular.

These issues and others identified in this report require resolution to achieve design excellence.