



Mr Anthony Betros
ABC Planning Pty Ltd
4/492-500 Elizabeth Street
SURRY HILLS NSW 2010

D323/21
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION - Refusal**

Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 ("the Act"). Clause 100 of the Environmental Planning and Assessment Regulation 2000 ("the Regulation")

Development Application Number: 323/21

Land to which this applies: 124 Benelong Road, Cremorne
Lot No.: 1, DP: 169417

Applicant: Anthony Betros, ABC Planning Pty Ltd

Proposal: Demolition of existing structures and construction of four (4) storey boarding house with 20 rooms.

Determination of Development Application: The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 7 September 2022. Subject to the provisions of Section 4.17 of *the Environmental Planning and Assessment Act 1979*, the subject application has been refused for the reasons stated below].

Date of Determination: 7 September 2022

Reasons for refusal:

- i. The proposal does not provide adequate parking having regard to the standards detailed in Clause 29(2)(e) of State Environmental Planning Policy (Affordable Rental Housing) 2009 and Clause 24(2)(i)(ii) of draft State Environmental Planning Policy (Housing) 2021. Further, the vehicles associated with the use cannot leave the site in a forward direction, contrary to the requirements of Transport for NSW;

- ii. The design of the boarding house is not compatible with the character of the area contrary to the requirements of Clause 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009 and Clause 25(2)(a)(i) and (ii) of draft State Environmental Planning Policy (Housing) 2021. In this regard the bulk and scale of the building its excessive and its design and use of materials and colours is incompatible with the nature of existing development;
- iii. The proposal has inadequate setbacks having regard to the requirements of Clause 29(2)(b) of State Environmental Planning Policy (Affordable Rental Housing) 2009 and Clause 25(2)(b)(ii) of draft State Environmental Planning Policy (Housing) 2021 in that they are out of keeping with the character of the area and will result in the building having adverse visual impacts on the streetscape and when viewed from surrounding development.
- iv. The proposal has inadequate landscaped area having regard to the requirements of Clause 24(2)(d) of draft State Environmental Planning Policy (Housing) 2021 in that the provision is substantially less than the 40% required by Section 1.5.6 of Part B of Council's DCP;
- v. The proposal does not provide adequate communal living space having regard to the standards detailed in Clause 24(2)(g)(i) of draft State Environmental Planning Policy (Housing) 2021;
- vi. The proposal does not provide adequate communal open space having regard to the standards detailed in Clause 24(2)(h)(i) of draft State Environmental Planning Policy (Housing) 2021;
- vii. The proposal has unreasonable privacy impacts as it fails to comply with the minimum building separation requirements of the Apartment Design Guide as referred to in Clause 25(2)(c) of draft State Environmental Planning Policy (Housing) 2021;
- viii. Pursuant to Clause 4.6(2) and (4)(c) of State Environmental Planning Policy (Resilience and Hazards) 2021, consent cannot be granted as the proposal involves residential use of the land and complete knowledge of the history of the site has not been demonstrated.
- ix. Pursuant to Clause 2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021, Gerard Street is a classified road and inadequate information has been provided in relation the annual average daily traffic volume of this road and whether an acoustic assessment is required.
- x. The proposal breaches the 8.5m height control of Clause 4.3 of North Sydney LEP and has not been supported by a request to breach the control pursuant to Clause 4.6 of the LEP. The building height is excessive and out of keeping with the character of the area;
- xi. The window openings to rooms G03, G04, 01.03, 01.04, 2.03 and 3.03 are too small to provide adequate daylight, internal amenity and sustainable outcomes;
- xii. The main building entry lacks a welcoming street address and is accessed via a long narrow side passage which is not visible from the street. The three separate entrances with no external cover are all exposed to southern wind and rain;
- xiii. No external clothes drying area or letterbox has been provided contrary to the requirements of Section 1.5.14 of Part B of the DCP;

-
- xiv. The proposed fences to the street frontages are excessively high and solid and contrary to the provision of Section 1.4.14 of Part B of the DCP and are out of keeping with the character of the area;
- xv. The proposal does not adequately address the requirements for a green roof in Section 1.6.10 of Part B of the DCP;
- xvi. The proposed waste storage area is inappropriately located and the proposal does not provide waste facilities in accordance with the requirements of Section 19 of the DCP;
- xvii. The proposal is not consistent with the requirements of the North Cremorne and Waters Neighbourhood Character Statements in Part C of the DCP in that:
- it does not respect or maintain the existing characteristic built form as it is not adequately setback from all boundaries and have a suitably landscaped front garden to soften built form;
 - the front fences are not low and do not offer good outlooks of the building entry and landscaped setbacks;
 - it does not have a sympathetic relationship to other surrounding development in terms of height, bulk and scale and privacy.
- xviii. The proposal will have an adverse impact on the existing street tree in the Gerard Street road reserve due to the excavation in close proximity.

How community views were taken into account:

The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2022/7_September_2022)

Review of determination and right of appeal:

Within six months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Endorsed for and on behalf of North Sydney Council

15 September 2022

DATE



Signature on behalf of consent authority
GEORGE YOUHANNA
EXECUTIVE PLANNER