

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Civic Centre, Dee Why

WEDNESDAY 13 FEBRUARY 2019



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 13 February 2019
in the Walamai Room, Civic Centre, Dee Why**

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Development Determination Panel held 30 January 2019	
3.0	DEVELOPMENT DETERMINATION PANEL REPORTS	5
3.1	DA2018/1847 - 7 North Harbour Street, Balgowlah - Demolition works, construction of a dwelling house including the retention of a portion of the existing dwelling house	5
3.2	DA2018/0089 - 4 Dygal Street, Mona Vale - Demolition of site structures and construction of a Seniors Living Development under SEPP (Housing for Seniors or People with a Disability) comprising eight (8) dwellings with basement carparking	43

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 30 JANUARY 2019

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 30 January 2019 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1 **DA2018/1847 - 7 NORTH HARBOUR STREET, BALGOWLAH -
DEMOLITION WORKS, CONSTRUCTION OF A DWELLING
HOUSE INCLUDING THE RETENTION OF A PORTION OF THE
EXISTING DWELLING HOUSE**

REPORTING MANAGER **Luke Perry**

TRIM FILE REF **2019/064986**

ATTACHMENTS 1 [↓](#) **Assessment Report**
 2 [↓](#) **Site Plan and Elevations**

PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/1847 for Demolition works, construction of a dwelling house including the retention of a portion of the existing dwelling house on land at Lot 3 DP 10882, 7 North Harbour Street, Balgowlah subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1847
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 3 DP 10882, 7 North Harbour Street BALGOWLAH NSW 2093
Proposed Development:	Demolition works, construction of a dwelling house including the retention of a portion of the existing dwelling house
Zoning:	Manly LEP2013 - Land zoned E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Kirsten Macgillivray Dobell
Applicant:	Kirsten Dobell
Application lodged:	20/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	26/11/2018 to 12/12/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,883,000.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant



- Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 3 DP 10882 , 7 North Harbour Street BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of North Harbour Street, Balgowlah</p> <p>The site is irregular in shape with a frontage of 15.24m along North Harbour Street and an average depth of 31m. The site has a surveyed area of 531.1m².</p> <p>The site is located within the E3 Environmental Management zone and accommodates a three-storey detached dwelling.</p> <p>The site slopes steeply from west to east (approximately 13m) and contains dense vegetation in the eastern portion of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one-, two-, and three-storey detached dwellings.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA0128/2014 for Construction of a sea wall, plunge pool, deck, retaining walls and landscaping was approved on 25 February 2015 by the former Development Assessment Unit.
- DA0162/2015 for Removal of an existing sea wall and reconstruction of a sea wall with a balustrade, new stairs and landscaping was approved on 11 November 2015 under staff delegation.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following works:

- Demolition of the existing dwelling with retention of the existing rear yard works and lower ground floor deck; and
- Construction of a new three-storey dwelling with four-car stacker garage.

On 20 December 2018, following a preliminary assessment, Council requested an amended application to vary the height of building development standard, as it contained typographical errors. Amended and satisfactory documentation was provided on 20 December 2018.

On 4 January 2019, Council requested withdrawal of the application, due to insufficient information. The application was not supported by an adequate Bushfire Report, the architectural plans did not depict the foreshore building line, and the shadow diagrams did not demonstrate shadows in plan form with adequate detail. On 7 January 2019, the Applicant provided adequate architectural plans detailing the foreshore building line. On 9 January 2019, the Applicant provided adequate shadow diagrams. On 10 January 2019, the Applicant provided an adequate Bushfire Report.

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ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>



Section 4.15 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Sydney Bushfire Consultants, dated 10 January 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.



As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to the protection of existing trees and vegetation, and the completion of landscaping.</p> <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development is mapped on the 'Terrestrial Biodiversity' layer of the Manly LEP 2013. The proposal will not impact the existing landscape to the rear of the site, and therefore is unlikely to have a significant adverse environmental impact to local biodiversity values and habitats.</p>
NECC (Coast and Catchments)	<p>The DA for 7 North Harbour Street, Balgowlah has been assessed for impacts on the Coastal Environment. Planning controls relevant include the Sydney Regional Environment Plan (Sydney Harbour Catchment) and associated DCP, the Manly LEP and DCP 2013.</p> <p>The following information was used to make the assessment.</p> <ul style="list-style-type: none"> * Statement of Environmental Effects * Plans <p>The proposed development stormwater and runoff flows to an area containing seagrasses. With the application of erosion and sediment control, it has been assessed as having no significant impact on the coastal environment.</p>
NECC (Development Engineering)	<p>Development Engineer has no objection to the application subject to the following conditions of consent.</p>
Strategic and Place Planning (Heritage Officer)	<p>Further to a review of available documents and a site visit</p> <p>The site of proposed development is not heritage listed, however, it is in the vicinity of listed item, the Harbour Wall.</p> <p>Given the nature of the proposal, the separation between sites, and the nature of significance of the item, it is assessed that impact on heritage values will be within acceptable limits.</p> <p>Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required.</p> <p>Kind Regards</p>

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Internal Referral Body	Comments
	Zoran Popovic Heritage Adviser

External Referral Body	Comments						
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.						
Aboriginal Heritage Office	<p>Conclusion / General Comments</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.</p> <table><tr><th colspan="3">Recommendation</th></tr><tr><td></td><td>APPROVAL</td><td>No Conditions</td></tr></table>	Recommendation				APPROVAL	No Conditions
Recommendation							
	APPROVAL	No Conditions					

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.



SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 957416S dated 15 November 2018). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	46
Thermal Comfort	Pass	Pass
Energy	40	53

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.2m	20%	No

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Floor Space Ratio	0.45:1 238.99sqm	0.44:1 233.7sqm	N/A	Yes
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Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	No
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Requirement:	8.5m
Proposed:	10.2m
Is the planning control in question a development standard?	YES
If numerical enter a % variation to requirement	20%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Clause 4.6 Exceptions to development standards:

- (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.

Comment:

Clause 4.3 Height of Buildings development standard is not 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 Secretary has been obtained.*

CI 4.6 (4)(a)(i) (Justification) assessment:

CI 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6 (3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:



'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

S1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

In doing so, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land and that the building is of a good design and will protect the amenity of the surrounding built environment therefore satisfying cl 1.3(c)(g) of the EPA Act.

In this regard, the Applicant's written request has adequately demonstrated the that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Cl 4.6 (4)(a)(ii) (Public Interest) assessment:

Cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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

Comment:

In considering whether or not the proposed development will be in the public interest consideration



must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E3 Environmental Management zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of cl 4.3 Height of Buildings development standard are:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The proposed development is of a height that is consistent with existing development in the locality, and is set below the ridge height that exists on site. The proposal is suitable for the topographic landscape, and is consistent with the streetscape character along North Harbour Street, in that it is of comparable dimensions to existing nearby dwellings.

(b) to control the bulk and scale of buildings,

Comment:

The proposed development is acceptable in relation to its non-compliance with the built form controls in the MDCP 2013, as detailed throughout this report. Additionally, the non-compliant height of building is acceptable for the reasons in the section of this report relating to Clause 4.6 of the MLEP 2013. Finally, the proposed development is compliant with the floor space ratio development standard set by Clause 4.4 of the MLEP 2013, which controls bulk and scale.

(c) to minimise disruption to the following:

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*

Comment:

As such, the proposal does not result in unreasonable view loss to, from, or between public or private spaces.. As demonstrated by the submitted documentation, the proposed development provides a greater view corridor for the affected property to the south east.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposed development provides compliant solar access for the subject site and adjacent sites, in accordance with Clause 3.4.1 Sunlight Access and Overshadowing of the MDCP 2013.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

The proposed development has appropriate regard to existing vegetation and topography in that it retains the existing vegetation in the rear yard, and does not include unreasonable excavation. The proposal is not anticipated to conflict with the foreshore or adjacent land.

Conclusion:

The proposed development satisfies the underlying objectives of the Height of Buildings development standard.

Zone objectives



The underlying objectives of the E3 Environmental Management zone

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
Comment:
The proposed development, being demolition of an existing dwelling and construction of a new dwelling does not impeded on the protection, management or restoration of the subject site.
- *To provide for a limited range of development that does not have an adverse effect on those values.*
Comment:
The use of the site for a dwelling is low-intensity and does not affect the site's ecological, scientific, cultural or aesthetic values
- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*
Comment:
The proposed development is low impact and does not dominate the foreshore in that it retains the existing vegetation to the rear of the site, and is of comparable bulk and scale to nearby development.
- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*
Comment:
The proposal does not impact upon the foreshore, does rely on removal of significant vegetation, and is supported by a Geotechnical report that details the proposal is acceptable in relation to the topography and features of the site.
- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*
Comment:
The proposal provides compliant landscaped open space, thereby allowing for appropriate vegetation on site, adjacent to the foreshore. This also allows for suitable onsite infiltration.
- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*
Comment:
The proposed height and bulk of the proposed development are acceptable and consistent with existing development in the locality. The proposal has adequate regard to existing vegetation and topography on site, and surrounding land uses.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E3 Environmental Management zone.

cl 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning,

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advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 531.1sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	N/A	Yes
	Dwelling Size: Min. 90sqm	233.1sqm GFA	N/A	Yes
4.1.2.1 Wall Height	North: 8m (based on gradient 1:3.6)	9.36m	14.6%	No
	South: 7.7m (based on gradient 1:5)	8.1m	13.66%	No
4.1.2.2 Number of Storeys	2	3	50%	No
4.1.2.3 Roof Height	Parapet Height: Max. 0.6m	Max. 0.4m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	2.1m, consistent with prevailing setback	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	North: 3.12m (based on wall height)	1.5m	52%	No
	South: 2.7m (based on wall height)	2m	36%	No
	Windows: 3m	North: 1.5m	50%	No
		South: 2m	33.33%	No
4.1.4.4 Rear Setbacks	8m	11.5m	N/A	Yes
4.1.4.5 Foreshore Building Lines and Foreshore Area	10.6m	All new works comply with the FBL	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space min. 55% of site area (292.1sqm)	45.4% (241.6sqm)	17.3%	No
	Open space above ground max. 25% of total open space (60.4sqm)	16.3% (39.5sqm)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area min. 35% of open space (84.56sqm)	61.4% (148.35sqm)	N/A	Yes
	3 native trees	>3 trees exist on site	N/A	Yes
4.1.5.3 Private Open Space	18m per dwelling	78.37sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6.6m (43% of frontage)	6.45%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	4 spaces	N/A	Yes



***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes



Detailed Assessment

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Description of non-compliance

The proposed development includes wall heights of 9.36m to the north and 8.1m to the south, where 8m and 7.7m are permitted, respectively. The proposal also includes three storeys where a maximum of two is permissible.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of Clause 4.3 of the MLEP 2013, as follows:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The proposed development is of a height that is consistent with existing development in the locality, and is set below the ridge height that exists on site. The proposal is suitable for the topographic landscape, and is consistent with the streetscape character along North Harbour Street, in that it is of comparable dimensions to existing nearby dwellings.

(b) to control the bulk and scale of buildings,

Comment:

The proposed development is acceptable in relation to its non-compliance with the built form controls in the MDCP 2013, as detailed throughout this report. Additionally, the non-compliant height of building is acceptable for the reasons in the section of this report relating to Clause 4.6 of the MLEP 2013. Finally, the proposed development is compliant with the floor space ratio development standard set by Clause 4.4 of the MLEP 2013, which controls bulk and scale.

(c) to minimise disruption to the following:

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*

Comment:

As such, the proposal does not result in unreasonable view loss to, from, or between public or private spaces. As demonstrated by the submitted documentation, the proposed development provides a greater view corridor for the affected property to the south east.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposed development provides compliant solar access for the subject site and adjacent sites, in accordance with Clause 3.4.1 Sunlight Access and Overshadowing of the MDCP 2013.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

The proposed development has appropriate regard to existing vegetation and topography in that it retains the existing vegetation in the rear yard, and does not include unreasonable excavation. The proposal is not anticipated to conflict with the foreshore or adjacent land.



Having regard to the above assessment, it is concluded that the proposed development is inconsistent / consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported / is not supported, in this particular circumstance.

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

The proposed development includes setbacks of 1.5m to the north and 2m to the south, where 3.12m and 2.7m are required, respectively. The proposal also includes windows within 3m of the side boundaries.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposal maintains an appearance of a two-storey dwelling from the streetscape, with setbacks that are consistent with adjoining and nearby development. As such the proposed development retains the existing and desired spatial proportions along North Harbour Street. From the foreshore, the lower level is softened by the landscaping in the rear yard, and is of consistent appearance with existing adjoining and nearby development. The proposal is adequately softened by landscaping, consistent with the character of the street.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposed development does not unreasonably impact upon privacy, solar access, view sharing, streetscape character, or traffic conditions, beyond the existing development, as detailed throughout this report.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

The proposed dwelling is in a logical location, in consideration of the constraints on site. The proposal is unable to be shifted to the east, due to the Foreshore Building Line. The proposal is unable to be shifted to the west, as this may block views, and would create an unacceptable non-compliance with the front building line (the development is consistent with the prevailing building line, as proposed). As such, the proposal is required to increase its width to provide adequate living space (the proposal is compliant with the floor space ratio development standard, which controls bulk). As such, the proposal demonstrates adequate flexibility in siting, while retaining adequate amenity for the subject site and adjacent sites.



Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposed works do not involve unreasonable removal of any significant vegetation and retains the existing landscaping in the rear yard. The proposal does not unduly detract from the context of the site, being adjacent to the foreshore. SEPP 19 does not apply, as the site does not contain or adjoin bushland.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

The proposed development is supported by a Bushfire Risk Assessment Report that demonstrates the work is acceptable in relation to bushfire risk.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent / consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported / is not supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The proposed development includes 45.4% of the site (241.6sqm) as open space, where 55% is required.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

The proposed development does not remove significant vegetation, and retains the existing landscaped area and trees in the rear yard.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

The proposed development provides compliant landscaped open space on site, and retains the existing trees in the rear yard, visible from the foreshore.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

The proposed development does not unreasonably impact upon amenity for the subject site or adjacent sites. The proposed development is consistent with the existing and desired streetscape, in that it



appears as two storeys from the street and is of comparable bulk and scale to existing nearby development.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

As above, the proposed development includes compliant landscaped open space, so provides adequate onsite infiltration and minimises run off. Stormwater on site is adequately managed, subject to compliance with recommended conditions of consent.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

The subject site is adequately developed in order to minimise the spread of weeds and the degradation of open space.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

The proposed development adequately responds to requirements in relationship to biodiversity on site, and does not remove any significant vegetation that may be considered wildlife habitat or corridor.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance

The proposed development includes a garage structure that is 6.6m wide, where the maximum width allowable is 6.2m or 50% of the frontage, whichever is lesser. The proposed garage equates to 43 of the street frontage.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposed garage structure allows for adequate and accessible off-street parking for residential four cars to without unreasonable impacts to the subject site or adjacent sites.

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

The subject site requires two off-street parking spaces, where the proposal provides four, without resulting in any unreasonable impacts.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The location of the additional parking space is practical, safe and efficient and separates vehicular entry



from pedestrian entry. The subject site slopes away from the street level on Cutler Road. The proposed works are well-designed and are consistent with existing development along this road and the surrounding area.

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

The proposed additional car space is set above ground level and does not rely on unreasonable earthworks. The proposal is supported by a Report on Geotechnical Investigation, the requirements of which are to be complied with in accordance with conditions of consent.

Objective 5) To ensure the width and number of footpath crossings is minimised.

Comment:

No footpath runs adjacent to the site, so the proposed additional parking space does not result in any additional footpath crossings.

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

The proposal is acceptable in relation to landscaping for the reasons detailed in the section of this report relating to Clause 4.1.5 Open Space and Landscaping of the Manly DCP 2013.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

Not applicable. The subject site is not located within a local or neighbourhood centre.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:



- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1847 for Demolition works, construction of a dwelling house including the retention of a portion of the existing dwelling house on land at Lot 3 DP 10882, 7 North Harbour Street, BALGOWLAH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA_01 Site Plan and Site Analysis	29 October 2018	Marston Architects
DA_02 Demolition Plan	29 October 2018	Marston Architects
DA_03 Lower Ground Level Plan	29 October 2018	Marston Architects
DA_04 Ground Level Plan	29 October 2018	Marston Architects
DA_05 Upper Level Plan	29 October 2018	Marston Architects

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DA_08 Elevation North	29 October 2018	Marston Architects
DA_09 Elevation South	29 October 2018	Marston Architects
DA_10 Elevation East	29 October 2018	Marston Architects
DA_11 Elevation West	29 October 2018	Marston Architects
DA_12 Section AA	29 October 2018	Marston Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
15011-DA-C11.01 Concept Sediment and Erosion Control Plan	30 September 2018	Dawes Consulting Engineers
15011-DA-C11.02 Sediment and Erosion Control Details	30 September 2018	Dawes Consulting Engineers
15011-DA-C12.01 Concept Stormwater Management Plan - Ground Floor	14 November 2018	Dawes Consulting Engineers
15011-DA-C12.02 Concept Stormwater Management Plan - Lower Ground	14 November 2018	Dawes Consulting Engineers
15011-DA-C13.01 Driveway Longitudinal Sections	14 November 2018	Dawes Consulting Engineers
15011-DA-C14.01 Details Sheet	14 November 2018	Dawes Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 957416S	15 November 2018	Damian O'Toole Town Planning
Bushfire Assessment & Compliance Report	10 January 2019	Sydney Bushfire Consultants
Report on Geotechnical Investigation	November 2018	Crozier Geotechnical Consultants
Hazardous Building Materials Report	16 May 2018	ISGS Asbestos Consulting
Service Protection Report	31 January 2014	Olsen Infrastructure Pty Ltd

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
DA_07 Landscape Plan	29 October 2018	

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	11 July 2018	Applicant

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In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Prescribed conditions (Demolition):**

- (a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (ii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (b) Residential building work within the meaning of the Home Building Act 1989 must not 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 following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not 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.

- (c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Reason: Legislative Requirement (DACPLB09)

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).



- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not 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 following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not 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.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)
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4. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

5. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.



Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a



safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is



located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. On slab landscape planting and associated works

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all planter walls and slab, and drainage of the concrete slab over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping:

-300mm for lawn and groundcovers

-600mm for shrubs

Design certification shall be submitted to the Certifying Authority by a structural engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

8. On-site Stormwater Compliance

Drainage plans detailing the provision of On-site stormwater and scour and erosion control in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003 and the concept drawing by Dawes Consulting Engineer, drawing number 15011-DA dated 30/9/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure drainage works are constructed in accordance with relevant standards and Council's specification.

9. Vehicle Crossings Application

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.



10. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

11. Compliance with standards (Demolition):

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

12. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Public Liability Insurance - Works on Public Land

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, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.



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

14. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

16. Vehicle Crossings

The provision of one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

17. Tree and vegetation protection

A) Existing trees and vegetation shall be retained and protected as follows:

i) all trees and vegetation within the site, nominated on the survey, excluding exempt trees under the relevant planning instruments of legislation,

ii) all other trees and vegetation located on adjoining properties,

iii) all road reserve trees and vegetation,

B) Tree protection shall be generally undertaken as follows:

i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,

ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,



iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works

undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

iv) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

v) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,

vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,

vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,

viii) should either or all of v) vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

ix) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,

x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.

18. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

19. **Landscape works**

Landscaping is to be implemented in accordance with the landscape plan DA_07, prepared by Marston Architects.



Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the plans and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

20. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist (or equivalent), shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, and specifically the existing gum trees within the rear yard, including the following information:

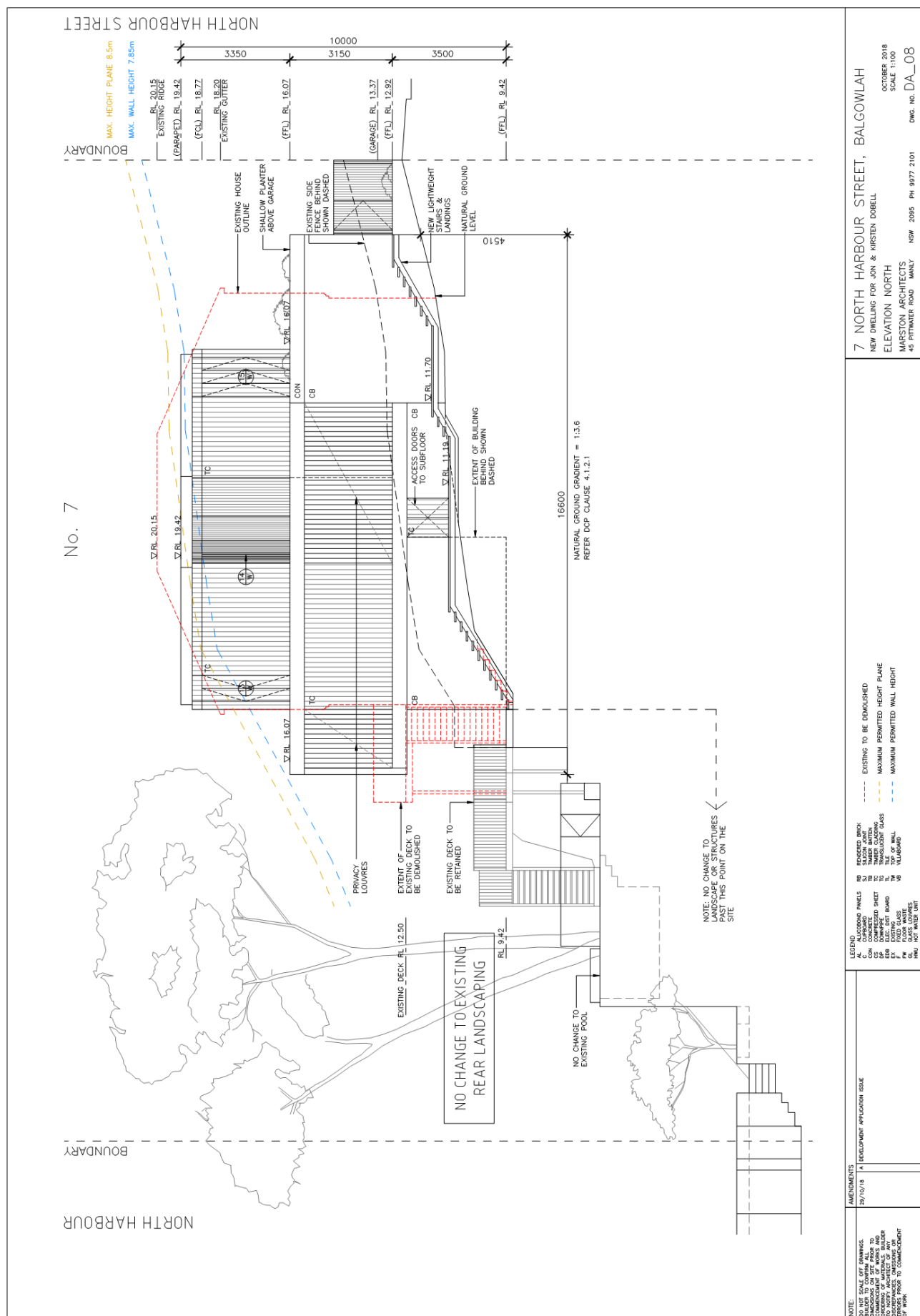
- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

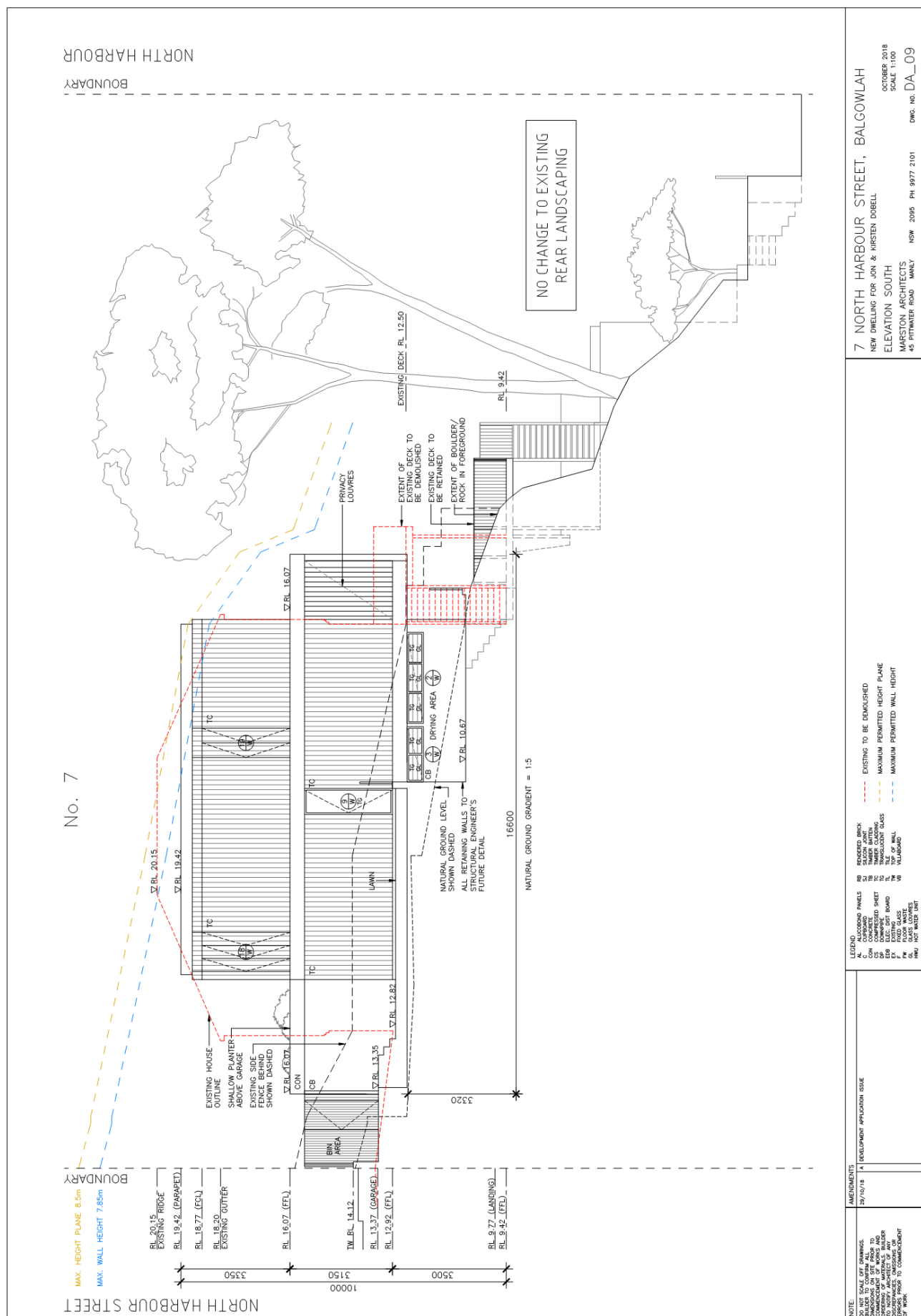
Reason: to ensure compliance with the requirement to retain and protect significant planting on development sites.

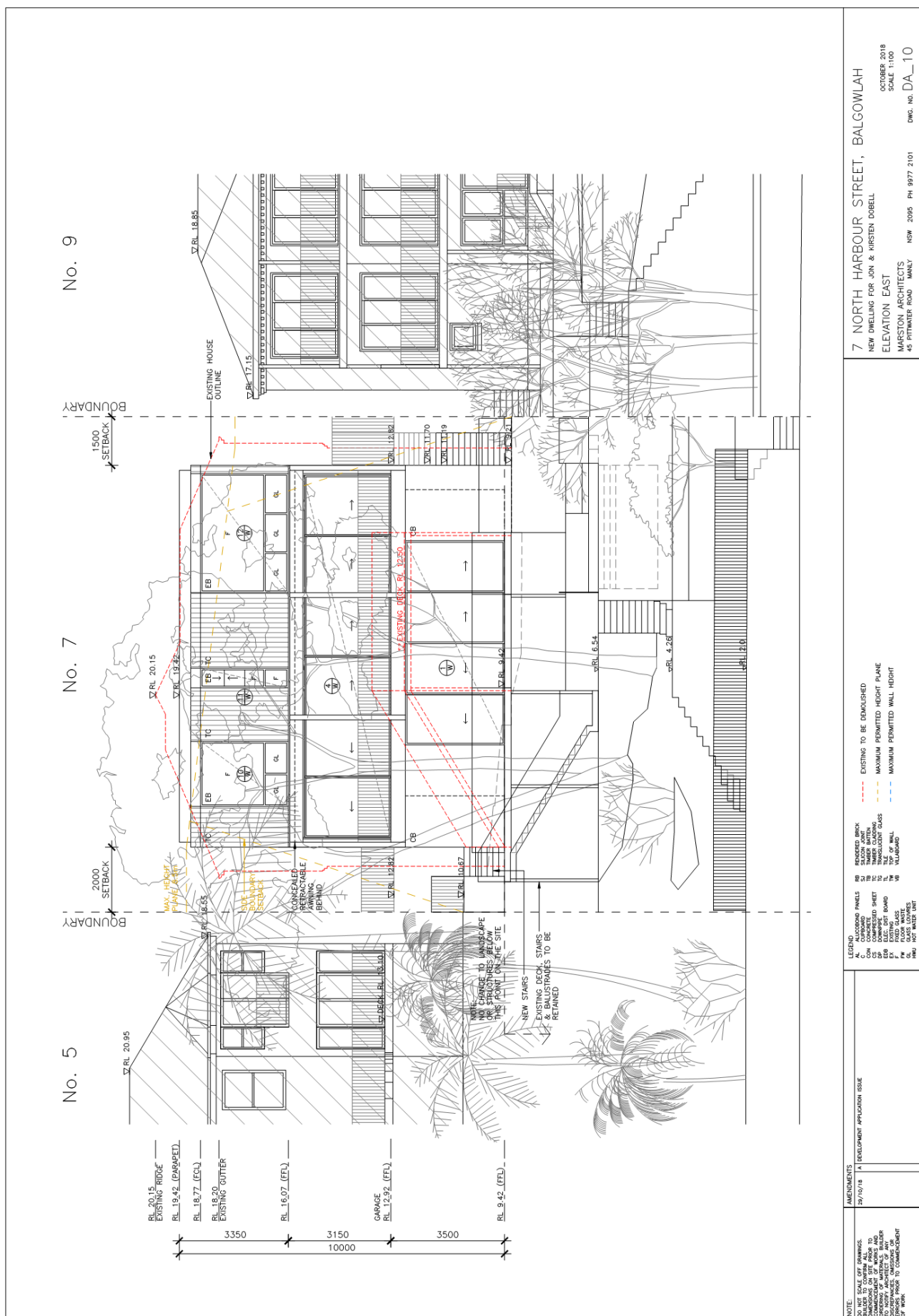
21. **Stormwater Disposal**

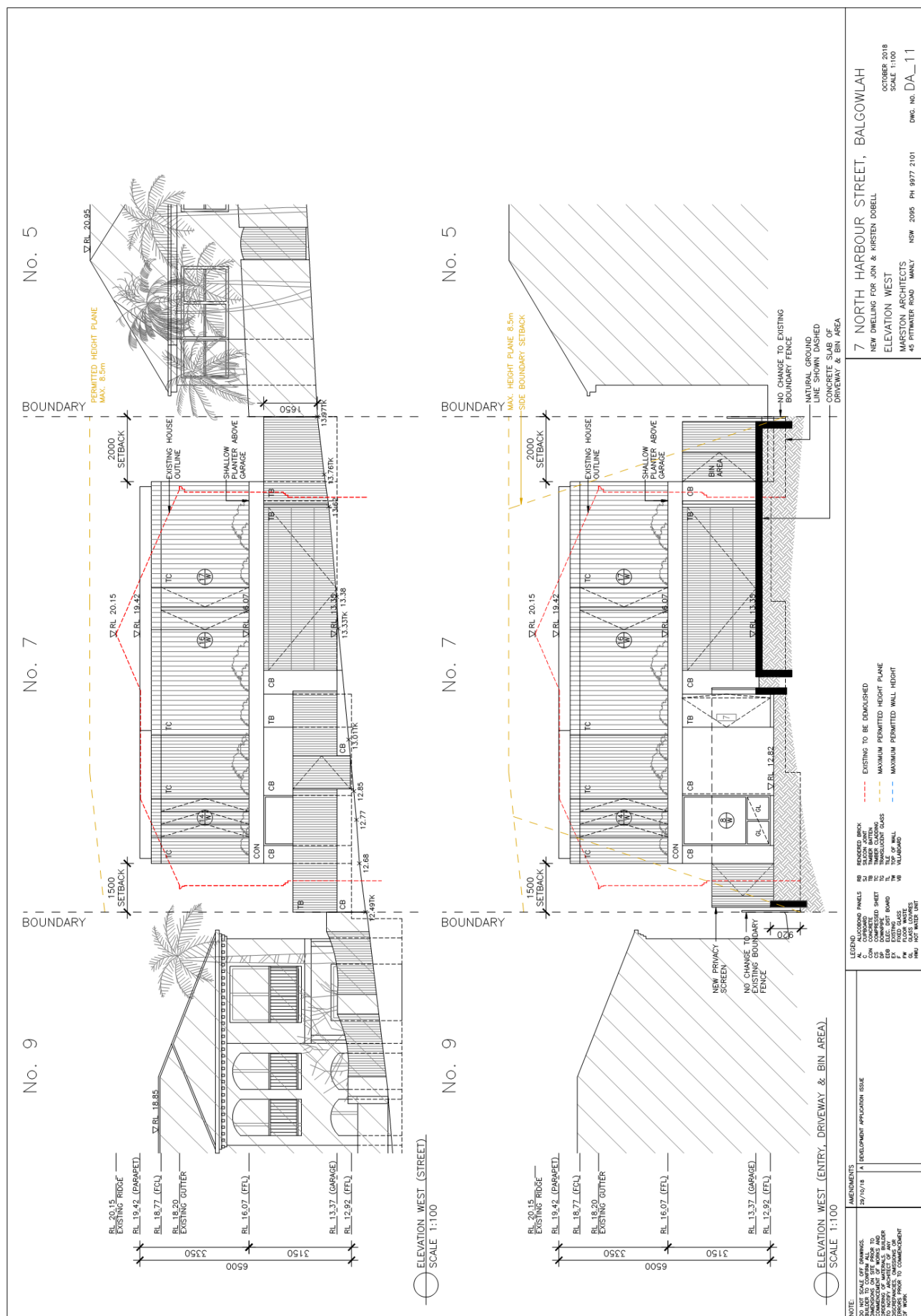
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.









ITEM 3.2

DA2018/0089 - 4 DY GAL STREET, MONA VALE - DEMOLITION OF SITE STRUCTURES AND CONSTRUCTION OF A SENIORS LIVING DEVELOPMENT UNDER SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) COMPRISING EIGHT (8) DWELLINGS WITH BASEMENT CARPARKING

REPORTING MANAGER

Anna Williams

TRIM FILE REF

2019/064938

ATTACHMENTS

- 1** [↓](#) **Assessment Report**
- 2** [↓](#) **Site Plan and Elevations**

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority refused Development Consent to DA2018/0089 for demolition of site structures and construction of a Seniors Living Development under SEPP (Housing for Seniors or People with a Disability) comprising eight (8) dwellings with basement carparking on land at Lot 5 DP 9767 and Lot 2 DP 356334, 4 Dygal Street, Mona Vale for the reasons outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0089
Responsible Officer:	Watermark Planning (Independent External Planning Consultant)
Land to be developed (Address):	Lot 5 DP 9767 and Lot 2 DP 356334 4 Dygal Street MONA VALE
Proposed Development:	Demolition of site structures and construction of a Seniors Living Development under SEPP (Housing for Seniors or People with a Disability) comprising eight (8) dwellings with basement carparking
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	Yes – Class 1 Appeal (Deemed Refusal) lodged 20 December 2018
Owner:	Helen Vera Cannon
Applicant:	Boston Blyth Fleming Pty Ltd
Application lodged:	23/01/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	23/02/2018 to 14/03/2018 Re-notified (amended plans) 11/7/2018 to 29/7/2018
Advertised:	24/02/2018 Re-advertised (amended plans) 14/7/2018
Submissions Received:	1
Recommendation:	Refusal
Estimated Cost of Works:	\$ 2,854,500.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the associated *Regulations*. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and the associated regulations;
- A site inspection was conducted, and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- An assessment of the proposal in accordance with *State Environmental Planning Policy (SEPP) Housing for Seniors of People with a Disability (HSPD)* and *Pittwater Local Environmental Plan 2014 (LEP)*.
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant *Development Control Plan (DCP)*;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

- Compliance with SEPP HSPD for floor space ration, building height, accessibility and local character requirements.
- Consistency with the aims of Pittwater LEP.
- Compliance with Built Form Controls of Pittwater DCP for building envelope and side setbacks).
- Public submission issues.
- Development assessment of the application has been made by an independent external planning consultant since a Council staff member lives near the site.
- The applicant sought to amend the plans DA-01 to DA-10 by Revision C dated 20.6.2018 drawn by *Gartner Trovato*, received 12.7.2018. Revised plans were accompanied by a supplement to the *Statement of Environmental Effects*, received 1.8.2018 and a public pathway survey and revised *Accessibility Assessment* (received 2.10.2018)

SITE DESCRIPTION

Property Description:	Lot 5 DP 9767 & Lot 2 DP 356334. No.4 Dygal Street MONA VALE
Detailed Site Description:	<p>The subject site is located on the southern side of Dygal Street in Mona Vale. The site is made up of two adjoining rectangular shaped lots, with the larger lot 5 located to the south and lot 2 located to the north. The lots together form no. 4 Dygal Street and have a secondary street frontage to Triglone Lane. Both street frontages have consolidated lengths of 24.69m (16.46m (lot 5) + 8.23m (Lot 2)) and both the eastern and western boundaries have lengths of 60.345. The site has a total consolidated area of 1489.9m² (993.3m² (lot 5) and 496.6m² (lot 20)).</p> <p>The site is zoned <i>R2 Low Density Residential</i> and is currently developed with a small one storey dwelling constructed fibrous cement and a tiled roof. A separate single garage is provided, and a small garden shed is located in the rear yard. The dwelling is located to address the Dygal Street frontage with the remainder of the site vacant and turfed.</p> <p>The lot slopes gradually from Dygal Street to Triglone Lane from north to south. There are no fences provided on either street frontage. The lot has limited vegetation with no significant trees on the land.</p> <p>Located immediately to the west of the site at no. 2 Dygal Street is a childcare centre. Immediately to the south, across Triglone lane is a primary school and further to the south is the Mona vale shopping village. Other surrounding development is primarily low scale detached residential.</p>

Map:



SITE HISTORY

The proposal involves the demolition and removal of all building structures on the site as part of the development work. Therefore, no heritage items or historic applications for works on the subject site that require detailed review. Safe handling of demolition material may be addressed by compliance with conditions of consent.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the following development work:

- Demolition of all on-site structures;
- Excavation and site works, including on-site detention;
- Construction of a 2 x two storey buildings encompassing 8 x 3 bedroom units with basement parking for 16 vehicles for aged and disabled persons housing; and
- Landscaping works including retaining walls, ancillary structures and access paths.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

Following the initial assessment, the applicant was advised that there were concerns with the application including:

- Non-compliant FSR
- Non-compliant Height
- Non-compliant side setbacks
- Non-compliant building envelope
- Impacts on neighbouring tree
- Urban design/ bulk scale

- Accessibility
- Inadequate RL detail on plans
- Inadequate details with regard to the accessible path to shops to demonstrate compliance with grade

The applicant has provided revised plans which included the following changes:

- An adjustment in the basement levels to reduce excavation and the extent of required internal ramping;
- Confirmation of the required driveway crest level to prevent flooding;
- Relocation and reduction of the Dygal Street entrance portico and garbage bin storage area to the south;
- An increase in the side boundary setbacks of the western pavilion to a minimum 3 metres.
- Western block apartments have been reconfigured slightly to allow reduced setbacks resulting in a reduction in GFA by 37.37 square metres;
- A modified roof form to reduce bulk, scale and wall heights.

The application was renotified following the receipt of the amended plans.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation</p>

Section 4.15 Matters for Consideration'	Comments
	<p>2000. Therefore, considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p>A request for withdrawal of the application was sent to the applicant on 28.5.2018 due to inconsistencies identified in proposal with regard to SEPP HSPD, Pittwater LEP and Pittwater DCP. In response, additional information and revised plans and documents were submitted by the applicant. Re-notification and re-advertising was required for the application in response to the amendments made by the applicant.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be suitably addressed via conditions of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter may be suitably addressed via conditions of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter may be suitably addressed via conditions of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter may be suitably addressed via conditions of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater DCP section in this report. There are elements of the built design which are not compliant or supportable pursuant to the DCP, LEP and SEPP.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for development. However, the proposed development is excessive in scale and inconsistent with built form controls applicable.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be inconsistent to the relevant requirement(s) of the applicable controls and objectives for side setbacks, building envelope, height and FSR. This will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area. The development is of excessive scale and is at odds with the expectations of the community for development to meet the relevant development controls. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application Council has received one submission (in 3 series). See below:

Name	Address
R. Smith	Not provided.

The following issues were raised in the submission and summarised as follows:

- Council website documents
- Mona Vale Place Plan
- Inaccurate Access report
- SEPP 65
- Access to facilities
- Access to public transport
- Site analysis
- Principles of Division 2 of SEPP
- Main Access Path
- Passing bays
- Side setbacks
- Rear height control
- Building Colours
- Visual and Acoustic Privacy
- Stormwater
- Triglane Lane vehicular access
- Triglane Lane access during works
- Visitor parking
- Height
- Floor space ratio
- Landscaped Area
- Solar Access
- Private Open space
- Wheelchair Access
- BCA Report
- Letterboxes
- Communal Open space
- Parking
- Circulations spaces
- Location of garbage room

The individual matters raised within the submission are addressed below, as follows:

Assessment Criteria Issues

1. *Concern that Council website documents did not include internal plans.*
2. *Concern that the applicant infers that the draft Mona Vale Place Plan applies to the subject land.*
3. *Concern that the Access report contains insufficient detail to confirm some external gradients.*

Comment:

- Council are not permitted to provide internal floor plans on the Council website due to provisions of the local government Act.

- It is concurred that the Draft *Mona Vale Place Plan* is not relevant to this proposed development. The plan has no legal weight in the determination of the assessment.
- Conditions of consent will require compliance with relevant Australian Standards pursuant and some minor works will be required to address some external gradients. This would be addressed under the Construction Certificate for compliance with relevant Access requirements. To address some inadequate detail in some instances in the accompanying Access report was revised by an Accessibility expert consultant and the plans are deemed to be satisfactory. Council's Development Engineers have reviewed the survey information provided by a registered surveyor and are satisfied with the footpath access, subject to conditions.

SEPP 65 - Design Quality of Residential Apartment Development

4. *Concern that there are numerous non-compliances with SEPP 65 and the apartment design guide (ADG)*

Comment:

- The SEPP 65 and the ADG does not apply to the subject development as the proposal is two storey.

Access to facilities

5. *Concern that there is no footpath survey to confirm public access*
6. *Concern that all services of the shopping centre are not within 400 metres (m) of the site.*

Comment:

- The applicant provided a footpath survey from a registered surveyor. Council's development engineers are satisfied with the information provided for accessibility, subject to conditions. (see Development Engineering Referral Response for further details)
- The shopping centre being within 400m is adequate. The extent of the centre and facilities, may extend beyond this distance and the site has access to frequent bus services to for public transport services within and beyond the Northern Beaches area.

Access to public transport

7. *Concern that there is no footpath survey to the adjacent bus stop and that that gradients and cross falls inadequate along surrounding public footpaths links to the site.*
8. *Concern that there is no safe crossing of Waratah Street convenient to the site.*
9. *Concern that the nearest Bus stop set down convenient to the site is inadequate for the development and that bus services servicing the development only go as far as Narrabeen*

Comment:

- Access to public transport services is available within a compliant distance for the site. In addition to this, the site has pedestrian links to the local shopping centre and subject to conditions is satisfactory for the proposal.
- Council's Development engineers are satisfied with the survey information provided by a registered surveyor to demonstrate acceptable footpath access links to the site, subject to conditions.

- Adequate bus links are available at Mona Vale for public transport within and beyond the Northern Beaches area.

Site analysis

10. Concern that the site analysis plans has inadequate detail

Comment:

- The site analysis plan is supported by other detail provided within the context of the SEE. The context and setting, including the pattern and configuration of adjacent development is readily observable to the assessing officer when visiting the site and by comparison with the detailed full plan set and other supporting documents. This issue does not have determining weight.

Principles of Division 2 of SEPP HSPD

11. Inadequate consideration by applicant in design of development.

Comment:

- This issue is addressed under the detailed assessment for SEPP HSPD within this report. In summary, the proposal does not meet the particular design requirements of SEPP HSPD and warrants refusal of the application.

Main Access Path / Entry Area

- 12. Concern that there is long tall walls/front fence on perimeter of the private open space*
- 13. Concern that the proposal has a confusing entrance along narrow enclosed path to middle of site which is not welcoming to the streetscape.*
- 14. Concern that the proposal has a small inaccessible area of garden between unit 2 and fence.*
- 15. Concern that there is no landscaping possible on side elevation where path is located adjacent the childcare centre.*

Comment:

- The applicant has revised the original plans submitted for assessment and redesigned the front fence elements including, relocating the garbage enclosure. The new front wall is lower and open style with landscape elements and a defined front gate "portico". The entry area is located toward the south-west corner of the site as shown on plan DA-04 and DA-07 issue C dated 20.6.2018, drawn by *Gartner Trovato*.
- The redesigned front entrance is well defined and accessible for pedestrian and wheelchair access and does not detract from the existing streetscape. The location of the foyer area in the centre of the site has been influence by the direct access from the basement carpark stairs and lift. In addition to this the development serves only 8 units (potentially with also an intercom service), the entry location and arrangement is considered appropriate for the development.
- The redesigned entry area has a landscaped buffer of 1.5m wide adjacent Unit 2. This area is adjacent the childcare centre at No.2 Dygal Street and provide screen hedge planting along the entry pathway.
- The revised plans DA-04, issue C, show an effective landscaped buffer along the side elevation adjacent the childcare centre at No.2 Dygal Street.

Passing bays

16. *Concern that wheelchair passing bays are not provided within the development.*

Comment:

- The revised plans DA-04 and DA-05 (Issue C) show manoeuvring and turning spaces within the floor plans of the development. The application is supported by an assessment report from an expert Accessibility Consultant demonstrating that the proposal is satisfactory, subject to conditions.

Side setbacks

17. *Concern that the side setbacks are not consistent with the flat building control (formula) to be applied to the development under the Pittwater DCP.*

Comment

- The side setbacks are not compliant with the Pittwater DCP. This issue is addressed under the detailed assessment for Pittwater DCP within this report

Rear height control

18. *Concern that a lesser height is needed to reduce bulk and scale for the rear building height control.*

Comment

- The site has 2 street frontages, so this clause does not apply. However, some reduction in scale is warranted to allow for a development which satisfies the objectives of this clause and others within their assessment criteria for the application. The revised plans (Issue C) have not made any significant change to the rear (Triglone Lane) elevation. In the context of the urban surrounding it is noted that the lane is bordered by a 62 metre long school building directly opposite the site. Therefore, no significant redesign is recommended and additional landscape planting and / or minor changes within the setback area can be conditioned to address this issue.

Building Colours

19. *Concern that the proposal uses non-compliant external colours or materials that are inconsistent with the Pittwater DCP.*

Comment

- Some colours do not meet the DCP criteria and therefore contribute to the building bulk and visual impact along wall planes by the use of bare concrete, plain cement render and matrix FC wall panels. However, this issue can be suitably addressed by a condition of consent were the application to be approved.

Visual and Acoustic Privacy

20. *Concern that the internal Floor plans are not available to the public to access and assess.*

21. *Concern that the development allows for possible overlooking of pre-school (south)*

22. *Concern that there will be noise from school that will affect the residential amenity of the development.*

23. *Concern that there will be lift noise that will affect residential amenity.*

24. *Concern that there are bedrooms adjacent the main access path.*

Comment

- Internal floor plans are available for inspection (by appointment if required) at Council Offices. Floor plans are not placed online in order to protect copyright of the Architects intellectual property.

- Overlooking is not considered to be an issue with the proposal as first floor balconies have screens and side windows are for secondary bedrooms or window are designed to as highlight or slot windows to maintain privacy.
- Noise from the school is an acceptable expectation within urban environment and is also limited in its use (being unoccupied at night, weekends and holiday periods).
- Lift noise will be appropriate with conditions of consent to ensure compliance with Australian Standards.
- The proposed use is restricted to persons who require aged or disabled persons housing and the development contains only 8 Units and alternative access is also available via the basement. Therefore, likely intensity of use and activity along the entry path is not considered to be disruptive to occupants.

Solar Access

25. Concern that inadequate diagrams provided and 3D diagrams are needed

Comment

- The architect has provided detailed 3D shadow diagrams plans. The plans are scale able in electronic form to enable ease of viewing. The revised plans demonstrate adequate solar access for the development in compliance with the SEPP.

Stormwater

26. *Concern that it is inappropriate to drain the development to Triglone Lane.*

27. *Concern that extensive works required to the lane to ensure appropriate collection and should be done at the expense of the developer.*

Comment

- Council's engineers have advised the development is appropriate with regard to drainage design and complies with Councils design requirements for stormwater management, subject to conditions.
- The works required to the laneway are in context with the access and use of the land proposed. All civil engineering works within the road reserve are appropriate to be carried out, subject to conditions, including any approval requirements under the *Roads Act*.

Triglone Lane vehicular access

28. *Concern that the lane is too narrow for traffic.*

29. *Concern that the lane is only one-way.*

30. *Concern that there is inadequate for access / unsafe access to the site.*

31. *Concern that there is no footpath along the lane.*

32. *Concern that there will be access issues with adjacent school in the lane*

33. *Concern that there is no street lighting in the lane*

34. *Concern that the lane should only be used as a secondary access*

35. *Concern that the laneway is in poor condition already.*

Comment

- In consideration of issues 28 to 35, Council's traffic engineers, Waste Services and Development engineers have considered the above issues in the context of the proposal and have raised no objection to approval of the development subject to conditions.

Triglone Lane access during works

36. *Concern that there should be no parking in the land and a condition be required to ensure no site vehicles use the lane during construction due to avoid impacts on the school.*

Comment

- This is not considered necessary. Noise from construction must be anticipated in a residential environment.

Visitor parking

37. *Concern that there is no visitor parking provided.*
38. *Traffic report inaccurate states 2 additional spaces.*

Comment

- In consideration of issues 37 to 38, the traffic report has an anomaly with reference to car parking calculation having 2 additional spaces. However, the plans show that 16 spaces provided, including visitor spaces and the development complies with the relevant parking requirements of the SEPP.

Bulk and Height

39. *Concern that the proposal is too bulky by virtue of its height.*

Comment

- This issue is addressed in detail with the merit assessment of the development under the heading Pittwater DCP.

Floor Space Ratio

40. *Concern that the proposal exceeds 0.5:1 Floor space ratio (FSR) limit of the SEPP.*

Comment

- This issue is address in detail within the merit assessment of the development under the heading *SEPP Housing for Seniors or People with a Disability*. In summary, the proposal substantially exceeds the FSR, which creates an undesirable precedent and contributes to other issues of non-compliances with wall height and setbacks. This issue is considered to have determining weight and warrants refusal of the application.

Landscaped Area

41. *Concern that the proposal is non-compliant with Pittwater DCP requirements for landscaping.*

Comment

- The development complies with SEPP for landscaped open space. The SEPP prevails over the DCP provisions.

Solar Access

42. *Concern that the proposal is not compliant in maintaining 70% of the Units with solar access requirements.*
43. *Additionally the proposal will create overshadowing of the adjacent pre-school.*

Comment

- Revised plans have been provided to demonstrate that the proposal will enable 70% of the units to achieve solar access to the private open space and living areas. This has been achieved a minor reduction in the roof area and minor changes to the balcony / roof form to increase solar access.
- The neighbouring pre-school will be affected by additional overshadowing but more than 2 hrs of solar access will be retained to 50% of the principal playground area on June 21. The pre-school has not raised any objection to the additional overshadowing of the external play areas.

Private Open space

44. *Concern that there is insufficient information not available to assess private open space area.*

Comment

- The proposal has been provided scalable plans for assessment and the design demonstrates that private open space areas are compliant with the SEPP. The SEPP prevails over the DCP provisions.

Parking

45. *Dwellings have ability to be converted internally to create 4th bedrooms, thus requiring additional parking*

Comment

- Development consent would be needed for such alterations, and it is not anticipated that this would either practical for accessibility or likely due to the strata arrangements and unit configuration.

Wheelchair Access

46. *Concern that wheelchair access is not provided for access to the rear block from the rear lane*

Comment

- Pedestrian access from the rear lane is not practicable due to the narrowness and existing use for parking. Pedestrian access from the street goes to a central location between the two buildings that enables convenient access to all units and to / or from basement carpark.

Building Code of Australia Report

47. *Concern that the Building Code of Australia (BCA) report nominates non-compliances.*

Comment

- Councils Building officer is satisfied that the identified non-compliances with the BCA are appropriate to address under the Construction Certification and subject to conditions of consent. All matters are able to be addressed by detailed design for the CC where such matters may not be managed by the Certifier a modification of consent may be made.

Letterboxes

48. *Concern that the letterboxes are not accessible to the rear block of Units.*

Comment

- The letterboxes are in a covered built-in wall under the entry "portico" and are accessible by a continuous pathway from the central foyer area of the building.

Communal Open space

49. *Concern that no communal open space is provided.*

Comment

- Communal open space is preferred for medium density developments however in small development they may become very low use areas and their utility may be under-utilised against to the provision of common areas for landscaping and self-contained terrace / balcony areas.

Parking

50. *Non-compliance with Australian Standards (disabled parking spaces).*

Comment

- The parking layout does not adequately address the preferred disabled parking requirements however Council's traffic engineer has not raised this issue as

warranting refusal of the application. Detailed design requirement under the Australian Standards can be addressed with the Construction Certificate, including conditions of consent.

Circulations spaces

51. Circulation space for some Bathrooms, living areas, kitchens and linen storage is not shown or non-compliant.

Comment

- Council's Building Officer has advised that consent is appropriate subject to conditions of consent. These minor non-compliances are appropriate to be resolved with the Construction Certificate and do not warrant refusal of the application.

Location of garbage bin area

52. The garbage storage is inappropriate to be at the front boundary and is inadequate in capacity and generally inconsistent with the DCP.

Comment

- The applicant provided amended plans (Revision C) to relocate the bin storage area which is now away from the front entry gate and located in the south west corner of the site. The bin room is in the preferred location (in the front setback) to enable ease of access by Council's Waste Collection services, without the need for the bins to be presented to the kerb.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment Officer - Fire and Disability upgrades	<p><i>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</i></p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as these however may be determined at Construction Certificate Stage.</i></p> <p><i>Recommended for approval, subject to conditions</i></p> <p><u>Planning Comment:</u> Building assessment referral comments are concurred with and issue are appropriate to address with the Construction Certificate.</p>
Landscape Officer	<p><i>The landscape proposal as prepared by iScape Landscape Architecture is acceptable.</i></p>

Internal Referral Body	Comments
	<p><i>The proposed removal of T5 (Camphor Laurel) as proposed by the Arboricultural Impact Assessment report prepared by Urban Arbor, located within the adjoining property at 2 Dygal Street, is unresolved.</i></p> <p><i>The report states that the development will result in a major encroachment where the tree will not respond well to this encroachment. Essentially, the proposed excavation for the basement will impact the health of the trees such that removal is required. Whilst this tree is an exempt species under the DCP, no agreement with the adjoining landowner has been provided. Should the landowner not agree, then the proposed excavation for basement is not achievable.</i></p> <p><i>Recommended for approval, subject to conditions.</i></p> <p><u>Planning Comment:</u> This issue is critical to the application and the proposal cannot be supported where the development relies on physically impacting adjacent land. The basement excavation line is stepped away from the critical root zone of tree T5 and conditions are recommended to ensure works do not adversely affect the tree.</p>
NECC (Development Engineering)	<p><i>The submitted flood report by Pittwater Data Services Pty Ltd has been accepted by Council's Floodplain Engineer. This report stipulates a bund at RL 18.3 AHD for the driveway access off Triglone Lane. A review of the submitted architectural and engineering plans does not indicate that this crest level for the proposed driveway has been achieved. The provision of a crest in the driveway will alter the access grades and may compromise the compliance of the driveway in accordance with the requirements of AS 2890.1:2004. The assessment of the driveway location, width, traffic generation, parking compliance etc. must be undertaken by Council's Traffic Department.</i></p> <p><i>The proposal is required to comply with SEPP (Housing for Seniors or People with a Disability) 2004 with respect to clause 26 Location and access to facilities. In this regard, the submitted access report by LOKA Consulting Engineers Pty Ltd has not provided a detailed assessment in accordance with clause 26 of the SEPP. In this regard a survey of the path of travel by a registered surveyor together with a report from the access consultant detailing compliance with the SEPP is required for assessment. Note, where any pedestrian refuge</i></p>

Internal Referral Body	Comments
	<p><i>island is required as part of the works, comments from Council's Traffic Department will be required as approval from Council's Traffic Committee is required for any infrastructure within the road.</i></p> <p><i>The submitted drainage plan has been assessed and the design is in accordance with the DCP with discharge to the kerb deemed acceptable. The application will include the construction of the kerb and gutter within Triglone Lane as part of any approval. The proposal cannot be supported due to inadequate information to address Clauses B3 and B6 of Council's DCP and Clause 26 of SEPP (HSPD) 2004.</i></p> <p><i>Additional information submitted 3.10.18 to address Clause 26 of SEPP HSPD.</i></p> <p><i>The Applicant submitted an Access report and survey plan which has been assessed. The assessment of the path of travel by the expert consultant and registered surveyor satisfies the requirements of the SEPP with no significant modifications required, which are appropriate for Council approval.</i></p> <p><i>No objection to approval, subject to conditions as recommended.</i></p> <p><u>Planning Comment</u> <i>The additional objection submissions received have been considered and evaluated by Council's development engineers as the submission matters include matters that relate to development engineering and Council assets. Council's Development Engineers have relied on the expert Access report provided by the applicant and survey information provided by a registered surveyor. Development engineers are satisfied that the location of the proposal is suitable for the development and appropriate conditions of consent will address engineering issues of Council with the construction certificate and any minor ancillary works required under the Roads Act.</i></p>
NECC (Stormwater & Floodplain Engineering Flood risk)	<p><i>The proposed development generally complies with the flood requirements of the DCP and LEP. The habitable floor levels and the crest of the enclosed car park are above the PMF level. No flood related objections.</i></p> <p><i>Recommended for approval, subject to conditions.</i></p>
Waste Services Officer	<p><i>The waste bin storage area is suitable and no objection is</i></p>

Internal Referral Body	Comments
	<i>raised to approval, subject to conditions.</i>
Traffic Engineering	<p><i>The proposal is for construction of senior housing comprising 8 three bedroom units.</i></p> <p><i>Total of 14 parking spaces including 2 visitor spaces is required to be provided within the site. The proposal includes the provision of 16 parking spaces which is satisfactory. The parking spaces including the 2 visitor spaces are to be line marked and signposted in accordance with Australian Standards AS2890.1:2004.</i></p> <p><i>The design of access driveway and internal roadways is in compliance with Australian Standards and acceptable. The proposed premises is located within 400m distance from the bus stops on Waratah Street with the footpath connecting the site to the bus stop. To improve the accessibility and enable the seniors accessing the bus stop on the southern side of Waratah Street to cross Waratah Street, a pedestrian refuge island shall be constructed on Waratah Street at Dygal Street in front of No.48 Dygal Street. The detail design of the pedestrian refuge island in compliance with the relevant RMS Technical Direction has to be submitted to Council for review and obtaining approval Local Traffic Committee approval and is to be constructed at no cost to Council.</i></p> <p><i>The traffic generating from the proposal will not have significant impact on the road network and is acceptable.</i></p> <p><i>No objection is raised on the proposal on traffic grounds, subject to conditions.</i></p>
Strategic & Place Planning	<p><i>The application proposes the demolition of the existing dwelling on the site and the construction of an 8-unit seniors living development. The additional 7 dwellings on the site will increase the demand for public infrastructure and services and the following condition of consent has been calculated in accordance with the Pittwater Section 94 Contributions Plan for Residential Development.</i></p> <p><u>Planning Comment:</u> Referral comments are concurred with and Section 94 conditions can be conditioned in any consent issued.</p>
Urban Design	<p><i>The building envelope has been breached in several areas. These breaches have resulted in a bulkier built form. The roof form should be redesigned to comply and minimise the visual impact to the surrounding houses.</i></p> <p>Urban Design Revised Comments 19.10.18 (Issue C Plans)</p> <p><i>The revised development proposal is supported.</i></p> <p><i>Adjustments to the roofline generally achieves compliance</i></p>

Internal Referral Body	Comments
	<p><i>with the control of the building envelope with only minor breaches.</i></p> <p><i>Revised location of the entry portico structure is supported.</i></p> <p><i>Acknowledge there are constraints limiting the extension of the pedestrian footway to Triglone Lane. Generally the revised design demonstrates a sympathetic design with sufficient articulation and environmental amenity that aligns with the general Mona Vale Plan patterns of existing residential neighbourhood settlement patterns of low rise built form character and objectives of the desired future character of the area.</i></p> <p><i>No urban design conditions and no Heritage conditions are recommended. No objection to approval.</i></p>

External Referral Body	Comments
Ausgrid	The proposal was referred to Ausgrid. No response has been received within the 21 day period and it is therefore assumed that no objections are raised and no conditions recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use. Conditions are included to ensure the safe handling and appropriate disposal of any potential asbestos or lead based paint

material if uncovered during demolition works.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 876584M dated 22 December 2017)

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Achieved
Thermal Comfort	Pass	Achieved
Energy	40	Achieved

If the application were to be approved, a condition requiring compliance with the commitments indicated in the BASIX Certificate would be included.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for in-fill self-care housing.

in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

Policy Note: The concept of seniors housing is intended to be a shorthand phrase encompassing both housing for seniors and for people with a disability.

Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

Comment:

a) The proposal includes 8 x 3 bedroom apartments for self-contained living of seniors housing. Two units are nominated as adaptable. The development will increase the supply of seniors housing in Northern Beaches Council area and has been designed to meet the demand for independent living for seniors as "in-fill self-care housing". The design of the

building is required to comply with *Schedule 3 Standards concerning accessibility and usability for hostels and self-contained dwellings*. Conditions of consent may be included to ensure all self-contained units are constructed to meet these standards under the SEPP.

b) The proposal is within an established low density residential area with access to public transport (buses) and a main road to enable travel to the central business areas of Mona Vale, Brookvale, Frenchs Forest and the city. Existing infrastructure including sewer and reticulated water, electricity and telecommunication's services are available to the site.

c) The development comprises 2 x 2 storey buildings, with each of the separate buildings housing 2 units on the ground floor and 2 units on the upper level, totalling 8 dwellings. The structures sit within a landscaped setting with basement car parking accessed from Triglone Lane. The proposal fails to comply with some of the built form controls of the SEPP and is not considered to be consistent with general detached style character of the area.

Chapter 2 – Key Concepts

Comment:

The proposal involves a group of 8 x self-contained dwellings as defined in Clause 13 of the SEPP.

Key concepts of SEPP HSPD include:

- *the definition of "Seniors" as persons aged 55 or more years, including a facility of residential care or those eligible for aged housing provided by a social housing provider.*
- *the provision of purpose built housing for "people with a disability" that includes persons with long term or permanent impairment, limitation or activity restrictions that affect their capacity to participate in everyday life.*
- *The provision of purpose built "Seniors housing" with the intent that such housing includes a residential care facility, a hostel, a group of self-contained dwellings or a combination of these, but not a hospital.*

The proposal satisfies this element of the SEPP HSPD in that the development is for purpose built self-contained dwellings that are for self-care accommodation of seniors or persons with a disability.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The site is in walking distance along an accessible footpath to Mona Vale shopping centre which is within 400 metres (m), at approximately 350m. Within this centre are facilities including Supermarkets, Church, Veterinary Hospital, banks, Chemist, and other retail services. It also has access via public transport (buses) services to the central business areas of Brookvale / Dee Why and the CBD from Waratah Street which is within 100 metres. These local centres all contain a range of services for banking and finance, shopping and groceries, postal and government offices, community services, medical services and recreation facilities.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	The site is within 400m of a local shopping centre with appropriate facilities. However, it is noted that it is also within 150m of a bus stop on Waratah Street for access to regular services for Mona Vale, Narrabeen, Collaroy, Dee Why, Warringah Mall, through to the CBD, where further services can be obtained.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not applicable	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Reticulated water and sewerage is available. The proposal is subject to Sydney Water requirements via a "Section 73 Certificate". This issue is addressed by conditions.	Complies

Development Criteria			
Clause	Requirement	Proposal	Complies
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):	i) The existing site is underdeveloped, but sits within an area which has a low density residential environment. A landscaped setting consistent with neighbours is not maintained for the proposed development of the site with some inadequate setbacks and planting provided for a structure of the scale proposed. Some increase in setbacks would provide a more appropriate landscape setting and compliance with this clause.	No
	i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development	ii) An OSD system will be installed as part of the development and connected to Councils infrastructure in Triglone Lane to manage stormwater flow. Off street carparking is provided within the basement level for each dwelling and visitor spaces. The proposal will also be subject to Section 94A contributions to assist in providing future demand for local services and infrastructure.	Yes
	iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision, v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	v) The proposal is designed as a two “pavilions” across two levels (plus basement) with apartment style dwellings. The overall design has some flaws which result in a bulkier form than is desirable and inconsistent with the low density pattern of the locality. The character of the development is inconsistent with the scale of residential uses adjacent. Some downsizing of the scale of the proposal would provide a better “fit” for the development that is less jarring to the R2 Low density zone.	No
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	Site analysis is provided detailing the site features and surroundings.	Complies

Clause 31 Design of in-fill self-care housing

Pursuant to Clause 31 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p><u>Built Environment:</u> The pattern of neighbourhood development in the vicinity of the site is detached style dwellings in landscaped settings, with the exception of the adjoining pre-school (No.2 Dygal Street), primary school (No.1 Keenan Street and some scattered medium density uses. The Mona Vale shopping district to the south-east of the site has a greater scale, but is not immediately adjacent and should not be seen as “the character” relevant to the subject site. Therefore, the pattern of development contains a mix of low density development with some dual occupancies and some medium density housing with community uses also interspersed. The development proposed not will maintain a detached style of housing consistent with the low density environment. The proposal is a residential flat building in form and fails to achieve a bulk and scape and landscaped surrounds that is typical of the location, streetscape and Mona Vale locality.</p> <p><u>Policy Environment:</u></p> <ul style="list-style-type: none"> The Pittwater LEP has objectives for the zone that

Section	Requirements	Comment
		<p>determine the character of the area be made up of housing that provides for the needs of the community within a low density environment.</p> <ul style="list-style-type: none"> • That enables other land uses that provide facilities or services to meet the day to day needs of residents; and • Ensures that low density residential environments are characterised by landscape settings in harmony with the natural environment. <p>The proposal fails to achieve these objectives for the character of the area with the excessive floor space, bulk, scale and design of the development not desirable for the streetscape of Dygal Street.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation. 	<p>The design of the proposal presents as a large bulky structure to both street frontages. The residential flat building structures comprise 8 dwellings in total. The insufficient setbacks, building envelope and FSR demonstrate the incompatibility with the low density residential character. The proposal does not comply with neighbourhood character.</p> <p>Carparking is located within a basement and is not readily visible from the street. Parking is accessed from Triglone Lane Adequate carparking spaces are provided to comply with the SEPP and enables all cars to enter and leave in a forward direction. The</p>

Section	Requirements	Comment
		proposal with carparking requirements.
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape. 	<p>The proposal will create unreasonable impacts on the adjoining properties, particularly as a result of building scale. The lack of setbacks and landscaping and excessive height/ building envelope results in it being incompatible with the existing character of Dygal Street and Triglone Lane.</p> <p>The installation of the driveway access point on Triglone Lane is appropriate. However, there are some design issues which Council's engineers require to be addressed before the proposal can be supported.</p>
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	<p>The proposal will not cause unreasonable impacts on neighbours with regard to privacy with the design adequately including screening to prevent overlooking. Provision of parking and management of stormwater in accordance with Council's stormwater policy. Conditions of consent are recommended to address potential environmental impacts during construction and ensure compliance with relevant environmental controls.</p> <p>However, building design is excessively large which is to the detriment of minimising overshadowing impacts.</p>
5. Internal site amenity	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Provide safe and distinct pedestrian routes to all 	Safe pedestrian access is provided from the public domain and internally for the development by ramps and pathways. Off street parking for residents and

Section	Requirements	Comment
	dwellings and communal facilities.	visitors is provided to comply with the SEPP in the basement. The wheelchair accessible routes for residents of the building are directed to Dygal Street as Triglone Lane is primarily suited to vehicle access. The proposal has suitable pedestrian links to the public domain and internal areas of common property.

Clause 32 Design of residential development

In accordance with Clause 32 of SEPP HSPD *a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.*

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	Desirable amenity elements of the location include the visual and acoustic privacy, detached style of development in landscaped settings, open space buffers of rear setbacks and private living environment with minimal overshadowing and good road access to services and facilities. These factors are not incorporated into the proposed development.	NO
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re	No heritage items are on the site or in the vicinity of the site.	Complies

Control	Requirement	Proposed	Compliance
	identified in a local environmental plan.		
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.	Reasonable neighbour amenity will be not be maintained in that the proposal has been designed: i) with insufficient building setback controls and height controls to minimise overshadowing impacts. Reduced scale would improve solar access. ii) While the building is of excessive scale, it does step with the fall of the land. iii) The building envelope is beached on both side elevations for the length of the site, resulting in an incompatible scale with neighbours and the streetscape. iv) no buildings are located on the boundary.	NO
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	The proposal is consistent with setbacks on adjacent land and complies with the 6.5m setback of the local environmental plan.	Complies
	e. embody planting that is in sympathy with, but not necessarily the same as, other	Small to medium sized trees and shrubs are used that includes perimeter planting and landscaping within the spaces between the	Complies

Control	Requirement	Proposed	Compliance
	planting in the streetscape.	dwelling. Landscaped open space and deep soil zones are provided at the front and rear of the site to enable continuity with adjacent rear gardens.	
	f. retains, wherever reasonable, major existing trees, and g. be designed so that no building is constructed in a riparian zone.	No existing trees on the site. The site is not within a riparian zone.	Complies Complies
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	Visual and acoustic privacy is managed by ensuring private open spaces are adjacent other private open space areas and are at ground level, separated by fencing and landscape screening. Upper floor balconies are provided but will be adequately screened. Upper floor windows louvres where they include living areas, Further privacy options may be needed to ensure adequate privacy in this location on the northern elevation. Bedrooms in the units facing Triglone Lane are near the driveway entrance which is not supported. An alternate design would be preferable with living spaces on this elevation.	Complies Can be conditioned to comply No
CL35 Solar access and design for climate	The proposed development should:	Solar access requirements are not maintained that will comply with the Pittwater DCP controls in relation to	No

Control	Requirement	Proposed	Compliance
	<p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>neighbour's properties and private open space within the development. We note that the neighbour to the south, affected by solar access is a pre-school. Details of overshadowing are shown on plans DA14 and demonstrate that the northern walls of both main buildings do not achieve 3 hours of solar access between 9am and 3pm. No windows have been shown and the location of the main activity rooms for children not provided. It is considered that the reduced solar access impacts, if the development were to comply with building envelope and setback controls would improve this situation to a level which should be anticipated by neighbours.</p> <p>The proposal has been submitted with a BASIX certificate and energy rating assessment to demonstrate that the dwelling will meet performance standard for thermal and cooling condition for sustainable building design and comfortable living.</p> <p>Living spaces within the proposed development do achieve ample solar access.</p>	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical	Council's engineers have advised that OSD design is satisfactory to manage stormwater in accordance with Council's stormwater policy, and <i>Technical</i>	Complies

Control	Requirement	Proposed	Compliance
	include on-site detention and water re-use.	<i>Specification.</i>	
CL 37 Crime prevention	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>The front entrance portico is visible from the front 4 units for passive surveillance. Secure lift access and basement access can be provided including intercom facilitates to maintain security.</p> <p>No shared entry doors are provided between two or more dwellings.</p> <p>It is recommended that steel screen-mesh security doors be provided for each front entry door direct pedestrian approach is not visible from all Units. Mess door enable contact without opening the main door (glass door panels permit observation but are impractical for conversation, without opening the door). This is addressed by a condition as recommended, should the development be approved.</p>	No
CL 38 Accessibility	The proposed development	Vehicle and pedestrian entries are separated with	Complies

Control	Requirement	Proposed	Compliance
	should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	the carpark entrance on the northern side of the Triglone Lane frontage on the pedestrian access central on the Dygal Street frontage. Dygal Street has a concrete footpath on both sides of the road and is of a gradient that will not hinder access to the Mona Vale shopping centre or buses on Waratah Street to the north. Carparking is located within the basement and incorporates a path between the two lifts servicing each building within the development.	
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	A garbage bin storage room is located at the front of the site with accessible entry within the site. A condition of consent would be placed on any consent to ensure that the bin storage area meets the relevant Council requirements.	Complies, subject to condition of consent

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000 m ²	1489.9 m ²	Complies
Site frontage	20m	24.69m	Complies
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground)	7.9 m (ground level) (Refer to Plans DA-09 Revision C dated	Complies

Control	Required	Proposed	Compliance
	level immediately below)		
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	All buildings are 2 storey. All buildings are 2.4m or greater setback from the side boundary.	Complies
	A buildings located in the rear 25% of the site must not exceed 1 storey in height (development within 17 metres of the rear boundary).	Applies to zones where residential flat buildings are not permitted. No rear setback – property has two street frontages	Not applicable

Clause 41 Standards for hostels and self-contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	The site has a fall of 1:15 and accordingly all units are required to have access to Dygal Street. 50% of the units have wheelchair access to Dygal Street. The remaining 50% have access to the basement garage via the lift and then the ability to use the alternate lift for access back to ground level and to the street frontage. However, it is not practicable access for wheelchairs to have to travel through the basement carpark to get to Triglone Lane. Therefore pedestrian access is	NO

Control	Required	Proposed	Compliance
		directed toward the public footpath in Dygal Street.	
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Details not provided.	Condition recommended to ensure compliance
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	Proposal is able to comply with letter boxes at frontage on Dygal Street.	Yes
Private car accommodation	Carparking space must comply with AS2890. (b) One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an	16 car spaces are provided. Compliance with Australian Standard AS2890.6 is demonstrate on the plans and by conditions. Disabled persons parking spaces are included within the basement parking. All parking is located	Condition recommended to ensure compliance

Control	Required	Proposed	Compliance
	area for motor or control rods to enable a power operated door to be installed at a later date.	within the basement carpark and centrally located on the site with internal lift and stair access. Basement parking area access has a security gate.	
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	The Access report submitted with the application provides a list of recommendations which can be satisfied at CC stage. Some matters are appropriate to address with the Construction Certification. Council's Building officer supports the proposal subject to conditions of consent.	Condition recommended to ensure compliance
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	The Access report (including supplementary information) submitted with the application provides a list of recommendations which can be satisfied at CC stage, but are currently not reflected on the DA plans. Council's Building officer supports the proposal subject to conditions of consent.	Condition recommended to ensure compliance
Bedroom	At least one bedroom within each dwelling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for	Proposal is able to comply	Condition recommended to ensure compliance

Control	Required	Proposed	Compliance
	the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.		
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Proposal is able to comply	Condition recommended to ensure compliance
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power	Proposal is able to comply	Condition recommended to ensure compliance

Control	Required	Proposed	Compliance
	outlet. Also, a living and dining room must have a potential illumination level of at least 300 lux.		
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Proposal is able to comply	Condition recommended to ensure compliance
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Proposal is able to comply	Complies
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	A laundry facility is provided in each dwelling adjacent the bathroom. Limited clothes drying for each dwelling can be provided on the balcony or terrace area with space for a rack. There is no communal outdoor drying space or any space available for drying larger items such as sheets.	Condition recommended to ensure compliance
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Linen storage is provided in each dwelling.	Condition recommended to ensure compliance
Garbage	A garbage storage area must be provided in an accessible location.	Garbage bin storage room is located at the front of the site and is accessible by wheelchair access. The bin enclosure is appropriate to be able to be serviced on-site by Council contractors without having to present bins to the kerb.	NO

Part 5 Development on land adjoining land zoned primarily for urban purposes

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self-contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.9m	Yes
Density and scale	0.5:1	0.75:1	NO
Landscaped area	30% of the site area is to be landscaped	40.12% 597.43 sqm of site area is landscaped	Complies
Deep soil zone	15% of the site area. Two-thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	25.6% 382.33 sqm of site area is deep soil of 1m or more. (We note that some of the deep soil shown on the plans has been excluded as it does not have a minimum width of 3 metres.) As the site has no rear boundary, this is not relevant to the subject application.	Complies

Control	Required	Proposed	Compliance
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	Dwelling 1: living room 2 hours direct light and 5 hrs POS between 9am to 3pm 21 June. Dwelling 2: living room 1 hours direct light and 2 hrs POS between 9am to 3pm 21 June. Dwelling 3: living room 7 hours direct light and 7 hrs POS between 9am to 3pm 21 June. Dwelling 4: living room 2 hours direct light and 3 hrs POS between 9am to 3pm 21 June. Dwelling 5: living room 4 hours direct light and 5 hrs POS between 9am to 3pm 21 June. Dwelling 6: living room 5 hours direct light and 4 hrs POS between 9am to 3pm 21 June. Dwelling 7: living room 6 hours direct light and 4 hrs POS between 9am to 3pm 21 June. Dwelling 8: living room 6 hours direct light and 5 hrs POS between 9am to 3pm 21 June.	No (62.5%)
Private open space	15sqm of private open space per dwelling not less than 3 metres long and 3 metres wide	Dwelling 1: 16.2 sqm Dwelling 2: 16.2 sqm Dwelling 3: 23.6 sqm Dwelling 4: 36.4 sqm Dwelling 5: 16.2 sqm Dwelling 6: 16.2sqm Dwelling 7: 25.6 sqm Dwelling 8: 26.9 sqm	Complies

Control	Required	Proposed	Compliance
		(only areas 3m x 3m included)	
Parking	0.5 spaces per bedroom (24 bedrooms proposed – 12 carparking spaces required)	16 car spaces for 24 bedrooms.	Complies

Chapter 4 – Miscellaneous

Comment: No miscellaneous provisions apply to the proposal.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to *Ausgrid*. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Other Service Infrastructure Authorities

The application was not required to be referred to the *Roads and Maritime Service* and no other Service Authority Referral issues are raised pursuant to the SEPP.

Pittwater Local Environmental Plan 2014

Is the development permissible?	No Only pursuant to provision of SEPP (ARH) which supersedes PLEP14
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m but not more than 8.0m above FPL*	8.1m	N/A	Complies with 8.5m but not 8.0m FPL (SEPP prevails)
Floor Space Ratio	N/A	N/A	N/A	N/A
Density controls for certain residential accommodation	N/A	N/A	N/A	N/A

*Flood Planning Level

Compliance Assessment

Clause	Compliance
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes (Assessed under SEPP)
4.6 Exceptions to development standards	N/A Assessed under SEPP
5.3 Development near zone boundaries	Yes
5.9 Preservation of trees or vegetation	No*
5.9AA Trees or vegetation not prescribed by development control plan	N/A
5.10 Heritage conservation	N/A
7.1 Acid sulphate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.4 Floodplain risk management	Yes
7.10 Essential services	Yes

*Refer to Landscape assessment officer comments within this report.

Pittwater 21 Development Control Plan - 2014

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (Dygal Street)	6.5m	N/A	Yes
Secondary Street Frontage	6.5m (Triglone Lane)	6.5m	N/A	Yes
Side building line	Up to 4.25m (Northeast) Walls	Basement 2.0m to 5.7m	Up to 41%	No
		Ground level 3.0m to 4.1m (Not terrace recesses)		Yes
		First level 3.0m to 4.1m		No
	4.25m (Southwest) Walls	Basement 1.5m to 3.0m	Up to 45%	No
Building envelope	4.2m	Ground Level 3.0m to 4.3m (not terraced recesses)		Yes
		First level 2.4m to 4.1m		No
Building envelope	4.2m	Northeast - Outside envelope	Up to 1.2m encroachment	No
	4.2m	Southwest - Outside envelope	Up to 1.8m encroachment	No
Landscaped area	50%	40.12%	N/A	No (SEPP prevails)

*Refer to detailed merit assessment within this report under the heading Built Form Controls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	No
C1.2 Safety and Security	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	No	No
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	No
C1.10 Building Facades	No	No
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	N/A	N/A
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	N/A	N/A
C1.19 Incline Passenger Lifts and Stairways	N/A	N/A
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	No	No
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	No	No
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	No	No
D9.9 Building envelope	No	No
D9.10 Landscaped Area - General	Yes	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

Building Envelope

Description of Non-compliance

The DCP requires a building envelope of 4.2m / 45° for developments including residential flat buildings and multi dwelling housing. A variation to be measured above the flood level may be considered where relevant. At its highest point, the departure is up to 1.8 m. The

variation runs the entire length of both the eastern and western elevations and reduces from the maximum non-compliance on the Triglone Lane with a lesser departure toward the Dygal Street end. The extent of non-compliance was reduced (from 2.4m to 1.8m) with the amended plans (revision C) by the applicant, from that originally lodged with application.

Merit consideration

The proposed Seniors Living development has the form of a residential flat building and accordingly this is the appropriate envelope to consider. It is noted that this allows a greater envelope than the 3.5m standard for dwellings as is typically required in this location as residential flat buildings are prohibited under the provisions of the LEP. Accordingly, surrounding development will generally have a 0.7m lesser requirement.

The variation from the 4.5m envelope is large and results in a very bulky box like development when viewed from both streets and neighbouring properties. The excessive scale has impacts on streetscape, solar access, privacy and overall amenity for neighbours. The departure from the greater standard is not supported as it sets an undesirable precedent for medium density development of this type, permitted within the low density zone. This precedent would carry through with any future rezoning in circumstances if made to permit two storey medium density.

Side Setbacks

Description of Non-compliance

The DCP requires residential flat buildings to have a setback determined by the formula below:

$$S = 3 + \frac{H - 2}{4}$$

Based on a wall height of 7m, although it is noted that the height varies along the length of the building at points, a setback of 4.25 metres would be required. The proposed development has consistent side setbacks of 3.0 metres to 4.1m (and as narrow as 1.5 in places) which is significantly less than required.

Merit consideration

No justification for the variation is provided in the SEE, which refers to the standard dwelling setbacks, which are not appropriate for the RFB form proposed to be developed, as the applicant has nominated in their use of the building envelope provided on the plans. The bulk of the building and visual presence adds significant bulk to the street. Reduced setback would be essential to reduce this impact that would likely to require a reduced floor space. The development is not supported with the varied setbacks in that higher intensity development should respond to the local character by meeting the greater setback requirements to maintain spatial separation appropriate to the low density residential zone.

Private Open Space

Description of Non-compliance

15% of the floor area of each dwelling is required, with ground floor units to have 30sqm. Details of areas are provided earlier in the report.

Merit consideration

The development complies with SEPP (ARH) requirements which supersede Council DCP controls.

Solar AccessDescription of Non-compliance

Six of the 8 dwellings have adequate solar access which has been achieved by the revised plan (Revision C).

Details of areas are provided earlier in the report.

Merit consideration

The development fails to comply with SEPP (ARH) requirements which supersedes Council DCP controls. The variation is not supported.

Landscaped AreaDescription of Non-compliance

40.12 % of the site is landscaped, as opposed to the 50% requirements.

Details of areas are provided earlier in the report.

Merit consideration

The development complies with SEPP (ARH) requirement which supersedes Council DCP controls.

LandscapingDescription of Non-compliance

The development will have an adverse impact on a neighbouring canopy tree as detailed in the response form Council's landscape officer.

Merit consideration

The development cannot proceed with the basement works as proposed without resolving this issue.

Safety and securityDescription of Non-compliance

The Dygal Street frontage does not provide positive surveillance to the street frontage and is an unsatisfactory entrance. Refer to comments from Council's Urban Designer.

Merit consideration

The development cannot proceed with the basement works as proposed without resolving this issue.

Building facadesDescription of Non-compliance

The front facades of the building are excessive in scale and do not appropriately complement the streetscape.

Merit consideration

The development needs to be reduced in scale to satisfy this consideration.

Seniors HousingDescription of Non-compliance

The development is not in keeping with the development of the surrounding area in regard to bulk, building height, scale and character and presents as a residential flat building within a low density residential environment.

Merit consideration

The development needs to be reduced in scale to satisfy this consideration.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The site is not identified as containing any threatened species, populations or ecological communities and critical habitat.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP.
- Inconsistent with the zone objectives of the LEP.
- Inconsistent with the aims of the LEP.
- Inconsistent with the objectives and controls of the SEPP (HSPD).
- Inconsistent with the objects of the *Environmental Planning and Assessment Act 1979*.

The proposal has been subject to amended plans submitted by the applicant in order to resolve concerns initially raised with the original plans that were symptomatic of an

overdevelopment of the site. The amended plans have not fully resolved some fundamental issues.

A significant number of issues were also raised by the public submissions received from one submitter. All submission issues have been considered and with the exception of those matters raised as reasons for refusal, none of the submission issues warrant refusal of the application. The revised plans (Issue C), including supplementary reports and additional information made a number of design changes to the proposal. Council's Roads, Traffic and Waste section is satisfied with the proposal for approval, subject to conditions. However, the principal issues of streetscape impact, building bulk, excessive FSR, non-compliant wall height and setbacks remain fundamental concerns and these issues cannot be resolved by conditions.

The proposal is also referred to the Development Determination Panel for determination as for the reason the proposal was assessed by an external planning consultant.

The assessment of the proposal by the independent external planning consultant has included a second assessment of the revised plans (Issue C). In conclusion, the planning assessment finds that the proposal is not supportable due to inconsistencies with the SEPP HSPD, Pittwater LEP and Pittwater DCP for the reasons provided in the following recommendation.

RECOMMENDATION

A. THAT Council as the consent authority REFUSE Development Consent, for Demolition of site structures and construction of a Seniors Living Development under SEPP (Housing for Seniors or People with a Disability) comprising eight (8) dwellings with basement carparking, at Lot 5 DP 9767 and Lot 2 DP 356334 No.4 Dygal Street MONA VALE, subject to the reasons outlined as follows:

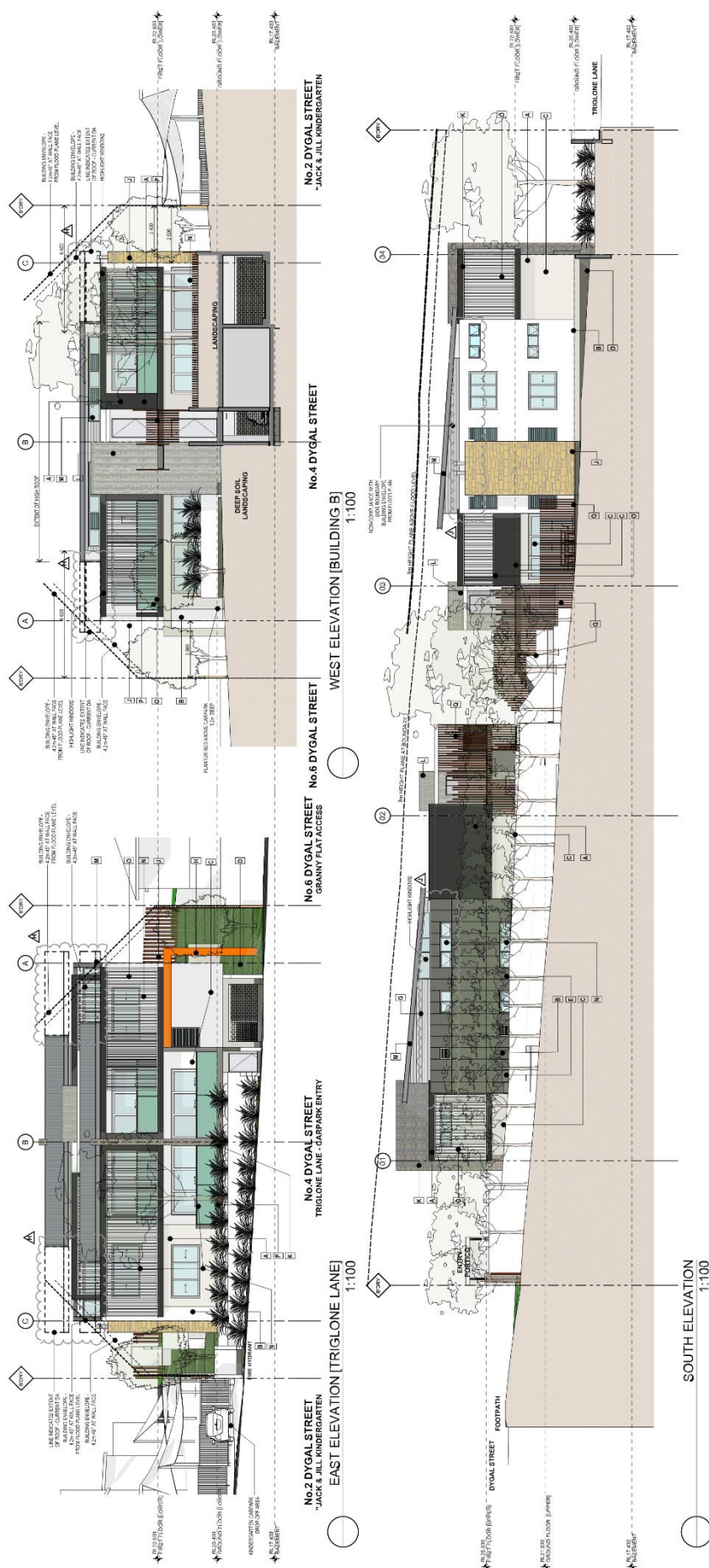
1. Pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest.
2. Pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of Clause 50– FSR of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability)*.
3. Pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of Clause 50 – Height of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability)*.
4. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.
5. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of Clause D9.7 Side Setbacks of the Pittwater Development Control Plan.

6. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development provides inadequate documentation with regard to height and Reduced levels.
7. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed development provides inadequate details with regard to accessibility.
8. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed development is excessive in bulk and scale and inconsistent with the desired character of the area.

The application is determined under the delegated authority of Northern Beaches Development Determination Panel.

B. The Panel notes that the development application is the subject of Class 1 proceedings in the *NSW Land and Environment Court* and as such delegates control and direction in connection with the conduct of the proceedings to the Council's Legal Counsel.





BASIX & NATHERS REQUIREMENTS

[illegible]

EXTERNAL FINISHES

EXTERNAL FINISHES
NOTE: FINISHES AND IMAGES SHOWN ARE INDICATIVE OF DESIGN INTENT ONLY

	1 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	2 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	3 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
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	11 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	12 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	13 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	14 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	15 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	16 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	17 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA
	18 EXTERNAL WALLS	RESIN 2, 3 AND 4 F. SANDA RESIN 2, 3 AND 4 F. SANDA

[illegible]