

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 NOVEMBER 2019



Ashleigh Sherry
Manager Business Systems and Administration

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

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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 23 OCTOBER 2019

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 23 October 2019 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	DA2019/0907 - 43 QUINTON ROAD, MANLY - ALTERATIONS AND ADDITIONS TO A SEMI-DETACHED DWELLING HOUSE
REPORTING MANAGER	Matthew Edmonds
TRIM FILE REF	2019/633540
ATTACHMENTS	1 Assessment Report 2 Site Plan & 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 floor space ratio.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2019/0907 for alterations and additions to a semi-detached dwelling house on land at Lot 1 DP 1072958, 43 Quinton Road, Manly, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0907
Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 1 DP 1072958, 43 Quinton Road MANLY NSW 2095
Proposed Development:	Alterations and additions to a semi-detached dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Andrew Sweeney Elizabeth Jane Sweeney
Applicant:	Andrew Sweeney Elizabeth Jane Sweeney
Application Lodged:	22/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	02/09/2019 to 16/09/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.4 Floor space ratio: 14.3%
Recommendation:	Approval
Estimated Cost of Works:	\$ 82,075.00

EXECUTIVE SUMMARY

The development application seeks consent for the alterations and additions to a semi-detached dwelling house.

The development is referred to the Development Determination Panel for determination as the development contravenes the Floor Space Ratio development standard by more than 10%. The subject application seeks a 14.3% variation to the Floor Space Ratio development standard.

The notification of the application resulted in no submissions being received.

The assessment concludes that the proposed development is suitable and appropriate development for

the site, without any unreasonable impacts on neighbouring properties. It is therefore recommended that the application be supported subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the alterations and additions to a semi-detached dwelling house. In particular, the works include:

Ground Floor

- Construction of a single space A-frame carport,
- Replace the existing window in Bed 2, with an openable window;
- Replace the existing window in the living room, with a taller window
- Demolish the outdoor kitchen and rear bifold doors and extend the kitchen/dining room to incorporate the existing terrace; and
- New landscaping and front fencing.

First Floor

- Replace the existing window in the stairwell, with an openable louvered window.

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 - 4.1.4 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)

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 1 DP 1072958 , 43 Quinton Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site is known as 43 Quinton Road, Manly and is legally referred to as Lot 1 DP 1072958. The site consists of (1) allotment located on the western side of Quinton Road.</p> <p>The site is regular in shape with a frontage of 6.07m along Quinton Road and a depth of 30.48m. The site has a surveyed area of 185.2m².</p> <p>The site is located within the R1 General Residential zone of the Manly LEP 2013 and accommodates a two storey semi-detached brick dwelling. A vehicle hard stand area with an open timber pergola-like structure above is located within the front setback area.</p> <p>The site is generally level, with no discernible fall across the property.</p> <p>The site contains a modified landscaped setting, with vegetation consisting of garden beds within the front and rear yards.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings of varying sizes, ages and architectural styles within landscaped settings.</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:

15 October 2002

Development Application No. DA242/02 for the alterations and additions to create two semi detached dwellings and land subdivision was granted consent on 15 October 2002.

10 July 2003

Development Application No. 648/02 for a roof addition to residence was granted consent on 10 July 2003.

1 April 2004

Modification of Development Consent No. 648/02 was granted consent on 1 April 2004.

APPLICATION HISTORY

22 August 2019

Subject development application received by Council.

1 October 2019

Site inspection undertaken by the Development Assessment Officer.

17 October 2019

Letter issued to the Applicant detailing a concerns with the calculation of Floor Space Ratio that would not allow Council to support the application in its current form.

22 October 2019

Amended plans and a revised Statement of Environmental Effects (inclusive of a a revised Clause 4.6 variation request) was provided to Council, addressing the concerns raised in the letter. These documents were accepted by Council and form the basis of the following assessment.

25 October 2019

Second site inspection undertaken by the Development Assessment Officer.

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 Matters for Consideration'	Comments
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	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – 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 allow Council to request additional information. No additional information was requested in this case. However, following a request for the application to be withdrawn, an amended Clause 4.6 variation request was accepted.</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 clause is not relevant to this application.</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> <p><u>Clause 143A</u> 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.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under</p>

Section 4.15 Matters for Consideration'	Comments
environment and social and economic impacts in the locality	the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 not classified as bush fire prone land.

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.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	Development Engineering raised no objection to the application subject to conditions.
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.

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. A352868_02, dated 9 July 2019).

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	6.5m (First Floor windows) 3.3m (Caport)	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (111.12m ²)	FSR: 0.68:1 (126.99m ²)	14.3%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	FSR: 0.6:1 (111.12m ²)
Proposed:	FSR: 0.68:1 (126.99m ²)
Percentage variation to requirement:	14.3%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA

130.

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 4.4 - Floor space ratio 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.*

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

Clause 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.'

s 1.3 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 applicants written request argues, in part:

- The proposed alterations and additions are appropriate to the site and will fit with the bulk and scale of both the site and the streetscape in the locality. The proposed carport reduces the bulk currently presenting to Quinton Road and the overall built form is softened by the re-instatement of landscaping to the front setback. There are similar A frame carports in the locality and the proposal remains compliant with building height controls. The additional floor space is at the rear of the site and within an existing built and partly enclosed space and will have no impact on the streetscape.

- The proposed density remains consistent with the maximum FSR permitted in the DCP for undersized lots. As the subject site is mapped as area C on the lot size map, the DCP permits calculation of the FSR based on a lot size of 250m². This equates to a maximum floor area of 150m² for the undersized subject site. The proposed floor area is 126.99m², well below the maximum 150m² permitted by the DCP. The proposal is appropriate to the site and will fit with the density and bulk of both the site and the immediate locality. The proposed development will not obscure any important landscape or town features.
- The proposed additions are consistent with the existing built form on the site and will have improve the visual relationship between the new development and the existing character, by reducing the scale of the carport and re-instating landscaping in the front setback.
- The proposed development will have no impact on the use or enjoyment of adjoining land and the public domain.
- The DCP permits calculation of the FSR based on a lot size of 250m². This equates to a maximum floor area of 150m² for the undersized subject site. The proposed floor area is 126.99m², well below the maximum 150m² permitted by the DCP.
- The bulk of the building is appropriate for the site and complies with current height controls.
- It has no impact on solar access or privacy of neighbouring sites.
- It is compatible with the existing building and improves the usability of the site and link between the internal and external living spaces.
- There is no impact for neighbours or form the street frontage, with the additional floor area within an existing terrace enclosure.

Planner Comments:

It is accepted that despite the variation to the Floor Space Ratio requirement, that the proposed carport arrangement and landscaping will reduce the overall built form when viewed from the Quinton Road frontage.

Further, it is agreed that the additional floor space at the rear of the site, being within a pre-existing partially enclosed space, will not result in streetscape impacts or unreasonable impacts for adjoining neighbours with regards to residential amenity including solar access and privacy.

In this regard, 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 structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated 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).

Clause 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 Floor Space Ratio development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

(a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposal will maintain a bulk and scale that is consistent with that of neighbouring dwellings and the surrounding area. The built form of the resultant development when viewed from the Quinton Road frontage will result in a single open-style carport and for a greater extent of landscaping within the front setback area. The front boundary wall is also be recessed into the site, and is to be no higher than the existing front fence arrangement.

(b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

As discussed previously, the proposed development is well articulated, open in style and of an acceptable height. The existing timber pergola-like structure is to be removed and replaced with a carport and a landscaped area within the front setback area. The proposal will not impact upon or obscure landscape and townscape features.

(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposed development is considered to reflect design features such as with pitched roof form to the carport that is reflective of both the architectural design of the dwelling and examples of neighbouring car parking structures along Quinton Road. Further, the landscaped character of the site will be enhanced in order to maintain the setting of vegetation within front yards.

(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the

public domain,

Comment:

The resultant development is not considered to result in unreasonable impacts upon the amenity, views, sunlight access or privacy for adjoining dwellings. Further, the proposal seeks a street presence that is considered to be compatible with the character and design themes along Quinton Road.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

The proposed development maintains a residential use within the R1 General Residential zone.

Zone objectives

The underlying objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*

Comment:

The proposed development retains the residential use of the site.

- *To provide for a variety of housing types and densities.*

Comment:

The proposal maintains the semi-detached dwelling, which is considered to continue to provide a variety and alternate housing typology for the local area.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal continues to maintain an residential land use.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone.

Clause 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, 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 where the variation is not greater than 10%. Following the release of PS-003, Council received correspondence from a delegate of the Secretary which granted Council's Development Determination Panel, for a period of 30 months from 24 May 2019, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary the Floor Space Ratio development standard by more than 10%.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area:	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North: 6.5m	Unchanged	N/A	Yes
	South: 6.5m	6.5m (Top of window 'W06')	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.7m	N/A	Yes
	Parapet Height: 0.6m	-	N/A	N/A
	Pitch: maximum 35 degrees	27 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line: 4.25m	0m (Carport)	100%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	Carport: 1m (based on wall height)	North - 0.2m (Carport) South - 3m (Carport)	80%	No Yes
	Dwelling: 2.4m (based on wall height)	South - 1.1m (Dwelling)	54%	No
	Windows: 3m	South - 1.1m (Ground Floor windows) 1.6m (First Floor window)	63% 47%	No No
4.1.4.4 Rear Setbacks	8m	4m	50%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area:	Open space 55% of site area (101.86m ²)	25% (46.6m ²)	54.5%	No

OS3	Open space above ground 25% of total open space	15.5%	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	9.2% (4.3m ²)	73.7%	No
	1 native trees	0 trees	1 tree	No
4.1.5.3 Private Open Space	18sqm per dwelling	> 18sqm	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	2.8m (46% of frontage)	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 space	1 space	No

***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 x 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
3.3.1 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
3.5 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)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

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

Description of non-compliance

The proposed development is non-compliant with the 4.25m prevailing building line requirement, being a nil (0m) setback for the proposed carport.

The proposed carport is also non-compliant with 1m side setback requirement, being 0.2m from the northern boundary.

The additions to the dwelling house are also non-compliant with the 2.4m side setback requirement, being setback 1.1m to the southern side boundary. The maintenance of the existing setback to the southern boundary results in a non-compliance with the 3m window setback requirement, being setback 1.1m for ground floor windows and 1.6m for first floor windows.

The alterations and additions to kitchen/dining area to the rear are also non-compliant with the 8m rear setback requirement, being setback 4m from the rear boundary.

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 seeks to replace the existing nil (0m) setback timber pergola-like structure that span the entirety of the front setback area with a single carport, landscaped plantings, a partially recessed front fence and pathways connecting to the dwelling house. The variation to the front setback requirement for the proposed carport is considered acceptable as the design incorporates an open-style and pitched roof that is reflective of both the architectural design of the dwelling and examples of neighbouring car parking structures along Quinton Road. The landscaped character of Quinton Road will be enhanced with the plantings proposed within the front setback area.

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 proposal seeks to maintain existing non-complaint setbacks to side boundaries. The proposed window arrangement to the southern elevation is considered acceptable, as visual privacy for the occupants of 41 Quinton Road is protected from direct overlooking through existing established screen plantings between both properties. The proposed kitchen/dining room addition to the rear is in a space that is currently a partially enclosed alfresco area. The maintenance of existing timber privacy screen and boundary fencing further prevents any direct overlooking. The proposed development has been considered to ensure that the residential amenity including access to sunlight, and view sharing is maintained for adjoining properties.

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

Comment:

As the proposed development does not result in encroach on the existing rear courtyard, side passageway and is contained within the front property boundary, the siting of the alterations and additions are considered to be acceptable.

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 development indicates landscape plantings to be accommodated within the front setback area. Further, along the rear boundary existing garden beds are also to be maintained. No existing native vegetation or bushland is to be removed as part of this application and the subject site does not adjoin any open space land or National Parks.

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

Comment:

The subject site is not identified as being on bushfire prone land.

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.

4.1.5 Open Space and Landscaping

Description of non-compliance

Requirement: Total Open Space: 55% of site area (101.86m²)
Proposed: Total Open Space: 25% of site area (46.6m²)

Requirement: Landscaped Area: 35% of open space (16.3m²)
Proposed: Landscaped Area: 9.2% (4.3m²)

The proposed development is technically non-compliant with the control requirements for total open space and landscaped area.

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 site currently contains a modified landscape arrangement that is typical for a suburban semi-detached dwelling. The proposal does not seek the removal of any native vegetation or trees.

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 seeks to increase the amount of soft landscaped areas on the site, particularly within the front setback area. The site currently does not accommodate any native trees and none have been proposed as part of this application. Given the minimum dimensions typically required to facilitate the planting of a native canopy tree, it is considered that this requirement is difficult to achieve without the removal of a significant portion of the paved courtyard or the removal of paved pedestrian access to the carport area.

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

Comment:

As discussed previously within this report, the works within the front setback area are considered to be acceptable with regards to the streetscape. Further, the works to the dwelling house are within the existing building footprint. It is therefore considered that the proposal will maintain and enhance the

amenity of the area.

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

Comment:

The proposed development does not indicate the increase of hard surface areas on site, rather the proposal seeks provide for additional landscaped areas. It is therefore considered that the proposal minimises stormwater run-off.

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

Comment:

The landscaping indicated in the proposal is not considered to result in the spread of weeds. The erosion control plan also demonstrates how run-off from the site during construction will be appropriately managed.

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

Comment:

The proposal does not seek the removal of any native vegetation or trees and is therefore not considered to reduce wildlife habitat or corridors.

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 consists of one (1) vehicle parking space which is technically non-compliant with the requirement for two (2) spaces. It should be noted that this clause allows for Council to consider the provision of only 1 space where adherence to the requirement for 2 spaces would adversely impact on the streetscape or on any heritage significance identified on the land or in the vicinity.

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 proposal seeks to maintain the existing provision of 1 vehicle parking space. As the proposal does

not seek to increase the density of the site, through such means as additional bedrooms or the like, it is considered that the proposed parking arrangement will be adequate for a single semi-detached dwelling house.

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 proposal is not considered to result in an increase to the on-street parking demands along Quinton Road. Further, in order to reduce the demand for on-street parking, a resultant development car parking arrangement would likely impact upon the streetscape.

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 proposed carport is in generally the same location as that existing. No changes are proposed to the vehicle cross-over between the property boundary and the road curb. As discussed previously within this report, the proposed development considered to be of a practical arrangement that minimises visual impact in the streetscape.

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 development involves minimal excavation. It is therefore considered that the works will not adversely impact the stability and water flows on the subject site.

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

Comment:

The proposed carport and associated vehicle access arrangement is in generally the same location and width as that existing.

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 limits the amount of impervious surfaces through proposing a single carport and enhance the front setback area of the site with landscape plantings.

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:

As the proposal is limited to one (1) car parking space, it is considered that the occupants of the subject site will be encouraged to utilise existing public transport connections and other means such as bicycles.

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.

4.1.10 Fencing

The proposed front boundary fencing and carport gates is technically non-compliant, ranging in height from 1m-1.36m. It should be noted that part of this front fence is recessed into the site to allow for landscape plantings in front. Further, the carport gates which forms the greatest extent of the non-compliance is partially transparent, being of a slat design.

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

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2019/0907 for Alterations and additions to a semi-detached dwelling house on land at Lot 1 DP 1072958, 43 Quinton Road, MANLY, 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
DA02 (Site, Road, Sediment Erosion, Waste Management, Stormwater Concept Plan)	21 October 2019	Action Plans
DA05 (Proposed Ground Floor Plan)	21 October 2019	Action Plans
DA06 (Proposed First Floor Plan)	21 October 2019	Action Plans
DA07 (East/West Elevation)	21 October 2019	Action Plans
DA08 (South Elevation)	21 October 2019	Action Plans

DA09 (Long/Cross Section)	21 October 2019	Action Plans
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate, Ref. A352868_02	9 July 2019	Action Plans

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Northern Beaches Council Waste Management Plan	17 August 2019	Andrew & Elizabeth Sweeney

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**

- (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

3. **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 sewered areas or managed on-site in unsewered 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.

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,500 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

5. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

6. **Compliance with Standards**

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 the Certifying Authority prior to the issue of the Construction Certificate.

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

7. **Boundary Survey**

A boundary survey, prepared by a Registered Surveyor, shall be provided as evidence that all buildings/works are within the appropriate property, easement boundaries and rights of carriageway.

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

Reason: To ensure the accurate location of buildings in relation to boundaries, easements and rights of way.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. **Road Reserve**

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

Reason: Public Safety.

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

9. **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.

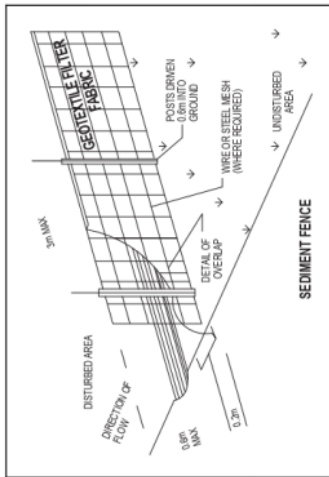
Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

10. **House / Building Number**

House/building number is to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.



SEDIMENT FENCE

DUST CONTROL :
TO REDUCE DUST GENERATED BY WIND ACTION, THE REMOVAL OF THE TOP SOIL IS TO BE MINIMISED. TO PREVENT DUST FROM BEING BLOWN OFF THE SURFACE OF THE SITE, ESPECIALLY DURING THE EXCAVATING OF ROCK, KEEP THE SURFACE MOIST TO MINIMISE DUST. CONSTRUCT A GRAVEL ENTRY/EXIT POINT USING BLUE METAL AND RESTRICT ALL VEHICLE MOVEMENTS WITHIN THE SITE TO A MINIMUM. ENSURE WIND BREAKS, SUCH AS EXISTING FENCES ARE MAINTAINED DURING THE CONSTRUCTION PHASE UNTIL NEW LANDSCAPING IS PROVIDED OR REINSTATED. PREVENT DUST BY COVERING STOCKPILES

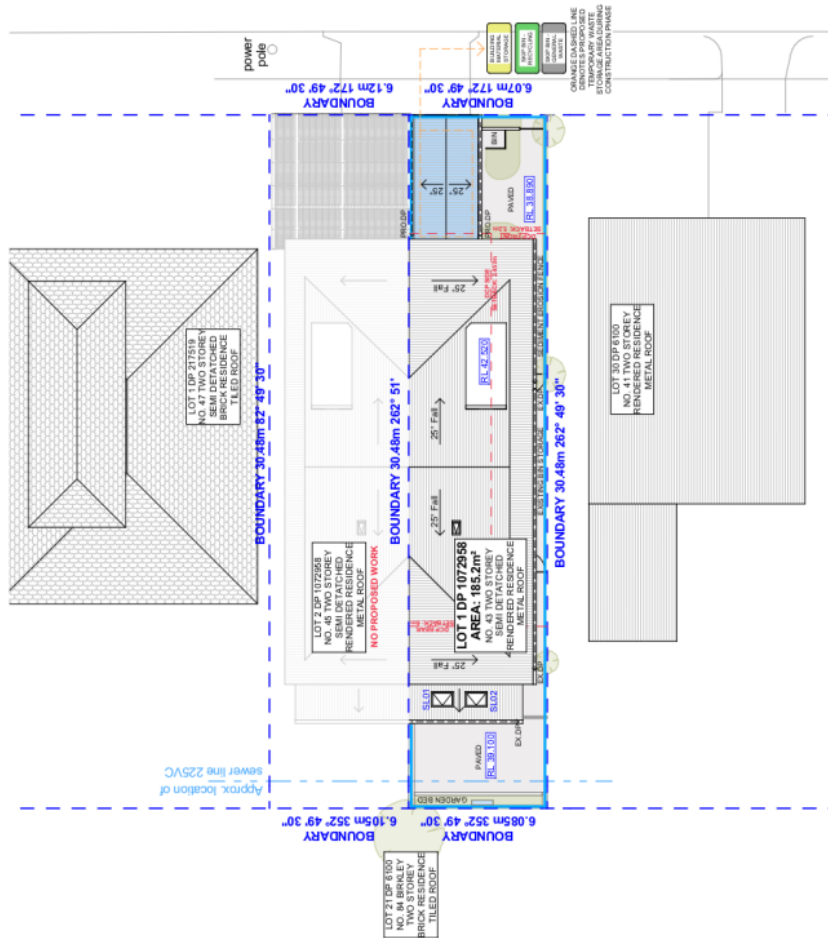
SEDIMENT NOTE :
1. ALL EROSION AND SEDIMENT CONTROL MEASURES TO BE INSPECTED AND MAINTAINED DAILY BY THE SITE MANAGER.
2. MINIMISE DISTURBED AREAS. REMOVE EXCESS SOIL FROM EXCAVATED AREAS AS SOON AS POSSIBLE.
3. EXCAVATED AREAS TO BE COVERED WITH GRASS OR FROM DRAINS, GUTTERS AND FOOTPATHS, OR WITHIN SEDIMENT FENCE AREA.
4. DRAINAGE TO BE CONNECTED TO STORMWATERS AS SOON AS POSSIBLE. IF STORED ON SITE, IT MUST BE FILTERED BEFORE RELEASING INTO STORMWATER SYSTEM OR WATERWAYS.
5. ROADS AND FOOTPATHS TO BE SWEPT DAILY.

STOCKPILES :
ALL STOCKPILES ARE TO BE KEPT ON-SITE WHERE POSSIBLE. ANY MATERIALS PLACED ON THE FOOTPATHS OR NATURE STRIPS REQUIRE COUNCIL'S PERMISSION.
ALL STOCKPILES ARE TO BE PLACED AWAY FROM THE DRAINAGE LINES AND STREET GUTTERS. IT IS BEST TO LOCATE THESE ON THE HIGHEST PART OF THE SITE. POSSIBLE PLACE WATERPROOF COVERING OVER STOCKPILES.
IF REQUIRED PROVIDE DIVERSION DRAIN & BANK AROUND STOCKPILES.

GUTTER PROTECTION :
PROVIDE PROTECTION TO DOWNHILL GRATE IN EXISTING GUTTERS BY PLACING BAGS OF GREEN METAL WATERS UP AROUND THIS SEDIMENT BARRIER. SAND BUILDS UP AROUND THIS SEDIMENT BARRIER. THE MATERIAL SHOULD BE RELOCATED BACK TO THE SITE FOR DISPOSAL.

NOTE: ALL PROPOSED STORMWATER TO CONNECT WITH EXISTING

QUINTON ROAD



1:200

SITE / ROOF / SEDIMENT EROSION / WASTE MANAGEMENT / STORMWATER CONCEPT PLAN

1

DRAWING NAME
SITE / ROOF / SEDIMENT EROSION / WASTE MANAGEMENT / STORMWATER CONCEPT PLAN

SCALE
1:200 @A3

DRAWING NO.
DA02

DATE
Monday, 21 October 2019

CLIENT
ELIZABETH & ANDREW SWEENEY

PROJECT ADDRESS
43 QUINTON ROAD, MANLY, 2095

LEGEND

EXISTING
PROPOSED
DEMOLISHED
TIMBER

DRWN NOTES

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2. Do not scale measure from drawings. Figured dimensions are to be used only.

3. All dimensions are in metres unless otherwise stated.

4. All dimensions are to be used only.

5. All dimensions are to be used only.

6. All dimensions are to be used only.

7. All dimensions are to be used only.

8. All dimensions are to be used only.

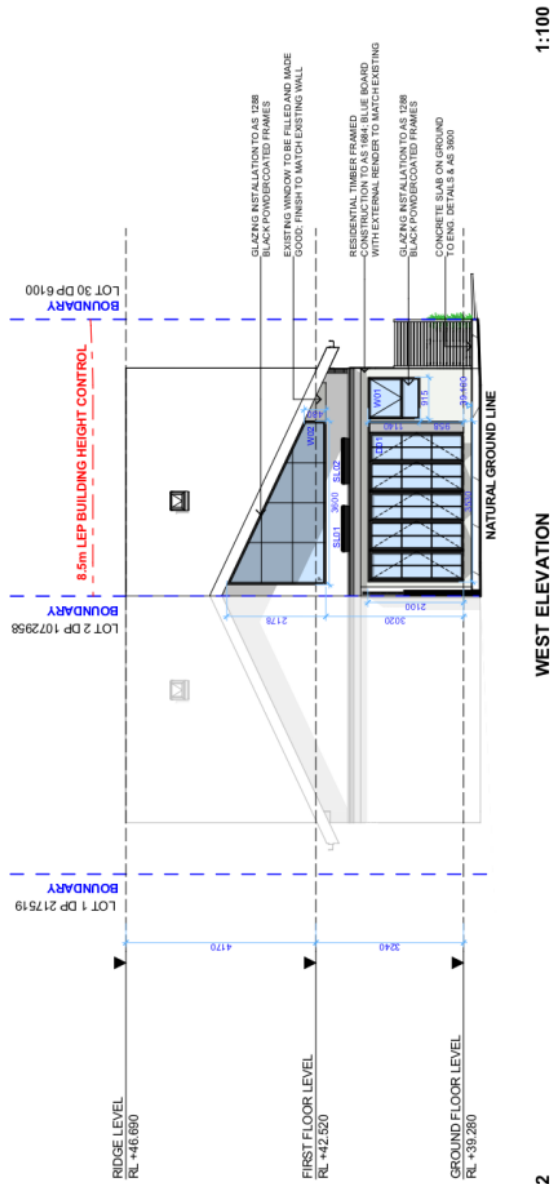
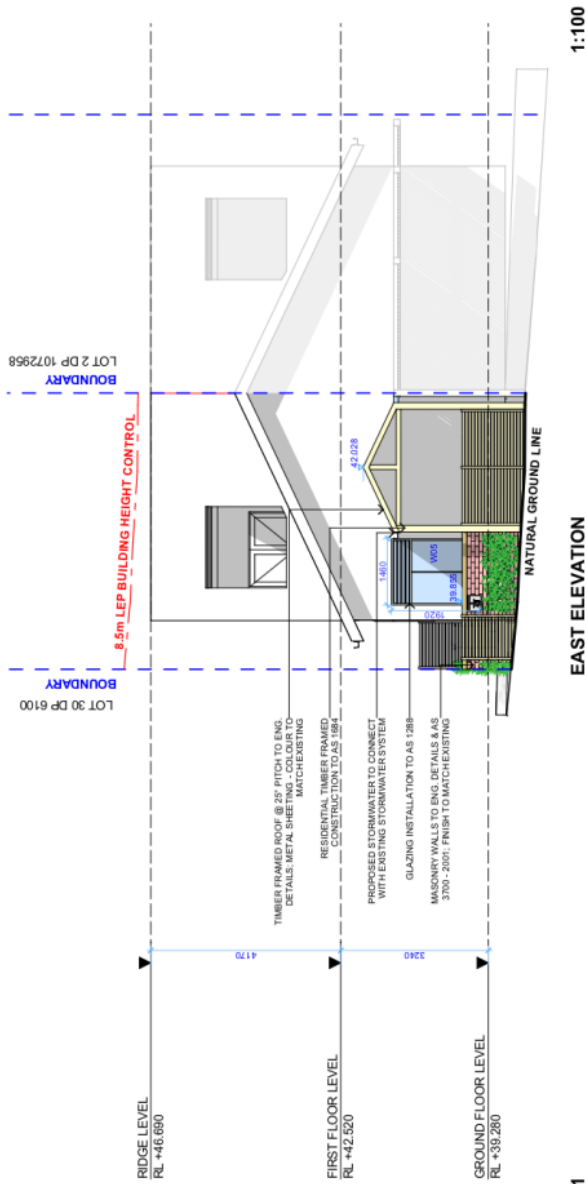
9. All dimensions are to be used only.

10. All dimensions are to be used only.

REV.	DATE	COMMENTS
A	08/07/19	DA1/ET
B	21/10/19	DA REV A

ACTION PLANS

m: 0426 957 518
e: operations@actionplans.com.au
w: www.actionplans.com.au

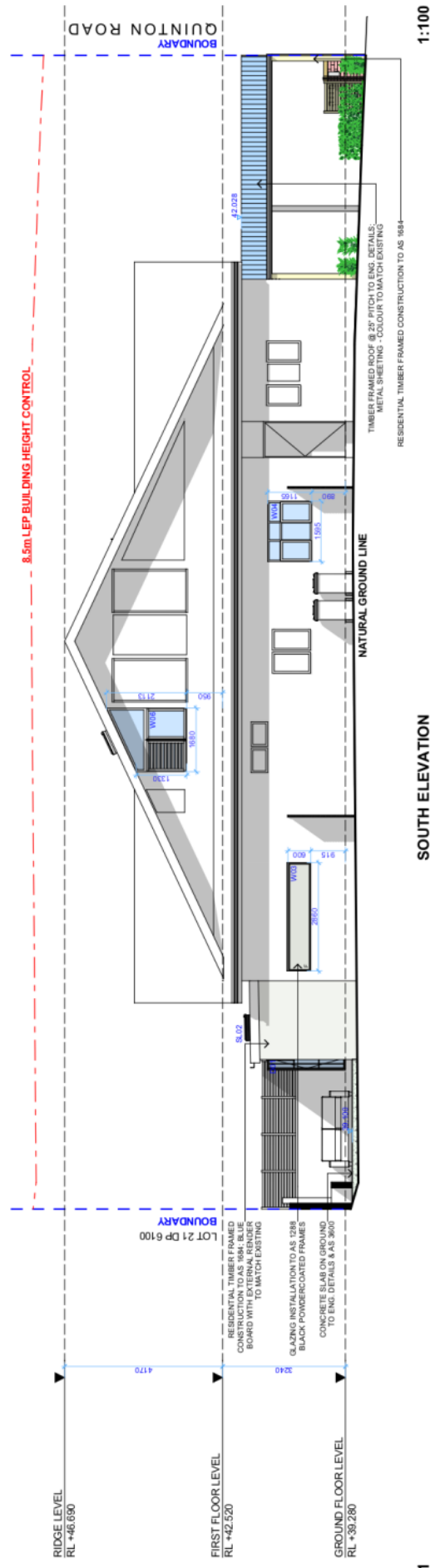


ACTION PLANS
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e: operations@actionplans.com.au
w: www.actionplans.com.au

REV.	DATE	COMMENTS	DRWN	NOTES
A	06/07/19	DA SET	EAS	
B	21/10/19	DA REV A	EAS	

LEGEND	CLIENT	DRAWING NO.	DRAWING NAME
<div>CONCRETE</div> <div>BRICKWORK</div> <div>METAL</div> <div>EXISTING</div> <div>DEMOLISHED</div>	ELIZABETH & ANDREW SWEENEY	DA07	EAST / WEST ELEVATION
<div>METAL ROOFING</div> <div>TILED ROOFING</div> <div>TIMBER</div> <div>RENDER</div>	PROJECT ADDRESS 43 QUINTON ROAD, MANLY, 2095	DATE Monday, 21 October 2019	SCALE 1:100 @A3

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REV.	DATE	COMMENTS	DRWN NOTES	LEGEND	CLIENT	DRAWING NO.	DRAWING NAME
A	08/07/19	DA/ECT	EAS	METAL ROOFING TILED ROOFING TIMBER RENDER	ELIZABETH & ANDREW SWEENEY	DA08	SOUTH ELEVATION
B	21/10/19	DA/REV A"	EAS		PROJECT ADDRESS 43 QUINTON ROAD, MANLY, 2095	DATE Monday, 21 October 2019	SCALE 1:100 @A3

 ACTION PLANS
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ITEM 3.2**DA2019/0956 - 81 FLORIDA ROAD, PALM BEACH -
CONSTRUCTION OF A SECONDARY DWELLING, INCLINATOR
AND ASSOCIATED WORKS****REPORTING MANAGER****Matthew Edmonds****TRIM FILE REF****2019/637423****ATTACHMENTS**

- 1 Assessment Report**
- 2 Site Plan & 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 **approve** Development Consent to DA2019/0956 for construction of a secondary dwelling, inclinuator and associated works on land at Lot 1 DP 537231, 81 Florida Road, Palm Beach, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0956
Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 1 DP 537231, 81 Florida Road PALM BEACH NSW 2108
Proposed Development:	Construction of a secondary dwelling, inclinor and associated works
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Ann Gretel Pinniger
Applicant:	Ann Gretel Pinniger
Application Lodged:	03/09/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	17/09/2019 to 01/10/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 16.4%
Recommendation:	Approval
Estimated Cost of Works:	\$ 567,480.00

The development application seeks consent for the construction of a secondary dwelling which is non-compliant with the 5.5m maximum height of a detached secondary dwelling under Clause 4.3(2FA) Pittwater LEP. The secondary dwelling has a maximum height of 6.4m which represents a 16.4% variation to the development standard. As such, the application is referred to the DDP for a determination.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of:

- Construction of a secondary dwelling comprising of one (1) bedroom;
- Construction of an incline passenger lift and associated landings;

- Construction of timber decking to connect landings to existing dwelling and proposed secondary dwelling;
- Landscaped staircase and new entry staircase.

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

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways
Pittwater 21 Development Control Plan - D12.6 Side and rear building line
Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 1 DP 537231 , 81 Florida Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Florida Road.</p> <p>The site is irregular in shape with a frontage of 12.19m along Florida Road and a depth of 56.7m. The site has a surveyed area of 1253m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two/three storey dwelling known as 'Florida House'. The site is identified as a local heritage item under the Pittwater LEP. The house has local heritage significance built in 1916 as a guest house by a local</p>

stonesman Lawrie Gallagher and has historic and aesthetic significance.

The site has a significant slope from the front to the rear rising approximately 26m from the front boundary to the rear corner. The rear half of the site is heavily vegetated with a mixture of dense understorey vegetation and locally native canopy trees.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by two and three storey dwelling houses. Adjoining the site at 79 Florida Road is also a local heritage item known as 'Kookaburra House'. These items contribute to the Florida Road Heritage Conservation area. Adjoining the site to the north-west is an unformed Council strip of land which consists of grass and vegetation. This parcel of land is approximately 6m in width and beyond is a residential lot consisting of a two storey dwelling house.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

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 21 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>Division 8A 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 allow Council to request additional information. No additional information was requested in this case.</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 clause is not relevant to this application.</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> <p><u>Clause 143A</u> 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.</p>

Section 4.15 Matters for Consideration'	Comments
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 Pittwater 21 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 not classified as bush fire prone land.

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.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects 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.</p> <p>Note: The proposed development may not comply with some</p>

Internal Referral Body	Comments
	<p>requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>The proposed development seeks approval for the construction of a secondary dwelling and an inclinator with associated landscape works. Access to the detached secondary dwelling is by inclinator and by stairs.</p> <p>In terms of landscape impact to the existing landscape character, the works do not require removal of any significant vegetation or natural landscape features such as rock outcrops. Works within the tree protection zones of existing trees shall be supervised by a project arborist during all stages of the works. Existing trees recommended for removal shall be replaced with new canopy tree planting within the site.</p> <p>The proposal is acceptable in terms of achieving the landscape outcomes of Pittwater 21 DCP, subject to conditions to protect existing trees and vegetation, and completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees or Bushland Vegetation C1.1 Landscaping C1.11 Secondary Dwellings C1.19 Incline Passenger Lifts D12 Palm Beach Locality</p>
NECC (Bushland and Biodiversity)	<p>The development proposal has been assessed against the requirements of</p> <p>Pittwater LEP Cl.7.6 Biodiversity Pittwater DCP B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor</p> <p>I have reviewed the Plans and Arborist Report and conducted a site visit. The site is very steep with a mixture of native and exotic plant species. The endangered ecological community Pittwater Spotted Gum Forest is mapped nearby, and while some characteristic plant species occur on site, the community is significantly degraded. Two native trees are recommended for removal, and compensatory planting is to be conditioned. Previous clearing has occurred and it is recommended that additional weed control, revegetation with native species and implementation of the Specific Requirements of the Arborist Report</p> <p>Development will not have an adverse impact on the significance of the vegetation or further fragment the biodiversity values, and landscaping shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Council website). Landscaping is to</p>

Internal Referral Body	Comments
	<p>be outside areas of existing bushland and should not include environmental weeds.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact, and therefore satisfies the relevant planning controls.</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <p>1. The site is located within the Geotechnical Hazard Area. An "Acceptable Risk Management" level is achieved in accordance with the geotechnical report prepared by White Geotechnical Group, dated 13 August 2019.</p> <p>2. OSD system is required as the impervious area increase exceeds 50 square meters.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Parks, reserves, beaches, foreshore	<p>The development is adjacent to a strip of community land linking Florida Road and Pacific Road. The topography is quite steep rising from east to west. There is an existing set of informal stairs that run through private and public property providing access down to Florida Road. The stairs appear to have been privately constructed and are estimated based on aerial imagery to be at least 7-10 years old. These stairs make the slope easier to traverse, and so do provide a community benefit.</p> <p>Part of the proposal includes rerouting these existing stairs around the planned secondary dwelling, directing the stairs onto the reserve area for a longer section and connecting into the existing stairs further down the slope. Now that Council has been made aware of this accessway, it needs to ensure that the infrastructure on its land is safe to use. Therefore any new additions to this track need to be constructed to an appropriate standard, and verified by Council staff prior to an occupation certificate being awarded.</p> <p>If the access path is being used by the surrounding residents, then the applicants should also be made aware of their liability for the section of path on their land.</p> <p>Due to the steep topography sedimentation control will also need to be implemented to minimise erosion from the site.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This property has been referred to Heritage as it is a heritage item and is within a conservation area</p> <p>Florida House - 81 Florida Road</p> <p>Florida Road Heritage Conservation Area - 79 to 97 Florida Road</p>
	Details of heritage items affected

Internal Referral Body	Comments			
	<p>Details of the items as contained within the Pittwater heritage inventory is as follows:</p> <p>Florida House</p> <p><u>Statement of significance:</u> Florida House, at 81 Florida Road in Palm Beach, built in 1916 as a guest house by the local stonemason Lawrie Gallagher, has historic and aesthetic significance as a holiday and guest house typical of the early Pittwater subdivisions.</p> <p>The architectural heritage of the area is characterised by this house form which, in Pittwater, evolved as a structure subordinate to the landscape and that utilised natural materials to harmonise with the surroundings and lessen their visual impact.</p> <p><u>Physical description:</u> This house is located on an elevated site block. It is a two-storey stone house with creosoted shingle roof and an active floor. It is located in a subtropical planting garden.</p> <p>Florida Road Heritage Conservation Area</p> <p><u>Statement of significance:</u> The Florida Road Heritage Conservation Area includes a group of houses representing an early phase of residential development in Palm Beach. The street is an anthology of local architectural styles.</p> <p>The area is associated with local prominent figures including Lawrie Gallagher, who built Kookaburra and Florida House. "The Moorings" and "Back O'Moon" are also associated with the early work of the well-known architecture office Peddle & Thorpe.</p> <p><u>Physical description:</u> The houses in the street are a mix of sizes and date from a variety of periods and appear to be a mixture of holiday and permanent homes. Many are now two storey. These are generally early to mid twentieth century buildings.</p> <p>Numbers 79-97 form the Florida Road Conservation Area and include Florida House built by Lawrie Gallagher when working for Albert Verrills. The set backs of the residences from the street vary along Florida Road. The result is a combination of a series of larger open spaces and buildings close to the building alignment. This contributes to the leafiness of the area as do the many mature trees and gardens. The absence of many fences contributes to a feeling of unrestrained space. Some properties have small natural stone retaining walls at the street which creates a stepped back landscape.</p>			
	<p>Other relevant heritage listings</p> <table><tr><td>Sydney Regional</td><td></td><td></td></tr></table>	Sydney Regional		
Sydney Regional				

Internal Referral Body	Comments		
	Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	Yes	81 Florida Road is recognised by the National Trust
	RAIA Register of 20th Century Buildings of Significance		
	Other	N/A	
	Consideration of Application		
	<p>The proposal seeks consent for the construction of a secondary dwelling and landscaping works. The proposal was referred to an external heritage advisor for comment. The advisor noted that there was two components to the proposal and that the landscaping works would be acceptable given the changes that have already occurred in this area and that it would be mostly hidden from public view. The advisor further noted that while not their preferred outcome, the secondary dwelling could be acceptable in consideration of the site.</p> <p>Therefore Heritage can support the proposal and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>		
	Further Comments		
	COMPLETED BY: Brendan Gavin, Principal Planner		
	DATE: 28 October 2019		

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.

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. 1028960S dated 12 July 2019).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	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.

Pittwater Local Environmental Plan 2014

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:	5.5m (Detached Secondary Dwellings)	6.4m	16.4%	No
Clause 5.4 (9) Floor Area Secondary dwelling	60sqm	60sqm	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

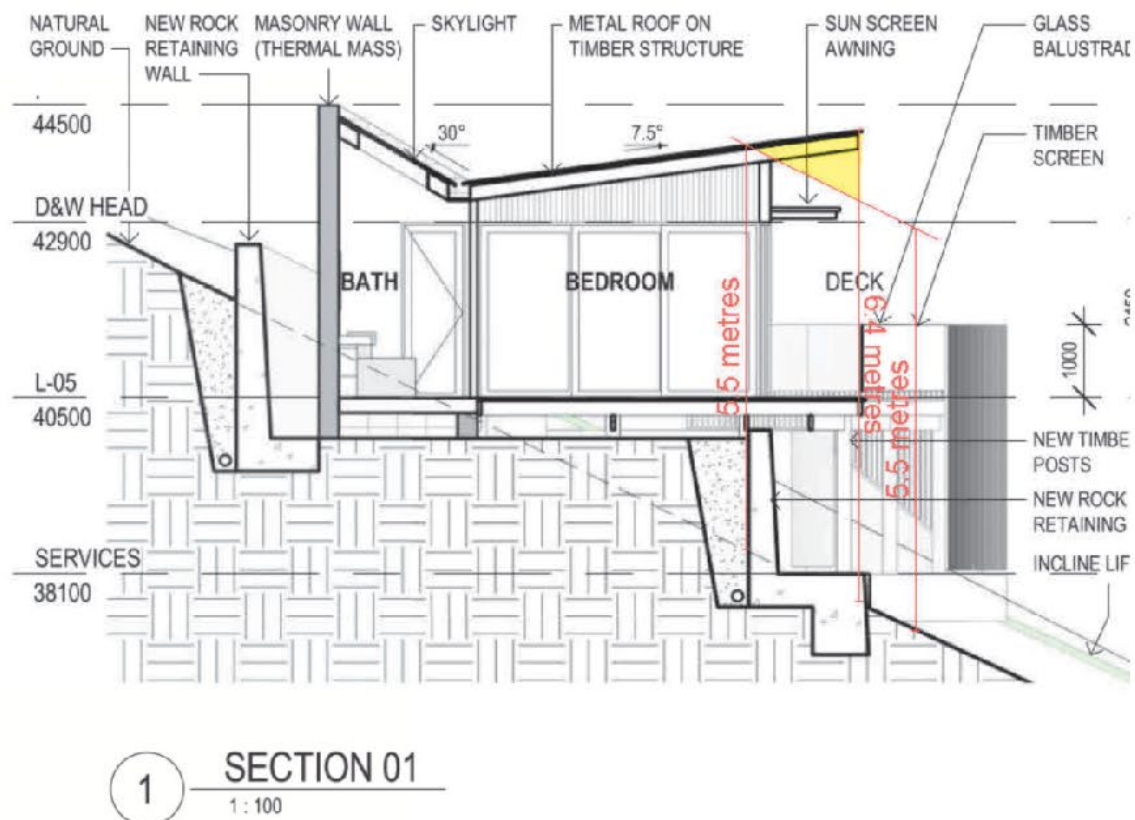
Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

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Development standard:	Height of buildings
Requirement:	5.5m (Clause 4.3 (2FA))
Proposed:	6.4m
Percentage variation to requirement:	16.4%



Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 (2FA) - 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, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

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.

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

Clause 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.'

s 1.3 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 applicants written request argues, in part:

Justification of Proposed Variation

There is jurisdictional guidance available on how variations under Clause 4.6 of the Standard Instrument should be assessed in Initial Action Pty Ltd vs Woollahra Municipal Council [2018] NSWLEC 11 & Samadi v Council of the City of Sydney [2011] NSWLEC 1199.

Paragraph 27 of the Samadi judgement states:

Clause 4.6 of LEP 2013 imposes four preconditions on the Court in exercising the power to gr

Precondition 1 - Consistency with zone objectives

The site is located in the E4 Environmental Living Zone. The objectives of the E4 zone are noted as:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- To ensure that residential development does not have an adverse effect on those values.*

- To provide for residential development of a low density and scale integrated with the landform and landscape.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

Comments

It is considered that the proposed development will be consistent with the objectives of the E4 Zone for the following reasons:

- *The secondary dwelling is located at the rear of the site where it will not be visible from the streetscape. The single level building with low pitched roof form is considered to be low impact residential development.*
- *The proposal has been located so as not to have detrimental impact on existing significant vegetation or flora/fauna.*
- *The secondary dwelling is located on a previously cleared and partially levelled land.*
- *The secondary dwelling is not located within a wildlife corridor nor is it within an area identified as riparian or foreshore vegetation.*

Accordingly, it is considered that the site may be developed with a variation to the prescribed maximum building height control, whilst maintaining consistency with the zone objectives.

Precondition 2 - Consistency with the objectives of the standard

The objectives of Clause 4.3 are articulated at Clause 4.3(1):

(1) The objectives of this clause are as follows:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comments

Whilst the proposal will present a minor variation to the statutory height limit as a result of the slope of the site, the proposal is considered to be in keeping with the objectives of Clause 4.3.

The detached secondary dwelling is located at the rear of the site and is not visible from the Florida Road. The secondary dwelling is single storey with the maximum ridge height (RL40.5) being below that of the ground level at the rear boundary (RL45.21). In this regard the roof of the secondary dwelling will sit approximately 5.0m below the ground level of the adjoining rear property and therefore will not be prominent. As such it is considered that the proposed secondary dwelling is consistent with the desired future character of the locality by virtue of its height and scale. The proposal is consistent with objective 1(a).

The existing surrounding development comprises predominantly large two (and some three) storey dwellings of a variety of architectural themes. The proposal provides for a detached outbuilding to be used as a secondary dwelling. This structure is well setback from surrounding habitable areas and due to the slope of the site, it is not prominent in the landscape. The proposal is a relatively small building in

comparison to existing surrounding development. The proposal is consistent with objective 1(b).

Given the topography of the site (sloping significantly from rear boundary to the street) and the single storey nature of the development the proposal will not result in any unreasonable overshadowing. The proposal is consistent with objective 1(c).

The development has been designed to ensure appropriate view sharing. In this regard the proposal is located at the rear of the site with the maximum ridge height (RL40.5) being below that of the ground level at the rear boundary (RL45.21). Therefore, there will be no obstruction of views from the adjoining rear property. Given the orientation of views being to the north and northeast, the proposed secondary dwelling will not result in any loss of views to other properties. The proposal is consistent with objective 1(d).

The proposed secondary dwelling has been designed having regard to the natural topography of the site. Some excavation and fill is required however this does not have any unreasonable impact on vegetation, significant site features or the adjoining properties. The proposal is consistent with objective 1(e).

The proposal is supported by a Heritage Impact Statement prepared by North Point Heritage. Further the proposal is supported by Council Heritage Planner. The proposal is consistent with objective 1(f). Accordingly, we are of the view that the proposal is consistent with the objectives of the development standard.

Precondition 3 - To consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

It is unreasonable and unnecessary to require strict compliance with the development standard as the proposal provides for a new detached secondary dwelling on a steeply sloping site. The non-compliance is a result of the slope of the site and the proposed non-compliance being a roof projection provides a good solar outcome and complies with BASIX.

Council's controls in Clause 4.3 (2FA) provides a maximum overall height of 5.5m for detached secondary dwellings in the E4 zone.

It is considered that the proposal achieves the Objectives of Clause 4.3 and that the development is justified in this instance for the following reasons:

- *The proposal is a single storey dwelling with a small non-compliance with the roof form. This non-compliance is a direct result of the significant slope of the site.*
- *The non-compliance is restricted to the roof overhang which is required to be projected to comply with the requirements of BASIX.*
- *The non-complying portion of the development does not result in any overshadowing or loss of privacy or views to the adjoining properties.*
- *Reducing the roof overhang to ensure compliance would result in a non-complying BASIX structure and would not be of any benefit to the adjoining properties or the character of the locality.*
- *The proposed roof form is a better outcome providing for a low pitched roof and solar protection.*
- *The proposal has been supported by both Northpoint Heritage and Council's Heritage Officer.*

For the above reasons it would therefore be unreasonable and unnecessary to cause strict compliance with the standard.

Council has reviewed the above reasons stated by the applicant and generally agree with the statements made regarding the proposal, except for the assertion by the applicant that the maximum ridge height is RL 40.5, as the plan shows a ridge height of RL44.5. However, as stated by the author of

the Clause 4.6, it is agreed that the secondary dwelling will predominately sit lower than the rear boundary level, including the roofline (RL44.5) when compared to the rear western corner RL47.5.

In this regard, 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 structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated 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).

Clause 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 E4 Environmental Living zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

(1) The objectives of this clause are as follows:

a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment:

The site is located within the Florida Road Heritage conservation area and contains a local heritage item known as 'Florida House', which is a two/three storey building. The streetscape is characterised by two and three storey dwelling houses, some of which have heritage significance. The proposed secondary dwelling is situated on the upper slopes of the site behind the main dwelling and is a single storey structure. Views towards the proposed secondary dwelling will be highly obscured from the public domain due to the existing principle dwelling and vegetation. Council's heritage officer has reviewed the proposal and has raised no objection to the development or impact upon the Florida Road Heritage conservation area due given the location upon the site.

b) to ensure that buildings are compatible with the height and scale of surrounding and nearby

development,

Comment:

The surrounding and nearby development consists of two and three storey dwelling houses located on steep and vegetated sites. The proposed single storey secondary dwelling is therefore considered compatible with regard to the surrounding buildings with regard to height and scale.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposal does not present an unreasonable overshadowing impact to the adjoining properties due to the orientation of the site and location of adjoining Private Open Space and Windows.

d) to allow for the reasonable sharing of views,

Comment:

The proposal will sit within the slope of the land with the ridge height predominately below the rear boundary level due to the slope of the land. The proposal will therefore not have any unreasonable view impacts from private properties or the public domain.

e) to encourage buildings that are designed to respond sensitively to the natural topography,

Comment:

To achieve a reasonable building platform an amount of cut (1.6m) and fill (1.6m) is required due to the slope of the site. However, this amount of cut/fill is not unreasonable given the steepness of the site and the minimal visual impact the development will have given it is highly obscured from street view and adjoining properties due to existing vegetation and the principle dwelling located at the site frontage.

f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items,

Comment:

Council's heritage planner has undertaken a detailed review of the Heritage Impact Statement submitted with the application and the proposed development. The site is a local heritage item which consists of a part two/part three storey dwelling located at the front of the site. The secondary dwelling is located in the rear portion of the site and is considered not to undermine the heritage significance of the principle dwelling. The secondary dwelling uses a material palette and finishes schedule which does not detract visually from the heritage significance of the site and for this reason, Council's Heritage officer supports the proposed development.

Zone objectives

The underlying objectives of the E4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment: The secondary dwelling has been positioned in a way that retains significant canopy trees and minimises visual impact from the Florida Road Heritage Conservation Area being located at the rear corner of the site. The secondary dwelling is a permissible form of development which comprises of one bedroom, provided additional housing choice within a low density residential setting.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment: The proposed secondary dwelling has been considered against controls contained within the Pittwater LEP, in particular clause 7.6 Biodiversity. The proposal has been reviewed by Council's Biodiversity officer and found to be designed and sited in a way that avoids significant adverse impacts to natural environment, including vegetation.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment: The scale of the building is not inconsistent with the surrounding development which consists of two and three storey dwelling houses. The minor projection of the roof form over the 5.5m height is not out of character for the area or result in a building that is considered excessive by virtue of its height and scale.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment: There will remain sufficient area within the site to accommodated new landscape plantings including two (2) canopy trees which are required to be planted as a condition of consent. The proposal will not have a detrimental impact to wildlife corridors as the majority of canopy trees are retained throughout the site.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 Environmental Living zone.

Clause 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, 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, for which Council has an exemption for dwelling houses that can be determined by the Development Determination Panel.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Behind front building line	N/A	Yes

Rear building line	6.5m	1.7m	N/A	No
Side building line	2.5m	13.9m	N/A	Yes
	1m	1.2m	N/A	Yes
Building envelope	3.5m	Within	N/A	Yes
	3.5m	Within	N/A	Yes
Landscaped area	60%	52%/660sqm	N/A	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - 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
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	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
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

In accordance with the control, a secondary dwelling requires the provision of one (1) off-street parking space. The site as existing provides two (2) off-street spaces within a double garage for the dwelling house. No additional off-street parking is proposed for the secondary dwelling.

The Pittwater DCP allows variations to the control as follows:

- *A reduction in the car parking requirements for a secondary dwelling or dual occupancy to a minimum of 2 spaces per allotment may be considered on merit.*

The property will retain the minimum two car parking spaces. The site has a narrow frontage and includes stonework which contribute to the heritage conservation area and provides pedestrian access to the property. For additional parking to be provided, this stonework would be required to be removed in lieu of an additional garage or driveway. This would not result in the preferred streetscape outcome in relation to the heritage conservation area and as a result, Council consider this adequate justification to support a variation to the control given two spaces are retained as per existing.

C1.19 Incline Passenger Lifts and Stairways

The DCP control requires incline passenger lifts to have a setback of 2m measured to the outside face of the carriage. The proposed passenger lift has a setback of 0.5m from the outside face of the carriage. Although non-compliant with the numerical control, the following considerations are taken into account in the assessment of the location:

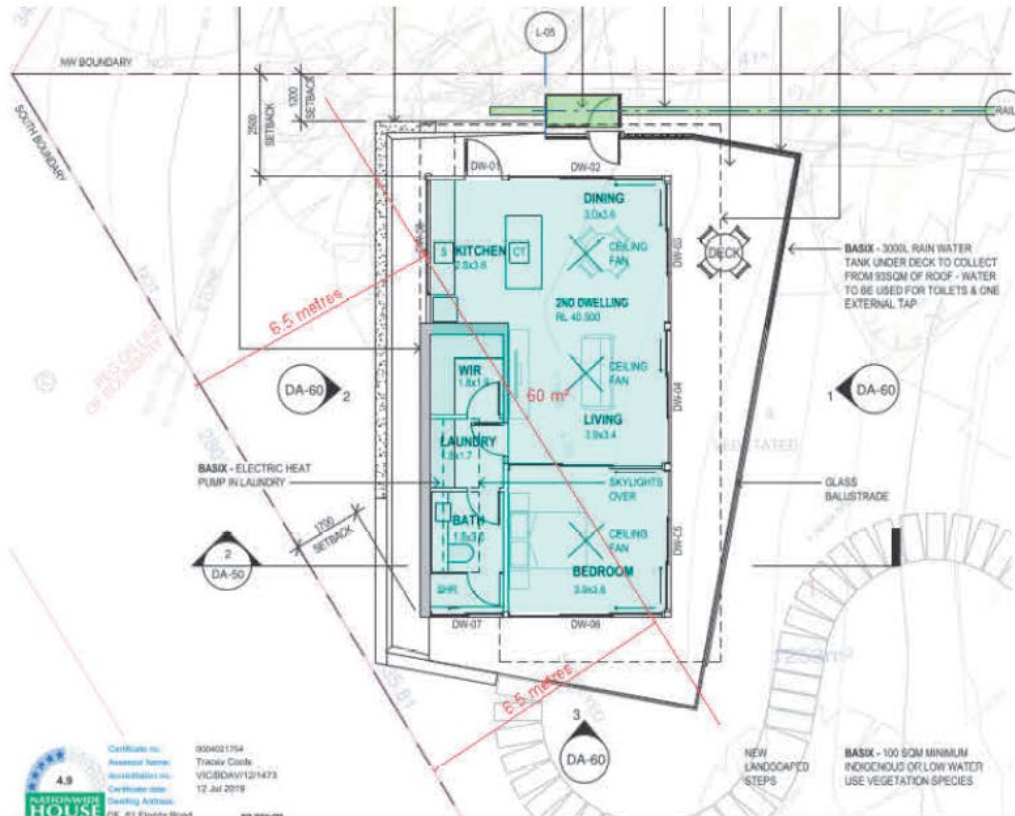
- The location of the incline passenger lift has been located to minimise disturbance to the existing trees on the site. For example, should the carriage move further from the boundary this would create an impact on T8 Cheese Tree;
- Beyond the boundary adjoining the incline passenger lift is a vacant unformed council reserve which is approximately 6m in width. This reserve comprises of largely un-maintained vegetation and acts as an additional buffer between the next residential property 85 Florida Street. This additional spatial separation assists in mitigating any visual impact of the lift from the adjoining property and minimises opportunity for overlooking from the lift.
- The applicant has designed the passenger lift to follow the natural topography of the site and maintain a level as best possible to the ground. This is demonstrated in the provided section plan DA-40. As the incline passenger lift does not have excessive height, the proximity to the boundary is considered suitable in this circumstance.

Further, a condition is recommended that prior to the issue of a Construction Certificate, certification by suitably qualified person shall be provided to the Principle Certifying Authority demonstrating that the noise level from the incline passenger lift will not exceed 5dBA above background noise when measured from the nearest property boundary. This is to ensure the proposed lift will not have an unreasonable amenity impact with regard to noise generation.

A condition of consent is recommended requiring the external finishes of the lift to consist of dark and earthy tones.

D12.6 Side and rear building line

The DCP requires a rear setback of 6.5m to be provided. The proposed secondary dwelling has a minimum setback of 1.7m and a maximum setback of 7.8m.



In assessing the merits of the variation to the control, the proposal is assessed against the outcomes of the control below:

Outcome 1) To achieve the desired future character of the Locality.

Comment: The proposal maintains the streetscape character with the proposed secondary dwelling obscured from the street view. The heritage character of the site is maintained to a satisfactory level and the additions are not to the detriment to the Florida Road heritage conservation area.

Outcome 2) The bulk and scale of the built form is minimised.

Comment: In regards to the bulk of the building as viewed from the rear property, the secondary dwelling will sit downslope and beneath the rear neighbour due to the steep slope of the land. Due to the placement of the structure below the dwelling at the rear, this will not present an unreasonable impact with regard to the visual dominance. The building obscured from the street view due to the existing vegetation throughout the site and its placement in rear corner behind the existing dwelling.

Outcome 3) Equitable preservation of views and vistas to and/or from public/private places.

Comment: The proposal will not result in any unreasonable impact upon views.

Outcome 4) To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

Comment: The proposal will not result in any unreasonable impact upon views.

Outcome 5) To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment: The proposal is not considered to have an impact upon privacy as a result of the reduced rear setback. One window is proposed upon the rear elevation however it will sit at the ground level due to the slope of the site and not present overlooking to the rear property. The proposal has been assessed against the solar access controls and the adjoining property will maintain the required amount of solar access in mid-winter.

Outcome 6) Substantial landscaping, a mature tree canopy and an attractive streetscape.

Comment: Substantial landscaping exists throughout the site with two (2) trees to be removed. However, adequate areas for replacement planting are available which will be required as a condition of consent.

Outcome 7) Flexibility in the siting of buildings and access.

Comment: Suitable access around the dwelling will be maintained. The location of the building is appropriate given the slope of the site and desire to retain significant canopy trees.

Outcome 8) Vegetation is retained and enhanced to visually reduce the built form.

Comment: Vegetation is retained where possible with replacement planting required as a condition of consent.

Outcome 9) To ensure a landscaped buffer between commercial and residential zones is established.

Comment: Not applicable.

The application has been considered against the outcomes of the control and found to be consistent with the outcomes of the Pittwater DCP, therefore, the variation to the control is supported in this circumstances.

D12.10 Landscaped Area - Environmentally Sensitive Land

The DCP requires 60% of the site to consist of landscaped area. The proposed development consists of 52% landscaped area throughout the site. The Pittwater DCP allows a variation clause to be applied, with up to 6% of the site area to consist of impervious treatments for outdoor recreation to be included in the landscaped area calculation. In this case, there are at least 72sqm (6% of site area) of unenclosed decks which can be included under the variation control.

This results in a total landscaped area of 58% in accordance with the variation clause. In considering the merits of this variation, the proposal is assessed against the outcomes of the control as follows:

Outcome 1) Achieve the desired future character of the Locality.

Comment: The proposal maintains the streetscape character with the proposed secondary dwelling obscured from the street view. The heritage character of the site is maintained to a satisfactory level and the additions are not to the detriment to the Florida Road heritage conservation area.

Outcome 2) The bulk and scale of the built form is minimised.

Comment: The proposed secondary dwelling is a single level structure with a balance of cut/fill to achieve a suitable building platform within the setting of a very steep site, while not proposing excessive site excavation. The dwelling design uses varied roof forms and an offset deck surrounding the dwelling to add visual interest and break up the bulk and scale of the building.

Outcome 3) A reasonable level of amenity and solar access is provided and maintained.

Comment: The proposed dwelling is sited in a location that does not present unreasonable overlooking and solar access is maintained to the adjoining properties private open space and windows.

Outcome 4) Vegetation is retained and enhanced to visually reduce the built form.

Comment: The development has been designed in a way that maintains the majority of existing canopy trees, with the removal of two (2) trees required. A number of significant trees and vegetation area retained along north-western boundary to assist in screening the built form. Council's landscape officer has supported the removal of the two trees subject to replacement planting as a condition of consent.

Outcome 5) Conservation of natural vegetation and biodiversity.

Comment: As stated above, the majority of canopy trees and significant vegetation are retained throughout the site, with adequate room for replacement planting which will be dealt with as a condition of consent. Council's biodiversity officer has reviewed the proposal and has not raised any concerns regarding the impact of the development.

Outcome 6) Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.

Comment: A suitable stormwater plan has been submitted with the application and Council's development engineer support the proposal subject to conditions.

Outcome 7) To preserve and enhance the rural and bushland character of the area.

Comment: The proposed secondary dwelling includes dark and earthy tones, natural finishes such as stone and wood, to compliment both the bushland character and heritage significance of the site. The remainder of the site will consist of soft landscaping, canopy trees and understorey vegetation which attribute to the bushland setting. The incline passenger lift follows the natural topography of the land to minimise visual impact as viewed from the adjoining properties and the road.

Outcome 8) Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

Comment: The site drains towards Florida Road and Council's engineers have recommended a condition of consent requiring OSD in accordance with Council's specifications to manage stormwater as a result of the development.

The proposal has been considered against the outcomes of the control and is considered consistent with the outcomes of the Pittwater DCP/LEP, therefore, the variation to the control is supported in this 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

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$5,675 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$567,480.

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.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environment Plan 2014 seeking to justify a contravention of Clause 4.3(2FA) Height of Buildings has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case;
and

b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2019/0956 for Construction of a secondary dwelling, inclinator and associated works on land at Lot 1 DP 537231, 81 Florida Road, PALM BEACH, 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-10, Issue 2	20/06/2019	Wak'a Designs
DA-12, Issue 1	20/06/2019	Wak'a Designs
DA-20, Issue 2	20/06/2019	Wak'a Designs
DA-21, Issue 2	20/06/2019	Wak'a Designs
DA-22, Issue 2	20/06/2019	Wak'a Designs
DA-30, Issue 2	20/06/2019	Wak'a Designs
DA-31, Issue 2	20/06/2019	Wak'a Designs
DA-40, Issue 2	20/06/2019	Wak'a Designs
DA-41, Issue 2	20/06/2019	Wak'a Designs
DA-51, Issue 2	20/06/2019	Wak'a Designs
DA-60, Issue 2	20/06/2019	Wak'a Designs
DA-61, Issue 2	20/06/2019	Wak'a Designs
DA-90, Issue 1	20/06/2019	Wak'a Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report, J2332	13/08/2019	White Geotechnical Group
BASIX Certificate NO.1028960S	12/07/2019	Efficient Living Pty Ltd

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	August 2019	Natalie Nolan

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**

- (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.

3. **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.

4. **Location of works**

All works shall be contained wholly within the property boundary, including but not limited to, the proposed inclinator and associated footings which are to be located wholly within the property boundary of the subject site.

This condition does not apply to the proposed rerouted stairs on public reserve to the extent necessary to satisfy the requirements of Council's Parks and Recreation team.

Reason: To ensure all works associated with the development are within the boundaries of the subject land.

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$5,674.80 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$567,480.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of \$2,000 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. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group, dated 13 August 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Laundry Facilities**

The layout of the laundry area is to be designed to incorporate clothes washing facilities, comprising of at least one washtub and space in the same room for a washing machine in accordance with Part 3.8.3.2 of Volume 2 of the Building Code of Australia –'Facilities'. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for building occupant health and amenity

9. **On-site Stormwater Detention Details**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's Clause B5.7 in PITTWATER DCP21.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to

become a Corporate member and has appropriate experience and competence in the related field. The drainage plans are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

10. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

11. **Soil and Water Management Program**

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

12. **Stair Design**

Prior to the construction certificate being awarded, the design for the rerouted stairs on public reserve will need to be verified by Parks and Recreation staff. The stairs must be designed in accordance with the following standards/requirements:

- Must be constructed from concrete or stone. Concrete stairs must comply with AS3600.
- AS1657:2018
- National Construction Code 2019

Reason: To ensure that infrastructure built on public land is fit for purpose.

13. **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.

14. Landscape Plan

A Landscape Plan shall be prepared in accordance with C1.1 Landscaping - Technical Reports and Supporting Information, demonstrating the landscape intent of the areas nominated on the architectural plans as new garden beds, and inclusive of new canopy tree replacement planting to be accommodated within the site.

The Landscape Plan shall be issued to the Certifying Authority for approval, in consideration of the objectives of C1.1 Landscaping, with the following minimum landscape outcomes:

- 2 canopy trees selected as either Syncarpia glomulifera (Turpentine) and / or Glochidion ferdinandi (Cheese Tree), planted at 75 litre pot size, and planted at least 5 metres from any existing or proposed dwellings, with one to be planted between the main dwelling and the secondary dwelling, and 5 metres from any other established canopy tree
- a mix of native shrub and groundcover planting to the proposed 'new garden bed' zones

Reason: to maintain the landscape amenity.

15. Pier footing design for inclinor and decks

A pier footing structural layout shall be issued to the Certifying Authority, developed in co-ordination with a AQZ level 5 Arborist with qualifications in arboriculture/horticulture and a structural engineer, to locate pier footing locations to minimise impact to the root zones of existing trees T4: Cabbage Tree Palm and T8: Cheese Tree, from the proposed inclinor and decking.

The bridge deck shall be designed around Tree 4 and the inclinor shall be designed around Tree 8 to accommodate trunk clearances and minimal disturbance to the tree protection zone.

The pier footing structural layout shall consider the specific recommendations of the Arboricultural Impact Assessment prepared by RainTree Consulting in section 2.2.1 (2), 2.2.1 (3) and 2.2.1 (4).

reason: ensure the protection of valuable canopy trees.

16. Compliance with Standards

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 the Certifying Authority prior to the issue of the Construction Certificate.

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

17. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is 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)

18. **External Finishes - Incline Passenger Lift**

The carriage and track of the incline passenger lift shall have an external finish colour consisting of dark and earthy tones, no lighter than mid-grey.

Details of this shall be provided to the Principle Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure development blends into the landscape.

19. **Incline Passenger Lift - Acoustic Report**

Prior to the issue of a Construction Certificate, certification by a suitably qualified person shall be provided to the Principle Certifying Authority demonstrating that the noise level from the incline passenger lift will not exceed 5dBA above background noise when measured from the nearest property boundary.

Reason: To ensure an appropriate level of residential amenity is maintained.

20. **Boundary Survey**

A boundary survey shall be undertaken by a registered surveyor prior to the issue of a construction certificate. A copy of the boundary survey shall be provided to the principle certifying authority prior to the issue of a construction certificate.

Reason: To ensure the property boundary is clearly defined.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

21. **Working on Reserves Permit**

Works (undertaken by principal contractors working without Council supervision) on land under Council's care control and management require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks, Reserves and Foreshores business unit.

Reason: Public Safety and the protection of Council infrastructure.

22. **Tree removal within the Public Reserve**

The following trees are approved for removal within the public reserve based on the recommendations of the Arboricultural Impact Assessment prepared by RainTree Consulting:

- o Tree 5: Cocus Palm
- o Tree 13: Turpentine (subject to tree replacement within the development site)

Removal of these trees within public land shall only be undertaken by a Council approved tree contractor.

Details of currently approved tree contractors can be obtained from Northern Beaches Council's

Tree Services section prior to removal.

Reason: Public liability

23. **Tree removal within the Property**

The following trees within the property are approved for removal based on the recommendations of the Arboricultural Impact Assessment prepared by RainTree Consulting:

- o Tree 14: Cheese Tree (subject to tree replacement within the development site)

Exempt species listed in Council's Exempt Species List do not require consent for removal within private property. The following species within this site are listed as follows:

- o T3 Dracaena, T6 Cocus Palm, T7 dead stump, T9 Canary Island Palm, T10 Illawarra Flame Tree, and T15 Privet.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. **Maintenance of 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.

25. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in horticulture is to be appointed to supervise and certify tree protection measures for the following existing trees, requiring site attendance during excavation and construction works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by RainTree Consulting dated 14 October 2019:

- o Tree 4: *Livistona australis* (Cabbage Tree Palm)
 1. excavations or alterations to ground levels within the 3.5m tree protection zone is required to be obtained to ensure the palm remains stable and viable for safe retention,
- o Tree 8: *Glochion ferdinandi* (Cheese Tree)
 1. the proposed timber structure is to be constructed above ground level, supported by single post footings without open trench or excavation cut within the tree protection zone,
 2. manual excavation is to occur for all post hole footings ensuring no tree root at or >25mm(Ø) is damaged by works, unless approved by the project arborist.
 3. no excavation for inclinorail post footings is to occur within the 2.8m SRZ. The inclinorail is to span over the 2.8m SRZ ensuring no tree root >25mm(Ø) is damaged within the 7.8m TPZ.

Additionally, the Project Arborist is to recommend tree protection measures such as tree fencing, trunk protection and ground protection, and supervise all excavation and construction works near all trees, including recommending the construction methods near the existing trees to protect tree roots, trunks, branches and canopy.

Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Reason: to ensure the protection of the existing landscape amenity.

26. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected as recommended in the Arboricultural Impact Assessment prepared by RainTree Consulting, including:

- i) all trees (T4 and T8) and vegetation within the site not approved for removal, excluding exempt vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties (T2, T11, and T12),
- iii) all road reserve trees and vegetation (T1).

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, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) 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,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) 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,
- x) 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,
- xi) 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.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

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

27. Protection of rock and sites of significance

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

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

28. Landscape works

Landscaping is to be implemented in accordance with the approved Landscape Plan.

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 any relevant condition of consent.

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

29. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQZ Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection and excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

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

30. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

31. Positive Covenant and Restriction as to User for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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 the on-site detention and/or pump system is maintained to an appropriate operational standard.

32. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

33. Authorisation of Legal Documentation Required for Onsite Detention

An application for the authorization of legal documents is to be submitted to Council for approval. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) with a copy of the Works-as-Executed plan(details overdrawn on the copy of the approved drainage plan), hydraulic engineers certification and photographs of the completed system.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

34. Inspection of stairs on public land

Once the stairs on public land have been constructed, Parks and Recreation staff need to be notified to verify the proper construction of the stairs before accepting them as a Council owned and maintained asset.

Reason: To ensure that Council infrastructure is compliant with the relevant construction standards.

35. Rehabilitation of Disturbed Areas – Planting

Disturbed areas shall be rehabilitated with indigenous plant species using at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of existing bushland and should not include environmental weeds. The disturbed areas are to be treated by approved methods of erosion mitigation such as mulching, and revegetation with native grasses or other suitable stabilising processes.

Reason: Environmental management

36. Tree Planting

At least three locally native canopy trees are to be planted onsite to replace trees approved for removal. Canopy tree species are to be as per the approved Landscape Plan, consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and native gardening booklet available on the Northern Beaches Council website. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree. Tree replacement plantings are to be certified by the

project arborist.

Reason: Tree replacement.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

37. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

38. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

39. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

40. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

41. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

42. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.



Job No	1903
Drawn	GB
Checked	GB
Scale	1 : 200

design stage	DEVELOPMENT APPLICATION
title	SITE PLAN

project	81 FLORIDA ROAD
client	GRETEL PINNIGER
address	LOT 1 - DP 537231 81 FLORIDA ROAD - PALM BEACH

WAK'A DESIGNS
ADDRESS - 6108 NORTH STEYNE, MANLY
NSW 2095 - AUSTRALIA
PHONE - +61 0405856541
EMAIL - gabrielborges78@hotmail.com



MENT APPLICATION PRESENTATION

00/06/2019	DEVELOP
00/05/2019	CLIENT P
	date

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1
sue

general notes:

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general notes:

All information is to be used as a design reference only. It is not to be used for construction or other purposes. The design is the property of WAKA DESIGNS and is not to be reproduced without written permission. The design is the property of WAKA DESIGNS and is not to be reproduced without written permission. The design is the property of WAKA DESIGNS and is not to be reproduced without written permission.

2	20/06/2019	DEVELOPMENT APPLICATION
1	10/05/2019	CLIENT PRESENTATION
issue	date	amendment

WAKA DESIGNS
ADDRESS - 6/108 NORTH STEYNE, MANLY
NSW 2095 - AUSTRALIA
PHONE - +61 0406956541
EMAIL - gabrielborges78@hotmail.com

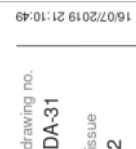
project 81 FLORIDA ROAD
client GRETTEL PINNIGER
address LOT 1 - DP 537231
81 FLORIDA ROAD - PALM BEACH

design stage title
DEVELOPMENT APPLICATION
ELEVATIONS - NORTH EAST - FRONT

Job No 1903
Drawn GB
Checked GB
Scale 1 : 200

drawing no. DA-30
ISSUE 2

16/07/2019 21:10:43



Job No	1903
Drawn	GB
Checked	GB
Scale	1 : 200

design stage	DEVELOPMENT APPLICATION
title	ELEVATIONS - NORTH WEST

project	81 FLORIDA ROAD
client	GRETTEL PINNIGER
address	LOT 1 - DP 537231 81 FLORIDA ROAD - PALM BEACH

WAK'A DESIGNS
ADDRESS - 6/108 NORTH STEYNE, MANLY
NSW 2095 - AUSTRALIA
PHONE - +61 0405856541
EMAIL - gabriel@borges78@hotmail.com

date	DEVELOPMENT APPLICATION CLIENT PRESENTATION amendment
20/06/2019	
10/05/2019	

2

1

issue

general notes:

Certificate no.: 0004021754
 Tracey Coole
 Accreditation Name: VIC/BD/AV/12/1473
 Accreditation no.: 12 Jul 2019
 Certificate date:
 Issuing Address: GF, 81 Florida Road
 Palm Beach, NSW
 2108
 4.9
 NATIONWIDE
 HOUSE
 69.6 MJ/m²
 www.nations.gov.au

ITEM 3.3

**DA2019/0537 - 23A MCCARRS CREEK ROAD, CHURCH POINT -
CONSTRUCTION OF A DWELLING HOUSE INCLUDING
SWIMMING POOL**

REPORTING MANAGER

Phil Lane

TRIM FILE REF

2019/633568

ATTACHMENTS

1 Assessment Report
2 Site Plan & Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2019/0537 for construction of a dwelling house including swimming pool on land at Lot 6 DP 573492, 23A McCarrs Creek Road, Church Point, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0537
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 6 DP 573492, 23 A McCarrs Creek Road CHURCH POINT NSW 2105
Proposed Development:	Construction of a dwelling house including swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Michael Edward McGrath
Applicant:	Michael Edward McGrath

Application Lodged:	28/05/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	16/08/2019 to 30/08/2019
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,200,000.00
---------------------------------	-----------------

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is a two storey detached dwelling with swimming pool, comprised of the following:

Lower Ground Floor

- double garage
- entry,
- workshop,
- guest bedroom, with walk in robe and ensuite,
- powder,
- cellar,

- staircase & Lift.

Upper ground floor

- Open plan living, dining, kitchen,
- master bedroom, with walk in robe and ensuite,
- 3 bedrooms, 1 with ensuite,
- main bathroom,
- laundry,
- southern patio,
- balcony located off bedrooms
- outdoor deck and pool area located off living and master bedroom

Amended Plans

As a result of the initial assessment, issues were identified including the overall height, flooding, stormwater, landscaped area, and notification requirements. The applicant submitted amended plans, which were subsequently re-notified to surrounding neighbours, including the erection of a new sign.

The amendments included pushing the garage back into the site to the south east to enable the driveway levels to be altered to achieve stormwater and flood requirements. The height of the building was also reduced to comply with the height limit, and the plans updated to clarify landscaped area.

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

Pittwater 21 Development Control Plan - D4.6 Side and rear building line
Pittwater 21 Development Control Plan - D4.8 Building envelope

SITE DESCRIPTION

Property Description:	Lot 6 DP 573492 , 23 A McCarrs Creek Road CHURCH POINT NSW 2105
Detailed Site Description:	<p>The site is a battle axe lot located on the southern side of McCarrs Creek Road. The Pittwater waterway is to the north of the road.</p> <p>The site is unusual in shape, and is currently vacant. It has an area of 1217sqm. The nature of the site makes it difficult to strictly define boundaries, however, for the purposes of this assessment, the rear boundary is considered to be the south eastern boundary, the front to the north west, and the side boundaries to the north east and south west.</p> <p>The topography slopes steeply upwards from front to rear, with a rise/fall of approximately 10m across the developable area of the site. There is an existing easement to drain water approximately 3m in width located across the north eastern corner of the site</p> <p>Surrounding development consists of residential dwellings. There are two heritage listed houses in close proximity, to the north (27 McCarrs Creek Road, and to the east (19 McCarrs Creek Road). The driveway access to the site is shared by numbers 25 and 29 McCarrs Creek Road. There is another driveway running parallel with the rear south eastern boundary, above the site topographically, which gives access to 15, 19, 19A, 21 and 21A McCarrs Creek Road.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant history:

DA2018/1295 - This application was similar to the current application in design of the proposal. It was withdrawn on 15 November 2018 at the request of Council for various reasons generally in relation to insufficient information being provided.

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 21 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>Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. The applicant submitted additional information in response to a request for withdrawal from Council.</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>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>Clause 98 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 (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 Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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 (prepared by Building Code & Bushfire Hazard Solutions Pty Limited, dated 24 July 2018). The report recommended an alternative solution to comply with Planning for Bush Fire Protection.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS have been included as part of the recommended 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 process council is in receipt of 3 submission/s from:

Name:	Address:
Bruce Hunt	19 McCarrs Creek Road CHURCH POINT NSW 2105
David Robert Lloyd	25 McCarrs Creek Road CHURCH POINT NSW 2105
Mr John Gordon Powell	19 A McCarrs Creek Road CHURCH POINT NSW 2105

The following issues were raised in the submissions and each have been addressed below:

- Height
- Landslip risk
- Set backs
- Bulk and scale
- Stormwater erosion and drainage concerns
- Tree removal
- Notification
- RFS referral
- Impacts on neighbouring living area
- Impacts on shared driveway
- Roofing material

The matters raised within the submissions are addressed as follows:

- **Height**

Concerns were raised with the height of the development.

Comment:

The plans were originally found to be non-compliant with the 8.5m height limit. As such, the applicant provided amended plans that reduced the overall height to comply with the control. The amended plans are 8.5m high at the highest point (the northern corner of the pitched roof above the living room), and in general, the proposal will be well below the height limit. Given the proposal complies with the height limit, and no unreasonable impacts are considered to arise from the proposed height, as assessed throughout this report, this issue is not considered to warrant further amendment of the plans or refusal of the application.

- **Landslip risk**

Concerns were raised with the amount of excavation required, and the associated landslip risk, including ground water concerns and boulders at the rear of the site.

Comment:

The geotechnical report provided with the application states that the risk of the development can be adequately mitigated subject to the recommendations in the report. These recommendations include inspections by a geotechnical engineer, and a detailed dilapidation report being carried out on the driveway above the site. The report has been referred to Council's Development Engineers, who are satisfied with the information provided. The recommendations of the report will be required to be carried out as conditions of consent. Subject to these conditions, the proposal is considered to be acceptable with regard to landslip risk.

- **Front and rear setbacks**

Concerns were raised regarding the proposed setbacks of the dwelling. Particular concern was raised with regard to the proposed setback to the south eastern boundary (rear) in relation to the amount of excavation required to achieve this setback, and the possible implications on the geotechnical stability of the site and neighbouring driveway above.

Comment:

The subject site is unusual in shape, and is a battle axe type lot. As such, which boundaries are considered front, rear and side boundaries is somewhat open to interpretation. In this case,

the north western boundary has been considered a front boundary, and the south eastern boundary a rear boundary. However, the long axis of the site is from north east to south west. The long axis of the dwelling is also orientated to match the developable area of the site, and therefore creates non-compliances with the front and rear boundaries.

A merit assessment of the proposal has been carried out in detail under the relevant controls in this report. In summary, the proposal is considered to achieve the objectives of the controls, and therefore is supported on merit. To the front the dwelling is well broken up and the setbacks varied, with large parts of the dwelling being set well back from the north western boundary.

The setback to the rear (south east) has been reduced, and this will require a significant amount of excavation. As discussed above, the geotechnical report provided states that the development can be carried out safely, and without unreasonable risk of landslips occurring. Aside from this risk being mitigated by the recommendations of the geotechnical report, the setback to the south eastern boundary and excavation allows for the proposed dwelling to be set into the slope of the land to a high degree, and minimise the visual impacts from the waterway and surrounding areas.

Given these considerations, the proposed setbacks are supported.

- **Bulk and scale**

Concerns were raised with the overall bulk and scale of the development.

Comment:

The amended plans have ensured that the highest point of the proposal will comply with the 8.5m height limit applicable to the site, and in general the majority of the development will be well below this height limit. Further to this, the proposed building is well articulated, and generally broken into different elements by the setbacks to the north west, and by the differing roofing elements. There is a non-compliance with the side boundary envelope on the south western side, due in part to the sharp slope of the land. This non-compliance is relatively small, being confined to the front 2.5m of the western corner of the building as the land falls away. The issue has been assessed against the objectives of the control, and is supported on merit. The proposal also complies with the landscaped open space control, another indicator that the development is generally within the expected size and scale of development of the land.

Given these considerations, the proposal is not unreasonable with regard to bulk and scale, and the issue is not considered to warrant further amendment or refusal of the application.

- **Stormwater erosion, flooding and drainage concerns**

Concerns were raised regarding drainage from the site and flooding, and erosion during construction.

Comment:

The application was referred to Council's Development Engineers, and Flood Engineers, both of whom were not originally satisfied with the information provided and in particular with the design of the driveway in relation to drainage. The amended plans provided by the applicant were referred back to the Engineers, who are now satisfied that the proposal meets Council policy in this regard. Conditions are recommended requiring maintenance of erosion and sediment controls during construction.

As such, the issue is considered to be reasonably satisfied.

- **Tree removal**

Concerns were raised regarding the proposed tree removal.

Comment:

The application proposes removal of six trees. Four of these are considered to be environmental weeds, and are exempt from the need for approval to remove. The other two trees are a Sweet Pittosporum and a Rough-barked Apple. These fall within the proposed development area and cannot be retained if the dwelling is built as proposed. The application was referred to Council's Landscape officer, who was satisfied with the landscape plan and arborist report provided, and was also satisfied that the proposed tree removal was in accordance with the relevant LEP and DCP controls. Conditions of consent have been provided to ensure protection of the remaining 12 identified trees. These conditions include the requirement to retain trees on the neighbouring properties. The proposed dwelling is located generally centrally to the unusually shaped lot. Given the comments and conditions provided by Council's Landscape Officer, the issue is not considered to warrant further amendment or refusal of the application.

- **Notification**

One of the objectors requested that the notification area be extended to more properties, in particular all those properties who utilise the driveway running above the site to the south east. Further concern was raised that the yellow notification site on site related to the previously withdrawn development application.

Comment:

The amended plans and the application were re-notified, including a new yellow sign in relation to the current application. The notification area was not extended beyond the original area, which included all immediately adjoining residences. The impacts of the development on any residences further to the south are minimal, and extended notification was not considered warranted, in accordance with clause A5.1 Exhibition, Advertisement and Notification of Applications of the Pittwater Development Control Plan (PDCP).

- **RFS referral**

Concerns were raised that the NSW Rural Fire Service had rejected the proposal.

Comment:

The application was referred to the NSW RFS. Their original response stated that more information was required including the proposed modifications. This response was made in error (given the application is for a new dwelling on a vacant lot). The RFS subsequently provided an updated response, with conditions of consent. This issue is considered to be resolved, and the conditions will be included in the consent.

- **Impacts on neighbouring living area**

Concerns were raised regarding impacts on the neighbouring lower level living area at number 25 McCarrs Creek Road to the south west, including bulk and scale of the proposal, and solar access.

Comment:

Bulk and scale has been discussed in more detail above. There is a non-compliance with the side boundary envelope when the boundary between 25 McCarrs Creek Road and the subject site is taken to be the 'side' boundary. This non-compliance occurs partially as a result of the fall of the land, and is confined to the front corner of the bedroom ensuite above the proposed

garage. The submission raised concern about a large blank concrete wall facing 25 McCarrs Creek Road. However, the proposed dwelling is to excavated into the land, and much of the side of the dwelling will not be visible behind the ground level along the boundary in this regard. The south western facade will be a maximum of two storeys in height, and will appear partly as one storey above ground level in that direction. The facade is broken up by windows, and includes a small balcony at the front above the entrance to the garage. It is not considered to result in an unreasonable bulk and scale.

The south west facing bedroom windows will be a minimum of approximately 9m-10m from the neighbouring dwelling to the south west, and will primarily overlook the driveway area of 25 McCarrs Creek Road. Clause C1.5 Visual Privacy of the DCP requires that "Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation". The windows facing this neighbour are bedroom windows, and are more than 9m from any private open space area or living rooms, and as such comply with the requirements of the control. However, the windows proposed are large, taking up the full south west bedroom walls (floor to ceiling and wall to wall). This is considered excessive, and in order to reasonably protect privacy, a condition is recommended requiring that these windows either have a minimum sill height of 1.2m above floor level, or be opaque to this height.

With regard to solar access, the shadow diagrams provided indicate that shadows cast by the proposal will reach the neighbouring dwelling at 9am, but will quickly recede so that by 12pm the shadow only just crosses the common boundary. The proposal easily fulfils the requirements of Clause C1.4 Solar Access in this regard.

The general impacts on the lower level living area at 25 McCarrs Creek Road are not considered to be unreasonable, and no further amendment of the plans or refusal of the application is recommended due to this issue.

- **Impacts on shared driveway**

Concerns were raised that the shared driveway access may be restricted by the construction, and that it may be damaged during the construction.

Comment:

The plans provided indicate that the new driveway will be confined to the subject site, and the construction will not extend into the shared driveway area. The amended driveway will be at the natural ground level. The plans do indicate that temporary areas for prevention of sediment tracking, fence stock pile sorting, stock pile for re-use on site, and bins will protrude onto the shared right of way. A condition is therefore recommended requiring that all temporary areas and fencing be confined to the area of the site wholly off the right of way.

The geotechnical report recommends that a dilapidation report be carried out on the neighbouring driveway above the site to the south east. It is therefore considered reasonable to extend this condition to the shared driveway, to ensure any damage caused is rectified. Subject to these conditions, the submission is considered to be reasonably satisfied.

- **Roofing material**

Concerns were raised with the reflectivity of the roofing.

Comment:

The colour schedule provided with the application does not include the roofing material. A condition is recommended requiring the roofing to be of dark, non-reflective materials. Subject to this condition, the issue is considered to be reasonably satisfied.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Class 5 no conditions</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of the existing trees and vegetation, and the completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D4 Church Point and Bayview Locality</p> <p>An Arboricultural Impact Assessment report is provided to justify proposed vegetation removal, and satisfies the DA Lodgement Requirements.</p> <p>A Landscape Plan is provided that generally satisfies the DA Lodgement Requirements, and is subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following provisions: - Pittwater LEP Clause 7.6 (Biodiversity Protection) - Pittwater DCP Clause B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</p> <p>The proposal will result in the removal of one Rough-barked Apple (<i>Angophora floribunda</i>). In order to achieve compliance with the objectives of PDCC Clause B4.7, new landscaping is to be 80% composed of species from the Pittwater Spotted Gum Forest EEC.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and also against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land</i></p>

Internal Referral Body	Comments
	<p><i>that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <ul style="list-style-type: none"> <i>(a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i> <i>(b) the proposed development:</i> <ul style="list-style-type: none"> <i>(i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> <i>(ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i> <i>(iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> <i>(c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i> <p><u>Comment:</u></p> <p>Part of the subject property has been included under the 'Coastal Use Area' map and 'Coastal Environment Area' map but has not been included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and in regard to CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>However, the subject land is within the Estuarine Hazard Affected zone, wave action - tidal inundation and an Estuarine Planning Level (EPL) of 2.57m AHD has been adopted by Council for the subject site. It has been assessed that proposed development will occur much above this base Estuarine Planning Level.</p>
NECC (Development Engineering)	<p>Additional information submitted 16/08/2019</p> <p>The submitted stormwater management plan is generally satisfactory, however the typical section for dwelling house stormwater pipe connection to Council pipe must be deleted since connection are to Council's pit. The proposed driveway access is considered to be satisfactory. The submitted Geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions</p>

Internal Referral Body	Comments
	as recommended.
NECC (Riparian Lands and Creeks)	<p>This application has been assessed under Pittwater 21 DCP B5.8 and the SEPP (Coastal Management) 2018 for the Coastal Environment Zone.</p> <p>The stormwater concept drainage plan prepared by SDS Engineering meets the requirements of these controls, in that it captures coarse sediments prior to discharge of the stormwater from the land.</p> <p>Sediment and erosion controls must be installed prior to any work on site and maintained until all work is complete and groundcover re-established.</p> <p>The development is in close proximity to an ephemeral watercourse/open drainage channel on the south-western boundary of the property. Due to the riparian area being in an overland flowpath, vegetation should not be planted in the western corner, however, boulders could be used to secure unstable areas on the banks of the channel. Consider planting the banks with native grasses to assist with stabilisation of soil.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	Based on the revised drawings (July 2019) and revised Flood Management Report (August 2019), the proposed development generally complies with the flood requirements of the DCP and LEP.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred for heritage comment as it adjoins two heritage items listed in Schedule 5 of Pittwater Local Environmental Plan 2014</p> <p>"Homesdale" (house) at 19 McCarrs Creek Road, Church point</p> <p>"Rostrevor" (house) at 27 McCarrs Creek Road, Church point</p>
	Details of heritage items affected
	<p>Details of the item as contained within the Pittwater heritage inventory is as follows:</p> <p>"Homesdale" <u>Statement of significance:</u> Homesdale in Church Point, built c1910s by George McRae as a holiday house, has historic and aesthetic significance as a good example of a vernacular weekender house, built of local natural materials to simple designs with traditional construction techniques, typical of the early Pittwater subdivisions. Homesdale is also</p>

Internal Referral Body	Comments		
	<p>significant as the former residence, inspiration and film location for Australian film director Peter Weir.</p> <p><u>Physical description:</u> The property Homesdale is sited on an elevated position above McCarrs Creek Road. It shares a separate access road with 8 other homes (3-23 McCarrs Creek Road), which begins opposite the Pasadena and Church Point Wharf. The land is approximately 70 x 30m, the residence faces NW to the views of Pittwater and Lovett, Elvina Bay, with only one neighbouring property partially visible. The remainders of the surroundings are bushland with mature gums and natives bounding the densely landscaped grounds. Built as a country retreat, the property retains its rural, colonial homestead character and proportions, with the original long, low single storey residence having 13 sets of French doors opening onto long wide surrounding veranda of corrugated iron roofing, lined with cedar boards and balustrade.</p> <p>"Rostrevor" <u>Statement of significance:</u> Rostrevor, at 27 McCarrs Creek Road in Church Point, built c.1886 is a timber and corrugated iron bungalow with historic and aesthetic significance as a good example of a Victorian house dating from the early Church Point subdivision. This waterfront property was built in the late Victorian Filigree style with a decorated cast iron valance and timber skirt basement. <u>Rostrevor is culturally significant for its association with early permanent settlement of McCarr's Creek and Church Point including the locally historic phase of Real Estate Ventures between 1880 and 1920.</u></p> <p><u>Physical description:</u> Rostrevor was built in the Victorian Filigree style as a timber and corrugated iron bungalow, with a decorated cast iron veranda wrapping around the dwelling and date palms on either side of house. The house was initially built on the waterfront before the construction of the road to Church Point. The original structure has been modernized and a highly intrusive brick fence has been constructed at the front of the property. Only one of the early date palms is still located on the side of the house. The dwelling has been renovated several times in the last 30 years. The dwelling has been significantly altered from the original, although its older character is still apparent.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage	No	

Internal Referral Body	Comments
	Register
	NSW State Heritage Register No
	National Trust of Aust (NSW) Register No
	RAIA Register of 20th Century Buildings of Significance No
	Other N/A
	Consideration of Application
	<p>The proposal seeks consent for the construction of a two storey dwelling and a swimming pool on an empty lot of a rear battle-axe land adjoining the heritage items with local significance.</p> <p>The heritage item "Homesdale" is located to the north-east of the property and on an elevated site across the access driveway, in between the subject proposal and the heritage item, for 21 McCarrs Creek Road. Given the separation by the access driveway in between the fall of the land the proposal is considered to not impact upon the heritage item or its significance.</p> <p>The heritage item "Rostrevor" is located to the north-west of the property across the shared driveway for a number of dwellings and on a lower level due to the fall of the land. It is located in close proximity to McCarrs Creek Road leaving a large portion of rear yard. The proposal is considered to not impact upon the heritage item or its significance due to the separation by the location of the heritage item, the dense vegetation in between and the fall of the land.</p> <p>Heritage considers that the proposal will have a neutral impact upon the heritage item and its significance due to its sloping land and battle-axe location, therefore Heritage raises no objections and requires no conditions.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>
	Further Comments
	<p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 17 October 2019</p>
External Referral Body	Comments

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.
NSW Rural Fire Service – local branch (s79BA EPAA)	The New South Wales Rural Fire Service (NSW RFS) has reviewed the information provided and recommended conditions of consent. These conditions will be attached to the consent.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>There are known sites near the current development area, however, no sites are recorded within 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>

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 land 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. 949298S_02).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	54

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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*

- (iv) *environmental protection works,*
- (d) *any other development.*

Comment:

The site is not on land identified as “coastal wetlands” or “littoral rainforest”.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
 - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The site is not on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest”.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal*

*processes
and
current
and
future
coastal
hazards.*

Comment:

The site is not on land identified as “coastal vulnerability area”.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The site falls partially within land identified as coastal environment area. This area is comprised of the battle axe driveway and the northern portion of the site. The application has been referred to Council's Coast and Catchments, Stormwater and Floodplain, Riparian Lands and Creeks, Bushland and Biodiversity, and Development Engineer departments. It has also been referred to the Aboriginal Heritage Office. All referral bodies are satisfied that the proposal will not have any unreasonable impacts in the area. The existing driveway within the coastal environment area is to remain unchanged, and the portion of the new dwelling that will fall into this area is a small section of the overall development. The proposal is for a new dwelling on a vacant lot, which is expected to be developed at some point. Given the satisfaction of Council's experts noted above, the proposal is not considered to have any unreasonable or significant impacts on any of the above matters for consideration.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that*

impact.

Comment:

The new dwelling is situated in the general location that would be expected for development of the vacant site. As discussed above, it is not considered likely to cause any adverse impacts on the matters for consideration referred to in subclause (1).

14 Development on land within the coastal use area

(1)

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The site falls within the coastal use area. The coastal use area matches the coastal environment area discussed above (i.e. it covers the battle axe driveway and northern portion of the site). The dwelling is set well back from the waterway, and being located generally behind other development will not have a significant visual impact on the coast. It will not impact on access to the coast. It will not have any significant impacts on overshadowing, wind funnelling or the loss of views from public places. The proposal has been referred to both the Aboriginal Heritage Office and Council's internal Heritage officer, both of which are satisfied that the application will have no unreasonable impacts with regard to heritage. As such, the proposal is considered to be designed, sited and will be managed (subject to the recommended conditions of consent) to avoid an adverse impact referred to in paragraph (a).

The bulk and scale of the development is generally consistent with the applicable built form controls, with relatively minor exceptions as discussed in this report. Overall the proposal will not be of a bulk and scale out of character with existing development in the surrounding vicinity.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of

coastal hazards on that land or other land.

Comment:

Council's Coast and Catchments officer has commented the application, and found that the proposal is consistent with the matters for consideration under the SEPP. As such, the development is not likely to cause increased risk of coastal hazards on that land or other land.

Pittwater Local Environmental Plan 2014

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	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	10m or established building line, whichever is the greater	Behind established building line to McCarrs Creek Rd	N/A	Yes
Rear building line	6.5m	2.55m	60.8%	No
Side building line	N 2.5m	5.4m	N/A	Yes

	S 1m	1.2 m	N/A	Yes
Building envelope	N 3.5m	Within envelope	N/A	Yes
	S 3.5m	Outside envelope up to 2.2m	62.8%	No
Landscaped area	60%	60.6%	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - 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
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater 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

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.1 Landscaping	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	No	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D4.12 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D4.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

D4.6 Side and rear building line

Description of non-compliance:

The site is part of an unusually shaped battle axe type subdivision, which does not conform to the typical front, rear and side boundaries. For the purposes of this assessment the south eastern boundary has been considered as the rear boundary, with the south western boundary considered a side boundary. The proposed development provides a setback to the south eastern (rear) boundary of 2.55m, which fails to comply with the 6.5m requirement.

Merit Assessment

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

- *To achieve the desired future character of the Locality.*

Comment:

The proposed development is consistent with the desired character statement of the Church Point and Bayview locality. It will be no more than two storeys in height, and integrated into the land form and landscape.

- *The bulk and scale of the built form is minimised.*

Comment:

The proposal is compliant with the maximum height development standard and generally other built form controls, with a relatively minor breach of the building envelope at the front north western corner as the land falls steeply (as discussed in this report). The bulk and scale of the proposal is generally consistent and compatible with surrounding development.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

The siting of the development in relation to the south eastern boundary will not result in any unreasonable impacts upon views to and from public and private places. The site slopes steeply up to the rear, and the properties to the south are significantly higher than the subject site.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment:

The proposal will not result in any unreasonable impacts on views. The dwelling will be set into the slope of the land, with only the upper most part of the roof protruding above the rear of the property (as shown on the survey). There is a shared driveway to the rear (above the site) and neighbour's dwellings are located further up the slope. View loss was not raised as a concern in the submissions, and no unreasonable view loss has been identified.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment:

The proposal will allow for sufficient provisions of privacy, amenity and solar access to be maintained throughout the subject site and adjoining properties, in accordance with the requirements of the relevant planning controls.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment:

The site is a battle axe site and is not highly visible from the street. Three significant trees are proposed

for removal to accommodate the dwelling, however, other significant trees are to be retained. Council's Landscape officer has assessed the proposal and is satisfied subject to conditions of consent.

- *Flexibility in the siting of buildings and access.*

Comment:

Given the unusual nature of the site in both subdivision pattern and steep slope, a degree of flexibility in application of the built form controls is considered reasonable in the circumstances. The proposal will comply with the landscaped open space control, giving an indication that the proposed setbacks do not cause the site to go beyond the general expectation for development of the site.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

The proposal will result in the removal of three trees. As discussed above, Council's Landscape Officer has assessed the proposal and raised no objections to the tree removal. Conditions have been recommended requiring a project arborist to be appointed to ensure that all trees to be retained remain unharmed throughout the life of the development.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

Comment:

The surrounding development is characterised by residential development.

Given the above considerations, it is recommended that the proposal be supported on merit.

D4.8 Building envelope

Description of non-compliance

The front north western corner of the proposed new dwelling (where the ensuite of bedroom 4 is located) will breach the envelope by up to 2.2m. This breach occurs in part due to the orientation of the dwelling compared to the boundary, and the steep fall of the land. The breach reduces from the highest point to where the dwelling will be wholly within the envelope within approximately 3m.

Merit Assessment

An assessment against the outcomes of the control has been carried out below.

- *To achieve the desired future character of the Locality.*

Comment:

The proposed area of variation will continue to sit comfortably with adjoining and surrounding residential development. The proposed landscaping will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. The dwelling will remain two storeys as indicated by the desired character statement. Therefore, the proposed development is consistent with the desired character of the Locality.

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The proposal is well articulated, and is of a scale that is consistent with surrounding environment.

Overall, the proposal will remain below the height of the tree canopy in the vicinity. Given the location of the dwelling on a battle axe lot, it will not be highly visible from the street, and will have no significant or negative impact in this regard.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment:

The development has been designed to generally retain existing significant trees and vegetation on the subject site, whilst maintaining compatibility with surrounding development.

The dwelling will be set into the significant slope of the land, and as such will sit well within the surrounds. The envelope non-compliance occurs at the front corner of the dwelling as the land falls sharply at the boundary. The proposal is considered to achieve this objective.

- *The bulk and scale of the built form is minimised.*

Comment:

The relatively minor encroachment into the side boundary envelope is not considered to cause the development to appear excessively visually dominant. The dwelling house has a compliant building height, and side setbacks that are generally greater than the required minimums. Excavation will mean the dwelling is set into the steep slope, which will also help to minimise bulk and scale. The dwelling will be of a size and scale generally within reasonable expectations for development of the site given the applicable built form controls and surrounding existing development.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

Due to the slope of the site, the proposal will not result in any unreasonable views to and from public/private places. The properties to the rear are located significantly higher than the subject site.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment:

The proposal has been designed in a manner that does not create any unreasonable overshadowing to adjoining and nearby properties. Overall, the spatial separation between buildings is acceptable to mitigate any potential privacy and amenity impacts and is reasonably consistent with the established character of the area.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

The proposal will generally maintain the majority of significant vegetation on site and in the vicinity. The battle axe nature of the site also means that the development will be largely screened from the public road and waterway by development and vegetation on neighbouring sites. The built form will be sufficiently softened in this regard.

Given the above considerations, it is recommended that the proposal be supported on merit, despite the technical noncompliance with the building envelope control.

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**Northern Beaches Section 7.12 Contributions Plan 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$12,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,200,000.

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.

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

In summary, a detailed assessment has been required for the following specific issues:

- Issues raised in submissions
- Boundary setbacks
- Side boundary envelope

The proposal is considered to fall within the general expectations for development of the site given the applicable planning controls. Other issues raised during the notification process have been considered, and adequately addressed. Overall, it is not considered to result in any unreasonable impacts to neighbours or the surrounding area. Subject to the conditions below, the application is recommended for approval.

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 DA2019/0537 for Construction of a dwelling house including swimming pool on land at Lot 6 DP 573492, 23 A McCarrs Creek Road, CHURCH POINT, 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
AWD 100 Revision 1	19.07.19	Dela Design Services
AWD 200 Revision 1	19.07.19	Dela Design Services
AWD 300 Revision 1	19.07.19	Dela Design Services
AWD 400 Revision 1	19.07.19	Dela Design Services
AWD 600 Issue 1	19.07.19	Dela Design Services

Engineering Plans		
Drawing No.	Dated	Prepared By
18241 C000, Issue C	19/07/2019	SDS Engineering
18241 C001, Issue C	19/07/2019	SDS Engineering

Reports / Documentation – All recommendations and requirements contained within:		

Report No. / Page No. / Section No.	Dated	Prepared By
Risk Analysis & Management MT31541	17 August 2018	Jack Hodgson Consultants
Bushfire Assessment Report 190010	24 July 2018	Building Code & Bushfire Hazard Solutions

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan submitted with application (available on Council's website)	Not dated	Mr. Michael McGrath

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Service	Rural Fire Service Referral Response Final	2 October 2019

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

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

4. **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 sewered areas or managed on-site in unsewered 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.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$12,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,200,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

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.

7. **Construction, Excavation and Associated Works Bond (Drainage)**

A Bond of \$5,000 as security against any damage to Council's stormwater drainage infrastructure as part of this consent.

Reason: Protection of Council's Infrastructure.

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

8. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Jack Hodgson Consultants Pty Limited dated 17 August 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification.

<https://www.warringah.nsw.gov.au/sites/default/files/documents/policies-register/environment/water-management-policy/2016-011845-water-management-policy-current.pdf>

A statement of compliance is to be prepared by a suitably qualified Structural Engineer and submitted to Council for approval and Council's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

10. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. The proposed internal driveway is not to be elevated above the natural ground level over the area traversing the existing Council drainage easement.

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

Reason: To ensure suitable vehicular access to private property.

11. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's current PITTWATER DCP21 Clause B5.7 and B5.10 and generally in accordance with the concept drainage plans prepared by SDS Engineering, drawing number 18241 C000 and C001, Issue C dated 19/07/2019.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field.

The drainage plans must address the following:

- i) The connection of the outlet is to be to the Council drainage pit located within the existing driveway.
- ii) The OSD tank is to be clear of the Council drainage easement.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

12. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
 - (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.
- Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

13. Amended Landscape Plan

An amended landscape plan is to be issued to the Certifying Authority indicating the following required information and design requirements:

- i) existing trees to be retained on the plan as recommended in the Arboricultural Assessment and Tree Management Plan prepared by Horticultural Management Services, dated 18 March 2019, including retention of trees on site identified as numbers 1, 2, 7, 10, 11, 12, 13, 14, and 17, and those on adjoining properties numbered as 6, 8, and 9,
- ii) shrub planting at the base of the lower planters to a height of the top of walling to reduce the built form of the development,
- iii) a plant schedule with plant selection, quantities and container sizes.

Reason: to soften the built form and provide landscape amenity.

14. Flooding

In order to protect property and occupants from flood risk the following is required:

Flood Effects caused by Development – A1

The access driveway to the garage is to be constructed at the existing ground level with

Building Components and Structural Soundness – C1

All new development within the Flood Planning Area shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 13.48m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 13.48m AHD.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored within the Flood

Planning Area or below 13.38m AHD in the garage unless adequately protected from floodwaters in accordance with industry standards.

Car parking – G5

The floor level of the proposed garage shall be set at or above the 1 in 100 year flood level (in this area) of 12.88m AHD.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

15. **Pre-Construction Stormwater Assets Dilapidation Report**

A pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.1>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the approval issued to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

16. **Landscape Drawings**

A detailed landscape plan is to be prepared by a suitably qualified landscape architect. The plan is to include a planting schedule comprising at least 80% species that are consistent with the Pittwater Spotted Gum Forest Endangered Ecological Community. Remaining species are to be selected from the appropriate section of the Pittwater Native Gardening Guide. Plans are to be prepared and submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To achieve compliance with technical requirements of Pittwater DCP Clause B4.7.

17. **Compliance with Standards**

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 the Certifying Authority prior to the issue of the Construction Certificate.

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

18. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works

commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

19. **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.

20. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of the driveway and supporting structures to the south east of the site (on 21 McCarrs Creek Road, Lot 2 DP 706435) and the shared driveway located on 23A (Lot 6 DP 573492) and 25 (Lot 8 DP 573492) McCarrs Creek Road. A copy of the report must be provided to the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of shared driveways during construction.

21. **Post-Construction Dilapidation Report**

The applicant must bear the cost of all restoration works to the shared driveways and supporting structures if damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to the driveway and supporting structures to the south east of the site (on 21 McCarrs Creek Road, Lot 2 DP 706435) and the shared driveway located on 23A (Lot 6 DP 573492) and 25 (Lot 8 DP 573492) McCarrs Creek Road prior to the refund of any security deposits, or if there is damage, that this damage has been repaired to a level consistent with the previous state of the structure/driveway.

Reason: To ensure security against possible damage to shared driveways.

22. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- o The south west facing windows from Bedroom 1 and Bedroom 2, labelled "n" on the

approved plans, are to have a minimum sill height of 1.2m above finished floor level. Alternatively, the windows may be opaque glazed to a minimum height of 1.2m above finished floor level. The sill height or opaque glazing may be higher than this minimum if desired by the applicant.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

23. **Tree Protection Measures**

A Project Arborist with AQZ Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for the existing trees nominated for retention and protection in the Arboricultural Assessment and Tree Management Plan prepared by Horticultural Management Services, including complying with sections 12.1 Tree Management Plan (TMP); 14.2 Management of Retained Trees; 15.0 Pre-Construction Tree Protection Measures; and 16.0 Site Management of Retained Trees.

The Project Arborist shall attend site during excavation and construction works within the tree protection zone (TPZ) of existing trees.

The tree protection measures specified in this clause must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- iii) remain in place for the duration of the construction works.

The Project Arborist shall submit certification during all stages of the works (excavation and construction) and prior to Occupation Certificate to the Certifying Authority that all tree protection measures as recommended by the project Arborist have been completed prior to the commencement of excavation and construction works, and have been appropriately maintained during the works.

Reason: to ensure tree protection is provided and maintained.

24. **Tree removal**

The following existing trees are granted approval for removal following assessment and recommendations in the Arboricultural Assessment and Tree Management Plan prepared by Horticultural Management Services:

- o tree 3 - Sweet Pittosporum
- o tree 4 - Large Leaved privet (exempt)
- o tree 5 - Rough-barked Apple
- o tree 15 - Cocus Palm (exempt)
- o tree 16 - Loquat (exempt)
- o tree 18 - Cocus Palm (exempt)

25. **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

26. Maintenance of 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.

27. Protection of Adjoining Property - Excavation

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety

28. Tree and vegetation protection

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

- i) all trees and vegetation within the site identified for retention in the Arboricultural Assessment and Tree Management Plan prepared by Horticultural Management Services (trees 1, 2, 7, 9, 10, 11, 12, 13, 14 and 17), excluding exempt trees and palms under the relevant planning instruments of legislation,
- ii) all 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,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) 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,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) 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,

- x) 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,
- xi) 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.

29. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

30. **Right of way**

All temporary areas and structures used for construction purposes such as stockpiling, bins, fencing, silt and sediment controls and the like are not to obstruct any right of way that benefits other properties.

Reason: To maintain access to neighbouring properties on the shared driveway.

31. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

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

32. **Landscape works**

Landscaping is to be implemented in accordance with the Amended Landscape Plan, approved at Construction Certificate stage.

All new landscaping is to comply with Appendix 5 'Landscaping and Property Maintenance' under Planning for Bush Fire Protection 2006.

Prior to the issue of an Occupation Certificate, a report prepared by a landscape architect, landscape designer or qualified AQZ Level 5 Arborist shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved plans and the conditions of consent.

Reason: to maintain environmental amenity and soften the built form.

33. Authorisation of Legal Documentation Required for Onsite Detention

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineers certification. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

34. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

35. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council.

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 stormwater disposal is constructed to Council's satisfaction.

36. Certification of Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Structural certification prepared by a suitably qualified Structural Engineer demonstrating compliance are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure.

37. Positive Covenant and Restriction as to User for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to

maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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 the on-site detention and/or pump system is maintained to an appropriate operational standard.

38. **Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

39. **Post-Construction Dilapidation Survey**

A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.1>

The post construction dilapidation report must be submitted to the Council for review and the Principal Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure

40. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

41. **Landscape maintenance**

Any existing landscaping required to be retained together with any additional landscaping required by this Consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

42. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

43. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise

website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website
http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

44. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

45. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.



ITEM 3.4**DA2018/2052 - 226 WILLANDRA ROAD, CROMER -
DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS
HOUSING DEVELOPMENT****REPORTING MANAGER****Steve Findlay****TRIM FILE REF****2019/633638****ATTACHMENTS**

- 1 Assessment Report**
- 2 Site Plan & Elevations**

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2018/2052 for demolition works and construction of a Seniors Housing development on land at Lot 1 DP 501045, 226 Willandra Road, Cromer, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2052
Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 1 DP 501045, 226 Willandra Road CROMER NSW 2099
Proposed Development:	Demolition works and construction of a Seniors Housing development
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Ellis Grahame King
Applicant:	Your Corner 360 Pty Ltd
Application Lodged:	21/12/2018
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	09/01/2019 to 11/02/2019
Advertised:	12/01/2019
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,352,755.00

EXECUTIVE SUMMARY

This application is referred to the development determination panel as it involves more than 3 relevant objections, has site works exceeding \$1million and involves the construction of senior's living residential Unit style development.

The proposal involves the construction of four (4) "independent living" as in-fill development as housing for senior's or people with a disability (HSPD). Car parking is to be located in a basement area. The proposal includes some variations to DCP built form controls including side setback (basement), building envelope and ground level terrace for part of the front setback. The site is located adjacent a riparian zone with some minor works at the rear and 'General Terms of Approval' have been provided by the NSW Department of Primary Industry.

Pursuant to the SEPP HSPD, the building does not include any residential building elements within the rear setback, however the proposal has sought a variation to the development standard for the minimum site width requirement of 20m for HSPD. The variation equates to 8.5% (1.71m) and has been considered pursuant to Clause 4.6 (previously applied under SEPP1). The request for variation is considered to have been adequately founded and the design response supportable under the circumstance of the case. The development of the site is therefore not considered to create any unreasonable environmental impacts or create an undesirable precedent within the local area.

Issues raised in the public submissions received have been considered and where appropriate conditions applied to address relevant issues. Some minor design changes were provided by the applicant to address issues relating to streetscape appearance, landscaped open space and deep soil zones along the side setbacks. These minor amendments were made to improve amenity and improve the landscape buffer between adjacent land.

Subject to conditions to manage environmental impacts during site works and post construction the proposal is considered to be satisfactory for approval.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the construction of four (4) x two-storey dwelling Units (in-fill self-care housing) for aged and disabled persons housing, configured in the following manner:

- Demolition of all on-site structures (dwelling house and ancillary works), including tree removal;
- Excavation and site works, including driveway areas, basement and drainage works;
- **RL81.0 Basement:** Carparking for four (4) cars (each 'garage' having full width for disabled persons accessibility), stair access (5) and 4 internal private lifts, plant/services and storage areas.
- **RL11.0 Ground Floor:** Entry area, stairs & lifts, kitchen / dining / living areas, laundry, bathroom, storage, terrace areas, ramped paths, outdoor space;
- **RL14.1 First Floor:** Stairs & lift, bedroom areas (3 bedrooms for each unit), bathrooms (2), storage and secondary balcony spaces (Unit 2 and 3 only);
- Landscaping works including fencing, bins storage, ancillary structures and access paths, including works within the Council's road reserve.
- (Strata subdivision by separate application)

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

Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D2 Private Open Space
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 1 DP 501045 , 226 Willandra Road CROMER NSW 2099
Detailed Site Description:	<p>The subject site is on the western side of Willandra Road, near the corner with Carawa Road. The site is a rectangular shape with a width of 18.29metres (m), depth of 54.86m, and total area of 1,003 square metres (sqm). The land slopes gently toward the west except for the rear section that drops steeply toward the South Creek gully (adjacent public reserve).</p> <p>Vehicle and pedestrian access is available from Willandra Road however some sections along Willandra Road to the nearest bus stops located within 100m of the site (near Lidwina Place) do not have complete connections.</p> <p>The site currently contains a single detached dwelling house, garage and minor structures / outbuildings. Some medium to large trees are located on the property and some will be required to be removed to facilitate the proposal.</p> <p>Adjacent development consists of low density detached dwellings in landscaped settings. The land adjoining the northern boundary is public reserve with a 'battle-axe' shaped lot that extends around the western boundary of the site. The land adjoining the southern boundary is also a battle-access shaped Lot that serves No.224 and 224A Willandra Road. Other land uses in the vicinity of the site include Carawa Road shops and some existing seniors living development along Willandra Road (within 500m of the site at No.81 to 123 Willandra Road and No.51 Little Willandra Road).</p>

The site is subject to flooding near the South Creek but does not contain any significant natural rock outcrops, listed heritage items or significant trees. No threatened species habitat has been identified on the site.

Map:



SITE HISTORY

There are no heritage items on the land and the site will be completely cleared of all structures for the proposal, therefore the history of previous development on the land is not relevant, except for the ensuring the appropriate demolition and safe handling of waste materials to be removed.

Pre-lodgement Meeting PLM2018/0095 for "Demolition works and the construction of a Seniors Living Development *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*" was held with Council on 10 October 2017. The proposal has provided a design response to address issues and comments raised in the PLM.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (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>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. Some design amendments including supplementary additional information was submitted to address some assessment issues and related concerns with access arrangements. This information does not require re-notification (at Council's discretion) in accordance with the WDCP, however contact was made with persons who made submissions to advise of the supplementary information from 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 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 matter has been addressed via a condition of consent, as applicable.</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 79C (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) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 79C (1) (c) – the	The subject land is considered suitable for the proposed development

Section 79C 'Matters for Consideration'	Comments
suitability of the site for the development	<p>in that the land is gently sloping, with access to public transport, local services and shops. The proposal is designed as 2 x 2 storey buildings with a central opening appearing and as 4 joined 'modules'. The development is provided with basement parking under the buildings.</p> <p>The land is subject to riparian flooding. Stormwater disposal will be addressed by drainage of water to creekline at the rear of the property.</p> <p>The site is located within suitable distance and gradient to public bus stops, along Willandra Road</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest, subject to conditions. Issues raised in public submissions have been considered and addressed in summary within the detail of this report.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

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 process council is in receipt of 3 submission/s from:

Name:	Address:
Mrs Robin Anne Oxenbury	117 Carawa Road CROMER NSW 2099
Mrs Fiona Jean Jones	224 Willandra Road CROMER NSW 2099
Mr Christopher Paul Bailey Mrs Vicki Maree Bailey	224 A Willandra Road CROMER NSW 2099

The following issues were raised in the submissions and each have been addressed below:

- Inadequate site area

- Overshadowing
- Privacy
- Building layout
- Neighbourhood character and bulk
- Traffic and safety
- Visitor and service parking
- Construction / excavation impacts
- Removal of existing trees
- Extra bins required

The matters raised within the submissions are addressed as follows:

- ***Concern that the land area required is 1200sqm under the planning controls and the site is too small.***

Comment:

The minimum land area required is 1000sqm for SEPP HSPD development and the subject site is 1003sqm which complies with the minimum area development standard. Other development standards applicable to HSPD development are detailed within the content of this report.

In summary, the proposal is consistent with the objectives of the numerical standards applicable to the development and the proposal has been designed to ensure no unreasonable environmental impact from any non-compliance with the numerical built form controls.

- ***Concern that the driveway to 222B Willandra Road will be affected by the development work including border landscape planting and dampness on the driveway from overshadowing.***

Comment:

Landscape impacts have been considered in accordance with design guidelines under the SEPP HSPD and Warringah DCP. The development site has been inspected, including consideration of adjacent land with respect to existing structures and overshadowing. The proposal includes excavation near the boundary edge for part of the basement / driveway and existing boundary will be replaced with new 1.8m 'lapped and capped' fencing where appropriate. The extent of overshadowing is not considered to create any unreasonable impacts on driveway surface areas or neighbours landscaping. In addition to this conditions are recommended for a dilapidation survey prior to site works and also that the applicant provide new fencing where the existing fencing is no longer fit for purpose.

This issue is not considered to warrant refusal of the application.

- ***Concern that the proposal has large rear windows and may impact on privacy for neighbour's adjacent open space at the rear.***

Comment:

Privacy impacts have been considered in accordance with the design guidelines under the SEPP HSPD and Warringah DCP. The proposal is shielded at the rear by landscaped buffers of 2.0m to 3.0m and side boundary fencing. At the rear, the proposed living areas and the rear terraces are oriented to view toward the west, being the gully area of South Creek. The upper storey of the building contains bedroom areas only that are low use rooms during the day and at night time are principally used for sleeping. The upper balcony for Unit 3 is narrow, being suitable as a standing space only and includes side walls to shield the rear windows and direct internal view lines toward

the west.

Visual and acoustic privacy is managed by ensuring private open spaces (balconies or terraces) are adjacent other private open space areas or oriented toward the street / rear boundary (school). In addition, ground level areas along the side and rear boundaries are protected by 1.8m high fencing and may also be partly lower than adjacent land due to site excavation work.

The side, rear and front setbacks contain landscape screen planting with appropriate planting to assist privacy. For the upper storey the proposal has adopted the use of fixed privacy screens to minimise any overlooking opportunities and ensure no unreasonable impact. The access is centralised for pedestrian movements at the front of the property and to / from the basement that ensures no loss of privacy from the carparking area or the public entry to the building. In summary the proposal is not considered to create unreasonable privacy impacts for adjacent land in the context of urban living within a residential area.

Therefore, this issue has been addressed by the building design response and conditions and does not warrant refusal of the application.

- ***Concern that the proposal should be mirror-reversed to reduce amenity impacts on the southern side of the site and adjacent land of No.222, No.224 and No.224A Willandra Road.***

Comments:

The staggered layout has been influenced by the basement position of internal lift shafts and driveway length required to provided basement parking. This has influenced the off-set detached style layout for the Units. Overall the proposed development does not depart significantly or inappropriately from the density, scale or appearance of adjoining and nearby development. The design provides generous side boundary setbacks (above ground level) ranging between 0.9m and 4.2m along each side of the site the the length of wall proposed to a maximum of 15m where they are within 2m of a side boundary. Notwithstanding this, the northern and southern walls are both adjacent to driveways / accessways on each side for battle-axe lots.

Therefore, this issue has been addressed by the building design response and conditions and does not warrant refusal of the application.

- ***Concern that the proposal is out of character with the streetscape presentation and neighbourhood character, including building bulk, site layout and residential amenity.***

Comment:

In assessing the proposal Council has been mindful of the following matters in terms of local streetscape or neighbourhood character (including the relevant requirements of SEPP HSPD and assessment principles by the NSW LEC in *GPC No.5 (Wombarra) Pty Ltd v Woollongong City Council [2003] NSWLEC 268*):

- What is the relevant area?
- What does "consistent" mean?
- What is the local character?
- What is the character of the proposed development?
- Is the character of the development consistent with the local character?"

Surrounding development is dominated by low density residential development of either one or two storeys, mostly with hipped / gable roofs in a landscape setting. Building styles of the homes are mostly post war period within the relevant area that includes the visible surroundings from the site and extended to the immediate local surrounds within 200m (being the connection route

to local transport that the proposal depends on). There are a number of HSPD "village" developments and single site HSPD developments in the vicinity (within a direct 400m of the site), indicating the current or past development approval of these medium density styles of housing.

Despite the higher density of the proposal, the architectural style including external materials and colours are broadly consistent with the residential character of the area, which includes the common use of external colours such as brown, dark grey, and earthy colours. The use of external materials of timber cladding, brickwork, glass sliding doors pressed metal cladding and the like appears in the streetscape. The architectural style of the proposed building is however more contemporary in appearance than the existing surrounding housing stock, due to the proposed roof style, window fenestration, balcony style and wall treatment used. The building maintains a consistent landscape setback to the street and a residential character by the use landscaped surrounds, pedestrian entry treatment and dividing the mass of the building into 2 'modules' with two different roof styles.

Some minor changes have been made to refine the design in terms of basement setbacks, deep soil landscaping, residential appearance to the street and driveway access. These minor changes are considered to be appropriate to assist in a "good fit" for the development to adjacent land, and design considerations of SEPP HSPD. Further detailed assessment of streetscape is made under the DCP and SEPP HSPD assessment within this report and in conclusion the proposal is considered to be satisfactory, subject to conditions addressing the relevant issues.

In summary, this issue has been addressed by the design and does not warrant refusal of the application.

- ***Concern that the proposal will generate increased traffic and create safety issues in the adjacent street.***

Comment:

The proposal has been submitted with a detailed "Traffic and Parking Assessment", dated October 2018. This report addresses local road capacity for traffic volumes, access to public transport, vehicle access, parking layout, road conditions, parking and general traffic safety considerations.

Council's Traffic Engineer has assessed the proposal and raises no objection to approval of the development, subject to conditions. The proposal is required to comply with current Australian Standards to ensure safe sight distances for vehicle access / egress, parking and maneuvering space.

The available parking is considered to be adequate for each Senior's Living unit. The traffic volumes for the proposal will not cause an unreasonable impact on parking. Traffic issues during demolition and construction and short term impacts and therefore do not warrant refusal of the application. In addition, Willandra Road is satisfactory for access to the site as a local road in terms of sight distances, gradients and residential speed limits with road condition of a good standard, being not dilapidated or too steep and difficult to navigate.

In summary, this issue has been addressed by conditions and does not warrant refusal of the application.

- ***Concern that the proposal does not have adequate parking for visitors.***

Comment:

The SEPP HSPD prevails over the Warringah DCP for carparking requirements and SEPP HSPD contains overriding standards that "cannot be used to refuse development consent for self contained dwellings". In this case the proposal satisfies the requirements of the SEPP HSPD disabled persons car parking access and for "0.5 car parking spaces per bedroom per dwelling" (equates to 1.5 per dwelling).

For 'self-contained dwellings' the SEPP HSPD does not require or specify that visitor spaces must be provided to service the four (4) HSPD dwellings. Notwithstanding this, the design shows that cars can enter and leave the site in a forward direction and the driveway will comply with Council's driveway access requirements and Australian Standards, including sight distances for safe driveway access.

In addition, the site is within a low density area and kerbside is available with access to footpath connections to the site. Conditions are included for the construction of a footpath connection to ensure the required pedestrian link to a local bus stop is provided. This also ensures an alternative option to car travel.

Therefore, subject to conditions this issue does not warrant refusal of the application.

- ***Concern that construction impacts will remove existing site trees (including 'Christmas bush') that may include street trees.***

Comment:

Detailed information regarding the proposed removal of trees is provided within the Arborist Report submitted with the application. Details are also provide to address pathway construction to minimise impacts on street trees. No trees on adjacent private property are proposed to be removed and conditions are included to minimise excavation within 1.0m of the side boundary. Council's Landscape Officer has reviewed the Arborist Report, Landscape plan and development application details and has no objection to the proposed tree removal and replacement planting, subject to conditions. Replacement planting includes a range of native species that are suitable habitat and feed species for birds and local wildlife.

Therefore, this issue is addressed by conditions and is not considered to have determining weight to warrant refusal.

- ***Concern that the proposal will have amenity impacts on adjacent land in terms of excavation and works near the side boundaries.***

Comment:

Concern has been raised that excavation within the setback areas may affect adjacent structures, trees, assets, drainage or fence stability. In order to minimise impacts from these concerns it is recommended that excavation along the side boundaries for the proposed be graduated and stepped down in tiers. This has been discussed with the applicant and amended plans provided to achieve a lowering and / graduating of retaining wall near the side boundary, integrated with landscaping where practicable and to maintain continuity of cross boundary site levels pursuant to Part C7 of the Warringah DCP. This issue is addressed by conditions to ensure no unreasonable amenity impact on adjacent property.

Conditions are recommended to address site construction and potential dilapidation risk issues, including the appropriate safe handling of asbestos, control of dust and noise. In addition this,

conditions are required to ensure the development adequately contains erosion and sediment and does not create unreasonable impacts on the amenity of adjacent land during construction.

In summary, the above matters have been fully considered as part of the public submission issues and the objectives and requirements of the SEPP HSPD, WDCP 2011 and WLEP 2011.

- **Concern that the proposal will require extra bins to be along the street frontage during collection days.**

Comment:

Bins will be held within the property boundary inside the 'bin holding area' for collection days and will therefore not create any additional clutter on the street. Bins are then returned to the basement bin room by the Strata Management contractor after Council's waste collection service is complete.

Therefore, this issue has been addressed by the design and conditions of consent and does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department.</p> <p>There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
Landscape Officer	<p>The plans indicate removal of one street tree forward of the site. The tree is addressed in the Arborist's report provided and is in poor condition. No objections are raised to removal.</p> <p>The remainder of trees on the site are proposed for removal. The trees are not considered significant and, subject to replanting of new trees as indicated on the landscape plan, with the addition of 2 canopy trees, no objections are raised to removal.</p> <p>The plans also indicate that a new footpath is to be provided along Willandra Road. the Arborist's report addresses impacts on trees and it is recommended that a project arborist be required to address tree protection during works.</p> <p>No objections to approval subject to conditions as recommended.</p>
NECC (Bushland and Biodiversity)	<p>The application has been assessed against the DCP Controls E4 Wildlife Corridors , E7 Development on land adjoining public open space. The development will remove 17 trees from the site, including some exempt species. The Landscape Plan provided must be</p>

Internal Referral Body	Comments
	<p>amended prior to construction certificate to address the relevant control objectives such as the following</p> <ul style="list-style-type: none"> • To provide natural habitat for local wildlife, maintain natural shade profiles and provide psychological & social benefits. • To retain and enhance native vegetation and the ecological functions of wildlife corridors. • To reconstruct habitat in non vegetated areas of wildlife corridors that will sustain the ecological function of a wildlife corridor and that, as far as possible, represents the combination of plant species and vegetation structure of the original 1750 community. • Development is to utilise landscaping or existing landscape elements to screen development. <p>The areas shown as shrub beds in the rear must amend proposed species to meet the objectives. Additional native trees should be provided in the front and rear shrub bed areas. The inclusion of <i>Ceratopetalum gummiferum</i> NSW Christmas Bush, as highlighted within one of the submissions is also recommended. Additional information is available on Councils website to assist in selection of suitable locally native tree, shrub and ground cover species.</p> <p><u>Planning Comment:</u> The above matters are addressed by conditions to include a mix of native species suitable for wildlife habitat and to enhance the adjacent riparian reserve.</p>
NECC (Development Engineering)	<p><u>Driveway:</u></p> <p>The access driveway does not adequately provide for the passing of vehicles within the property boundary. Discussions with Traffic Engineering section have determined the provision of a passing bay 5.5m wide for a minimum 6m from the back of kerb to be provided. This may have an impact on street trees in the vicinity of the access driveway. Potential conflicts of vehicles entering and exiting the property shall also be considered, including available sight distances to the public road. It is noted that the proposed access arrangements are substantially different from those proposed at pre-lodgement. Any future submission should be referred to Traffic Engineering section for further assessment.</p> <p>In addition, pre-lodgement advice required the provision of a pedestrian refuge island within Willandra Road. This may have an impact on on-street parking and should be referred to Traffic Engineering section for assessment.</p> <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> Vehicle access for the development in accordance with clause C2 Traffic, Access and Safety. <p><u>Further assessment dated 13/8/2019</u></p> <p>Reference is made to revised architectural plans (trim no. 2019/127934) and comments previously made by Council's Development Engineers (trim no. 2019/078245).</p> <p>The architectural plans do not address comments previously made by Council's Development Engineers with respect to provision of passing bay, sight distance, etc.</p> <p>It is unclear if Council's Traffic Engineer Team has reviewed and commented on the architectural plans and the traffic report (trim no. 2019/127930) with respect to provision of passing bay, sight distance, pedestrian refuge, etc.</p> <p>All comments by Council's Development Engineers are still outstanding and needs to be addressed by the applicant.</p> <p>Proposal is not supported due to lack of information to address:</p> <ul style="list-style-type: none"> Vehicle access for the development in accordance with clause C2 Traffic, Access and Safety. [Applicant advised that traffic island info is within the Traffic report separate to the Architectural plans] <p>Further Development Engineering Assessment comments 23.9.2019</p> <p>A new driveway plan has been submitted. Development Engineering raises no objection to the driveway issue.</p> <p>However, it is still unclear on the above refuge island matter. Council's Traffic Engineer shall review and comment on the matter. As such, Development Engineering provided the following conditions.</p> <p>If there is any amendment on conditions is required, please refer the application back to Dev Eng.</p> <p><u>Planning Comment:</u></p> <p>Traffic Engineering have assessed the proposal and do not require a traffic island. Therefore engineering issues have been addressed by conditions of consent.</p>
NECC (Riparian Lands and Creeks)	No objection to the proposed development subject to conditions. Water quality matters will be dealt with under the Water Management Referral.

Internal Referral Body	Comments
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed development generally complies with the flood requirements of the DCP and LEP.
NECC (Water Management)	The development area is below the trigger area of 1000m ² . No objection to approval with no additional conditions recommended.
Parks, reserves, beaches, foreshore	No comment subject to conditions.
Strategic and Place Planning (Urban Design)	<p>The general design, articulation and site planning can be supported, with the following comments to be considered in the final design:</p> <p>1. SEPP Housing For Seniors or People with a Disability</p> <p><i>2 Aims of Policy</i> <i>(1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:</i> <i>(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and</i> <i>(b) make efficient use of existing infrastructure and services, and</i> <i>(c) be of good design.</i> <i>(2) These aims will be achieved by:</i> <i>(a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and</i> <i>(b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and</i></p> <p><i>Part 4 – Development Standards to be Complied With</i> <i>Division 1 General</i> <i>40 Development Standards – minimum sizes and building height</i> <i>(3) Site Frontage</i> <i>The site frontage must be at least 20 metres wide measured at the building line.</i></p> <p>RESPONSE The less than 10% variation in the lot width expressed as 8.5% or 1.7m less than the required width of 20m in accordance with the SEPP control is acceptable.</p> <p>2. SENIORS LIVING POLICY : Urban Design Guideline for Infill Housing 2004</p> <p><i>2 Site Planning and Design</i> <i>Objectives</i> <i>- To minimise the impact of new development on neighbourhood character.</i></p> <p>RESPONSE The comments below regarding material selection and Side Boundary Envelope seek to address the minimisation of impacts on the neighbouring properties.</p>

Internal Referral Body	Comments
	<p><i>4 Impacts on Neighbours</i></p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> - to minimise impacts on the privacy and amenity of existing neighbouring dwellings - to retain neighbours' views and outlook to existing mature planting and tree canopy - to provide adequate building separation <p><i>Design Principles and Better Practice</i></p> <ul style="list-style-type: none"> • Reduce the visual bulk of roof forms by breaking down the roof into smaller elements rather than having a single uninterrupted roof structure • Design the relationship between buildings and open space to be consistent with the existing block patterns <p>RESPONSE</p> <p>The following comments provided are in relation to the material selection of the standing seam metal cladding to the upper level cantilevered storey to TH2 and TH3. Whilst the variation of materiality is acceptable as a device for creating modulation and variation across the development, concern as to the industrial nature of the standing seam metal clad units that may be perceived as an industrial container type mass. The monolithic nature of the whole box/unit cantilevered above ground may be perceived as quite harsh and monolithic by neighbouring residents. Conversely the articulation and treatment with the timber batten detail and vertical modulation that defines the fenestration to the external facades of TH1 and TH4 has a more residential feel and is perceived as softer and lighter in form and mass in the natural bushland setting. A balance between metal wall cladding and timber batten finishing to the standing seam metal clad units is highly encouraged to reduce the impacts of development to the neighbouring properties.</p> <p>As will be discussed further in B3 Side Boundary Envelope the general arrangement on site assists to relieve the development of a single monolithic roof treatment and is generally supported. The design assists to reduce the impacts of the roof to the wider neighbourhood catchment.</p> <p>Adjustments to the roof to comply with the control may result in altered building mass and roof form. This should be embraced as a constraint and worked through the detail of the proposed development.</p> <p>3. Built Form Controls</p> <p><i>DCP 2011</i></p> <p><i>B3 Side Boundary Envelope</i></p> <p>RESPONSE</p> <p>The proposed development drawings do not demonstrate the extent of non-compliance with the Side Boundary Envelope.</p> <p>Whilst it is noted the site is bounded by driveways on both sides the</p>

Internal Referral Body	Comments
	<p>control exists not only for existing development but for future development that will abut the proposed development in the future. Measured off the drawings the approximate breach is about 1 above the four metre requirement. Compliance with this control can be readily achieved. There is scope to address the compliance by amending the mass and form of the roof to achieve compliance with the Building envelope control. Drawings demonstrating compliance will be required prior to issue of a construction certificate.</p> <p><u>Revised Urban Design Referral Response 10.10.2019</u></p> <p>Regarding points 5 and 6, I am satisfied from an Urban Design point of view that the applicant has addressed the main issues.</p> <p>I take their point on the clean architecture line and agree with their design resolution. Additional plynths etc will only create unnecessary clutter and not contribute to the overall scheme.</p> <p>It seems all the other points have been covered off.</p> <p>TRIM ACTION COMPLETED.</p> <p><u>Planning Comment</u> The building has been assessed in accordance with the Warringah DCP 2011, LEP 2011 and SEPP HSPD. A detailed merit assessment has been made where there is any non-compliance to the built form controls, including setbacks, building envelope and site criteria. Refer to merit consideration under the heading 'built form controls' within this report.</p>
Traffic Engineer	<p>The proposal is for demolition of existing on the existing buildings on the site and construction of 4 x 3 bedroom townhouses for seniors. The proposal includes provision for 8 x offstreet car spaces within a basement parking area.</p> <p>The parking provisions exceed DCP requirements and are acceptable.</p> <p>A single lane driveway of 3.5m in width is proposed with a widening to 5.5m for the first 6m behind the kerb alignment to allow for passing/temporary storage of opposing vehicles. The Traffic Report submitted with the development application has calculated the anticipated the peak hour traffic generation from the development to be 2 vehicle trips per hour. The chances of two vehicles meeting on the driveway are slim and the driveway widths are therefore considered acceptable.</p> <p>As required by the Housing for Seniors SEPP access to public</p>

Internal Referral Body	Comments
	<p>transport must be available within 400m of the development. As there is a frequent bus service operating along Willandra Road and bus stops sited on either side of the road within 100m of the development it is feasible that this requirement can be met. A Public Transport Accessibility Report has been submitted with the application in which it is outlined that a footpath and pram ramps will be provided between the development and the bus stops near Lidwina Place. This change will ensure that a suitable level of access to public transport is available and the installation of a pedestrian refuge in addition to the above work is not considered warranted.</p> <p>Approval of the development subject to conditions is not opposed.</p>
Waste Officer	<p>Waste Services recommend a full sized holding room be built within 6.5m of the front boundary and do not support the single holding space shown in the basement with bins brought up on collection day.</p> <p><u>Planning comment</u></p> <p>A bin holding facility is located at the front setback adjacent the driveway in addition to the main basement bin room. The Body Corporate will arrange for bins to be brought up to the holding bay on collection day and returned. This arrangement is at the applicants cost.</p>
Waste Officer	<p>The applicant has not complied with the Northern Beaches Council Waste Management Guidelines as follows. A redesign is required to ensure compliance.</p> <p>Bin room design and location The applicant is to ensure there is a bin room at street level to facilitate a wheel out and return service by Council and/or its agents. The bin room is to be able to accommodate 4 x 240L bins required for 4 dwellings.</p> <p>The bin room is to be located within 6500mm of the front property boundary.</p> <p>The pathway and access between the Waste Storage Area and Collection Point will be: a) Solid, concrete, continuous, non-slip and clear of any obstructions and steps. b) A maximum ramp gradient of 1 in 8. c) Hazard free and not via a pathway with vehicular traffic. d) A minimum width of 1200mm.</p> <p>Any doors fitted on the Waste Storage Area, pathway and access will be:</p> <p>a) A minimum width of 1200mm. b) Able to be latched in an open position. c) Unobstructed by any locks and security devices. d) Openable in an outward direction.</p> <p><u>Planning Comment</u></p> <p>Waste Services recommend a full sized holding room be built within 6.5m of the front boundary and do not support the single holding space shown in the basement with bins brought up on collection day.</p>

Internal Referral Body	Comments
	A bin holding facility is located at the front setback adjacent the driveway in addition to the main basement bin room. The Body Corporate will arrange for bins to be brought up to the holding bay on collection day and returned this is convenient for seniors living to take their waste to their internal bin room . This arrangement is at the applicants cost and is satisfactory as an alternative arrangement to having two full sized bin rooms on site.

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>The Aboriginal Heritage Office (AHO) provided a referral response on 14 January 2019 that 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 <i>NSW Office of Environment and Heritage</i> (OEH) and the <i>Metropolitan Local Aboriginal Land Council</i> should be contacted, which is addressed by conditions of consent.</p>
Nominated Integrated Development – Department of Industry – Natural Resources Access Regulator (Controlled Activity Approval for works within 40m of watercourse)	<p>The proposal was referred to the Department of Primary Industries (Water) due to involving works with a riparian zone. A referral response was provided on 1 May 2019 with the Natural Resources Access Regulator's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the Water Management Act 2000 (WM Act).</p> <p>These requirements are to be included with the recommended conditions.</p>

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 (Housing for Seniors or People with a Disability) land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.977701M).

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

Commitment	Required Target	Proposed
Water	40	45
Thermal Comfort	Pass	Pass
Energy	50	52

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

SEPP (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 (also referred to as 'Seniors Living').

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 four dwelling Units for self-contained living of seniors housing or people with a disability. Each Unit has access to a compliant disabled persons parking space with their own basement garage area. The development will increase the supply of seniors housing in Warringah and has been designed to meet the demand for independent living for seniors as "in-fill self-care housing".

b) The proposal is within an established low density residential area with access to public transport (buses) enable through travel to the central business areas of Dee Why, Narrabeen / Mona Vale, Brookvale and the city. The site drains to the South Creek at the rear and has available service access to a sewer line, reticulated water, electricity and telecommunication's services.

c) The development is of a contemporary design the four dwellings split into 2 x 2 storey modules in the central area of the site. A landscaped setting is retained toward the street frontage and for the rear setback. Four (4) internal lifts and stairs give access between the basement carpark and each floor for each private unit.

The proposal complies with the built form controls of the SEPP and, subject to conditions, is considered to be consistent with general detached style character of the area, albeit with a higher dwelling density (permitted by the SEPP). Subject to conditions, the use of landscaped setbacks and building design has been made to ensure no unreasonable amenity impacts from overshadowing, privacy, stormwater, excavation, building bulk and visual appearance on the surrounding land or streetscape.

Chapter 2 – Key ConceptsComment:

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 has access to public transport (buses) services to the central business areas of Dee Why, Brookvale, Narrabeen / Mona Vale and connecting services to the City. 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 400 metres away.	The site is within 100m walking distance of two bus stops on Willandra Road, subject to a short pedestrian path connection to be constructed. The bus route has access to regular services for Narrabeen / Mona Vale and the northern beaches, and southbound for Dee Why, Brookvale and connecting services to the city. A pedestrian crossing is to be constructed for safe access to bus services to the opposite side of Willandra Road. There is a group of local shops nearby (eastward) at Carawa Road that is a convenient distance but these shops are not relied upon for the purposes of this assessment.	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
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 has a landscaped setting with a single dwelling houses adjacent and a bushland creek gully to the rear (public reserve). The proposal is regarded as "infill" development under SEPP HSPD within low density residential environment. A landscaped setting will be maintained for the proposed buildings by the use of perimeter plantings in the front, side and rear	Complies

Development Criteria			
Clause	Requirement	Proposal	Complies
	i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development 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.	setbacks, including the replacement of existing trees. ii) All stormwater will drain to the creekline at the rear and the site will use on-site stormwater detention to manage stormwater flow. Off-street visitor carparking is not a mandatory requirement for this development under the SEPP, however each unit has a double width garage space and kerbside parking is convenient and safe for the location. The proposal will also be subject to Section 94A contributions to assist in providing future demand for local services and infrastructure as appropriate. v) The building uses a flat roof section and hipped roof section with a contemporary appearance. The adjacent housing stock has a mixed appearance with most buildings constructed in Australian post-war styles, some having undergone substantial renovation / alterations over time. Subject to conditions the proposal is acceptable with regard to the the residential character the surrounding area.	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	Site analysis provides detail of 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	Built Environment – New development is to follow the patterns of the existing residential neighbourhood in	<u>Built Environment:</u> The pattern of neighbourhood development in the vicinity of the site is dominated by detached style

Section	Requirements	Comment
	<p>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> dwellings in landscaped settings. While the minimum lot size individual dwellings is 600 sqm within the zone, the SEPP permits higher density of housing for the purposes of the SEPP. Increased densities of housing also exist in proximity to the site in the form of other seniors living development, including "Willandra Bungalows" and "Willandra Retirement Village". More recent HSPD development near the site was made under DA2018/1835 in Carrawa Road.</p> <p>Therefore, the pattern of development contains a mix of low density development with places of higher density housing interspersed. The development will maintain semi-detached appearance within a landscaped setting. The use, for residential purposes, is compatible with the context of surrounding residential development, subject to conditions.</p> <p><u>Policy Environment:</u></p> <ul style="list-style-type: none"> • The Warringah LEP 2011 has objectives for the zone that determine the character of the area be made up of housing that provides for the needs of the community within a low density environment; • 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 achieves these objectives for the character of the</p>

Section	Requirements	Comment
		<p>area in that it will provide to the high demand within the community for HSPD housing. In this case that housing is provided in detached style of villa units that have a compatible built form bulk and height to surrounding development. The units are designed with pitched roofs to be compatible with the visual appearance of surrounding low density dwellings.</p> <p>The proposal does not have an adverse impact on the provision of other facilities and service uses in the locality.</p> <p>The site complies with landscaping requirements of the SEPP and will maintain a landscape setting that includes native plants and trees to maintain harmony with the natural environment of Warringah and wider Northern Beaches area.</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 2 x two storey buildings with 4 Units in total. The setbacks and landscape setting combined with building articulation, external materials, balconies and fenestration are separated to address site planning and design need with a priority for accessibility needs of the occupants. Conditions are however recommended to address impacts on adjacent land that are reflected by building bulk and non-compliant floor space ratio which translates to spatial separation issues that affect the amenity of adjacent development.</p> <p>Carparking is located within a basement area that provides adequate carparking and access to comply with the SEPP. All cars are able to enter and leave in a forward direction.</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p>	<p>Subject to conditions, the proposal will provide for appropriate levels of</p>

Section	Requirements	Comment
	<p>-Minimise impacts on the existing streetscape and enhance its desirable characteristics</p> <p>-Minimise dominance of driveways and car park entries in streetscape.</p>	<p>amenity for HSPD without creating unreasonable impacts on the adjoining properties, particularly as a result of building scale, overshadowing or privacy concerns. Some minor design changes have enabled the applicant to satisfy objectives for streetscape character, access and desirable outcomes for landscape open space.</p> <p>A replacement driveway entry will be provided for the vehicle access to the basement. Thus, the parking area is concealed and the entry points integrated into the side setback area. Landscaping areas are utilised to soften the streetscape appearance of the building.</p>
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	<p>Subject to conditions, the proposal will not cause unreasonable impacts on neighbours amenity by the use of landscaping, building design to minimise overlooking, adequate spatial separation to minimise overshadowing, plus the provision of parking and drainage works accordance with Council's policy.</p> <p>Excavation and potential geotechnical risks during construction have been considered and are addressed by conditions reasonable for the proposed works. During construction, conditions will ensure safe best practices are employed for protective measures and appropriate design details to accompany the construction certificate.</p> <p>Conditions of consent are also recommended to address other relevant potential environmental impacts during construction (such as safe handling of asbestos and dilapidation risks) and ensure compliance with relevant environmental controls.</p>
5. Internal site amenity	Objectives of this section are	Safe pedestrian access is provided

Section	Requirements	Comment
	to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	from the public domain and internally for the development by ramps and pathways. Off street parking for residents is provided and complies with <i>Australian Standards</i> and the SEPP HSPD. The site has a moderate fall to the rear safe pedestrian gradients are available within the site. At the rear setback area landscaping is proposed to utilise the steeper gradient toward South Creek gully.

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 visual and acoustic privacy, detached style of development in landscaped settings, open space buffers of rear setbacks and private living environment with minimal overshadowing, parking availability and good road access to services and facilities.	Complies
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	No heritage items are on the site or in close proximity.	Complies
	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	Reasonable neighbour amenity will be maintained in that the proposal has been designed: i) to satisfy the objectives of the building setback controls and height controls to minimise overshadowing impacts. Non-complying elements are considered on	Complies

Control	Requirement	Proposed	Compliance
	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.	merit and acceptable with no unreasonable impact. ii) to provide a site layout that is practical and has an orderly and efficient layout that maintains opportunities for deep soil landscaping. iii) to comply with building height and ensures the landscaped front setback and fencing are compatible with the appearance of other residential development along Willandra Road and Carrawa Road. iv) to ensure no dwelling wall above ground are located on the boundary.	
	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 the building wall comply with the 6.5m setback requirement. The wide front setback proposed is consistent with the established larger setbacks for dwellings on either side of Willandra Road near the site.	Complies
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	Small to medium sized trees and shrubs are used that include perimeter planting and landscaping within the spaces (planter boxes) between the dwellings. Landscaped open space and deep soil zones are provided at the front of the site and toward the rear of the site to enable reasonable continuity with adjacent gardens /land along the boundary. A mix of native small to medium canopy trees will be used for replacement tree planting on the site.	Complies
	f. retain , wherever reasonable, major	The major trees in the centre area of the site cannot be	Complies

Control	Requirement	Proposed	Compliance
	existing trees, and g. be designed so that no building is constructed in a riparian zone.	effectively retained as this area will be dedicated for buildings and basement excavation. The site is affected by a riparian zone but the building is clear of this zone. General Terms of Approval were provided by the Natural Resource Access Regulator in their referral response dated 1.5.2019.	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 at ground level are adjacent other private open space areas and separated by fencing and landscape screening. Upper floor balconies are provided with fixed privacy screens. The upper floors contain a secondary bedrooms and bathrooms along the side setbacks with living areas at ground level oriented toward the street or rear setback or internal courtyards. Changes to site levels along the boundary are recommended to remain compatible with adjacent natural levels to minimise overlooking at ground level such as from rear terrace areas. Pathways will use bollard / directional lighting to minimise glare from security lighting. Conditions are recommended that the applicant provide replacement "lapped and capped" timber fencing where existing sections are dilapidated or no longer fit for purpose as a dividing fence between adjacent land.	Complies

Control	Requirement	Proposed	Compliance
CL35 Solar access and design for climate	The proposed development should: (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 (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.	Solar access requirements are maintained that will comply with the Warringah DCP controls in relation to neighbour's properties and private open space within the development. Details of overshadowing are shown on plans DA500 to DA550, drawn by Walsh Architects. The proposal has been submitted with a BASIX certificate and energy rating assessment to demonstrate that the dwellings will meet performance standard for thermal and cooling condition for sustainable building design and comfortable living.	Complies
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	The stormwater in accordance with Council's stormwater policy, and <i>Technical Specification</i> . Note that the site is flood prone at the rear, however the design setback is satisfactory for Council's flood assessment controls.	Complies. Subject to standard engineering conditions.
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (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	The driveway access is provided for the site that can be observed from within the site. Bollard lighting will be provided to ensure pathway areas are lit for safety and security. Access entry area are limited to two dwellings where doorways are close to each other. Visibility of approach is maintained.	Complies.

Control	Requirement	Proposed	Compliance
	street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.		
CL 38 Accessibility	The proposed development 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.	Willandra Road will require a short concrete footpath connection to be made to the closest bus stops within . Engineering conditions are included to ensure compliant safe pathway access connection is made to the bus stop. Carparking and driveway areas are landscaped along their edges and the carparking area within the basement that includes resident and visitor parking that complies with AS2890. Parking for residents and visitors is addressed by considerations made specific to the site. An access report has been provided by <i>Atchitecture & Access</i> , dated 31 October 2018, demonstrating appropriate access requirements have been met to satisfy SEPP HSPD.	Complies
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 in the basement with bins to be presented in a holding bay at the front of the site on collection day. The bin storage room complies with Council's Policy under the <i>Part C9 Waste Management</i>	Complies

Control	Requirement	Proposed	Compliance
		of the Warringah DCP.	

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 sqm	1,003 sqm	Complies
Site frontage	20 metres	18.29m (Willandra Road)	Refer to "Clause 4.6" written request for variation and merit assessment.
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.8m	Complies
	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 building walls above ground level are 1.0m 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. Consideration of the objectives of the 25% rear height control setback is made to assess consistency against the urban design objectives sought by the SEPP HSPD.	Applies to zones where residential flat buildings are not permitted. The rear 25% of the site covers an area 13.7m x 18.29m = 250.5.5 sqm. Within this area there are no two storey elements. <ul style="list-style-type: none"> Setback to the two storey elements is 13.7m Second storey elements do not encroach. 	Complies.

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.	Proposal is able to comply as demonstrated on the plans	Complies
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	Bollard style lighting is to be used. Condition of compliance is recommended for external paths.	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	Condition recommended to ensure compliance
Private car accommodation	(a) Carparking space must comply with	A compliant disabled persons carparking space is provided	Complies.

Control	Required	Proposed	Compliance
	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 area for motor or control rods to enable a power operated door to be installed at a later date.	for each dwelling. All parking is located within a basement carpark and garages have power operated doors.	
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Each dwelling has an accessible path of travel to the front entry. An internal lift for each Unit is provided for access between the basement and all floors.	Complies
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Open plan living areas, bathrooms and bedrooms comply.	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 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.	Proposal is able to comply	Condition recommended to ensure compliance
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

Control	Required	Proposed	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 outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Proposal is able to comply	Condition recommended to ensure compliance
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 for each dwelling. Private open space terraces are available for open air clothes drying also.	Condition recommended to ensure compliance
Storage	A self-contained dwelling must be provided with a linen	Not identified on the plans but sufficient internal cupboard space is available.	Condition recommended to ensure

Control	Required	Proposed	Compliance
	storage in accordance with Clause 4.11.5 of AS4299		compliance
Garbage	A garbage storage area must be provided in an accessible location.	Garbage bin storage room is located in the basement and a bin holding bay at the front of site for collection day is provided (bins may be brought up by private service arranged by the Strata body corporate). The bin storage room complies with Council's Policy under the Warringah DCP.	Complies.

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).	7.8m	Complies
Density and scale	0.5:1	0.49:1	Complies
Landscaped area	30% of the site area is to be landscaped.	41% 401 sqm of site area is landscaped (calculation is areas of 1m deep, including planter boxes)	Complies, however there are some minor anomalies between the landscape plans and the architectural plans, to be addressed by conditions.

Control	Required	Proposed	Compliance
			In addition to this, the natural ground level changes at the rear have been redesigned to lessen the impact of retaining walls and fill near the fence line so that these area are transitioned or stepped to provide landscape continuity between adjacent land. The applicant has updated the plans to reduce issues of drainage, fencing, landscaping, privacy and to maintain better continuity between adjacent property levels.
Deep soil zone	15% of the site area deep soil. 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.	24.4% (245 sqm) of site area is deep soil of 1m depth or more and also 3m wide. 201sqm of landscape deep soil area is located at the rear of the site . with a minimum of 3m width	Complies for site area and distribution of landscaping including depth of 1m or more and widths of 3m or more.
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.	<u>Dwelling 1: 2 hours</u> direct light between 9am to 11 am 21 June available to the private open space. <u>Dwelling 2: 3 hours</u> direct light between 9am to 3pm 21 June available to the private open space. <u>Dwelling 3: 3 hours</u> direct light between midday to 3pm 21 June	Complies for >70% of dwellings.

Control	Required	Proposed	Compliance
		available to the private open space. <u>Dwelling 4: 3 hours</u> direct light between midday to 3pm 21 June available to the private open space.	
Private open space	15sqm of private open space per dwelling not less than 3 metres long and 3 metres wide.	Dwelling 1: 33.7 sqm Dwelling 2: 33.8 sqm Dwelling 3: 41.1 sqm Dwelling 4: 15.2 sqm (only areas 3m x 3m included that are convenient to living area and at ground level access.) Private open space areas that include garden space and sloping areas of landscaping are concentrated at the rear of the site.	Complies
Parking	0.5 spaces per bedroom (for 12 bedrooms). (1.5 spaces per Unit – 4 carparking spaces required)	4 carspaces for 12 bedrooms, however each garage has a double width space compliant with AS1428.	Satisfactory. Additional width car spaces in the basement effectively creates a 2 standard car garage for each Unit or one fully compliant AS1428 wheelchair accessible car space in each garage area.
Visitor parking	None specified.	Applicant has provided no visitor parking spaces. Driveway area has adequate visibility for visitors if entering the site to reverse / exit in a forward direction safely and park along Willandra Road.	Complies.

Chapter 4 – Miscellaneous

Comment: No miscellaneous provisions apply to the proposal.

Clause 4.6 Variation to a development standard under SEPP HSPD - Clause 40 Minimum site frontage standard

Description of non-compliance:

Development standard:	"The site frontage must be at least 20 metres wide measured at the building line".
Requirement:	20m
Proposed:	18.29m (existing site width)
Percentage variation to requirement:	8.5% (-1.71m)

Assessment of request to vary a development standard:

The following assessment of the variation to SEPP HSPD Clause 40(3) development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA (90,248,1009), *Moskovich v Waverley Council* [2016] NSWLEC 1015 and *Wehbe v Pittwater Council* [2007] NSWLEC 827. Consideration is also made with regard to *Circular PS 17-006* of the NSW Department of Planning.

Preston CJ, stated in *Wehbe*, the starting point with a SEPP No. 1 objection (now addressed using comparable *Clause 4.6 variation*, with Standard Template LEP's) is to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances.

Clause 40 Development standards - minimum sizes and building height

SEPP HSPD specifies under Clause 40(1) General - *A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*

The particular objectives of Clause 40(3) are not specifically expressed in the SEPP HSPD, however the aims of the SEPP are to increase the supply and diversity of housing that meet the needs of seniors or people with a disability, make efficient use of existing infrastructure and services and be of good design.

A minimum site frontage control assists to ensure that sites are of sufficient width to provide for building footprints with space for vehicular access, landscaping and special requirements specific to HSPD, such as accessibility circulation space, pathways and the like.

In addition, that properties are able to be developed without incurring any reasonable physical impacts on neighbouring properties with regard to other amenity considerations including building bulk, overshadowing, spatial separation, landscape setting, privacy and the like.

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.

(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.

Comment:

Preston CJ, in *Wehbe* states that "... development standards are not ends in themselves but means of achieving ends". In this regard, a request to vary a development standard is committed to show that the objectives of the development standard are achieved notwithstanding any non-compliance with the numerical standard. Therefore, the test is a qualitative one, rather than a quantitative one. As such, there is no numerical limit which a variation may seek to achieve despite a not uncommon opinion that a "10% variation" should be the limit of any approach to vary a numerical standard. In this case, however the variation is 8.5% and fits within Council's delegations to address any considerations of a purely numerical nature.

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

Clause 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) and 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).

In this case the site is in a location that is bordered by two access corridors to both the northern and southern boundary. The adjacent access corridors effectively create a circumstance that a separation distance of open area to the adjoining residential development which is also particularly effective in relation to offsetting other impacts such as overshadowing of the properties to the south. The access corridor to the north is part of a 'battle axe' shaped public reserve and the access corridor to the south is the driveway for No.224 & 224A Willandra Road.

The adjacent access corridors and use of basement parking assist to reduce associated amenity impacts of noise, headlights and the like than what might be expected for adjacent houses being closer to the side boundary similar to a conventional subdivision pattern. Overall the building form provides side setbacks of 0.9 to 4.24m to both the northern and southern boundaries and the basement setback has been considered on merit under the Warringah DCP built form controls, in the design response addressing the variation to the site width development standard.

In this regard, the proposal has provided a design response to demonstrate that compliance with development standard is unreasonable in that it would effectively sterilise an otherwise suitable location and site from being redeveloped for HSPD.

(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.'

s 1.3 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 applicants written request argues, in part:

"The minor variation to the site frontage control has not restricted the ability to provide relatively generous setbacks to the side boundaries relative to the height of the proposed building. Further the proposed development comfortably complies with the deep soil landscaped area control incorporated in the SEPP, and vehicular access is maintained via the existing driveway crossing in a manner that is consistent with the established pattern of development on the western side of Willandra Road.

It is clear that, based on the merits of the proposal and circumstances of the case, that the site width can physically accommodate the design, intensity and scale of the proposed development without having any unreasonable or excessive physical impacts on the neighbouring properties, or the streetscape quality.

In the circumstances, the proposed development is generally consistent with, or not antipathetic to, the assumed objectives of the site frontage control, notwithstanding the minor numerical variation. Strict compliance with the site frontage control would be unreasonable and unnecessary to the extent that the site would be unable to accommodate a form of development that is consistent with the overarching objectives of the SEPP, in circumstances where the building form does not impose any significant or adverse impacts on the amenity of the surrounding land."

The applicants has provided a comprehensive written request to vary the site width development standard within Annexure 1 of the submitted Statement of Environmental Effects.

Comment:

The development standard and particular circumstances of the case have been considered on merit and are supportable by way of the applicant providing sufficient grounds to establish that strict compliance is unreasonable or unnecessary. In this regard, acceptable design outcomes are achieved for and from the development by allowing and appropriate degree of provide an appropriate degree of flexibility, as addressed by the design response.

In this regard, 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 structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated 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).

Clause 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 site width development standard and the objectives of the SEPP and *R2 Low Density residential zone*. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives (aims) of the SEPP HSPD are:

(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and

Comment:

The proposal will increase the supply of self-contained dependent living units for HSPD by the provision of four (4) new units for the Warringah LEP area of the Northern Beaches Council in Sydney. The units are each designed with their own individual lifts and AS1428 carspaces that allow occupants the need for wheelchair access to a car to have diversity of choice for any of the units. The use of the site for this proposal therefore satisfies this objective despite the minimum site width development standard that would otherwise prevent it from being used for HSPD self-contained living units.

(b) make efficient use of existing infrastructure and services, and

Comment

The proposal does have access to sewer, electricity, water and telecommunication services without the need for augmentation works. There are two (2) bus stops within 100m of the site at a convenient distance and gradient for a footpath connection. Willandra road has regular bus services for access to local and regional shopping / business centres with transport links to the Sydney CBD or other areas. The use of the site for HSPD therefore makes efficient use of existing infrastructure and services.

(c) be of good design.

Comment:

The proposal is of a contemporary design that will make a positive contribution to the existing housing stock. The design is consistent in terms of maintaining a landscape setting, two storey appearance, building articulation and setbacks to ensure no unreasonable impacts on adjacent land, subject to conditions.

In addressing objective (c) the proposal is considered to meet the Design Principles outlined under Division 2 of the SEPP HSPD. These include matters relating to:

- Neighbourhood amenity and streetscape,
- Visual and acoustic privacy,
- Solar access and design for climate,
- Stormwater
- Crime prevention
- Accessibility; and
- Waste management

Merit consideration of these design principles has been considered in detail under heading for Clause 32 of the SEPP HSPD within this report.

Zone objectives

In consideration of the variation to the development standard the proposal achieves the objectives of the R2 Low Density Residential zone as considered below:

- *To provide for the housing needs of the community within a low density residential environment.*

The proposed development is permissible on the site pursuant to the provisions of SEPP HSPD, which prevails to the extent of any inconsistency with the LEP to not allow this type of housing in the R2 zone. Therefore the development is not antipathetic to this objective and will provide for the housing needs of the community in the form meeting the demand for housing for Seniors or people with a disability.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal does not include any other facilities or services within the development, but complies with the SEPP HSPD requirements to ensure the is an appropriate location and has convenient access to local services and facilities that residential uses depend on.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The development exceeds the minimum landscape area requirements for the Warringah DCP and the SEPP HSPD. Landscaping is distributed on the site to maintain a setting that is consistent with the streetscape and other boundary setbacks. New landscaping will be a dominant feature of the site, the building form reflects the topographical features of the site (including riparian areas), and the height and scale of the building is compatible with the nature of surrounding development to maintain reasonable amenity for surrounding properties.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone, despite the site width being less than the minimum development standard requirement under SEPP HSPD. This has been achieved a a design response that ensures the proposal provides an appropriate design response that is does not cause unreasonable environmental impact on adjoining residential land, public reserve, or the local streetscape character and does not set and undesirable precedent for the variation sought.

Clause 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, 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 Development Standard is assumed, for which Council can be determined by delegations available to the Development Determination Panel.

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 Authorities

The application was not required to be referred to the NSW *Roads and Maritime Service* and not other service authority referral issues are raised pursuant to the SEPP.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings*: RL83.7	8.5m	8.0m	N/A	Yes

SEPP HSPD *prevails* against this development standard. Refer to the heading SEPP HSPD within this assessment report.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.8m	8%	No*
B3 Side Boundary Envelope (North)	45 degrees at 4m	Breach of envelope	Up to 2.1m	No*
B3 Side Boundary Envelope (South)	45 degrees at 4m	Breach of envelope	Up to 2.4m	No*
B5 Side Boundary Setbacks** - North	0.9m	0.0m to 1.9m Basement wall	100%	No*
		0.9m to 4.2m Ground floor	N/A	Yes
		0.9m to 4.2m First floor	N/A	Yes
B5 Side Boundary Setbacks** - South	0.9m	0.0m to 1.5m Basement wall	100%	No*
		0.9m to 4.2m Ground floor	N/A	Yes
		0.9m to 4.2m First floor	N/A	Yes
B7 Front Boundary Setbacks	6.5m	12.6m Basement wall	N/A	Yes
		4.0m to 6.5m Ground terrace	N/A	Yes

		6.5m to 8.7m Ground floor	N/A	Yes
		6.5m to 8.7m Upper floor wall plane	N/A	Yes
B9 Rear Boundary Setback	6.0m	13.7m Basement wall	N/A	Yes
		10.0m Terrace area	N/A	Yes
		13.7m Building rear wall	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting* (Site area 1003sqm)	40% 401sqm	41% 407sqm	N/A	Yes

SEPP HSPD *prevails* against the built form controls where there is any inconsistency. Refer to the applicable heading SEPP HSPD within this report for merit assessment under the heading Built Form Controls.

**Footpaths, steps etc are exempt in the side setback if less than 1m above existing ground level.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8 Privacy	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposal has sections of wall height at the western end of Units 3 and 4 that are up to 7.8m high measured from existing ground level. This is a variation of 8.3%

Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The non-compliance with the wall height occurs at the western end of the side where the land falls more steeply toward South Creek. The adjacent land to the west is a public reserve with no through access, no facilities or formal recreation areas and is therefore not extensively used for public recreation. The western end of the site will be subject to some landfill and landscaping works to provide small private outdoor open space suitable for the proposed HSPD use. Therefore, the building will be partly screened by landscaping and the visual impact of the wall height minimised by the landscape setting proposed over the life of the development.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The proposed buildings are below 8.5m in height and therefore are well below the existing primary tree canopy for surrounding area. The proposal will provide replacement planting for the trees to be removed and this includes a mix of small, medium and larger native trees in appropriate locations to enhance the existing local tree canopy over the life of the development.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

The non-compliance to the wall height does not create any unreasonable impact on coastal or district views, including any views from adjacent public land.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

In order to minimise the impact of wall height for Units 3 and 4 additional landscape screening that is commensurate with the height of side walls for Units 3 and 4 are recommended by conditions. This is suitably managed by the applicants landscape consultant to select the appropriate screening plants for the deep soil zones along the side setback areas to soften the impact of the building wall height when viewed from adjacent land.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The proposal is required to maintain level floor areas for good accessibility, and this has been achieved by ensuring a wide setback to the western end of the site where the land falls more steeply toward South Creek. Excavation has been used to provide basement carparking however this is located beneath the building footprint for the residential Units. Excavation has been setback from the side setbacks and retaining walls will be tiered in order to transition with the topography of the land and respond to existing adjacent site levels to provide a landscape setting. The non-compliance to the wall height is limited to the western end of Units 3 and 4 does not create any unreasonable impacts on adjacent land.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposal uses a contemporary innovative design and includes two roof styles and a mix of external materials for variation in the appearance that will be complemented by the landscape setting to ensure no unreasonable impact from wall height and scale.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

The building encroaches into the side boundary envelope by up to 2.1m for the northern side wall of Unit 1 and up to 2.4m for the southern side wall of Unit 3.

Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The encroachment to the side boundary envelope extends for 11m of the front and rear building respectively due to the design having a staggered layout creating a off-set along the side boundary. The side setback thus varies from 0.9 to 4.2m in width. The design therefore creates modulated sections and restricts the non-complying elements of the side boundary envelope to a reduced wall plane.

The design is partly influenced by the basement area that includes 4 internal domestic lifts (1 per Unit) and the reduced site width of 18.2m whereby circulation and access widths have cumulative impact on the building footprint. Externally design will include window features, wooden cladding, landscaping screening and design elements to ensure the proposal does not become visually dominant by virtue of its height and bulk.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The site is bounded by an access driveway along the northern side and the southern side, therefore creating a physical separation to adjacent dwelling houses. The separation, use of different wall materials for each Unit and window size and placement assist to ensure no unreasonable privacy or solar access impacts on adjacent land.

- *To ensure that development responds to the topography of the site.*

Comment:

The rear of the site drops away steeply toward South Creek and therefore the non-compliance to the building envelope is exacerbated against the adjacent lower boundary levels. Notwithstanding this landscape areas have been provided and the overall building complies with the maximum height limit and is separated into two distinct sections in order to respond to the

topography of the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of non-compliance

The proposal is within 0.9m along the side boundary setbacks for the driveway ramp excavation and the basement walls (below Unit 2 only)

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

Comment:

The proposal exceeds the minimum requirements for deep soil landscaping and the basement area has been reduced to increase the deep soil setbacks at the rear adjacent Units 3 and 4 for ground level landscaping / screen planting. The width of the eastern half of the basement is influenced determined by the lift core locations and need to provide space to manage any ground water seepage along the basement side walls beside the private garage parking areas. The above ground buildings have adequate landscape zones to ensure appropriate screen planting.

- *To ensure that development does not become visually dominant.*

Comment:

The basement and ramp areas are below ground level and therefore the non-compliance with the side setback control will not be visually dominant above ground level. Boundary fencing will screen the ground level areas and a landscape setting is provided for the site with dense planting zones as shown on the landscape plans. Therefore, the variation to the side setback for the basement area is acceptable for the site.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The encroachment within the side boundary relates to basement walls below ground level and therefore does not create any unreasonable impacts on scale or bulk for adjacent land.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The encroachment within the side boundary relates to basement walls below ground level and therefore does not create any unreasonable impacts on privacy, amenity and solar access to adjacent land. The site is bounded by 'battle axe' lots to the north and south that for access corridors from Willandra Road adjacent the side boundary. In consideration of the excavation zone impacts a pre-excavation dilapidation survey will be required and appropriate conditions to ensure geotechnical and civil engineering support for adjacent land is appropriate during construction. This is addressed by conditions.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

The sections of the driveway and basement structure that encroach within the side boundary setback do not create any impact of coastal or district views from adjacent public or private land.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The proposal has part of the ground level terrace (3.0m) private open space for Unit 1 within the front setback area.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The area forward of the ground level private open space terrace landscaped to screen the area when viewed from the street. The front setback area is also landscaped for Unit 2 and low open style fencing with screen hedging provided. Therefore a sense of openness will be maintained that consistent with the streetscape.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The building setback is staggered between 6.5m and 10.5m with deep soil landscape zones of 6.5m to 3.5m wide. The private open space terrace area is at ground level and provides a passive residential utilization of the front setback that is consistent with surrounding landscape elements and the visual continuity of the streetscape.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The front setback area will be provided with low open style fencing and integrated landscape elements to create an attractive contribution to the streetscape. Units 1 and 2 also have access to alternate private open space within the internal courtyard area in the central area of the site. Therefore, the proposal does not solely rely on the front setback and the non-compliance with the front setback area retains a sense of openness and does not detract from the visual quality of the streetscape.

- *To achieve reasonable view sharing.*

Comment:

The ground level paving for private open space does not have an unreasonable impact on any coastal or district views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Merit consideration

With regard to the provision of adequate parking, the development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Housing for Senior's or persons with a disability.	Resident parking: SEPP HSPD prevails over DCP Appendix 1. SEPP requires 0.5 carparking spaces per bedroom	12 bedrooms requires 1.5 resident carparking spaces per Unit.	4 parking spaces in 4 basement garages. Each with disabled persons accessibility and continuous path of travel.	0

	for residents.			
	Visitor parking: SEPP does not specify, therefore DCP prevails.	DCP: 1 per 5 units. 4 Units = 1 Visitor carspaces	Nil	-1
Total		5	4	-1

- The SEPP requires only 5% of carparking for Seniors HSPD to be AS2890 width. In this case the applicant has provided a garage capable of accommodating two (2) standard car spaces or one (1) x 3.8m width space per dwelling.
- NOTE: The provisions of Clause 50 of the SEPP does not impose any limitations on the grounds on which a consent authority may grant development consent.
- Clause 38 (b) of the SEPP requires "convenient access and parking for residents and visitors"
- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The proposal is designed with a basement carpark so that the garage areas are hidden from the street. The access drive is on the southern side of the site and site excavation is required to achieve ramp gradient / distance into the basement structure. The garage vehicle entry is integrated into the site with landscape screening behind but has a minimum side setback due to the narrow site width. The basement parking access will not have an unreasonable visual impact on the street frontage.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The access to the garage will have a security door and the entry to each of the the garage bays

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D2 Private Open Space

Description of non-compliance

The proposal includes the allocation of private open space areas for each Unit in the form of ground floor terraces and upper floor balconies. The private open space areas are oriented toward Willandra Road or the rear yard. There is also a central landscaped space between the front Units and rear Units

made up of planter boxes and paved areas.

Merit consideration

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

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

Comment:

The development is designed to provide a residential outlook toward Willandra Road and toward the rear or centre courtyard. Maintaining a residential outlook with a landscaped setting provide passive observation of the street and an active streetscape. Privacy is maintained within the building by planter area, including within the central area. The applicant has made are minor change to the open space area at the front for Unit 1 to widen the landscape buffer to 4.0m from the front boundary. This Unit also has a secondary private open space area at the rear of the Unit that is easily accessible from the living area. Therefore the proposal has suitably located private open space for each dwelling in regard to this objective.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

Comment:

All private open space areas are integrated to the living areas of each dwelling unit and are directly accessible from the same floor level of unit the open space serves. Some Units have two options for open space enabling occupants to choose an alternate private open space if desirable at the time of use. Street access is also available directly from Willandra Road providing connection to the public domain at the front entry area creating casual observation to or from the public domain. Each ground level terrace is of sufficient area and dimensions to be practically usable in conjunction with the indoor living area. The upper floor balconies for Unit 2 and Unit 3 are small and narrow and do not have practical dimensions to create a usable space that would unreasonably impact adjacent land. The development does not have an unreasonable design approach to this objective.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

Comment:

The private open space areas that encroach within the front setback area for the ground floor terraces are buffered by landscape open space area and fencing in order to minimise impacts on adjacent land. Adjacent land uses to the north and south are also buffered by the adjacent driveway areas and the principal open space areas are oriented toward the rear or road frontage. A combination of landscaping, replacement fencing, privacy screens and spatial separation will assist to ensure no unreasonable impacts on adjacent or nearby private open space areas. Therefore, the proposal will not have an unreasonable impact on adjoining buildings or their associated private open space areas for the surrounding low density residential living environment.

- *To ensure that private open space receives sufficient solar access and privacy.*

Comment:

Details of solar access are shown on the plans DA500 to DA550, drawn by Walsh Architects and have been considered in the context of the site and adjacent land. The dwelling design permits all units to have compliant solar access due to the staggered arrangement of the Units on the land and central courtyard area. Naturally the Units on the northern side of the site receive more sunlight than the Units on the southern side. However, the proposal has been designed to have front and rear solar access with a central open space area to enable compliance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposal involves the demolition and clearing of the site including all structures (house, sheds, paving and the like) existing vegetation. Replacement landscaping and new boundary fencing (where existing fencing may no longer be fit for purpose) will be provided to assist privacy at ground floor level. In addition, to this some of the finished site levels are to be adjusted to accommodate deep soil areas and landscape buffer screening. The upper storey has been designed with minimal window spaces along the side walls and the principal orientation for balconies on the upper storey is toward the east (street) or west (creek gully). Therefore, privacy considerations have been addressed in accordance with this objective, subject to conditions.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposal has been designed to ensure a principal outlook toward the street elevation or the rear yard for outdoor open space areas. The side elevations are also bordered by access corridors for the adjoining battle-axe shaped properties. This creates a separation buffer the surrounding dwelling of No.222 Willandra Road, No.224 Willandra Road and No.228 Willandra Road. Privacy between bedroom spaces is generally considered to be lower impact as these rooms are less occupied during the day compared to living / kitchen areas, and at night (during sleeping periods) bedroom areas are normally screened by closing internal blinds or curtains.

The design of the building has considered privacy issues and subject to conditions the design is

satisfactory.

- *To provide personal and property security for occupants and visitors.*

Comment:

The site will have suitable boundary fencing for the rear and side setbacks to assist security and privacy. for the street frontage provides passive observation to the public areas of the site from the proposed dwellings. The proposal is satisfactory having regard to Crime Prevention Through Environmental Design considerations to ensure reasonable personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WDCP and the objectives specified in section 5 (a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The proposal has raised concerns with regard to building bulk in terms of how the size and scale of the building compares to adjacent dwelling houses, including the amenity of adjacent property and arrangement of the Units. The general visual appearance including colours and materials is addressed under Council's Urban Design referral response. Overall the design is of contemporary style but includes some minor design "cues" such as pitched roof sections, use of timber materials, front balconies to break up building bulk and reflect residential elements of the character of the area.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The proposal has been subject to some minor design refinements to improve streetscape appearance, increase landscape open space and minimise site level changes along the side boundary beside Units 3 and 4. The minor changes satisfy this objective to improve the design response and address building bulk and scale when viewed from the street and adjacent land.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 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

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$23,528 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,352,755.

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;
- Warringah Local Environment Plan;
- Warringah 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

In conclusion to the assessment, principal issues with setbacks, building envelope, excavation, landscaping, compliance with SEPP HSPD, building bulk, parking provisions, pedestrian safety, access to transport, and the character of a low density residential area. The application is also dependent on a variation the SEPP HSPD development standard for minimum site width of 20m. The grounds to vary the development standard are considered to be adequately founded and have been reviewed pursuant to Clause 4.6 (previously applied under SEPP 1) in support of the proposed variation.

No objection to approval has been raised by Council's Roads, Traffic or Waste services or Natural Environment Unit of Council, subject to conditions. The applicant has made some minor amendments

to the plans to address urban design considerations and concerns raised with regard to some minor elements of the proposal. These matters have been addressed and also issues raised within public submissions have been fully considered.

The public submissions raised issues include issues relating to amenity, visual privacy, building bulk, traffic safety, overshadowing and tree protection. These issues and broader considerations in accordance with the SEPP HSPD, LEP and DCP have been considered and addressed in the report. Overall the proposal is considered to be of an acceptable appearance and density for the site and will not have an unreasonable amenity impact on surrounding land or the streetscape character.

In summary, the proposal is recommended for approval subject to conditions, provided in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations.

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 DA2018/2052 for Demolition works and construction of a Seniors Housing development on land at Lot 1 DP 501045, 226 Willandra Road, CROMER, 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
DA101 C Basement plan	25.9.2019	Walsh Architects
DA102 D Ground plan	25.9.2019	Walsh Architects
DA103 C Level 1 plan	25.9.2019	Walsh Architects
DA104 C Roof plan	25.9.2019	Walsh Architects
DA200 A Sections	28.10.2018	Walsh Architects
DA201 D Sections	16.10.2019	Walsh Architects
DA300 A Elevations	28.10.2018	Walsh Architects
DA301 C Elevations	25.9.2019	Walsh Architects
DA800 A External Finishes	28.10.2018	Walsh Architects

*Subject to consistency between plans and schedule details shown on the architectural plans and conditions of consent.

Engineering Plans		
Drawing No.	Dated	Prepared By

SK001 D Footpath Arrangement	5.10.2018	Stellen
SK001 D Footpath Arrangement	5.10.2018	Stellen
DR 0000 Legend (stormwater)	15.11.2018	Stellen
DR 001 Pipe Layout Ground Floor	15.11.2018	Stellen
DR 002 Pipe Layout Basement	15.11.2018	Stellen
DR 003 Rainwater Tank and Pump out sump details	15.11.2018	Stellen
DR 004 Absorption Pit and details	15.11.2018	Stellen
CV 001 Footpath plan and Long section part 1	15.11.2018	Stellen
CV 002 Footpath plan and Long section part 2	15.11.2018	Stellen

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arborist Report (Section 11 Recommendations)	20.9.2018	Hugh The Arborist
Access Report (Lift access)	20.9.2018	Architecture & Access
Access Report (Building accessibility)	31.10.2018	Architecture & Access
Geotechnical Assessment AG18115	22.8.2018	Ascent Geotechnical
Basix Certificate 977701M	23.11.2018	Building Sustainability Assessments
Flood Risk Management (Section 5.0 Recommendations)	13.11.2018	Stellen

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LS502.1 B Planting Plan	29.10.2018	Plot Design Group
LS503.1 B Landscape details	29.10.2018	Plot Design Group

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

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

FEES / CHARGES / CONTRIBUTIONS

3. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$23,527.55 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,352,755.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

4. 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.

5. Construction, Excavation and Associated Works Bond (Crossing / Kerb)

The applicant is to lodge a Bond of \$20,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

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

Reason: Protection of Council's Infrastructure

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

6. Screen Planting

The following landscape planting is to be provided to screen the northern and southern elevations of the buildings:

i) A deep soil landscaped buffer being provided along the side setback to Unit 3 and Unit 4 so as to screen/reduce the visual impact of the development. Suitable native species with a mature height of up to 6 metres (m) are to be used with appropriate spacing to provide plant screening of the side wall. Plants are to be used from minimum 25 litre pots.

ii) Trellis planting is to be used adjacent the side walls of Unit 1 and Unit 2 so as to screen/reduce the visual impact of the development. A minimum of 3 x 1.0m wide trellis sections are to be used up to a height of 6 metres (supported by the side walls and suitable sized ground level planter boxes). Suitable climbing plants are to be selected for the trellis by the Applicant's Landscape Consultant.

Details are to be shown on the Landscape Plans, drawn by Plot Design Group and submitted to the satisfaction of the Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure an effective buffer zone/screen planting is provided.

7. On slab landscape planting and associated works

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

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

c) The following soil depths are required in order to be counted as landscaping:

- 300mm for lawn
- 600mm for shrubs
- 1metre for trees

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. BCA Report

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an

appropriately qualified Accredited Certifier* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia.

The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

9. On-site Stormwater Disposal Compliance

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT and the concept drawing by Stellen Consulting, drawing number DR-001 to DR-004 dated 15/11/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

10. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for Infrastructure works on Councils roadway. Engineering plans for the new development works within the road reserve within this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of footpath works within Willandra Road and 6 m wide driveway crossing which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards

and Council's specification.

11. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

12. Construction Management Program

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

13. Replacement Boundary Fencing

The applicant is identify and make appropriate arrangement to bear the cost of any replacement fencing / retaining wall structures along the front, side and rear boundaries if required due to any existing fencing being no longer reasonably 'fit for purpose'. Fencing replacement shall be made in consultation with adjacent private property owners and the Dividing Fences Act. The maximum height for fencing behind the front building line is 1.8m above ground level and shall transition to a maximum height of 1.2m forward of the front building line.

Details of any replacement fencing arrangements shall be shown on the construction certificate plans.

Reason: Fencing replacement.

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. (DACHPCPCC1)

15. **Amended Landscape Plans**

Landscape plans are to be amended to incorporate 2 x *Angophora costata* of minimum pot size 45 litre. One tree to be located in the front landscape setback and one to be located in the rear landscape setback of the site. These trees may replace a tree indicated in the front and rear on the approved Landscape Plans.

Reason: Environmental amenity

16. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Flood Effects – A3

There is to be no filling below the 1% AEP flood level of 9.01m AHD, including under the

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006), up to the Probable Maximum Flood Level of 10.23m AHD.

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Probable Maximum Flood level of 10.23m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 9.51m AHD.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 9.51m AHD unless adequately protected from floodwaters in accordance with industry standards.

Car parking – G9

All access, ventilation and any other potential water entry points, including entry ramp crests to the basement car park shall be at or above the Probable Maximum Flood Level of 10.23m AHD.

Fencing – H1

Fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open for passage of flood waters - Any new fencing on the property must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level of 9.01m AHD, to allow flood waters to pass through.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

17. **Landscaping**

All plants used in the landscaping for the rear shrub beds for this development must be local native species, including four (4) *Ceratopetalum gummiferum* NSW Christmas Bush. Two (2) additional local native trees are to be provided within the front shrub beds. No Grevillea or Banksia hybrids are to be used in the landscaping for this development.

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

Reason: Biodiversity conservation and management

18. **Compliance with Standards**

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 the Certifying Authority prior to the issue of the Construction Certificate.

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

19. **Requirements for Seniors Housing or Housing for Persons with a Disability**

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with all the standards specified in Schedule 3 - "Standards concerning accessibility and useability for hostels and self-contained dwellings".

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

Reason: To ensure public safety and equitable access for seniors or people with a disability. (DACPLC16)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. **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.

21. **Tree protection**

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining land
 - iii) All street trees, with the exception of one *Angophora costata* (Tree 22 in the Arborist's Report), which may be removed.
- (b) Tree protection
 - i) No tree roots greater than 30mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
 - ii) All structures are to bridge tree roots greater than 30mm diameter unless directed otherwise by the Project Arborist on site.
 - iii) All tree protection to be in accordance with the Arboricultural Impact Assessment Report dated 20 September 2018 prepared by Hugh The Arborist and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
 - iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
 - v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

22. **Project Arborist**

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees, including street trees and required footpath works adjacent to street trees, as outlined in the Arboricultural Impact Assessment dated 20 September 2018 prepared by Hugh The Arborist and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

23. **Tree removal within the road reserve**

- i) This consent includes approval to remove the following trees located within the road reserve:

Species	Location	Tree Number
1 x <i>Angophora costata</i>	Willandra Road road reserve forward of the property, adjacent to the driveway crossover.	22

- ii) Removal of approved trees in the road reserve shall only be undertaken by a Council

approved tree contractor.

iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council Public Trees Section prior to removal.

Reason: Public liability

24. 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 (DACNED06)

25. Dilapidation Report

A photographic survey of adjoining properties of adjoining property assets, detailing the physical condition of those properties, both internally and externally (as appropriate to the proximity of site work risks), including such items as walls, ceilings, roof, structural members, access and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued.

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

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

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

Reason: Proper management of records to minimize dilapidation risks (DACPLDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

26. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act
- Work Health and Safety Regulation
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

27. **Property Boundary Levels**

The property boundary levels shall be transitioned within the site along the side and rear boundaries to minimise natural ground level variations to reduce potential impacts of land-filling, drainage and over-extended fence heights. The applicant ensure the detailed design and construction at construction certificate stage ensures height changes / transitions along the boundary line (being within 1m) are approximately 500mm or less for landfill / retating walls adjacent the existing boundary levels.

Within public land no approval is granted for any change to property or alignment levels (including public land) to accommodate the development. Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To maintain reasonable continuity near adjacent land with existing ground level

28. **Footpath Construction**

The applicant shall install 1.5 m footpath on Willandra Road in comply with the NSW government requirement of Housing for Seniors .

The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's Specification
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

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

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

29. **Vehicle Crossings**

The Applicant is to construct a normal low vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 3 NL and the driveway levels application approval. 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.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority..

Reason: To facilitate suitable vehicular access to private property.

30. Maintenance of 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.

31. Protection of Adjoining Property - Excavation

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety

32. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees.

33. Protection of rock and sites of significance

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

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

34. Landscape Certification

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately.

35. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, 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, and protect the existing amenity that trees and/or bushland vegetation provide.

36. Stormwater Disposal

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes and Council's Water Management Policy.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

37. Authorisation of Legal Documentation Required for Onsite Detention

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

(Note: "interim/final" permits the Certifying Authority to select the appropriate time to achieve the condition required)

Reason: To create encumbrances on the land.

38. Registration of Encumbrances for On-site Stormwater Disposal

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water disposal as to user is to be submitted. Details demonstrating

compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

39. **On-Site Stormwater Disposal system Compliance Certification**

Upon completion of the on-site stormwater disposal system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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 stormwater disposal is constructed to Council's satisfaction. (DACENF10)

40. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater disposal structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater disposal system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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 the on-site disposal and/or pump system is maintained to an appropriate operational standard.

41. **Required Planting**

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on the approved Landscape Plans (as amended by conditions of consent)	As indicated on the Landscape Plans	As indicated on the Landscape Plans

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity.

42. **House / Building Number**

House/building number is to be affixed to the building / letterbox to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings. (DACPLF04)

43. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

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

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and/or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue any Interim / Final Occupation Certificate.

Reason: Statutory requirements. (DACPLF11)

44. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire

Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

45. **Construction of footpath and pram ramps**

The applicant shall construct 1.5m wide footpaths and pram ramps on the Willandra Road over the extents indicated on concept plans prepared by Stellen Consulting (drawing No.s SK-001 & 002) and in accordance with detailed plans for the work that have been approved by Council.

All design and construction to be completed at no cost to Northern Beaches Council.

Reason: To ensure satisfactory access to public transport (DACTRFPOC1)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

46. **Landscape maintenance**

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

47. **Exotic Plant Species/Weeds**

All exotic plant species, noxious and environmental weeds are to be managed continuously and are not to be imported to the site. Further information is available on Warringah Council's website.

Only certified weed free and contaminant free mulch is to be used on the site, as they may contain weed seeds and viable vegetative matter and other contaminants, which may impact adversely on the vegetation, soil, water quality or ecology of the site.

Reason: To ensure bushland and riparian management (DACNEG05)





Project: SENIORS HOUSING
226 WILLANDRA ROAD CROMER
Client: YOUR CORNER & ELLIS KING

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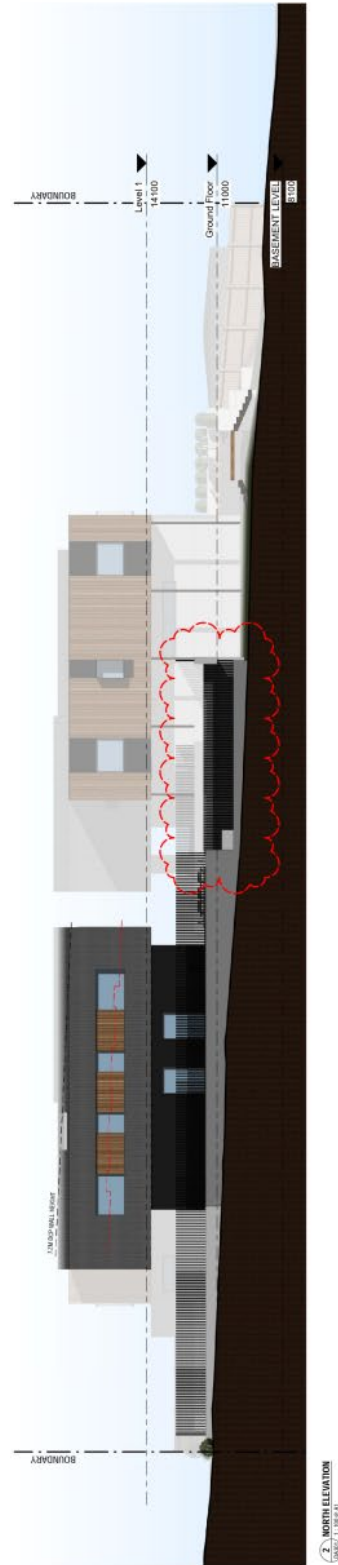
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FOR DEVELOPMENT APPLICATION APPROVAL

Date
28.10.18

Rev.
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Project: SENIORS HOUSING
226 WILLANDRA ROAD CHROMER
Client: YOUR CORNER & ELLIS KING

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