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## MEMORANDUM

**DATE:** 3 March 2020

**TO:** Northern Beaches Local Planning Panel (NBLPP)

**CC:** Anna Williams, Development Assessment Manager  
Peter Robinson, Executive Manager

**FROM:** Anne-Marie Young, Principal Planner

**SUBJECT:** DA2019/1173, Item 3.6 – 3 Berith Street, Wheeler Heights

**REFERENCE:** Amended conditions relating to dilapidation reports, rock breaking, asbestos and fencing.

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Dear Panel Members,

Council has received a request from a resident of Wheeler Heights to amended conditions 25, 27, 32, 49 and 61 relating to dilapidation reports, rock breaking, asbestos and fencing to specify the following adjoining properties:

Wheeler Heights Public School, 25 Rose Avenue, 27 Rose Avenue, 1 Berith Street and 5 Berith Street Wheeler Heights.

Details of the conditions and Council's response to the request is provided below.

### Condition 25 (Pre-construction Report)

Condition 25 (Pre-construction Report) as printed in the report states the following:

*Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.*

*1 Berith Street, Wheeler Heights  
5 Berith Street, Wheeler Heights*

*The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.*

*In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this*



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*condition have been met prior to commencement of any works.*

*Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.*

*Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.*

### Response

The dilapidation surveys require internal and external inspections of the buildings. The dwelling to No. 1 Berith Street is located 1.2m from the northern site boundary and the dwelling to No. 5 Berith Street is located 1m from the southern site boundary. Given the proximity of these dwellings to the site / the proposed excavation it is reasonable to include reference to these specific properties in the condition which will require the Applicant to prepare a dilapidation report for these properties. Furthermore, the JK Geotechnics Report dated 20 January 2020 specifically requested that the dilapidation reports be prepared for No. 1 and No. 5 Berith Street. The JK report does not require the preparation of a dilapidation report for any other property.

The dwelling at 27 Rose Avenue is located approximately 23.5m from the northern site boundary and the dwelling at 25 Rose Avenue is located approximately 28m from the northern site boundary. The tennis courts to Wheeler Heights Public School are located to the immediate east of the subject site with the nearest school building being located approximately 81m from the eastern site boundary, refer to aerial image below. Given the location of the buildings to No. 25 and 27 Rose Avenue and the Wheeler Heights Public School it is considered unreasonable to require the Applicant to prepare dilapidation reports for these properties. As such, it is not recommended to make any further changes to condition 25 to include additional properties.



*The activity of rock-breaking associated with the development of the site, must only occur between the hours of:*

- Rock-breaking activities must not occur on weekends or public holidays. Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.*

Reason: To protect the acoustic amenity of neighbouring properties and the public. (DACHPDPC6)

The above condition requires that all adjoining properties be notified. It is reasonable to require that the Applicant notify the adjoining neighbours in advance of rock breaking activities. If the Panel are of mind to approve the development application an amendment to condition 27, as shown below, is recommended.

The activity of rock-breaking associated with the development of the site, must only occur between the hours of:



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• 9.00 AM – 5.00 PM on weekdays (Monday – Friday).

Rock-breaking activities must not occur on weekends or public holidays. **As a minimum the following** adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. **Wheeler Heights Public School, 25 Rose Avenue, Wheeler Heights, 27 Rose Avenue Wheeler Heights, 1 Berith Street, Wheeler Heights and 5 Berith Street Wheeler Heights.** Notices must be distributed at least seven (7) days before the activity is to occur.

#### Condition 32 (Demolition Works – Asbestos)

Condition 32 (Demolition Works – Asbestos) requires:

*Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures. The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.*

*All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.*

*Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.*

#### Response

The above condition requires that all adjoining properties be notified. It is reasonable to require that the Applicant notify the adjoining in advance of demolition work involving the removal of asbestos. It is recommended that condition be amended to include reference of the demolition plan and the waste management plan that was omitted from the list of drawings. If the Panel are of mind to approve the development application an amendment to condition 32, as shown below, is recommended.

Demolition works must be carried out in compliance with **Demolition Plan, drawing reference A12 dated 7 November 2018 prepared by Barry Rush and Associates Pty Ltd and Waste Minimisation and Management Plan, prepared by Barry Rush dated 7 November 2019.** **Demolition works must be carried out in compliance with** WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the





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applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

**As a minimum, the following** adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site. **Wheeler Heights Public School, 25 Rose Avenue, Wheeler Heights, 27 Rose Avenue Wheeler Heights, 1 Berith Street, Wheeler Heights and 5 Berith Street Wheeler Heights.**

#### Condition 49 (Post- Construction Dilapidation Report)

Condition 49 (Post- Construction Dilapidation Report) requires:

*Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:*

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

*Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.*

*Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.*

#### Response

For consistency with condition 25 (pre-construction dilapidation report) it is recommended that condition 49 be modified to specifically reference properties No. 1 Berith Street and No. 5 Berith Street, Wheeler Heights. If the Panel are of mind to approve the development application, an amendment to condition 49, as shown below, is recommended.

Post-Construction Dilapidation Reports, **for No. 1 Berith Street, Wheeler Heights and No. 5 Berith Street, Wheeler Heights** including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

#### Condition 61 (Side and rear boundary fencing)



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Condition 61 (Side and rear boundary fencing) requires:

*The applicant is to replace all side and rear boundary fencing (above ground) with the agreement and at no cost to, the adjoining property owners with 1.8m lapped and capped timber paling fencing as indicated on the plans. Any fence forward of the building line shall be 1.2m in height. Details to be provided to the satisfaction of the Certifying Authority prior to any Occupation Certificate.*

#### Response

The above condition requires that the agreement of all *adjoining properties owners* will be obtained and that the replacement fencing will be at no cost to those owners. It is reasonable to require that the Applicant specify the properties to which condition 61 relates. If the Panel are of mind to approve the development application an amendment to condition 61, as shown below, is recommended.

The applicant is to replace all side and rear boundary fencing (above ground) with the agreement and at no cost to, the ***following*** adjoining property owners ***Wheeler Heights Public School, 25 Rose Avenue, Wheeler Heights, 27 Rose Avenue Wheeler Heights, 1 Berith Street, Wheeler Heights and 5 Berith Street Wheeler Heights*** with 1.8m lapped and capped timber paling fencing as indicated on the plans. Any fence forward of the building line shall be 1.2m in height. Details to be provided to the satisfaction of the Certifying Authority prior to any Occupation Certificate.

#### **SUMMARY**

This information is provided for consideration of the Panel.

\*Note: the amended conditions No 27 (Rock Breaking Activities), 32 (Asbestos), 49 (Post-Construction Dilapidation Report) and 61 (Side and rear boundary fencing), and addition of the Demolition Plan are in ***bold and italics***: