

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

Notice is hereby given that the Northern Beaches Planning Panel will be held via teleconference on

WEDNESDAY 14 APRIL 2021

Beginning at 12.00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Peter Biscoe	Chair
Annelise Tuor	Town Planner
Graham Brown	Town Planner
John Simmonds	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 14 April 2021

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Northern Beaches Local Planning Panel held 7 April 2021	
3.0	PUBLIC MEETING ITEMS	5
3.1	Mod2021/0047 - 80-82 Mona Vale Road, Mona Vale - Modification of Development Consent DA2019/0123 granted for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market	5
3.2	DA2020/1542 - 24 Dove Lane, Warriewood - Construction of a permanent group home.....	23
3.3	DA2019/1420 - 8 Wyatt Avenue, Belrose - Alterations and additions to an existing school	72
3.4	DA2020/1178 - 5 Devon Place, Collaroy - Demolition works and construction of a dwelling house	118
3.5	DA2020/1287 - 58 Forest Way, Frenchs Forest - Demolition works and construction of a Seniors Housing Development comprising 4 self care housing units with associated parking.....	172
4.0	NON PUBLIC MEETING ITEMS	236
	A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. There applications do not satisfy that criterion.	
4.1	DA2020/1431 - 29/11 Addison Road, Manly - Alterations and additions to a dwelling within a residential flat building.....	236

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 7 APRIL 2021

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 7 April 2021 were adopted by the Chairperson and have been posted on Council's website.

3.0 PUBLIC MEETING ITEMS

ITEM 3.1

**MOD2021/0047 - 80-82 MONA VALE ROAD, MONA VALE -
MODIFICATION OF DEVELOPMENT CONSENT DA2019/0123
GRANTED FOR USE OF PART OF THE CARPARKING AREA
ASSOCIATED WITH THE PITTWATER RSL CLUB FOR THE
PURPOSES OF AN ORGANIC FOOD MARKET**

AUTHORISING MANAGER LASHTA HAIDARI

TRIM FILE REF **2021/243067**

ATTACHMENTS

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

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination or decision made by a local planning panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. Mod2021/0047 for Modification of Development Consent DA2019/0123 granted for use of part of the car parking area associated with the Pittwater RSL Club for the purposes of an organic food market at Lot 26 DP 654262, Lot 27 DP 5055 & Lot 120 DP 135512, 80-82 Mona Vale Road, Mona Vale subject to the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0047
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 27 DP 5055, 22 Jubilee Avenue WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent DA2019/0123 granted for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market
Zoning:	B7 Business Park
Development Permissible:	Yes, under Clause 2.8 Temporary Use of Land of the PLEP 2014
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Pittwater RSL Club Ltd
Applicant:	Organic Food Markets

Application Lodged:	24/02/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	04/03/2021 to 18/03/2021
Advertised:	Not Advertised
Submissions Received:	29
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

EXECUTIVE SUMMARY

Modification application (MOD2021/0047) has been made to modify a consent under DA2019/0123 which granted consent to the use of part of the car parking area associated with the Pittwater RSL Club for the purposes of an organic food market. The current modification application proposes to extend operation of the markets for a 5 year period from date of commencement (1 September 2019), thus removing the trial period. The application also seeks approval to the removal of condition 12 which provides a requirement for traffic wardens be removed.

Public exhibition of the application to modify the development consent resulted in significant support for

the application (16 submissions of support), whilst there were objections to the proposed modifications. These issues raised in the objections included noise, traffic, impact on amenity, and issues in regarding multiple and late applications being lodged.

The subject site is zoned B7 Business Park under the Pittwater Local Environmental Plan 2014 (PLEP 2014). Development for the purposes of markets are not permissible in this zone, however, the proposal is permissible under Clause 2.8 *Temporary Use of Land* under the Pittwater LEP.

The application has been made to modify a consent within the timeframe required under the *Environmental Planning and Assessment Act 1979*.

Council's Environmental Health officer has commented that the acoustic data provided is insufficient to enable a proper assessment of the application. Council's Traffic officer has also stated that the request to remove a requirement for traffic wardens is not accepted.

As such, the proposal in its current form cannot be supported as insufficient information has been provided in order to assess the acoustic impacts during the trial period.

Accordingly, the application is referred to the NBLPP with a recommendation for refusal to the Panel.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves a request to modify condition 10 and delete condition 12. In detail, this involves:

- A request to extend operation for a 5 year period from the date of the commencement of the market under this consent (1 September 2019). This involves amending the time in which a modification can be lodged to extend the expiry date, and removal of a trial period through the amendment of condition 10. Condition 10 currently reads as follows:

"This consent expires in 21 months from the date of commencement of operation of the market on site unless, by no later than 16 months after the date of commencement, the applicant lodges a modification application to extend the expiry date to 5 years and Council thereafter approves the modification."

Reason: To monitor the operation of the consent to ensure no adverse impact on any adjoining land or the amenity of the neighbourhood and the temporary use of the land in accordance with the consent."

- A request is also made to delete condition 12 that requires Traffic wardens. Condition 12 currently reads as follows:

"A suitably qualified traffic warden(s), under the requirements of SafeWork NSW, must be appointed to monitor and control traffic movements and car parking along Warriewood Road, Vineyard Street, Jubilee Avenue and Foley Street, Warriewood. Such warden(s) shall commence duties no later than 7.15am through to 2.45pm."

Reason: To ensure safe and orderly traffic movements and parking and to manage amenity impacts to local residents."

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 - 2.8 Temporary use of land
Pittwater 21 Development Control Plan - C2.10 Pollution Control

SITE DESCRIPTION

Property Description:	Lot 27 DP 5055 , 22 Jubilee Avenue WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of three (3) allotments located to the south-west of Mona Vale Road, north-west of Foley Street, and north of Jubilee Avenue.</p> <p>The site is irregular in shape with frontages of 267m along Mona Vale Road, 200m along Foley Street, and 100m along Jubilee Avenue. The site has an area of approximately 39,319m².</p> <p>The site is zoned part R2 Low Density Residential and part B7 Business Park and accommodates the Pittwater RSL Club development, comprised of the club, sportsfields, bowling club and associated parking.</p> <p>The site slopes approximately 20m from east to south-west, and contains significant vegetation around the existing buildings, facilities and parking areas.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by industrial, commercial and low-density residential development.</p>

Map:



SITE HISTORY

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

- DA2019/0006 for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market was rejected on 1 February 2019 under staff delegation due to inadequate Statement of Environmental Effects, plans, operational management plan, signage details, and waste management plan.
- DA2019/0046 for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market was rejected on 22 February 2019 under staff delegation due to inadequate plans and owners consent.
- DA2019/0123 for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market was approved by NBLPP on 19 June 2019, subject to conditions. This is the subject consent and there have also been two modification applications under MOD2019/0547 and MOD2020/0175 to modify conditions. The modifications proposed in MOD2019/0547 were not supported.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/0123 and MOD2020/0175, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0123 and as modified under MOD2020/0175 for the following reasons:</p> <p>The proposal involves a request to modify conditions of consent relating to a trial period and a condition relating to traffic wardens. The hours of operation and the type of operation is not proposed to be change. As such, the use and operation would be substantially the same as the existing consent.</p>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2019/0123 did not require concurrence from the relevant Minister, public authority or approval body.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environmental Plan 2011 and the Community Participation Plan.

Section 4.55 (2) - Other Modifications	Comments
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</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>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 in the original consent.</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 the Pittwater 21 Development Control Plan section in this report.</p>

Section 4.15 'Matters for Consideration'	Comments
environment and social and economic impacts in the locality	<p>(ii) Social Impact Insufficient information in regard to acoustic testing has been provided to determine whether there will be 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 from 04/03/2021 to 18/03/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 29 submission/s from:

Name:	Address:
Martin Vella	16/117-119 Homer Street EARLWOOD NSW 2206
Mrs Robyn Suzanne Murray	2 / 3 Vineyard Street MONA VALE NSW 2103
Ric Simpson	Address Unknown
Mr Stephen Choularton	10 Chiltern Road INGLESIDE NSW 2101
Rebecca Svenoy	330 / 79 - 91 Macpherson Street WARRIEWOOD NSW 2102
Erica Power	Address Unknown
Mrs Janice Lynette Bilton	8 / 6 Foley Street MONA VALE NSW 2103
Frank Kardos	Address Unknown
Mr John Moyle	Address Unknown
Camilla Stevens	Address Unknown
Mrs Barbara Kerstin Stevens	66 A Cabbage Tree Road BAYVIEW NSW 2104
Mrs Deborah Trakman	17 Bruce Street MONA VALE NSW 2103

Name:	Address:
Miranda Bakery Pty Ltd	19 Erskine Road CARINGBAH NSW 2229
Mrs Julliett McCann	19 Alameda Way WARRIEWOOD NSW 2102
Grant Jackson Jessica Jackson	Address Unknown
Cynthia Nadai	Address Unknown
Lynda O'Dell	92 Aubreen Street COLLAROY PLATEAU NSW 2097
Georgina Reed	Address Unknown
Kay Pittelkow	Address Unknown
Ash Perrow	Address Unknown
Fibre For Good Pty Ltd	11 Station Street PYMBLE NSW 2073
Igor Kovacevic	Address Unknown
Ms Courtney Mae Ings	88 Warriewood Road WARRIEWOOD NSW 2102
Amiley Olliver	Address Unknown
Ms Valerie Jensen	185 Warriewood Road WARRIEWOOD NSW 2102
Mr Peter William McDonald	10 / 6 Foley Street MONA VALE NSW 2103
Ron Bode	19 Jubilee Avenue WARRIEWOOD NSW 2102
Mr Daniel Glen Giles	80 Vineyard Street MONA VALE NSW 2103
Hayley Croft	Address Unknown

It is noted that 16 submissions were made in support of the proposal. These submissions provided reasons for support including community benefit, social benefit, health benefit and economic benefit.

The matters raised within the submissions are addressed as follows:

- Noise impacts on surrounding area
Comment:
Insufficient information has been provided in terms of acoustic data to be able to assess the viability of extending the operations of the markets by the removal of the trial period.
- Concern in regard to MOD2021/0047 and REV2020/0029 being lodged concurrently; suggestions that applications should have been immediately rejected; MOD2021/0047 was 'wrongly' lodged late; Claim that Council provided advice that the application would be withdrawn due to not being made in the legislated timeframe
Comment:
The current modification application was submitted in accordance with the Act and regulations. As such, Council has an obligation to assess the application. There is no legal impediment in Council considering the request to modify condition 10 by the extension of the expiry date as well as extending the date in which a modification application is to be lodged.

The development consent is valid and current in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

Council staff provided advice that another application, REV2020/0029, was being withdrawn. Review application (REV2020/0029) was withdrawn on 24 March 2021. Council's assessing officer has not provided any advice in regard to the withdrawal of this application

(MOD2021/0047).

- Traffic congestion, traffic safety and parking problems; issues cause by one entrance; increase to traffic flow; claim that vehicle movements increase by 10 times during markets (as compared to another Sunday)

Comment:
The Applicant provided a Parking & Traffic Impact Assessment Report and traffic modelling to Council as part of the original application. Notwithstanding this, condition 12 was imposed requiring traffic wardens to be provided. Council's Traffic officer has reviewed the current request to delete condition 12 and they do not support the removal of the condition.
- Operation outside trading hours

Comment:
Any evidence to show operation outside the hours of any consent should be forwarded to Council's Compliance team at council@northernbeaches.nsw.gov.au.
- The same documents have been submitted for different applications.

Comment:
Council will assess all documents as they are relevant to each individual application.
- The applicant did not adopt requirement for traffic wardens

Comment:
Council's Traffic officer does not support the request to remove the traffic wardens. Further, any evidence of non-compliance with conditions of consent (such as a requirement for traffic wardens) should be reported to Council's compliance team at council@northernbeaches.nsw.gov.au.
- Pollution

Comment:
Due to the lack of acoustic information submitted with the application, an assessment of the acoustic impacts and local amenity impacts can not be made and the application is not supported.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>General Comments</p> <p>Environmental Health have been requested to provide comment in regards to the proposal for ' Modification of Development Consent DA2019/0123 granted for use of the carparking area associated with the Pittwater RSL Club for the purposes of an organise food market'. '</p> <p>Reference is made to the report included with the application documentation titled "Noise Impact Statement Review" dated October 2020 by Acoustic Consultant Ian McGrath.</p>

Internal Referral Body	Comments
	<p>The report acknowledges noise monitoring undertaken for the purposes of the report reveals that the Amenity Criteria and or the Intrusive Criteria has been breached.</p> <p>The report also makes comparisons to noise levels measured sampled in the inner city suburb of Annandale which are seen to be not applicable to this proposal. The report further states "The source of breaches of the Amenity Criteria and or the Intrusive Criteria being prescribed as L10 level \leq rating background level or (L90), plus 5, are in the environment under study most likely generated by local through traffic movements at the crossroad not from the markets activity itself".</p> <p>Accordingly, Environmental Health is of the opinion that in the absence of further data to the contrary, the application should be refused based on the above breach, and the fact that any increase in intensity of use of the site for the purpose of an organic market, would only exacerbate any potential noise issues.</p> <p>Recommendation</p> <p>REFUSAL</p>
Traffic Engineer	<p>The modification application has been assessed and in line with the Traffic and Parking Report by Greys Consulting dated October 2020 there is the need for traffic controllers to assist in managing the bump in and bump out process along with management of peak traffic flows from the site onto Ponderosa Parade to manage network congestion. As such the modification cannot be supported on traffic grounds.</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 land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone R2 : No Zone B7 : No Zone SP2: No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone R2 : Yes Zone B7 : Yes Zone SP2: Yes

Compliance Assessment

Clause	Compliance with Requirements
2.8 Temporary use of land	Yes
5.10 Heritage conservation	Yes

Detailed Assessment

2.8 Temporary use of land

The subject site is zoned R2 Low Density Residential, B7 Business Park and SP2 Infrastructure (Classified Road). The proposal is wholly contained within the R2 and B7 zoned land, and does not impact upon the SP2 zoned portion of land. The proposed development is not permissible in the R2 or B7 zones. The proposal relies on Clause 2.8 Temporary Use of Land of the PLEP 2014 for permissibility. Clause 2.8 requires that development consent must not be granted unless the consent authority is satisfied that:

(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and

Comment:

The proposed development would not prejudice the subsequent carrying out of development on the land, as the use of the site will not involve any permanent physical works. Upon cessation of the market events, the land is to be returned to its former state without any unreasonable impact.

(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and

Comment:

Insufficient information has been provided in regard to acoustic data to show amenity impact during the trial period. As such, it cannot be determined if the proposal for extension would adversely impact the amenity of adjoining land.

(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and

Comment:

The proposed development involves temporary structures only, to be set up and removed for use

during operation of the markets only. In this way, the proposed development will not involve alteration to features of the land, nor increase the risk of natural hazards that may affect the land.

(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Comment:

As above, the proposed development will involve temporary structures only, to be set up and removed for use during operation of the markets only. Given the temporary nature of the structures, at the cessation of operation of the markets, the land will be restored to the condition in which it was before the use commenced.

The proposed development satisfies the requirements of this Clause.

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.10 Pollution Control	No	No
C2.21 Food Premises Design Standards	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes

Detailed Assessment

C2.10 Pollution Control

Insufficient information has been provided to determine the success of the trial period. In particular, Council's Environmental Health officer has provided comments that discuss a lack of information submitted including an absence of data to viability of the proposal in terms of acoustic amenity.

It is noted that since 2019, there have been two complaints to Council's compliance team in regard to the operation of the markets. These complaints have been investigated, and there has been no evidence or information found to suggest that the operation of the markets during the trial period has been unreasonable or that operation has caused disturbance that would preclude support for removal of the trial period condition (to allow an extension to operational dates).

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

This report provides an assessment of the application to modify DA2019/0123 which was granted for use of part of the car parking area associated with the Pittwater RSL Club for the purposes of an organic food market.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, the relevant codes and policies of Council, the relevant provisions of the Pittwater 21 DCP.

Public Exhibition

The public exhibition of the DA resulted in a large response from the community (including 16 submissions of support and 4 objections to the proposal). Objections to the proposed development include concerns relating to noise, traffic, impact on amenity, and issues in regarding multiple and late applications being lodged.

The issues raised in the submissions have been addressed in the 'Public Exhibition & Submissions' section of this report.

Insufficient acoustic data in relation to the trial period has been provided. This does not allow for

Council to sufficiently assess the potential impact of noise as a result of extending the period that the markets may operate to 2024.

Based on the lack of acoustic data provided, it is recommended that the Northern Beaches Local Planning Panel refuse the application for the reasons detailed within the recommendation of this assessment.

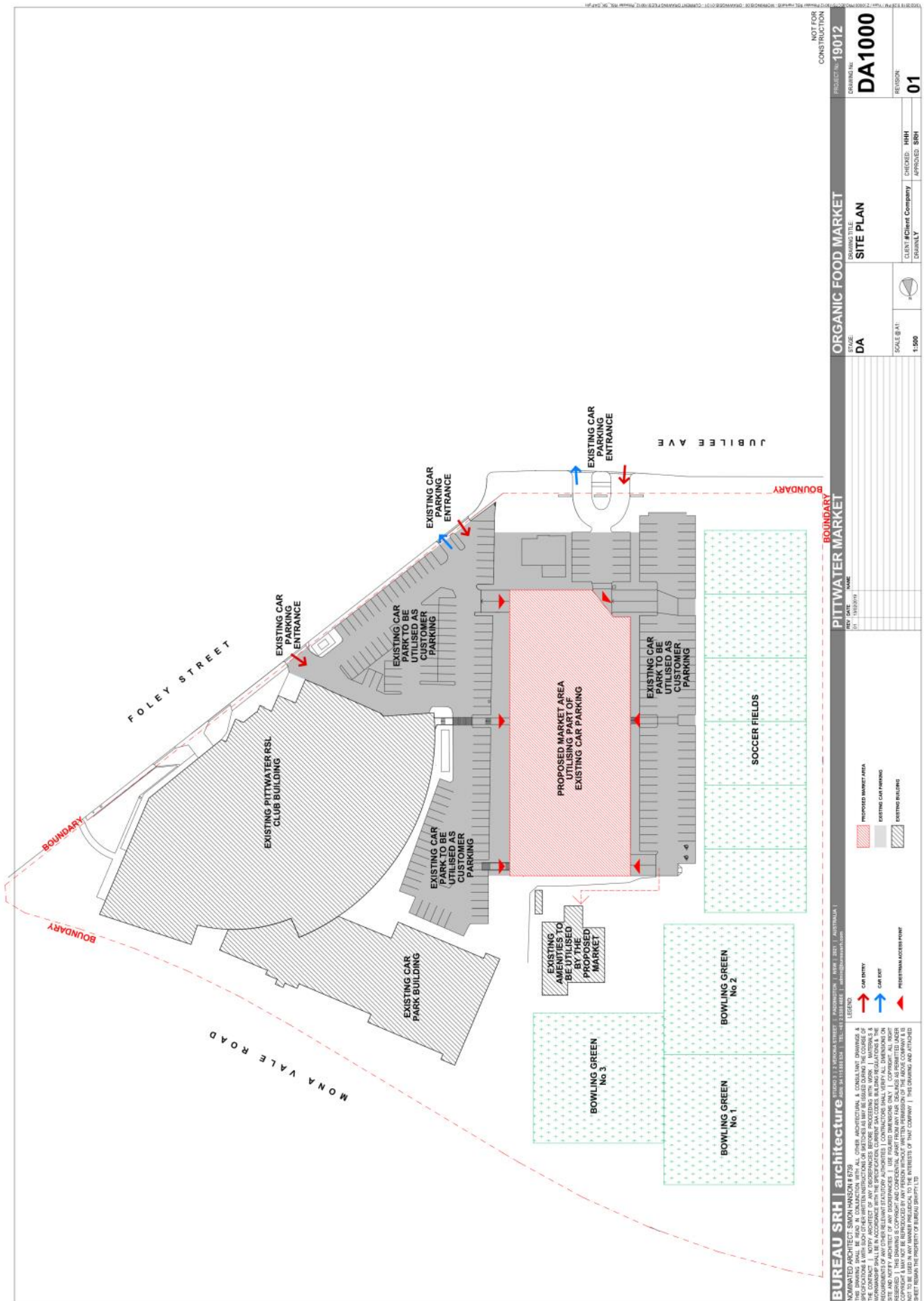
It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council , as the consent authority REFUSE Modification Application No. Mod2021/0047 for Modification of Development Consent DA2019/0123 granted for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market on land at Lot 27 DP 5055,22 Jubilee Avenue, WARRIEWOOD, subject to the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2.10 Pollution Control of the Pittwater 21 Development Control Plan.

Insufficient information has been provided to determine the success of the trial period. In particular, Council's Environmental Health officer has provided comments that discuss a lack of information submitted including an absence of data to viability of the proposal in terms of acoustic amenity.





ITEM 3.2	DA2020/1542 - 24 DOVE LANE, WARRIEWOOD - CONSTRUCTION OF A PERMANENT GROUP HOME
AUTHORISING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2021/243100
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan & Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/1542 for construction of a permanent group home at Lot 15 DP 1221920, 24 Dove Lane, Warriewood subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1542
Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 15 DP 1221920, 24 Dove Lane WARRIEWOOD NSW 2102
Proposed Development:	Construction of a permanent group home
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Gateway 2015 Properties No 1 Pty Ltd
Applicant:	James Jarimba
Application Lodged:	04/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	10/03/2021 to 24/03/2021
Advertised:	Not Advertised
Submissions Received:	29
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 580,000.00

EXECUTIVE SUMMARY

Council is in receipt of development application DA2020/1542 for construction of a permanent group home pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.

The site is zoned R3 Medium Density Residential under the Pittwater Local Environmental Plan 2014 (PLEP 2014) and the proposed development is also permissible with consent.

Whilst the proposal is numerically non compliant with the Front, Rear and Side Setback and Landscaped Open Space provisions, the proposal was found to be consistent with the objectives of these controls with no unreasonable amenity impacts. The battle-axe like lot configuration and the relationship with Dove Lane and Garden St are also factors in the way the controls apply to this particular site. The proposal has been found to be contextually compatible with nearby development.

The application was notified in accordance with Council's Community Participation Plan and twenty-nine (29) submissions were received; all against the application. The issues that have been raised in the submissions include: traffic and safety impacts, vehicular access and parking, amenity impacts, permissibility, design and landscape non-compliances.

The application involves the construction of a permanent group home to provide permanent household accommodation for people with a disability. The permanent group home is to accommodate and care for five (5) clients and a maximum of three (3) staff members are to be onsite at any given time. Two (2) vehicle spaces are to be accommodated within a carport on site.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs), State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) and Council policies.

As more than 10 unique submissions by way of objection were received, the application is referred to the Northern Beaches Local Planning Panel for determination. Subject to conditions of consent, the consent authority can be satisfied that the proposal is consistent with the aims and objectives of the relevant plans and policies, and the application is recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a permanent group home. In particular, the application includes:

- Construction of a single-level permanent group home to provide household accommodation for people with a disability;
- Provision to accommodate and care for five (5) clients with high dependency and care needs. A maximum of three (3) staff members are to be onsite at any given time between 7:00am and 10:00pm, including one (1) sleepover staff member who would be onsite between 10:00pm and 10:00am
- The proposed permanent group home building will comprise:
 - Five (5) bedrooms, a staff office, an open plan kitchen/dining/living, a living room, three (3) bathrooms, a laundry and internal storage areas;
 - A recessed area on the eastern side of the building provides for an open communal area;
- Vehicular access from Dove Lane via a 5m wide access handle to a two (2) vehicle space carport to the northern side of the building and an associated turning area;
- Landscape works including native tree and shrub plantings, decking and paved areas for access; and
- Civil works including onsite stormwater infrastructure.

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 - 1.9A Suspension of covenants, agreements and instruments

Pittwater 21 Development Control Plan - A1.7 Considerations before consent is granted

Pittwater 21 Development Control Plan - C1.23 Eaves

Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments

Pittwater 21 Development Control Plan - D16.6 Front building lines

Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

Pittwater 21 Development Control Plan - D16.9 Solar access

Pittwater 21 Development Control Plan - D16.13 Building colours and materials

Pittwater 21 Development Control Plan - D16.14 Pets and companion animals

SITE DESCRIPTION

Property Description:	Lot 15 DP 1221920 , 24 Dove Lane WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site is known as 24 Dove Lane, Warriewood and is legally referred to as Lot 15 in DP 1221920.</p> <p>The site is irregular in shape with a right of way access handle of 5m in width to Dove Lane and a secondary frontage to Garden Street of 35m in length. The site has a surveyed area of 629.8m².</p> <p>The site is located within the R3 Medium Density Residential zone and is largely vacant with the exception of a landscape plantings, a sandstone retaining wall, fencing and access stairs along the Garden Street frontage. An existing concrete driveway is located in the right of way to Dove Lane.</p> <p>The slope of the site is measured at 11.2%, falling approximately 5m from the Dove Lane frontage to the southern corner of the frontage facing Garden Street.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by dwelling houses within landscaped settings.

Map:



SITE HISTORY

The land has recently been subdivided as part of the Warriewood Release area and has been subject to road construction, earthworks, installation of services and site preparation works prior to the registration of land in 2020.

30 July 2015

Development Application No. N0379/14 for two-staged subdivision and associated civil works. Stage 1 provides for the Torrens Title subdivision of 6 Residential lots and a large residue, including the construction of a detention basin and associated landscaping and civil works. Stage 2 provides the subdivision of the residue lot, including the construction and dedication of a public road, the construction of a detention basin and associated landscaping and civil works at 2 and 2A Orchard Street and 204 Garden Street, Warriewood was approved by Council.

29 September 2015

Development Application No. N0180/15 for the construction of a 33 unit residential flat building, 22 attached dwellings and 6 semi-detached dwellings, and associated civil works, landscaping and community title subdivision was refused by the Joint Regional Planning Panel.

25 January 2016

Modification Application No. N0379/14/S96/1 to modify N0379/14 was approved, to allow for individual water management systems for the 6 Torrens title lots and to delay the construction of the first detention basin until the second stage of works.

11 May 2016

Modification Application No. N0379/14/S96/2 to modify N0379/14 was approved, to delete the requirement for one of the detention basins.

11 August 2016

Development Application N0067/16 for Torrens title subdivision of a yet to be created Lot into 28 allotments and associated civil works was approved by Council.

2 March 2017

The deferred commencement requirements of N0067/16 were satisfied.

22 May 2017

Modification Application No. N0379/14/S96/3 to modify N0379/14 was approved, to allow for the removal of a retaining wall.

9 August 2018

Modification Application No. Mod2018/0305 to modify N0067/16 was approved to allow for amend conditions relating to OSD and raingardens.

17 June 2019

Modification Application No. Mod2019/0178 to modify N0379/14 was approved to substitute tree species.

17 February 2020

Subdivision Certificate Application No. SC2019/0037 for N0067/16 was issued.

23 March 2020

Subdivision Certificate Application No. SC2020/0006 for N0067/16 was issued.

18 August 2020

Pre-lodgement Meeting PLM2020/0173 held between Council and the applicant to discuss the construction of a group home. The concluding comments from Council advised the applicant to provide increased setbacks, additional landscaped area and to resolve stormwater/water management issues.

APPLICATION HISTORY

4 December 2020

The subject application was lodged with Council.

16 December 2020

Photo confirmation received by Council of the notification sign being erected on site at the beginning of

the notification period.

5 February 2021

The assessing officer undertook a site inspection of the property and the immediate surrounds. The notification sign was still in place at the time of this inspection.

15 February 2021

A letter was issued by Council to the applicant, advising that the development application was unable to be supported in its current form due to inconsistencies with with Section 88B Instrument for DP 1221920 and the Pittwater 21 Development Control Plan (P21 DCP).

2 March 2021

Additional information and amended architectural plans are submitted by the applicant seeking to address the issues raised in the letter. The additional information and amended plans are accepted by Council and form the basis of the following assessment.

5 March 2021

The development application was re-notified from 5 March 2021 to 24 March 2021.

10 March 2021

Photo confirmation received by Council of the notification sign being erected on site at the start of the re-notification period.

1 April 2021

The applicant submits a *Plan of Management* to Council which is accepted and forms the basis of the following assessment.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>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>Clause 50(1A) 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>Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. While additional information was not formally requested, a number of issues were identified in a Request for Withdrawal Letter sent to the Applicant on 15 February 2021. The issues included: stormwater management, off-street vehicle parking and landscaped area. In response to this letter, the Applicant submitted amended plans and additional information on 2 March 2021 which were accepted by Council.</p> <p>Clause 92 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>Clauses 93 and/or 94 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 can be addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be 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> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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 from 10/03/2021 to 24/03/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 29 submission/s from:

Name:	Address:
Jackie Shaw	20 Dove Lane WARRIEWOOD NSW 2102
Mrs Christina Louise Grace	12 Shearwater Drive WARRIEWOOD NSW 2102
Robert Pacella	55 Kingfisher Way WARRIEWOOD NSW 2102
Mrs Belinda Lois Myers	53 Kingfisher Way WARRIEWOOD NSW 2102
Mr Paul Patrick Mulvena	185 Garden Street WARRIEWOOD NSW 2102
Mr Nigel Terry Adams	181 Garden Street WARRIEWOOD NSW 2102
Ms Karmen Mary Avalon	15 Fern Circuit WARRIEWOOD NSW 2102
Ms Nicole Michelle Lunday	179 Garden Street WARRIEWOOD NSW 2102
Mrs Milka Kostic	10 Shearwater Drive WARRIEWOOD NSW 2102
Alexander Hollings	7 Shearwater Drive WARRIEWOOD NSW 2102
Miss Stephanie Ling Mr Warren Mark Ling	177 Garden Street WARRIEWOOD NSW 2102

Name:	Address:
Mrs Andrea Ling Kara Ling Stuart Ling Nicole Ling	
Mr Hugo Franz Kapferer	11 Shearwater Drive WARRIEWOOD NSW 2102
Mr Joseph Mills	26 Kingfisher Way WARRIEWOOD NSW 2102
Mr Robert Kuijsters	35 Kingfisher Way WARRIEWOOD NSW 2102
Mrs Jacqueline Loveday	Po Box 345 MONA VALE NSW 2103
Mr Peter John Loveday	6 Ingleside Road INGLESIDE NSW 2101
Mr Matt Loveday Ms Melissa Naomi Ashton	28 Kingfisher Way WARRIEWOOD NSW 2102
Mr Kevin Vincent Fouche	Suite 4129 834 Pittwater Road DEE WHY NSW 2099
Mr Dennis Thomas Fardy	26 Dove Lane WARRIEWOOD NSW 2102
Ms Christine Georgakopoulos	47 Arnott Crescent WARRIEWOOD NSW 2102
Ms Sharon Margaret Lang	64 Catherine Street ST IVES NSW 2075
Mrs Tyler Sadler	28 Dove Lane WARRIEWOOD NSW 2102
Mr Chris Burnett	3/3 Fern Circuit WARRIEWOOD NSW 2102
Isaac Loveday	28 Kingfisher Way WARRIEWOOD NSW 2102
Ms Kay Elizabeth Rice	30 Kingfisher Way WARRIEWOOD NSW 2102
Ms Anna Louise Charleston	10 Orchard Street WARRIEWOOD NSW 2102
Ms Loraine Manley	3 Fern Circuit WARRIEWOOD NSW 2102
Mrs Yu Yu Ruan	171 Garden Street WARRIEWOOD NSW 2102
Warriewood Residents Association Incorporated	25 Utingu Place BAYVIEW NSW 2104

The Development Application was publicly exhibited in accordance with Council's Community Participation Plan. The Development Application was notified from 15 December 2021 to 20 January 2021. The application was re-notified from 10 March 2021 to 24 March 2021 due to amended plans and additional information being received. As a result of the public exhibition, 29 submissions were received; all against the application.

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

- **Traffic and safety impacts, vehicular access and parking**

Comment:

Concerns were raised with regards to the traffic impacts associated with the group home on Dove Land and surrounding streets. Council's Traffic Engineer has reviewed the development application and has recommended that the application be supported, subject to conditions.

A number of submissions were also received with regards to vehicular access, pedestrian safety and insufficient parking spaces on site. A review of matters relating to vehicular access and pedestrian safety by Council's Traffic Engineer and the planning assessment has been deemed acceptable subject to the submission of a *Plan of Traffic Management* prior to the issue of a Construction Certificate. In response to initial comments received from Council's Traffic

Engineer, amended plans were received detailing a provision of at least two (2) vehicle spaces in addition to a turning bay to allow for vehicles to enter/exit in a forward direction. The provision for two (2) vehicle spaces is compliant with Clause B6.3 Off-Street Vehicle Parking Requirements of the P21 DCP.

Detailed comments with regards to these matters are provided in this report under the "Referrals" section.

- **Amenity impacts**

Comment:

Issues were raised with regards to local amenity impacts associated with light and noise from the group home. Consideration was given that the single-level building will be largely screened with existing and future plantings to help mitigate light spill. Any issues arising from noise from the group home is the responsibility of any future operator of the site. Such matters have been addressed in the *Plan of Management* which is to be complied in accordance with the conditions of consent.

- **Permissibility of the group home**

Comment:

Numerous submissions were received suggesting that the group home could be used for the purposes of a share house, boarding house, accommodation for people newly release from prison, drug rehabilitation, people with mental illness or for people with a disability. Submissions also noted that a group home would be inappropriate for a residential area and that its location would be better suited closer to a hospital or other medical facility.

In this regard, group homes are permitted with consent via SEPP Affordable Rental Housing (SEPP ARH) and in the R3 Medium Density Residential zone of the PLEP 2014. Further, as detailed in the discussion under SEPP ARH, Sunnyfield/Gateway (the developer and tenant of the site) has proposed that a condition of consent be imposed to ensure the group home is only used as accommodation for people with a disability. This condition has been included in the Recommendation.

- **Design of the group home**

Comment:

A number of submissions were received concerning appearance of the group home, the appropriateness in a residential area and compliance against locality specific controls applicable to developments in the Warriewood Valley.

In this regard, the proposed non-compliances, particularly those to the front, side and rear building lines have been assessed as acceptable on merit further in this report. Consideration has been given that the single-level group home of weatherboard appearance with a gable/skillion roof, incorporates a number of design features as well as the provision for additional landscaping to ensure that the building achieves consistency with neighbouring dwellings and the streetscape.

A detailed discussion of these non-compliances have been undertaken later in this report under clauses D16.6 Front building lines and D16.7 Side and rear building lines of the P21 DCP.

- **Landscape areas and planting arrangement**

Comment:

Concerns were expressed with regards to insufficient areas for landscaping and tree plantings. In this regard, Council's Landscape Officer has indicated that the landscaping component of the proposal is acceptable as detailed in this report under the "Referrals" section. A detailed discussion of the landscaped area non-compliance has been undertaken later in this report under Clause D16.5 Landscaped Area for Newly Created Individual Allotments of the P21 DCP.

- **Building Colours**

Comment:

A submission was received raising concern with the external colours/finishes of the proposed group home. The external wall colours are consistent with the requirement for the use of 'dark and earthy tones', however a condition has been placed to ensure that the proposed roof finish is a colour equivalent to or darker than Colorbond "Windspray" (mid-grey). A detailed discussion of this non-compliance has been undertaken later in this report under Clause D16.13 Building colours and materials of the P21 DCP.

- **Impact upon neighbouring property values**

Comment:

The proposed use as a permanent group home is permitted with consent via SEPP ARH and the R3 Medium Density Residential zone. Concerns specifically relating to any resulting impact on the value of surrounding properties has been dismissed as a reason for this development application to be refused as they are not a relevant matter for consideration under relevant planning legislation.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><i>Supported, without conditions</i></p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p><i>Supported, subject to conditions</i></p> <p>The development application is for the construction of a five bedroom single-storey group home and associated works.</p> <p>Council's Landscape Referral staff have assessed the proposal against State Environmental Planning Policy (Affordable Rental Housing) 2009, Division 7 Group Homes, and the following Pittwater 21 DCP Controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C6.2 Natural Environment and Landscaping Principles • D16 Warriewood Valley Locality, and in particular D16.5 Landscaped

Internal Referral Body	Comments
	<p>Area for Newly Created Individual Allotments</p> <p>The Landscaped Area calculations are less than required under Pittwater 21 DCP, clause D16.5 Landscaped Area for Newly Created Individual Allotments, however the landscape treatment of the site, including the existing landscaping along the Garden Street frontage within the site boundary, containing extensive small trees and shrub planting, and the proposed landscaping as part of this proposal softens the development from the streetscape, and achieve the landscape intent of the Warriewood Valley Locality outcomes and controls.</p> <p>Conditions of consent shall be imposed for replacement tree and shrub planting within the 2 metre zone between the site boundary and the existing sandstone wall and fence along Garden Street where existing vegetation has failed.</p> <p>Landscape Referral raise no objections to the landscape outcome of the development, subject to approval of the planning merits of the proposal.</p>
NECC (Development Engineering)	<p><i>Supported, subject to conditions</i></p> <p><u>Additional Information Received 3/03/2021:</u></p> <p>Amended plans have been reviewed. No objections to approval subject to conditions as recommended.</p> <p><u>Earlier comments:</u></p> <p>The treatment train for the site stormwater as specified in the 88B instrument DP 1221920 involves a rainwater overflowing to a raingarden then and OSD tank and subsequently draining to the council drainage system located in the northeastern corner of the site.</p> <p>The design proposed in the stormwater plan does meet these requirements. The stormwater plan proposes to split the site discharge in two with the southern roof area draining via an above ground OSD tank and a rain garden to the interallotment drainage line along the southern boundary. The northern part of the site drains to a RWT and OSD system using Aquacomb pods located under the slab. This subsequently passes through a jellyfish treatment unit before connecting to the Council drainage line in the northeastern corner</p> <p>Underground OSD systems require access for maintenance and as such Aquacomb pods under the slab are not supported. Underground OSD systems are to be designed in accordance with Council's Water Management for Development Policy.</p> <p>The OSD system and raingarden shall be located between the dwelling and the northern boundary under the driveway/parking area</p>

Internal Referral Body	Comments
	<p>as specified in the 88B instrument. Additionally the proposal to discharge to the interallotment drainage line along the southern boundary is not supported as based on the 88B this Lot does not have the legal right to drain to this easement.</p> <p><i>Note to planner: Please refer to Coast and Catchment Team for comments regarding the treatment systems proposed.</i></p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported, without conditions</p> <p>The property at 24 Dove Lane is not identified as flood affected.</p>
NECC (Water Management)	<p>Supported, subject to conditions</p> <p><u>Comments on amended plans:</u></p> <p>11/03 Review following submission of updated stormwater plan</p> <p>Meets requirements</p> <p><u>Earlier comments:</u></p> <p>The applicant has provided plans that replace the required raingarden with an Ocean Protect Jellyfish, a proprietary device that removes pollutants from stormwater. The Jellyfish is not an equivalent for a raingarden, which also allows stormwater to infiltrate into the soil and evaporate into the air due to its residence time. One of the objectives of Water Sensitive Urban Design is to reduce the quantity of runoff. As the Jellyfish device only removes pollutants and does not reduce runoff as a raingarden does, we cannot accept this device in this development. Ocean Protect has another device called the Filterra Basin that when altered to allow infiltration (they have approved the design with Council), we have been willing to accept. This is a capsule bio-retention (like a raingarden) that through the use of engineered filter media achieves the same objectives as a raingarden but with a smaller footprint.</p> <p>The use of an Ocean Protect Jellyfish in place of a raingarden is unacceptable.</p>
Traffic Engineer	<p>Supported, subject to conditions</p> <p><u>Comments on amended plans:</u></p> <p>The proposed amendment includes the provision of two on-site parking spaces and a turning area enabling vehicles to enter and exit the driveway in forward direction. This has satisfied the traffic requirements, therefore the proposal is supported.</p> <p><u>Earlier Comments:</u></p> <p>The proposal is for construction of a group home. The proposed development includes the provision of one parking space within the site which is inconsistent with the parking provision demonstrated at the Pre-DA stage. The proposed parking provision is considered deficient and cannot be supported.</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. The site has been subject to a subdivision works that were subject to conditions that sought to ensure that any fill be free of contaminated materials or soils. 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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 7: Group homes

42 Definitions:

(1) In this Division —

group home means a permanent group home or a transitional group home.

permanent group home means a dwelling—

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Comment:

The proposal is for a permanent group home for people with a disability.

43 Development in prescribed zones

(1) Development for the purpose of a permanent group home or a transitional group home on land in a prescribed zone may be carried out:

- (a) without consent if the development does not result in more than 10 bedrooms being within one or more group homes on a site and the development is carried out by or on behalf of a public authority, or*
(b) with consent in any other case.

Comment:

The group home is to comprise of 5 bedrooms. The applicant is not a public authority. Therefore, the proposal requires consent.

46 Determination of development applications:

(1) A consent authority must not:

- (a) refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or*
(b) impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.

(2) This clause applies to development for the purpose of a group home that is permissible with consent under this or any other environmental planning instrument.

Comment:

The proposal is recommended for approval.

In response to objections raised as part of the notification of the development application, Sunnyfield/Gateway (the developer and tenant of the site) propose that a condition of consent be imposed to ensure the group home is only used as accommodation for people with a disability. The proposed condition is to read as follows:

The group home which is the subject of this consent is to provide permanent household accommodation for people with a disability only.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1135245S_02, dated 4 March 2021).

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

Commitment	Required Target	Proposed
Water	40	46
Thermal Comfort	Pass	Pass
Energy	50	55

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:

A referral to Ausgrid was not considered necessary as the proposal did not trigger the above requirements.

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	5.35m	-	Yes

Compliance Assessment

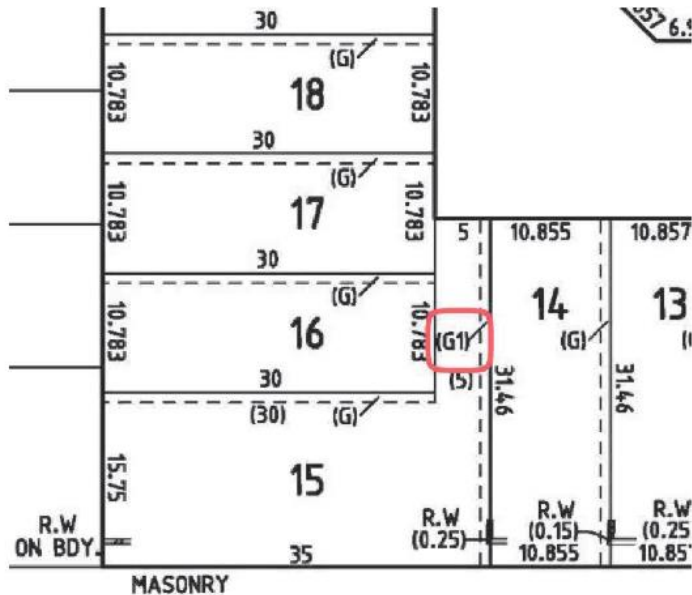
Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	No
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

The site (Lot 15) is burdened by Easement 'G1' as specified within the Section 88B Instrument and

shown on Deposited Plan 1221920.



GARDEN

Figure 1: Easements relating to Lot 15. Annotated to help identify the location of easement 'G1'.

Easement 'G1' is for "Easement for Repairs 0.9 wide". This easement for repairs is identified as No. 19 on the Section 88B Instrument of Deposited Plan 1221920. The terms of this easement are detailed below:

Terms of Easement for Repairs seventhly, nineteenthly and twentiethly referred to in the abovementioned plan:

Terms of Easement for Repairs as per Part 5 Schedule 8 of the Conveyancing Act 1919 as amended, together with the following addition:

The registered proprietor of the lot burdened shall not erect any building or other structure of any kind on or over the site of the easement, including eaves, guttering, gables, air conditioning units, rainwater tanks, hot water units, downpipes or electrical conduits.

Figure 2: Extract of the Section 88B Instrument of Deposited Plan 1221920.

The proposal however indicates part of the carport and covered entry encroaching within this area (shown in red below on Figure 3).



Figure 3: Extract of the roof plan for the proposed development. Non-compliance to the Section 88B Instrument has been shaded in red.

In this instance, the registered proprietor/s of the benefited lot (Lot 14 DP 1221920, commonly referred to as 26 Dove Lane, Warriewood) has the right to release, vary or modify the terms of this easement. As the owners consent for 26 Dove Lane, Warriewood has not been provided to Council, the applicant has agreed to a condition being applied for no buildings or structures to be located within 0.9m of the northern boundary.

Whilst the placement of this condition will result in the deletion of part of the carport and associated entry porch roofing, consideration has been given that the location of the vehicle spaces will remain compliant and that a majority of this area can remain covered. Such a change would result in a lesser impact on neighbouring properties and is not seen to lead to any detrimental impact to the proposed development as a whole.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	Variation	Complies
Front building line	All development fronting Garden Street: 5m to articulation zone 6.5m to garage/carport 6.5m to dwelling	Garden Street frontage (East): 2.9m to BBQ entertainment area 6.1m to carport 4.3m to group home building	58% (2.1m) 6% (0.4m) 34% (2.2m)	No No No
Rear building line	4m	South: 1.5m to 3.295m group home building	62.5% (2.5m)	No
Side building line	0.9m	West: 0.9m to group home building	-	Yes
	0.9m	North: 0m (Nil) to entry posts North: 0.54m to carport North: 7.6m to group home building	100% (0.9m) 40% (0.36m) -	No No Yes
Landscaped area	45% or 283.4m ² (4m min. dimensions)	11.4% (72m ²)	71.5% (211.4m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	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
C1.3 View Sharing	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	No	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No	Yes
D16.6 Front building lines	No	Yes
D16.7 Side and rear building lines	No	Yes
D16.9 Solar access	No	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	No	Yes
D16.14 Pets and companion animals	Yes	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

It has been acknowledged that the revised notification plan (Drawing No. 2014 DA-7000 B, dated 1/3/21) depicts the north point in an incorrect direction. Despite this, all other architectural drawings

including those that would be subject to being stamped if approved, correctly indicate the north point.

C1.23 Eaves

The proposal does not meet the requirement for all eaves to be a minimum width of 450mm. Despite this non-compliance, the roof forms of the resultant development are seen to reflect the coastal/bushland character of Warriewood. The BASIX Certificate submitted with this application also demonstrates that an acceptable level of solar access and shading is achieved.

Based on the above, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

D16.5 Landscaped Area for Newly Created Individual Allotments

Requirement:

45% or (283.4m²) with minimum dimensions of 4m

Proposed:

11.4% (72m²) with minimum dimensions of 4m

The proposed landscaped area that comprises 11.4% of the site, is non-compliant with the control that requires 45% of the site area to be dedicated towards landscaping. Despite this, it should be noted that if consideration was given to all areas where plants, grasses and trees can grow, the revised landscaped area would be 31% (195.28m²).

Consideration should be given that if the access handle was to be excluded from the site area, that the proportion of landscaped area would be increased to 13%. Further, when accounting for a revised calculation (as indicated above) the landscaped area would be 32.45%.

Council's Coast & Catchments division (Water Management) has also provided comments indicating that the proposal does not exceed the impervious surfaces restriction and that the proposed water management arrangement is acceptable subject to conditions.

Merit consideration

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

- *Conservation of significant natural features of the site and contribution to the effective management of biodiversity.*

Comment:

The site does not contain any significant natural features. The proposed development contributes to the effective management of biodiversity by incorporating native vegetation, including trees into the existing landscaping arrangement.

- *Warriewood Valley achieves a unified and high quality landscape character that contributes to the sense of place.*

Comment:

The proposed landscaping is detailed in its design and of a high quality to achieve consistency with the landscape character of Warriewood Valley, therefore contributing to the sense of place.

- *Landscaping promotes ecologically sustainable outcomes, maintaining and enhancing biological diversity and ecological processes.*

Comment:

The proposal plant schedule consists of largely native vegetation, promoting ecologically sustainable outcomes, and therefore maintaining and enhancing biological diversity and ecological processes

- *The area of site disturbance is minimised.*

Comment:

The areas of site disturbance is generally limited to the footprint of the proposed group home, carport and associated areas.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

As previously discussed, Council's Coast & Catchments division (Water Management) has provided comments indicating that the proposal does exceed the impervious surfaces restriction applicable to the site and that the proposed water management arrangement is acceptable subject to conditions. The proposal is therefore considered to appropriately reduce stormwater run off, preventing soil erosion and siltation of natural drainage channels.

- *Landscaped areas should be predominately areas of deep soil.*

Comment:

The proposed landscaped areas are largely deep soil zones enabling the planting of trees and vegetation.

- *New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.*

Comment:

The proposed development retains existing vegetation and will enhance the site through additional plantings, including trees and shrubs throughout the site therefore blending the new development into the streetscape and neighbourhood.

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

Comment:

The proposed development ensure that a reasonable level of privacy and amenity is provided within the development site and is also maintained to neighbouring properties through the

provision of native screen plantings and the like.

Based on the above, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

D16.6 Front building lines

Requirement:

All development fronting Garden Street:

5m to articulation zone
6.5m to garage/carport
6.5m to dwelling

Proposed:

2.9m to covered BBQ entertainment area
6.1m to carport
4.3m to group home building



Figure 4: Marked up plan indicating the front setback requirements applicable to the proposal.

Whilst the subject site is of a battle-axe configuration where primary vehicular access is gained via Dove Lane, the frontage to Garden Street has been considered the most appropriate boundary to undertake an assessment against the front building line control.

Consideration has been given to the existing Garden Street (eastern) setbacks applicable to adjoining properties directly north and south of the subject site below:

Property directly south of the subject site - No. 2 Orchard Street, Warriewood:

3.86m to dwelling house

Property directly north of the subject site – No. 26 Dove Lane, Warriewood:

5.07m to covered alfresco

An average of the front setback of these two properties is measured at 4.47m.

When accounting for the Garden Street setbacks of the group home, the proposal is seen to achieve an acceptable level of consistency with adjoining properties.

Merit consideration

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

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

Comment:

The proposed development is considered to achieve the desired future character of Warriewood Valley for low density housing, community services and a mixture of residential land uses. The provision for a group home is seen to be compatible with the adopted planning strategy for the area and has been designed appropriately with innovative water management systems and with consideration to the surrounding natural environment.

- *The area of site disturbance is minimised and soft surface is maximised.*

Comment:

The proposal has been reviewed by Council's Coast & Catchments division (Water Management) who have considered that the development meets relevant water management and infiltration requirements. Whilst the overall landscaped area is lesser than that prescribed under Clause D16.5 of the P21 DCP, Council's Landscape Officer has detailed that the landscaping component of the proposal is acceptable. Further, the proposed group home does not require excessive levels of excavation, being constructed largely at existing ground level.

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

Comment:

The bulk and scale of the group home has been minimised through its single-level design and effective use of building finishes/materials.

- *To achieve a consistent built form alignment in the streetscape, which is spacious and attractive, enhanced by tree planting within the front setback.*

Comment:

The proposed ground home is considered to present appropriately to the Garden Street frontage through the incorporation of an articulated facade, recessing and projecting architectural elements and acceptable building alignment with neighbouring properties. The setback to Garden Street is to be further enhanced with additional native plantings and trees.

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

Comment:

The proposal is considered to provide for an equitable preservation of views and vistas to and/or from public/private places.

- *Vegetation and natural features of the site are retained and enhanced within the site design to screen the visual impact of the built form.*

Comment:

The proposed development does not seek the removal of any significant native species or natural features on site. The submitted landscape plan indicates a number of additional plantings to enhance the site and help screen the visual impact of the built form when viewed from Garden Street.

- *Encourage tandem carparking opportunities on narrow lots and minimise the visual prominence of parking structures in the streetscape.*

Comment:

The proposed vehicular parking arrangement comprising of an open-style carport is considered acceptable and not visually dominant when viewed from either Dove Lane or Garden Street.

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

Comment:

The proposed breach to the Garden Street setback is not seen to result in any unreasonable privacy, amenity or solar access impacts being provided within the development site or to neighbouring properties.

Based on the above, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

D16.7 Side and rear building lines

Requirement:

Rear building line (South): 4m

Side building line (West & North): 0.9m

Proposed:

Rear building line (South): 1.5m to 3.295m group home building

Side building line (West): 0.9m to group home building

Side building line (North): 0m (Nil) to entry posts*, 0.54m to carport posts*, 7.6m to group home building.

*As discussed earlier in this report under Clause 1.9A Suspension of covenants, agreements and instruments of the PLEP 2014, a condition is to be applied to ensure that no building or structures are located within 0.9m of the northern boundary.

Merit consideration

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

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

Comment:

The proposed development is considered to achieve the desired future character of Warriewood Valley for low density housing, community services and a mixture of residential land uses. The provision for a group home is seen to be compatible with adopted planning strategy for the area and has been designed appropriately with innovative water management systems and with consideration to the surrounding natural environment.

- *The area of site disturbance is minimised and soft surface is maximised.*

Comment:

The proposal has been reviewed by Council's Coast & Catchments division (Water Management) who have considered that the development meets relevant water management and infiltration requirements. Whilst the overall landscaped area is lesser than that prescribed under Clause D16.5 of the P21 DCP, Council's Landscape Officer has detailed that the landscaping component of the proposal is acceptable. Further, the proposed group home does not require excessive levels of excavation, being constructed largely at existing ground level.

- *The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.*

Comment:

The bulk and scale of the proposed group home has been minimised through its single-level building design that is of weatherboard construction with a skillion/gable roof. Whilst it is accepted that the rear setback breach to the southern boundary results in additional shadowing towards No. 2 Orchard Street, Warriewood, the assessment has considered that this breach is acceptable on merit (Refer to discussion under Clause D16.9 Solar Access of the P21 DCP).

- *To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.*

Comment:

The eastern elevation of the proposed ground home incorporates a number of design features to appropriately present to Garden Street. The group home incorporates an articulated facade, recessing and projecting architectural elements and appropriate separation between neighbouring properties. These features along with existing and additional plantings within the setback area to Garden Street are seen to provide meaningful breaks between buildings will also minimising the overall built form.

- *To create usable curtilage areas around buildings for viable access, landscaping and open space.*

Comment:

The proposal seeks to provide for access, landscaping and open space around the majority of the group home. These areas are seen to be usable, allowing for areas of outdoor entertainment, plantings along with service functions such as clothes drying.

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

Comment:

The proposal is considered to provide for an equitable preservation of views and vistas to and/or from public/private places.

- *Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.*

Comment:

The proposed development does not seek the removal of any significant native species or natural features on site. The submitted landscape plan indicates a number of additional plantings to enhance the site and help screen the visual impact of the built form.

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

Comment:

Consideration has been given that breach to the rear setback has been appropriately addressed through the provision of native screen plantings along the southern boundary to help mitigate privacy impacts towards No. 2 Orchard Street, Warriewood. Impacts associated with solar access have been addressed later in this report. Overall, the proposal is considered to provide for a reasonable level of privacy, amenity and solar access to the occupants of the subject site and those neighbouring.

Based on the above, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

D16.9 Solar access

Requirement:

Solar access received by the proposed residential development:

Minimum solar access to windows to the principal living area between 9am and 3pm on June 21: 2 hours

Minimum solar access to private open space area between 9am and 3pm on June 21: 2 hours

Impact of proposed development on existing adjoining residential development:

Where the principal living area and private open space within an existing adjoining dwelling currently receives sunshine during midwinter, any proposed adjacent development is not to reduce that solar access below three (3) hours.

Where an existing structure already impinges upon the solar access of an adjoining property to a greater degree than that specified, any new structures or modifications must maintain that existing solar access as a minimum. However, Council encourages new structures to reduce the solar impact onto adjoining properties.

Proposed:

Solar access received by the proposed residential development:

The proposal breaches the requirement for at least 2 hours of solar access to be provided to private open space (recessed communal open area) of the group home on June 21.

Impact of proposed development on existing adjoining residential development:

The proposed development is also seen to breach the requirement for a minimum of 3 hours solar access being provided to the private open space area (rear garden and patio) for adjoining property to the south, No. 2 Orchard Street, Warriewood. Whilst No. 2 Orchard Street, Warriewood is currently an 'exhibition home', the assessment has taken into consideration solar access impacts to this property for any future residents.

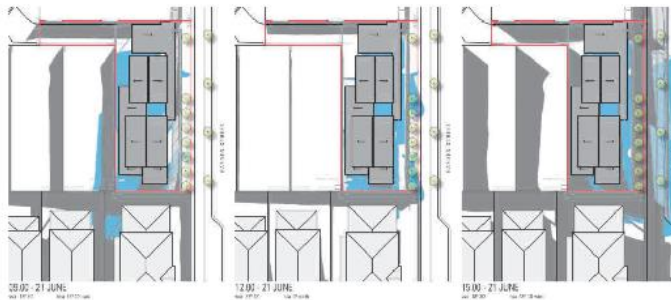


Figure 5: Solar access diagrams at June 21.

Merit consideration

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

- *Development is sited and designed to maximise solar access, adequate daylight and ventilation to habitable rooms and adequate sunlight to private open spaces during midwinter.*

Comment:

The proposed development is of a single-level design with a maximum overall height of 5.35m on a 1.5m to 3.295m setback to the southern boundary. Ceiling heights associated with the rear most bedroom (Bed 5) is measured at 2.7m which is not excessive for the purposes of a group home. In order to preserve the existing level of solar access to No. 2 Orchard Street, Warriewood a design change would be necessary for the deletion of this room or a significant reconfiguration of the group home. It is also anticipated that the covered patio area at No. 2 Orchard Street, Warriewood will retain approximately 50% of solar access to the ground at 12pm on June 21. Consideration has been given that the proposed development is sited on filled land that is noticeably higher than the existing ground level at No. 2 Orchard Street, Warriewood. Further, existing fencing along the shared boundary already contributes towards a significant level of shadowing at the neighbouring site. Whilst it is accepted that the proposal breaches the nominated rear building line of 4m to the south, given the site constraints the overall design and siting of the group home is considered acceptable.

The proposal also breaches the control for a minimum of 2 hours of solar access that being

provided to private open space of the group home on June 21. Consideration has been given that the recessed communal open area provides the occupants with a practical space that functions as an extension from the kitchen/dining/living room. The area will be open, allowing access to natural light and ventilation whilst also providing a level of weather protection and an outlook towards Garden Street. It should also be noted that the landscaped area to the east of kitchen/dining/living room will achieve compliance with this solar access requirement.

- *A reasonable level of solar access is maintained for existing residential properties, unhindered by adjoining development. Development allows reasonable solar access to recreational and living areas of adjoining residential developments.*

Comment:

The proposal is considered to maintain a reasonable level of solar access to the family room, home theatre and living room at No. 2 Orchard Street, Warriewood that appear to be located along the eastern side of the exhibition home. The proposal is therefore considered compliant with the requirement to allow for reasonable solar access to living areas of adjoining properties. Further, the lawned areas for outdoor recreation are primarily located along the eastern side of No. 2 Orchard Street, Warriewood which will also maintain a minimum of 3 hours solar access at on June 21.

Based on the above, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

D16.13 Building colours and materials

The proposal seeks to use a light grey roof finish (Colorbond "Shale Grey") which is inconsistent with the requirement for the use of 'dark and earthy tones'. In order to ensure consistency with this clause, a condition has been placed for the proposed roof finish to be a colour equivalent to or darker than Colorbond "Windspray", which considered a mid-grey. Compliance with this particular control is of importance to minimise impacts associated with glare and reflectivity to neighbouring properties given the single-level nature of the proposed group home. The limited use of white for window trims, supporting posts and the like are considered acceptable.

Subject to compliance with this condition, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

D16.14 Pets and companion animals

Condition B7 of development consent no. N0067/16 issued in relation to the subdivision is to be maintained over the life of the development and therefore remains applicable to this site:

Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. No ferrets or rabbits are permitted to be kept within the new subdivision.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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.

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

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/1542 for Construction of a permanent group home on land at Lot 15 DP 1221920, 24 Dove Lane, WARRIEWOOD, 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
2014 DA - 1000 B (Site Plan)	1/3/21	Mako Architecture
2014 DA - 2000 B (Plan)	1/3/21	Mako Architecture
2014 DA - 2001 B (Roof)	1/3/21	Mako Architecture
2014 DA - 3000 B (Section 1)	1/3/21	Mako Architecture
2014 DA - 3001 B (Section 2)	1/3/21	Mako Architecture
2014 DA - 3002 B (Section 3)	1/3/21	Mako Architecture
2014 DA - 3003 B (Section 4 - Thru' Carport)	1/3/21	Mako Architecture
2014 DA - 3004 B (Section 5)	1/3/21	Mako Architecture
2014 DA - 4000 B (North + South)	1/3/21	Mako Architecture
2014 DA - 4001 B (East - Garden ST)	1/3/21	Mako Architecture
2014 DA - 4002 B (West)	1/3/21	Mako Architecture
2014 DA - 5000 A (Materials, Colours + Specifications)	15/10/20	Mako Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
Figure 1, Rev. C (Stormwater Drainage Concept Plan 2 Lot 15 DP 1221920 Dove Lane Warriewood)	26/02/20	Civil Certification Pty Ltd
Figure 2, Rev. C (typical Raingarden & OSB Sections)	26/02/20	Civil Certification Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
24 Dove Lane (Lot 15), Warriewood Amended DA Water Mangement Report	25 February 2021	Civil Certification Pty Ltd

BASIX Certificate, Ref. 1135245S_02	4 March 2021	Mako Architecture
Plan of Management for proposed group home at 24 Dove Lane, Warriewood	No Date	Sunnyfield

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
D669_LP_01, Rev. C (Landscape Plan)	02/03/21	Creative Planning Solutions
D669_LP_02, Rev. C (Planting Schedule, Landscaped Area Calculations & Specifications)	02/03/21	Creative Planning Solutions

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	16/11/2020	Gateway as CHP for Sunnyfield

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. **Approved Land Use - Group Home (permanent)**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a group home (permanent).

A group home (permanent) or permanent group home means a dwelling—

“(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note—

Permanent group homes are a type of group home—see the definition of that term in this Dictionary.”

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

The group home which is the subject of this consent is to provide permanent household accommodation for people with a disability only.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new application.

Reason: To ensure compliance with the terms of this consent.

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved

waste/recycling centres.

- (j) 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.
- (k) 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.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
 - (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. 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 are required 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, and 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

6. Detailed Design of Stormwater Treatment Measures

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the plans by Civil Certification Pty Ltd dated 26 February 2021 and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

7. Amendments to the approved plans - No approval for works within 0.9m of the northern boundary

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

- All structures (including posts and any associated roofing to the carport/entry) that are sited within 0.9m of the northern property boundary are to be deleted.

For the avoidance of doubt, no structures are approved in this development consent within Easement 'G1' of the Deposited Plan 1221920.

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.

8. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Civil Certification Pty Ltd, drawing number Dove Lane -Fig 1, dated 26/02/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. Site discharge to be connected to the interallotment drainage line benefiting the site.

Detailed drainage plans, including engineering certification, 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 stormwater and stormwater management arising from the development.

10. **Compliance with Standards**

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**

- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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.

11. **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.

12. **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.

13. **Amendments to the approved plans - Roof finish**

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

All new roofing is to be a colour equivalent to or darker than Colorbond "Windspray".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

issue of the construction certificate.

Reason: To minimise the visual impact of the resultant development.

14. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

A plan of traffic management is to be submitted to and approved by the Consent Authority.

Reason: To ensure pedestrian safety and continued efficient network operation.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum, the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

16. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site, excluding exempt trees and vegetation 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 undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level

- 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - viii) 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) 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.
- c) All trees and vegetation within the existing garden area between the existing footpath and sandstone retaining wall and fence along Garden Street shall be protected by fencing along the edge of the footpath.

The Certifying Authority must ensure that:

- d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

17. **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.

18. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

19. **Substitution of Stormwater Treatment Measure**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

20. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

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

21. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following amendments and/or requirements:

- i) the proposed two (2) *Angophora floribunda* within the frontage along Garden Street existing garden are not required,
- ii) three (3) *Waterhousia floribunda* planted at 75 litre pot size shall be planted in the frontage along Garden Street existing garden to replace missing/failed tree planting, evenly spaced and located at least 3 metres from the light pole, planted to continue the small tree planting within

this existing garden area,

- iii) fifteen (15) *Acmena smithii* 'minor' shrubs shall be planted along the base of the existing sandstone wall in the frontage along Garden Street existing garden to replace missing/failed plants, planted to fill gaps in planting, and installed at a minimum 200mm pot size,
- iv) a concrete path shall be installed connecting the existing Garden Street footpath to the existing stairs, and any security gate must not be placed forward of the Garden Street sandstone wall,
- v) any damage to the existing garden between the Garden Street footpath and existing retaining wall and fence fronting Garden Street shall be replaced like for like if damaged, including existing plants and grass.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: environmental amenity.

22. Condition of Retained Vegetation

Prior to the issue of any Occupation Certificate a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority assessing the health and impact on all existing trees required to be retained, including street trees and trees and vegetation located in the garden area between the Garden Street footpath and retaining wall and fence within the site frontage, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during 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: Tree and vegetation protection.

23. Certification for the Installation of Stormwater Treatment Measures

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by Civil Certification Pty Ltd dated 26 February 2021. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

24. Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

25. **Stormwater Treatment Measures Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure - ongoing
 - a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal
 - e) Traffic control (if required)
 - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
 - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

26. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

27. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction 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 the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

28. **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.

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

29. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

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 and any conditions of consent.

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

Reason: To maintain local environmental amenity.

30. **Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications to achieve the required stormwater quality targets for the development.

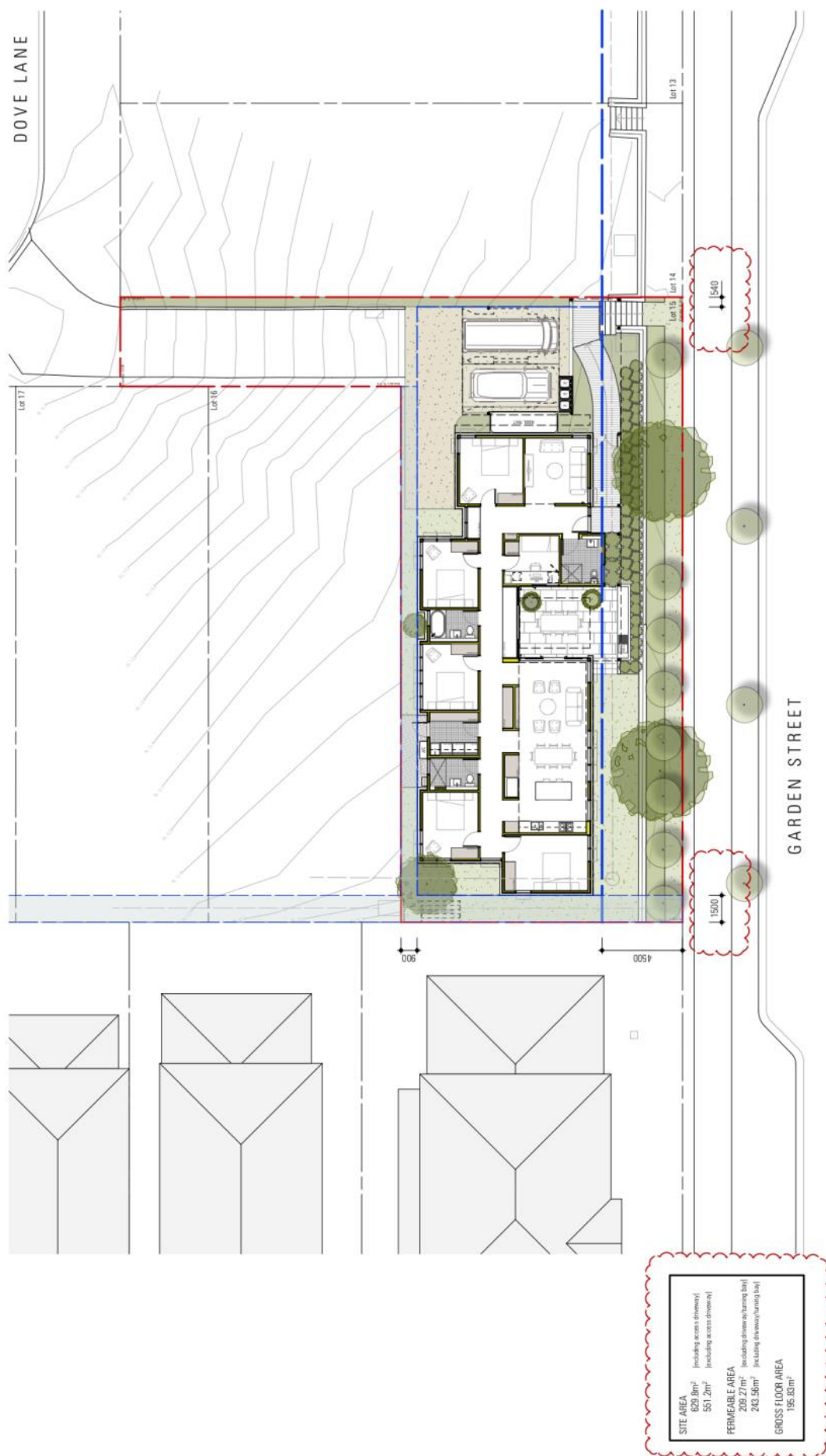
Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Reason: Protection of the receiving environment.

31. **Impervious surfaces restriction**

Connected impervious surfaces (hard surfaces that allow runoff to drain to the stormwater system rather than to deep soil landscaped areas) on the lot must not exceed the total approved at determination of this development application for the life of the development.

Reason: To ensure water management facilities do not exceed capacity.



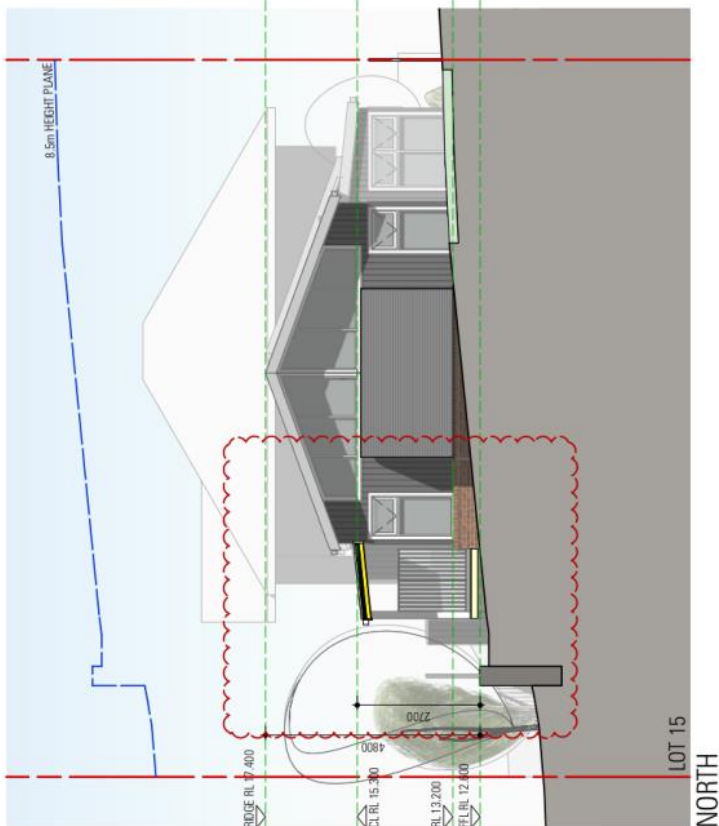
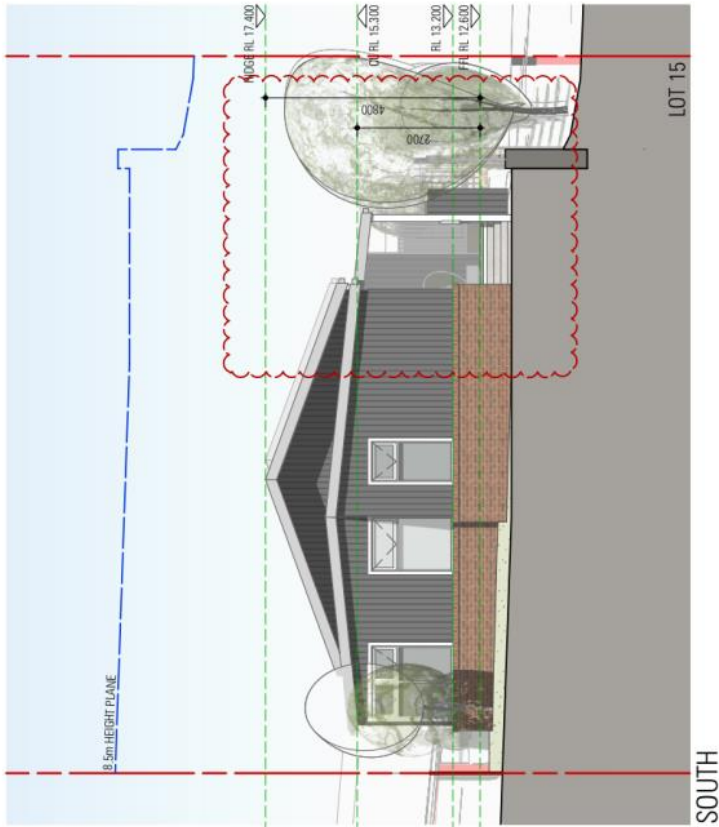
SITE PLAN

2014 DA - 1000 B
WARREWOOD GROUP HOME
LOT 15 DOVE LANE WARREWOOD
SUNNYFIELD DISABILITY SERVICES
1/3/21


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SUITE 108 59 MARLBOROUGH ST
SURREY HILLS NSW 2010
NOM. ARCH. REG. NO. 9886 (NSW) 19020(VIC)
WWW.MAKOARCHITECTURE.COM.AU

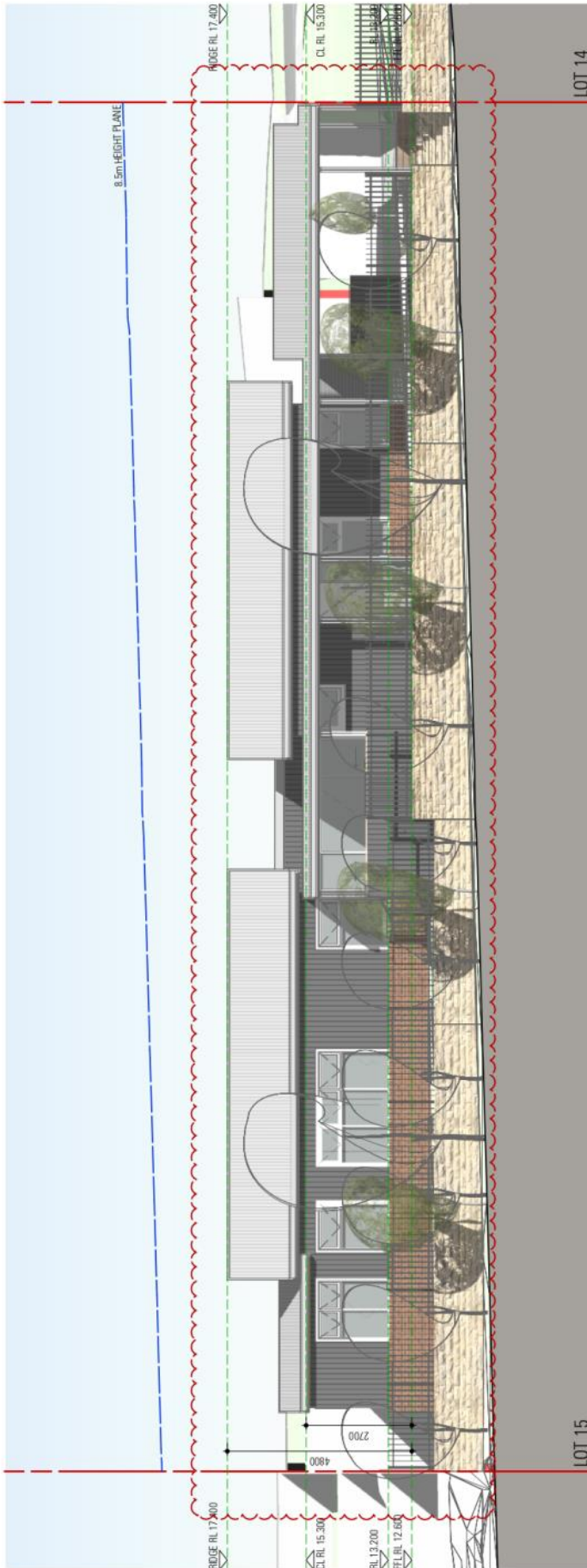
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MAKO ARCHITECTURE



NORTH + SOUTH
2014 DA - 4000 B
WARREWOOD GROUP HOME
LOT 15 DOVE LANE WARREWOOD
SUNNYFIELD DISABILITY SERVICES
1/2/21

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CASSELLA NSW 1500
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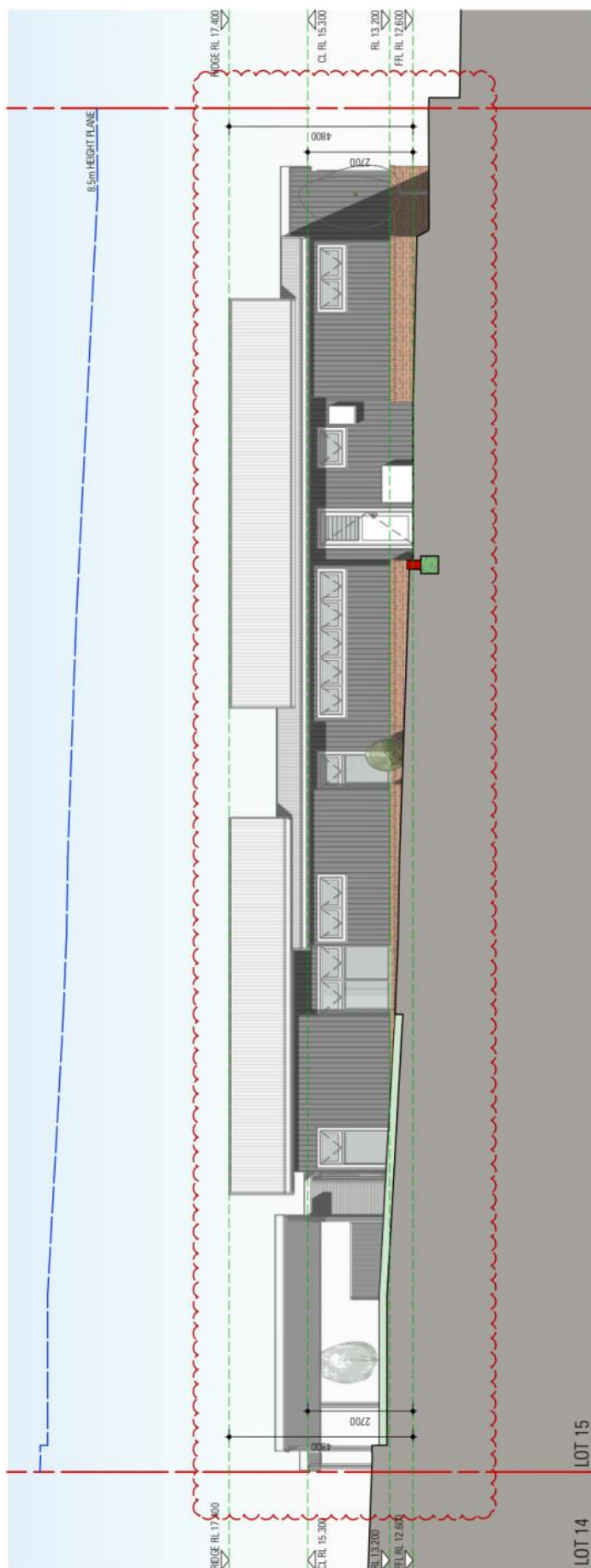
EAST - GARDEN ST
2014 DA - 4001 B
WARREWOOD GROUP HOME
LOT 15 DOVE LANE WARREWOOD
SUNNYFIELD DISABILITY SERVICES
1/2/21



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SUITE 101 150 WILLOWBUSH ST
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LEVEL 2 - 8.15 MVBART RL
CLASHED WITH ACT 2601
2568(JACT)





WEST
2014 DA - 4002 B
WARREWOOD GROUP HOME
LOT 15 DOVE LANE WARREWOOD
SUNNYFIELD DISABILITY SERVICES
1/3/21



MAKO ARCHITECTURE

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ITEM 3.3	DA2019/1420 - 8 WYATT AVENUE, BELROSE - ALTERATIONS AND ADDITIONS TO AN EXISTING SCHOOL
AUTHORISING MANAGER	ANNA WILLIAMS
TRIM FILE REF	2021/243113
ATTACHMENTS	1 ↓ Assessment Report
	2 ↓ Site Plan & Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2019/1420 for alterations and additions to an existing school at Lot 1 DP 601101 & Lot 101 DP 874509, 8 Wyatt Avenue, Belrose subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1420
Responsible Officer:	Nicholas England
Land to be developed (Address):	Lot 1 DP 601101 8 Wyatt Avenue, Belrose
Proposed Development:	Alterations and additions to existing school (John Colet School) as part of Staged Development consent for new classrooms and ancillary works and staged increase in student numbers at John Colet School
Locality:	C8 Belrose North
Category:	Category 3
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	John Colet Schools Inc.
Applicant:	Templum Design Architects
Application Lodged:	11 December 2019
Integrated Development:	No
Designated Development:	No
Notified:	11 January 2020 to 8 February 2020 21 April 2020 to 23 May 2020
Advertised:	Yes
Submissions Received:	10
Clause 4.6 Variation:	No
Recommendation:	Approval
Estimate Cost of Works:	\$2,088,897.00

EXECUTIVE SUMMARY

This application seeks consent for Stage "Q" of staged development consent DA2015/0558 issued by the Joint Regional Planning Panel for new classrooms and ancillary works and a staged increase in student numbers.

As the proposal is a Category 3 development under the provisions of Warringah Local Environmental Plan 2000 (**WLEP 2000**), this application was presented to an Independent Public Hearing Panel on 4 November 2020 with a recommendation of approval. As per the minutes of meeting (**Attachment 1**), the Independent Public Hearing endorsed the recommendation of approval subject to the approval by the Sydney North Planning Panel of the pending modification of the staged development consent DA2015/0558 [Mod2019/0627], and the following:

1. The addition of the following condition:

Parking

- a. *Sufficient parking shall be provided within the school grounds for one car for each staff member in attendance at the school*
- b. *During school hours, staff members shall not use the 90 degree parking spaces directly adjoining Wyatt Reserve in Wyatt Avenue and Cotentin Road.*
- c. *The school is to manage the parking of staff members in regards to point b) above*

2. *The deletion of condition 14 [being a duplication of Condition 5 in relations to development contributions]*

Modification Application Mod2019/0627 to amend the staged development approval was approved by the Sydney North Planning Panel on 23 December 2020 (**Attachment 2**) to incorporate the changes proposed in this application. The proposed works within this application are consistent with the modified staged consent. The amendments nominated by the Independent Public Hearing have been included in the draft conditions attached.

As the subject application received 10 submissions, the application is referred to the Northern Beaches Local Planning Panel, on behalf of Council, for consideration of the findings and recommendation of the Independent Public Hearing and determination. It is recommended that the NBLPP approve DA2019/1420 in accordance with the recommendation of the Independent Public Hearing.

LOCALITY PLAN (not to scale)



SITE DESCRIPTION

The land subject to the application is located on the northern side of Wyatt Avenue, known as Lot 101 in DP 8747509, No. 8 Wyatt Avenue, Belrose.

The land is used for the purposes of a primary school, known as the "John Colet School". The school occupies a total of seven (7) buildings, with parking for 19 vehicles. The school currently has approval for a maximum of 225 students.

The site possesses significant areas of vegetation, particularly adjoining the northern rear boundary, where approximately 400m² of remnant vegetation is situated.

Development adjoining the site consists of the following:

- Undeveloped Crown land to the north of the site;
- Unformed road reserve immediately adjacent the western boundary;
- Residential dwellings to the east and west; and
- Public open space (Wyatt Reserve and sportsfields) to the south of the site on the opposite side of Wyatt Avenue.

SITE HISTORY / BACKGROUND

A search of Council records reveals that the site has been the subject of numerous applications since approval was granted on 15 March 1995 under Consent No. 95/135 for the occupation of the existing premises as an educational establishment.

Applications/ consents of most relevance to the subject application include the following:

DA2015/0558: consent for "Staged Development for new classrooms and ancillary works and staged increase in student numbers at John Colet School" which was approved by the then Sydney East Joint Regional Planning Panel on 18 May 2016. This consent is the subject of the proposed modification.

The consent was issued under the Staged development provisions of the then Section 83B of the Environmental Planning & Assessment Act 1979. It gave conceptual consent to future upgrades and further intensification of the school land use, over eleven (11) stages, "A" to "Q".

Specifically, this consent permitted Stage "1" (A and B), for 2 new classrooms and various site works and an increase in students from 225 to 285. This is the maximum number of students currently permitted on the land.

The consent allowed a further 350 students and 30 staff, which was to be subject of future application/s.

This consent is proposed to modified, by MOD2019/0627, and reported to the Sydney North Planning Panel on 28 October 2020 for determination, to accommodate the works proposed in this application.

PLM2019/0056: A pre-lodgement meeting was held on 16 April 2019, to discuss proposed modifications to the existing Staged consent.

The proposal included non-compliances to the front, side setbacks and floor-to-ceiling heights.

The Notes provided to the applicant following the meeting concluded that the proposed modifications could be supported subject to design amendments being made on the recommendation of Council's Urban Designer, specifically in regard to issues of the treatment of the western façade which is subject to the non-compliance with the western (side) setback. Specific comments in relation to this façade include:

"The drawings submitted for the pre-lodgement meeting show little detail and articulation to the treatment of the western façade. Acknowledging that there are constraints in that this elevation faces west and has the height compounded / exaggerated by the fall in topography at this point the design development requires a careful articulation of materials and through modulation softening or layering of materiality; open/closed, transparent/opaque strategies to reduce the impacts of the bulk and form of the end of the new building."

Strategies that comprise layering of material; glazing, battening or other such treatments that engage in a dialogue with the surrounding neighbourhood and context is highly encouraged"

DESCRIPTION OF THE DEVELOPMENT

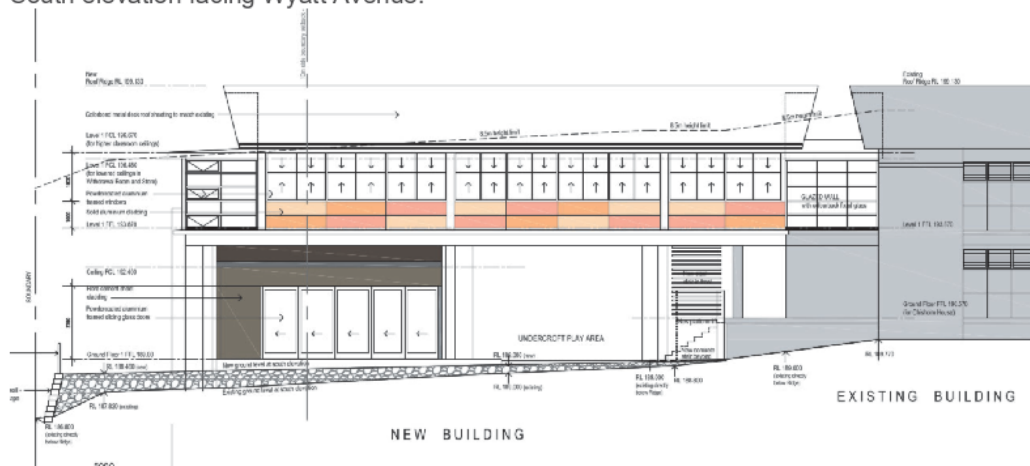
The application is made as a component stage “Q” of Staged Development consent DA2015/0558 and will comprise of an extension to the western portion of Chisholm House.

In detail, the works consist of:

- ground level works for a 145m² art room;
- 1st floor additions for two (2) classrooms with a total floor area of 210m²; and
- detailed landscaping works adjacent the western boundary adjoining the revised building.

An excerpt of the plans provided below demonstrates the elevations and floor plans.

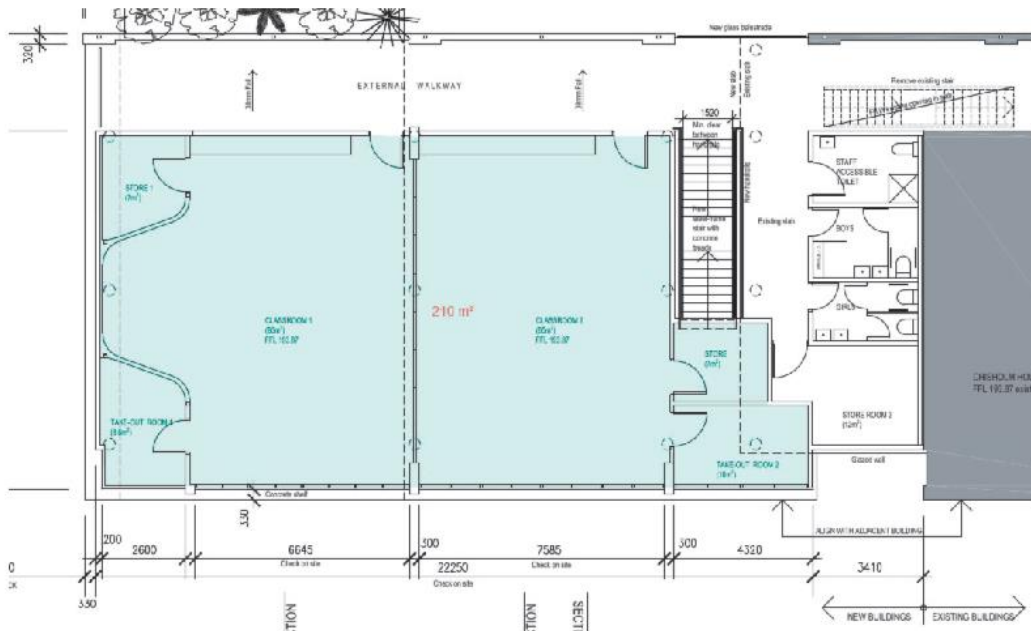
South elevation facing Wyatt Avenue:



West Elevation:



1st floor classrooms:



The proposal does not involve any increase to staff and/or student numbers, beyond the maximum permitted (350) in DA2015/0558.

AMENDMENTS TO THE SUBJECT APPLICATION

The proposal was amended, via plans received by Council on 21 April 2020. The plans were amended to include an additional window on the west elevation of the ground floor art room. The amendments were re-notified.

STATUTORY CONTROLS

- Environmental Planning and Assessment Act 1979;*
- Environmental Planning and Assessment Regulations 2000;*
- Local Government Act 1993;*
- Disability Discrimination Act 1992;*
- Rural Fires Act 1997;*
- State Environmental Planning Policy No. 55 – Remediation;*
- State Environmental Planning Policy 2007 – (Infrastructure);*
- Warringah Local Environment Plan 2000; and*
- Warringah Development Control Plan.*

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan.

As a result, the application was notified to 137 surrounding land owners and occupiers (and objectors to the original submission) for a period of not less than 21 days commencing on 11 January 2020 and ending on 8 February 2020. The application was also advertised in the

Manly Daily for the same period. A second notification was undertaken between 21 April 2020 and ending on 23 May 2020, as result of the amended plans.

Furthermore, a notice was placed upon the site.

A total of ten (10) submissions were received in response to the public exhibition of the application:

Name	Address:
Ronald John Patton Cynthia Joy Patton	19 Wyatt Avenue BELROSE NSW 2085
Phillip Bloom	C/- PO Box 159 KELLYVILLE 2155
Clare Mcelroy	Address Unknown
Marc Blake	Address Unknown
Kenneth Ernest Small	19 Stratford Drive BELROSE NSW 2085
Belrose Rural Community Association Inc	PO Box 224 BELROSE NSW 2085
Barry Yeomans Beverly Yeomans	15 Wyatt Avenue BELROSE NSW 2085
Ian Berry	14 Stratford Drive BELROSE NSW 2085
Anna-Louise Ainsworth	10 Patrick Street BELROSE NSW 2085
Merrilee Brown	1-3 Linden Avenue BELROSE NSW 2085

The issues raised in the submissions have been summarised and are addressed below:

- *The application should be is refused as it not complete as required by Condition No.5 of the Staged consent DA2015/0558.*

Comment: The intent of condition No.5 was that applications were to be lodged for any works for the remaining Stages F to Q. The condition did not specify any limit to the numbers of application that could be lodged, as the intent was to provide the school with the flexibility of seeking consent as the demand arose. The condition does not require a singular application for Stages F to Q and hence this is not a relevant reason to refuse the application.

- *There is not a sufficient kerb and gutter on the northern side of Wyatt Avenue, and during school functions cars park on the road reserve and hinder access to No.24 Wyatt Avenue. Approval should be conditional upon the provision of this infrastructure.*

Comment: The proposal relates to a component of an existing overall Staged consent. The Staged consent required no upgrades to the surrounding areas infrastructure, specifically the surrounding road network and drainage system. Based on the application being a component of an existing Staged consent, any condition to this application is not required.

- *Any application on the land would increase the level of traffic generated from the school, which would diminish the efficiency and safety of the local road network.*

Comment: The proposal is within the framework of an existing staged consent and substantially retains the nature of the original consent and no increase to students or staff

beyond what is already approved, is proposed. Hence, there will be adverse impact on the safety and efficiency of the surrounding road network.

- *The proposal would result in an adverse reduction in building setbacks and a loss of landscaped open space on the site.*

Comment: A discussion of the proposed application in regard to the Built Form controls of WLEP 2000 is provided elsewhere in this report. In summary, the proposed setbacks will provide an adequate response to the existing character of the built form in the locality and there will remain adequate landscaped open space on the site to achieve the objectives of the control.

- *Traffic management measures and a traffic report required by condition 6 of the Staged consent have not been provided with the application.*

Comment: The requirements of Condition No.6 in effect require that: all parking spaces be consistent with the Australian Standard and that the internal access road be a one-way movement. A report has been provided from a qualified traffic engineer to demonstrate that the application will comply with this condition.

- *There is insufficient parking in the school to accommodate for the demands of staff parking, based on other independent sources of information relating to the level of staffing in the school.*

Comment: The development as approved provides adequate car parking spaces to accommodate the demands of students and staff. The proposed works will not change this aspect of the approved development, hence there is adequate parking on the site to cater for the traffic generated.

- *The proposed works are not consistent with the Desired Future Character of the locality and is not a low impact, low intensity land use.*

Comment: A detailed consideration of the proposed application in regard to the Desired Future Character of the C8 locality is provided elsewhere in this report. In summary, the proposed works will retain the intensity of the approved land use and hence no adverse impact is caused in this regard. The consideration of whether the Staged Development was consistent with low impact low intensity was considered in the determination of the staged consent and will be considered as part of the current modification due to be determined on 28 October 2020 by the Sydney North Planning Panel. The works under this consent do not change the school population and therefore it is not considered to change the intensity of impact of the school on the locality.

- *The bulk and scale of the proposed development is not consistent with the locality or the objectives of the WLEP 2000.*

Comment: The Desired Future Character of the C8 Locality specifies that the character of the locality will remain unchanged, by preserving the natural environment and limiting new development to detached style housing or low intensity, low impact land uses. The proposed works will not result in any disturbance of the existing natural environment and will not result in any substantive change to the existing character by virtue of the works being an extension to an existing school. The application is in effect operating within existing intensity and impact parameters established by the Staged consent

DA2015/0558. Hence, the application is considered to be a low intensity, low impact land use and in turn is consistent with the Desired Future Character of the locality.

- *Insufficient measures to protect the existing natural environment have been provided with the application.*

Comment: The proposed works will have a very minor impact on the natural environment of the site as the area of landscaped open space that will be removed adjoining the western boundary is heavily modified and contains no significant area of habitat.

- *The application is not in the public interest as the proposal is motivated by profit and will result in adverse impacts on the adjoining built and natural environments.*

Comment: The impact of the proposed works on the natural environment is not adverse and the commercial viability of the existing land use is not a relevant matter of consideration in the assessment of the proposal.

- *The application will result in adverse levels of illumination in evening periods to the adjoining dwelling at No.9 Wyatt Avenue.*

Comment: The existing school operates predominantly during the day and evening activities are infrequent. The proposed works are situated at least 50m from the adjoining residence at No.9 Wyatt Avenue and no adverse level of light spill is likely from this part of the site.

- *The application will not comply with the Front Setback built form control and adopting the same setback as the existing building is not adequate to justify the non-compliance.*

Comment: A complete discussion of the compliance with the Front Setback built form control is provided elsewhere in this report. In summary, the adoption of the existing front setback of Chisholm House for the "Q" extension provides a unified built form response to the existing streetscape and the context of the surrounding area is adequate to justify the non-compliance.

- *The application will not comply with the Building Height built form controls of WLEP 2000.*

Comment: A detailed consideration of the variation to the Building Height control is provided elsewhere in this report. In summary, the variation in the height is justified based on the existing built form of Chisholm House, the surrounding context of the streetscape and the absence of any adverse amenity impact on any adjoining residence.

- *There is insufficient stormwater management provided.*

Comment: Council's Development Engineers have advised that the existing stormwater management system on the land is adequate to accommodate the proposed works.

REFERRALS

External Referrals

Ausgrid

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 (RFS)

The application involves works to an existing school within a bushfire prone area and as such is 'Integrated Development' pursuant to section 4.47 of the Environmental Planning and Assessment Act 1979. In this regard, a bushfire safety authority is required from the RFS under Section 100B of the Rural Fire Services Act 1997.

The application was referred to the NSW Rural Fire Service (RFS) for comment and concurrence. The RFS raised no objection to the proposed works, subject to conditions which will be applied to this consent.

Internal Referrals

Building Assessment

The application was referred to Council's Building Assessment division for consideration. The following comments have been provided:

"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.

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.

The proposal is therefore supported."

Development Engineering

The application was referred to Council's Development Engineer for consideration. The following comments have been provided:

"The application has been investigated with respects to aspects relevant to the Development Engineering and Certification Section. No objections are raised to the proposed development, subject to conditions. The proposal is therefore supported."

Landscape Officer

The application was referred to Council's Landscape Officer for consideration. The following comments have been provided:

"The Landscape Plans and Arborist's Report submitted with the application are noted.

The Landscape Plans indicate regrading of grassed areas around the proposed building with retaining walls and proposed tree, shrub and ground-cover planting. The Arborist's Report indicates that four native trees are required to be removed to accommodate the works. Two of the trees are rated in the Arborist's Report as being of Low retention value and two are rated as Medium retention value. The Landscape Plan proposes replanting of nine native trees and four deciduous exotic trees. (Thirteen trees in total). In view of the above, no objections are raised to approval with regard to landscape issues subject to tree protection and replanting conditions as indicated below. The proposal is therefore supported."

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

Section 4.15 Assessment

The relevant matters for consideration under Section 4.15 of 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	Part A7 (Notification) of the Warringah Development Control Plan applied at the time the proposal was notified. The proposal has been notified and advertised in accordance with the DCP.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<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>Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p>Clause 92 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>Clauses 93 and/or 94 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.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p>

Section 4.15 'Matters for Consideration'	Comments
	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.
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) The environmental impacts of the proposal on the natural and built environment are addressed under the General Principles of Development Control in this report. In summary, the proposal is satisfactory with conditions, having regard to environmental impacts.</p> <p>(ii) The proposal will not have a detrimental social impact on the locality considering the educational character of the proposal.</p> <p>(iii) The proposal will not have a detrimental economic impact on the locality considering the mixed semi-rural uses within the surrounding locality and the existing and ongoing use of the site for educational purposes.</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	Refer to the previous discussion in Public Exhibition.
Section 4.15 (1) (e) – the public interest	<p>Issues raised in the public interest have been addressed in this assessment and conditions of development consent.</p> <p>No matters have arisen that would justify the refusal of the application in the public interest.</p> <p>The wider public interest is served by ensuring that the proposal is consistent with the relevant planning controls under WLEP 2000.</p>

Local Government Act 1993

Council is empowered under the *Local Government Act 1993* to be the approval authority for this proposal and grant any works or permits required in accordance with Section 68 of that Act as part of the development assessment process. This includes the management of stormwater, waste handling and access or works to a local public road.

Disability Discrimination Act 1992

Under Section 23 of the *Disability Discrimination Act 1992* provision must be made to ensure equitable and convenient access to the public and semi-public space within the development.

Accessibility design standards are defined within Australian Standard (AS) 1428.2 for construction work. In this case, all student and staff areas must permit adequate ease of access including AS 1428.2 compliant parking spaces, toilet facilities and accessibility to staff rooms.

The proposed works have demonstrated compliance with these standards.

ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies

State Environmental Planning Policy No 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 part of the subject site has been used continuously for educational purposes for a significant period of time.

Therefore, no further consideration is required under Clause 7(1) (b) and (c) of SEPP 55 and the site is considered to be suitable for the proposed extension to the existing land use.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line.

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a new swimming pool. In this regard, the subject application is considered to satisfy the provisions of Clause 45.

Notwithstanding, 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.

Regional Environment Plans

None applicable.

Local Environment Plans

Warringah Local Environment Plan 2000 (WLEP 2000)

The property is subject to Clause 1.3(1A) of the Warringah Local Environmental Plan 2011 and is classified as 'Deferred Land'. The development is therefore guided by the provisions of the Warringah Local Environment Plan 2000 and is located within the C8 Belrose North locality.

C8 Belrose North

The Desired Future Character Statement for Locality C8 states:

"The present character of Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Development will be limited to new houses conforming with the housing density standards set out below and low intensity, low impact uses.

A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Middle Harbour."

The proposed development is defined as "primary schools" under the WLEP 2000 dictionary. "Primary schools" are identified as Category 3 development in this locality.

Clause 12(3)(a) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality's DFC statement.

Accordingly, an assessment of consistency of the proposed development against the locality's DFC is provided hereunder:

"The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.

Comment: The application is a component of a Staged consent to an existing school, which has taken effect on the subject land. In this regard, the existing character of the locality will remain unchanged and the proposal is consistent with this requirement of the DFC.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Comment: The proposed works will result in no loss of existing natural habitat, vegetation or landforms. The area of existing landscaped space is modified and possesses no remnant native vegetation. Adequate colours and materials have been selected to compliment the local environment. The proposal is hence consistent with this requirement of the DFC.

Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses

Comment: As the proposal is not detached style housing, the proposal will need to demonstrate that it is a low intensity, low impact use to demonstrate consistency with the DFC.

The matter of 'low-intensity, low-impact' uses was adequately considered in the assessment of the original application consistent with the NSW Land and Environment Court (LEC)

judgement in *Vigor Master Pty Ltd v Warringah Council* [2008] NSWLEC 1128. In this judgement, the following was established that “intensity” and “impact” were as follows:

“Intensity – is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore “low intensity” would constitute a development which has a low level of activities associated with it” and;

“Impact – is commonly used in planning to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape, privacy, solar access etc. Therefore “low impact” would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to change the amenity of the locality.”

A discussion in respect of these two (2) terms within the DFC is provided below:

“Intensity”

As stated before, the application is a component of an existing Staged consent, DA2015/0558. In the consideration of this application, it was determined that the intensity of the use was in effect “low” after a detailed consideration of other similar land uses in the locality, in particular the nearby Christian Covenant and Belrose Primary Schools. Following on from this conclusion, and as the application represents no change to the existing Staged consent, therefore the proposal satisfies the “intensity” test of the DFC.

“Impact”

Consistent with the aforementioned LEC judgement, a consideration of the impacts highlights two (2) broad areas of impact that are pertinent in an assessment of the proposal against the DFC. These are:

- Impact on native vegetation / habitat / threatened species; and
- The potential impact of additional traffic on the local road network.

As stated previously, there will no loss of existing native vegetation or any area of significant habitat for threatened species. In regard to traffic generation, there will be no increase in existing approved number of students / staff at the school, resulting in no increase in traffic generation beyond that already approved.

Therefore the proposal satisfies the “impact” test of the DFC.

Based on the discussion provided above, the proposal is consistent with this requirement of the DFC.

A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.

Comment: Not applicable to the proposed development.

Development in the locality will not create siltation or pollution of Middle Harbour.”

Comment: Not applicable to the proposed development.

As detailed above the proposed development is considered to be consistent with the Locality's DFC statement.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Controls of the above locality statement:

Built Form Control	Required	Proposed	Compliance
Housing Density	1 dwelling per 20 hectares	The proposal does not involve housing	N/A
Building Height	8.5 metres 7.2m (floor to ceiling)	10.2m Not specified	No No See discussion under Clause 20 below.
Front Building Setback	Wyatt Avenue: 20m	17.2m	No
Rear and Side Building Setback	10m	Rear: No change Side (west): 5m	No change No See discussion under Clause 20 below.
Bushland Setting	50% (5,895m ²)	56% (6,560m ²)	Complies
Extractive Industry	Applies to quarry sites	Not applicable	N/A
National Park Setback	N/A	N/A	N/A

CLAUSE 20

Clause 20(1) stipulates:

"Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy."

Building Height

Description of non-compliance

The non-compliance occurs relates to an overall building height of 10.2m.

This represents a variation of 17%.

Merit consideration

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

- *Ensure that development does not become visually dominant by virtue of its height and bulk.*

The overall height of the proposed works have been predicated on the existing height of the Chisholm House building. By adopting this height, the extension integrates with the existing built form and hence when viewed from Wyatt Avenue is not considered to become visually dominant by virtue of its height and bulk.

The development is considered to satisfy this objective.

- *Preserve the amenity of surrounding land.*

As noted elsewhere in this report, the extension is located adjacent to non-residential uses (i.e. predominantly open space and bushland areas) with the only exception being a residential property which is located approximately 50m to the south-east across Wyatt Avenue.

In this regard, the increased building height would not create any adverse or unreasonable amenity impact to surrounding land.

The development is considered to satisfy this objective.

- *Ensure that development responds to site topography and minimises excavation of the natural landform.*

The extension occurs at the front and side of the existing building and does not involve any significant excavation works, apart from the minor terracing works for the landscaping.

The development is considered to satisfy this objective.

- *Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.*

The development includes a pitched roof form which is considered to provide sufficient variation to complement the existing school which predominantly consists of traditional pitched roof forms.

The development is considered to satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2000 and the objectives specified in s.5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

Accordingly, this assessment finds that the variation to the Building Height built form control is supported, in this particular circumstance.

Front Building Setback

Description of non-compliance

The non-compliance occurs at the front of the building facing Wyatt Avenue and results in a front setback of 17.2m.

The control permits a front setback of 20m resulting in a variation of 14%.

Merit consideration

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

- *Create a sense of openness.*

The frontage of the extension is setback to generally align with the facade of the existing school buildings facing Wyatt Avenue.

The proposed front setback of 17.2m is considered sufficient to maintain a sense of openness to the street.

The development is considered to satisfy this objective.

- *Provide opportunities for landscaping.*

The proposed front setback is considered sufficient to allow for the continued level of landscaping currently evident within the front setback area.

The development is considered to satisfy this objective

- *Minimise the impact of development on the streetscape.*

The proposed front setback will align the development to the existing building frontage while maintaining a sufficient level of landscaping to soften the built form.

The development is considered to satisfy this objective.

- *Maintain the visual continuity and pattern of buildings, front gardens and landscape elements.*

The proposed front setback will align the development to the existing building frontage while maintaining a sufficient level of landscaping to soften the built form.

As such, the development will maintain the visual continuity and pattern of buildings, front gardens and landscape elements of the site when viewed from the street.

The development is considered to satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2000 and the objectives specified in s.5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

Accordingly, this assessment finds that the variation to the Front Building Setback built form control is supported, in this particular circumstance.

Rear and Side Building Setback

Description of non-compliance

The non-compliance at the eastern side of the building and results in a side setback of 5m.

The control permits a side setback of 10m resulting in a variation of 50%.

Merit consideration

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

- *Create a sense of openness in rear yards.*

The non-compliance does not occur within the rear area of the site.

This objective is not relevant to the proposal.

- *Preserve the amenity of adjacent land.*

The western facade of the proposed extension faces an unformed road reserve, 20m in width. Beyond that, is an access handle, also 20m in width, for an adjoining property which is also undeveloped. Hence, the proposed works will not have any adverse impact upon the amenity of that land.

The development is considered to satisfy this objective.

- *Maintain the visual continuity and pattern of buildings, rear gardens and landscape elements.*

The proposed side setback will align the development to the side setback of the existing building while maintaining a sufficient level of landscaping to soften the built form.

As such, the development will maintain the visual continuity and pattern of buildings, front gardens and landscape elements of the site when viewed from the neighbouring bushland.

The development is considered to satisfy this objective.

- *Provide opportunities to maintain privacy between dwellings.*

As stated previously, western façade of the proposed extension faces vacant public and private land and will not have any adverse impact upon the privacy of that land.

The development is considered to satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2000 and the objectives specified in s.5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

Accordingly, this assessment finds that the variation to the Rear and Side Building Setback built form control is supported, in this particular circumstance

General Principles Of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed application:

General Principles	Applies	Comments	Complies
CL38 Glare and reflections	YES	The extent of area of proposed windows are not significant and a further condition can apply to ensure that there is no adverse level of glare and reflection emitted.	Yes
CL39 Local retail centres	NO	No comment required	N/A
CL40 Housing for Older People and People with Disabilities	NO	No comment required	N/A
CL41 Brothels	NO	No comment required	N/A
CL42 Construction Sites	YES	Complies, subject to condition.	Yes
CL43 Noise	YES	Whilst the proposal will result in an increase in the floor area of the existing building, there is no increase in student numbers or staff. Therefore, it is considered that the development would not have any adverse acoustic impact on neighbouring land.	Yes
CL44 Pollutants	NO	No comment required	N/A
CL45 Hazardous Uses	NO	No comment required	N/A
CL46 Radiation Emission Levels	NO	No comment required	N/A
CL47 Flood Affected Land	NO	No comment required	N/A
CL48 Potentially Contaminated Land and CL49 Remediation of Contaminated Land	YES	Council records indicate that part of the subject site has been used continuously for educational purposes for a significant period of time. Therefore, no further consideration is required under Clauses 48 and 49 and the site is considered to be suitable for the extension to the existing educational land use.	Yes
CL49a Acid Sulphate Soils	NO	No comment required	N/A
CL50 Safety and Security	YES	The following safety design features are already incorporated into the premises: <ul style="list-style-type: none"> Controlled access to the school grounds is achieved from the street by a gate from the subject site; Entrance to the building is clearly identifiable from the street; and Casual surveillance is provided over the carparking facilities. The proposal will not change these existing arrangements.	YES
CL51 Front Fences and Walls	NO	No comment required	N/A
CL52 Development Near Parks, Bushland Reserves and other public Open Spaces	NO	No comment required	N/A

General Principles	Applies	Comments	Complies
CL53 Signs	NO	No comment required	N/A
CL54 Provision and Location of Utility Services	YES	Water and electricity services are available to the site.	Yes
CL55 Site Consolidation in 'Medium Density Areas'	NO	No comment required	N/A
CL56 Retaining Unique Environmental Features on Site; and CL58 Protection of Existing Flora	YES	The area of open space that will be lost as a result of the increased footprint of the building does not contain any significant habitat or fauna. Council's Landscape Officer has no objection to the removal of the existing trees and is satisfied that the revised landscape plan for the side setback on the western boundary is adequate to ensure future propagation of beneficial vegetation.	Yes
CL57 Development on Sloping Land	NO	No comment required	N/A
CL59 Koala Habitat Protection	NO	No comment required	N/A
CL60 Watercourses and Aquatic Habitats	NO	No comment required	N/A
CL61 Views	NO	No comment required	N/A
CL62 Access to sunlight	NO	No comment required	N/A
CL63 Landscaped Open Space	YES	The will not unreasonably decrease the existing provision of landscaped open space currently on the site such that it will conflict with the objective the Landscaped Open Space built form control.	Yes
CL63A Rear Building Setback	NO	No comment required	N/A
CL64 Private open space	NO	No comment required	N/A
CL65 Privacy	YES	The non-residential use of the development is not located adjacent to any dwellings (the nearest dwelling is located approximately 50m south-east and across Wyatt Avenue).	Yes
CL66 Building bulk	YES	The proposal maintains the built form and scale of the existing building to which it is attached. The resulting bulk and scale is therefore visually consistent with the overall school development.	Yes
CL67 Roofs	YES	The proposal will retain the existing roof form of the existing Chisholm House building and provide a unified and consistent built form to the streetscape.	Yes
CL68 Conservation of Energy and Water	N/A	No comment required	N/A
CL69 Accessibility – Public and Semi-Public Buildings	YES	The proposal has demonstrated that it will achieve compliance with the appropriate standards for provision of Access/Egress and Essential Services as provided for under Part D and Part E of the BCA.	Yes, subject existing to condition
CL70 Site facilities	YES	Existing site facilities are adequate to cater for the proposed application.	Yes
CL71 Parking facilities (visual impact)	YES	No change is proposed to the approved parking facilities.	Yes

General Principles	Applies	Comments	Complies
CL72 Traffic access and safety	YES	No change is proposed to the existing traffic access/egress arrangements and, because the proposal does not involve any increase to staff and/or student numbers, will not generate additional traffic volume. A condition of consent is recommended to ensure that purpose of Condition 6 of the Staged Masterplan (DA2015/0558) is maintained.	Yes
CL73 On-site Loading and Unloading	YES	Adequate access for the loading and unloading of construction materials is available from Wyatt Avenue. No change is required for student pick-up/set-down areas or for supplies and delivery parking.	Yes
CL74 Provision of Carparking	YES	The applicant confirms that the development does not increase in staff and/or student numbers. Therefore, the development will not generate a need for additional carparking beyond what is already approved, and provided for, at the school.	Yes
CL75 Design of Carparking Areas	YES	No change is proposed to the provision of on-site carparking.	Yes
CL76 Management of Stormwater	YES	The application has been reviewed by Council's Development Engineer who advises that no objection is raised and no additional conditions are required to be imposed.	Yes
CL77 Landfill	NO	No comment required	N/A
CL78 Erosion and Sedimentation	NO	No comment required	N/A
CL79 Heritage Control	NO	No comment required	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No comment required	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No comment required	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	No comment required	N/A

Other Relevant WLEP 2000 Clauses

Schedule 5 - State Policies

Bushland In Urban Areas	The proposed development is consistent with the aims and objectives of Schedule 5.
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Schedule 8 - Site Analysis

Site Analysis	A formal site analysis plan was submitted with the original development application and additional site information is contained in the Statement of Environmental Effects, the survey, tree survey and the architectural plans, which satisfy the site analysis requirements of Schedule 8.
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Schedule 11 - Koala Feed Tree Species and Plans of Management

Koala Feed Tree Species and Plans of Management	The site is not identified as containing any Koala population or Koala habitat. The proposal is consistent with the requirements for the protection of koala habitat.
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Schedule 15 - Statement of Environmental Effects

Statement of Environmental Effects	A Statement of Environmental Effects was submitted with the development application which satisfies the requirements of Schedule 15.
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Clause 15(1) of Warringah Local Environmental Plan 2000 requires that the consent authority must consider a Statement of Environmental Effects (SEE) prepared in accordance with the criteria listed in Schedule 15. The applicant has submitted a Statement of Environmental Effects, prepared by City Plan Associates, which addresses Schedule 15 of WLEP 2000. The following is provided having regard to these provisions:

In addition, Clause 15(2) requires the consent authority to consider the findings of an independent public hearing prior to the determination of the application. Reporting of this application to the Northern Beaches Planning Panel is considered to satisfy this clause. A summary of the Schedule 15 Statement is provided below:

Consideration	Proposed
(1) Summary of the Statement of Environmental Effects (SEE)	The applicant has provided a summary within the the Statement of Environmental Effects provided with the application that is sufficient to satisfy this requirement of Schedule 15.
(2) Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.	The applicant has provided a detailed discussion and justification to demonstrate the proposal's compliance with the C8 Belrose North locality and the General Principles of Development Control.
(3) Objectives of the proposed development.	<p>With regard to Point 3 of Schedule 15 the applicant has established that the objectives of the proposal are as follows:</p> <p>The objectives of the proposed development are as follows:</p> <ul style="list-style-type: none"> To seek approval for a Stage 2 DA relating to the extension of Chisholm House involving a ground floor art room, undercroft play area, two (2) first floor

Consideration	Proposed
	<p>classrooms, associated amenities and landscaping.</p> <ul style="list-style-type: none"> To ensure that the proposal is consistent with the desired future character of the C8 Belrose North locality and to ensure that there is no adverse environmental impact (internally within the site and externally). <p>Comment: The objectives of the proposal have been adequately described and no fundamental objection is raised with the objectives of the proposal. The proposal has satisfied this requirement of Schedule 15.</p>
<p>(4) An analysis of feasible alternatives.</p> <p>(including (a) Consequences of not carrying out the development and (b) Justification for the development)</p>	<p>The applicant has provided a detailed analysis within the SEE in regards to this requirement. This was also undertaken in the assessment of the Staged consent. In summary, the Masterplan presents as the best outcome on the site given the opportunities and constraints of the site. It is also acknowledged that not carrying out the development would restrict the options for educational services in north-eastern Sydney.</p>
(5) Development and context analysis.	<p>The applicant has provided sufficient information to demonstrate compliance with this requirement of Schedule 15.</p>
(6) Biophysical, economic and social considerations and the principles of ecologically sustainable development.	<p>The applicant has provided sufficient information to demonstrate compliance with this requirement of Schedule 15.</p>
(7) Measures to mitigate any adverse effects of the development on the environment	<p>The extent of Stage 2 works are not such as to require any specific measures to mitigate any adverse impacts of the proposal. Future applications that relate to the stages of the Masterplan closer to the vegetated north-west boundary, may require further information of such mitigation measures.</p>
(8) Other approvals required	<p>As the land relates to a school in a bushfire prone area, the development is Integrated development (Bushfire Safety Authority required under Section 100B of the Rural Fires Act 1997). Concurrence has been provided by the NSW Rural Fire Service in this regard.</p>

It is considered that the submitted Statement of Environmental Effects prepared by City Plan Services dated December 2019 and in response to the provisions of Clause 15/Schedule 15 adequately addresses the compatibility of the of the development with the Locality and the DFC.

Schedule 17 - Carparking Provision

Carparking Provision	<p>The proposal does not include any increase to the current enrolment for the School. Parking requirements are addressed under the heading "General Principles" – Clause 71 to 75 previously in this report.</p> <p>The approved provision of carparking on the existing school site is satisfactory in accordance with Schedule 17.</p>
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POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The land is located in an area subject to Council's Contributions Plan. A previous modification to the Staged consent DA2015/0558 (condition No.8) specified a contribution for separate stages of works to the subject application.

The contribution to this application will be as follows:

\$20,888.97 (based on a cost of works of \$2,088,897).

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions of relevant Environmental Planning Instruments, including the WLEP 2000, and the relevant codes and policies of Council.

The proposed works relate to the existing Chisholm House building, with the built form of the extension predicated on this existing character. The works are consistent with the current amended Stage "Q" of the staged consent DA2015/0558.

The proposal does not involve any increase to staff and/or student numbers, beyond that maximum already approved in Condition No.7 of DA2015/0558, which was 350 students.

The proposed development has been considered against the provisions of Clause 15 of WLEP 2000, as the proposal relates to Category 3 development. The Desired Future Character of the C8 Locality specifies that the character of the locality will remain unchanged, by preserving the natural environment and limiting new development to detached style housing or low intensity, low impact land uses.

The proposed works will not result in any disturbance of the existing natural environment and will not result in any substantive change to the existing character by virtue of the works being an extension to an existing school. The application is in effect operating within existing intensity and impact parameters established by the Staged consent DA2015/0558. Hence, the application is considered to be a low intensity, low impact land use and in turn is consistent with the Desired Future Character of the locality.

Non-compliances were considered in relation to the Building Height, Front Building Setback and Rear and Side Building Setback built form controls. These non-compliances were also assessed and accepted as part of the amended staged consent. In each instance, the non-compliances were found to be relatively minor, consistent with the objectives of each control and subsequently supported.

The application has been publicly exhibited in accordance with the WLEP 2000 and the Northern Beaches Community Participation Plan. A total of 10 submissions were received during public notification. Upon consideration of the issues raised in these submissions, none were considered to warrant the refusal of the application.

Hence, the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

As a result of the application and the consideration of the matters detailed within this report it is considered that Council as the consent authority grant approval.

RECOMMENDATION - APPROVAL

THAT Council as the consent authority grant approval to Development Application No. DA2019/1427 for alterations and additions to an existing school on land at Lot 1 DP 601101,8 Wyatt Avenue, Belrose, 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-1001 Rev B	12 November 2019	Templum Design
DA-1100 Rev B	2 April 2020	Templum Design
DA-1101 Rev A	12 November 2019	Templum Design
DA-1102 Rev B	2 April 2020	Templum Design
DA-2000 Rev A	12 November 2019	Templum Design
DA-2001 Rev A	12 November 2019	Templum Design
DA-2002 Rev B	2 April 2020	Templum Design
DA-3001 Rev A	12 November 2019	Templum Design
DA-3002 Rev A	12 November 2019	Templum Design
DA-3003 Rev A	12 November 2019	Templum Design
DA-3004 Rev A	12 November 2019	Templum Design
DA-4002 Rev A	12 November 2019	Templum Design
DA-4003 Rev A	12 November 2019	Templum Design

Engineering Plans		
Drawing No.	Dated	Prepared By
Sheet 1 of 1	27 November 2019	CPM

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
Bushfire Protection Assessment B193386- 2	27 August 2019	Australian Bushfire Protection Planners Pty Limited
Building Code of Australia Capability Statement	29 November 2019	Mark Stone

Aboriginal Impact Assessment	November 2019	Accurate Tree Assessment
Design Compliance and Swept Path Analysis No.200110.01FA	15 April 2019	McLaren Traffic Engineering

- 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
38 / 1 Rev F	29 November 2019	Concept Landscapes
38 / 2 Rev F	5 December 2019	Concept Landscapes
38 / 3 Rev D	21 November 2019	Concept Landscapes
38 / 4 Rev E	21 November 2019	Concept Landscapes
38 / 5 Rev A	24 September 2019	Concept Landscapes

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	12 November 2020	Templum Design

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	Referral - RFS - 8 Wyatt Avenue Belrose	28 April 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 departments, authorities or bodies.

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
 - (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
 - (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
 - (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (j) 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.
 - (k) 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.
 - (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
 - (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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 \$20,888.97 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 \$2,088,897.00.

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 are required 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, and 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. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

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.

8. BCA Report (Class 2-9)

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 proposed building 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 building works required to ensure that the specified measures and facilities for 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.

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 Health, Amenity, access and Fire safety for building occupant health and safety

9. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by cpm Engineering, job reference number 16058-C02, Sheet 1, dated 27/11/19. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. PSD is to be calculated on the maximum allowable impervious fraction of 0% for the areas considered for the proposed alterations and additions only.
- ii. PSD does not exceed 20 litres per second per outlet per 15m run of kerb and gutter for storms up to and including the 100 year ARI.

Detailed drainage plans, including engineering certification, 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 stormwater and stormwater management arising from the development.

10. Bushland Management - Existing Positive Covenant

Bushland is to be protected, conserved, rehabilitated and managed in accordance with the existing Positive Covenant under Section 88B of the Conveyancing Act 1919. This instrument is written and registered on the title so that the owners are bound to manage and protect the area in perpetuity in accordance with the Bushland Management Plan as defined in the instrument.

Reason: Management and protection of bushland.

11. Amend Landscape Drawings

The submitted Landscape Plan is to be amended in accordance with the requirements of the 2015 staged development consent and the following:

- i. Prevention of the use of grevillea species in landscaping and rehabilitation to limit the likelihood of hybridisation;
- ii. Replacement of non-local plant species with native plants grown from local provenance seed and cuttings
- iii. Provision of a native plant schedule based on characteristic species of the Duffys Forest vegetation community and local species listed in current and previous ecological assessments.

The amended Landscape Plan is to be certified by a qualified landscape architect prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls and previous consent conditions.

12. 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.

13. 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:

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. 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. For clarity, Trees Numbered 37a, 37b, 38b and 39 as identified in the Arboricultural Impact Assessment dated November 2019 prepared by Accurate Tree Assessment are approved for removal.
 - ii) Trees located on adjoining land
- (b) Tree protection
 - i) No tree roots greater than 25mm 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 25mm diameter unless directed otherwise by the Project Arborist on site.
 - iii) All tree protection to be in accordance with the Arboricultural Impact Assessment dated November 2019 prepared by Accurate Tree Assessment 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 relevant local planning controls 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.

15. 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, inspection hold points and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment dated November 2019 prepared by Accurate Tree Assessment 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. 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.

17. 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)];
- 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; and
- 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.

18. 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.

19. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

20. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

21. Stockpiling of Topsoil

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

22. Native Vegetation Protection

Guards or fences are to be provided around native vegetation as identified/nominated on the approved plans. The guards or fences are to be installed prior to the commencement of any work on the site. No works, including utility installations (eg water, sewer, telephone, drainage), are to be undertaken within 4 metres of the trunk of any such trees. The tree guards shall be a minimum 1200mm high at least four (4) metres from the base of the nominated tree/s and constructed from timber posts and rails or posts and suitable plywood panels.

Reason: To protect and retain trees/the natural environment proposed for retention.

23. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

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

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

24. Landscape completion certification

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 approved landscape plan and inclusive of any conditions of consent.

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

25. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, 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.

26. 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.

27. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council including a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and a hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater detention/disposal structures within this development consent. The terms of the positive covenant and restriction 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 the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

28. Required Planting

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Pot Size
All trees	As indicated on Landscape Plan Dwg No. LPDA20-38/1 Rev. F dated 29.11.19 prepared by Conzept Landscape Architects	As indicated on the Landscape Plan	As indicated on the Landscape Plan

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.

29. Weed Removal and Management

No weeds are to be imported on to the site. All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the Principal Certifying Authority prior to occupation certificate.

Reason: Weed management and biosecurity

30. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management.

31. 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.

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

32. 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.

33. 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.

34. 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.

35. Dead or Injured Wildlife

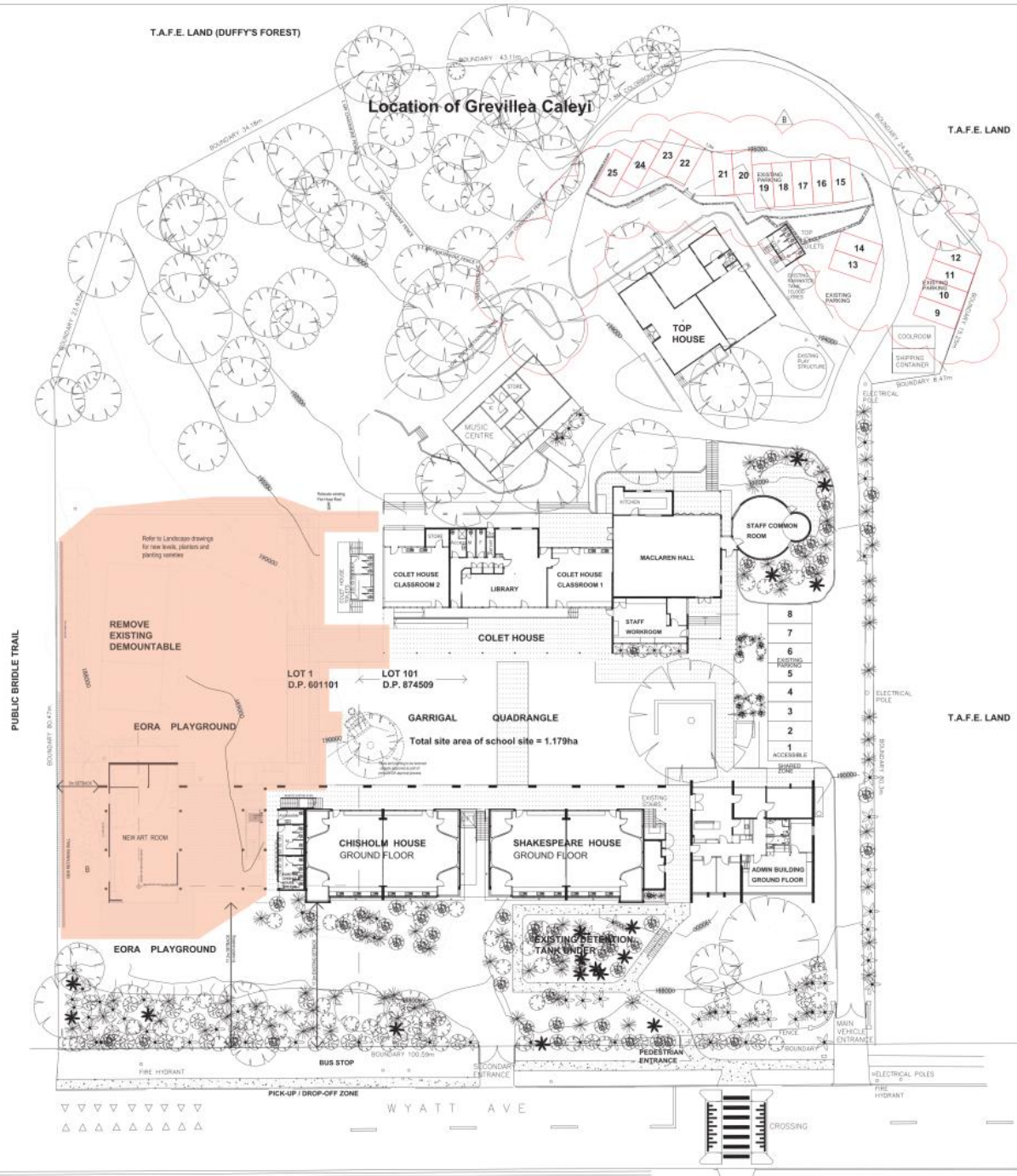
If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

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

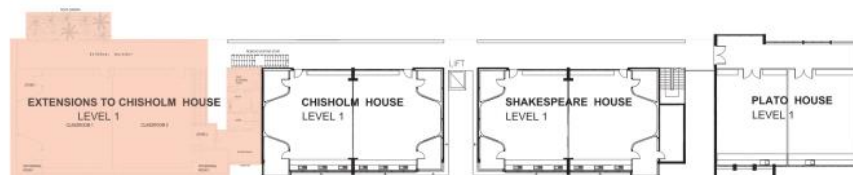
36. Parking

- a) Sufficient parking shall be provided within the school grounds for one car for each staff member in attendance at the school
- b) During school hours, staff members shall not use the 90 degree parking spaces directly adjoining Wyatt Reserve in Wyatt Avenue and Cotentin Road.
- c) The school is to manage the parking of staff members in regards to point b) above

Reason: To minimise impacts upon on-street parking.



GROUND FLOOR PLAN



LEVEL 1 PLAN

Coloured area denoted new building and landscape work



Issues:
'A' - 12/11/2019 - Original DA submission for Extensions to Chisholm House
'B' - 15/04/2020 - Amended parking and access plan to satisfy Condition 6 of DA20150558
- window to Art Room on western elevation moved further south to next bay

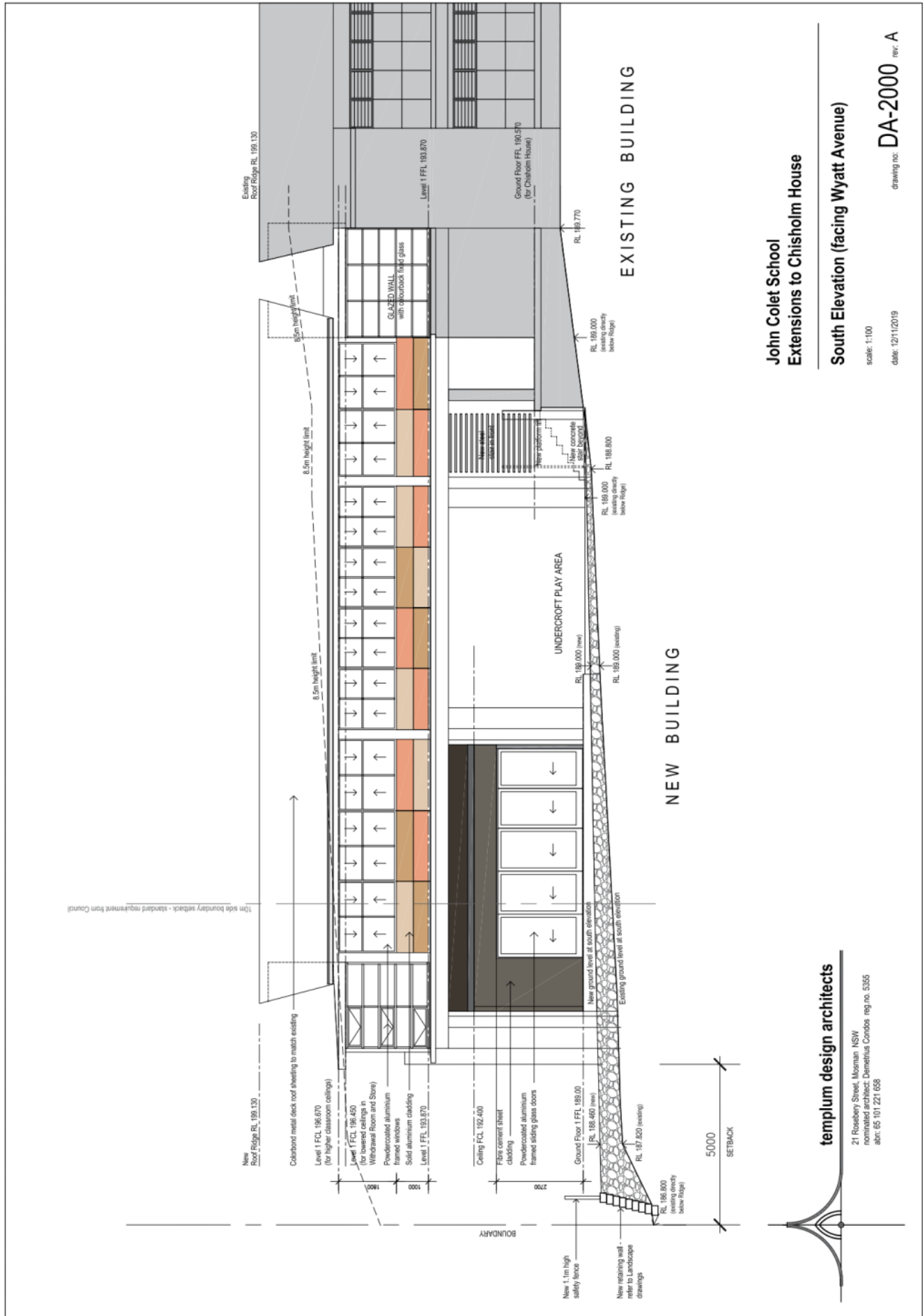
John Colet School
Extension to Chisholm House

Site Plan - Ground Floor and Level 1 Plans

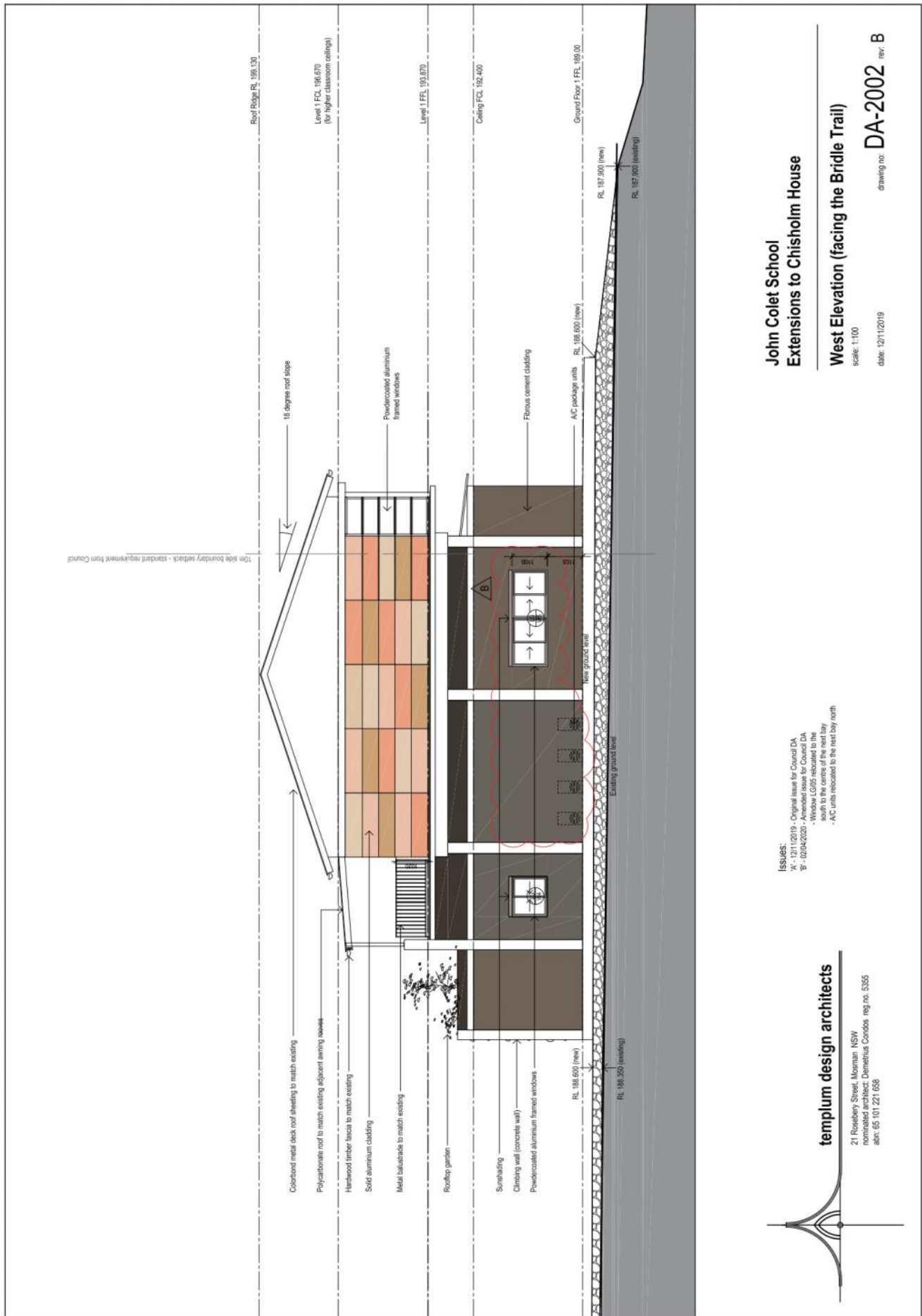
scale: 1:200 @ B1, 1:500 @ A3

date: 12/11/2019

drawing no: DA-1001 rev: B









Western boundary Future Stage 'Q' – Upper level extensions to western end of Chisholm House Existing Chisholm House Lift and secondary driveway Existing Shakespeare House Pedestrian entry Admin. Building with 2 Classrooms over Main driveway entrance to Staff parking

Full site elevation from Wyatt Avenue (South Elevation)



Perspective view looking up at Extensions to Chisholm House (southwest corner) with Art Room and covered playground under



Perspective view through undercroft / covered play area between buildings



EXTENSIONS TO CHISHOLM HOUSE

for John Colet School, No.6 to 8 Wyatt Avenue, Belrose 2085
Lot 1, DP 601101 and Lot 101 DP 874509

PERSPECTIVES FROM WYATT AVENUE

DA - 6001 rev: A

Scale: N.T.S. at A3
Date: 12/11/2019

ITEM 3.4 **DA2020/1178 - 5 DEVON PLACE, COLLAROY - DEMOLITION
WORKS AND CONSTRUCTION OF A DWELLING HOUSE****AUTHORISING MANAGER** **LASHTA HAIDARI****TRIM FILE REF** **2021/243131****ATTACHMENTS** **1** [↓](#) **Assessment Report**
 2 [↓](#) **Site Plan & Elevations****PURPOSE**

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/1178 for demolition works and construction of a dwelling house at Lot 11 & 12 DP 556019, 5 Devon Place, Collaroy subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1178
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 11 DP 556019, 5 Devon Place COLLAROY NSW 2097 Lot 12 DP 556019, 5 Devon Place COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Rui Xiang Family Pty Ltd
Applicant:	SWA Group
Application Lodged:	30/09/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	20/10/2020 to 03/11/2020
Advertised:	Not Advertised
Submissions Received:	16
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,150,000.00

EXECUTIVE SUMMARY

The Development Application (DA) seeks approval for the demolition of the existing dwelling and the construction of a part two (2) part three (3) storey five (5) bedroom dwelling and consolidation of the two lots. The application is being referred to the NBLPP as more than ten (10) submissions have been received.

A total of thirteen (13) unique submissions have been registered following notification of the application which raised issues in respect of bulk, scale, density, the design being out of character, landscaping, amenity impacts including view loss, privacy and over shadowing and issues with excavation.

The application has been amended to reduce the bulk and scale and generally comply with all the built

form controls, with the exception of wall height and landscape open space. The amendments include a 5m increase in the set back of the top floor from the eastern boundary and a reduction in the height to achieve full compliance with the 8.5m height limit. Conditions are recommended requiring the deletion of the office above the garage and a reduction in the floor to ceiling height to 2.7m to address remaining issues related to view loss and to further reduce the bulk and scale of the dwelling.

Subject to a condition to ensure that the flat roof areas are not used for recreational purposes the increase in the setback will not result in unreasonable impacts on privacy. It is also noted that the proposed dwelling is generally sited on the footprint of the existing dwelling and will result in a neutral impact in terms of compliance with landscape open space. The non-compliance with the landscape open space is primarily as a result of the retention of the large tennis court.

On balance, the proposal is recommended for approval having considered relevant issues and the assessment of the design plans submitted.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the demolition of the existing dwelling and detached dwelling, excavation to a depth of 3.2m the construction of a new part two (2) part three (3) storey dwelling. The existing tennis court and swimming pool will be retained.

In detail the development consists of:

Lower Ground Level RL 54.4

- Home theatre, spa and sauna;
- Open plan living and dining room;
- Wine cellar, kitchen and pantry, laundry, and
- WC, lift and stair.

Ground Level RL 57.4

- Four (4) bedrooms with ensuite and walk in robe. Bedroom 3 has a south and east facing terrace;
- Lounge with north facing adjoining terrace and front porch;
- Triple garage;
- Gym;
- Terrace, and
- WC, lift and stair.

First Floor Level RL 60.50

- Masterbed with ensuite and walk in robe;
- Sitting room with east facing terrace and north and south facing balcony;
- Home office, and
- WC, lift and stairs.

External

- BBQ and alfresco Area to the rear (south);
- 1.2m high wall to Devon Place frontage (north), and
- Removal of 1 trees and new planting .

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 Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D9 Building Bulk
Warringah Development Control Plan - D10 Building Colours and Materials
Warringah Development Control Plan - D11 Roofs

SITE DESCRIPTION

Property Description:	Lot 11 DP 556019 , 5 Devon Place COLLAROY NSW 2097 Lot 12 DP 556019 , 5 Devon Place COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of two (2) allotments, Lot 11 and Lot 12 DP 56019 located on the northern side of Devon Place. Lot 12 is irregular in shape and has an area of 9921.1sqm, while Lot 11 is a battle-axe allotment of 814.1sqm. The combined site area is 1,806.1sqm.</p> <p>The site is located within the R2 Low Density Residential zone pursuant to the Warringah LEP 2011. Lot 12 contains a part one part two storey dwelling house in masonry construction while lot 11 primarily contains a synthetic tennis court adjacent to the western side boundary and an in-ground swimming pool near the north-eastern corner of the</p>

site. The property provides two separate driveways. The one on the west provides access to a detached double garage and the other one on the east is a shared driveway with No. 6 Devon Place which provides access to an on site car parking space.

The site has a gentle and moderate slope retained by a series of sandstone walls at the rear with an outcrop of sandstone to the south of the swimming pool. There is no significant native vegetation on the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density one, two and part two / part three storey detached dwellings some with swimming pools. Most surrounding dwellings take advantage of the ocean views to the north.

Map:



SITE HISTORY

DA2005/0981

On 15 November 2005, D2005/0981 approved alterations and additions to the existing dwelling.

DA2010/2120

On 17 March, 2011 DA2010/2120 was approved for demolition works, and the construction of a dwelling house and subdivision of land.

MOD2010/0325

On 17 March 2011, an application to Modification of Development Consent DA2005/0981 granted alterations and additions to the existing dwelling was withdrawn.

MOD2011/0231

On 3 April 2012, an application to Modification of Development Consent DA2005/0981 was approved 3 April 2012.

DA2013/0109

On 25 May 2013, DA2013/0109 approved a boundary adjustment and the construction of a two (2) storey (4) four bedroom dwelling on Lot 1 in the area of the tennis court to the rear of the existing double garage.

History of subject application

On 12 January 2021, a letter was sent to the Applicant raising issues with respect to the height, bulk and massing including non-compliance with the following controls: height development standard, wall height, side envelope, side and front setbacks. In addition, issues relating to impacts on neighbouring properties in respect of privacy, overshadowing and view loss were also raised.

On 17 February 2021, amended drawings were submitted which included a reduction in the height, an increase in the side setbacks of the upper floor and an increase in the front setback at ground level and the first floor.

On 8 March 2021, the applicant submitted a survey certifying the installation of height poles.

On 11 March 2021, the applicant submitted a roof plan showing the location of the solar panels, as referenced in the BASIX certificate.

On 23 March 2021, the applicant agreed to the imposition of a proposed condition to delete the office above the garage and reduce the floor to ceiling height to 2.7m to address Council's concerns with view loss.

In accordance with the Community Participation Plan (CPP) the amended plans do not require formal re-notification as the changes result in a lesser or reduction of environmental impacts.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed

Section 4.15 Matters for Consideration'	Comments
	development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. A letter was issued which raised issues in relation to the height, setbacks and bulk and scale of the proposed dwelling. Amended plans were received.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <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 environment	<p>(i) Environmental Impact</p> <p>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>

Section 4.15 Matters for Consideration'	Comments
and social and economic impacts in the locality	<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 from 20/10/2020 to 03/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 16 submission/s from:

Name:	Address:
Barbara Steuer	Address Unknown
Mr William John Lyons	7 Devon Place COLLAROY NSW 2097
Mr David Morris	47 Suffolk Avenue COLLAROY NSW 2097
Mr Antony Wayne Flutey	48 Suffolk Avenue COLLAROY NSW 2097
Mr Robert Burns	3 Devon Place COLLAROY NSW 2097
Mr Wouter Gerardus Dusseldorp	47 Suffolk Avenue COLLAROY NSW 2097
Luke Thomas Basham	43 Suffolk Avenue COLLAROY NSW 2097
Mr Paul James Stemmer	51 Suffolk Avenue COLLAROY NSW 2097
Mr Todd Peter Moody	Suite10.03 275 Alfred Street NORTH SYDNEY NSW 2060
Mr Francois Louw	70 Anzac Avenue COLLAROY NSW 2097

Name:	Address:
Ms Barbara Ann Steuer	6 Devon Place COLLAROY NSW 2097
Rob Mander	41 Suffolk Avenue COLLAROY NSW 2097
Paul Lindsay Sutherland	43 Suffolk Avenue COLLAROY NSW 2097
Boston Blyth Fleming Pty Ltd	1 / 9 Narabang Way BELROSE NSW 2085
Mr Jason George Falinski Nichola Jane Constant	45 Suffolk Avenue COLLAROY NSW 2097
Mr Gregory George Zaccone	68 A Anzac Avenue COLLAROY NSW 2097

The application was notified on 2 October 2020 until 21 October 2020 and again on the 15 October 2020 until 3 November 2020, following the submission of additional information. As a result of the exhibition a total of thirteen (13) **unique submissions* were received.

**Note:* In accordance with the Revised Community Participation Plan (CPP), which came into affect on 1 December 2020, multiple submissions from the one property are counted as one (1) *unique submission*. Pursuant to the revised CPP the amended plans do not the amended plans do not require formal re-notification as the changes result in a lesser or reduction of environmental impacts.

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

- **Over-development / Out of character;**
- **Excessive Height;**
- **Garage design;**
- **Solar Access;**
- **View loss;**
- **Breach in 6.5m front setback;**
- **Breach in side envelope;**
- **Access issue;**
- **Inaccurate application;**
- **The lots need to be consolidated;**
- **The dwelling appears to be a *multi dwelling* use and is prohibited;**
- **Heritage issues;**
- **Roof design**
- **Privacy impacts;**
- **The proposed tree will block views.**
- **Noise from plant.**
- **Excavation / dilapidation reports required, and**
- **Insufficient landscaping.**

The additional matters raised within the submissions are addressed as follows:

- **Over-development - Excessive size / bulk, height and scale. No Gross Floor Area (GFA) and Floor Space Ratio (FSR) details provided. The dwelling is out of character with the low density one and two storey dwellings in the area and presents a unit or multi-dwelling typology which is commercial in appearance. The bulk and scale does not address the topography of the site. Other dwellings are "stepped in nature", so the existing 3 storey buildings fit with the natural slope of the land, unlike the proposed dwelling which does not seek to align with the natural slope of the land. The design lacks articulation and modulation to reduce the bulk.**

Comment

The proposal has been amended to reduce the bulk, scale and massing of the new dwelling so that is generally complies with the built form controls of the LEP and DCP. The amended design steps the dwelling to the sides to reflect the topography of the site. Greater modulation and articulation is included in the amended scheme. In addition, a condition is recommended requiring the bulk and massing of the development to be further reduced to ensure view sharing is maintained and protected to surrounding properties, refer to discussion under clause D7 Views. Despite the architecture being contemporary, the reduced scale of the development combined with appropriate material selection will ensure the development is appropriate in the low density residential area.

- **Height - Excessive height which breaches the 8.5m height limit and 7.2m wall height. Excessive floor to ceiling heights at 3.3m. The clause 4.6 variation of the height development standard is not well founded. Height poles area required. RLs appear to be wrong. Roof and parapet height are not specified.**

Comment:

The proposal has been amended to ensure that the height is below the 8.5m height control of the Warringah LEP 2011. As such, a clause 4.6 variation is no longer required. It is accepted that due to the topography of the site which falls to the east and north there is a breach of the 7.2m wall height control in the DCP. A condition requires the floor to ceiling heights to be reduced to 2.7m which in turn will reduce the extent of non-compliance with the wall height. Height poles have been installed to fully assess view loss and RL's have been annotated on the drawings.

- **The excessive garage doors dominate the frontage and are non-compliant with the WDCP. The over-sized garage exceeds the 6m limit by 2.6m resulting in an over bearing structure.**

Comment:

The garage opening occupies less than 50% of the frontage and is broken up into two doors. It is recommended that the colour of the garage doors be a dark recessive colour. Subject to this condition the proposed garage is not considered to dominate the frontage and the landscape planting will help reduce any perceived visual impacts.

- **Breach in solar access controls. Shadow impacts - less sunlight to front and rear gardens. Also impact on solar panels to No. 7A Devon Place. A compliant built form would reduce the shadow impacts.**

Comment:

Shadow analysis has been submitted which confirms that the amended proposal will not result in unreasonable solar access issues to adjoining properties in compliance with the WDCP. In addition, solar access diagrams have been submitted which confirms that the proposal will not negatively impacts on the solar panels on the roof of No. 7a Devon Place.

- **View loss (land water interface, ocean, bush and headland) from properties on Suffolk Avenue including No. 43, 45, 46, 48 and 50 Suffolk Avenue. The view loss analysis in the SEE is inadequate.**

Comment:

Height poles have been installed and a detailed view loss assessment has been carried out by the Assessing Planner Officer and it was concluded that there are unreasonable impacts on view sharing to the properties immediately across the road. As such, conditions are recommended to delete the office above the garage to protect the significant views to the headland and tree top / water interface. It is also recommended that the floor to ceiling height be reduced to 2.7m on all floors which will reduce the height of the entire dwelling, refer to discussion under Clause D7 Views.

- **Breach in 6.5m front setback.**

Comment:

The proposal has been amended to ensure the dwelling complies with the 6.5m front setback of the DCP.

- **Breach in building envelope no details shown. The side elevations are over bearing.**

Comment:

The proposal has been amended to ensure the dwelling sits within the envelope. Level 1 has been set back an additional 5m to reduce the bulk and scale of the development when viewed from the east. In addition, a condition requires the office to be deleted which will reduce the bulk and scale of the dwelling when viewed from the west.

- **The applicant is required to consult and give notice to obtain access via the neighbouring property during construction as the driveway is shared.**

Comment:

A condition is recommended that requires the applicant to notify the owner of No. 6 Devon Place prior to the use / access of the shared driveway for construction.

- **Incomplete, inaccurate application and error in details. A full set of plans has not been submitted, one level is missing and no roof plan, roof plant or roof materials have been provided. Are solar panels proposed on the roof, no details have been provided. No elevation of existing dwelling provided. The SEE has errors with reference to the number of rooms, garages / parking spaces and details of neighbouring properties. The room references in the section conflict with the floor plans and suggest a secondary dwelling.**

Comment:

The drawings have been amended to modify the design, correct errors and provided additional information. There are no maximum car parking limits in the WDCP therefore the parking is assessed as acceptable.

- **The two (2) lots need to formally be consolidated into one title. The consolidation of the 2 lots will result in a significantly greater sub-division pattern as such there is adequate flexibility for achieving a compliant dwelling.**

Comment:

A condition is recommended that requires the two lots to be consolidated. Despite the site comprising two lots it presents as one large lot and there is no change in the existing subdivision pattern.

- **The dwelling appears to be a multi dwelling use / secondary dwelling with multiple kitchens and 8 bedrooms which is prohibited in the R2 Residential zone.**

Comment:

The proposal seeks approval to a single dwelling comprising five (5) bedrooms. The dwelling is not a multi-dwelling or secondary dwelling. The single dwelling house is permissible within the R2 Residential zone.

- **The existing 1960s dwelling is of heritage significance and expert heritage advice should be provided on the DA that seeks to demolish the dwelling.**

Comment

Council's Heritage Specialist has no objections to the demolition of the existing dwelling.

- **Inappropriate unsympathetic monolithic flat roof design will impact on the streetscape. A condition should be imposed to prohibit solar panels roof plant and access for recreational use.**

Comment:

The flat roof design is consistent with the contemporary architecture of the proposed dwelling and subject to conditions to ensure that the colours are recessive the roof has been assessed as acceptable. Conditions are recommended requiring to ensure that any solar panels required as part of the BASIX certificate are sited in the lowest part of the roof and position to avoid glare. A condition also ensures that the roof will not be accessible for recreational purposes.

- **The exterior paint colour to the street is white which will add to the visual impact. Natural material should be used with dark recessive colours.**

Comment

A condition requires the external walls to be a natural colour and roof colour to be recessive.

- **Privacy impacts to neighbouring bedrooms, decks, private open space and pool area.**

Comment:

The proposal has been amended to increase the setback of the upper floor from neighbouring dwelling to ensure that privacy is maintained.

- **The proposed tree will grow to 8m in height and block views.**

Comment:

A condition requires the species selection to help limit the height of the tree at maturity.

- **Noise from mechanical plant.**

Comment:

A condition is recommended requiring noise from the mechanical plant not to exceed the ambient background noise of more than 5db measured from the boundary.

- **Excavation will require a dilapidation report for neighbouring properties.**

Comment:

Conditions are recommended requiring dilapidation reports to be prepared for the neighbouring properties to the immediate east.

- **Non compliance with 40% landscape open space requirement which adds to the bulk and scale of the proposal.**

Comment:

The proposed dwelling generally occupies a similar footprint to the existing dwelling that is located on the site, therefore it is considered that there will be a natural impact on terms of compliance with the 40% landscape open space control. The landscape open space non-compliance will not in itself add to issues with the bulk and scale of the dwelling.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The plans indicate that no significant landscape features are affected by the proposed works.</p> <p>The landscape plan indicates one replacement tree for a small deciduous tree to be removed.</p> <p>However, the plan indicates the tree to be <i>Ulmus parvifolia</i>, an exempt species under WDCP.</p> <p>Conditions have been included requiring replanting of a non exempt tree.</p> <p>No objections subject to conditions.</p> <p><i>Additional advice 22 March 2021</i></p> <p>In response to issues raised from neighbours about view loss caused by the proposed tree at the frontage growing to 8m the following comment has been provided:</p> <p>A condition can be imposed requiring a tree to be at least 5 metres in height at maturity and no higher than 8 metres.</p>

Internal Referral Body	Comments		
NECC (Development Engineering)	<i>Note to Planner: The proposed development crosses the current boundary of Lot 12 which may have BCA and planning issues.</i> No objections to approval subject to conditions as recommended.		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	The proposal has been referred to Heritage as the subject property is within the vicinity of a heritage item		
	I136 - Remnant native street trees - Anzac Avenue and Hendy Avenue		
	Details of heritage items affected		
	Details of the item as contained within the Warringah inventory is as follows:		
	<u>Statement of significance:</u> These trees are remnant components of the former open forest community on sheltered hill slopes (Sydney Sandstone Gully Forest) (Benson & Howell, 1994). This ecological community has been largely cleared in the Collaroy area. This disjunct remnant native tree group in the upper middle section of Anzac Avenue and along Hendy Avenue creates a distinctive visual and aesthetic quality to these streetscapes. Notably, Sydney Pink Gums (<i>Angophora costata</i>) occur with Grey Ironbarks (<i>Eucalyptus paniculata</i>) indicating a transitional sandstone-shale surface geology. This community is still common in Pittwater but rare in Warringah LGA. The group includes old growth trees including one outstanding specimen <i>Angophora costata</i> (No.57 Anzac Avenue). Remnant canopy trees (groups) in this area are under threat from inappropriate maintenance regimes and replacement by exotics and generic native species.		
	<u>Physical description:</u> This remnant group of native canopy trees occurs in the road-side grass verges and private gardens of Anzac Avenue and Hendy Avenue. Sydney Pink Gum or Smooth-barked Apple (<i>Angophora costata</i>) is the dominant species in association with Grey Ironbark (<i>Eucalyptus paniculata</i>) in Anzac Avenue (on the higher slopes) and Bangalay (<i>E. botryoides</i>) in Hendy Avenue (lower slopes).		
	The group's age structure varies with some old growth specimens present. The <i>Angophora costata</i> on the front boundary to No.57 Anzac Avenue is likely 100 years+ in age and has a height of approximately 22 metres, canopy diameter of 25 metres and diameter breast height (DBH) of 1500mm. All native understorey shrubs, vines and/ or groundcovers, generally typical of this community, have been cleared in the past and replaced with exotic shrubs and turf grasses.		
	Other relevant heritage listings		
Sydney Regional Environmental Plan	No		

Internal Referral Body	Comments		
	(Sydney Harbour Catchment) 2005		
	Australian Heritage Register	No	
	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		
	The proposal seeks consent for a new dwelling on the subject site. The heritage items are located to the north and north west of the property on Anzac Parade. Anzac Parade is located down hill from the subject property. Given the physical separation, the proposal is considered to not impact upon the heritage item or its significance.		
	Therefore Heritage raises no objections and requires no conditions.		
	Consider against the provisions of CL5.10 of WLEP.		
	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		
	Further Comments		
DATE: 1 October 2020			
Strategic and Place Planning (Urban Design)	<p>The amended proposal was re-submitted in February 2021. There are still concerns about the top storey which will block view corridors from the surrounding adjacent houses on the western and southern side of the site including houses further up the hill slope. As such, there will be 'view sharing' issues that will need to be addressed and demonstrated. A suggestion will be to delete the 'home office' section on the top floor so approximately half the width of the view corridor will be 'shared'. The reduced top floor will also result in an increased/pronounced step in the building massing which will be more sympathetic to the streetscape. Building facades generally could also benefit from more articulations including using colour, materials and surface treatments to reduce building mass.</p> <p>The applicant is in the process of arranging height poles on site. Issues of view-sharing can be further discussed and hopefully resolved then.</p>		

Internal Referral Body	Comments
	<p>Planning comment: Conditions have been imposed to address the above mentioned issues.</p> <p>Previous comments:</p> <p>The proposal in its current form cannot be supported due to the following issues:</p> <ol style="list-style-type: none"> 1. The proposal breaches the building height of 8.5m. The proposed built form is a three storey building sitting on a large site with distant water views. The bulk and scale of the built form could be more responsive to the sloping terrain and designed to step down the slope. That way, distant water views from the surrounding houses will not be blocked as much with a lower stepping built form. 2. A detailed view sharing analysis has not been submitted. The top floor of the proposal could be more of an articulated roof form allowing view sharing to occur and fit in better contextually with the surrounding residential houses. 3. The general bulk and scale could be reduced to be more sympathetic to achieve a scale and height appropriate to the existing character of the street and surrounding buildings. Considerations to achieve an appropriate built form in terms of building proportions and the manipulation of building elements could be further explored. The proposed built form should also contribute to the character of the surrounding area, including their views and vistas, and provide internal amenity and outlook at the same time.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and Safe Work NSW Codes of Practice for construction works near existing electrical assets. The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

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. 1128816S dated 16 September 2020).

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

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

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. Ausgrid offer no objections to the proposal subject to conditions.

Warringah Local Environmental Plan 2011

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

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The proposal includes excavation to a depth of 3.24m to allow for the construction of the lower ground level. A geotechnical report has been submitted which confirms that subject to conditions the proposal is unlikely to cause unreasonable disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality or the amenity of adjoining properties. The geotechnical report includes measures relating to vibration, inspections, excavation support, shoring measures, details on retaining structures and the quality of fill. The geotechnical report has been reviewed by Council's Development Engineer who offers no objections to the proposal subject to conditions.

6.4 Development on sloping land

The site is classified Area D "Collaroy Plateau Area, Flanking Slopes from 5 to 15 degrees". The geotechnical report includes recommendations to reduce the level of risk of slope instability within this site in accordance with Landslide Risk Management Concepts and Guidelines.

Subject to compliance with the recommendations of the geotechnical report the risk associated with landslides in relation to both property and life is low. In addition, the development is unlikely to cause significant detrimental impacts because of stormwater discharge from the development site or negatively impact on or affect the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.2m	13.8	No
B3 Side Boundary Envelope	4m	East - complies	N/A	Yes
	4m	West - complies	N/A	Yes
B5 Side Boundary Setbacks	0.9m	0.9m west	N/A	Yes
	0.9m	Min 2.4m to east	N/A	Yes

B7 Front Boundary Setbacks	6.5m	Min 6.5m	N/A	Yes
B9 Rear Boundary Setbacks	6m	28.9m to terrace	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	534.97sqm 29.34% (site area 1806sqm)	N/A	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: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	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	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	No	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	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

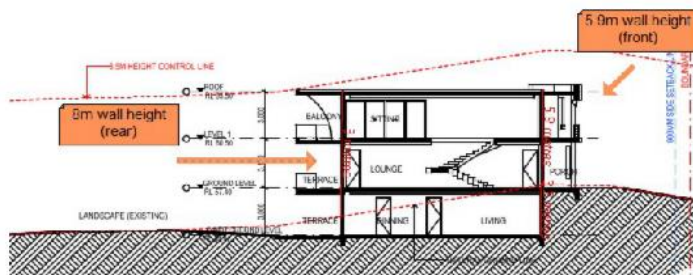
Clause	Compliance with Requirements	Consistency Aims/Objectives
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposal will result in a 9% (0.8m) breach in the 7.2m wall height towards the rear (north) and a 25% (1.8m) breach to the eastern side of the proposed dwelling.



Section 1 (source SWA Group)



Section 2 (source SWA Group)

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the DCP 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 area of non-compliance is restricted to the rear (north) and side (east) of the proposed dwelling and is a consequence of the topography of the site which falls away from Devon Place to the north and east. The proposal has been amended to increase the set backs of the upper

floor to the east an additional 5m which will help minimise the visual impact of the proposal from adjoining properties and ensure view sharing is maintained.

The proposed dwelling presents a two storey typology to the Devon Street frontage with a wall height to the frontage of 5.9m. In order to ensure view sharing is maintained a condition is recommended that requires the floor to ceiling height of all floors to be reduced to 2.7m. These amendments will reduce the extent of the non-compliance with the wall height control. In summary, the proposal has been assessed as acceptable as it will not result in a visual impact on the streetscape, waterways or landed zoned for recreational purposes.

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

Comment:

The proposed dwelling presents a two storeys to Devon Place and generally sits below the existing tree canopy level.

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

Comment:

The proposal will result in impacts on view sharing from private properties located directly across the street. In order to minimise these impacts a condition is recommended that requires the deletion of the office above the garage and a reduction in floor to ceiling height. Subject to these conditions the wall height breach, particularly to the east, will be reduced which currently contributes to unreasonable impacts on private views. It is also noted that this will help reduce the loss of ocean views currently observed along Suffolk Road where it intersects with Devon Place.

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

Comment:

The proposal, as amended and subject to conditions, will not result in unreasonable impacts on nearby properties in terms of visual privacy, view sharing or overshadowing.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The development has been amended to respond to the topography of the site being stepped down on either side. The excavation allows the lower level to be partially below ground which will in turn reduce the visual impact of the development from the street and surrounding properties.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The architecture is contemporary and the flat roof is consistent with the design of the dwelling. A number of properties along Suffolk Parade will look down on the roof. In order to ensure that there will be no visual impacts to these properties a condition that requires the roof materials to be recessive in colour is recommended.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is acceptable and is supported, in this particular circumstance.

C3 Parking Facilities

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides four (4) on site car parking spaces, three (3) spaces in the garage and one (1) existing car parking space retained within the north-east corner of the site. As there are no maximum car parking provisions, the number of car parking spaces is acceptable.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The proposal includes a triple garage generally in the same location as the existing detached double garage. The garage is integrated into the design of the dwelling and set back a minimum of 6.8m from the street frontage. Two separate garage doors are proposed to the front elevation which reduces the visual dominance of the garage from the street frontage. A condition is recommended that requires the colour of the garage doors to be amended to a recessive colour to further minimise the visual impact of the garage on the public domain.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The control requires garage or carport openings to not exceed 6 metres or 50% of the building width, whichever is the lesser, where they face the street. The garage doors measure 4.8m and 2.4m respectively (total opening 7.2m in length). Although this exceeds the 6m control the length of the garage represents 24.2% of the building width and is on merit assessed as acceptable. Subject to the recommended condition that requires the colour to be recessive the garage is not considered to unreasonably dominate the street frontage.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Although the site is large, having a consolidated site area of 1806sqm, the proposal seeks to retain the tennis court and pool which account for a large area of the site. The footprint of the proposed dwelling is generally consistent with that of the existing dwelling. The existing site has a Landscape Open Space LOS of 28.7% (518.6sqm) and the proposal will result in a landscape open space (LOS) of 29.6% (534.9sqm) which represents a 16.3sqm increase in the amount of open space provided.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The proposal maintains a similar front setback to the existing house with sufficient space retained to allow for planting to enhance the streetscape.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

There are no significant indigenous vegetation, topographical features or habitat for wildlife mapped or present on the site that requires conservation.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The primary area of landscape open space is retained to the north and east of the site . Additional planting is proposed to the frontage which will help soften the visual bulk of the dwelling from the streetscape.

- *To enhance privacy between buildings.*

Comment:

The building is sufficiently setback from the side boundary and conditions ensure that the roof will not be trafficable to ensure that visual privacy is maintained. Notwithstanding this, existing planting adjacent to the side boundaries and additional planting to the front will enhance privacy between buildings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

Despite the numerical non-compliance with the control the retained 534.9sqm area of landscape open space which will have a neutral impact on compliance when compared to the current site. In addition, the proposal retains appropriate outdoor recreational opportunities in the form of a tennis court and swimming pool.

- *To provide space for service functions, including clothes drying.*

Comment:

The proposal retains sufficient space for service functions including clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The proposal facilitates appropriate water management Council's Development Engineer has no objections to the proposal subject to conditions relating to stormwater.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

D7 ViewsMerit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

Northern and north-eastern views towards the ocean, the headland and the land water interface and bushland in the valley can be observed over the site from properties including, but not limited to No 1 and 3 Devon Place, No. 43, 45, 47, 48 and 51 Suffolk Avenue which are located

to the south. Height poles have been installed and view loss inspections were carried out by the Assessing Officer to all of the above mentioned properties.

2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

No. 1 Devon Place

No 1 Devon Place is located approximately 35m to the south of the subject site. Primary views from a standing and sitting position towards the headland, ocean and interface between the bushland and water can be observed from the first floor dining area, living area, bedrooms and the external verandah from both a sitting and standing position. Similar views are also obtained from the upper floor. It is noted that ocean and headland views are partially obscured by existing trees on the subject site and neighbouring sites.

*Note: No submission have been received in writing from No. 1 Devon Place. Notwithstanding this a view loss inspection was carried out by the Assessing Planner. At the time of inspection the owner considered that views from the upper floor would not be impacted by the development.

No. 3 Devon Place

No. 3 Devon Place is located to the immediate west of the subject site. Primary views from a standing and sitting position towards the headland, ocean and the interface between the bushland and water can be observed from the first floor dining area, living area, bedrooms and associated decks looking to the north and north-east. Similar views looking north are enjoyed from the ground level bedrooms and associated decks. Eastern views from the first floor kitchen and dining room windows across the side boundary of the subject site are primarily of the roof of the existing dwelling and beyond to tree tops.

No. 43 Suffolk Avenue

No. 43 Suffolk Avenue, is located at an elevated position, approximately 70m to the south of the subject site. Distance views of the ocean, the headland and the land / interface (bushland valley) are observed from the first floor open plan living, dining and kitchen area and the adjoining deck and pool area from both a standing and sitting position across the road and the roof of the existing dwelling. Similar views are also obtained from the upper floor bedrooms.

*A view loss inspection from the upper floor rooms was deemed necessary by the owner at the time of inspection as it was considered that the views from these rooms would not be impacted by the development.

No 45 Suffolk Avenue

No. 45 Suffolk Avenue, is located at an elevated position, approximately 70m to the south of the subject site. Distance views of the ocean, the headland and the land / interface (bushland

valley) are observed from the ground floor rumpus room and adjoining area of private open space, the first floor open plan living, dining and kitchen area and adjoining deck and the bedrooms located at level 1 and 2. All views are obtained from both a standing and sitting position looking to the north-east across the road and the subject site.

No. 47 Suffolk Avenue

No. 47 Suffolk Avenue is located at an elevated position, approximately 75m to the south of the subject site. Distant views of the ocean, the headland and the land / interface (bushland valley) can be observed looking to the north across the road and the subject site. The best views are observed from the first floor open plan living, dining and kitchen area and the adjoining deck from both a standing and sitting position. Additional views are observed from the ground level which has been approved as a rumpus / bedroom under CDC200186/01 and a view corridor can be observed from the rear outdoor area of private open space looking along the eastern side of the property.

* Construction work is currently taking place at this property and at the time of inspection views from the ground floor were partially obscured by a shade cloth installed along the site frontage.

No 51 Suffolk Avenue

No 51 Suffolk Avenue is located at an elevated position, approximately 80m to the south of the subject site. Distant views of the ocean, the headland and the land / interface (bushland valley) can be observed looking to the north across the road and the subject site. The primary views are from the first floor deck which adjoins the open plan living, dining and kitchen area and two bedrooms. Secondary views are observed from the living room and the two north facing bedrooms. Limited views are also observed in the stairwell. Ocean views are generally compromised by existing dwellings and trees.

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment to Principle 3:

No 1 Devon Place

The northern views towards the headland and the land (tree) interface with the ocean over the roof of the dwelling currently enjoyed from the first floor dining room, bedrooms and external verandah will be significant.



View from level 1 bedroom



View from front verandah



View from first floor dining area

No. 3 Devon Place

The primary view of the ocean and headland to the north-east from all levels of the property will be retained. The eastern view towards the tree tops across the side of the site boundary from the kitchen and dining room windows will be impacted.



View from 1st floor kitchen window looking east across the side boundary



View from 1st floor dining room window looking east across the side boundary



View from rear deck to the north-east over the tennis court at No 5 Devon Place.

No. 43 Suffolk Avenue

Due to the elevated position of No. 43 and distance from the subject site the northern views towards the ocean and headland over the roof of the proposed house (as amended) will generally be retained from the open plan living, dining and kitchen area, deck and pool area. The existing dwelling at No 5 Devon Place is part one part two storey in height, it is therefore acknowledged that due to the increase in the height of proposed dwelling to a part two / part three storey structure there will be some minimal impact on the views of tree tops as a result of the development. In order to minimise any visual impact to No. 43 and other properties that will look down on the roof of the proposed dwelling a condition is recommended that requires the roof to be a dark recessive colour and solar panels being limited to a maximum of 2 panels located in the lowest part of the roof and angled to avoid issues with reflectivity.



Standing view from first floor open plan living, dining and kitchen looking north beyond the deck and pool area

No 45 Suffolk Avenue

Due to the elevated position of No. 45 and distance from the subject site the primary northern views towards the ocean and headland from the first floor living room and deck over the roof of the proposed house (as amended) will generally be retained. There will be minor view loss from the ground level rumpus room and the area of private open space.



View from ground level rumpus room



View from ground level area of private open space



View from 1st floor open plan living area



View from 1st floor balcony

No 47 Suffolk Avenue

The most significant views from the first floor deck and open plan living, dining and study to the ocean and headland will generally be retained. There will be some minor view loss impacts on the view of the tree tops.

The greatest impact on view sharing will occur from the north facing room at ground level. At the time of the view loss assessment the owner referred to the ground floor room being a living room, however, a search of Council records confirm that the room has been approved under CDC 2000186/01 to be used as a rumpus / bedroom with the primary living area being located at first floor level.

At the time of the inspection by the assessing Officer No. 47 Suffolk Avenue was under construction and a fence with a shade cloth positioned along the frontage obscured views to the subject site. Notwithstanding this it was noted on site that northern views of the trees tops / bushland would be obscured by the proposed dwelling with only a minor loss of water views from the ground level north facing room.



Standing view from living, kitchen and dining room



Standing view from first floor deck looking north.



Standing view from ground floor rumpus / bedroom

No 48 Suffolk Avenue

The most significant impact on the existing views of the ocean are those currently obtained from the first floor master bedroom looking north. It is noted that these views are currently compromised by existing mature vegetation within the front set back of No. 48 and a street telegraph pole . The most significant impact on the current view occurs as a result of the bulk and massing of the dwelling at the eastern corner. There will be some additional impact on the ocean and headland views from the first floor open plan living, dining and kitchen area as well as the deck at level 2.



View from 1st floor bedroom



View from 2nd floor level living room



View from 2nd floor deck



Siting view from 2nd floor level deck



View from 2nd floor level dining area



View from level 2 kitchen

No. 51 Suffolk Avenue

Due to the elevated position, the distance from the site and orientation of the dwelling there will be limited impacts on views. The view loss from the level 1 deck generally relates to some loss of views of the tree tops in the valley. It is not anticipated that there will be unreasonable view loss from the primary habitable rooms.



View from level 1 living area



View from 1st floor bedroom and deck.

4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Principle 4:

With the exception of the wall height control the proposal, as amended, is fully compliant with the built form controls, including the 8.5m height limit, side building envelopes and all setback. Despite the proposed dwelling being almost fully compliant it remains to be a large building and the bulk, scale and height of the dwelling is assessed as presenting unreasonable view loss particularly to the properties directly across the road. In order to ensure view sharing is maintained a more *skilful design* is required to reduce the impact on views. A condition is therefore recommended requiring the floor to ceiling height to be reduced from 3.1m at ground level and 3m lower ground and first floor level to 2.7m on all levels. Given the large rooms proposed the reduction in the floor to ceiling height will not unreasonably impact on the internal amenity of the dwelling for the future occupants. The reduction in the floor to ceiling height will however reduce the overall height of the dwelling by a further 1m which will help minimise view loss impacts to surrounding properties. In addition, it is recommended that the proposed office located above the garage be deleted which will in turn help preserve the highly valued view to the headland and the land and water interface.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

Subject to conditions the design is assessed as being responsive to the existing environment and will help minimise unreasonable view loss.

- *To ensure existing canopy trees have priority over views.*

Comment:

There will be some minor impact on the distant view of tree tops in the valley below as a result of the proposal however the proposal will sit below the height of street trees within the immediate area.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal, subject to conditions, is supported, in this particular circumstance.

D9 Building Bulk

The bulk of the dwelling to the either side has been reduced, however, the set back of the top floor remains to present issues in regards to the impacts on view loss along the view corridors with side of the dwelling. In order to address this issue a condition requiring the building bulk to be reduced is recommended, refer to discussion under D7 Views. Subject to the condition requiring the deletion of the first floor office and a reduction in the floor to ceiling heights to 2.7m on on levels it is concluded that the proposal will be consistent with the relevant objectives of WLEP 2011 / 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.

D10 Building Colours and Materials

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 colours and materials of new or altered buildings and structures are sympathetic to the surrounding natural and built environment.*

Comment:

The white rendered walls are not supported, and a condition requiring the use of a a recessive colour to ensure that the so the development blends into the natural setting has been recommended. In addition, a condition requires the roof colour to be a dark recessive colour.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

D11 Roofs

Merit consideration

The proposed roof for the dwelling is flat and does not include eaves. While the majority of roofs in the surrounding areas are pitched there are some exceptions including No. 48 Suffolk Avenue to the immediate south.

With regard to the consideration for a variation, the development is considered against the underlying

Objectives of the Control as follows:

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The flat roof is consistent with the contemporary architecture of the dwelling and allows for view sharing over the roof. Subject to conditions ensuring a recessive colour is used to blend in with the natural environment the design of the roof has been assessed as acceptable.

- *Roofs are to be designed to complement the local skyline.*

Comment:

As noted above, the flat roof allows for view sharing and subject to conditions that require a reduction in the bulk and height of the dwelling the roof will complement the local skyline.

- *Roofs are to be designed to conceal plant and equipment.*

Comment:

The applicant has confirmed that two solar panels will be located on the lowest part of the roof in accordance with the BASIX certificate. Conditions are recommended requiring the details of the units to be submitted for further approval to ensure there will be no visual impact. No other plant is proposed on the roof and a condition will ensure this.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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 affect 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 \$21,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,150,000.

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

- *Density - bulk, scale, height and massing and impacts on the character of the area.*

The application has been amended to reduce the bulk, height and scale of the development to comply with all built form controls with the exception of wall height and landscape open space. A condition is recommended that requires the deletion of the level 1 office and a reduction in the floor to ceiling heights to 2.7m for each level which will further reduce the bulk and scale so that it is compatible with the character of the area despite the contemporary design.

- *Impacts on residential amenity.*

The amended design ensures that the existing residential amenity of neighbouring dwellings is maintained in terms of solar access and visual privacy. Conditions require the deletion of part of the first office which will retain the western view corridor and a reduction in the floor to ceiling height which will assist in retaining views along the eastern corridor. Additional conditions are recommended to ensure residential amenity is protected

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/1178 for Demolition works and construction of a dwelling house on land at Lot 11 DP 556019, 5 Devon Place, COLLAROY, Lot 12 DP 556019, 5 Devon Place, COLLAROY, 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 -12 Rev D Site / Roof Plan	11/03/2021	SWA Group
DA -13 Rev B Demolition / Excavation / Fill Plan	15/02/2021	SWA Group
DA -14 Rev B Lower Ground Level Floorplan	15/02/2021	SWA Group
DA -15 Rev B Ground Level Floorplan	15/02/2021	SWA Group
DA -16 Rev B Level 1 Floorplan	15/02/2021	SWA Group
DA -21 Rev B South and North Elevation	15/02/2021	SWA Group
DA -22 Rev B East and West Elevation	15/02/2021	SWA Group
DA -32 Rev B Section 1 and 2	15/02/2021	SWA Group

Engineering Plans		
Drawing No.	Dated	Prepared By
ST01 Rev A Lower Ground Floor Stormwater Drainage Plan	27/08/2020	Stronghold Engineers
ST02 Rev A Ground Floor Stormwater Drainage Plan	27/08/2020	Stronghold Engineers
ST03 Rev A Stormwater Drainage Detail Plan	27/08/2020	Stronghold Engineers
ST04 Rev A Erosion and Sediment Control Plan and Details	27/08/2020	Stronghold Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation Report Ref No ESWN-PR-2020-666 Section 5, 6 and 7	07/09/2020	ESWNMAN
BASIX Certificate No. 1128816S	16/09/2020	Building Sustainability

	Assessment
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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
*Landscape Planting Plan	21/08/2020	Michael Siu

* Subject to an alternative species for the proposed tree in the frontage which will limit the height at maturity of 8m.

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	September 2020	SWA 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. 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
Ausgrid	Response Ausgrid Referral	03/11/2020

(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 departments, authorities or bodies.

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 \$21,500.00 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 \$2,150,000.00.

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 are required 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, and 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. **Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Clause 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management for Development Policy 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 the development.

8. **Amendments to the approved plans**

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

- The first floor office above the garage shall be deleted as it does not form part of the approval.
- The floor to ceiling height on all levels shall be reduced to 2.7m.
- The white rendered walls and garage doors are not supported and the colours and materials of development shall be amended to a more recessive neutral colour to blend in to the natural landscape.
- The colour of the roof shall be a dark recessive colour.
- Any solar panels installed on the roof must be positioned in the lowest section of the roof and shall be oriented away from properties to the south to avoid reflectivity and glare. No other plant is permitted on the roof.
- The species selection for the tree proposed in the frontage shall allow for a growth of 5m at maturity but no higher than 8m.

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.

9. **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 referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Stronghold Engineers Pty Ltd, project number SH20254, drawing number ST01, dated 27/08/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. On site detention volume shall be provided in accordance with Clause 9.3.2 of Council's Water Management for Development Policy.
- ii. Detailed drainage plans, including engineering certification, 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 stormwater and stormwater

management arising from the development.

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. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 facilitate suitable vehicular access to private property.

13. **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. 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **Pre-Construction Dilapidation Report**

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.

No. 6 Devon Place, Collaroy.

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 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.

Reason: To maintain proper records in relation to the proposed development.

15. 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
- (b) Tree protection
 - i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
 - ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
 - iii) All tree protection to be in accordance with 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.

16. Notification for access to shared driveway

The applicant is required to notify the owner of No. 6 Devon Place prior to the use / access of the shared driveway for construction.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. 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.

18. 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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;

- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- 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; and
- 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.

19. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

20. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 4.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 1N 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.

21. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

22. **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.

23. **Removal of All Temporary Structures/Material and Construction Rubbish (crown land only)**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to Council.

Reason: To ensure bushland management. (DACPLE01)

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

24. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Council's Water Management for Development Policy by a suitably qualified civil engineer. 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.

25. **Post-Construction Dilapidation Report**

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.

Reason: To maintain proper records in relation to the proposed development.

26. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The

application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction 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 the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

27. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Geotechnical Investigation Report Ref No ESWN-PR-2020-666 dated 07/09/2020 prepared by ESWNMAN.
- (b) BASIX Certificate No. 1128816S dated 16/09/2020 prepared by Building Sustainability Assessment.
- (c) Waste Management Report, dated September 2020, prepared by SWA Group.

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

Reason: To ensure compliance with standards.

28. Required Planting

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Minimum Pot Size
1	Tree capable of attaining a minimum height of 5 metres at maturity. Trees listed in Council's exempt tree species list under WDCP Clause E1 Preservation of Trees or Bushland Vegetation are not to be planted.	Front yard	25 litre

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.

29. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)

30. **House Number**

House number is to be affixed to the building 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.

31. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

32. **Consolidation of lots**

Lot 11 DP 556019 and lot 12 DP 556019 must be consolidated as one (1) allotment and registered on a survey plan ((prepared and signed by a Registered Surveyor) with the NSW Land & Property Information Service (NSW Department of Lands).

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

Reason: To ensure development is not constructed over property boundaries.

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

33. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

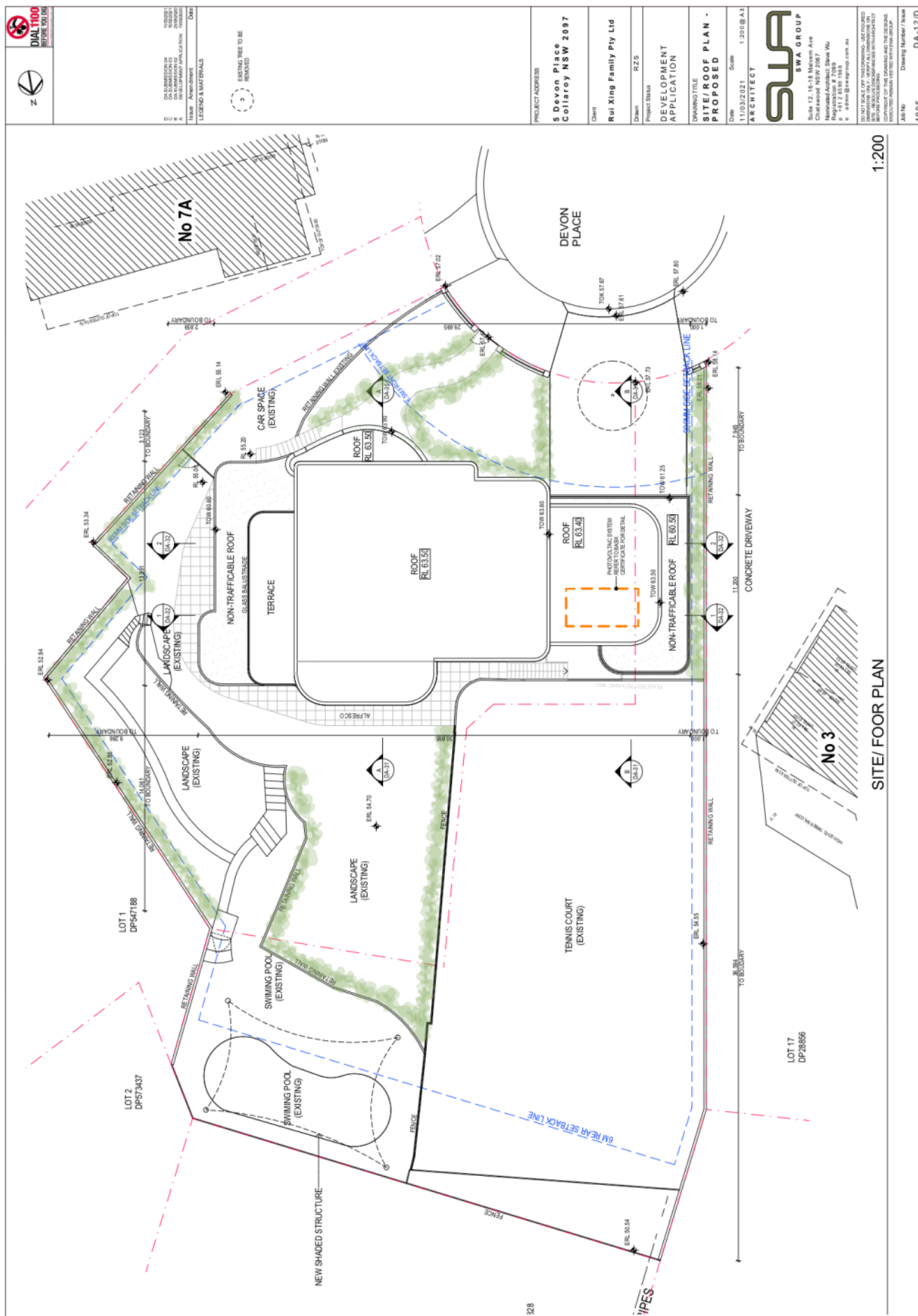
Reason: To ensure geotechnical risk is mitigated appropriately.

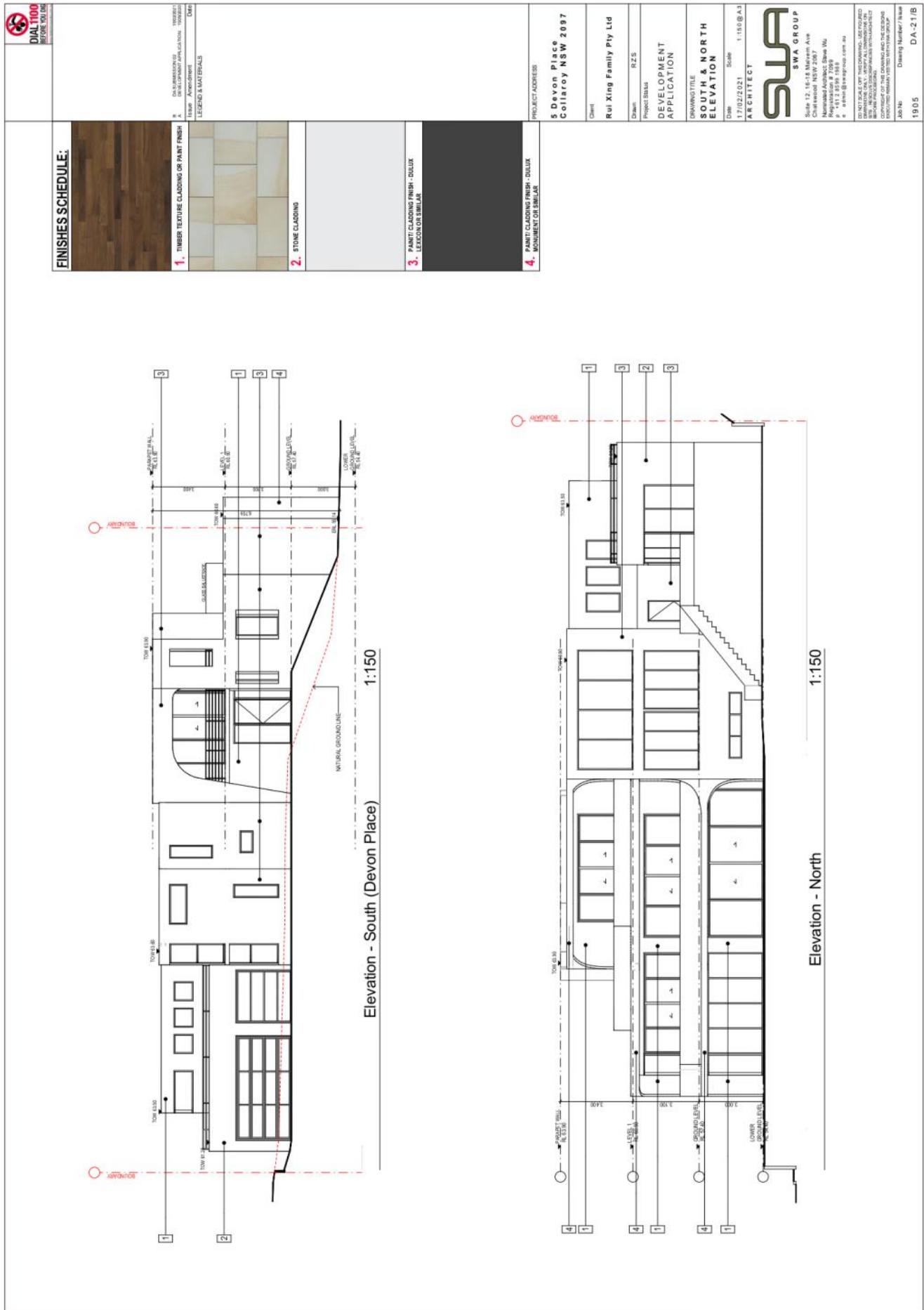
34. **Noise**

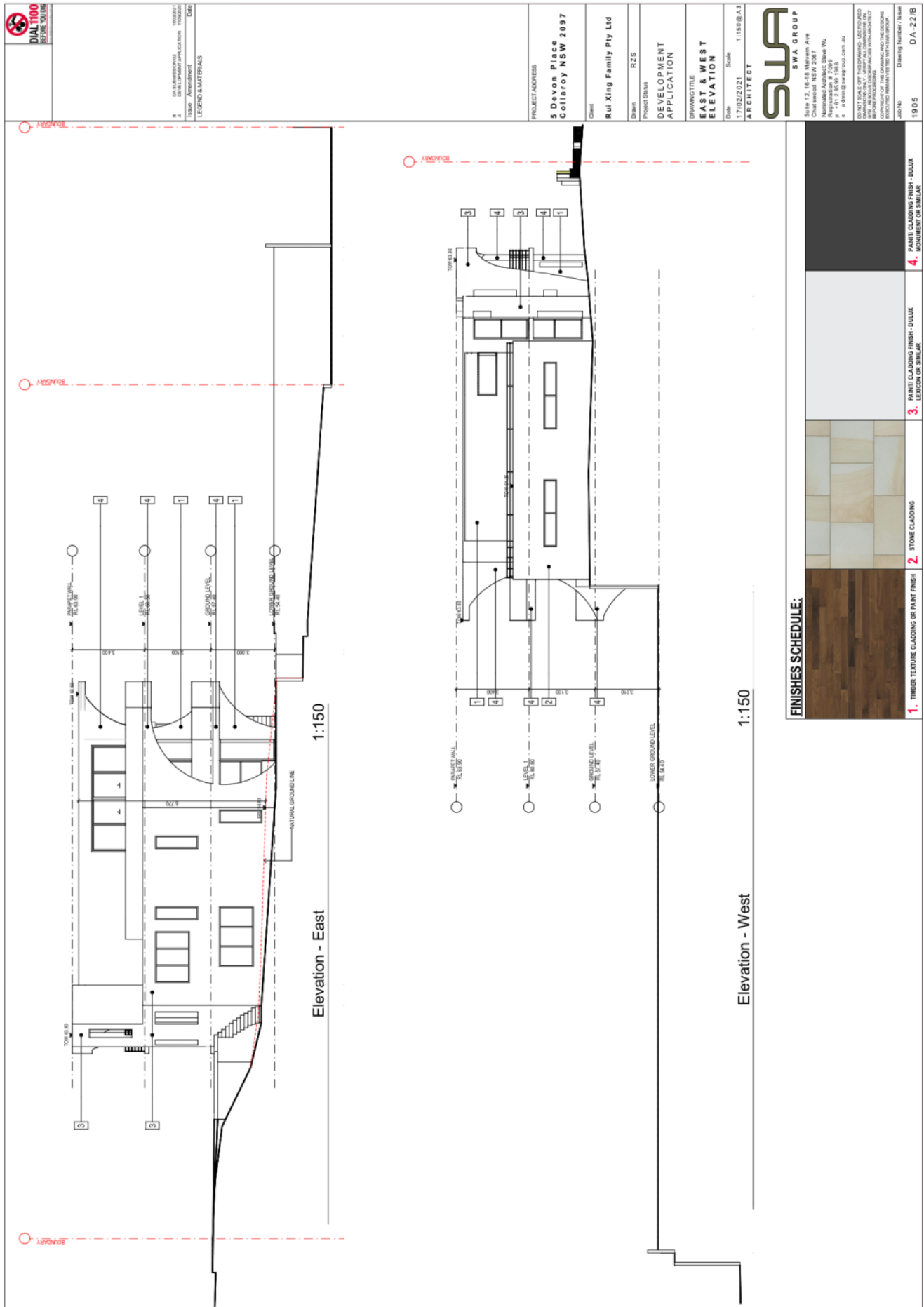
Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the NSW Industrial Noise Policy at the receiving boundary of residential and other noise sensitive land uses.

35. **No access to roof**

There shall be no access to the roof for recreational purposes.







ITEM 3.5

**DA2020/1287 - 58 FOREST WAY, FRENCHS FOREST -
DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS
HOUSING DEVELOPMENT COMPRISING 4 SELF CARE
HOUSING UNITS WITH ASSOCIATED PARKING**

AUTHORISING MANAGER LASHTA HAIDARI

TRIM FILE REF **2021/243142**

ATTACHMENTS

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

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/1287 for demolition works and construction of a Seniors Housing Development comprising 4 self-care housing units with associated parking at Lot 38 DP 20461, 58 Forest Way, Frenchs Forest subject to the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1287
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 38 DP 20461, 58 Forest Way FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works and construction of a Seniors Housing Development comprising 4 self care housing units with associated parking
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under SEPP (HSDP)
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Khosrow Ataii Mojgan Ataii
Applicant:	BBF Town Planners
Application Lodged:	13/10/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	23/10/2020 to 13/11/2020
Advertised:	23/10/2020
Submissions Received:	14
Clause 4.6 Variation:	Nil
Recommendation:	Refusal
Estimated Cost of Works:	\$ 1,432,350.00

EXECUTIVE SUMMARY

The application seeks consent for the construction of four (4) independent living dwelling within two (2) buildings with four (4) garages under the provisions of SEPP (Housing for Seniors or People with a Disability) (HSPD) 2004. Under the provisions of Warringah Local Environmental Plan 2011 (WLEP 2011), the subject site is within the R2 Low Density Residential zone. The proposed development is defined as Seniors Housing, which is prohibited under the WLEP 2011, however, the proposal is made permissible by virtue of SEPP (HSPD)

The application was referred to the Design Advisory and Sustainability Panel (DSAP) who raised issues with the removal of seven (7) high value canopy trees, 26% non-compliance with the landscaped open area with the large paved area to the frontage and loss of trees impacting on the landscape character of the area. The proposal exceeds the single storey in rear 25% development standard and a clause 4.6 variation has not been submitted. As such, the consent authority do not have the power to grant development consent.

The proposal does not appropriately respond to the character and built form of the locality and issues are raised in regards to the bulk of the development, the height of the rear pavilion and the physical separation of the two buildings. Issues are also raised in regards to amenity impacts to neighbours by way of overshadowing and privacy and insufficient amenity to the proposed dwelling by way of solar access and acoustic privacy as a result of noise impacts from the road.

In addition, to the issues raised by DSAP the proposed driveway access raises concern with regards to road and pedestrian safety with insufficient space for manoeuvring on-site and the retention of the retaining wall within the road reserve presenting issues with safe sight lines for egress. The shared path also raises safety issues for pedestrians.

The public exhibition of the application resulted in fourteen (14) submissions, which raised concerns with the landscaping, road and pedestrian safety, parking, overdevelopment, the design being out of character and amenity impacts (overshadowing and privacy). The issues raised in the submissions have been addressed in the "Public Notification" section of this report.

On balance, the assessment of the proposed seniors housing development on this site against the applicable planning controls and related legislation reveals that there are significant breaches with the controls. The application is not in the public interest and is therefore recommended for refusal.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the demolition of all structures and the construction of a two storey Seniors Housing development comprising four (4) x two (2) bedroom (plus study) infill self-care housing units and four (4) integrated garages in two detached building. The existing driveway will be removed and a new driveway constructed to Forest Way. The proposal includes the removal of seven (7) trees and replacement planting. In detail, the proposal comprises:

Ground Floor RL

Building 1 RL 153.86

- Dwelling 1 (front) - open plan living, dining and kitchen with adjoining patio, bedroom 1 with ensuite, stairs and integrated garage.
- Dwelling 2 (rear) - open plan living, dining and kitchen with adjoining patio, bedroom 1 with ensuite, separate WC, porch, stairs and integrated garage.

Building 2 RL 153.86

- Dwelling 3 (front) - open plan living, dining and kitchen with adjoining patio, bedroom 1 with ensuite, porch, entry, laundry, WC, store, stairs and integrated garage.
- Dwelling 4 (rear) - open plan living, dining and kitchen with adjoining patio, bedroom 1 with ensuite, bedroom 2, study, bathroom, WC, entry, laundry, porch and integrated garage.

First Floor RL

Building 1 RL 156.62

- Dwelling 1 (front) - Lounge, store, bedroom 2 with walk-in-wardrobe and ensuite, bathroom and stairs.
- Dwelling 2 (rear) Lounge with void area, bedroom 2 with walk-in-robe, bathroom and stair.

Building 2 RL 156.86

- Dwelling 3 (front) - Lounge with a void area, bedroom 2 with walk-in-robe, bathroom and stair.
- Dwelling 4 (rear) - void area over the living and dining area 4.7m ceiling height.

External

- New driveway to the southern boundary with rainwater tank under the driveway.
- Paved pedestrian path with ramped access.
- Bin store and letterbox to the road frontage.
- Garden areas to each dwelling.
- 1.8m high timber or colourbond boundary fence, low retaining walls and fencing between gardens,
- Removal of seven (7) trees.
- Planting including hedge to street frontage, one (1) replacement native canopy tree in north-west corner, lawn, privacy planting, steppers to side access, screen planting to rear boundary.

Materials

Stone cladding, metal roof, cement render cladding and paint finish, timber doors, aluminium windows.

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 Local Environmental Plan 2011 - 2.7 Demolition requires consent

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - A.5 Objectives
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - C9 Waste Management
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - D13 Front Fences and Front Walls
 Warringah Development Control Plan - D14 Site Facilities
 Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation
 Warringah Development Control Plan - E2 Prescribed Vegetation
 Warringah Development Control Plan - E6 Retaining unique environmental features

SITE DESCRIPTION

Property Description:	Lot 38 DP 20461 , 58 Forest Way FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Forest Way.</p> <p>The site is irregular in shape with a frontage of 21.4m along Forest Way and a depth of between 59.8m and 51.3m. The site has a surveyed area of 1012m².</p> <p>The site is located within the R2 (Low Density Residential) zone from WLEP 2011 and accommodates a single storey detached dwelling with a detached outbuilding and shed to the rear. A carport is located to the frontage with an access driveway along the northern boundary providing access to Forest Way. Steps a pedestrian path are provided along the southern boundary and a retaining wall has been erected along the street frontage within the road reserve.</p> <p>The site is has a gentle slope and a number of mature trees are located throughout the site including three eucalypt trees within the frontage.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Surrounding development consists primarily of one and two storey detached dwellings set back from the road in landscape settings interspersed with a dual occupancies including (No. 17 & 17A Grace Avenue) and a townhouses developments located to the rear at No. 19 Grace Avenue and to the north-west at 27-33 Adam Street. Forest Way is located to the immediate east and comprises a a busy six lane classified road. Adams Street is located approximately</p>



SITE HISTORY

Design Sustainability Advisory Panel (DSAP)

On the 25 February 2021, the application was peer reviewed by DSAP. The Panel raised issues with:

- The design of the proposal in respect of the bulk of the development, the height of the rear pavilion, the physical separation of the two buildings and over articulation;
- Impacts on neighbouring amenity in terms of overshadowing and privacy;
- Landscape issues with respect of the removal of high value trees. Non-compliance with the landscaped open area with the large paved area to the frontage and loss of trees impacting on the landscape character of the area.;
- Amenity issues with the proposed dwellings being overshadowed and acoustic impacts from road noise, and
- Insufficient consideration of sustainability.

The Panel concluded that it does not support the application as it fails to satisfy the planning controls and does not fit into the character of the area. The Panel recommended a re-design to:

- Locate the car driveway to the northern side of the frontage;
- Provide underground car parking, and
- Retain all 6 high value existing tree.

On 8 March 2021, a letter was sent to the applicant which raise concern with the following issues: height, bulk, scale, building separation, landscape, amenity, accessibility, waste and the design of the driveway. The applicant was given the opportunity to withdraw the application and receive a partial refund of fees or request the determination of the application.

On 15 March 2021, draft amended plans were received which included:

- Relocation of retaining wall within lot boundary;
- Dwelling 1 - Relocation of the master bedroom and ensuite to first floor;
- An increase in the building separation and side setback;
- FSR decreased from 0.498 to 0.487 and roof encroachment within rear setback deleted;
- Landscape area has been slightly increased and 5 replacement canopy trees are provided;
- Waste - Increased bin enclosure to accommodate 6 bins.

The changes did not address the recommendation on the Panel for a complete redesign of the development. As such, the amendments have not been accepted and the assessment before the LPP is based on the original drawings.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. Should the LPP Panel decide to approve the development these matters can be 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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>authority to consider AS 2601 - 1991: The Demolition of Structures. Should the LPP Panel decide to approve the development these matters can be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. Should the LPP Panel decide to approve the development these matters can be 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). Should the LPP Panel decide to approve the development these matters can be 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 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 Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will 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 unsuitable 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	This assessment has found the proposal to be contrary to the relevant requirement(s) of the SEPP (HSDP), the WLEP and the WDCP and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not

Section 4.15 Matters for Consideration'	Comments
	considered to be 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 from 23/10/2020 to 13/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 14 submission/s from:

Name:	Address:
Mr George Dionyssopoulos	6 Grace Avenue FRENCHS FOREST NSW 2086
Mrs Elizabeth Ann Jones	46 Forest Way FRENCHS FOREST NSW 2086
Jeremy Snowden Trahair Ms Susan Melanie Trahair	56 Forest Way FRENCHS FOREST NSW 2086
Mr Frank Raymond Zonneveldt	48 Binburra Avenue AVALON BEACH NSW 2107
Mr Anthony John Frost	11 Margaret Street FAIRLIGHT NSW 2094
Mr Peter Kenneth Alston Wilson	6 Yuruga Place ALLAMBIE HEIGHTS NSW 2100
Laurence Arnold Perrins Marjorie May Perrins	Villa 12, 123 Willandra Road CROMER NSW 2099
Mr Gary Martin O'Sullivan	31 Mary Street BEACON HILL NSW 2100
Anne Worsley	15 Biralee Crescent BEACON HILL NSW 2100
Mr Nicholas Snowden Trahair	3 Yiremba Place FORESTVILLE NSW 2087
Mr Jason Lucas Gain	135 / 79 - 91 Macpherson Street WARRIEWOOD NSW 2102
Mr David Vincent Walker Mrs Seok Kuan Walker	60 Forest Way FRENCHS FOREST NSW 2086
Mr Russell John Walker	38 Birubi Crescent BILGOLA PLATEAU NSW 2107
Mr Xu Han	11/27-33 Adams Street FRENCHS FOREST NSW 2086

The application was notified from 23 October 2020 to 13 November 2020. Fourteen (14) submission have been received

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

- Traffic, road safety and parking;

- Landscaping and ecology;
- Overdevelopment - out of character;
- Contrary to controls;
- Privacy;
- Overshadowing;
- Precedent;
- Pedestrian access;
- Asbestos, and
- insufficient site analysis.

The matters raised within the submissions are addressed as follows:

- **Traffic, parking and road safety issues - Insufficient parking with no spaces for visitors required to service the development e.g. medical and family support. Impact of parking spilling over into neighbouring streets. The driveway design will not allow for residents to turn their cars around resulting in cars reversing onto a busy road with road safety issues especially given its proximity to an intersection.**

Comment:

It is agreed that the proposal presents road safety issues as the turning information is deemed unacceptable to Council's Transport Engineer. Council's Transport Engineer has also raised an issue with there being no visitor parking provided on site and potential impacts on kerbside parking. While the proposal does not technically require visitor parking under the SEPP (HSDP) with only one (1) parking space available to each 2 bedroom dwelling it is agreed that there may be issues with the availability of visitor parking for service providers such as health works and also family members. Refer to Transport Comments in the Referrals section of this report.

- **Trees / Ecology / Landscaping- Loss of mature native trees with high amenity value will impact on the visual quality of the area / streetscape. The site contains original remnants of the Duffys Forest Ecological Community, including Waratah and Woody Pears that are over 70 years old, and which will be destroyed. The proposal will impact on wildlife in the area and ecology report is required to assess the impacts. The existing driveway access should be retained which in turn would allow the retention of the trees. The arborist report fails to include an assessment of native trees on the adjoining site to the south (56 Forest Way). Insufficient landscaping contrary to the SEPP (HSPD) and the WDCP.**

Comment:

It is agreed that the loss of the mature native trees will have a negative impact on the visual quality of the streetscape contrary to the provisions of the SEPP (HSPD) and the WDCP. The Design Panel have also suggested that the existing driveway should be retained which would allow for the retention of the existing trees.

The site is not mapped as being of biodiversity significant notwithstanding this the removal of the trees will have a negative impact on wildlife habitat.

- **Overdevelopment – excessive scale, height and bulk with impacts on the streetscape. Excessive bulk close to side boundaries.**

Comment:

Whilst the proposal complies with the SEPP (HSDP) density control, the large internal voids and above ground car parking, which are not counted in FSR calculations, add building bulk. In addition the height of the rear pavilion exceeds the single storey limit and the lack of a sufficient amount of landscaped open space all contribute to overdevelopment of the site.

- **Contrary to Planning controls –contrary to SEPP (HSPD) and WLEP and WDCP including the following: The density is contrary to the low-density land use zoning. The SEE refers to a single storey element in the rear 25% whereas the plans show a two storey element. Insufficient landscape open space, excessive bulk solar access and privacy issues.**

Comment:

Agreed, refer to the detailed discussion under the SEPP (HSPD) and the WDCP.

- **Visual and acoustic privacy - Upper floor windows overlook neighbouring bedrooms and private open space and additional cars will add to noise pollution.**

Comment:

Agreed, the proposal will result in unreasonable privacy impacts on neighbouring properties. Refer to discussion under Clause D8 (Privacy).

- **Overshadowing - The shadow diagrams are inaccurate as the existing fence along the southern boundary does not create shadow impacts being a low height open chain wire construction. The non-compliance with the single storey SEPP control in the rear 25% adds to solar access impacts. The shadow will affect the main area of private open space between 9am and 3pm to No 56 Forest Way contrary to the WDCP solar access control.**

Comment:

Agreed, the proposal will result in unreasonable overshadowing to No. 56 Forest Way. Refer to discussion under Clause D6 (Access to Sunlight).

- **Design is out of character - The design does not respond to its context and is offensive, jarring and unsympathetic to the streetscape and built form characteristics of the locality.**

Comment:

Agreed, the bulk and massing of the development is considered excessive and there is limited replacement planting to soften the bulk and scale of the development from the streetscape or neighbouring dwellings.

- **Pedestrian Access - The footpath is non-complaint with excessive gradients of 1:8 and landing less than 1200mm.**

Comment:

Council's Development Engineer has raised issues with there being insufficient information to assess compliance with the access requirements of SEPP (HSDP)

- **Precedent – Approval will set a negative precedent for other non-compliant developments which will erode the character and quality of the area.**

Comment:

Agreed, the proposal has the potential to set a negative precedent which may erode the character and quality of the area.

- **Asbestos - The waste management plan appears to underestimate the amount of asbestos on the site. A proper assessment for asbestos is required.**

Comment:

Should the LPP Panel decide to approve the DA details in relation to the management of asbestos can be addressed via conditions.

- **Site analysis – the analysis is insufficient and lacks detail on ecology and is therefore contrary to clause 30 of the SEPP (HSPD).**

Comment:

The Design Panel agree that the development lacked sufficient site analysis.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The Arborist's Report and Landscape Plan submitted with the application are noted.</p> <p>The Arborist's Report indicates that one tree on the site can be retained. 7 other trees on site are to be removed. Of these, one is rated AA1, three are rated A1 and one rated A2. Other trees indicated for retention are not located on the subject site.</p> <p>The landscape plan indicates replacement planting of one tree only.</p> <p>The removal of the significant tree canopy , particularly to the Forest Way frontage with little by way of replacement is of concern in consideration of the change to the streetscape character and landscaped setting that will result from the proposed works.</p> <p>Canopy tree planting needs to be provided across the site and frontage to replace that removed, which has not been achieved in the proposal.</p> <p>The side setback landscape treatments are minimal, with only climbers to boundary fencing proposed adjacent to buildings. Little soft landscape separation to adjoining buildings is provided resulting in poor amenity and privacy to adjoining residences and reduction in the landscaped setting on the site.</p>

Internal Referral Body	Comments
	<p>Additionally, it is apparent that the proposed pedestrian footpath adjacent to the driveway on the southern boundary is a shared pathway rather than a separate defined path. The path is indicated to cross immediately adjacent to the garage. The proposed pedestrian access is a poor design outcome and is indicative of an overdevelopment of the site, given that the path can't be separated from the drive and there is no opportunity for meaningful landscape treatments to be boundary.</p> <p>In consideration of the above, the proposal is not able to be supported with regard to landscape issues.</p>
NECC (Development Engineering)	<p><u>Vehicle Access</u> Insufficient information has been provided with regard to the proposed access driveway. The application shall be supported by turning paths in accordance with AS2890 clearly demonstrating satisfactory maneuvering on-site and forward entry and exit to and from the public road for all units.</p> <p><u>Access to facilities</u> The proposal is for Seniors Housing and must meet the requirements of Clause 26 Location and access to facilities of SEPP (Housing for Seniors or People with a Disability) 2004. The access report provided details the accessibility requirements of on site facilities only. An access report is to be submitted by a suitably qualified Access Consultant to assess compliance with the requirements of Clause 26 Location and access to facilities of SEPP (Housing for Seniors or People with a Disability) 2004. Where the proposal requires the extension or upgrading of footpaths and pram crossings to comply with the SEPP requirements, details are to be submitted. Those details shall include a design for 1.5 m wide footpath required as a connection of the proposed premises with the closest bus stop, routes and frequency of public transport services and a suitable survey plan showing the existing and proposed grades along the footpath demonstrating compliance with the requirements of Clause 26. The footpath design shall be in accordance with the latest requirements of AS1428.1 - Design for Access and Mobility (Access for People with Disabilities).</p> <p>The proposed application cannot be supported by Development Engineering 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. • Compliance with Clause 26 Location and access to facilities of SEPP (Housing for Seniors or People with a Disability) 2004.
Strategic and Place Planning (Urban Design)	<p>The proposal cannot be supported for the following reasons:</p> <ol style="list-style-type: none"> 1. The front and rear setbacks have been breached with bay-windows and roofed over bbq-patio respectively. 2. The rear 25% of site which should be single storey has a living area

Internal Referral Body	Comments
	<p>proposed at 4.7m floor to ceiling height which will give the impression of a two-storey built form.</p> <p>3. The separation gap between the two building blocks should be a clear 3 to 4m landscaped strip to read as a proper break to reduce the bulk and scale of the development.</p> <p>4. The proposed 30% landscaped area takes into account narrow strips of landscaped area that is 0.4 to 0.9m wide. Only landscaped area of 2m width should be counted. The proposed linear 0.4m wide strip next to the driveway should be increased in certain areas to create a more interesting and adequate planting buffer zones.</p>
Traffic Engineer	<p>The proposal for a SEPP (Housing for Seniors or people with a Disability) development has been assessed based on the requirements of the SEPP and can not be supported on the following grounds:</p> <ul style="list-style-type: none"> • The access from Forest Way needs to be designed to allow access for a B99 design vehicle simultaneously turning in and out of the proposed development using only the kerb side northbound lane on Forest Way and not interfere with the traffic in the adjoining lanes. The current turning information provided is not deemed acceptable. • Not structures are to be located in the road reserve, including retaining walls. Council's adopted Bike Plan shows a 3 metre wide regional shared path along the western side of Forest way in this location, and as such all works on the boundary or affecting the safe line of sight from any egress from the development across the road reserve. • No information has been submitted to demonstrate the compliance with the Australian Standard 2890.1:2004 in regard to the internal parking design arrangement. • No visitor parking is provided for onsite. The adjoining carriageway is a 7 day a week Clearway with variable hours, and the immediate site frontage is within the No Stopping zone on approach to the traffic signals. The parking availability in the adjoining streets is also near capacity and can not be considered as an offset.
Waste Officer	<p>The proposal needs to show storage for 6 waste bins in accordance with the waste management guidelines.</p> <p>https://www.northernbeaches.nsw.gov.au/services/rubbish-and-recycling/building-waste</p> <p>https://www.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/building-waste/waste-management-guidelines-2016-appendices-h.pdf</p> <p>Access doors need to open outward and able to be latched in the open position.</p> <p>If letterboxes are to be provided in the indicated location they will need to be accessed from the front of the property. Letterboxes should not be accessed from inside the bin storage room.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p>The application was referred to Transport for NSW (TfNSW) for concurrence in accordance with Section 138 of the Roads Act, 1993.</p> <p>TfNSW has reviewed the additional information and provides concurrence under Section 138 of the Roads Act 1993 subject to the following conditions being included in any consent issued by Council:</p> <ol style="list-style-type: none"> 1. Any new buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Forest Way boundary. 2. The redundant driveway on Forest Way shall be removed and replaced with kerb and gutter to match existing. The design and construction of the new gutter crossing and reinstatement of kerb and gutter on Forest Way shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@rms.nsw.gov.au. <p>Detailed design plans of the proposed kerb and gutter are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@rms.nsw.gov.au.</p> <p>A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.</p> <ol style="list-style-type: none"> 3. In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary. 4. The existing concrete block retaining walls within the road reserve are to be relocated so that they are entirely within the private property. 5. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Forest Way are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au. <p>A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.</p> <ol style="list-style-type: none"> 6. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for

External Referral Body	Comments
	<p>assessment, in accordance with Technical Direction GTD2012/001.</p> <p>The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@rms.nsw.gov.au</p> <p>If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.</p> <p>7. All vehicles are to be wholly contained on site before being required to stop.</p> <p>8. All vehicles are to enter and leave the site in a forward direction.</p> <p>9. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Forest Way.</p> <p>10. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Way during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf</p> <p>11. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.</p> <p>12. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.</p> <p>TfNSW also has the following comments for Council's consideration in the determination of the application:</p> <p>1. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004.</p> <p>2. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.</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 land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1140231M dated 30 September 2020)

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

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

Should the LPP Panel decide to approve the development a condition can be included 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.

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:

The proposed development is considered to be inconsistent with the aims of the Policy as detailed below:

Insufficient information has been submitted to confirm that the proposal will provide compliant access to bus services.

When considering the development against the aims of achieving good design, the development must be considered in context with the other provisions of the SEPP. The design of the development was peer reviewed by the Design Sustainability Advisory Panel (DSAP) who raised significant issues with the design of the proposal. Issues raised relate to the bulk, scale and height of the development. Critically the application does not include a clause 4.6 variation for the breach in the height limit of the rear pavilion therefore the consent authority does not have the power to grant the development.

Other issues raised include, amenity impacts on neighbours and future occupants in terms of overshadowing and visual and acoustic privacy. Landscape issues with respect of the removal of high value trees and non-compliance with the landscaped open area with the large paved area to the frontage and loss of trees impacting on the landscape character of the area. Refer to history section of this report.

Chapter 2 – Key Concepts

Comment:

The proposed development is for the redevelopment of the site to accommodate "in-fill selfcare housing" which is defined as "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". Accordingly, the proposed development is considered consistent with the provisions outlined in Chapter 2 of the SEPP.

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,	Insufficient detail submitted to confirm compliance: Council's Development Engineer notes:	No

Development Criteria			
Clause	Requirement	Proposal	Complies
	and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	<p><i>As the proposal utilises the existing footpath and bus stops on Forest Way, the access report needs to be supported by a detailed survey plan, prepared by a registered surveyor, demonstrating that the distance and existing grades to the bus stops complies with the requirements of SEPP Clause 26. As the route to public transport includes a number of pram rams the access report should also include an assessment of the pram rams for wheelchair access.</i></p> <p><i>Based on a site inspection it appears that the pram rams will need to be upgraded. The applicant will need to provide engineering plans for the alterations to the pram rams to meet SEPP requirements.</i></p>	
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	Refer above.	No
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not Bush Fire prone land.	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Given the existing residential use of the site, it is considered that there is suitable access to water and sewerage infrastructure.	Yes
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):	<p>The proposed development is considered in principle, compatible with the surrounding residential land uses and was not subject to the requirements of Clause 25 for the attainment of a Site Compatibility Certificate.</p> <p>i) The removal of the high value trees,</p>	Yes

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.	particularly within the frontage, is not compatible with the surrounding landscape character, refer to comments from DSAP. i) The site is serviced by existing infrastructure (electricity, water and sewerage) that is capable of meeting the demands that will arise from the development. v) The impact of the bulk, scale, built form and character of the proposed development will have a negative impact on the existing, approved and future uses on land in the vicinity, refer to comments from DSAP.	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	No site analysis plan within the master set and limited site analysis has been provided within the Statement of Environmental Effects. *It is noted that the quality of the site analysis has been raised as an issue by the DSAP and within the submissions.	No

Clause 31 Design of in-fill self-care housing

Pursuant to Cause 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 terms of built form. Policy environment –	As noted above, DSAP have reviewed the proposal and considered that the development fails to respond appropriately to the context of the site. The Panel considered that the large internal

Section	Requirements	Comment
	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.	voids and above ground parking add excessively to the building bulk. The height of the rear pavilion is visually prominent, the building separation is insufficient, the retaining wall and large areas of paving to the front will result in negative visual impacts on the public domain with the high values mature trees being removed which no longer allow the built form to be softened. Despite the general compliance with the built form controls the proposal does not appropriately respond to the character and built form of the locality.
2. Site Planning and design	Objectives of this section are to: -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	The proposed development includes the relocation of the driveway which involves the removal of the mature canopy trees to the frontage which are assessed as high value. The frontage of the site is dominated with a large area of paving / driveway with minimal landscaping to soften the visual impact. As such, the proposal is not consistent with the landscape character of the immediate area. and in consistent with Clause 31 (2) of the SEPP (HSPD).
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape.	The removal of the high value mature canopy trees from the front setback will result in a development that is out of character with the landscape character of the immediate area. The frontage is dominated by hard paving associated with the driveway which will have a negative visual impact on the streetscape. In addition, the retention of the large retaining wall to the frontage, devoid of any landscaping to soften its visual impact, is not supported.
4. Impacts on neighbours	The proposal is generally in accordance with the	The non-compliant two storey element within the rear setback

Section	Requirements	Comment
	requirements of this section.	<p>contributes to solar access issues with the neighbouring property to the immediate south.</p> <p>Upper floor windows to habitable rooms are located 3.9m from the northern boundary and 5m from southern boundary which will overlook neighbouring dwellings.</p>
5. Internal site amenity	<p>Objectives of this section are to:</p> <p>-Provide safe and distinct pedestrian routes to all dwellings and communal facilities.</p>	<p>The proposal provides a pedestrian path from the development to the Forest Way frontage. However, insufficient details have been provided to confirm that the path is compliant. In addition, the path is a shared path and has the potential to impact on pedestrian safety.</p> <p>The DSAP expressed some concern that there is a lack of any communal facilities on site for the future residents.</p> <p>Due to insufficient side setbacks the proposed ground floor living rooms will be overshadowed by the neighbouring dwelling to the north.</p> <p>Concern is also raised regarding acoustic impacts on the internal amenity of the dwellings from Forest Way.</p>

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.	<p>The desirable elements of the locations current character consists of low density one and two storey dwellings interspersed with some medium density developments. There is a consistent pattern of developments setback from the street in landscape settings.</p> <p>As noted above, the DSAP</p>	No

Control	Requirement	Proposed	Compliance
		<p>Panel consider that the proposal fails to recognise the desirable elements of the current character.</p> <p>In summary, the proposal has been assessed as being inconsistent with the desirable elements of the location's current character and the proposal will not positively contribute to the quality and identify of the surrounding area.</p>	
	<p>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.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.</p>	<p>b) The site is not located within a heritage conservation area or within proximity to any heritage items.</p> <p>Despite the side setbacks complying with the WDCP the bulk and scale of the development as viewed from neighbouring properties is out of character with the Low Density Residential area and will result in visual privacy impacts. The excessive height and bulk of the rear pavilion will cause issues with overshadowing to the neighbouring dwelling to the south.</p> <p>In addition, the mature trees are removed which would otherwise help soften the bulk and massing of the development and retain the landscape character of the area. Insufficient landscaping is proposed to the front and side boundary to minimise the bulk and scale of the development.</p> <p>The large walls,</p>	<p>N/A</p> <p>No</p>

Control	Requirement	Proposed	Compliance
	<p>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,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>driveway paving and bin store to frontage with minimal landscaping to integrate these elements will impact on the visual quality of the public domain.</p> <p>In summary, the proposal will not maintain reasonable neighbouring amenity and appropriate character.</p> <p>The front building generally being compliant with the 6.5m WDCP setback control. However, the proposal removes the existing mature trees and provides limited replacement planting to the front and sides which is not sympathetic to the existing landscape character in the immediate area.</p> <p>The proposal seeks to remove existing major trees.</p> <p>The site is not located within a Riparian Zone.</p>	<p>No</p> <p>No</p> <p>N/A</p>
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	<p>Upper floor habitable room windows are located within 3.9m of the northern boundary and 5m from southern boundary which will result in overlooking of neighbouring properties.</p> <p>Concern has been raised by the DSAP about potential acoustic impacts on the internal amenity of the dwelling to the front due to noise issues from Forest Way. Insufficient acoustic assessment has been</p>	<p>No</p> <p>No</p>

Control	Requirement	Proposed	Compliance
	dwelling by locating them away from driveways, parking areas and paths.	provided to address this issue. In summary, the development has been found to be inconsistent with the requirements of this Clause.	
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.	As discussed above, the excessive height of the rear pavilion will add to solar access issues with the property to the south. Insufficient solar analysis has been submitted to assess whether the proposal will impact on the main living areas (windows) of the neighbouring property to the south. In addition, neighbours have raised a concern that the shadow diagrams are inaccurate as there is a post and wire boundary fence to the south which does not cause any current overshadowing.	No
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 proposed stormwater Management is considered to be acceptable.	Yes
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	The development provides clear sight lines of the entry to the development and the front of the site and provides adequate casual surveillance of both streets and the entry of the site.	Yes

Control	Requirement	Proposed	Compliance
	streets from a dwelling that adjoins any such area, driveway or 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.	Insufficient information has been submitted to confirm that the pathway to the bus stops are compliant.	No
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The site provides inadequate waste storage facilities.	No

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	1012sqm	Yes
Site frontage	20 metres	21.4m	Yes

Control	Required	Proposed	Compliance
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	2 storeys	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	The pavilion to the rear has a 4.7m floor to ceiling height and presents as a two storey development.	No A clause 4.6 variation has not been submitted for the variation of the height standard, therefore, the consent authority does not have the power to grant development consent. Refer to discussion under clause 4.6 of the WLEP

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	Insufficient information has been submitted to satisfy this requirement.	No

Control	Required	Proposed	Compliance
	that has a gradient of less than 1:10 or 50% whichever is the greater.		
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	Should the Local Planning Panel decide to approve the development this can be addressed by a condition.	Yes, by condition.
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.	The letterboxes are accessed from within the bin storage room.	No
Private car accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	The developments inconsistent with this clause refer to comments from Transport.	No
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Insufficient details have been submitted to assess compliance.	No
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	The development is capable of complying with this requirement.	Yes

Control	Required	Proposed	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.	The development is capable of complying with this requirement.	Yes
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	The development is capable of complying with this requirement.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	The development is capable of complying with this requirement.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	The development is capable of complying with this requirement.	Yes
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.	The development is capable of complying with this requirement.	Yes

Control	Required	Proposed	Compliance
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	The development is capable of complying with this requirement.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	The development is capable of complying with this requirement.	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	The development is capable of complying with this requirement.	Yes
Garbage	A garbage storage area must be provided in an accessible location.	The development is capable of complying with this requirement.	Yes

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)	8m	Yes
Density and scale	0.5:1	0.5:1 (701.8sqm)	Yes
Landscaped area	30% of the site area is to be landscaped	24.4% (247sqm)	No

Control	Required	Proposed	Compliance
Deep soil zone	15% of the site area two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	24.4%	Yes
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	<p>The shadow diagrams confirm that areas of private open space do not receive compliant solar access, especially to dwelling 2.</p> <p>Insufficient information has been submitted to make a detailed assessment of compliance with the solar access requirement to the living rooms within the proposed development. However, the Design Panel has raised an issues with solar access to the living rooms given the proximity of the development to the northern boundary.</p>	No
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3	<p>Dwellings 1 and 3 have areas of private open space that exceed the minimum 15sqm / 10sqm requirement.</p> <p>The private open space to dwelling 2 does not provide an area which meets the minimum dimensions of 3m x 3m and is not considered to be compliant.</p>	No

Control	Required	Proposed	Compliance
	metres long and is accessible from a living area located on the ground floor, and (ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area		
Parking	0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider.	Based on the 8 bedrooms proposed – 4 carparking spaces required. The proposal provides a compliant spaces in the form of 4 garages. However there are issues with the access to the garages.	Complies with the numerical requirement, however the detailed design and access is non-compliant, refer to Transport comments
Visitor parking	None required if less than 8 dwellings	Four (4) units are proposed therefore no visitor spaces are required.	Yes However, given the context of the site adjacent to Forest Way and a 24 hour clearway visitor parking on site is preferred as there is no available on street parking adjacent to the site.

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 who offered no objections to the development subject to conditions.

Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

The application was referred to RMS who offered no objections to the development subject to conditions.

Clause 102 - Impact of road noise or vibration on non-road development states:

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—

- (a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or centre-based child care facility.*

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the

purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

*(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Comment:

Forest Way is a Classified State Road that has 26,600 average daily vehicles per day, as such, clause 102 is relevant. The development has not included an assessment of the impacts of noise and vibration from Forest Way on the amenity of the proposed residential development. Due to insufficient information being submitted the proposal has not satisfied the requirements of Clause 102.

Warringah Local Environmental Plan 2011

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

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	No
6.4 Development on sloping land	No

Detailed Assessment

2.7 Demolition requires consent

Should the LPP Panel decide to approve the development conditions can be imposed to manage demolition.

Zone R2 Low Density Residential

The underlying objectives of the zone are:

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

Comment:

The proposed seniors housing development (4 dwellings) achieves this objective as it provid

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

Comment:

This objective is not relevant.

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

Comment

The proposed development has been assessed as being inconsistent with the landscape area provisions of the SEPP (HSPD) and the WDCP and requires the removal of significant endemic trees to facilitate the design. The proposal is inconsistent with the prevailing landscape character of the area which comprise low to medium density residential properties set back from the street in landscape settings. The removal of the mature trees, particularly to the frontage, with no significant replacement planting to soften the built form will result in the development being inconsistent with objective 3.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Part 4 CI 40 of the SEPP (HSDP) which requires buildings located in the rear 25% of the site not to exceed 1 storey in height.
Requirement:	Single storey within the rear 25%
Proposed:	4.7m (the rear pavilion presents as two storey structure within the rear 25% of the site)

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:

Part 4 CI 40 of the SEPP (HSDP) which requires buildings located in the rear 25% of the site not to exceed 1 storey in height.

(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 has not submitted the compulsory Clause 4.6 Variation required to justify the breach in the height standard required under Part 4 CI 40 of the SEPP. As such, the consent authority do not have the power to approve the development application.

(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 has not submitted any planning grounds by means of a Clause 4.6 variation to justify a departure from the standard.

The applicant has not 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. The applicant has not satisfied the requirements of cls 1.3 (c) and (g) of the EPA Act.

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 R2 Low Density Residential zone. A clause 4.6 variation has not been submitted which should an assessment against these objectives.

For the reasons detailed above, the proposal can not be approved.

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.

This clause is not relevant as there is no clause 4.6 variation to consider.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment:

The site is mapped as being Landslip Risk Area A. Pursuant to Clause E10 of the WDCP for land identified as being in Area A Council may decide that a preliminary assessment of site conditions is required. The applicant in the SEE notes that as no substantial work is proposed and no geotechnical hazards will be created. Given that there is no significant excavation proposed and the site conditions, including topography / slope of less than 5 degrees, the applicant's justification is supported and a preliminary assessment is not required.

In summary, it is considered that the proposal is unlikely to result in a risk of landslides or risk to property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

The application has been assessed by Council's Development Engineers and no objections have been raised in relation to stormwater discharge.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The application has been assessed by Council's Development Engineers and no objections have been raised in relation to impacts on existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.9m	N/A	Yes
B2 Number of storeys	2 / 3	2	N/A	Yes
B3 Side Boundary Envelope	4m	4m	N/A	Yes
	4m	4m	N/A	Yes
B5 Side Boundary Setbacks	0.9m	Northern side boundary Ground Floor - Min 0.9m (to	N/A	Yes

		dwelling 3)		
	0.9m	<i>Southern side boundary</i> Ground floor - Min 0.9m to garage	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Ground and first floor - minor breach of bay window set back 6.2m Bin store zero setback		No The bin enclosure and a small projection of bay windows breach the front setbacks. (The retaining wall, located outside the site boundary within the road reserve, is proposed to be retained and raises safety issues with regards to pedestrian and cyclists, refer to Transport comments. It will also have a visual impact on the streetscape owing to the removal of all trees which currently screen and soften the built form)
B9 Rear Boundary Setbacks	6m	Minor projection of the ground floor paved patio to dwelling 4	N/A	Assessed as acceptable *However there is a breach of the SEPP (HSDA) control for the rear 25% single storey
D1 Landscaped Open Space (LOS) and Bushland Setting	50%	24%	26%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D1 Landscaped Open Space and Bushland Setting	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	No	No
D6 Access to Sunlight	No	No
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	No	No
D14 Site Facilities	No	No
D15 Side and Rear Fences	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	No	No
E2 Prescribed Vegetation	No	No
E6 Retaining unique environmental features	No	No
E10 Landslip Risk	Yes	Yes

Detailed Assessment

A.5 Objectives

The overriding objectives of the WDCP aim to:

- *Create and maintain a high level of environmental quality throughout Warringah.*

Comment

The removal of the significant canopy trees will have a negative impact on the environmental quality of the area and is inconsistent with objective 1.

- *Ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.*

Comment

The removal of the significant tree canopy from the frontage to be replaced with a driveway and associated paving does not respond to the characteristics of the site and the prevailing qualities of the surrounding neighbourhood. The proposal is inconsistent with objective 2.

- *Ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.*

Comment

The proposed development will result in unreasonable impacts on neighbouring residential amenity by way of privacy and overshadowing and is therefore not a good neighbour. The proposal does not provide sufficient areas of landscape open space to sustain planting to soften the built form and help screen the development to neighbouring residents. The removal of the existing mature trees from the frontage, the retention of the existing retaining wall and the addition of new paving and driveways with minimal replacement planting will not contribute to the street.

In addition, the proposed pedestrian path adjacent to the driveway raises safety issues and insufficient details have been submitted to confirm that the path to the bus stop is compliant with the SEPP (HSDP). In summary, the proposal is inconsistent with objective 3.

B7 Front Boundary Setbacks

Description of non-compliance

The bin store has a zero set back from the frontage and a bay window to dwelling 1 at ground and first floor will result in a minor 0.3m breach of the 6.5m set back on the southern corner.

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 ancillary bin store and minor breach of the bay window will not unreasonably impact on the sense of openness of the frontage.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The breaching elements will not in isolation impact on the visual continuity and pattern of buildings in the surrounding area. The removal of the significant trees will however impact on the continuity of the landscape elements in the street and will expose the bin store and retaining wall which are visually intrusive elements in the landscape. As such, the proposal is inconsistent with objective 2.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The breaching elements will not in isolation impact on the visual quality of the streetscape. However, the removal of the significant trees will impact on the visual quality of the streetscape and the insufficient replacement planting will not help soften the built form, including the bin store which breaches the 6.5m front setback. Issues in relation to the negative impacts on the visual quality of the streetscape as a result of tree removal are discussed throughout the report.

- *To achieve reasonable view sharing.*

Comment:

The elements that breach the front setback will not result in issues with regards to view sharing.

C2 Traffic, Access and Safety

Clause C2 requires Vehicular Access to be in accordance with Council's Vehicle Crossing Policy (Special Crossings) LAP-PL413 and Vehicle Access to Roadside Development LAP-PL 315.

Description of non-compliance

Council's Transport Engineer has raised significant issues with the design of the access which has been assessed as unacceptable as it will not provide for satisfactory maneuvering on-site and forward entry and exit to and from the public road for all units.

In addition, Council's adopted Bike Plan shows a 3 metre wide regional shared path along the western side of Forest way in the location of the existing retaining wall.

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 traffic hazards.*

Comment:

The proposal does not provide sufficient space for manoeuvring on-site and forward entry and exit to and from the public road for all units. As such, the proposal presents a road safety issue and is inconsistent with objective a).

- *to minimise vehicles queuing on public roads.*

Comment:

As noted above, insufficient space is available for manoeuvring within the site to ensure that there is no queuing on the public road. This is particularly relevant given that Forest Way is an extremely busy classified six (6) lane road. In summary, the proposal is inconsistent with

objective b).

- *to minimise the number of vehicle crossings in a street.*

Comment:

Only one vehicle crossing is proposed which in principle is assessed as acceptable, subject to an acceptable driveway design.

- *to minimise traffic, pedestrian and cyclist conflict.*

Comment:

As discussed above a 3m wide regional cycle path is proposed to the western side of Forest Way in the location of the retaining wall. The retention of the retaining wall located within the road reserve presents issues with regard to the safe line of sight from any egress from the development across the road reserve.

In addition, the pedestrian path proposed along the southern boundary is a shared path with the driveway and presents pedestrian safety issues.

In summary, the proposal is inconsistent with objective d.

- *to minimise interference with public transport facilities.*

Comment:

Given that the adjoining road is a clearway issues with access to the site may have implications with the operation of the clearway. As such, the proposal is inconsistent with objective e.

- *to minimise the loss of "on street" kerbside parking.*

Comment

Council's Transport Engineer has raised as an issue with there being no visitor parking provided on site and potential impacts on kerbside parking. This issue was also raised in the submissions. While the proposal does not require visitor parking under the SEPP (HSDP) with only one (1) parking space available to each 2 bedroom dwelling there may be issues with the availability of visitor parking for service providers such as health works and also family members. Given that the adjoining road is a clearway and no stopping zone the parking availability in the adjoining streets is also near capacity and can not be considered as an offset.

In summary, the proposal is inconsistent with objective f.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C3 Parking Facilities

Clause C3 (1) requires design principles to be met, including a requirement for *Carparking is to be*

provided partly or fully underground for apartment buildings and other large scale developments;

Comment

The proposed garages occupy a significant footprint and the associated driveway results in a loss of high value canopy trees to be replaced with hard surfaces. The DSAP recommend that the development be re-designed to consider underground car parking which would in turn free up space to allow for tree retention. This approach is consistent with the required design principles which requires car parking to be provided partially or fully underground for apartment buildings and other large scale developments.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C9 Waste Management

Clause C9 requires the proposal to comply with the waste management guidelines. Council's Waste Officer has confirmed that the proposal does not provide sufficient waste storage in accordance with the guidelines. In addition there are issues with the access doors and location of the letterboxes access from inside the bin storage room.

As such, the proposal is inconsistent with the requirements and objectives of the control which seek to ensure that the design and location of waste storage and collection facilities are convenient and easily accessible; safe; hygienic; of an adequate size, and with minimal adverse impacts on residents, surrounding neighbours, and pedestrian and vehicle movements.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Clause D1 requires that a minimum 50% of the site area must remain undisturbed by development and is to be kept as natural bushland or landscaped with locally indigenous species. The proposal is calculated as providing 24% (247.5sqm) landscaped open space. The area is calculated in accordance with the control and the Standard Instrument which defines landscape area as: *"a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area."* As such the landscape strips along the side boundary are excluded, these areas include pebbles and pavers.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The proposal seeks consent to remove the significant canopy trees from the frontage with insufficient replacement planting. The proposal will not enhance the streetscape.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The site includes native species which are to be removed.

The site is not mapped as being a wildlife corridor, however the removal of the trees will result in impacts on habitat for wildlife.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The proposal seeks consent for a 26% variation of the control. Insufficient landscape open space will be retained with dimensions along the side boundaries that will not enable the establishment planting of trees of a size and density to mitigate the height, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

As noted above, there is insufficient landscape open space provided along the side boundaries to sustain effective planting to enhance privacy between buildings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The private open space areas to dwelling two does not comply with the SEPP (HSDP) controls. In addition, the DSAP noted that the landscape spaces, particularly those adjacent to the northern boundary relating to dwelling 2, will have limited functionality.

- *To provide space for service functions, including clothes drying.*

Comment:

The landscape plan is annotated to include clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

OSD tanks are provided below the garden area

Having regard to the above assessment, it is concluded that the proposed development is inconsistent

with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D3 Noise

Merit consideration

Clause D3 (2) Noise requires *"development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise"*.

As discussed under the Infrastructure SEPP section of this report the site adjoins Forest Way which is a six (6) lane Classified State Road that has 26,600 average daily vehicles per day. The development has not included an assessment of the impacts of noise and vibration from Forest Way on the amenity of the proposed residential development.

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

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

There is no evidence that the impacts of noise from the adjoining road has been considered in the design solution. The proposal is therefore inconsistent with objective 1.

- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

Comment:

Due to insufficient information being submitted, including an acoustic assessment, the proposal has not satisfied the control to ensure that noise from the road traffic will unreasonably diminish the amenity for the future occupants. The proposal is therefore inconsistent with objective 2.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D6 Access to Sunlight

Merit consideration

Clause D6 (2) (Access to Sunlight) requires at least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

Shadow diagrams have been submitted which confirm that the proposed dwellings, in particular dwelling 1 and 2, will not receive 50% solar access to private open space for a minimum of 3 hours

between 9am and 3pm on June 21.

In addition, the shadows fall on the primary area of private open space to No. 56 contrary to the requirements of the control. The excessive height of the pavilion to the rear contributes to shadow impacts on the neighbouring property.

In addition, concern has been raised from the owner of No. 56 Forest Way regarding the accuracy of the shadow diagrams noting that there is a post and wire fence along the southern boundary that does not cast a shadow. The shadow diagrams (existing) appear to show the line of shadow of a solid fence.

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

- *To ensure that reasonable access to sunlight is maintained.*

Comment:

The excessive bulk of the proposal, including the non-compliant height of the rear pavilion, will have unreasonable impacts on access to sunlight to the adjoining dwelling to the south. The proposal is inconsistent with objective 1.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The DSAP have recommended a re-design of the proposal to ensure that the development will not result in unreasonable impacts on neighbouring properties, including a reduction in the bulk and massing of the development, a reduction in the height of the rear pavilion and the deletion of the garages to be replaced with parking below ground. The current design is not considered to be an innovative design solution, as such, the proposal is inconsistent with objective 2.

- *To maximise the penetration of mid winter sunlight to windows, living rooms, and high use indoor and outdoor areas.*

Comment:

The proposal will result in additional shadow impacts to the primary area of private open space (the high use outdoor area) to the neighbouring dwelling at No. 56 Forest Way and the proposed dwelling 2. Insufficient elevational shadow analysis has been submitted to make a detailed assessment of the impact of the shadows to windows and principle habitable indoor areas of both the proposed dwelling and neighbouring dwellings. Despite this, the Design Panel noted that *the ground floor living rooms will be overshadowed for a large part of the time as they are very close to the northern boundary and the adjoining house. Setting back from the side boundary or re-orienting the living rooms would enhance amenity.*

In summary, the proposal is inconsistent with objective 3.

- *To promote passive solar design and the use of solar energy.*

Comment:

The Design Panel noted that *"only 1 kw of solar is proposed for 1 dwelling only. The large voids*

over living areas make heating and cooling more difficult and have led to high heating loads in the BASIX assessment." In summary, the proposal is inconsistent with objective 4.

- *To minimise the need for artificial lighting.*

Comment:

It is not considered that there will be an issue with solar access to the rooms which would require artificial lighting.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D8 Privacy

Merit consideration

Clause D8 (Privacy) requires:

1. *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*
2. *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*
3. *The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.*
4. *The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*
5. *Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.*

Upper floor windows are sited within 3.9m of the northern boundary and 5m from southern boundary.

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 siting of the development and location of the upper floor lounge room and bedroom windows will look down on the private open space of the adjoining dwellings and have the potential to overlook the upper floor windows in No. 56 Forest Way. As such, the proposal is inconsistent with objective 1 as it fails to provide a high level of visual privacy for occupants and neighbours

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

As noted elsewhere in this report, the DSAP recommended a redesign of the development to ensure that the siting of the dwellings provides a high level of privacy to future occupants and neighbours. The current design is not considered to be an innovative design solution, as such, the proposal is inconsistent with objective 2.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal is not anticipated to raise any issues with regards to issues with personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not 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:

Whilst the proposal complies with the SEPP (HSDP) density control, the proposition of large internal voids and above ground car parking, which are not counted in FSR calculations, add building bulk.

The proposed buildings are 2.7m apart, which is insufficient separation to provide a view corridor and visual separation between the buildings. The general bulk, scale and height of the development is excessive. The current design is not considered to be an innovative design solution, as such, the proposal is inconsistent with objective 1.

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

Comment:

The internal voids and above ground garages add to the bulk and scale of the development. In addition, the high roof form in the rear 25% of the site does not meet the objective of the single storey control in the SEPP and will be excessively visually prominent, with a 2-storey appearance. The proposal is inconsistent with objective 2.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D13 Front Fences and Front Walls

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 fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain.*

Comment:

The existing concrete block retaining wall extends into the public footpath. The existing mature vegetation provides a visual barrier and contributes to the streetscape along Forest Way. The retaining wall is proposed to be retained and clad in stone. Given that the mature vegetation will be removed, the wall will become a visually intrusive element in the streetscape. The Design Panel recommend that the retaining wall be removed and relocated entirely within the site and every effort made to protect and retain the existing vegetation that is consistent with the existing streetscape character while creating visual interest in the public domain.

The current proposal is inconsistent with objective 1.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

For the reasons discussed throughout this report the current design is not considered to be an innovative design solution, as such, the proposal is inconsistent with objective 2.

- *To avoid a 'walled in' streetscape.*

Comment:

The proposal retaining wall, which is 3m in height, presents a "walled in" streetscape with no canopy planting to soften the built form. As such, the proposal is inconsistent with objective 3.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported.

D14 Site Facilities

Merit consideration

Clause D14 (Site Facilities) requires:

1. *Site facilities including garbage and recycling enclosures, mail boxes and clothes drying facilities are*

to be adequate and convenient for user's and services and are to have minimal visual impact from public places. In particular:

- *Waste and recycling bin enclosures are to be durable, integrated with the building design and site landscaping, suitably screened from public places or streets and located for convenient access for collection;*
- *All dwellings which are required to have landscaped open space are to be provided with adequate open air clothes drying facilities which are suitably screened from public places or streets;*
- *Garbage areas are to be designed to avoid common problems such as smell, noise from collection vehicles and the visibility of containers;*
- *Landscaping is to be provided to reduce the impact of all garbage and recycling enclosures. They are to be located away from habitable rooms, bedrooms or living areas that may detract from the amenity of occupants; and*
- *Mail boxes are to be incorporated into the front fence or landscaping design. They are to be easily accessible and clearly identifiable.*

The proposed bin storage does not meet the requirements of the waste management guidelines and there is insufficient landscaping to reduce the visual impact of the structure on the streetscape.

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

- *To provide for the logical placement of facilities on site that will result in minimal impacts for all user's, particularly residents, and surrounding neighbours.*

Comment:

The letterboxes are accessed from inside the bin storage room which is not the logical placement for the facilities. As such the proposal is inconsistent with objective 1.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The current design is not considered to be an innovative design solution, as such, the proposal is inconsistent with objective 2.

- *To make servicing the site as efficient and easy as possible.*

Comment:

As noted above, the access to the letterboxes from within the bin store is not considered to be efficient and easy serving arrangement for the future occupiers of the development. As such, the proposal is inconsistent with objective 3.

- *To allow for discreet and easily serviceable placement of site facilities in new development.*

Comment:

The access arrangement to the letterboxes from within the bin store is not regarded as an acceptable location for the reasons discussed above. The proposal is inconsistent with objective 3.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

E1 Preservation of Trees or Bushland Vegetation

Merit consideration:

Clause E1 (Preservation of Trees or Bushland Vegetation) requires "*development to be sited and designed to minimise the impact on remnant native vegetation, including canopy trees and understorey vegetation, and on remnant native ground cover species.*"

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

- *To protect and enhance the urban forest of the Northern Beaches..*

Comment:

The proposal includes the removal of seven (7) trees, including the significant tree canopy to the Forest Way frontage. The proposal is not consistent with objective 1.

- *To effectively manage the risks that come with an established urban forest through professional management of trees.*

Comment:

The removal of the significant tree canopy throughout the site is inconsistent with objective 2. Furthermore, the Design Panel raised a concern about the proposed methodology to relocate one tree noting that the long-term health of this tree could be substantially diminished.

- *To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction..*

Comment:

The significant loss of the urban canopy will have a negative impact on ensuring the proposal meets the energy conservation and environmental provisions. The proposal is inconsistent with objective 2.

- *To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.*

Comment:

Concern has been expressed in the submissions in regards to the impact on habitat and ecology as a result of the removal of the significant tree canopy. This is a valid concern and the proposal is inconsistent with objective 3.

- *To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.*

Comment:

The removal of the significant tree canopy is inconsistent with objective 4.

- *To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.*

Comment:

The removal of the trees will substantially reduce the tree canopy and negatively impact on the landscaped character of the site. This character would not be reinstated with the proposed landscape, which contains only one (1) replacement native canopy tree, in the street front north-east corner of the site. The non-compliance of the landscaped open space area, large paved areas for vehicular access and only one (1) canopy tree would lead to an outcome that does not fit into the landscaped character of the area and does not retain trees of high intrinsic value. The proposal is inconsistent with objective 5.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

E2 Prescribed Vegetation

The proposed removal of the significant native vegetation will have a negative impact on the areas amenity.

E6 Retaining unique environmental features

Merit consideration:

Clause E 6 requires

1. *Development is to be designed to address any distinctive environmental features of the site and on adjoining nearby land.*
2. *Development should respond to these features through location of structures, outlook, design and materials.*

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

- *To conserve those parts of land which distinguish it from its surroundings.*

Comment:

The mature native significant trees are a distinctive environmental feature of the site and

adjoining area. The proposal does not respond to these features through the location of the development. The removal of the mature significant native vegetation is inconsistent with the objective of the control.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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 \$14,324 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,432,350.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs

- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

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

Landscaping

The removal of the seven (7) significant canopy trees, particularly the trees within the frontage, to be replaced with a driveway and ancillary structures is not compatible with the surrounding landscape character contrary to cl31 of the SEPP (HSDP). There is also a significant 26% non-compliance with the WDCP landscape open space requirement and insufficient planting proposed to soften the built form and help protect privacy.

Bulk scale height and massing

Despite the general compliance with the built form controls the bulk, scale, massing and height of the development fails to respond appropriately to the context of the site. The large internal voids and above ground parking add excessively to the building bulk. The height of the rear pavilion is visually prominent, the building separation is insufficient, the retaining wall and large areas of paving to the front will result in negative visual impacts on the public domain with the high values mature trees being removed which no longer allow the built form to be softened.

Amenity - impact on neighbouring amenity and insufficient amenity to dwellings

The non-compliant two storey element within the rear setback contributes to solar access issues with the neighbouring property to the immediate south.

Upper floor windows to habitable rooms are located 3.9m from the northern boundary and 5m from southern boundary which will overlook neighbouring dwellings.

Insufficient solar access is provided to the proposed dwellings, especially dwelling 2, and no consideration has been given to acoustic impacts from the adjoining road contrary to provisions of Infrastructure SEPP 2007.

Traffic - road safety and parking

The proposal does not provide sufficient space for manoeuvring on-site and forward entry and exit to and from the public road for all units. In addition, the retention of the retaining wall located within the road reserve presents issues with regard to the safe line of sight from any egress from the development.

A shared path is proposed which presents issues with regard to pedestrian safety and no visitor parking is provided which is deemed as necessary given that a clearway adjoins the site with no available on street parking for service providers.

As such, the proposal presents a road safety issue and is inconsistent with traffic provisions in the SEPP (HSDP) and the WDCP.

Servicing

The bin store does not meet the waste requirements and access to the letterboxes are accessed from within the bin store which is not a logical location.

It is considered that the proposed development does not satisfy the appropriate controls and that all

processes and assessments have been satisfactorily addressed.

RECOMMENDATION

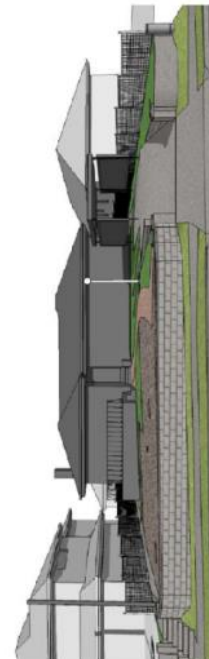
THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/1287 for the Demolition works and construction of a Seniors Housing Development comprising 4 self care housing units with associated parking on land at Lot 38 DP 20461,58 Forest Way, FRENCHS FOREST, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the aims and requirements of SEPP (Housing for Seniors or People with a Disability) 2004.
 - Insufficient information has been submitted to satisfy Cl. 26 in relation to access.
 - The proposal is inconsistent with cl. 31 as it does not respond to context and fails to minimise impacts on the existing streetscape or enhance its desirable characteristics. The proposal will result in unreasonable impacts on neighbours and fails to provide safe and distinct pedestrian routes to all dwellings and facilities.
 - The proposal is inconsistent with cl. 33 as it fails to recognise the desirable elements of the location's current character or maintain reasonable neighbour amenity.
 - The proposal is inconsistent with cl. 34 as it fails to consider the visual and acoustic privacy of neighbours or the internal amenity of the proposed dwellings considering acoustic impacts from the adjoining road.
 - The proposal is inconsistent with cl. 35 in relation to solar access.
 - The proposal is inconsistent with cl. 40 in relation to the maximum building height of the building located in the rear 25% and a clause 4.6 variation has not been submitted.
 - The proposal is inconsistent with cl. 41 in relation to letterboxes.
 - The proposal is inconsistent with cl. 50 in relation to landscape area provision.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with cl. 102 of the Infrastructure SEPP 2007 and Clause D3 (Noise) of the Warringah DCP 2011 as the development has not included an assessment of the impacts of noise and vibration from Forest Way on the amenity of the proposed residential development.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with objective 3 of Clause Zone R2 Low Density Residential of the Warringah Local Environmental Plan 2011 which requires low density residential environments to be characterised by landscaped settings that are in harmony with the natural environment of Warringah.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 4.6 (Exceptions to development Standards) of the Warringah Local Environmental Plan 2011. The applicant has not submitted a Clause 4.6 variation for the breach in the height standard required under Part 4 Cl 40 of the SEPP (HSDP) which requires buildings located in the rear 25% of the site not to exceed 1 storey in height.
6. The proposal is inconsistent with the following overriding objectives of the WDCP which aim to

- Create and maintain a high level of environmental quality throughout Warringah.
 - Ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood;
 - Ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome;
 - Protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained and
 - Achieve environmentally, economically and socially sustainable development for the community of Warringah.
7. The proposal is inconsistent with the requirements and objectives of the following Clauses of the Warringah DCP 2011:
- Clause C2 (Traffic, Access and Safety) and Clause C3 (Parking Facilities). The proposal raises issues with respect of the following:
 - Insufficient maneuvering area is available on-site to allow forward entry and exit to and from the public road for all units. As such, the proposal does not minimise traffic hazards and vehicles queuing on public roads.
 - The retention of the retaining wall located within the road reserve presents issues with regard to the safe line of sight from any egress from the development across the road reserve. The proposal does not minimise traffic, pedestrian and cyclist conflict.
 - The car parking should be provided partially or fully underground.
 - Clause C9 (Waste Management) and Clause D14 (Site Facilities) which seek to ensure that the design and location of waste storage and collection facilities are convenient and easily accessible; safe; hygienic; of an adequate size, and with minimal adverse impacts on residents, surrounding neighbours, and pedestrian and vehicle movements. The proposed bin storage does not meet the requirements of the waste management guidelines and the letterboxes are accessed from inside the bin storage room which is not a logical placement for access to this facility.
 - The proposal will result in unreasonable impacts on neighbouring amenity and insufficient amenity for the occupants of the proposed dwellings. As such, the proposal is inconsistent with:
 - Clause D6 (Access to Sunlight) of the Warringah DCP 2011. The proposed dwellings will not receive compliant solar access to the areas of private open space and will result in unreasonable impacts on neighbouring amenity.
 - The proposal is inconsistent with Clause D8 (Privacy) of the Warringah DCP 2011. The upper floor windows are sited within 3.9m of the northern boundary and 5m from southern boundary and will overlook neighbouring properties.
 - The proposal is inconsistent with requirements and objectives of Clause D9 (Building Bulk) of the Warringah DCP 2011. The bulk, scale, massing and height (of the rear

pavilion) will have unreasonable visual impacts when viewed from adjoining properties.

- The proposal is inconsistent with requirements and objectives of Clause D13 (Front Fences and Walls) of the Warringah DCP 2011. The retention of the retaining wall to Forest Way combined with the removal of the existing mature landscaping will present a "wall in" streetscape which is not compatible with the existing streetscape character while creating visual interest in the public domain.
 - The proposal is inconsistent with requirements and objectives of Clause E1 (Preservation of Trees or Bushland Vegetation) and Clause E6 (Retaining unique environmental features) of the Warringah DCP 2011. The removal of the trees will substantially reduce the tree canopy and negatively impact on the landscaped character of the site. The mature native significant trees are a distinctive environmental feature of the site and adjoining area. The proposal does not respond to these features through the location of the development.
 - The proposal is inconsistent with requirements and objectives of Clause D1 (Landscape Open Space) which seeks consent for a 26% variation of the control which requires 50% of the site to be retained as landscaped open space. Insufficient landscape open space will be retained with dimensions along the side boundaries that will not enable the establishment planting of trees of a size and density to mitigate the height, bulk and scale of the building.
8. Pursuant to Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979 the proposal is not in the public interest.



EXISTING PERSPECTIVE VIEW (FORESTWAY)

PROPOSED PERSPECTIVE VIEW (FORESTWAY)

<p>PROJECT: SENIORS LIVING LOT 38, DP 20461 58 FOREST WAY FRENCHS FOREST NSW 2086</p>		<p>DRAWING TITLE: SITE/ROOF PLAN</p>		<p>SCALE: 1:200</p>	<p>CAD FILE: Plan_Site.dwg</p>
<p>DRAWING STATUS: DEVELOPMENT APPLICATION</p>		<p>DATE: 28 SEPTEMBER 2020</p>	<p>DESIGN: DL</p>	<p>CAD: DL</p>	<p>REVISION: A</p>
<p>www.hao.com.au M: 0403 263 365 admin@hao.com.au</p>		<p>PROJECT No: 1909121</p>		<p>DRAWING No: 01</p>	



EAST ELEVATION (FORESTWAY)

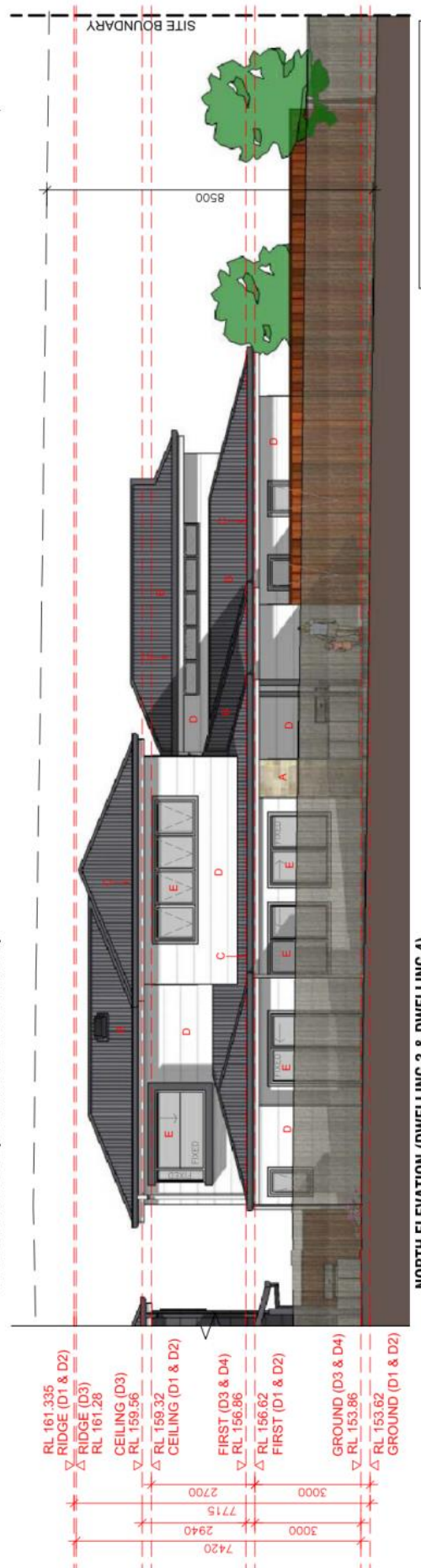
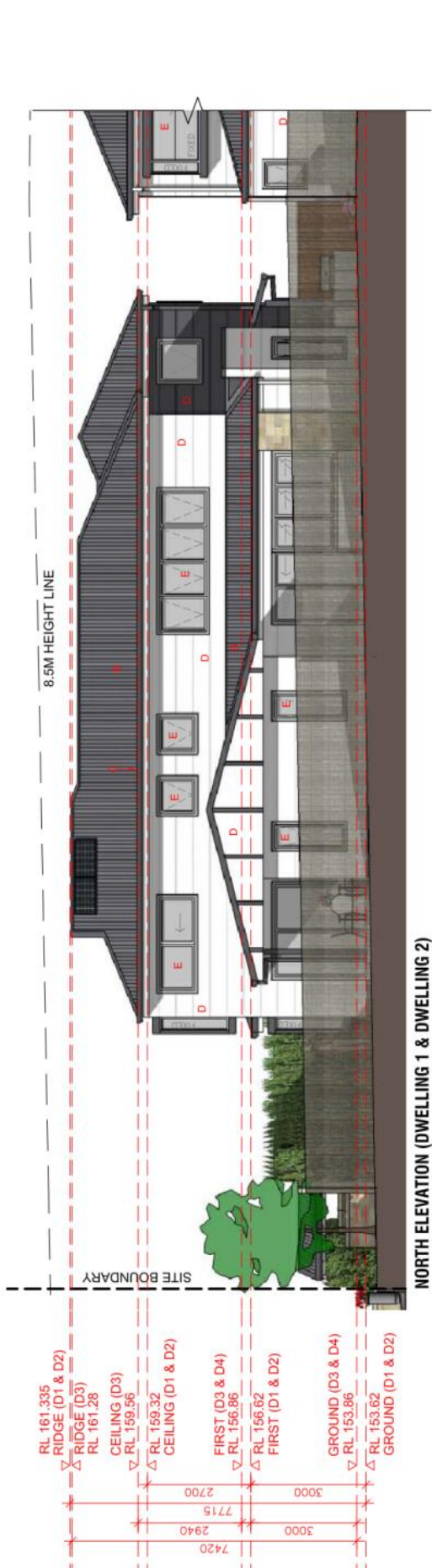


EAST ELEVATION (DWELLING 1)

A	STONE CLADDING
B	METAL ROOF
C	METAL FASCIA & GUTTER
D	FIBER CEMENT CLADDING & PAINT FINISH
E	ALUMINIUM FRAME WINDOW
F	TIMBER DOOR

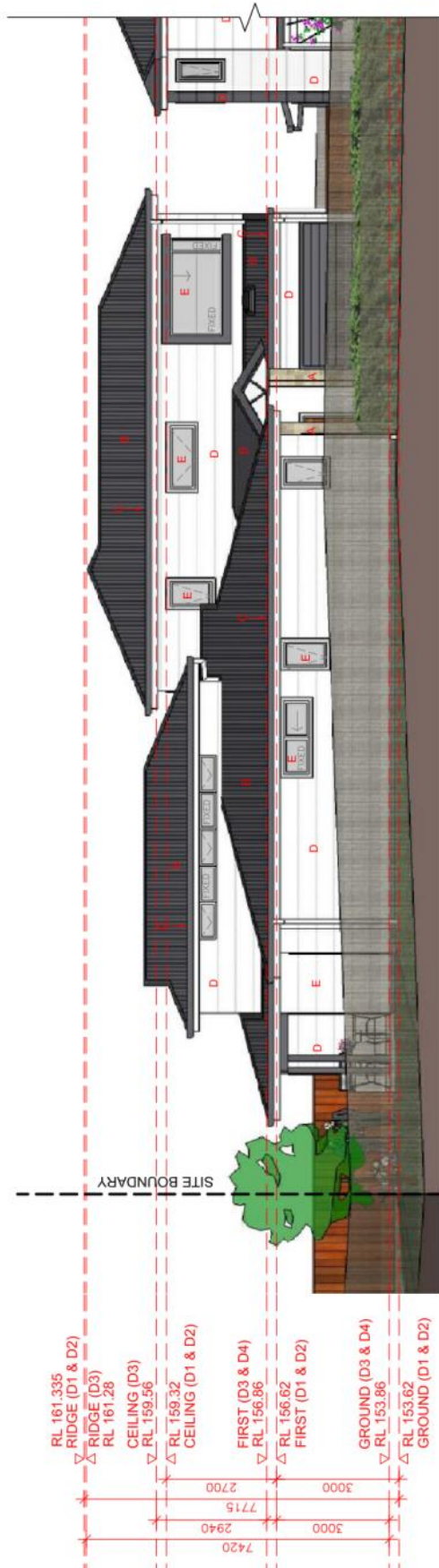
 <p>www.hdo.com.au M. 0403 203 200 admin@hdo.com.au</p>	PROJECT:		DRAWING TITLE:		SCALE:		CAD FILE:		
	SENIORS LIVING LOT 38, DP 20461		EAST ELEVATION		1:100		Elev_Sec.dwg		
	58 FOREST WAY FRENCHS FOREST		DRAWING STATUS:		SIZE: A3		DESIGN: DL		
	NSW 2086		DATE: 28 SEPTEMBER 2020		PROJECT No: 1909121		DRAWING No: 04		
DEVELOPMENT APPLICATION		REVISION: A							

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	A DEVELOPMENT APPLICATION	
	DATE	
	REVISION	



- A STONE CLADDING
- B METAL ROOF
- C METAL FASCIA & GUTTER
- D FIBER CEMENT CLADDING & PAINT FINISH
- E ALUMINIUM FRAME WINDOW
- F TIMBER DOOR

DRAWING TITLE		SCALE	1:100	CAD FILE	Elev_Sec.dwg
DRAWING STATUS		SIZE	A3	DESIGN	DL
PROJECT		DATE	28 SEPTEMBER 2020	CAD	DL
PROJECT No.		1909121	DRAWING No.	05	REVISION
SENIORS LIVING		A			
LOT 38, DP 20461					
58 FOREST WAY					
FRENCHS FOREST					
NSW 2086					



SOUTH ELEVATION (DWELLING 3 & DWELLING 4)



SOUTH ELEVATION (DWELLING 1 & DWELLING 2)

- A STONE CLADDING
- B METAL ROOF
- C METAL FASCIA & GUTTER
- D FIBER CEMENT CLADDING & PAINT FINISH
- E ALUMINIUM FRAME WINDOW
- F TIMBER DOOR

SOUTH ELEVATION

DRAWING TITLE

PROJECT:
SENIORS LIVING
LOT 38, DP 20461
58 FOREST WAY
FRENCHS FOREST
NSW 2086

SCALE: 1:100

SIZE: A3

DATE: 28 SEPTEMBER 2020

DESIGN: DL

CAD: DL

PROJECT No: 1909121

DRAWING No: 06

REVISION: A

DEVELOPMENT APPLICATION

DRAWING STATUS:

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HAO design Pty Ltd

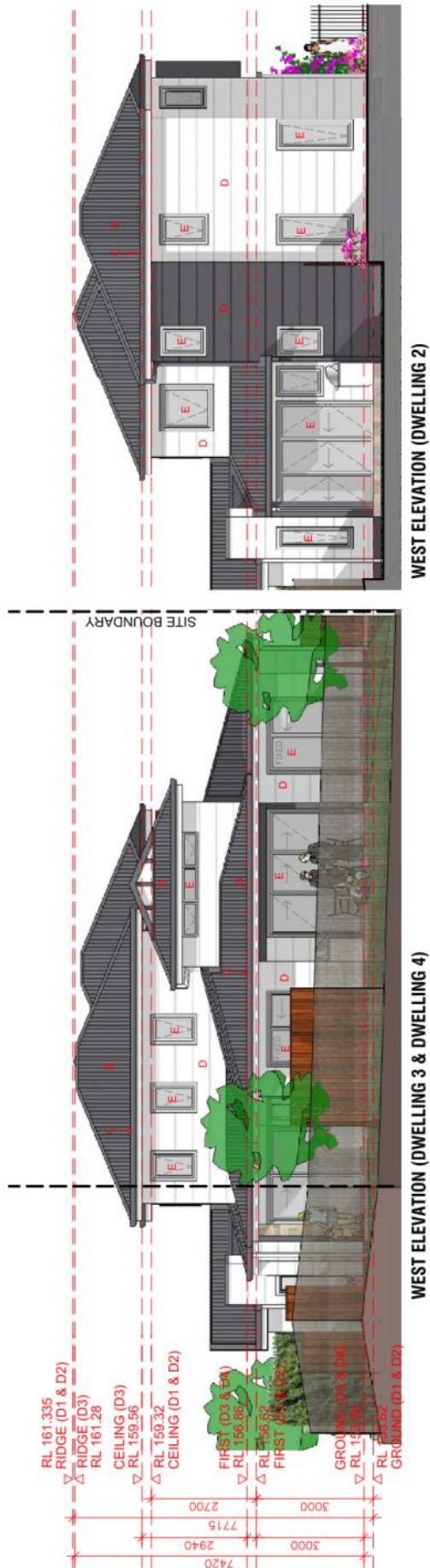
HAO design Pty Ltd

HAO design Pty Ltd

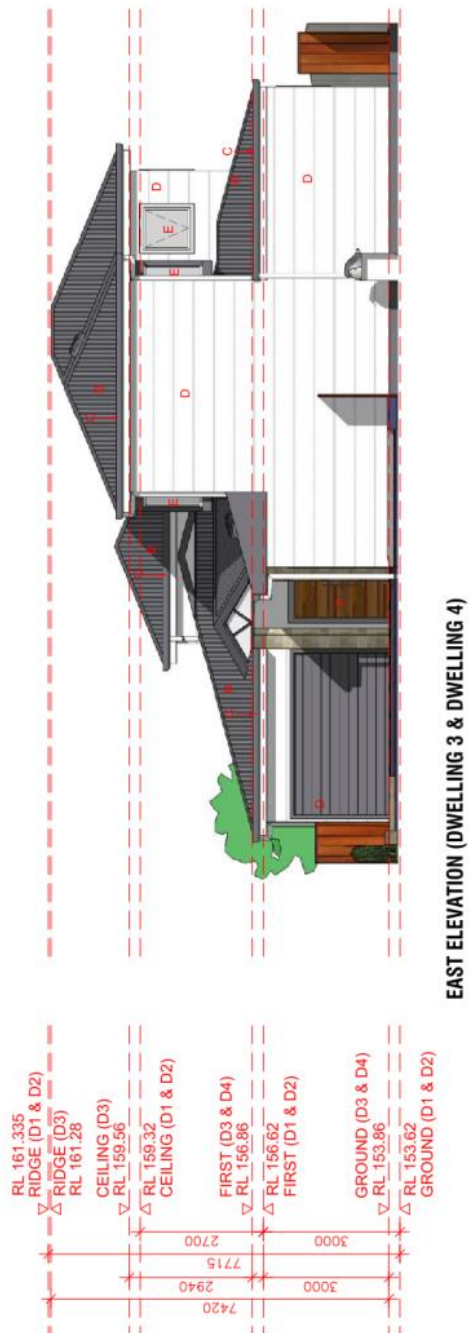
HAO design Pty Ltd

HAO design Pty Ltd

HAO design Pty Ltd



WEST ELEVATION (DWELLING 2)



A	STONE CLADDING
B	METAL ROOF
C	METAL FASCIA & GUTTER
D	FIBER CEMENT CLADDING & PAINT FINISH
E	ALUMINIUM FRAME WINDOW
F	TIMBER DOOR

DRAWING TITLE		SCALE	1:100	CAD FILE	Elev_Sec.dwg
PROJECT		SIZE	A3	DESIGN	DL
DRAWING STATUS		DATE	28 SEPTEMBER 2020	CAD	DL
PROJECT No.		1909121	DRAWING No.	07	REVISION
A					



SENIORS LIVING
LOT 38, DP 20461
58 FOREST WAY
FRENCHS FOREST
NSW 2086

DEVELOPMENT
APPLICATION

WEST & EAST ELEVATION

4.0 NON PUBLIC MEETING ITEMS

ITEM 4.1	DA2020/1431 - 29/11 ADDISON ROAD, MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING WITHIN A RESIDENTIAL FLAT BUILDING
AUTHORISING MANAGER	ANNA WILLIAMS
TRIM FILE REF	2021/243165
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plans & Elevations 3 ↓ Report - Clause 4.6

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 & Floor Space Ratio Development Standard of Clause 4.4 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and 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.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/1431 for alterations and additions to a dwelling within a residential flat building at Lot 29 SP 2373, 29/11 Addison Road, Manly subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1431
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 29 SP 2373, 29 / 11 Addison Road MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling within a residential flat building
Zoning:	Manly LEP2013 - Land zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Brian Roderick Stuart Judith Elaine Stuart
Applicant:	Adriano Pupilli Architect

Application Lodged:	23/11/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	01/12/2020 to 15/12/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 209.4% 4.4 Floor space ratio: 191.1%
Recommendation:	Approval

Estimated Cost of Works:	\$ 200,000.00
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EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to Unit 29 within the existing residential flat building.

The proposed works involve internal and external alterations to the existing Unit 29, located at the upper level of the building, including the partial enclosure of part of the existing terrace.

In relation to height, Unit 29 is a roof top dwelling which has an existing roof height of RL36.56 (25.22m), and the proposed works will increase the roof height by 1.08m for an area of approximately 16.5m². The building contains a large lift overrun and service roof which has height of RL41.59

(30.2m). Whilst the existing building (lift overrun) has a variation of 255.29%, the increased roof height of Unit 9 is a technical non compliance of 209.4% being an increase of 1.08 metres above the existing non compliant height .

The unit contains a large balcony area of 76.5m² and the part of the proposed works involve enclosing a small corner of this balcony to extend the existing conservatory room, which results in an additional 3.3m² of floor area. Whilst the actual increase in floor area is minor, the existing building containing 29 units, already includes a significant FSR exceedance of 2291.82m² over the control of 1201.08m² (190.8% variation). The minor proposed increase of 3.3m² to the existing FSR results in a technical variation of 191.1% for the building overall.

Despite the non-compliance with the development standards, the works are contained generally within the existing building envelope, below the maximum roof height, and do not result in any substantial additional bulk. An assessment of the proposed development standard breaches and the accompanying Clause 4.6 written request is undertaken within this report and is found to be satisfactory.

The proposed variations to the height of buildings and floor space ratio development standards exceed 10% and the proposal relates to a residential flat building (Class 2). As such, the application is referred to the Northern Beaches Local Planning Panel for determination.

One submission was received in response to the notification of the application, which is addressed within the assessment.

No further assessment issues are raised and the proposal is recommended for approval based on the detailed assessment within this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for alterations and additions to the existing Unit 29, located on the upper level of the building, as follows:

- Internal alterations to provide open plan Kitchen, Living and Dining and various minor changes.
- Alterations to existing conservatory including a new roof, glazed external walls and day bed addition to SW side.
- Alterations to existing roof terrace including new pergola, flooring, BBQ, planting, seating and jacuzzi.

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 Local Environmental Plan 2013 - 5.7 Development below mean high water mark
 Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
 Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.4.3 Maintenance of Views
 Manly Development Control Plan - 4.1.8 Development on Sloping Sites
 Manly Development Control Plan - 5.4.2 Threatened Species and Critical Habitat Lands

SITE DESCRIPTION

Property Description:	Lot 29 SP 2373 , 29 / 11 Addison Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one allotment located on the north-western side of Addison Road.</p> <p>The site is irregular in shape with a frontage of 45m along Addison Road and a depth of 56m. The site has a surveyed area of 2001.8m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing Residential Flat Building.</p> <p>The subject unit (No. 29) is located on the upper level of the existing building.</p> <p>The site slopes 12.5m from front to rear.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a range of residential development including detached dwellings, dual occupancies and residential flat buildings.</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:

DA0552/2002 - Interior Fitout of Residential Dwelling (Unit 29) - Approved 21 February 2003.

DA0250/2016 - Alterations and additions to an existing Residential Flat Building including the demolition of the existing wrought iron balustrades and construction of new glass balustrades - all units - Approved 30 September 2016.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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)(iia) – Provisions of any planning	None applicable.

Section 4.15 Matters for Consideration'	Comments
agreement	
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.</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.</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 environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic</p>

Section 4.15 Matters for Consideration'	Comments
	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 from 01/12/2020 to 15/12/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Gloria Elizabeth Bradley	21 / 11 Addison Road MANLY NSW 2095

The matters raised within the submissions are addressed as follows:

- Visual impact of the proposed conservatory and pergola roofs
Comment:
The new roof over the in-filled terrace area matches the height existing roof height at the south-western elevation. The proposed pergola and conservatory roofs are a maximum of 1.08m above the existing roof height of the subject unit, and 3.95m below the service roof. Given the height and scale of the existing building, the proposed works are not considered to result in unreasonable additional bulk or visual impact.

REFERRALS

Internal Referral Body	Comments
Building	Planning Comments:

Internal Referral Body	Comments
Assessment - Fire and Disability upgrades	<p>The Fire Safety Certificate requirements are undertaken for the entirety of the building. As the proposal relates only to one unit within the building, it is not necessary to impose this requirement on the unit owner/applicant. As such, the condition recommended by Council's Building Control Officer is not included.</p> <p>Building Comments: 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><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>
NECC (Bushland and Biodiversity)	<p>Council's biodiversity referrals team have assessed this development application for compliance against the following provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 (BC Act) • Area of Outstanding Biodiversity Value (AOBV) as declared under the Biodiversity Conservation Regulation 2017 • Manly LEP Clause 6.5 (Terrestrial Biodiversity) • Manly DCP Clause 5.4.2 (Threatened Species and Critical Habitat Lands) • Manly DCP Clause 3.3.1. a) iv) (Landscaping in Bandicoot Habitat) <p>The proposal is for alterations and additions, including internal refurbishment and some external upgrades to the existing terraced area. No proposed change in hard-stand/landscaping areas within the broader property.</p> <p>The subject site contains land that is located within the declared Little Penguin Area of Outstanding Biodiversity Value (AOBV), as declared under the Biodiversity Conservation Regulation 2017. The location of the site within an AOBV triggers the requirement for a Biodiversity Development Assessment Report (BDAR), however, as the proposal will not result in prescribed impacts on penguin habitat a BDAR is not required to be submitted.</p> <p>The subject site is located within the mapped habitat area for the endangered population of Long-nosed Bandicoots at North Head, and within proximity to habitat for the endangered population of Little Penguins within the Manly Point Area as discussed above. As such, a '5-part test' for impacts to the endangered populations are required to be completed. A 5-part test has been undertaken and concluded that the proposal is unlikely to result in impact to the endangered bandicoot population, subject to conditions to address the potential risks associated with construction activity.</p>

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SKL Planning Pty. Ltd. dated February 2020, the DA satisfies requirements under Clause 15 of the CM SEPP.</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>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005 Harbour Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SKL Planning Pty. Ltd. dated February 2020, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>The subject site is located within/adjacent to the W2 (Environmental Protection) Zone.</p> <p>On internal assessment, it is determined that the objectives and assessment criteria of the zone have been met.</p> <p>Manly LEP 2013 and Manly DCP</p>

Internal Referral Body	Comments
	<p>Foreshores Scenic Protection Area Management</p> <p>The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SKL Planning Pty. Ltd. dated February 2020, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013. As such, it is considered that the application does comply with the requirements.</p> <p>Development on Foreshore Area</p> <p>The subject site is also shown to be as "Manly Foreshores Area" on Council's Area "within the foreshore building line Map" in Manly LEP 2013. Hence, Part 6, Clause 6.10 –Limited development on foreshore area of the Manly LEP 2013 applies for any development within the foreshore area.</p> <p>The DA proposes no works on the foreshores area and hence, the DA does not require to satisfy the objectives and requirements of Part 6, Clause 6.10 of the Manly LEP 2013.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage, as it adjoins a heritage item, being Item I1 - Harbour Foreshores - Manly municipal area boundary adjacent to the Harbour, and within the vicinity of two heritage items, as listed in Schedule 5 of Manly Local Environmental Plan 2013.</p> <p>Item I67 - Residential flat building, "Kilburn Towers" - 1 Addison Road</p> <p>Item I68 - Mandalay (former private hospital and dwelling) - 2 Addison Road</p>
	Details of heritage items affected
	<p>Details of the heritage item, as contained within the Northern Beaches Heritage Inventory are as follows:</p> <p>Item I1 - Harbour Foreshores</p> <p><u>Statement of Significance:</u> Natural landscape type - Aesthetic.</p> <p><u>Physical Description:</u> Length of foreshore including natural and built elements of the landscape. Rocky sandstone ledgers,</p>

Internal Referral Body	Comments																					
	<p>beaches, mud flats and sandstone retaining walls and timber structures.</p> <p>Item I67 - Residential flat building, “Kilburn Towers” <u>Statement of significance:</u> A distinctive landmark building, of regional aesthetic significance for its form and Post-War International style of architecture. <u>Physical description:</u> Multi storey Post-War International style residential flat building of concrete and glass, in the form of 2 circular intersecting towers, one 8 storeys, with a roof deck, and the other 9 storeys with a fully glazed top storey. The building features tiled spandrels between floors, metal framed windows and wedge-shaped recessed balconies. There is a wave form structure on the roof of the building (probably housing the building's lift over-run).</p> <p>Item I68 - Mandalay (former private hospital and dwelling) <u>Statement of significance:</u> Large distinctive Federation Arts and Crafts style building in a landmark location. <u>Physical description:</u> Two storey Federation Arts and Crafts style building with hipped and gabled slate roof, walls in roughcast stucco. Features prominent curved timber brackets to wide eaves. Three gable ends facing the street in the centre of the building, group of three leadlight windows overentry. 1920's style garage and fence match the style of the building.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> <p>Consideration of Application The proposal seeks consent for alterations and additions to the existing apartment located on the top level of the existing residential flat building. Apart from the internal alterations, the apartment is proposed to be extended to the existing terrace- located to the south of the apartment - with a higher roof form including new glazed external walls and new pergola over the terrace.</p> <p>Given the separation between the heritage items and the minor nature of the extension, the impact upon the significance of the heritage items is considered</p>	Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
Other relevant heritage listings																						
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RAIA Register of 20th Century Buildings of Significance	No																					
Other	No																					

Internal Referral Body	Comments
	<p>acceptable.</p> <p>Therefore, no objections are raised to this application on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u></p> <p>Is a Conservation Management Plan (CMP) No Required? Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p> <p>Further Comments</p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 03 December 2020</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 land use.

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

The proposal does not include any works listed under (1)(a) above.

As per the definition of a residential flat building and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are not applicable to the assessment of this application.

Accordingly, no further assessment is required with regard to the provisions of SEPP 65.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A366415 dated 29 September 2020).

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.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Foreshores and Waterways Area therefore the provisions of

this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) has been undertaken. The proposed works are within the existing development footprint and do not result in substantial alteration to the appearance of the building. As such, the proposal is considered to be consistent with the above provisions of the SREP.

Given the location and scale of the proposed works referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

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:

The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.

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:

The proposed works are within the existing building footprint and are unlikely to result in increased risk of coastal hazards on the site or surrounding land.

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	Existing Building: 30.25m Proposed works: 26.3m	209.4%	No
Floor Space Ratio	0.6:1 1201.08m ²	Existing: 1.745:1 (3492.9m ²)	191.1%	No

		Proposed: 1.747:1 (3496.2m2)		
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Note: The existing ground level of the site in the location of the works is taken to be RL11.43.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	26.3m
Percentage variation to requirement:	209.4%

Assessment of request to vary a development standard:

The following assessment of the variation to 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *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:

- *"The subject Apartment (No. 29) is located wholly above the building height standard and hence any works would otherwise breach the standard. Works are limited and contained within the existing building footprint and designed to improve functionality of the conservatory space with the pergola to the external terrace providing shade / shelter to what is a very exposed area and facilitating a superior level of amenity.*
- *The increase in height to previously stated elements will not be readily perceived from the public domain noting significant elevation above Addison Road, setbacks from front and side boundary setbacks and containment to the south west component of the building and adjacent to the higher service core. Works have also been well integrated with the design and character of the existing building.*
- *No material impact towards adjoining and nearby properties is foreseen."*

The existing residential flat building exceeds the building height control and the proposed works are to a unit on the upper level of the building. The proposal includes internal works, extension and new roof to the existing conservatory and a new pergola to the terrace, enhancing the weather protection and amenity of the unit. Despite the building height variation, the design and siting of the works within the upper level footprint are consistent with the appearance of the existing building and are considered to

be appropriate in the context of the site.

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 MLEP 2013 are:

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

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

Comment:

The proposed works are located 3.95m below the level of the service roof of the building (30.25m) and exceed the existing roof level of the subject unit by a maximum of 1.08m. Given the elevation of the subject unit above ground level, the proposed works will not be visually dominant within the streetscape.

b) to control the bulk and scale of buildings,

Comment:

The proposal will not result in any substantial additional bulk and scale in the context of the existing building.

c) to minimise disruption to the following:

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

Comment:

The proposed development will not unreasonably impact views to, from or between residential development and public spaces.

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

Comment:

The proposed works result in marginal additional bulk and are not anticipated to result in any material overshadowing impacts.

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

Comment:

The proposed works are generally within the existing building envelope and will have no adverse impacts in relation to the existing vegetation or topography.

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 proposed works are minor in the context of the existing development and maintain the residential use of the site.

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

Comment:

The proposal will not unreasonably impact the above values.

- *To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.*

Comment:

The proposal will not impact the tree canopy or dominate the natural scenic qualities of the

foreshore.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

Comment:

The proposed development will not adversely impact the nearby foreshores or natural environment.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

Comment:

The works are separated from the immediate foreshore and will not result in increased hard surfaces or runoff.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

Comment:

The proposal does not result in substantial additional height or bulk, and is appropriate in the context of 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.

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.6:1 (1201.08m ²)
Proposed:	1.747:1 (3496.2m ²)
Percentage variation to requirement:	191.1%

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 existing residential flat building currently exceeds the FSR standard and hence addition of*

any gross floor area will result in a further breach of the standard regardless. Infill of the small component of terrace is designed to better utilise this space which has limited dimensions, is disconnected from the main area of terrace and exposed noting elevation and absence of any roof covering.

- *The previously stated infill results in a slight increase in height to this area (1.5m) though in so far as the roof will remain consistent with that of the subject apartment with positioning adjacent to the south west side boundary of the site, significant setback from the street and elevation limiting presence towards and perception from the public domain. Utilisation of a large panel of glazing to the south west side elevation is also noted and ensures that this area is visually recessive and consistent with existing built form.*
- *No material impact towards adjoining and nearby properties is foreseen."*

The proposed works represent a minor increase of 3.3m² to the gross floor area ratio at the upper level of the building, relating to the enclosure of a small portion of the terrace adjoining the existing conservatory. The enclosure of this area of the terrace with glazing will not substantially alter the appearance of the building and achieves a greater internal floor area without adverse visual bulk or amenity impacts.

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 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 4.4 – '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 proposed additional bulk resulting from the conservatory extension will not adversely impact the streetscape by virtue of the height and location of the works.

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:

The increase to gross floor area and bulk is not substantial in the context of the existing development, and will not unreasonably obscure any landscape or 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 will not materially alter the appearance of the existing building and maintains the visual relationship with the character and landscape.

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

Comment:

The proposal will not adversely impact the use or enjoyment of adjoining land or the public domain.

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:

N/A

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 proposed works are minor in the context of the existing development and maintain the residential use.

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

Comment:

The proposal will not unreasonably impact the above values.

- *To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.*

Comment:

The proposal will not impact the tree canopy or dominate the natural scenic qualities of the foreshore.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

Comment:

The proposed development will not adversely impact the nearby foreshores or natural environment.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

Comment:

The works are separated from the immediate foreshore and will not result in increased hard surfaces or runoff.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

Comment:

The proposal does not result in substantial additional height or bulk, and is appropriate in the context of 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 Floor space ratio Development Standard is assumed by the Local Planning Panel.

5.7 Development below mean high water mark

The proposed works are located above the mean high water mark.

5.10 Heritage conservation

Council's Heritage Officer raised no objection to the proposal with regard to impact to nearby heritage items.

6.5 Terrestrial biodiversity

Council's Biodiversity Officer raised no objection to the development, subject to the included conditions of consent. The assessment comments are included in full under the Referrals section of this report.

6.9 Foreshore scenic protection area

The proposed works are located at the upper level of the existing building and do not result in substantial perceivable bulk. The proposal will not give rise to unreasonable impacts in relation to visual aesthetic amenity or views to and from Sydney Harbour or the Pacific Ocean.

Manly Development Control Plan

Built Form Controls

The proposed development relates generally to existing building elements. As such, there are no development controls under Part 4 of the Manly DCP to consider as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	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
3.7 Stormwater Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The proposed day bed addition and new conservatory and pergola roofs will result in minimal additional height and bulk. No unreasonable overshadowing is considered to arise from the works in the context of the existing building.

3.4.2 Privacy and Security

The proposed works are to the existing top level unit and terrace, and will not result in any unreasonable privacy impacts to adjoining properties.

3.4.3 Maintenance of Views

The proposed works are contained within the existing building envelope with the exception of the new roof and day bed to the conservatory. Given the extent and location of additional building bulk the development is not considered to result in any unreasonable view impacts.

4.1.8 Development on Sloping Sites

The subject site is mapped as Geotechnical Areas G2 & G4. Given the nature, scale and location of the works at the upper level of the existing building no geotechnical assessment is required in this case.

5.4.2 Threatened Species and Critical Habitat Lands

Council's Biodiversity Officer raised no objection to the development, subject to the included conditions of consent.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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 \$ 1,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 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;

- 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

Council is satisfied that:

1) The Applicant's written requests under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio have 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.

The application seeks consent for alterations and additions to a unit within the existing building.

The key planning issues considered within the assessment are the proposed variations to development standards and the resulting visual impact of the works.

Notwithstanding the proposed building height variation of 209.4% and floor space variation of 191.1%, the development is not considered to result in any unreasonable impacts to adjoining properties or the public domain.

One submission was received in relation to the visual impact of the proposed new roofs, and is addressed within the report.

Assessment of the application against the Manly LEP and DCP finds that the development is suitable in the context of the site, and 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 Northern Beaches Council as the consent authority vary clause 4.3 Height of Building and 4.4 Floor Space Ratio development standards pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and 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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/1431 for Alterations and additions to a dwelling within a residential flat building on land at Lot 29 SP 2373, 29 / 11 Addison 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
001 Site Plan	Issue A, 29 September 2020	Adriano Pupilli Architects
006 Proposed Floor Plan	Issue A, 29 September 2020	Adriano Pupilli Architects
007 Proposed Roof Plan	Issue A, 29 September 2020	Adriano Pupilli Architects
008 Proposed Section & South Elevation	Issue A, 29 September 2020	Adriano Pupilli Architects
009 Proposed East & West Elevations	Issue A, 29 September 2020	Adriano Pupilli Architects

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.

- (k) 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.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
 - (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 sewerage 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. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$1,000.00 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 \$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.

5. 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 are required 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, and 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

6. **No Bright Lighting – Bandicoot Habitat**

No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas. A modest amount of low lighting may be used for safety purposes only.

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

Reason: Bright lighting disturbs Long-nosed Bandicoots and disrupts normal Bandicoot foraging, sheltering and nesting activity.

7. **Access to Undercroft Areas – Bandicoot Habitat**

Where concealing material is required for any undercroft areas (e.g. under the house, stairs or balcony), gaps are to be established to allow Long-nosed Bandicoot access. Gaps are to be at least 150mm high and 300mm wide.

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

Reason: To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

8. **Site Induction Required – Penguin and Bandicoot Habitat**

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant endangered populations (Little Penguin and Long-Nosed Bandicoot) through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. **Pre-clearance Survey Required – Penguin and Bandicoot Habitat**

A pre-clearance survey for Little Penguin and Long-nosed Bandicoot activity and presence is required prior to the removal of any material or debris stockpiles.

No vegetation clearing is approved under this development application.

A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to Principal Certifying Authority.

Reason: To avoid injury or death of Little Penguins or Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

10. **Report Dead or Injured Penguins or Bandicoots – Penguin and Bandicoot Habitat**
Any injured or dead Long-nosed Bandicoots or Little Penguins found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots and Little Penguins in accordance with the Biodiversity Conservation Act 2016.

11. **Protect Grassed Foraging Areas – Bandicoot Habitat**
There is to be no off-loading or storage of construction materials or debris on the grassed lawn or grassed road verge adjacent to the property. The integrity of the grass must be preserved at all times.

Reason: To prevent direct physical injury to Long-nosed Bandicoots and allow for foraging activity. This area is likely to be used by bandicoots for foraging.

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

12. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified on the NSW WeedWise website) are to be imported on to the site prior to or during construction works.
- Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.
- Reason:** To reduce the risk of site works contributing to spread of Priority and environmental weeds.

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

13. **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**
All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.
- Reason:** To maintain fauna access to existing and proposed habitat within and surrounding the site.
14. **Dead or Injured Wildlife – Manly LEP Clause 6.5**
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.





sk PLANNING STATEMENT OF ENVIRONMENTAL EFFECTS

	contained well below adjacent service core.	
CI 6.10 Limited Development on Foreshore Area		
Subclause (2) provides that development consent must not be granted to development on land in the foreshore area except for the following purposes - (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so, (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).	Works are contained outside of foreshore area which means ...'the land between the foreshore building line and the mean high-water mark of the nearest natural waterbody'.	Yes

*** Clause 4.6: Exception to Development Standards**

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standards within can be varied.

Objectives underlying the clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Pursuant to clause 4.6(2) 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.

Clause 4.6(3) states that 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.

Clause 4.6(4) states 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.

sk PLANNING STATEMENT OF ENVIRONMENTAL EFFECTS

Clause 4.6(5) states that in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

This submission forms a Clause 4.6 written request to justify contravention of both the building height [cl 4.3(2)] and floor space ratio [cl 4.4(2)] development standards contained within the MLEP 2013.

Several key New South Wales Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The most recent approach to preparing and dealing with a request under clause 4.6 is summarised by Preston CJ in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

A detailed assessment has been carried out below in respect to each non-compliance and demonstrates why allowing a degree of flexibility in this circumstance is considered acceptable:

BUILDING HEIGHT

What is the Development Standard proposed to be varied?

Clause 4.3(2) of the MLEP 2013 refers to the Height of Buildings Map with the subject site located within Area 'I' which prescribes a maximum building height of 8.5m as illustrated by figure 5 below:

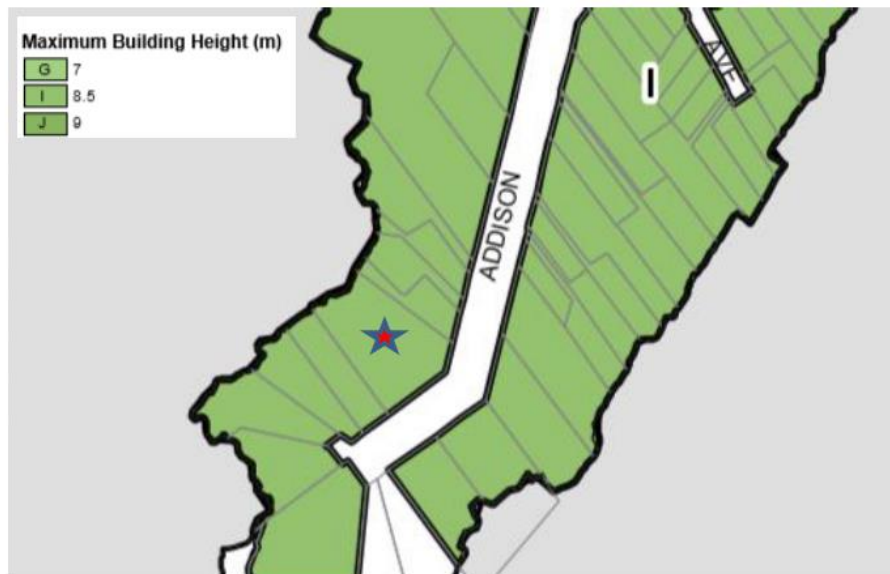


Figure 5 - Extract of MLEP 2013 Building Height Map

Building height is defined as follows:

“building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The existing building as measured to the roof of the service core which is centrally located has been calculated to measure 30.25m in height. The proposed infill of a component of the existing terrace adjacent to the south west elevation to serve as an extension to the conservatory has a height of 25.22m, with the new roof of the conservatory and attached covered pergola having a height of between 26.15m - 26.35m. Whilst remaining below the overall height of the existing building, proposed works exceed the standard by up to 17.85m. To further quantify the terrace infill increases height by 1.5m (above the existing balustrade) with the reconfigured conservatory roof representing a 1.08m increase in height above the existing apartment roof.

The height of buildings control is a 'development standard' to which exceptions can be granted under clause 4.6 of the MLEP 2013. The development standard that is expressly excluded from the operation of this clause.

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

The common ways in which an Applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary are listed in the 'five-part test' outlined by Preston CJ in *Wehbe v Pittwater* [2007] NSWLEC 827. In this respect an applicant does not need to establish all of the tests or 'ways', rather it may be sufficient to establish only one, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

The development is justified against the first of the Wehbe tests as set out below:

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance;

Objectives of the building height standard in Clause 4.3(1) of the MLEP 2013 are as follows:

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

Comment - The overall height and predominant roof form of the building will be maintained. Both the infilled terrace, main body of the conservatory and pergola will have low-pitched roof forms of which will have limited presence from the public domain and thus will not compromise the future streetscape character.

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

Comment - Bulk and scale is considered to remain appropriate. Proposed works are contained within the existing building footprint with the higher conservatory roof which extends up to 1.08m above the height of the existing apartment roof offset by its significant setback from the street created by the existing external terrace and 1.5m side. In this regard scope is considered to exist for infill to the southern component of the building noting the presence of an apartment (no. 31) which adjoins to the eastern corner.

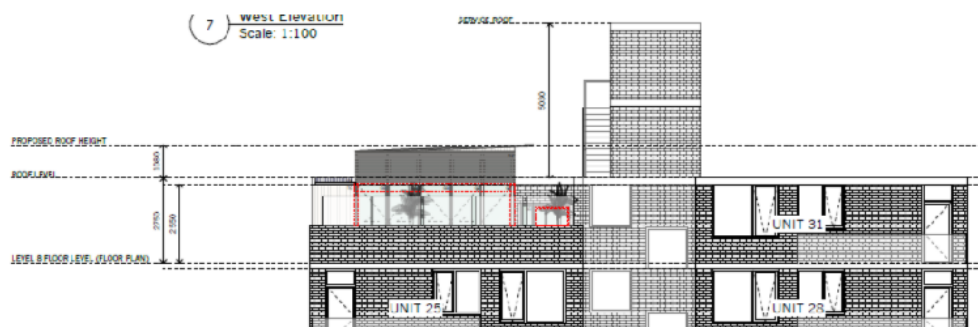


Figure 6 - South East (front) elevation (source - Adriano Pupilli Architects)

sk PLANNING STATEMENT OF ENVIRONMENTAL EFFECTS

(c) to minimise disruption to the following -

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

Comment - The subject building is one of two flat buildings at the terminus of Addison Road that has a height well above surrounding built form. In this regard works are contained to the southern component of the building, flanked by existing built form of Apartment No. 31 to the east, thus no adverse view loss is foreseen.

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

Comment - Noting scale of the subject building with respect to adjoining development and nature of proposed works which relate to what is considered minor infill, negligible impact is foreseen.

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

Comment - The site is zoned E4 Environmental Living. As detailed above, the bulk and scale and the building is considered to remain acceptable with no existing vegetation adversely impacted.

Test 2 - The underlying objective or purpose of the standard not relevant to the development and therefore compliance is unnecessary;

Comment - Not relied upon.

Test 3 - The underlying object of purpose be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Comment - Not relied upon.

Test 4 - The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Comment - Not relied upon.

Test 5 - The zoning of the particular land unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.

Comment - Not relied upon.

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

There are considered sufficient environmental planning grounds to justify non-compliance as follows:

- The subject Apartment (No. 29) is located wholly above the building height standard and hence any works would otherwise breach the standard. Works are limited and contained within the existing building footprint and designed to improve functionality of the conservatory space with the pergola to the external terrace providing shade / shelter to what is a very exposed area and facilitating a superior level of amenity.



STATEMENT OF ENVIRONMENTAL EFFECTS

- The increase in height to previously stated elements will not be readily perceived from the public domain noting significant elevation above Addison Road, setbacks from front and side boundary setbacks and containment to the south west component of the building and adjacent to the higher service core. Works have also been well integrated with the design and character of the existing building.
- No material impact towards adjoining and nearby properties is foreseen.

Clause 4.6(4)(a)(ii) - Is the proposed development in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone?

Generally speaking, there is public benefit in maintaining standards. However, there is public benefit in maintaining a degree of flexibility in specific circumstances. As outlined above, consistency with development standard objectives is achieved. Objectives of the E4 Environmental Living zone within which the site is located are somewhat broader (outlined in section 4.1.2) though still effectively addressed.

Clause 4.6(5)(a) - Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The proposed non-compliance with the height of buildings development standard will not raise any matter of significance for State or Regional environmental planning.

4.6(5)(b) - Is There a Public Benefit of Maintaining the Planning Control Standard?

Despite the non-compliance, the proposed development achieves the objectives of the height of buildings development standard and the land use zoning objectives. Given context of the site and existing built form proposed variations are deemed minor and acceptable. Noting broader discussion provided within this SEE, the proposal is also consistent with the public interest as it promotes the orderly and efficient use of land.

Clause 4.6(5)(c) - Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

Planning Circular (PS 18-003) dated 21 February 2018 provides that concurrence can be assumed when a Local Planning Panel (LPP) is the consent authority where a variation exceeds 10% or is to a non-numerical standard, because of the greater scrutiny that the LPP process and determinations are subject to.

Concurrence of the Secretary can therefore be assumed in this case.

FLOOR SPACE RATIO

What is the Development Standard proposed to be varied?

Clause 4.4(2) of the MLEP 2013 refers to the Floor Space Ratio (FSR) Map with the subject site located within Area 'F' which prescribes a maximum FSR of 0.6:1 as illustrated by figure 6 below:

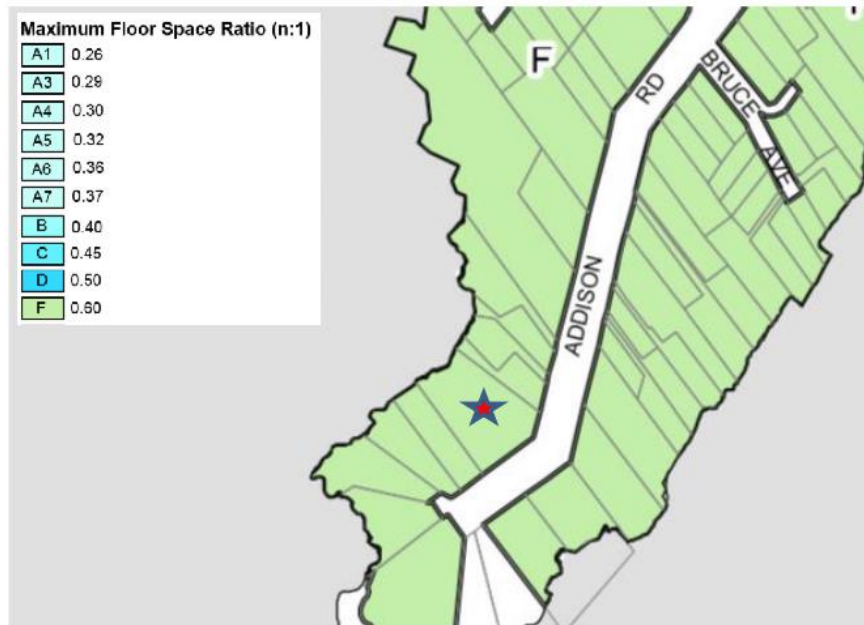


Figure 7 - Extract of MLEP 2013 Floor Space Ratio Map

The existing building has been calculated to have an FSR of 1.822:1. The proposed infill of a component of the existing terrace adjacent to the south west elevation of the building increases Gross Floor Area (GFA) by 3.97m² (0.1%) which subsequently increases non-compliance with the standard to 1.824:1.

The FSR control is a 'development standard' to which exceptions can be granted under clause 4.6 of the MLEP 2013. The development standard that is expressly excluded from the operation of this clause.

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

The common ways in which an Applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary are listed in the 'five-part test' outlined by Preston CJ in *Wehbe v Pittwater* [2007] NSWLEC 827. In this respect an applicant does not need to establish all of the tests or 'ways', rather it may be sufficient to establish only one, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

The development is justified against the first of the Wehbe tests as set out below:

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance;

Objectives of the FSR standard in Clause 4.4(1) of the MLEP 2013 are as follows:

sk PLANNING STATEMENT OF ENVIRONMENTAL EFFECTS

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

Comment - The infilled component of the terrace which results in additional FSR is contained within the existing building footprint adjacent to the side boundary. It provides a height that matches the roof of the subject apartment and is setback considerably from the street, thus bulk and scale remains acceptable.

- (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 - Noting context of the site, significant elevation of the subject apartment and configuration of upper level of the building with and apartment (no. 31) adjoining the north east elevation, no features are obscured.

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

Comment - As the existing building footprint is not altered, character and landscape is not impacted.

- (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

Comment - Noting scale of the subject building with respect to adjoining development and nature of proposed works which relate to what is considered minor infill works, negligible impact is foreseen.

- (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 - N/A as the site is located within zone E4 Environmental Living.

Test 2 - The underlying objective or purpose of the standard not relevant to the development and therefore compliance is unnecessary;

Comment - Not relied upon.

Test 3 - The underlying object of purpose be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Comment - Not relied upon.

Test 4 - The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Comment - Not relied upon.

Test 5 - The zoning of the particular land unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.

Comment - Not relied upon.

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

There are considered sufficient environmental planning grounds to justify non-compliance as follows:

sk PLANNING STATEMENT OF ENVIRONMENTAL EFFECTS

- The existing residential flat building currently exceeds the FSR standard and hence addition of any gross floor area will result in a further breach of the standard regardless. Infill of the small component of terrace is designed to better utilise this space which has limited dimensions, is disconnected from the main area of terrace and exposed noting elevation and absence of any roof covering.
- The previously stated infill results in a slight increase in height to this area (1.5m) though in so far as the roof will remain consistent with that of the subject apartment with positioning adjacent to the south west side boundary of the site, significant setback from the street and elevation limiting presence towards and perception from the public domain. Utilisation of a large panel of glazing to the south west side elevation is also noted and ensures that this area is visually recessive and consistent with existing built form.
- No material impact towards adjoining and nearby properties is foreseen.

Clause 4.6(4)(a)(ii) - Is the proposed development in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone?

Generally speaking, there is public benefit in maintaining standards. However, there is public benefit in maintaining a degree of flexibility in specific circumstances. As outlined, consistency with development standard objectives is achieved. Objectives of the E4 Environmental Living zone within which the site is located are somewhat broader (outlined in section 4.1.2) though still effectively addressed.

Clause 4.6(5)(a) - Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The proposed non-compliance with the height of buildings development standard will not raise any matter of significance for State or Regional environmental planning.

4.6(5)(b) - Is There a Public Benefit of Maintaining the Planning Control Standard?

Despite non-compliance, the proposed development achieves objectives of the FSR development standard and the land use zoning objectives. Given context of the site and existing built form, proposed variations are deemed minor and acceptable. Noting broader discussion provided within this SEE, the proposal is also consistent with the public interest as it promotes the orderly and efficient use of land.

Clause 4.6(5)(c) - Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

Planning Circular (PS 18-003) dated 21 February 2018 provides that concurrence can be assumed when a Local Planning Panel (LPP) is the consent authority where a variation exceeds 10% or is to a non-numerical standard, because of the greater scrutiny that the LPP process and determinations are subject to.

Concurrence of the Secretary can therefore be assumed in this case.

4.2 (a)(ii) any Draft Environmental Planning Instruments

There are currently no draft planning instruments and / or amendments of relevance to the proposal.

4.3 (a)(iii) any Development Control Plan

Manly Development Control Plan 2013

The proposed development is affected by provisions of the Manly Development Control Plan 2013 (MDCP). Compliance of the proposal with prescriptive standards of the MDCP is outlined as below: