



northern
beaches
council

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

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

WEDNESDAY 6 APRIL 2022

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

Peter Robinson
Executive Manager Development Assessment

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 6 April 2022

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ACKNOWLEDGEMENT OF COUNTRY

As a sign of respect, the Northern Beaches Local Planning Panel acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

1.0 APOLOGIES & DECLARATIONS OF INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 16 MARCH 2022

RECOMMENDATION

That the Panel note that the minutes of the Northern Beaches Local Planning Panel held 16 March 2022 were adopted by the Chairperson and have been posted on Council's website.

4.0 PUBLIC MEETING ITEMS

ITEM 4.1	DA2021/2138 - 235 POWDERWORKS ROAD, INGLESIDE - USE OF PREMISES AS AN ANIMAL BOARDING AND TRAINING ESTABLISHMENT
AUTHORISING MANAGER	Phil Lane
TRIM FILE REF	2022/190089
ATTACHMENTS	1 Assessment Report 2 Site Plan and 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. DA2021/2138 for use of premises as an animal boarding and training establishment at Lot 63 DP 30255, 235 Powderworks Road, INGLESIDE, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2138
Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 63 DP 30255, 235 Powderworks Road INGLESIDE NSW 2101
Proposed Development:	Use of premises as an animal boarding and training establishment
Zoning:	RU2 Rural Landscape
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	The Ingles Group Investment Pty Ltd
Applicant:	Palisady Investments Pty Limited
Application Lodged:	09/11/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/11/2021 to 03/12/2021
Advertised:	Not Advertised
Submissions Received:	45
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 327,000.00

EXECUTIVE SUMMARY

The proposal relates to the use and construction of an animal training establishment and daytime boarding. The weekday operations will occur Monday to Friday consisting of daytime boarding only and is restricted to 25 dogs at any one time. The weekend training establishment (Saturday - Sunday) is limited to eight (8) dogs and their owners. Further information regarding the proposed operational details can be found in the 'Detailed Description of Development' section of this report.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal is suitable and appropriate development for the subject site.

Council received 44 submissions against the application. The objections to the proposal focused mainly

on noise and amenity impacts, traffic impacts, and impacts on the surrounding environment.

Conditions are recommended in relation to dog capacity, trading hours, and compliance with acoustical mitigation measures and operational requirements, to reasonably maintain residential amenity.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2021 (EP&A Regulations 2021), relevant Environmental Planning Instruments (EPIs) and Council policies. The outcome of this assessment is detailed within this report.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks the approval for the use and construction of an animal boarding and training establishment at No. 235 Powderworks Road, Ingleside.

The physical works are proposed as follows;

- Reception and storage shed,
- Fences and gates for training areas, day care facility and washing zone,
- Carpark with ten spaces (including one disabled parking space),
- Washing facilities,
- Wastewater system,
- Business identification signage,
- Associated landscaping.

Operational Details

The change of use to an animal boarding and training establishment and the operational details are listed within the submitted Plan of Management, however a brief overview is provided below.

It is important to note that the facility does not permit overnight boarding and that the day-care facility will only operate on weekdays, while training will take place on the weekends.

Hours of Operation

- Monday - Friday: 8am to 5pm ('**Doggie Daycare**'),
- Saturday: 9am to 5pm ('**Dog training**'),
- Sunday: 9am to 1pm ('**Dog training**').

Staffing

The number of staff on site at any one time to be limited to five (5) on weekdays and two (2) on weekends.

Animal Capacity

Maximum of 25 dogs on any weekday and will not exceed eight (8) dogs on weekends.

Traffic Management

The proposal will provide a pick-up and drop-off service from Sydney's North Shore and Northern Beaches that accounts for 60% (15) of dogs using the boarding facility, while the remaining 40% (10) of

dogs are permitted to be dropped-off and picked-up by their owners.

The weekday owner drop offs and pick ups can only be done via a booking to stagger arrivals.

The proposed carpark will have ten (10) dedicated car parking spaces for staff of the facility, and visitors/owners.

Waste Management

The effluent management scheme proposed by Blue Mountains Geological and Environmental Services allows for the management of human effluent and faecal waste from dogs. The proposed scheme is a Worm Farm Waste System (WFWS) and treated effluent will be applied back onto the land via the use of subsoil dispersal irrigation.

Cleaning and Maintenance

The outdoor exercise areas and the day-care facility shed will be constantly monitored during use for dog faeces and waste materials. Such waste will be disposed of in accordance with the proposed effluent management report. Daycare staff will document daily cleaning procedures which will include the cleaning and washing down with hot water of the facility shed, toys and washable enrichment items.

Use and Storage of Chemicals

The animal boarding and training establishment does not use any hazardous or specialized chemicals.

Acoustic Amenity

The application proposes a noise barrier to each side of the development, which varies in height depending on its orientation and distance to residential developments, as detailed below;

- 2.0m high earth mound: located along the entire northern side (approximately 40m) of the development and a 20m portion on the eastern side.
- 1.8m high acoustical barrier: located on the eastern side for a length of approximately 25m.
- 1.5m high acoustical barrier: located along the entire western side (approximately 75m) of the development and a 5m portion on the southern side.

The noise preventative measure can be viewed in its entirety under section 5.3 of the submitted Acoustic report, prepared by Noise and Sound Services (January 2022). In summary, the proposal will comply with the NSW EPA Noise Policy for Industry (NPfI).

Additional Information

Following a preliminary review of the proposal Council raised concern with the Acoustical Assessment and Effluent Management reports, as insufficient information was provided. Additional information was received on 31 January 2022, which included reductions to the weekend operating hours. The Northern Beaches Community Participation Plan refers to re-notification not being required for amendments where the "changes result in a lesser or reduction of environmental impacts". The additional information was uploaded to Council's website. The amended plans have been used to complete the assessment of this proposal.

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 - 5.21 Flood planning
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater 21 Development Control Plan - A4.5 Elanora Heights Locality
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management
Pittwater 21 Development Control Plan - C5.17 Pollution control
Pittwater 21 Development Control Plan - D5.10 Landscaped Area - Non Urban
Pittwater 21 Development Control Plan - D5.12 Fences - Flora and Fauna Conservation Areas

SITE DESCRIPTION

Property Description:	Lot 63 DP 30255 , 235 Powderworks Road INGLESIDE NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Powderworks Road.</p> <p>The site is irregular in shape with a frontage of 114.39m along Powderworks Road and a depth of 168.8m. The site has a surveyed area of 20238m².</p> <p>The site is located within the RU2 Rural Landscape zone and accommodates detached dwelling house and swimming pool within the north-east portion of the site. The subject development area is located centrally and does not contain any significant environmental features, as this portion of the site has been heavily modified throughout the site's history.</p> <p>The site slopes towards the southern boundary with an approximate fall of 16.0m.</p> <p>The site conditions fairly bare with the majority of open areas turfed with remnant vegetation located along the boundaries.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by rural residential living to the north and west. The eastern boundary adjoins land zoned as C2 Environmental Conservation, which is commonly known as Ingleside Chase Reserve. The southern boundary adjoins private property that contains a large dam intercepting water from Elanora Country Club. In addition, land zoned R2 Low Density Residential is located approximately 85m -115m from the subject site's southern boundary.

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:

PLM2021/0020

Pre-lodgement meeting for the use of a premises as a animal boarding or training establishment held on 9 February 2021. The concluding remarks from the pre-lodgement notes were:

- *The proposal is supportable in principle. However, owing to the location of the site, the constraints and affectations (such as bushfire prone, adjoining a watercourse, unsewered and nearby to residential properties), there are numerous technical reports and plans required to lodge a Development Application. These reports will determine ultimately whether the site is suitable and appropriate for an Animal Boarding or Training Establishment.*

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 (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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to acoustic impacts and effluent management.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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>
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Consultancy Australia, dated 25 August 2021) stating that the development is exempt from the relevant specifications and requirements within Planning for Bush Fire Protection.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/11/2021 to 03/12/2021 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 45 submission/s from:

Name:	Address:
Mrs Michelle Laree Garrard	55 Wesley Street ELANORA HEIGHTS NSW 2101
Mrs Nicole Fae Kerrison	186 A Powderworks Road ELANORA HEIGHTS NSW 2101
Ms Vivian Roperti	9 Scotney Place COLLAROY PLATEAU NSW 2097
Mr George Jason Sadlik	Po Box 268 NEWPORT BEACH NSW 2106
Mrs Grace Alafaci	214 Powderworks Road INGLESIDE NSW 2101
Mr Timothy John Stuart	225 Powderworks Road ELANORA HEIGHTS NSW 2101

Name:	Address:
Kristin Zindel	Address Unknown
Ms Mary Therese Taylor	239 Powderworks Road ELANORA HEIGHTS NSW 2101
Camilla Dunn	65 Wesley Street ELANORA HEIGHTS NSW 2101
Ms Susan Reilly	5 Kuttabul Place ELANORA HEIGHTS NSW 2101
Mrs Amber Nicole Fehon	227 Powderworks Road ELANORA HEIGHTS NSW 2101
Mrs Patricia Jane McCauley	229 Powderworks Road ELANORA HEIGHTS NSW 2101
Mrs Juliana Fiona Johnston	143 C Powderworks Road ELANORA HEIGHTS NSW 2101
Mrs Patricia Ann Driver	216 Powderworks Road INGLESIDE NSW 2101
Sarah Kirsty Galloway	2 / 145 Powderworks Road ELANORA HEIGHTS NSW 2101
Mrs Carol Patrina Cole	206 Powderworks Road ELANORA HEIGHTS NSW 2101
Mrs Anne Maree Day	16 / 1235 Pittwater Road NARRABEEN NSW 2101
Lesley Tannin	Address Unknown
Mrs Louise Ann Arminak	12 Warriewood Road WARRIEWOOD NSW 2102
Mr Steven Russell McCauley	229 Powderworks Road ELANORA HEIGHTS NSW 2101
Mr James Bede Fehon	227 Powderworks Road ELANORA HEIGHTS NSW 2101
Nicole Celine Stuart	225 Powderworks Road ELANORA HEIGHTS NSW 2101
Rene Antonio Corvera Gamez	22 The Crescent NORTH NARRABEEN NSW 2101
Mr Richard Lyall Daines	14 Wesley Street ELANORA HEIGHTS NSW 2101
Daniel Telles	103 Wyadra Avenue NORTH MANLY NSW 2100
Mr Adam Murray James Corrigan	231 Powderworks Road ELANORA HEIGHTS NSW 2101
Renan Xavier	15 a Oak Street NORTH NARRABEEN NSW 2101
Miss Michella Claire McIntosh	20 Nareen Parade NORTH NARRABEEN NSW 2101
Mrs Julie Ann Samus	PO Box 5148 ELANORA HEIGHTS NSW 2101
David Curnow	52 Wesley Street ELANORA HEIGHTS NSW 2101
Mr Tobias Paul Kerrison	186 A Powderworks Road ELANORA HEIGHTS NSW 2101
Mr John Robert Kennedy	C/- Glendinning Minto & Associates Po Box 225 THORNLEIGH NSW 2120
Mr Robert John Daisley	71 Wesley Street ELANORA HEIGHTS NSW 2101
Joanna Pearl Wallace	75 Wesley Street ELANORA HEIGHTS NSW 2101
Elanora Heights Residents Association	19 Foxall Street ELANORA HEIGHTS NSW 2101
Mrs Dale Carolyn Gilmour	27 Kalang Road ELANORA HEIGHTS NSW 2101
Mrs Simone Pietschner	8 Ingleside Road INGLESIDE NSW 2101
Mrs Emma Marie Page	44 Wesley Street ELANORA HEIGHTS NSW 2101
Mr Adrian Bolton Sturrock Mrs Michelle Dianne Sturrock	69 Wesley Street ELANORA HEIGHTS NSW 2101
Mr David Frankham	10 Ingleside Road INGLESIDE NSW 2101
Mr Dominic Joseph Dunn	65 Wesley Street ELANORA HEIGHTS NSW 2101
Damien Chilton David Cantelo	73 Wesley Street ELANORA HEIGHTS NSW 2101

Name:	Address:
Mrs Margaret Gladys Woods	42 A Elimatta Road MONA VALE NSW 2103
Angeles Escandor	223 Powderworks Road ELANORA HEIGHTS NSW 2101
Ms Elizabeth Viggayan Escandor	223 Powderworks Road ELANORA HEIGHTS NSW 2101

The following issues were raised in the submissions:

- **Acoustic impacts,**
- **Site suitability,**
- **Public health and safety,**
- **Traffic impacts,**
- **Streetscape impacts,**
- **Environmental impacts,**
- **Land contamination,**
- **Insufficient information,**
- **Bushfire risks,**
- **Future expansion,**
- **Sustainable design,**
- **Closure of business,**
- **Light pollution.**

The above issues are addressed as follows:

- **Acoustic impacts**

The submissions raised concerns that the proposed use would result in unreasonable acoustic impacts from dog parking and traffic generation that will disrupt neighbouring amenity.

Comment:

These concerns have been extensively addressed within the appendix of the amended Acoustical Assessment report (Noise and Sound Services, dated January 2022). Council's Environmental Health division is generally satisfied with the proposal, subject to strict conditions in relation to compliance with acoustical mitigation measures and operational requirements. The proposal will not permit overnight boarding and will be limited to 25 dogs during the week and 8 during the weekend. In addition, a noise barrier (earth mound and/or acoustical barrier) will be constructed to each side of the development, which varies in height depending on its orientation and distance to adjoining and surrounding residential sites. Overall, the predicted noise levels as detailed in the Acoustic Report indicate noise compliance is achievable with the list criteria at the location of the nearest noise sensitive residential receivers.

- **Site suitability**

The submissions raised concerns that the proposed use is inconsistent with the immediate locality.

Comment:

The subject site is zoned RU2 Rural Landscape and therefore a animal boarding and training

establishment is a permitted land use. In addition, the subject site does not adjoin any R2 low density residential land, with the nearest sites located approximately 85m-115m from the subject site's southern boundary. The proposed works will be generously set back from the boundaries, while proposed perimeter planting will readily screen the premises from adjoining and surrounding residential sites. On balance, the proposal will reasonably maintain neighbourhood amenity, while remaining consistent with the zone's objectives and the desired future character of the Elanora Heights locality.

This matter does not warrant the refusal of this application.

- **Public health and safety**

The submissions raised concerns that proposed effluent management system will result pollution that will pose a risk to public health. In addition, concern is also raised with any potentially dangerous dogs escaping the site.

Comment:

The proposed effluent management system has been thoroughly addressed within the addendum to the on-site effluent management report (dated 16 December 2021, Blue Mountains Geological and Environmental Services). In addition, Council's Environmental Health division has assessed the proposal and is satisfied, subject to conditions of consent.

The proposal includes sufficient fencing for the enclosure of dogs. In addition, it must be noted that the proposed facility has a zero tolerance against dangerous or antisocial dogs.

- **Traffic**

The submissions raised concerns that the proposal does not provide sufficient onsite parking. Submissions also raised concern that the proposed development will result in traffic congestion and safety concerns.

Comment:

These concerns have been extensively addressed by Council's Traffic department (see Referrals section of this report). Traffic is generally satisfied with the proposal, subject to conditions. In this regard, it is considered that the proposal will not unreasonably impact local traffic flows or create any adverse traffic hazards.

- **Streetscape impacts**

The submissions raised concerns that the proposal will result in unreasonable streetscape impacts.

Comment:

The proposed built form is relatively minimal with the majority of structures being low-lying and lightweight. In addition, the proposal provides generous building separation from the boundaries and the existing dwelling house, which allows a visual break to mitigate the built form. Furthermore, the proposed landscape design will enhance the site's natural features, while providing reasonable screening from adjoining and surrounding residential properties. In this regard, the proposal will not give rise to any adverse streetscape impacts.

This matter does not warrant the refusal of this application.

- **Environmental impacts**

The submissions raised concerns that the proposed animal boarding and training establishment will impact surrounding bushland and local fauna.

Comment:

Impacts to the surrounding environment have been assessed by Council's Bushland and Biodiversity Officer (see Referrals section of this report). This assessment concluded that the proposed works are satisfactory, subject to conditions of consent, including the implementation of recommendations of the ecological report provided with the application.

Subject to these comments and conditions, the concerns are considered to have been satisfactorily addressed.

- **Land contamination**

The submissions raised concerns that the subject site is potentially contaminated from previous agricultural uses and that the Statement of Environmental Effects has not adequately addressed State Environmental Planning Policy (Resilience and Hazards) 2021 (formerly known as SEPP No 55).

Comment:

These matters have been addressed in detail under the 'SEPP 55 - Remediation of Land' section of this report. In summary, a land contamination report is not required for the use proposed under this application, as per Clause 4.6 of SEPP (Resilience and Hazards) 2021. Verbally, Council's Environmental Health division advised that given the previous location of the greenhouses, the nature of the proposed use, and the extent to which the land has already been cut and filled over the past few years, the risk of contamination is considered to be low.

This matter does not warrant the refusal of this application.

- **Insufficient information**

The submissions raised concerns that application includes insufficient information regarding the effluent management system and the acoustic assessment findings.

Comment:

Following a preliminary review of the proposal Council raised concern with the Acoustical Assessment and Effluent Management reports, as insufficient information was provided. Additional information was received on 31 January 2022. The amended reports were deemed sufficient by Environmental Health, subject to conditions.

- **Bushfire risks**

The submissions raised concerns that the proposal is susceptible to bushfire risks.

Comment:

It is acknowledged that the subject site is classified as bush fire prone land. As such, the application is supported by a Bushfire Assessment report (prepared by Bushfire Consultancy Australia dated 25 August 2021). In summary, given the nature of the works proposed they are considered be exempt from the requirements prescribed under Planning for Bush Fire Protection 2019.

This matter does not warrant the refusal of this application.

- **Future expansion**

The submissions raised concerns that the proposed animal boarding and training establishment will be potentially expanded upon in the future.

Comment:

This is not a relevant consideration for the assessment of this proposal. Any future expansion will be subject to an assessment of a separate application.

This matter does not warrant the refusal of this application.

- **Sustainable design**

The submissions raised concerns that the proposal does not promote sustainability within its design.

Comment:

The proposal's ecological impacts have been assessed in detail by Council's Bushland and Biodiversity department. Council's Biodiversity Officer concluded that the proposal can be undertaken without significant or serious and irreversible impacts to local biodiversity, subject to recommended conditions of consent. In addition, the proposed built form is minimal and commensurate to the site's landscaped areas.

This matter does not warrant the refusal of this application.

- **Closure of business**

The submissions raised concerns that the potential closure of the animal boarding and training establishment will result in an unreasonable visual impact if it is not returned to its natural state.

Comment:

This is not a relevant consideration for the assessment of this proposal.

This matter does not warrant the refusal of this application.

- **Light pollution**

The submissions raised concerns that the proposed carpark will result in unreasonable light pollution for the residential properties south of the subject site.

Comment:

Traffic movements into the site will be limited, as the local pick-up and drop-off service accounts for 60% (15) of dogs within the daytime boarding facility. Notwithstanding, the proposed carpark is set back 8.6m from the southern side boundary and is approximately 85m - 115m from the nearest residential sites zoned as R2 land. In addition, substantial perimeter planting is located along the common boundary shared with No. 233 Powderworks Road, which will reasonably screen any light overspill from the carpark. In this regard, the proposal will not give rise to any adverse amenity impacts caused by light pollution.

This matter does not warrant the refusal of this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>SUPPORTED - no conditions</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>
Environmental Health (Industrial)	<p>SUPPORTED - subject to conditions</p> <p>General Comments</p> <p>The acoustic consultant has provided a response to each question from Environmental Health. We find these responses satisfactory alongside section 5.3 mitigation measures in the report. It is our understanding that the operations are for dog training, which, unlike a dog kennels, is not predominantly associated with excessive noise-dogs will be well-controlled, and neither barking nor loud noises will not be tolerated.</p> <p>Overall, we view the practical controls that will be implemented as fair and reasonable in the context of zoning. The development use for RU2 is permissible, thus it is deemed appropriate to support the application subject to the following conditions.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>SUPPORTED - no conditions</p> <p>General Comments</p> <p>A review of the proposed development has not indicated any food for sale to the public that would warrant conditions relating to the sale of food therefore no conditions are required.</p> <p>Recommendation</p>

Internal Referral Body	Comments
	Supported
Environmental Health (unsewered lands)	<p>SUPPORTED - subject to conditions</p> <p>General Comments</p> <p>A response has been provided to Council's queries regarding wastewater management on-site. Of those concerns, the (condensed) response is summarised as:</p> <ul style="list-style-type: none"> • Worm farms are suitable for both human and animal faecal matter. • The tank does not require de-sludging, but every ten years a few wheelbarrows of worm castings will be used as fertiliser on-site • Dams located to the south-west and north-east are not in within the direction of flow from the land application area and will not be impacted by effluent. It is imperative that the LAA is located in the correct area for this reason. • Auger hole locations provided and in the location of the LAA. <p>Council finds the response satisfactory, supports the proposal and offers the conditions below.</p>
Landscape Officer	<p>SUPPORTED - subject to conditions</p> <p>This application seeks approval for an animal daycare and training establishment within a lot zoned as <i>RU2 Rural Landscape</i>. Proposed works include the construction of a new shed, car parking, wash down facilities, wastewater system, fences, gates as well as additional landscaping.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D5.10 Landscaped Area - Non Urban <p>The Statement of Environmental Effects provided with the application notes that no trees are required to be removed as a result of proposed works. This statement is largely supported by the Architectural Plans provided as it is evident no trees are shown to be removed.</p> <p>Upon further review of the site, the central portion of the property appears to be largely clear of existing vegetation, with existing site conditions fairly bare with the majority of open areas turfed. Proposed</p>

Internal Referral Body	Comments
	<p>works are located within this area, hence the impacts to existing trees and vegetation is not anticipated to be significant. Although this is the case, there are a number of existing significant native trees adjacent to the site boundaries, all of which are required to be protected and retained. Any negative impacts to both the short-term and long-term health and vitality of this vegetation shall not be supported. The retention of this vegetation is vital to satisfy control B4.22, as key objectives of this control include "to protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities", "to promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>A Landscape Plan has also been provided, with proposed works including the in-ground planting of trees, shrubs, grasses as well as groundcovers. Generally, no major concerns are raised with the proposed landscape works as it is evident locally native species are to be utilised, returning a significant amount of native vegetation back to the site. In addition, a large number of canopy trees are also proposed which will be able to provide effective screening and built form mitigation, whilst also positively contributing to the canopy coverage of the site. The completion of these landscape works is necessary to satisfy controls C1.1 and D5.10, as key outcomes of these controls seek "to minimise the impact of development on Pittwater's biodiversity by minimising the removal of indigenous vegetation and naturally occurring soils, conserving existing significant indigenous and native trees, and encouraging planting of indigenous and native plants and trees on private property", as well as "to conserve significant natural features of the site and contribute to effective management of biodiversity". In addition, outcomes of these controls seek to ensure "landscaping results in the long-term retention of Pittwater's locally native tree canopy", and "landscaping enhances habitat and amenity value".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plan provided.</p>
NECC (Bushland and Biodiversity)	<p>SUPPORTED - subject to conditions</p> <p>The application seeks approval for an animal daycare and training establishment including construction of a new shed, car parking, wash down facilities, wastewater system, fences, gates and landscaping. The application also seeks to establish an Asset Protection Zone (APZ) over the entirety of the site in perpetuity.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p>

Internal Referral Body	Comments
	<p>Biodiversity Conservation Act 2016 (BC Act) Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> B4.18 Heathland/Woodland Vegetation <p>The application requires consideration of both construction and operational impacts.</p> <p>Biodiversity impacts relating to construction appear to have been avoided adequately, with no native vegetation requiring removal (Kingfisher 2021), which is supported by the both the Site Plan (Modality 2021) and the Bush Fire Assessment Report (Bushfire Consultancy Australia 2021).</p> <p>Operational impacts to biodiversity resulting from the application have been considered, and are proposed to be mitigated in the following ways:</p> <ul style="list-style-type: none"> Native landscaping and revegetation to provide a visual and sound barrier for the facility, as well as to provide bio-filtration of stormwater prior to it leaving the site as detailed in the 'Ecological Advice and Landscape Plan' (Kingfisher 2021); Noise barriers for 25m in length between the facility and adjoining Ingleside Chase Reserve; Effluent management system. <p>In addition, conditions are recommended to extend the noise barrier on the eastern boundary to 75m as proposed on the western side (except to allow access) to minimise noise impacts to native fauna in the adjoining reserve. Further, dogs are to be prevented from accessing areas west of the 'Main Day Care Facility' to minimise indirect impacts caused by noise and odour to native fauna within the reserve. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p>SUPPORTED - subject to conditions</p> <p>The submitted stormwater design including OSD is acceptable. The existing driveway crossing is to remain which is acceptable. The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>
NECC (Water Management)	<p>SUPPORTED - subject to conditions</p>

Internal Referral Body	Comments
	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>The development is subject the Water Management for Development Policy.</p> <p>The proposal is including a stormwater system for the shed roof and car runoff connected to the street. Additionally a proposed vegetated swale is capturing the runoff from the training area and dog areas.</p> <p>The proposed waste management system is satisfactory in regards to stormwater water quality (runoff) and the site riparian setting.</p> <p>No objection to the proposal, subject to conditions as recommended.</p>
Parks, reserves, beaches, foreshore	<p>SUPPORTED - subject to conditions</p> <p>This application seeks approval for an animal daycare and training establishment within a lot zoned as <i>RU2 Rural Landscape</i>. Proposed works include the construction of a new shed, car parking, wash down facilities, wastewater system, fences, gates as well as additional landscaping.</p> <p>The property adjoins Ingleside Chase Reserve to the East, which is located down-slope of proposed works. All works adjoining public land must ensure that sediment runoff and/or erosion is controlled, managed and contained within the site boundaries and prevents form entering the reserve.</p> <p>No encroachments are permitted on public land and all works shall be confined within the legal boundaries of the site.</p> <p>Parks Referral raises no objections to the proposal subject to the following conditions.</p>
Traffic Engineer	<p>SUPPORTED - subject to conditions</p> <p>The development application is for the introduction of a doggy day care centre on 2 Ha of Rural zoned land at No. 235 Powderworks Road. The centre is proposed to operate 7 days a week between 8am and 5pm and cater for up to 25 dogs at a time with no overnight boarding of pets proposed. The day car operations are proposed to operate Monday to Friday with weekend dog training classes catering for up to 8 pets also to operate. Maximum staff numbers are proposed to be 5 persons. A carpark catering for 10 vehicles including one disabled parking space is proposed plus 1 space for a dog pick up van.</p> <p><u>Parking:</u></p> <p>There is no DCP Parking rate for this type of development. The parking requirements would however be similar to that for a child care</p>

Internal Referral Body	Comments
	<p>centre, requiring owners to drop off and pick up their pets and settle the animal before departing. The RMS Guide to Traffic Generating Development suggests that childcare centres should provide parking at a rate of 1 space for every four children in attendance. If these rates were adopted, a doggy daycare centre catering for 25 dogs would require 6.25 spaces. The developer proposes to make allowance for parking for each of the 5 staff employed on site (this is considered appropriate given the lack of safe kerbside parking on the Powderworks Road frontage of the site). Another 5 spaces for pick up and drop off purposes and a space for a van are also proposed. The carparking provisions are considered acceptable.</p> <p>The carpark has been designed to cater for cars to enter and exit from the site in a forwards direction. The parking spaces are sized in accordance with the requirements of AS2890 and the parking aisles appear to be of compliant widths. Swept path plots provided with the traffic and parking impact assessment confirm that B99 vehicles can enter and exit the site in a forwards direction.</p> <p><u>Traffic Generation:</u></p> <p>The traffic and parking impact assessment advises that most dogs will be picked up and collected by a van servicing the centre. The centres operation manual outlines that a maximum of 10 dogs will be permitted to be transported to the centre by their owners and that this will only be permitted by appointment with appointments staggered to minimise traffic generation and parking impacts.</p> <p>There are no RMS traffic generation rates for this type of development however the traffic and parking impact statement has estimated the number of traffic movements based upon a first principles analysis with 17 inbound and 12 outbound movements anticipated in the am peak and 12 inbound and 17 outbound movements anticipated in the pm peak.</p> <p>These numbers are considered acceptable and unlikely to impact upon traffic conditions in this part of Powderworks Road or nearby streets.</p> <p><u>Driveway safety:</u></p> <p>Powderworks Road has a 60km/h speed limit on the frontage of the site. There is some crash history associated with speed related and loss of control crash types involving southbound vehicles on Powderworks Road however these have all occurred north of the subject site, nearer to the intersection with Ingleside Road where there is a tight bend in the road. The bend in the road means that traffic has generally slowed to negotiate the bend and is likely to be travelling at speeds less than 60km/h past the site. There is sight distance of approx. 78m to the north and in excess of 150m of sight distance to the south for a vehicle exiting the driveway. The Austroads</p>

Internal Referral Body	Comments
	<p>Road Design Guide Part 3 Geometric Design suggests that the required safe stopping sight distance for an approach speed of 60km/h is 73m. The location of the driveway is therefore considered acceptable in terms of sight lines and vehicles should be able to enter and exit the site safely.</p> <p><u>Loading/Servicing:</u></p> <p>The Loading and Servicing requirements for this type of development will be minimal and likely to be by small rigid trucks or mini vans which can be accommodated within the customer carparking spaces.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</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

State Environmental Planning Policy (Resilience and Hazards) 2021 repealed the State Environmental Planning Policy No 55—Remediation of Land.

Clause 4.6 of SEPP(Resilience and Hazards) 2021 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and agricultural purposes for a significant period of time. Given the previous location of the greenhouses, the nature of the proposed use, and the extent to which the land has already been cut and filled over the past few years, the risk of contamination is considered to be low.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 4.6 of SEPP (Resilience and Hazards) 2021 and the land is considered to be suitable for the commercial land use.

SEPP 64 - Advertising and Signage

State Environmental Planning Policy (Industry and Employment) 2021 repealed the State Environmental Planning Policy No 64—Advertising and Signage.

Clauses 3.6 of (Industry and Employment) 2021 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 5 of SEPP (Industry and Employment) 2021, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The fence sign will aid in advertising the proposed facility, through providing wayfinding for their customers. The sign is consistent with the existing signage found within the locality. Overall, the proposal is compatible current and future character of both the building and the surrounding area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is relatively minor in terms of scale and will be consistent with the surrounding outdoor advertising theme.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal will not be illuminated and will remain consistent with the size and type of existing signage within the locality. Overall, the signage is suitably located and designed.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The signage does not affect any views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The sign is fixed to the existing fence and does not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposal will not obscure surrounding advertising.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale and setting of the signage is appropriate for the proposed business and balanced with the other signage along Powderworks Road.	YES
Does the proposal contribute to the	The signage is relatively minor in scale and will	YES

visual interest of the streetscape, setting or landscape?	not adversely impact the streetscape or landscape.	
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage design will simply contain the business's name and logo.	YES
Does the proposal screen unsightliness?	The sign is not used as a screen.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed sign will be fixed to the existing fence and will not protrude above the existing structure.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is compatible with the use and provides advertising opportunities for the business, along the street frontage without being unduly contrasting or disruptive.	YES
Does the proposal respect important features of the site or building, or both?	The proposed sign is relatively minor in scale and will respect the important features of the existing site and building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage will improve the appearance of the site and building.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The sign will not be illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	The sign will not be illuminated.	YES
Is the illumination subject to a curfew?	The sign will not be illuminated.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposal will not adversely affect public safety and will unreasonably distract to motorists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed sign is fixed to the fence and does not obstruct any sight lines.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying

objectives.

SEPP (Infrastructure) 2007

State Environmental Planning Policy (Transport and Infrastructure) 2021 repealed the State Environmental Planning Policy (Infrastructure) 2007.

Ausgrid

Clause 2.48 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 raised no objections, subject to conditions which have been included in the recommendation of this report.

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	Complies
Height of Buildings:	8.5m	4.3m (Shed)	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment:

The subject site's south-west corner is classified to be a low flood risk precinct. However, a Flood Management Report will not be required as the property is not affected by the Flood Planning Level (FPL).

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

The subject development area is located outside of the low flood risk precinct. In this regard, Council is satisfied that the development is consistent with the objectives of this clause and the matters raised in points (a) - (e).

7.6 Biodiversity protection

Council's Biodiversity Officer concluded that the proposal can be undertaken without significant or

serious and irreversible impacts to local biodiversity, subject to recommended conditions of consent.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	20.0m	20.5m (Carpark) 25.3m (Shed)	N/A	Yes
Rear building line	20.0m	57.7m (Waste system)	N/A	Yes
Side building line	7.5m - North	24.6m (Training Area)	N/A	Yes
	7.5m - South	8.6m (Carpark)	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	94% (19,023.72sqm)	85.01% (17,204.2sqm)	9.6%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.2 Safety and Security	Yes	Yes
C5.4 View Sharing	Yes	Yes
C5.5 Accessibility	Yes	Yes
C5.7 Energy and Water Conservation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C5.8 Waste and Recycling Facilities	Yes	Yes
C5.9 Signage	Yes	Yes
C5.10 Protection of Residential Amenity	Yes	Yes
C5.16 Building Facades	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.2 Scenic protection - General	Yes	Yes
D5.3 Building colours and materials (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.5 Front building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.7 Building envelope (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.10 Landscaped Area - Non Urban	No	Yes
D5.12 Fences - Flora and Fauna Conservation Areas	No	Yes
D5.13 Construction, Retaining walls, terracing and undercroft areas (Excluding Elanora Heights Village Centre)	Yes	Yes

Detailed Assessment

A4.5 Elanora Heights Locality

The subject site is located within the Elanora Heights locality.

The development is consistent with the Desired Character statement of the Elanora Heights Locality. Specifically, the locality statement states that the "Development on non-urban zoned land shall maintain generous spatial separation of the built form and low site coverage on large lots ". The proposed animal boarding and training establishment provides generous spatial separation to the existing built form and will not require the construction of any excessive hard surface areas.

The proposal achieves general compliance with the relevant built form controls. Therefore the built form will sit comfortably with adjoining and surrounding non-urban development. On balance, the proposal is considered consistent with the desired future character of the locality.

B6.3 Off-Street Vehicle Parking Requirements

An animal boarding and training establishment is not a listed in the car parking land use in table as per clause B6.3 Off Street Vehicle Parking. Nor is an animal boarding and training establishment a prescribed use in the Roads and Maritime Services Guide to Traffic Generating Development document. Therefore, the proposed use does not have a specified number of car parking spaces, and the parking arrangements have been assessed on its merits. Detailed commentary from Council's Traffic Engineer is provided in the 'Referrals' section of this report. In summary, the car parking provision of ten (10) off-street parking spaces is considered acceptable.

B6.7 Transport and Traffic Management

The proposed works are not considered to result in any unreasonable traffic impacts to Powderworks Road. Council's Traffic Engineer provided a detailed assessment against this control, which can be viewed within the 'referral' sections of this report. In summary, no objection to the proposed development was raised subject to the recommended conditions of consent.

C5.17 Pollution control

The operation of the animal boarding and training establishment 'Hounds on Heels Doggie Daycare' is designed, operated and maintained in an efficient manner in order to prevent air and land pollution.

Noise

The noise from the animal boarding and training establishment has been assessed in accordance with the NSW EPA Noise Policy for Industry (NPfI), and a Acoustical Assessment, by Noise and Sound Services, dated January 2022.

The predicted noise levels as detailed in the Acoustic Report indicate noise compliance is achievable with the list criteria at the location of the nearest noise sensitive residential receivers. As reported in the Acoustical Assessment the expected noise from the proposed use would likely exceed acceptable noise targets (48 dBA) during a typical worst case scenarios of eight (8) dogs barking without any mitigation measures. As such, the recommendations include a noise barrier (earth mound) to each side of the development, which varies in height depending on its orientation and distance to adjoining and surrounding residential developments. In addition, it is understood from the Operational Management Plan that the proposed facility will have a strict assessment process for enrolling dogs, which involves a review of a dogs behavioural history and social experience. Further, the Operational Management Plan applies a zero tolerance policy;

- *Any aggressive/ reactive dog behaviour, and*
- *Excessive and consistent barking.*

The abovementioned Acoustical Assessment has been reviewed by Council's Environmental Health Division. Accordingly, this assessment finds that the proposal is supported subject to conditions, in this particular circumstance.

Wastewater Management (Onsite)

The effluent management scheme proposed by Blue Mountains Geological and Environmental Services allows for the management of human effluent and faecal waste from dogs. The proposed scheme is a Worm Farm Waste System (WFWS) and is located within the eastern portion of the site between the proposed facility and existing dam. The treated effluent will be applied back onto the land via the use of subsoil dispersal irrigation. An addendum to the Effluent Management report was submitted on 31 January 2022 to address the issues raised by Council's Environmental Health (unsewered lands) division. In summary, the response was deemed satisfactory, subject to conditions.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D5.10 Landscaped Area - Non Urban

Description of non-compliance

The proposal involves a landscaped area of 85.01% (17,204.2sqm). This represents a 9.6% variation of the 94% (19,023.72sqm) control.

It must be noted that the existing site is non-compliant with this control (17,928.28sqm)

Merit consideration

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

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

Comment:

As discussed elsewhere in this report the proposal is generally consistent with the desired with the future character of the locality.

- *To preserve and enhance vegetation to visually reduce the built form.*

Comment:

The proposed built form is relatively minimal with the majority of structures being low-lying and lightweight. In addition, the proposal provides generous building separation from the boundaries and the existing dwelling house, which allows a visual break to mitigate the built form. Furthermore, the proposed landscape design will enhance the site's natural features, while providing reasonable screening for adjoining and surrounding residential properties. Overall, the proposed built form is effectively minimised, as it remain commensurate to the proposed landscaped areas.

- *To minimise the impact of development on Pittwater's biodiversity by minimising the removal of indigenous vegetation and naturally occurring soils, conserving existing significant indigenous and native trees, and encouraging planting of indigenous and native plants and trees on private property.*

Comment:

The proposal will not involve the removal of any significant vegetation. In addition, Council's Bushland and Biodiversity division has reviewed proposal and are satisfied that it is consistent against relevant environmental controls, subject to conditions.

- *To conserve significant natural features of the site and contribute to effective management of biodiversity.*

Comment:

As above, the works will not involve the removal of any significant vegetation and the proposed landscape design will enhance the site's natural features. In addition, the proposal was reviewed by Council's Bushland and Biodiversity division, who raised no objections to the proposal.

- *To provide for infiltration of water to the water table, minimise stormwater runoff and assist with stormwater management to reduce and prevent soil erosion and the siltation of natural drainage channels.*

Comment:

Council's Development Engineer is supportive (subject to conditions) of the proposal in relation

to stormwater management. In addition, imposed conditions will ensure that soil erosion is minimised throughout construction.

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

Comment:

Sufficient soft surface areas are provided for the infiltration of stormwater to minimise run-off.

- *To preserve and enhance the rural and bushland character of the non-urban area of the locality.*

Comment:

The landscaped area within the site is sufficient and the proposal is not expected to unreasonably impact upon bushland characteristics of the locality.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D5.12 Fences - Flora and Fauna Conservation Areas

Description of non-compliance

The control requires fences within the front building line to have a maximum height of 1m above the existing ground level, be compatible with the streetscape character and not obstruct views available to the road.

The proposed noise barrier fence is located 7.5m behind the existing front boundary fence and is to be stepped with the site topography with a maximum height of 1.5m above the existing ground level.

Merit consideration

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

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

Comment:

The proposal maintains the desired future character of the Elanora Heights locality.

- *An open streetscape that allows casual surveillance of the street. To define the boundaries and edges between public and private land and between areas of different function.*

Comment:

Sightlines will be maintained over the structure to allow for casual surveillance of the street.

- *Fences, where provided, are suitably screened from view from a public place.*

Comment:

The proposed fence is set back 7.3m from the front boundary and substantial deep soil planting is proposed within the setback area. As such, screening of the fence from the public domain is achieved.

- *To ensure fences compliment and conserve the visual character of the street and neighbourhood. To contribute positively to the public domain.*

Comment:

As above, the proposed noise barrier fence will not be readily visible, when viewed from the street given the generous separation from the front boundary and screen planting. In this regard, the proposal will maintain the visual character of the street and neighbourhood.

- *Safe and unhindered travel for native animals. Maintenance of the natural open character of the headland and remnant bushland areas.*

Comment:

The proposed fence is a solid construct, as it will serve as a noise barrier for the intended use of the site. In this regard, native animals will not be able travel through this portion of fencing on the site. Notwithstanding, the proposal has been reviewed by Council's Bushland and Biodiversity division who raised no objections towards the proposed fencing. In addition, the remnant bushland areas will not be impacted by the proposal.

- *To enhance safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.*

Comment:

The proposal will maintain safe sight distances and clear view of the street.

- *To ensure heritage significance is protected and enhanced.*

Comment:

The site is not identified as a heritage item nor located within the vicinity of a heritage item.

- *To ensure an open view to and from the waterway is maintained.*

Comment:

Not applicable.

- *To ensure native vegetation is retained.*

Comment:

No native vegetation is proposed for removal as part of this application.

Having regard to the above assessment, it is concluded that the proposed development is consistent

with the relevant objectives of P21DCP 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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$3,270 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$327,000.

CONCLUSION

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

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

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

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

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

The subject site currently contains a detached dwelling house, in-ground swimming pool and a dam. The proposal seeks consent for the use and construction of an animal boarding and training establishment.

The development includes DCP non-compliances relating to landscaped area and front fence height.

The proposal attracted 44 submissions to the formal notification.

This assessment has concluded that the non-compliances are reasonable.

Accordingly, the application is recommended for approval subject to conditions.
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 DA2021/2138 for Use of premises as an animal boarding and training establishment on land at Lot 63 DP 30255, 235 Powderworks Road, INGLESIDE, 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
HOH-01-01: Site plan	30 October 2021	Modality P/L
HOH-01-02: Floor plan	30 October 2021	Modality P/L
HOH-01-03: North elevation	30 October 2021	Modality P/L
HOH-01-04: West elevation	30 October 2021	Modality P/L
HOH-01-05: South elevation	30 October 2021	Modality P/L
HOH-01-06: Eastern elevation	30 October 2021	Modality P/L
HOH-01-07: Western elevation and signage	30 October 2021	Modality P/L

Engineering Plans		
Drawing No.	Dated	Prepared By
2122-1	23 August 2021	Michael Gergich Consulting Engineer
2122-2	23 August 2021	Michael Gergich Consulting Engineer

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Assessment - Report No. nss23573	January 2022	Sound and Services
Bush Fire Assessment Report - Report No. 235Pow-01	25 August 2021	Bushfire Consultancy Australia
Ecological Report	October 2021	Kingfisher
Effluent Management - Ref. No. 210902	September 2021	Blue Mountains Geological and environmental Services
Geotechnical Report - Report No. J3649	1 November	White Geotechnical Group

	2021	
Operations Manual	Not stated	Palisady Investments
Traffic and Parking Plan - Ref. No 21258	October 2021	Traffic and Planning Associates

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
Ecological Report - Page 27	October 2021	Kingfisher

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	1 November 2021	Mark Newell

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	10 November 2021

(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. Approved Land Use

Nothing in this consent shall authorise the use of site as detailed on the approved plans for any land use of the site beyond the definition of a *animal boarding and training establishment*.

A animal boarding and training establishment is defined as:

"a building or place used for the day time boarding and training of animals for commercial purposes."

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 development application.

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

4. Animal Capacity

The capacity of the premises is limited to the following;

- o 25 dogs for animal boarding (Monday-Friday),
- o 8 dogs for animal training (Saturday - Sunday).

Reason: To maintain neighbourhood amenity

5. Comply with Operations Manual

An amended Operations Manual is required to be submitted to, and approved by the Executive Manager Development Assessments, detailing the operation of the development. The Operations Manual shall include, but not be limited to the following:

- o Complaints management - A dedicated phone number for complaints must be provided, which must be separate to any other number for bookings, enquiries etc. The phone must be operational/answered for at least 2 hours following closing times. A register must be kept of all complaints and how the complaint was resolved, and proposed changes to the Operations Manual as a result, and must be available to Council upon request.

At all times, operations must comply with the document titled "HOUNDS ON HEELS DOGGIE DAYCARE – Operations Manual" that forms part of this development determination.

Reason: to prevent offensive noise according to the Noise Policy for Industry 2017 and Protection of Environment Operations Act 1997. (DACHPBOC6)

6. 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.

7. 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 sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

8. **Wastewater System Approval to Operate**

The owner and/or operator of the on-site wastewater management system must have a current Local Government Act Section 68 'approval to operate' at all times.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

FEES / CHARGES / CONTRIBUTIONS

9. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$3,270.00 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 2021. The monetary contribution is based on a development cost of \$327,000.00.

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 2021 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.

10. **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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 1 November 2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

12. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

13. **Noise Impacts to Ingleside Chase Reserve**

The proposed noise barrier (25m) on the eastern side of the Main Day Care Facility to be extended the full length of the proposed facility along the eastern border (approximately 75m length) to minimise operational impacts (i.e. noise) of the proposed facility on native fauna in the adjoining reserve.

Reason: To minimise indirect impacts to native fauna in the adjoining reserve.

14. **Erosion and Sediment Control Plan**

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

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

15. **Stormwater Treatment Measures**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

16. Detailed Design of Stormwater Treatment Measures (natural filtration)

A certificate from a Civil Engineer, stating that the stormwater treatment measures (vegetated swale) have been designed in accordance with the Ecological Advice and Landscape Plan (Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands October 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.

17. 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 Michael Gergich Consulting Engineer, drawing number 2122-1 and 2, dated 23.8.21. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. The OSD basin volume is to be a minimum of 36,000 litres in accordance with Table 7 of Council's Water Management for Development Policy.
2. The orifice is to be designed to discharge a maximum rate of 18 litres/second in accordance with Table 7 of Council's Water Management for Development Policy.
3. The detention basin is to be designed in accordance with Clause 9.10.6 of Council's Water Management for Development Policy.
4. A swale is to be provided over the outlet pipe from the control pit to the boundary pit to contain overflows due to a blockage of the system.

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.

18. Engagement of Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the 'Ecological Advice and Landscape Plan' (Kingfisher 2021).

The Project Ecologist must have one of the following memberships / accreditation:

- o Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- o Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

19. **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.

20. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

21. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **Implementation of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plan (Kingfisher 2021) and these conditions of consent.

The new landscaping is to be certified by the Project Ecologist as being in accordance with the approved Landscape Plans and these conditions of consent

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

23. **Works on Land Owned or Managed By Council**

No works are to be carried out on Land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works on Land owned or managed by Council.

Reason: To protect the land owned and managed by Council.

24. **Installation and Maintenance of Sediment and Erosion Control**

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area, in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

25. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure Work zones are monitored and installed correctly.

26. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows on Powderworks Road.

Reason: Requirement of TMC for any works that impact on traffic flow.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

27. **Protection of Landscape Features and Sites of Significance**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed during demolition, excavation and construction works, except where affected by works detailed on approved plans.

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

Reason: Preservation of significant environmental features.

28. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
i) all trees and vegetation within the site not approved for removal, 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.

The Certifying Authority must ensure that:

- c) 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.

29. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by

ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) 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.

30. **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.

31. **Substitution of Stormwater Treatment Measures**

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.

32. **No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through adjacent Land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

33. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in Land owned or managed by Council is prohibited.

Asset Protection Zones as defined within Planning for Bush Fire Protection 2019, shall be contained wholly within development sites, and shall be managed by the development site owner in perpetuity.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance. Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately Contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

34. **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.

35. **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.

36. **Imported Fill used for Earthen Noise Barrier**

The importation of any fill material onto the site must be certified as either *Virgin Excavated Natural Material* (VENM) or *Excavated Natural Material* (ENM), not contaminated, and suitable for the land use.

Reason: to ensure that fill is not contaminated according to the requirements of Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 2014. (DACHPEDW5)

37. **Noise Barrier Completion**

The acoustical mitigation measures are to be constructed in accordance with section 5.3 of the report titled "Acoustical Assessment – Proposed Dog Doggie Day Care Establishment" nss23573, (dated January 2022, prepared by Noise and Sound Services) prior to any training or board of animals on site.

Reason: To maintain neighbouring amenity.

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

38. **Landscape Completion**

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

Prior to the issue of an Occupation Certificate, details 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.

39. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Kingfisher 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

40. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

41. **Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the property are to be removed.

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 weeds.

42. **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 Ecological Advice and Landscape Plan (Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands October 2021) and the detail design approved for construction certificate.

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 Final Occupation Certificate.

Reason: Protection of the receiving environment.

43. **Removal of All Temporary Structures/Materials and Construction Rubbish**
Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.
- Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.
- Reason: To protect reserve amenity and public safety.
44. **Disabled Parking Spaces**
Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.
- Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.
- Reason: To ensure compliance with Australian Standards.
45. **Shared Zone Bollard**
A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.
- Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.
- Reason: To ensure compliance with Australian Standards.
46. **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.
47. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA), a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and Hydraulic Engineers' certification.
- 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 disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment 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 is to be submitted.
- Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

49. **Certification of Fill Material**

The certification of either VENM or ENM fill material must be provided by the Principal Certifier to Council with the application for Occupation Certificate.

Reason: to ensure that fill is not contaminated according to the requirements of Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 2014. (DACHPFPOC3)

50. **Wastewater System Approval to Operate**

Prior to the issuing of any interim / final occupation certificate, a copy of a s68 (Local Government Act 1993) approval to operate the on-site wastewater management system (OSWMS), and the OSWMS must be activated and effectively operating to the satisfaction of the Principal Certifier.

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

51. **Wastewater System Installation approved by a suitably qualified person**

Prior to the release of the Occupation Certificate (OC), the Principal Certifier must provide evidence from a suitably qualified person that the on-site wastewater management system has been installed according to the design approved as part of the development application determination, detailed in the document "REPORT ON INVESTIGATION AND ASSESSMENT FOR THE SITING OF A PROPOSED EFFLUENT MANAGEMENT SYSTEM AT LOT 63 DP 30255, No. 235 POWDERWORKS ROAD, INGLESIDE", dated September 2021, referenced as 210902 and prepared by Geological and Environmental Services Pty. Ltd.

Reason: To ensure the wastewater system has been installed correctly to minimise the potential for harm.

52. **Noise Barrier Certification**

Prior to Occupation Certificate being released, a suitably qualified acoustic consultant must approve the installation of all acoustic barriers and mitigation measures according to section 5.3 of the report titled "Acoustical Assessment – Proposed Dog Doggie Day Care Establishment" nss23573, dated January 2022, prepared by Noise and Sound Services.

Details of the installation must be provided to the Principal Certifier.

Reason: to prevent offensive noise according to the Noise Policy for Industry 2017 and Protection of Environment Operations Act 1997.

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

53. **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.

54. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

55. **Survival of Canopy Trees**

Tree plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

56. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times, including all areas east of the proposed noise barrier.

Dogs and cats are to be kept in an enclosed area and/or inside the facility, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife from indirect impacts (i.e. noise and odour).

57. **Maintenance of Stormwater Treatment Measures - Minor**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

58. **Site Occupancy**

That the number of (customers/visitors/guests/patrons) on the site at any one time be limited to 5 on weekdays and 8 on weekends.

The number of staff on site at any one time to be limited to 5 on weekdays and 2 on weekends

Reason: To ensure that all parking generated by the site is contained on the site.

59. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 8am to 5pm ('**Doggie Daycare**'),
- Saturday – 9am to 5pm ('**Dog training**'),
- Sunday and Public Holidays – 9am to 1pm ('**Dog training**').

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

60. **No Illumination**

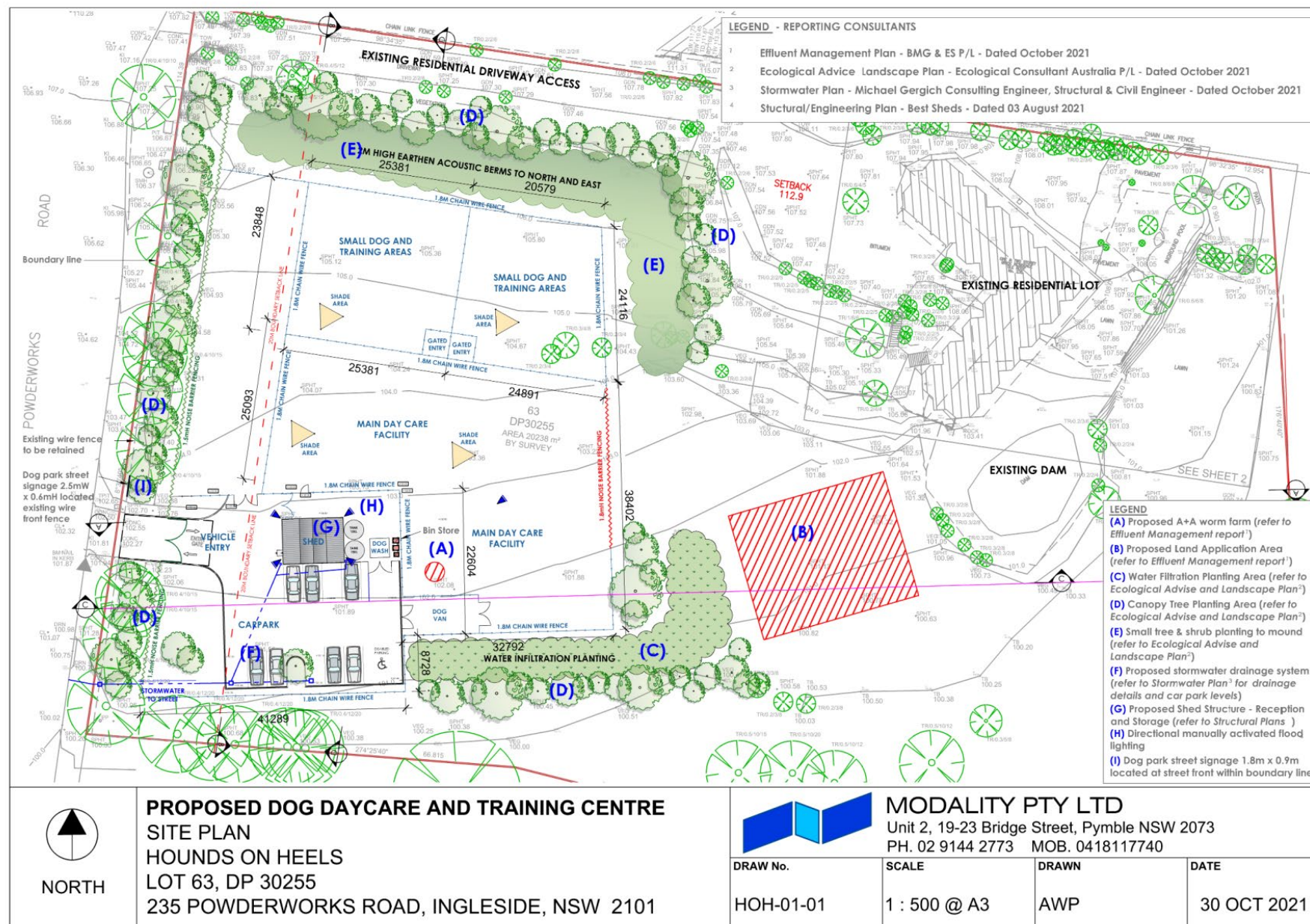
No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

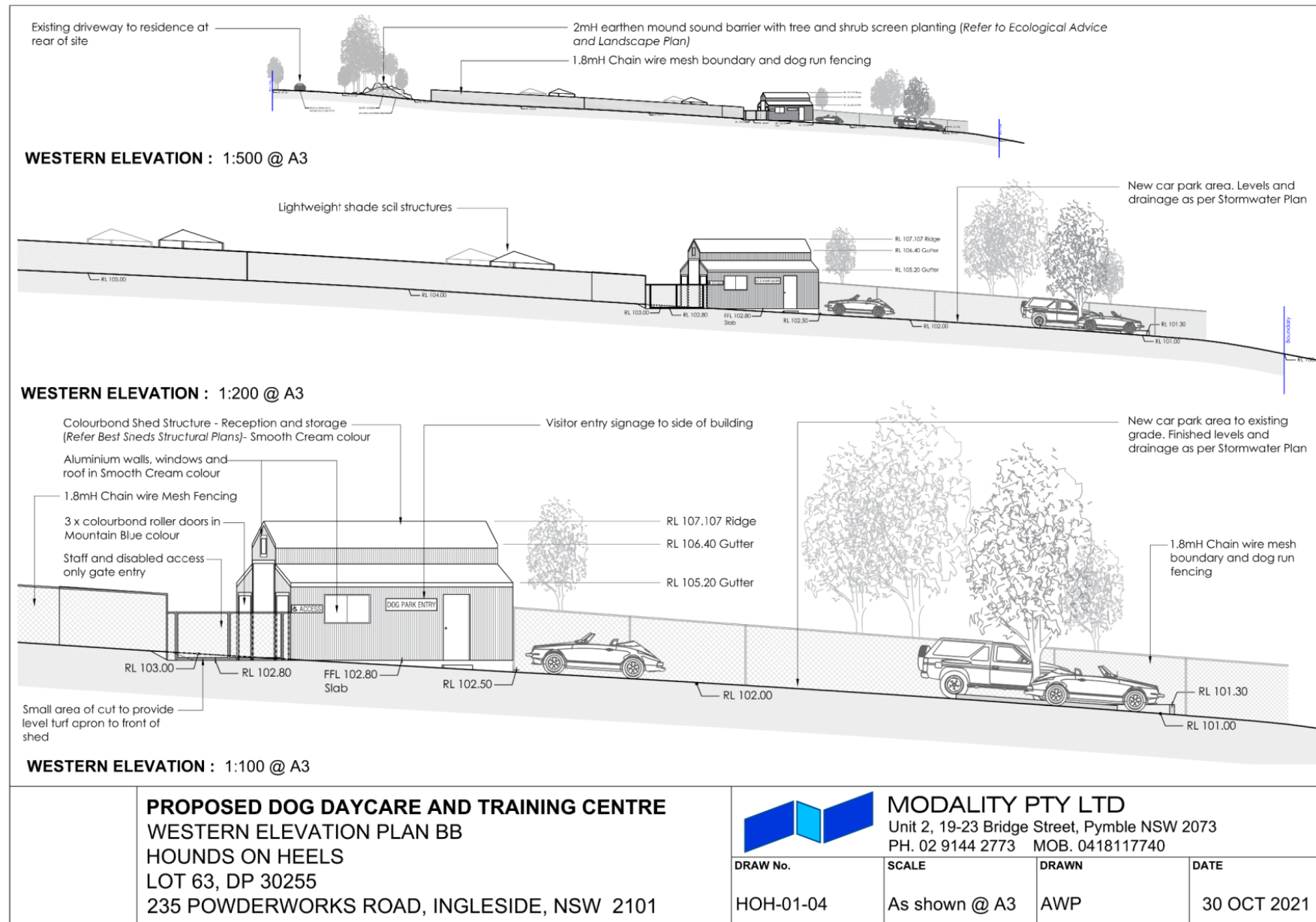
61. **Commercial Waste Collection (DACPLG18)**

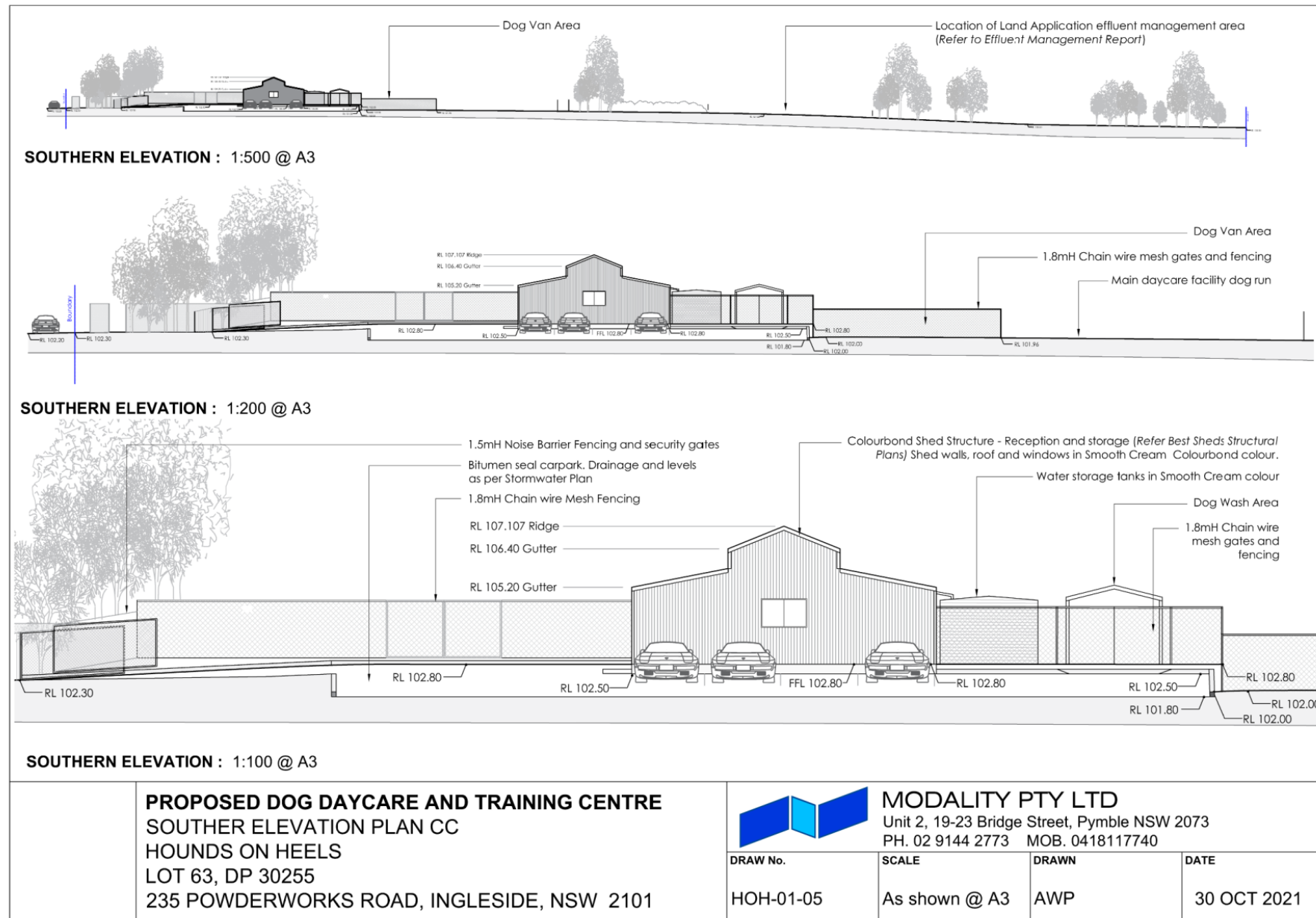
Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

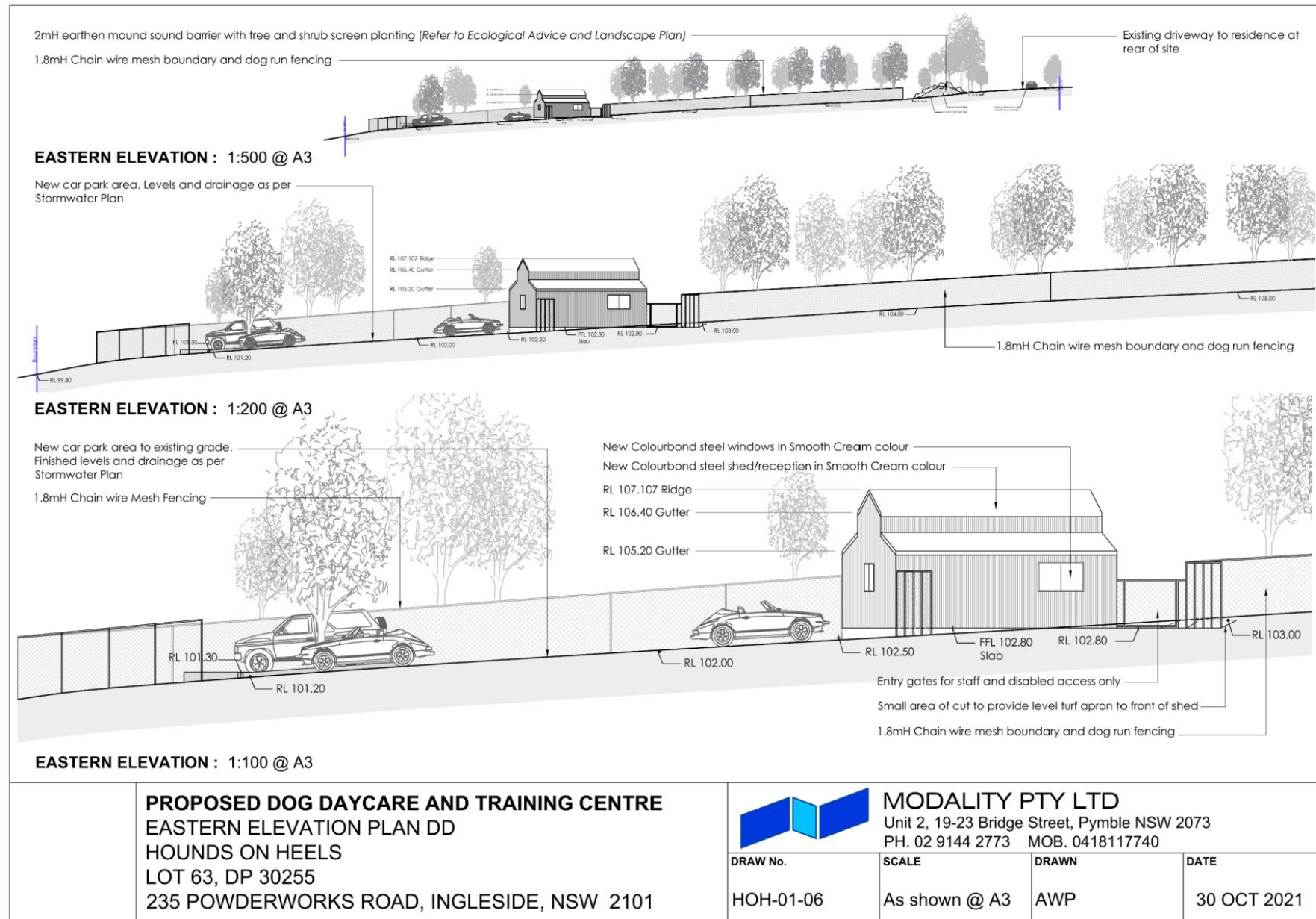
Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

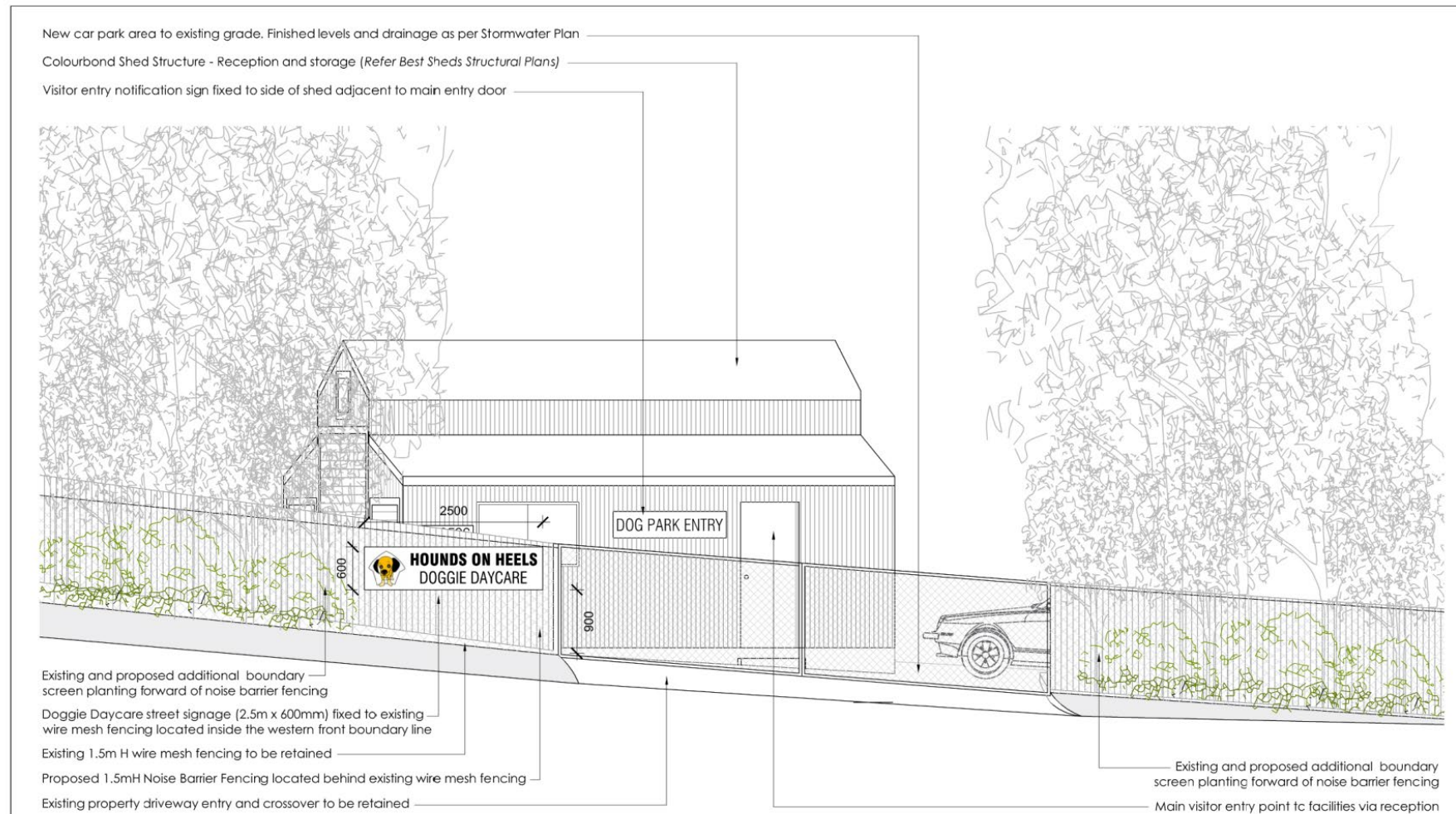












WESTERN STREET ELEVATION : 1:50 @ A3

PROPOSED DOG DAYCARE AND TRAINING CENTRE
WESTERN STREET ELEVATION AND SIGNAGE PLAN
HOUNDS ON HEELS
LOT 63, DP 30255
235 POWDERWORKS ROAD, INGLESIDE, NSW 2101



MODALITY PTY LTD

Unit 2, 19-23 Bridge Street, Pymble NSW 2073
 PH. 02 9144 2773 MOB. 0418117740

DRAW No.	SCALE	DRAWN	DATE
HOH-01-07	1 : 50 @ A3	AWP	30 OCT 2021

ITEM 4.2**DA2021/1901 - 21-23 MONA STREET & 120 BASSETT STREET, MONA VALE - DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS HOUSING DEVELOPMENT****AUTHORISING MANAGER** Steve Finlay**TRIM FILE REF** 2022/190144**ATTACHMENTS**
1 Assessment Report
2 Site Plan and Elevations
3 Design and Sustainability Advisory Panel Report**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. DA2021/1901 for demolition works and construction of a Seniors Housing development on land at Lot 8 DP 701367, 23 Mona Street, MONA VALE, Lot 9 DP 701367, 21 Mona Street, MONA VALE, Lot 10 DP 701367, 120 Bassett Street, MONA VALE, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1901
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 8 DP 701367, 23 Mona Street MONA VALE NSW 2103 Lot 9 DP 701367, 21 Mona Street MONA VALE NSW 2103 Lot 10 DP 701367, 120 Bassett Street MONA VALE NSW 2103
Proposed Development:	Demolition works and construction of a Seniors Housing development
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Justin William McCabe Dianne McCabe Jade Rachelle Wedgewood Toole Bradley John Toole John Grant Jeffers Lorraine Mary Gabriel Jeffers
Applicant:	Mona Vale Holdings (Nsw) Pty Ltd
Application Lodged:	18/10/2021
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	20/10/2021 to 24/02/2022
Advertised:	20/10/2021
Submissions Received:	23
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 7,937,397.00

EXECUTIVE SUMMARY

The proposal involves the demolition of existing dwellings and structures and the construction of twelve (12) independent living three (3) bedroom dwellings with a single level of basement car parking for twenty-six (26) cars. The proposed development is defined as Seniors Housing, which is permissible

by virtue of the now repealed State Environmental Planning Policy (SEPP) Housing for Seniors or People with a Disability (HSPD) 2004, however the new "SEPP Housing" contained a relevant savings provision for this application.

The application is Nominated Integrated Development under S90 of the Water Management Act 2000 and so the application was notified for 28 days, and the General Terms of Approval (GTA's) have been issued by Water NSW.

The application is the subject of a Class 1 Appeal in the Land and Environment Court against the deemed refusal of the application and the matter is set down for a Section 34 Conciliation Conference on 26 April 2022.

The application was referred to the Design and Sustainability Advisory Panel (DSAP) on 16 December 2021, who concluded that the application is satisfactory subject to minor design changes to address solar access, internal amenity and sustainability. The Panel considered that *"the scale and highly articulated forms to be appropriate and a good fit with the context, helped further by the very large setback"*.

The height, density, bulk and scale of the proposal generally meet the PLEP 2014 and P21 DCP built form controls and the proposal is considered to be a compatible development, which respects the character of the Mona Vale locality. As such, the design appropriately responds to the built form and landscape character of the Locality despite the FSR of 0.57:1, which exceeds the 0.5:1 standard for the purposes of a refusal, and which is not a development standard under the SEPP.

The internal amenity of the dwellings has also been assessed by the DSAP to be of a high standard with the development exceeding the requirements of the SEPP and the P21DCP. The application has been amended to include the design changes recommended by the DSAP; namely, a non-trafficable roof garden over Unit 05 to improve the outlook from the upper floor Unit 11 and a reduction in the roof overhang to the south-east to reduce overshadowing. Conditions have been imposed to ensure that there is no loss of privacy as a result of the location of the upper floor windows and balconies to the boundaries.

The amended plans also provide two (2) visitor parking spaces and details of pedestrian refuges at Bassett Street and Pittwater Road to facilitate safe access to bus stops, which are supported by Council's Transport Engineer. The levels of the development have been changed and a flood gate to the basement entry is included to address flooding issues. A bulky waste room has also been added to address the concerns from Council's Waste Officer.

The public exhibition of the application resulted in twenty (20) submissions being received to the original development, all of which raised issues and concerns in relation to; overdevelopment of the site, out of character with the locality due to density, bulk and scale issues, amenity impacts (shadows and privacy), transport (parking, road safety and not accessible) and flooding.

The amended plans were re-notified resulting in an additional five (5) submissions from those that made a submission to the original proposal. The matters raised in the submissions are detailed in this report, and in summary it is found that the matters raised are not of such severity or consequence that would warrant the refusal of the application.

On balance, the assessment of the proposed development against the applicable planning controls and related legislation reveals that the application can be supported subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for demolition works and the construction of a seniors housing development comprising three (3) x two (2) storey buildings over a single level of basement, accommodating twelve (12) x three (3) bedroom self-contained units which vary in size between 128sqm and 133.5sqm . Each building is connected via an outdoor walkway with common landscaped areas through the centre of the development and around the street frontages.

Specifically, the development comprises the following (as amended):

Basement - RL-010

- Excavation to a maximum depth of 4.1m for the construction of a basement car park for twenty six (26) vehicles, including two (2) visitors spaces / 1 car wash bay
- Twelve (12) bike parking bays
- Storage areas, including bulky waste room
- Two (2) lift lobbies, two (2) lifts and stair access to all levels
- The basement car park is accessed via a new driveway / ramp along the southern boundary of the site via Bassett Street

Ground Level RL+3.10

- Six (6) x three (3) bed units (units 01 – 06), each unit has access to a private terraces / gardens
- Central outdoor walkway and common landscape areas
- Garbage room, located within the frontage
- Lobby, two (2) lifts and stair access

Level 1 RL+6.30

- Six (6) x three (3) bed units (units 07 and 12), each unit has access to a terrace
- Central lobby, two lifts and stair access
- A roof garden is proposed above unit 05

Roof RL +9.57

- PV solar panels
- Pop out clerestory windows RL+10.27 and RL10.40
- Lift over-run RL+10.30

Landscaping and External Finishes

- Walls and fences
- Landscape - removal of 9 trees, retaining 12 trees and replacement planting for 4 trees
- Two (2) pedestrian refuge islands, one on Bassett Street and one on Pittwater Road
- Materials - Concrete, brickwork, weather board cladding, sandstone, painted render colour light and dark, palisade, sandstone and timber fences, screens light and dark, metal roof and balustrades and 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

Assessment - Nominated Integrated Development – WaterNSW - Water Management Act 2000 (s91 Permit for Temporary Construction Dewatering)

Assessment - Nominated Integrated Development - WaterNSW Natural Resources Access Regulator - Water Management Act 2000 (s90 Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location)

Pittwater Local Environmental Plan 2014 - 5.21 Flood planning

Pittwater Local Environmental Plan 2014 - 7.4 Floodplain risk management

Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality

Pittwater 21 Development Control Plan - B3.8 Estuarine Hazard - Medium Density Residential

Pittwater 21 Development Control Plan - B3.11 Flood Prone Land

Pittwater 21 Development Control Plan - B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.20 Undergrounding of Utility Services

Pittwater 21 Development Control Plan - D9.12 Fences - General

SITE DESCRIPTION

Property Description:	Lot 8 DP 701367 , 23 Mona Street MONA VALE NSW 2103 Lot 9 DP 701367 , 21 Mona Street MONA VALE NSW 2103 Lot 10 DP 701367 , 120 Bassett Street MONA VALE NSW 2103
Detailed Site Description:	The subject site, No. 21 to 23 Mona Street and No. 120 Bassett Street Mona Vale comprises three (3) lots. The consolidated corner allotment is rectangular in shape with a frontage of 52.68m and 48m to Bassett Street and has an area of 2,873.4sqm. The site comprises detached two storey dwellings with garages and swimming pools on each lot. The site is relatively flat with a slight slope towards the street of approximately 0.8m. Twenty-one (21) trees have been surveyed on the site. The site is mapped as flood prone.

The site is zoned R2 (Low Density Residential) under the provisions of Pittwater Local Environmental Plan 2014 and the proposed development is prohibited in the zone. The application for seniors housing is lodged pursuant to SEPP (Housing for Senior's and People with a Disability) 2004 (SEPP HSPD).

Detailed Description of Adjoining/Surrounding Development

Surrounding development is mixed in use. One and two storey detached dwellings set back from the road in landscape settings surround the site to the immediate north-east and south-east. The Bangalow Reserve (zoned RE1) is located further to the east accessed off Bassett Street with a Business Park located opposite this reserve. Pittwater High school (zoned SP2 Educational Establishment) is located diagonally across Mona Street to the west. Winnererremy Bay Park (zoned RE1) is located on the opposite side of Mon Street to the north. An area of dense bushland is located on the opposite side of Bassett Street to the south which is owned by Sydney Water and is zoned SP2 Water Supply System.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site. The land has been used for residential purposes (dwelling houses) for an extended period of time.

There was no pre-lodgement meeting (PLM) held in relation to this development.

History of Subject Application

On 16 December 2021, the application was referred to the Design and Sustainability Advisory Panel (DSAP) who concluded that the application is supported subject to minor changes to address solar access, internal amenity and sustainability. The applicants response to these recommendation is discussed below and in detail under the heading SEPP (HSPD) 2004.

On 21 December 2021, the applicant lodged a Class 1 appeal in the Land and Environment Court (Case No. 2021/00361685), against the deemed refusal of the application and the matter is set down for a Section 34 Conciliation Conference on the 26 April 2022.

On 20 January 2022, the applicant was granted leave to rely on amended plans and additional information which were uploaded on the Planning Portal.

The amended plans included the following:

- Basement - The addition of two (2) visitor spaces and car wash deleted, a bulky waste room added and ramp levels amended.
- Ground Floor - Resident waste room, vehicle crossing and ramp grades amended.
- First Floor - Roof garden added to roof of Unit 05.
- Submission of an Estuarine Risk Management Plan.

On 11 February 2022, the applicant uploaded a further set of amended plans on the Planning Portal. The amended plans included the following:

- Basement - Floor level lifted 200mm to AHD 0.1, visitor parking bay amended to include a car wash bay, vehicle ramp amended to suit new floor level and flood barrier added to ramp AND 3.1 when engaged.
- Ground Floor - Floor level lifted 200mm to 3.1, pedestrian walkway extended to suit new floor level, vehicle ramp amended to suit new floor level and floor barrier added to ramp.
- First Floor - Floor level lifted 200mm to AHD 6.3, Slab overhang and eve along southwestern facade of units 12 and 13 reduced by 300mm, roof garden notes added.
- Roof Plan - General roof level lifted 200m to HD 9.57, slab overhang and eve along southwestern facade of units 12 and 13 reduced by 300mm, roof garden notes added.
- Elevations - amended to reflect the above changes.

In addition, the shadow diagrams have been corrected and amended to reflect the above changes. "Sun-eye views" have also been updated to demonstrate solar access and a cross section of the footpath to the bus stop added.

On 14 February 2022, the application was re-notified to all those that were originally notified and all those that made a submission to the original DA for a period of seven (7) days.

On 25 February 2022, the applicant up-loaded the following amended documents on the Planning Portal:

- Pedestrian Refuge plans issue C, and
- Traffic Statement

On 3 March 2022, a Preliminary Seepage Analysis report was submitted in response to a request for

further information from Water NSW.

This Assessment Report is based on an assessment of the final set of amended plans and supporting information uploaded on the Planning Portal on 11 and 25 February 2022.

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 (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 documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to flooding, the driveway design, pedestrian access to bus stops and solar access.</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</p>

Section 4.15 Matters for Consideration	Comments
	<p>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 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 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 matter may be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a 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 20/10/2021 to 24/02/2022 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 23 submission/s from:

Name:	Address:
Mr Mark James McLaughlin	7 Beaconia Close MONA VALE NSW 2103
Mrs Margaret Shacklady	35 Mona Street MONA VALE NSW 2103
Mr Robert Edward Guy	42 Bangalow Avenue MONA VALE NSW 2103
Mrs Erma Donaldson	54 Bangalow Avenue MONA VALE NSW 2103
Mrs Holly Anne Stubington	32 Bangalow Avenue MONA VALE NSW 2103
Mr Gregory George Pride	46 Bangalow Avenue MONA VALE NSW 2103
Mrs Judith May	2 / 1819 - 1823 Pittwater Road MONA VALE NSW 2103
Mrs Margaret McGuirk	30 Bangalow Avenue MONA VALE NSW 2103
Mrs Jacqueline Anne Bogunovic	4 Beaconia Close MONA VALE NSW 2103
Mr Fiona June Howell	5 Eric Green Drive MONA VALE NSW 2103
Mr Tremayne Hugh Raper	52 Bangalow Avenue MONA VALE NSW 2103
Mr Carl Patrick Hubbard	1 Eric Green Drive MONA VALE NSW 2103
Mr Geri Merle Kotow	50 Bangalow Avenue MONA VALE NSW 2103
Lawrence White	6 Beaconia Close MONA VALE NSW 2103
Ms Justine Nicole Hendriks	9 Beaconia Close MONA VALE NSW 2103
Mr Mario Francisco Benitez	94 Bassett Street MONA VALE NSW 2103
Mrs Susan Gaye Batcheler	12 Tallarook Close MONA VALE NSW 2103
Mrs Robyn Theresa Strevens	80 Waterview Street MONA VALE NSW 2103
Mr Christopher David Stead	20 Whitney Street MONA VALE NSW 2103
Mr Brock Vanzino	3 Beaconia Close MONA VALE NSW 2103
Mr John Harold Rollings	1 Beaconia Close MONA VALE NSW 2103
Mrs Josephine Mary Mendoza	25 Mona Street MONA VALE NSW 2103
Mr Felix Valentine Shaw	1662 Pittwater Road MONA VALE NSW 2103

The following issues were raised in the submissions:

- **Out of character with Mona Vale Locality**
- **Bulk and scale issues**
- **Density / Overdevelopment**
- **Parking and road safety**
- **Not accessible location**
- **Flooding issues**
- **Amenity impacts (Shadow / Privacy)**
- **Excessive excavation**
- **Contrary to SEPP (Housing) 2021**

The matters raised within the submissions are addressed as follows:

- **The development exceeds the 0.5:1 recommended in the SEPP (HSDP) and the resultant density, bulk, scale of the development represents overdevelopment which is out of character with the Mona Vale Locality.**

Comment:

The proposed development has an FSR of 0.56:1. As discussed in the SEPP (HSPD) section of this report, the 0.5:1 FSR is not a development standard which is to be complied with, but a standard that cannot be used to refuse a DA should it not exceed that standard. The development has adequate regard to the design principles set out in Clause 31 of SEPP (HSPD) and the DSAP have confirmed that, subject to minor design changes, there will be no unreasonable impacts on neighbouring amenity or the built form or landscape character of the Locality. The proposal has been amended to reduce potential shadow impacts and a condition is recommended to reduce the scale of the awning to the Bassett Street entrance to ensure it is appropriate in the streetscape. Furthermore, the development complies with the built form controls in terms of height, setbacks and landscape area.

- **Transport - Insufficient car parking, no visitor parking, insufficient access to bus stop and road safety issues.**

Comment:

The proposal involves twelve (12) units x three (3) bedroom units, requiring a total of twenty-four (24) resident car parking spaces. A total of twenty-four (24) resident car parking spaces are proposed, which complies with the parking requirements. In addition, the amended plans include two (2) visitor parking spaces and details of pedestrian refuges at Bassett Street and Pittwater Road. Council's Transport Engineer has confirmed that safe pedestrian access can be provided to the bus stops on Bassett Street and Pittwater Road, in compliance with the access requirements of SEPP (HSPD). Conditions are also included to ensure that there are no road safety issues arising from the development.

- **Flooding issues**

Comment:

The amended proposal raised the ground and basement levels to meet the Flood Planning Level and provisions have been made to ensure that the basement entry is adequately protected from flooding, which includes a flood gate. Council's Flooding Engineer has no objections to the amended proposal subject to conditions.

- **Impacts on residential amenity in terms of overshadowing and privacy.**

Comment:

Shadows - The proposal has been amended to reduce the roof overhang to the south-east corner to minimise shadow impacts on neighbours. Updated shadow diagrams have been submitted to demonstrate compliance with the solar access provisions of the SEPP (HSPD) and Clause D6 of the P21DCP. See more detailed discussion in the SEPP (HSDP) section of this report.

Privacy - The DSAP did not raise any issues with regards to privacy impacts on neighbouring residents. Notwithstanding this, the planning assessment identified that conditions are required for additional privacy treatment to the upper floor windows and balconies to ensure there is no unreasonable overlooking to neighbours. A condition also requires that the roof top garden above Unit 05 is not trafficable and only accessible for periodic maintenance.

- **Excessive excavation**

Comment:

The proposal seeks consent for bulk excavation to a maximum depth of 3.2m, with the lift excavation reaching a depth of 4.3m. The application is supported by a geotechnical report which confirms that geotechnical hazards can be managed and recommendations are made in the report. Conditions are imposed requiring compliance with the geotechnical report. In addition, dilapidation reports are required pre and post construction for the potentially affected neighbouring properties.

- **Contrary to SEPP (Housing) 2021.**

Comment:

The application was accepted by Council on 12 October 2021, which was before SEPP (Housing) came into effect on 26 November 2021. Schedule 7 (2) General Savings Provisions states: *The former provisions of a repealed instrument continue to apply to the following (a) a development application made, but not yet determined, on or before the commencement date.* In accordance with the savings provisions of SEPP (Housing) 2021, the application has been assessed in accordance with the provisions of SEPP (HSPD) 2004.

- **Negative impact on property value.**

Comment:

This is not a material planning consideration under S4.15 of the EPA Act, 1979.

The amended application was re-notified for a period of seven (7) days. Five (5) submission were received from neighbours that had already made submissions to the original scheme. The additional submissions reiterate the issues discussed above, noting that the amendments do not address the issues previously raised with respect to access to public transport, impacts on neighbours, traffic and parking and excessive density, bulk and scale and in appropriate design uncharacteristic of the locality.

- **Noise from the BBQ / entertainment area close to the common boundary will impact on neighbouring amenity (granny flat to the rear of 25 Mona Street) in terms of acoustic impacts, smell of smoke from the BBQ and overlooking as the fence height is not sufficient.**

Comment:

There is no change to the ground level areas of private open space in the amended plans. Notwithstanding this, it is acknowledged that the BBQ area and a small deck to Unit 05 is located close to the eastern boundary of the adjoining property at 25 Mona Street. The northern wall of the BBQ area provides a boundary treatment between the private open space to Unit 05 and Unit 04. The use of the BBQ area by the residents of the development is not anticipated to result in unreasonable amenity impacts to the neighbouring granny flat in terms of odour or visual or acoustic privacy. A condition has been imposed requiring a 1.8m high boundary fence provided in timber rather than an open style palisade fence, to ensure that adequate privacy and noise protection is provided between the development and neighbouring sites.

- **The pedestrian route to the bus stops is not a "safe" route as it passes through a medium risk flooding area along Mona Street and therefore does not satisfy Clause 26(2) (b) of SEPP (HSPD). The proposed flood gate creates a situation where elderly residents**

may be completely isolated within the proposed development and unable to access any facilities by either public transport or vehicle when the flood gate is operating.

Comment:

The pedestrian route to the bus stop is considered to be a 'safe' route despite it traversing a medium flood risk area. The proposed flood gate will ensure that the elderly and disabled residents are safe during the relatively short periods of flooding. For a more detailed assessment, refer to comments from Council's Flooding Engineer in the referrals section of this report.

- **The pedestrian refuge island introduces hazards into the design that affect other neighbouring residents and students and is a poor outcome for the community. The proposed location of the islands guides passengers and pedestrians in front of buses which is contrary to the Sydney Buses guidelines. A pedestrian (zebra) crossing is required on Mona Street and Basset Street. The refuge island does not provide adequate space between the vehicle crossing. Buses will not be able to stop parallel to kerb while stopped at the B pole creating hazards for alighting passengers. The islands will block access along Pittwater Road and driveways. The bus stop is more than 400m away from the site and therefore does not meet the accessibility requirements of SEPP (HSPD).**

Comment:

Council's Transport Engineer has confirmed that the amended Pedestrian Refuge Plans include some of the improvements that were required, however, conditions are recommended to address remaining issues in accordance with the relevant standards and specifications to ensure a safe pedestrian access to public transport and facilities. With respect to the concerns raised with the pedestrian refuge in Pittwater Road, the final design will need to address the following:

- Enable the existing bus service to be able to stop parallel to the kerb at the new bus stop locations, without obstructing through traffic.
- The 156 McCarrs Creek to Mona Vale service is the only route that services the subject bus stops. Articulated buses are not suitable for McCarrs Creek Road which has sections of narrow and winding roads, and all infrastructure is to be designed to cater for a standard 12.5m bus.

The proposed new bus stop locations are only 15m further north on the western side - and 25m north on the eastern side of Pittwater Road, and remains to be within 400m walking distance of the development in accordance with the accessibility requirements of SEPP (HSDP). Reference to spacing between the new bus stops from the Akuna Lane bus stop does not apply to the western bus stop as the 156 service towards McCarrs Creek operates along Darley Street (near Wilmette Place) before turning right onto Pittwater Road.

The proposed traffic control devices and facilities would also require the approval of Council and the Northern Beaches Local Traffic Committee prior to commencement of installation.

- **The proposal reduces the availability of on-street parking as 20-30m of parking spaces will be lost as a result of the refuge islands. There is no visitor car parking.**

Comment:

The issues regarding off-street parking are considered satisfactory as the amendments include the provision of the required two visitor parking spaces on the property. The pedestrian refuge in Bassett Street will not reduce parking spaces on the frontage of the development as the 10m 'No Stopping' east of the crossing point is located within the existing 'No Stopping' area. The proposed kerb blister islands on the opposite side of Bassett Street will also reduce the impacts

to parking.

- **In order to meet flooding requirements, fencing will need to be 50% open which will further impact on neighbouring amenity.**

Comment:

Council's Flooding Engineer has confirmed that a 50% open fence is not required as the site is almost completely outside of the 1% flood level area.

- **Seven (7) day re-notification is insufficient to allow a proper consideration of the amendments.**

Comment:

Under the Community Participation Plan (CPP), re-notification is not required for *amended applications (received during the DA process) where in the opinion of Council, such changes would result in a lesser or reduction of environmental impacts*. Additionally, the CCP does not specify the length of time required for a re-notification. The amendments that are of interest to the neighbouring residents are relatively minor and relate to a non-trafficable roof to unit 05 and additional details on pedestrian refuge islands to Pittwater Road and Bassett Street. Given the minor nature of the changes to the application and to the need to meet the Land and Environment Court timetable, the seven (7) day period for re-notification was considered to be adequate. It is noted that all submissions received after the end of the re-notification period have been considered.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>SUPPORTED</p> <p>The proposal was presented to the DSAP on 16 December 2021.</p> <p>Generally, the Panel were supportive of the character, bulk and scale, layout and design of the proposal. A number of recommendations were made by the Panel, which are detailed in the attached DSAP Report and discussed in further detail within this report under the SEPP (HSPD) section.</p> <p>The applicant made the following amendments in response to the DSAP comments:</p> <p><i>Scale, built form and articulation</i></p> <p><i>1. Reduction in the roof overhang on the south-east to reduce overshadowing to the neighbouring property.</i></p> <p><i>Landscape</i></p> <p><i>4. Non-accessible vegetated roof garden to the roof area on level 1 above apartment 05.</i></p>

Internal Referral Body	Comments
	<p>Conditions are included in the recommendation requiring:</p> <p><i>Scale, built form and articulation</i> 3. The high-level 'flying' roof (over the Bassett Street entrance) to be replaced with a lower level awning over the entry.</p> <p>DSAP made the following additional recommendations:</p> <p><i>Scale, built form and articulation</i> 2. Consideration should be given to a reduction in area (and bedroom numbers down from 3 to 2) for apartment 05.</p> <p><u>Response:</u> The reduction in the size of unit 05 will not result in a reduction to the FSR or the bulk and scale of the development as presented to the streetscape. In addition, there is no material benefit of the reduction of bedrooms to unit 5 to neighbouring amenity. As such, it is the Assessing Planning Officers opinion that compliance with this recommendation is not necessary, refer to the discussed under the heading SEPP (HSPD).</p> <p><i>Facade treatment / Aesthetics</i> 5. Consideration should be given to substituting rendered masonry with off-form concrete. 6. Consideration should be given to including skylights to the top floor bathrooms</p> <p><u>Response:</u> The proposed materials are assessed as acceptable. Due to the location of the PV Panels there is limited opportunity to add skylights to the bathrooms in the centre of the level 1 floor plan.</p> <p><i>Sustainability</i> 7. Reduce the amount of glazing to provide reduced heating and cooling loads. This will improve NatHERS score, thermal comfort and energy use 8. Electrify the services with heat pump hot water and induction cooktops, electric ovens 9. Increase the amount of PV and connect some direct to some of the apartments to increase the renewable energy consumption on site.</p> <p><u>Response:</u> The proposal includes 8kW PC and EV charging points for all car spaces. A condition requires compliance with the requirements specified in the BASIX certificate.</p>
Building Assessment - Fire and Disability upgrades	<p>SUPPORTED</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p>

Internal Referral Body	Comments
	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.
Environmental Health (Acid Sulphate)	SUPPORTED Investigation revealed no Acid Sulfate Soils (potential or actual) on the site of proposed works, therefore, and an Acid Sulfate Soil Management Plan is not required. No objection to the proposal.
Environmental Health (Industrial)	SUPPORTED Plans reveal basement level plant and fan rooms, which we can only assume are for central air conditioning and ventilation. There is a minor concern that the exhaust output of this mechanical plant may cause noise impacts on surrounding residences. As standard, we request that the mechanical plant be acoustically assessed prior to Occupation Certificate.
Landscape Officer	SUPPORTED <i>updated comments:</i> An updated Landscape Plan is submitted including a roof garden over apartment 05. Maintenance access provisions are provided through a common area window along the hallway servicing apartments 09 and 10. Landscape Referral raise no concerns with the landscape design, however information that is not submitted such as planter soil depth, waterproofing and drainage, irrigation provisions, and maintenance schedules are able to be imposed through conditions of consent. <i>previous comments:</i> The development application is for demolition of existing structures and the construction of a seniors housing development comprising 12 x 3 bedroom units and basement carparking, and associated external works. Council's Landscape Referral section have assessed the application against the following relevant landscape controls and policies: <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004: clause 33 Neighbourhood amenity and streetscape, and clause 34 Visual and acoustic privacy • Seniors Living Policy: clause 2. Site Planning and Design; and clause 3. Impacts on Streetscape. • Pittwater 21 DCP controls including but not limited to: B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; C1.21 Seniors Housing; C1.24 Public Road Reserve - Landscaping and Infrastructure where applicable; and D9 Mona Vale Locality. Landscape Referral assessment considers the following relevant landscape matters as discussed. In terms of the State Environmental

Internal Referral Body	Comments
	<p>Planning Policy: with respect to clause 33, development should - (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and (f) retain, wherever reasonable, major existing trees, and (g) be designed so that no building is constructed in a riparian zone; and with respect to clause 34, 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.</p> <p>Additionally under the State Environmental Planning Policy, Division 4 Self-contained dwellings the following landscape consideration applies: with respect to clause 50 - Standards that cannot be used to refuse development consent for self-contained dwellings, a consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds -</p> <p>(c) landscaped area: if -</p> <p>(i) in the case of a development application made by a social housing provider - a minimum 35 square metres of landscaped area per dwelling is provided, or</p> <p>(ii) in any other case - a minimum of 30% of the area of the site is to be landscaped,</p> <p>(d) Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres.</p> <p>In review of the application documents including the Statement of Environmental Effects, Site Plan and Landscape Plan, the landscaped area and deep soil area exceed the minimum requirements and the landscape objectives are satisfied in terms of the State Environmental Planning Policy.</p> <p>The Landscape Plan submitted is generally acceptable, subject to the imposition of conditions. It is noted that Council's Natural Environment Referral Response - Biodiversity, requires the substitution of selected species. Landscape Referral shall seek improvement of the landscape outcome through changes to the planting installation sizes of selected species; removal of small sized lawn areas to units 5 and 6, and replacement with garden area; and additionally the requirement to satisfy DCP control C1.24 Public Road Reserve - Landscaping and Infrastructure, whereby a realigned footpath shall meet the standard 1.5 metre width provision and shall also include the planting of street trees along the frontage.</p>

Internal Referral Body	Comments
	<p>A Arboricultural Impact Assessment is submitted and recommends the removal of nine (9) existing trees, of which seven (7) are Exempt Species by either species type or by height and do not require Council consent; and the retention and protection of twelve (12) existing trees, of which four (4) are located within adjoining properties that are in proximity to the development works. The existing trees proposed for retention and protection are either not impacted or have a minor impact that can be arboriculturally managed.</p> <p>Landscape Referral raise no concerns and conditions of consent shall be imposed for the protection of existing trees and the completion of the landscape works.</p>
NECC (Bushland and Biodiversity)	<p>SUPPORTED</p> <p>The application seeks approval for the demolition of the existing dwelling houses and construction of a seniors housing development comprising 12 dwellings over 1 level of basement car parking. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p><i>Biodiversity Conservation Act 2016 (BC Act)</i> <i>State Environmental Planning Policy (Coastal Management) 2018</i></p> <ul style="list-style-type: none"> Coastal Environment Area <p><i>Pittwater Development Control Plan (PDCP)</i></p> <ul style="list-style-type: none"> B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land <p>The application seeks to remove nine (9) trees, including 7 exempt (T.1, 2, 3, 4, 5, 11, 13) and 2 prescribed (T.12 - <i>Buckinghamia celsissima</i> & T.14 - <i>Callistemon viminalis</i>) to be replaced in accordance with the submitted Landscape Plan (iScape Landscape Architecture 2021). No objection is raised to the removal of T.12 & T.14 subject to replacement.</p> <p>No objection is raised to the submitted Landscape Plan, however the following species must be deleted due to their status as environmental weeds:</p> <ul style="list-style-type: none"> <i>Nandina domestica</i> <i>Raphiolepis indica</i> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Coast and	SUPPORTED

Internal Referral Body	Comments
Catchments)	<p>The DA proposes to demolish existing dwelling houses and construct a seniors housing development at 120 Bassett Street and 21 and 23 Mona Street, Mona Vale. The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><u>Coastal Management Act 2016</u> The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the proposed development. The proposed development is considered to be consistent with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p><u>State Environmental Planning Policy (Coastal Management) 2018</u> 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). Hence, Clauses 13, 14 and 15 of the CM SEPP will be relevant to the subject DA. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by DMPS Town Planning and Property Development Services, dated September 2021, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018 subject to conditions.</p> <p><u>Pittwater LEP 2014 and Pittwater 21 DCP</u> <u>Estuarine Risk Management</u> The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping and the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.8 Estuarine Hazard Controls will apply to any proposed development of the site. An Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 13 December 2021, justifies a design life of 60 years and on this basis calculates an estuarine planning level (EPL) for the subject site of RL 1.91m AHD, including an allowance for sea level rise. The coastal engineer has calculated the EPL on the basis that it consists only of the still water level as significant wave action is unable to propagate up the creek to the foreshore adjoining the subject properties during the design event. As assessed in the submitted Estuarine Risk Management Report the EPL is 0.44m below the proposed basement driveway crest level and 0.99m below the proposed ground floor level. As such, the proposal satisfies the requirements of the Estuarine Risk Management Policy for Development in Pittwater and the relevant</p>

Internal Referral Body	Comments
	<p>B3.8 Estuarine Hazard Controls.</p> <p>The report further notes that as the subject properties are located above the EPL there are no design requirements for the proposed development from a wave action and tidal inundation (coastal engineering) perspective.</p> <p><u>Note:</u> As the flood planning level (FPL) is higher than the EPL however, the FPL and associated flood controls will prevail for the subject development proposal. In this regard, the coastal engineer notes in the Estuarine Risk Management Report (Section 7) that it would be reasonable to also include the allowance for sea level rise for a 60 year design life in the 1% AEP flood level. This matter should be brought to the attention of the Flood Team for consideration in their assessment of the DA.</p>
NECC (Development Engineering)	<p>SUPPORTED</p> <p>Development Engineering raises no objection to the application subject to the following conditions of consent.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>SUPPORTED</p> <p>The proposal is for a new seniors living complex. The site is not affected by the current year 1% AEP flood level but is affected Climate Change 1% AEP flood level. The floor levels have been set at the Probable Maximum Flood (PMF) level. The basement carpark driveway crest level is set at the current year Flood Planning Level (1% AEP plus 500m freeboard) and will be protected to the PMF with a self actuating flood gate/barrier. Subject to conditions the development is compliant with Council's LEP and DCP requirements.</p>
NECC (Water Management)	<p>SUPPORTED</p> <p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. The proposed stormwater treatment system is generally satisfactory subject to detail design to satisfy the General Stormwater Quality Requirements (Water Management for Development Policy).</p> <p>The 5000L rainwater tank is collecting the roof runoff and must be connected to re-use for second quality water uses.</p>
Parks, reserves, beaches, foreshore	<p>SUPPORTED</p> <p>The development application is for demolition of existing structures and the construction of a seniors housing development comprising 12 x 3 bedroom units and basement carparking, and associated external works.</p> <p>Council's Winnererremy Bay reserve is located opposite to the development site on Mona Street. No Parks Referral concerns are</p>

Internal Referral Body	Comments
	raised to the development proposal.
Traffic Engineer	<p>SUPPORTED</p> <p><u>Additional comments 18/2/22</u></p> <p>The amended plans, Pedestrian Refuge Plans Drawing Set D1-7 Revision C, have been reviewed with respect to changes to address the outstanding issues relating to safe pedestrian access to public transport and facilities.</p> <p>The amended plans include some but not all of the suggestions and considerations, and therefore the resulting design does not fully comply with Council's Standards or would be acceptable for Traffic Committee approval. The amended plans can however be considered as Concept Plans which can be updated with improvements to a standard that would be acceptable subject to conditions.</p> <p><u>Comments 16/2/22</u></p> <p>The Pedestrian Refuge Plans Drawing Set D1-4 Revision B received on the 11/2/22 have been reviewed with respect to changes to address the outstanding issues relating to safe pedestrian access to public transport and facilities.</p> <p><i>Footpath grade</i></p> <p>Longitudinal sections of the access route showing the approximate changes in grades have been provided, however the Footpaths Gradients - Sections Drg No. 0608-DA221 does not clearly show the required footpath grade detail near the intersection of Pittwater Road and Mona Street. A further assessment of the RLs shown on the Survey Plans, indicate that the footpath gradient at this location comply with the requirements of the SEPP, and the overall footpath gradient is considered acceptable.</p> <p><i>Pedestrian Refuge</i></p> <p>The updated Civil Engineering Traffic Plans – Drawing No. D3 Revision B, shows the relocation of the pedestrian refuge further south along Pittwater Road between the driveways of No.1662-1664 and No.1819-23. The location is approximately 30m from the Pittwater Road/Mona Street roundabout, which is still relatively close considering the reduced visibility from the bend and existing vegetation when vehicles turn left from Mona Street into Pittwater Road. The location of the pedestrian refuge will also affect the existing vehicular access to both No.1662-1664 and No.1819-23, as the right turn movements exiting the driveways will be obstructed with</p>

Internal Referral Body	Comments
	<p>the proposed location of the pedestrian refuge islands.</p> <p>It is noted that the pedestrian refuge island width has been widened from 2m to 3m, which reduces the traffic lanes to 4.8m wide. Pittwater Road is a Regional Road which carries higher traffic volumes and the traffic lanes are still considered too wide for pedestrians, especially more vulnerable users such as seniors or people with a disability, to cross the road in two stages. Instead of widening the pedestrian refuge island, which only results in a slight reduction of the traffic lane widths, kerb extensions or kerb blisters should be considered. This would also have an additional benefit of placing the pedestrian in a better position where visibility of approaching traffic is not impeded by kerbside obstacles or parked vehicles.</p> <p>Upon further review of the area and consideration of all the issues, an acceptable location for the pedestrian refuge would be 50m south of the Pittwater Road/Mona Street roundabout. This location does not impact any existing driveways and provides good traffic sight distances for drivers and pedestrians using the crossing facility, with the addition of kerb extensions or kerb blisters. The proposal would however require the relocation of both bus stops approximately 20m further north of their existing locations.</p> <p>Bus Stop ID: 210327 (western side) immediately south of the driveway of No.1819-1823, and Bus Stop ID: 210331 (eastern side) immediately north of the driveway of No.1662-1664 Pittwater Road.</p> <p>The new bus stop locations would also need to be upgraded to meet the Disability Standards for Accessible Transport.</p> <p>A swept path analysis using a 12.5m bus is required to check access to the bus stops locations in Pittwater Road. Bus turning movements have not been provided for the Mona Street/Bassett Street intersection and this will also need to be checked with the new proposed pedestrian refuge in Bassett Street.</p> <p>The Applicant has not considered all the impacts or satisfactorily addressed the issues regarding safe pedestrian access to public transport for seniors or people with a disability, however the proposal may be acceptable subject to the Conditions of Consent provided.</p>

Internal Referral Body	Comments
	<p>The required pedestrian refuges and bus stop upgrades are located in the Public Road Reserve and the Civil Engineering plans would need to be submitted in accordance with Council's specifications, for approval under the provisions of Sections 138 of the Roads Act. It should be noted that the new traffic facilities and relocation of the bus stops would also require Traffic Committee approval, and the Section 139 consent for works on the Public Road Reserve is required prior to the issue of the Construction Certificate.</p> <p><u>Comments 13/12/21</u></p> <p>The proposed Seniors Housing development comprising twelve 3-bedroom dwellings with basement car park is not acceptable in its current form as there are no formalised pedestrian facilities to assist seniors to safely cross the road to access the bus stops located on either side of Pittwater Road. However, the proposal may be acceptable with the provision of suitably located pedestrian refuges in Bassett Street and Pittwater Road to enable pedestrians to cross the road in two stages when there is a gap in traffic. There are no provisions for visitor parking within the development, and consideration should also be made to address the absence of visitor parking due to the existing demand for on-street parking in the area.</p> <p><i>Access to public transport or local facilities</i></p> <p>The State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, requires that the proposed development should have appropriately graded and safe pedestrian links that provide access to public transport services or local facilities by an electric wheelchair, motorised cart or the like. The proposed walking route to access the nearest bus stops served by a public bus route on Pittwater Road (Regional Road) are located within 400m of the site but require pedestrians to cross both Bassett Street (Collector Road) and Pittwater Road (Regional Road). There is concern that the lack of suitable crossing facilities does not allow for safe access to these bus stops. A roundabout has been constructed at the Mona Street/Bassett Street intersection, however there is only a pedestrian refuge constructed on the north-eastern arm of Mona Street. Traffic islands have been installed on the other intersecting roads with a gap provided to enable pedestrians to cross at these locations. Bassett Street is approximately 12.5m wide and the traffic islands are less than 2m wide with a 1m spacing between islands i.e not compliant pedestrian refuges. The existing facility does not provide a safe location for pedestrians to stand, and should be upgraded to provide a full pedestrian refuge compliant with current TfNSW Technical Directions. Pittwater Road is 13m wide and does not have any crossing facility in close proximity to the bus stops. A suitably located pedestrian refuge should also be provided to assist pedestrians to</p>

Internal Referral Body	Comments
	<p>cross this road so that access both to and from bus stops is available.</p> <p><i>Design constraints for pedestrian refuge</i></p> <p>Traffic lane (adjacent to refuge) - 3.7m (maximum)</p> <p>Refuge island width - 2m (minimum)</p> <p>Spacing between refuge islands - 3m (minimum)</p> <p>Bus Stop relocation - permitted within 30m of existing location</p> <p>The provision of the required traffic and pedestrian facilities will impact the existing on-street parking, and hence the location and design of all facilities must be considered to minimise any overall loss of parking.</p> <p>A swept path analysis is required to demonstrate that a bus (minimum 12.5m in length) can safely access the bus stop and pass the new pedestrian refuge. Bus stops which are not currently DDA compliant would also need to be upgraded accordingly.</p> <p><i>Traffic Generation</i></p> <p>The future traffic generation has been assessed in accordance with Roads and Maritime Services (RMS) 'Guide to Traffic Generating Developments 2002'. It is projected that the development would generate 5 vehicles per hour during the peak periods, which is an increase of approximately 3 vehicles compared to the existing situation. The driveway is well positioned off Bassett Street near the southern property boundary. This is outside the School Zone and minimises impacts during the peak periods and provides convenient access to and from the site.</p> <p>The traffic generation and impact on the road network capacity is therefore considered to be minor.</p> <p><i>Parking</i></p> <p>The parking space numbers comply with SEPP 2004 requirements with 2 spaces provided for each 3-bedroom dwelling. and totalling 24</p>

Internal Referral Body	Comments
	<p>spaces for the development. There are 12 adaptable parking spaces with 3.8m width or incorporating a 2.4m shared zone (complying with AS2890.6). There is existing demand for on-street parking in both Mona Street and Bassett Street from residents and their visitors, students and staff of Pittwater High School, visitors to Winnererremy Bay Reserve, as well as staff and customers of the Bassett Street Industrial Area.</p> <p>There are no visitor parking spaces provided in the basement car park. Clause 38 of the SEPP requires that a development should provide convenient access and parking for residents and visitors. Although there is no specific visitor parking numerical requirements in the SEPP it is still the case that residents would have visitors. The RMS Guide to Traffic Generating Development requires that housing for aged residents (resident funded self contained development) provide visitor parking at a rate of 1 space for each 5 units which would equate to 2.4 spaces. Visitor parking under the Pittwater 21 DCP is applied at a rate of 1 space per 3 dwellings, which would require 4 visitor spaces for the 12 dwellings. For a development with 12 units it would not therefore be unreasonable to expect that some level of parking should be provided for visitors of the development, particularly having regard to the competing demands for on-street parking in the area. While the SEPP only requires 5% of spaces to have a width of 3.8m, the proposal provides 10 adaptable spaces, and there is opportunity to convert at least 2 of these spaces for designated visitor parking.</p> <p>It is requested that the Applicant consider the above comments regarding the parking requirements and inadequacy of pedestrian facilities, and provide an updated plan so that it can be reviewed for further consideration.</p>
Waste Officer	<p>SUPPORTED</p> <p><i>Additional comments 21/12/2021</i></p> <p>Acceptable, subject to conditions.</p> <p><i>Original Comments</i></p> <p>Not supported.</p> <p>The design must comply with the Northern Beaches Council waste management guidelines, including:</p> <ol style="list-style-type: none"> 1. Provision of a bulky good storage area (NBC Waste Management

Internal Referral Body	Comments
	Guidelines Chapter 4.5) 2. Resident access door to garbage room must open in an outwards direction and able to be latched in the open position (NBC Waste Management Guidelines Chapter 4.4)

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.
Nominated Integrated Development – WaterNSW - Water Management Act 2000 (s91 Permit for Temporary Construction Dewatering)	The application was referred to the Water NSW under S90(2) of the Water Management Act. A referral response dated 8 March 2022 has been received which includes the General Terms of Approval (GTAs) for Water Supply work (80mm submersible pump). The referral response notes that the GTA issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any work or activity. A condition requires compliance with the GTA and a requirement for the applicant to lodge a separate approval under the Water Management Act 2000 to NSW Water for a Water Supply Work approval before the commencement of work.
Nominated Integrated Development - WaterNSW Natural Resources Access Regulator - Water Management Act 2000 (s90 Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location)	The Natural Resources Access Regulator (NRAR) has reviewed documents for the development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency is necessary.

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. 1244308M dated 28 September 2021).

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

Commitment	Required Target	Proposed
Water	40	Target 41
Thermal Comfort	Pass	Pass
Energy	45	45

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

SEPP (Housing for Seniors or People with a Disability) 2004

The 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 will increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The proposal has been amended to include details of pedestrian refuge to provide a suitable safe footpath crossing to connect the site to the nearest bus stops served by a public bus route on Pittwater Road (Regional Road) and Bassett Street (Collector Road). Council's

Traffic Officer has confirmed that the access is acceptable subject to conditions.

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.

In order to ensure that the development exhibits good design, the application was referred to the Design and Sustainability Advisory Panel (DSAP). The Panel generally supports the proposal subject to minor design amendments to address issues to improve the amenity of the development for residents, reduce solar access impacts to the southern neighbour and improve sustainability, which are referenced in the discussion below.

Chapter 2 – Key Concepts

Comment:

The proposed development is for the redevelopment of the site to accommodate "infill self-care 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 to be 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 has been included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The proposal has been amended to provide details of pedestrian refuges along Bassett Street and Pittwater Road to facilitate safe pedestrian access to the existing bus stops that provide access to these services. Council's Transport Officer supports the amended design subject to conditions.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	Bus stops are located within a distance of less than 400m of the site and the amended design includes details pedestrian refuges to access the bus stops.	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines. if la	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, 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): 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.	The proposed development is 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. i) The DSAP consider the landscape and public realm approach for this development appropriate and well thought out in terms of creating attractive and useful semi and private garden spaces and a well-considered planting schedule and the creation of large well-articulated private gardens fronting Mona Street. ii) The site is serviced by existing infrastructure (electricity, water and sewage). The proposed one / two storey built form demonstrates a suitable bulk and scale in response to the character of the locality. Subject to conditions relating to privacy, the density, bulk and scale of the proposal will not have unreasonable impacts on the amenity of the future occupants and neighbouring residents.	Yes
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A detailed site analysis pan has been provided and further details in the SEE which satisfactorily address this requirement.	Yes

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	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>The established built form in the neighbourhood is characterised by a mix of detached one and two storey dwellings within landscaped settings. The locality is also mixed in land-use character, with a high school located to the west on the opposite side of Mona Street and industrial development to the south on the opposite side of Basset Street.</p> <p>Generally, the development follows a similar pattern of the existing residential neighbourhood in terms of its built form including height and front setbacks.</p> <p>The building mass is broken up with significantly articulated facades and the deep soil zones available for screen planting will help integrate the built form with the streetscape.</p> <p>The DSAP stated that they <i>"commend the overall built form response and architectural articulation which is noted to be appropriate and a good fit with the context."</i></p> <p>Notwithstanding the above, the Panel suggested that:</p> <p><i>The scale could be reduced by setting back the overhanging roof above the main entry and replacing it with a lower level awning over the entry which would have the further benefit of providing more weather protection for visitors as they enter the complex.</i></p> <p>This recommendation is included as a condition of consent.</p>

Section	Requirements	Comment
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation. 	<p>The proposed part one/part two storey development is located within a landscape setting and has been sensitively designed to minimise the visual impact on the neighbouring character.</p> <p>The bulk and scale of the development has been broken-up with articulated facades and a varied materials palette which minimises the impact of the development on the neighbourhood character. As noted above, the DSAP support the built form subject to a minor design change to the entrance to Basset Street.</p> <p>The car parking is provided within a basement which will have no visual impact on the surrounding area.</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape. 	<p>The desirable characteristics of the existing streetscape is the significant landscape setback to Mona Street.</p> <p>The footprint of the proposed development responds to the established front building line to both streets. In particular, the significant 16.0m setback of the building to Mona Street provides a generous landscape setting to the primary frontage which will help soften any perceived visual impact of the development on the streetscape and enhances the desirable characteristics of the locality. Note: The location of a 10.0m wide sewer easement along the Mona Street frontage partially dictates the setback of the building to Mona Street.</p> <p>All facades are articulated to reduce the bulk and massing and ensure impact on the existing streetscape is minimised.</p> <p>As noted above, parking is located within the basement and the driveway is suitably located to minimise impacts to the</p>

Section	Requirements	Comment
		streetscape.
4. Impacts on neighbours	Subject to conditions relating to privacy the proposal is generally in accordance with the requirements of this section.	<p>Solar - The DSAP acknowledged that there is some overshadowing of the neighbouring property to the south-east in the winter. In order to address this issue, the Panel have suggested:</p> <p><i>While the impact (shadows) is not excessive, the Panel suggested that this issue could be ameliorate by pulling back the roof overhang.</i></p> <p>The proposal has been amended to reduce the roof overhang in the south-east corner and updated shadow diagrams have been submitted to demonstrate compliance with Clause 35 of the SEPP (HSPD) and Clause C1.4 of the PDCP. As such, the proposal will not result in unreasonable impacts of the additional shadows on the private open space / windows to the neighbouring residential dwellings at 54 and 56 Bangalow Avenue, Mona Vale in compliance with the solar access controls.</p> <p>The DSAP did not raise any issues with respect to privacy impacts on neighbouring residents. Conditions are included in the recommendation to ensure privacy screens and planting are incorporated in the design of the upper floor windows and balconies which are located in the south-east and north-east elevation to ensure the visual privacy of neighbouring residents is protected.</p> <p>The DSAP suggested that the outlook of Unit 11 would benefit from the provision of a roof garden over Unit 05. This has been included in the amended plans. A condition has been included in the recommendation to ensure that the roof garden above Unit 05 is non-trafficable to residents with the exception of access for</p>

Section	Requirements	Comment
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	Subject to conditions, the proposal provides a safe distinct pedestrian access to the bus stop which are located on the opposite side of Mona Street and Pittwater Road.

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	
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 site is located within the R2 Low Density Residential zone and the surrounding development is a mixed land use and density including an educational establishment to the west and an industrial development to the south. A number of recreational areas and parks are also located within close proximity to the site.</p> <p>The desirable elements of the locations current character consists of low density one and two storey dwellings setback from the street frontages in generous landscape settings.</p> <p>The development recognises the desirable elements of the locality. The development is setback from both Mona Street and Bassett Street in a generous landscape setting which allows for significant canopy trees to help integrate the development and reduce any perceived visual impact.</p> <p>The development adopts a design that is consistent with the height of surrounding dwellings. The density is reduced to the rear with a single storey typology in order to comply with the SEPP and minimise any unreasonable impacts on neighbouring amenity.</p> <p>The DSAP consider that the development responds appropriately to the locality subject to a minor design change to the entrance awning over Bassett Street which is discussed above.</p>	Yes
	b. Retain, complement and sensitively harmonise	<p>The subject site is not located in close proximity to any heritage items or a heritage</p>	N/A

	<p>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 neighbors.</p>	<p>conservation area.</p> <p>(i) Setbacks - A 16.0m setback is provided to Mona Street and a 6.5m setback to Basset Street which responds to the residential character of the area. As discussed above, the design has been amended to reduce the roof overhang to the south-east corner to ensure compliance with the solar access provisions.</p> <p>(ii) Built form - As discussed above, the built form has been assessed by DSAP to be acceptable and contextually appropriate.</p> <p>(iii) The one / two storey development sits below the 8.0m height limit and adopts a building height that is compatible in scale with adjacent developments.</p> <p>(iv) The siting of the development is in part a response to the 10.0m wide sewer easement located along the Mona Street frontage. The building is setback from all boundaries, it is compliant with the side and rear setback controls and there are no impacts to neighbours as a result of the siting of the development.</p>	<p>Yes</p>
	<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>As noted above, the building is setback to respond to the established building line.</p>	<p>Yes</p>
	<p>e. embody planting</p>	<p>The proposal retains significant</p>	<p>Yes</p>

	that is in sympathy with, but not necessarily the same as, other planting in the streetscape. f. retain , wherever reasonable, major existing trees, and g. be designed so that no building is constructed in a riparian zone.	setbacks to the primary and secondary frontage which will allow for planting of canopy species in sympathy with the landscaping in the street. The major existing trees are retained. The site is not mapped as being in a riparian zone.	Yes N/A
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	The proposal includes privacy screens to the upper floor habitable windows and balconies. Should the NBLPP be minded to approve the application, conditions are included in the recommendation requiring fixed screening and planter beds to upper floor habitable room windows and balconies to ensure there is no unreasonable impact neighbouring amenity. A condition will also ensure that the roof garden above Unit 05 is non-trafficable to residents, with the exception of access for maintenance.	Yes, subject to conditions
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	The proposal achieves compliant daylight access to the main living areas of the proposed units. As discussed above, the proposal has been amended to reduce the roof overhang to the south-east corner in order to ensure that there are no unreasonable shadow impacts to neighbouring properties.	Yes

	dining areas in a northerly direction.		
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Council's Development Engineer has confirmed that the drainage and stormwater plans are acceptable, subject to conditions.	Yes, subject to conditions
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or 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.	The proposed development has been designed to meet the requirements of CPTED. Conditions are included in the recommendation requiring the sandstone wall along the Bassett Street frontage and fence along the Mona Street frontage to be reduced to 1.0m in height above ground level to ensure an open frontage is presented which will assist with casual surveillance of the street.	Yes
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	The proposed walking route to access the nearest bus stops served by a public bus route are located within 400m of the site. The proposal has been amended to provide additional details on refuges to allow pedestrians to safely cross both Bassett Street (Collector Road) and Pittwater Road (Regional Road) to access bus stops.	Yes

	pedestrians and motorists with convenient access and parking for residents and visitors.	Subject to transport conditions the proposal can provide a safe pedestrian link to the bus stops.	
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The proposal has been amended to provide a bulky good storage area within the basement to the satisfaction of Council's Waste Officer.	Yes

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	1352.4sqm	Yes
Site frontage	20m	52.68m to Mona Street 48m to Bassett Street	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.9m / 2 storeys	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	The building does not exceed two storeys in height	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 building is single storey within the rear 25%	Yes

Clause 41 Standards for hostels and self contained dwellings

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

SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	The development is capable of complying with this requirement.	Yes, subject to conditions
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	The development is capable of complying with this requirement.	Yes, subject to conditions
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.	Letterboxes are shown along the Basset Street frontage of the site adjacent to the entrance.	Yes
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	The parking space numbers comply with the SEPP requirements with two (2) spaces provided for each 3-bedroom dwelling requiring a total of twenty-four (24) spaces for the development. There are twelve (12)	Yes

Control	Required	Proposed	Compliance
	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.	adaptable parking spaces within the basement which measure 3.8m width or incorporating a 2.4m shared zone (complying with AS2890.6). Amended plans include the provision of two (2) visitor parking spaces.	
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	The development is capable of complying with this requirement.	Yes
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
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	The development is capable of complying with this	Yes

Control	Required	Proposed	Compliance
	must be provided in accordance with AS4299.	requirement.	
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
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.	Subject to conditions to address the issues of the Waste Officer.

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	8.0m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.1m to the topmost floor 8.0m to the lift shaft	Yes
Density and scale	0.5:1	0.56:1 (GFA 1,633.7sqm). However, this is not a "Development Standard" for the purpose of Clause 4.6 and does not require a request to vary this control. It is also noted that the PLEP does not have an FSR control. Pursuant to CI 50 Part 7 of SEPP (HSPD) it is a standard that <i>cannot be used to refuse development consent</i> . Part 7, Clause 78 states: <i>"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</i>	Satisfactory on merit

Control	Required	Proposed	Compliance
		<p><i>principles set out in Division 2 of Part 3".</i></p> <p>In considering the inter-relationship between FSR and the design requirements set out in Part 3 Clause 31, the DSAP concluded that there will be no unreasonable amenity impacts to neighbours subject to a change to the roof to address shadow impacts.</p> <p>As discussed above, the recommendation to modify the roof to minimise shadow impacts has been incorporated in the amended plans.</p> <p>In terms of character, the DSAP did not have any issues with the density in respect of it being contextually appropriate to the built form or landscaped character of the locality. A suggestion was made by the DSAP to modify the awning over the entrance to reduce the scale of the development along Bassett Street which has been included as a condition.</p> <p>It is also noted that the DSAP suggested a minor reduction in the size of Unit 05 from three (3) bedrooms to two (2) bedrooms to improve the amenity of the Unit 05. A reduction in the size of the unit is likely to result in a</p>	

Control	Required	Proposed	Compliance
		<p>approximately 12sqm less GFA which will have no change to the FSR.</p> <p>Given the location of Unit 05 to the rear the suggested change will have no benefit in reducing the bulk, scale and massing of the development as observed from the streetscape. In addition, there are no unreasonable amenity impacts associated with the current design of the single storey unit which is noted to comply with the rear setback controls.</p> <p>The applicant has not included this design change in the amended plans. For the reasons discussed above, it is the Assessment Officers opinion that a condition is not required to reduce the density of Unit 05 from three (3) beds to two (2).</p>	
Landscaped area	30% of the site area is to be landscaped	57.1% (1352.4qm)	Yes
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.	45.6% (1,311.5sqm)	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum	83.3% (10 out of 12 units)	Yes

Control	Required	Proposed	Compliance
	of 3 hours direct sunlight between 9am and 3pm in mid winter		
Private open space	<p>(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 metres long and is accessible from a living area located on the ground floor, and</p> <p>(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</p>	<p>All units at ground level have areas of private open space (POS) in the form of a terrace and garden at ground level and all units on the upper floor have balcony. The areas of POS exceed the minimum requirement.</p> <p>The DSAP consider <i>the landscape and public realm approach for this development appropriate and well thought out in terms of creating attractive and useful semi and private garden spaces and a well-considered planting schedule and the creation of large well-articulated private gardens fronting Mona Street.</i></p>	Yes
Parking	Twelve (12) units x three (3) units are proposed requiring a total of twenty four (24) resident car parking spaces	Compliant	Yes
Visitor parking	None required if less than 8 dwellings	The proposal has been amended to include two (2) visitor car parking spaces.	Yes

SEPP (Infrastructure) 2007Ausgrid

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 replied stating that they had no objections to the proposal subject to conditions.

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:

13 Development on land within the coastal environment area

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

Comment:

The site is mapped on Council's Estuarine Hazards map as being affected by estuarine wave action

and tidal inundation. An additional Estuarine Risk report has been submitted which has been assessed by Council's Coastal Management Officer as being consistent with the objective and requirements of Clause 13, 14 and 15 of the Coastal Management Act, subject to conditions.

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

Comment:

Refer above, the proposed development is designed and sited and managed to avoid adverse impacts to referred to in part (1).

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The site is setback approximately 350m from Winnererremy Bay. The proposed development will not cause an adverse impact on access to the foreshore, the visual amenity of the foreshore, overshadowing or cultural and built heritage.

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:

As discussed above, additional information has been submitted to satisfy Council that the proposed development is not likely to cause increased risk of coastal hazard on the subject site or other land.

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	8.0m (to top of lift shaft and skylights) 7.1m to the topmost floor	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.4 Floodplain risk management	Yes
7.10 Essential services	Yes

Detailed Assessment

5.21 Flood planning

Clause 5.21 requires:

(1) *The objectives of this clause are as follows—*

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

(2) *Development consent must not be granted to development on land the consent authority considers*

to be within the flood planning area unless the consent authority is satisfied the development—

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

The site is mapped as being located within a low to medium risk flood hazard precinct. Council's Flooding Engineer has confirmed that for senior living/vulnerable development, all access, ventilation and any other potential water entry points to basement carparks, including entry ramp crests must be at or above the Probable Maximum Flood Level (PMF) or FPL (whichever is higher). The proposal has been amended to set the floor levels and basement driveway crest at the current Flood Planning Level (FPL). The basement car park driveway crest is set at 1% AEP plus 500m freeboard and will be protected to the PMF with a self actuating flood gate/barrier.

Subject to conditions, Council's Flooding Engineer has confirmed that the proposal, as amended, is compliant with Council's LEP and DCP flood requirements.

7.4 Floodplain risk management

Clause 7.4 requires:

- (1) The objectives of this clause are as follows:*
 - (a) in relation to developments with particular evacuation or emergency response issues - to enable the evacuation of land subject to flooding in events exceeding the flood planning level,*
 - (b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.*
- (2) This clause applies to land between the flood planning level and the level of the probable maximum flood, but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard, or other freeboard determined by an adopted floodplain risk management plan.*
- (3) Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land:*

(j) seniors housing.

Comment:

As discussed under Clause 5.21 of the PLEP, the levels have been amended to meet the requirement of the flood controls. As such, Council can be satisfied that the Seniors Housing development will not, in flood events exceed the flood planning level and affect the safe occupation and evacuation from the land as required under Clause 7.4(3) (h). Refer to the discussion in the Referrals Section of this report.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m or established building line, whichever is the greatest	Mona Street 13.6m Basset Street 6.5m	N/A N/A	Yes Complies with established building line
Rear building line	Where the wall height is 3 metres or less, the minimum side and rear boundary setback shall be 3 metres.	3.0m	N/A	Yes
Side building line	Where the wall height is more than 3 metres above ground level (existing), the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following: where S = the distance in metres H = the height of the wall at that point measured in metres above existing ground level Based on this formula a 4m setback is required where the building is two storey adjacent to the side setbacks	East - 4.0m West 3.0m (ground) 4.0m (level 1)	N/A N/A N/A	Yes Yes Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	1352.4qm (47.1%)	N/A	No *complies with SEPP (HSPD) which overrides P21 DCP

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

95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B3.8 Estuarine Hazard - Medium Density Residential	Yes	Yes
B3.11 Flood Prone 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
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	Yes	Yes
D9.9 Building envelope	Yes	Yes
D9.10 Landscaped Area - General	Yes	Yes
D9.12 Fences - General	No	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.9 Mona Vale Locality

As discussed under the heading SEPP (HSPD), the proposal adequately responds to the built form and landscape character of the Mona Vale Locality. A condition is recommended requiring a modification of the awning over the Bassett Street entrance in accordance with the recommendations of the DSAP. In addition, conditions require the sandstone wall to Bassett Street to be reduced in height to 1.0m and the fence to Mona Street to be modified to a 1.0m high open style timber fence to ensure that the proposal is consistent with the desired future character of the Mona Vale Locality.

B3.8 Estuarine Hazard - Medium Density Residential

Clause E3.8 requires:

- *All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes; and*
- *All structural elements below the Estuarine Planning Level shall be constructed from flood compatible materials; and,*
- *All structures must be designed and constructed so that they will have a low risk of damage and instability due to wave action and tidal inundation; and,*
- *All electrical equipment, wiring, fuel lines or any other service pipes and connections must be waterproofed to the Estuarine Planning Level; and,*
- *The storage of toxic or potentially polluting goods, materials or other products, which may be hazardous or pollute the waterway, is not permitted to be stored below the Estuarine Planning Level; and,*
- *For existing structures, a tolerance of up to minus 100mm may be applied to the Estuarine Planning Level in respect of compliance with these controls.*
- *To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.*

Comment:

All three subject properties have been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping.

Additional information has been submitted to demonstrate that the proposal addresses the risk from the estuarine hazards in accordance with the requirements of the control, refer to the discussion in the Referral Section of this report. Council is satisfied that the proposal meets the following outcomes of the control:

- *Protection of people.*
- *Protection of the natural environment.*
- *Protection of private and public infrastructure and assets.*

B3.11 Flood Prone Land

Clause B3.11 applies to Vulnerable and Critical Land Use Groups including Seniors Housing and requires:

- 1. Development must comply with the prescriptive controls set out in the Matrix below. Where a property is affected by more than one Flood Risk Precinct, or has varying Flood Life Hazard Category across it, the assessment must consider the controls relevant at each location on the property.*
- 2. Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.*

Table D. Car Parking in the matrix requires:

D6 - All enclosed car parks (including basement car parks) must be protected from inundation up to the Flood Planning Level. All access, ventilation, driveway crests and any other potential water entry points to any enclosed car parking shall be above the Flood Planning Level.

Where a driveway is required to be raised it must be demonstrated that there is no net loss to available flood storage in any event up to the 1% AEP flood event and no impact on flood conveyance through the site.

Council will not accept any options that rely on electrical, mechanical or manual exclusion of the floodwaters from entering the enclosed carpark

D7 - All enclosed car parks must be protected from inundation up to the Probable Maximum Flood level or Flood Planning Level whichever is higher. For example, basement carpark driveways must be provided with a crest at or above the relevant Probable Maximum Flood level or Flood Planning Level whichever is higher. All access, ventilation and any other potential water entry points to any enclosed car parking shall be at or above the relevant Probable Maximum Flood level or Flood Planning Level whichever is higher.

Comment:

The site is mapped as being located within a low to medium risk flood hazard precinct. As discussed elsewhere in this report amended plans have been submitted to address the flood management requirements in respect of the access to the basement car park, refer to discussion in the Referral section of this report. As such, the development demonstrates that it consistent with the requirements and following outcomes of the control:

- Protection of people.
- Protection of the natural environment.
- Protection of private and public infrastructure and assets.

B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)

Clause B3.12 applies where 'intensification of development' is proposed including an increase in the number of dwellings. The control requires the following climate change scenarios to be considered:

Climate Change Scenarios

2) Climate Change Assessment for Land Identified on Flood Hazard Maps

For land identified on Council's Flood Hazard Maps involving development to which this control applies, a Flood Risk Management Report shall be prepared in accordance with Appendix 8 - Flood Risk Management Policy for Development in Pittwater, which includes an assessment of climate change. This assessment shall include the impacts of climate change on the property over the life of the development and the adaptive measures to be incorporated in the design of the project.

Scenario 1: Impacts of sea level rise only

Scenario 2: Impacts of sea level rise combined with increased rainfall volume

4) Climate Change Assessment for Land Identified on the Estuarine Hazard Map

For land identified on Council's Estuarine Hazard Maps involving development to which this control applies, an assessment of climate change shall be undertaken as part of the Estuarine Risk Management described in Appendix 7 - Estuarine Risk Management Policy for Development in Pittwater. This assessment shall include the impacts of climate change on the property over the life of the development and the adaptive measures to be incorporated in the design of the project. The following climate change scenarios shall be considered:

Scenario 1: Impacts of sea level rise only.

Comment:

As discussed elsewhere in this report, additional information has been submitted to address issues in respect to flooding and estuarine hazards to ensure the proposed development complies with the requirements and outcomes of this control.

C1.5 Visual Privacy

Clause C1.5 requires:

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

Comment:

The primary living room windows (W105 and W106) to Unit 10 (level 1) faces Mona Street and a secondary living room window (W104) is positioned 4.0m to the eastern boundary. Given the location of the secondary east facing living room window combined with the proposed external planter bed it is not anticipated that the window will impact unreasonably on neighbouring amenity by virtue of overlooking.

A 700mm - 900mm wide 10.7m long east facing balcony with three (3) privacy screens is also proposed to bedrooms 1,2 and 3 of Unit 10 (Level 1) which is positioned 4.0m to the eastern boundary. The balcony will enhance the amenity of the unit providing extra light and ventilation to the bedrooms. A condition is recommended requiring planter beds to be installed in between the privacy screens on the balcony to ensure that the use of the balcony is minimised in order to protect the amenity of the neighbouring dwelling at No. 25 Mona Street.

A kitchen window (W0127) is proposed to unit 12 (level 1) which is positioned 4m from the southern boundary which has the potential to overlook the pool area to the neighbouring dwelling at No. 56 Bangalow Avenue. A condition requires the external screen to the northern end of unit 12 to be re-located to the front of the kitchen window to ensure that there is no unreasonable impacts one neighbouring amenity.

The south facing kitchen window (W0110) to unit 11 (level 1) includes an external full height privacy screen and an external planter bed to proposed to the frontage of living room window (W111) in unit 11. The planter bed and privacy screen provide sufficient privacy protection to the dwelling at No. 56 Bangalow Avenue.

Finally, a condition is recommended requiring the roof garden above unit 05 to be non-trafficable to residents, with the exception for maintenance.

Subject to the conditions discussed above, the proposal is considered to be consistent with the requirements and outcomes of Clause C1.5 (Visual Privacy).

C1.20 Undergrounding of Utility Services

A condition has been imposed requiring all existing and proposed utility services within the site are to be placed underground or encapsulated within the building at the cost of the developer.

D9.12 Fences - General

Clause D9.12 requires:

a. Front fences and side fences (within the front building setback)

Front and side fences (within the front building setback) shall:

*not exceed a maximum height of 1 metre above existing ground level,
be compatible with the streetscape character, and
not obstruct views available from the road.*

Fences are to be constructed of open, see-through, dark-coloured materials.

Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians exiting the site.

Original stone fences or stone fence posts shall be conserved.

b. Rear fences and side fences (to the front building line)

Fencing is permitted along the rear and side boundaries (other than within the front building setback) to a maximum height of 1.8 metres.

Comment:

The proposed boundary treatment to Bassett Street comprises three (3) sections of sandstone walls, namely a 4.2m long (1.5m high) section of wall, a 9.5m long (1.8m -2m high) section of wall and a 3m long (1.8m - 2m high) section of wall. A 1.6m open palisade fence is proposed along the Mona Street frontage and a 1.8m high palisade fence is proposed along the side boundaries and the areas of private open space to the ground floor units. A merit assessment of the proposal against the outcomes of the control is provided below.

To achieve the desired future character of the Locality.

Comment:

There is no existing physical boundary treatment along the Bassett Street frontage of the site or the adjoining site to the south, the frontage is generally open with the exception of landscaping. The frontage of the site to Mona Street comprises an open wire mesh fence with landscaping. Low timber fencing and landscaping provides the boundary treatment to the frontage of the neighbouring properties to the north-east. A condition requires the sandstone wall to Bassett Street to be reduced to 1.0m in height, the fence to Mona Street and the fence that defines the ground floor areas of private open space to be modified to a 1.0m high open timber fence. Subject to this condition, the proposal achieves the desired future character of the Locality.

To ensure fences compliment and conserve the visual character of the street and neighbourhood.

Comment:

Subject to a condition requiring the sandstone wall to Bassett Street to be reduced to 1.0m in height and the fence to Mona Street and the private gardens to be modified to a 1.0m high open timber fence then proposal will compliment and conserve the visual character of the street and neighbourhood.

To define the boundaries and edges between public and private land and between areas of different function.

Comment:

The fence and wall to the street frontages and the private gardens define the edges between the public and private land. In order to ensure that visual and acoustic privacy is maintained to the neighbouring residential properties a condition requires the side and rear boundary fences to be modified from a 1.8m high open palisade fence to a closed timber fence.

To contribute positively to the public domain.

Comment:

Subject to a condition requiring design changes to the treatment of the street fences and fences to

private gardens the proposal will contribute positively to the public domain.

An open streetscape that allows casual surveillance of the street.

Comment:

A condition requires the sandstone wall along Bassett Street to be reduced to 1.0m in height in addition to all walls that define private gardens. The sandstone wall does not extend along the entire length of the frontage, it defines the edges of the communal pathway and the remainder of the frontage is open allowing for casual surveillance to Bassett Street.

A condition also requires the fence to Mona Street to be reduced to 1.0m in height and be designed to be open to allow casual surveillance of Mona Street.

Fences, where provided, are suitably screened from view from a public place.

Comment

The proposal includes extensive landscaping within the boundaries that help screen fences from the public street.

Safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.

Comment:

The proposed wall to Bassett Street will not obstruct access to motorist to and from the driveway. In addition, the wall to Bassett Street and fence to Mona Street will not impact on pedestrian safety.

Unhindered travel for native animals and pedestrians.

Comment:

The proposal will not impact on native animals. Then fences will not impact on safe pedestrian access to and from the site.

To ensure heritage significance is protected and enhanced.

Comment:

There are no items of heritage significance within the vicinity of the site.

To ensure an open view to and from the waterway is maintained.

Comment:

The proposal will not impact on views to a waterway.

Having regard to the above assessment, it is concluded that the proposed development, subject to condition, is consistent with the relevant outcomes of clause D9.12 the P 21 DCP.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$79,374 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$7,937,397.

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:

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Inconsistent 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

Summary of Conclusion

Height, bulk, scale and character

The proposal complies with the built form controls of the SEPP (HSPD), PLEP and the P21 DCP. The density, bulk and scale are acceptable and the highly articulated modulated facades and generous landscape setbacks ensure that the development is compatible with the character of the Mona Vale Locality.

The application was presented to DSAP who commends the overall built-form response and architectural articulation of the proposal. The Panel consider the scale and highly articulated forms to be appropriate and a good fit with the context, helped further by the very large setback. Notwithstanding this, the Panel suggested that the high level roof awning over the Bassett Street

entrance be replaced with a lower level awning over the entry in order to address the concerns from neighbours regarding the scale and form of the development in the Locality. This suggestion has been included as a condition in the recommendation. Conditions are also recommended requiring the height of the wall to Bassett Street and fence Mona Street to be reduced to ensure that the proposal is consistent with the desired future character of the Mona Vale Locality.

Amenity

The internal amenity of the dwellings is of a good standard which exceeds the requirements of SEPP (HSPD) and P21 DCP.

In accordance with the recommendations of DSAP the amended design reduces the extent of the roof overhang to the south-west to ensure that the development meets the solar access controls and address concerns from neighbours in relation to over shadowing. The amended plans also includes a green roof to unit 05, as requested by DSAP to improve the outlook to unit 11. A condition requires the green roof not to be accessible to residents, with the exception of access for maintenance. In addition, conditions are included requiring upper floor windows and balconies to incorporate privacy screens and planter beds to ensure that there will be no unreasonable impacts on neighbouring amenity in relation to privacy.

Traffic, parking and road safety

The amended proposal provides safe access to bus stops located on Pittwater Road and Bassett Street. Suitable conditions have been imposed relating to the pedestrian refuges. The proposal provides compliant car parking, including two (2) visitor spaces. The proposal complies with the accessibility and parking requirements of the SEPP and conditions are recommended to address any outstanding Transport issues to ensure that there is no road safety issues.

Flooding

Amended plans and additional information has been submitted to address flooding issues including changes to the ground, basement and driveway levels and the introduction of a flood gate to the driveway. Council's Flooding Engineer has no objections to the amended proposal subject to condition.

Notification Response and Resident Issues

The exhibition of the application resulted in a total of twenty-two (22) submissions which raise issues with respect to the density, bulk and scale of the development being out of character with the Locality, amenity impacts (privacy and overshadowing), transport (parking, road safety and not accessible location) and flooding. The proposal has been amended to address issues with respect of solar access, transport and flooding. The re-notification resulted in five (5) additional submissions from neighbours that had previously lodged a submission to the original proposal.

As noted above, the DSAP consider that the bulk and scale of the development, articulated facades and extensive landscaping result in a Seniors Housing proposal that is contextually appropriate and compatible with the Mona Vale Locality. A condition is included to require a reduction in the scale of the awning over the Bassett Street entrance to address residents concerns regarding the bulk and scale as suggested by DSAP. Subject to conditions, issues in respect of transport and flooding have been addressed. Conditions are also recommended to ensure that there will be no unreasonable impacts on neighbouring amenity in terms of windows and balconies overlooking neighbouring properties.

Land and Environment Class 1 appeal

A class 1 appeal against deemed refusal of the subject development was lodged with the Land and Environment Court on 21 December 2021. The matter is set down for a Section 34 Conciliation Conference on 26 April 2022.

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 DA2021/1901 for Demolition works and construction of a Seniors Housing development on land at Lot 8 DP 701367, 23 Mona Street, MONA VALE, Lot 9 DP 701367, 21 Mona Street, MONA VALE, Lot 10 DP 701367, 120 Bassett Street, MONA VALE, 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
DA100 Rev 2 Title Page / Schedule of BASIX Commitments	10.02.2022	PropovBass
DA102 Rev 02 Demolition Plan	10.02.2022	PropovBass
DA103 Rev 03 Site Plan	10.02.2022	PropovBass
DA104 Rev 04 Ground Floor Plan	10.02.2022	PropovBass
DA105 Rev 04 Level 01 Plan	10.02.2022	PropovBass
DA106 Rev 04 Roof Plan	10.02.2022	PropovBass
DA107 Rev 04 Basement Plan	10.02.2022	PropovBass
DA108 Rev 04 Elevations	10.02.2022	PropovBass
DA109 Rev 02 Finishes Schedules and 3D View	10.02.2022	PropovBass
DA110 Rev 04 Sections	10.02.2022	PropovBass
Engineering Plans - Drawing No.	Dated	Prepared By
D1 Rev C No 1 of 7 Proposed pedestrian refuge, Details, notes and legend	16.02.2022	NY Civil Engineers
D2 Rev C No 2 of 7 Proposed pedestrian refuge, Bassett Street Refuge	16.02.2022	NY Civil Engineers
D3 Rev C No 3 of 7 Proposed pedestrian refuge, Pittwater Street Refuge	16.02.2022	NY Civil Engineers
D4 Rev C No 4 of 7 Proposed pedestrian refuge, Basset Street swept path	16.02.2022	NY Civil Engineers
D5 Rev C No 4 of 7 Proposed pedestrian refuge, Pittwater Street swept path	16.02.2022	NY Civil Engineers
D6 Rev C No 4 of 7 Proposed pedestrian refuge, Blister Details	16.02.2022	NY Civil Engineers
D7 Rev C No 4 of 7 Proposed pedestrian	16.02.2022	NY Civil Engineers

refuge, Refuge Details		
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***Note:** The pedestrian refuge plans are conceptual and require further amendment in accordance with Condition 22 and 28.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report Ref J3763	06.10.2021	White Geotechnical Group
Preliminary seepage analysis Ref 34852SFlet	03.02.2022	JK Geotechnics
Acid Sulfate Preliminary Assessment Ref J3763	06.10.2021	White Geotechnical Group
Estuarine Risk Management Report	13.12.2021	Horton Coastal Engineering
BCA Compliance Assessment Report Ref J1031-BCA-r2	27.09.2021	Building Code Clarity
Arboricultural Impact Assessment and Tree Protection Plan V1	22.09.2021	Tree Survey
Disability Access Report Ref LP_21288	20.09.2021	Lindsay Perry Access
NatHERS Certificate No.0006628750	27.09.2021	Design matters National
BASIX Certificate No. 1244308M	28.09.2021	Frys Energywise
Traffic Statement Ref 21NL215.Ts2	22.02.2022	Loka Consulting Engineers
Stormwater / Civil Design Compliance (Flooding) Ref E210350	27.01.2022	NY Civil Engineering

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan 1 of 3	February 2021	IScape Landscape Architecture
Landscape Plan 2 of 3	February 2021	IScape Landscape Architecture
Landscape Plan 2 of 3	February 2021	IScape Landscape Architecture

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	22.09.2021	Built Projects

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	10 December 2022
Water NSW General Terms of Approval (GTAs)	Water NSW General Terms of Approval (GTAs)	08 March 2022

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

Note: The GTA issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any work or activity.

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Telecommunications in New Developments

Prior to the issue of the Construction Certificate in connection with the development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

(i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

and

(ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure that telecommunications infrastructure is considered early in the planning process.

4. 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.

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$79,373.97 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 2021. The monetary contribution is based on a development cost of \$7,937,397.00.

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 2021 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.

7. **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.

8. **Construction, Excavation and Associated Works Security Bond (Road works)**

The applicant is to lodge a bond with Council in accordance with the current fees and charges at the time of payment as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

The applicant is to lodge a bond of \$ 5000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

10. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$ 100000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION
CERTIFICATE****11. Amended Landscape Plans**

Amended Landscape Plans shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) all tree planting within the site shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 5.0 metres from building for all proposed large trees (*Angophora costata*, *Eucalyptus punctata*, *Acmena smithii* and *Banksia integrifolia*) and 3.0 metres from buildings for all other trees capable of attaining at least 5.0 metres in height at maturity, and additionally all trees shall be at least 2.0 metres from structures including driveways, kerbs, walling and paths, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, and to private open space,
- iv) Landscape Plan documentation of the works required under Public Road Reserve Landscaping and Infrastructure condition,
- v) landscape details of the on slab planter works for the roof garden over apartment 05 as required under On Slab Landscape Works condition.

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: Landscape amenity.

12. On Slab Landscape Works

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

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

The following soil depths are required to support landscaping as proposed:

- i) minimum 300mm soil depth for groundcovers and accent planting.

Maintenance access provisions shall include that access through common area window W200, as identified in the architectural plans, shall be lockable by key or by a security touch pad mechanism and that keys or security codes are available to the maintenance staff to access the roof garden to undertake repair and maintenance activities.

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

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

13. **Public Road Reserve Landscaping and Infrastructure**

Development with a frontage within a residential street, comprising 6 or more dwellings, is required to provide a footpath and street tree planting. The footpath shall be 1.5m wide, and street trees shall be planted generally at 6m intervals, in accordance with the following:

- i) widened footpath at 1.5 metres width, aligned at a constant 600mm from the front boundaries of the property along Bassett Street and Mona Street, and kerb ramp at corner junction to satisfy Council and in accordance with standard kerb ramp details,
- ii) street trees shall be selected from the following suggested species: *Syzygium leuhmannii*, *Tristanopsis laurina*, *Tristanopsis laurina* 'luscious' under powerlines, and *Lophostemon confertus* and *Waterhousia floribunda* where no powerlines exist, or as otherwise proposed for consideration, and shall be proposed as pre-ordered stock of a minimum 200 litre container, including a four post and top and mid rail timber tree guard,
- iii) street trees shall be located following consideration of existing trees, existing underground utilities and street lighting,
- iv) grassed areas are to be turfed with Couch species (weed free), unless otherwise advised, and even grade to a maximum 4% grade.

The Applicant is to submit an application for approval for infrastructure works on Council's footpath roadway. Engineering and Landscape plans for the new development works within the road reserve is to be submitted to Council for approval or otherwise under the provisions of Sections 138 and 139 of the Roads Act 1993.

Reason: To enable the long term retention of the desired streetscape character.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 6/10/2021 are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **Flooding**

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

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level (including Climate Change) of 2.9m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Probable Maximum Flood of 3.1m AHD, taking into account the forces of floodwater, wave action, flowing

water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level (including Climate Change) of 2.9m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C2

New floor levels within the development must be set at or above the Probable Maximum Flood Level of 3.1m AHD.

Car parking – D7

All access, ventilation and any other potential water entry points to the basement car park shall be at or above the Probable Maximum Flood (PMF) level of 3.1m AHD. The driveway crest level to the basement carpark must be at or above the Flood Planning Level of 2.35m AHD. The basement driveway flood gate/barrier must be self-actuating, not electrical supply to operate and when operational, the top of the gate/barrier must be at or above the PMF level.

Flood Emergency Response – E2

The shelter-in-place refuge must contain emergency power.

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

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

16. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Deletion of *Nandina domestica* and *Raphiolepis indica*

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

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

17. **Erosion and Sediment Control Plan**

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

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

- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

18. **Detailed Design of Stormwater Treatment Measures - Major**

The detail design must satisfy the General Stormwater Quality Requirements (Water Management for Development Policy).

A certificate from a suitably qualified Civil Engineer, who has membership to the Engineers Australia, National Engineers Register, stating that the stormwater treatment measures have been designed in accordance with the stormwater plans and Council's Water Management for Development Policy.

The water quality model (MUSIC or equivalent) is to be reviewed and approved in the certificate.

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

Reason: Protection of the receiving environment.

19. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Due to the proximity of the site adjacent to Pittwater High School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays)
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for

- any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

20. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking space/wash bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL's and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

21. On-Street Work Zone

The applicant shall lodge an application for a work zone for the Bassett Street frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Applications must be lodged at least four (4) weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

22. Submission Roads Act Application for Works in the Public Road - Pedestrian & Transport Facilities

The Applicant is to submit an application for Infrastructure Works in the Public Road Reserve, for Council approval.

Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans, generally in accordance with the Concept Plans (Pedestrian Refuge Plans Drawing Set D1-7 Revision C), for the design of the footpaths, pram ramps, pedestrian refuges and bus stops.

The Concept Plans are to be updated in accordance with Council's Standards and specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

- a). Pedestrian refuges to be located in Bassett Street, on the approach to the intersection with Mona Street; and in Pittwater Road, minimum 50m south of the Pittwater Road/Mona Street roundabout
- b) Pedestrian refuge islands are to be 2m wide and 3m spacing in accordance with Council standard drawings.
- c) Kerb extensions 1.5m width or kerb side blister islands (Type SM kerb) are required to reduce the road width at the crossing points.
- d) New pram ramps are to be constructed at all road crossing points with footpath connections provided in accordance with Council standard drawings.
- e) Relocate Bus Stop ID: 210327 (western side) immediately south of the driveway of No.1819-1823, and Bus Stop ID: 210331 (eastern side) immediately north of the driveway of No.1662-1664 Pittwater Road.
- f) New bus stop locations are to be in accordance with Council standard drawings and upgraded

to comply with the Disability Standards for Accessible Transport.

g) A swept path analysis is required to check the turning paths for a 12.5m bus at the intersection of Bassett Street and Mona Street, and ensure bus stop accessibility to the relocated bus stops in Pittwater Road.

h) Relocate existing signage and make adjustments to linemarking to accommodate the required changes

i) The installation of traffic control devices and facilities require the approval of Council and the Northern Beaches Local Traffic Committee prior to commencement of installation. A plan providing details of the proposed signage, line marking, and dimensions of the traffic facility must be lodged for consideration at least twelve (12) weeks prior to work commencing.

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

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

23. Pedestrian sight distance at property boundary

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

24. Amendments to the approved plans

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

(a) Privacy Screens / planter beds shall be installed adjacent to the following balconies and windows:

(i) Planter beds shall be installed in between the privacy screens on the balcony adjoining bed 1, 2 and 3 of apartment 10.

(ii) The screen proposed to the northern end of apartment 12 shall be relocated to the front of the kitchen window (ref W0127) in apartment 12.

The screens shall measure a minimum of 1.7m in height from the finished floor levels of the respective balconies / windows. The screens shall be fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that are consistent with the approved colours and materials and that complement the design of the approved development.

(b) Roof garden - The roof garden above apartment 05 shall not be accessible to residents, except for essential access for maintenance.

(c) The high level "flying" roof over the Bassett Street entrance shall be replaced with a lower level awning.

(e) The fences shall be modified as follows:

(i) The sandstone wall to Bassett Street shall be reduced to 1m in height above ground level.

(ii) The fence to Mona Street and the private gardens to the street frontage shall be modified to

an open style dark coloured timber fence. The fence shall have a maximum height of 1m above ground level.

(iii) The side and rear boundary fences shall be modified to closed style timber fences which have a maximum height of 1.8m above ground level.

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

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

25. **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.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

26. **Building Code of Australia Fire Safety Measures**

The Building Code of Australia works and fire measures as detailed and recommended in the Building Code of Australia Audit Report prepared by Building Code Clarity, dated 27 September 2021, Report Ref No. J1031-BCA-r2 are to be carried out in full to the building.

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.

27. **On-site Stormwater Disposal Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater disposal in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY, and generally in accordance with the concept drainage plans prepared by NY Civil Engineering, Job number E210350, Drawing No. D1 to D8 and dated 28/9/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer.

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.

28. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway.

Engineering plans for the new development works within the road reserve and this development

consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of vehicle crossing, footpath and kerb ramps which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

- a) the driveway crossing shall be 5.5 m wide in accordance with Council's Normal profile.
- b) 1.5 m wide concrete footpath must be installed from the frontage of Basset Street to the bus stops on both side of Pittwater Road in accordance with the conception plan from PopovBass, drawing no 0608-DA220 and 0608-DA221, Rev 1 and dated 10/02/2022.
- c) all utility services must be plotted on the submitted plan.
- d) kerb ramps shall be installed on the intersections if required.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

29. 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.

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.

30. Shoring of Council's Road Reserve (Temporary road anchors)

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

31. Stormwater Drainage Application

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval.

The submission is to include four (4) copies of Civil Engineering plans for the design of the pipeline connection which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

32. **Noise - Design of Mechanical Plant**

Prior to the issue of a Construction Certificate, the design, specifications and location of noise generating mechanical plant are to be provided to the Principal Certifying Authority. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from all mechanical plant noise in accordance with:

- *Pittwater Development Control Plan* Section C1.6, and
- *Protection of the Environment Operations (Noise Control) Regulation 2017* Section 45.

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

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

Reason: To maintain amenity of the surrounding area.

33. **Compliance with Estuarine Risk Management Report**

The development is to comply with all requirements and recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd., dated 13 December 2021 and these recommendations are to be incorporated into construction plans as necessary. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

34. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

35. **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.

36. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

37. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) tree ID number 12 - *Buckinghamiana celsissima*
- ii) tree ID number 14 - *Callistemon viminalis*

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal, and within the development site these include existing tree ID numbers, 1, 2, 3, 4, 5, 11, and 13.

Reason: To enable authorised development works.

38. **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 protect native wildlife.

39. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

40. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Due to the proximity of the site adjacent to Pittwater High School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays)
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

41. **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.

- 25 Mona Street, Mona Vale
- 52 Bangalow Street, Mona Vale
- 54 Bangalow Street, Mona Vale
- 56 Bangalow Street, Mona Vale

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 arising 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.

42. **Installation and Maintenance of Sediment and Erosion Control**

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

43. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, 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) or vi) 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) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, including section 5 Tree Protection Plan.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) 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.

44. **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.

45. **Substitution of Stormwater Treatment Measures**

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.

46. **Dewatering Management**

Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

47. **Implementation of Demolition Traffic Management Plan**

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

48. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved

Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

49. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

50. **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;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

51. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

52. **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.

53. **Footpath Construction**

The applicant shall construct 1.5 metres concrete footpath in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Section 138 Road Act approval
(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpath. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

54. **Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: protection of the environment.

55. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance with applicable regulations to ensure that no pollutants enter receiving waters.

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

56. **Parking for all construction staff and contractors**

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

57. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

58. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

59. **Landscape Completion**

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

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

Reason: Environmental amenity.

60. **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.

61. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

62. **Certification of Services (B3)**

Certification that new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections are located above the FPL (including Climate Change) of 2.9mAHD and waterproofing of electrical equipment and installation of residual current devices below the FPL (B3).

A suitably qualified electrical engineer or contractor is to certify that all new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections are located above the Flood Planning Level and any existing electrical devices, wiring and the like located below the FPL are protected from water egress or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval.

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

63. **Restriction as to User and Positive Covenant over the self-actuating flood gate**

A restriction as to user shall be created on the title over the self-actuating flood gate in order to:

- (a) Prohibit the removal or modification of the self-actuating flood gate.
- (b) The flood protection offered by the self-actuating flood gate must be continuous and at

a minimum level of 3.1m AHD. Such levels are to be detailed to Australian Height Datum on the Section 88B instrument and submitted to Council for approval.

Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such restriction.

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

64. **Positive Covenant for self-actuating flood gate**

The Applicant shall submit a positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) to be created on the final plans and accompanying 88B instrument, requiring the proprietor of the land to maintain the self-actuating flood gate structures in accordance with the industry and manufacturing standards to ensure ongoing flood protection.

The terms of the positive covenant are to be prepared to Council's standard requirements, which are available from Northern Beaches Council. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

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

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

65. **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 for construction certificate. 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 Final Occupation Certificate.

Reason: Protection of the receiving environment.

66. **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 Final 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.

67. **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:

A. Detail on the stormwater treatment measures:

- i) Work as executed drawings
- ii) Intent of the stormwater treatment measures including modelled pollutant removal rates
- iii) Site detail showing catchment for each device
- iv) Vegetation species list associated with each type of vegetated stormwater treatment measure
- v) Impervious area restrictions to maintain the water balance for the site
- vi) Funding arrangements for the maintenance of all stormwater treatment measures
- vii) Identification of maintenance and management responsibilities
- viii) Maintenance and emergency contact information

B. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

- i) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

- ii) Monitoring and assessment to achieve an 80 percent survival rate for plantings
- iii) 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

C. Maintenance schedule and procedure - ongoing

- i) Activity description, and duration and frequency of visits
- ii) Routine maintenance requirements
- iii) Work Health and Safety requirements
- iv) Waste management and disposal
- v) Traffic control (if required)
- vi) 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)
- vii) 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 Final Occupation Certificate.

Reason: Protection of the receiving environment.

68. 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 Final Occupation Certificate.

Reason: Protection of the receiving environment.

69. Installation of Rainwater Tanks

Rainwater tanks shall comply with the following:

- a) Be fitted with a first-flush device that causes initial rainwater run-off to bypass the tank and must drain to a landscaped area. The first flush device will not be permitted to connect to the stormwater system
- b) Have a sign affixed to the tank stating the contents is rainwater
- c) Be constructed or installed in a manner that prevents mosquitoes breeding, such as the use of mesh to protect inlets and overflows
- d) Have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners
- e) Pumping equipment must be housed in a soundproof enclosure
- f) Where the rainwater tank is interconnected to a reticulated water supply, it must be installed in accordance with Plumbing Code of Australia, particularly backflow/cross connection prevention requirements

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To conserve potable water.

70. Strata Management Statement

The Strata Management Statement must specifically list the stormwater treatment measures that will be maintained under strata title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

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

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

71. Footpath Construction

The footpath, in accordance to Council's standard specifications, shall be constructed along the property frontage to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To provide pedestrian access to and from the property.

72. 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.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

74. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

75. **Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**

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 and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

76. Geotechnical Certification Prior to Occupation Certificate

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

Reason: To ensure geotechnical risk is mitigated appropriately.

77. 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 Report Ref J37630,6 dated 06.10.2021, prepared by White Geotechnical Group
- (b) Preliminary seepage analysis Ref 34852SFlet, dated 03.02.2022, prepared by JK Geotechnics
- (c) Acid Sulfate Preliminary Assessment Ref J3763, dated 06.10.2021, prepared by White Geotechnical Group
- (d) Estuarine Risk Management Report, dated 13.12.2021, prepared by Horton Coastal Engineering
- (e) BCA Compliance Assessment Report Ref J1031-BCA-r2, dated 27.09.2021, prepared by Building Code Clarity
- (f) Arboricultural Impact Assessment and Tree Protection Plan V1, dated 22.09.2021, prepared by Tree Survey
- (g) Disability Access Report Ref LP_21288, dated 20.09.2021, prepared by Lindsay Perry Access
- (h) NatHERS Certificate No.0006628750, dated 27.09.2021, prepared by Design Matters National
- (i) BASIX Certificate No. 1244308M , dated 28.09.2021, prepared by Frys Energywise
- (j) Traffic Statement Ref 21NL215.Ts2, dated 22.02.2022, prepared by Loka Consulting Engineers
- (k) Stormwater / Civil Design Compliance (Flooding) Ref E210350, dated 27.01.2022, prepared by NY Civil Engineering

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.

78. Acoustic Report Certification

Prior to any occupation certificate being issued, a subsequent acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with:

- *Pittwater Development Control Plan Section C1.6,*
- *Protection of the Environment Operations (Noise Control) Regulation 2017 Section 45,*
- and any acoustic treatment recommendations made in the acoustic assessment done prior to Construction Certificate.

Any recommendations made by the consultant must be implemented prior to issuing the

Occupation Certificate, in order to achieve compliance with noted conditions of this consent. The updated acoustic assessment is to be submitted to the satisfaction of the Principal Certifying Authority for certification.

Reason: To protect the acoustic amenity of neighbouring properties.

79. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

80. **House / Building Number**

House/building 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.

81. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines
(https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

82. **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.

83. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

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

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and / or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider. AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

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

Reason: Statutory requirements.

84. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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 waste and recycling facilities are provided.

85. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

86. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

87. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

88. **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.

For all new residential works with two or more dwellings and mixed use developments, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

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

Reason: To maintain local environmental amenity.

89. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

90. **Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

91. **Maintenance of Stormwater Treatment Measures - Major**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary 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.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

92. **Landscaping adjoining vehicular access**

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

93. **Sight lines within carparks**

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

94. **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.

95. **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.

Note: 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.







Design + Sustainability Advisory Panel Meeting Report – Date 16 December 2021

5 - DA2021 1901 120 Bassett St & 21-23 Mona St MONA VALE

PANEL COMMENT AND RECOMMENDATIONS

General

Seniors living development of twelve 3-bedroom apartments.

Strategic context, urban context: surrounding area character

The site is characterised by 1-2 storey detached dwellings set back from the road in landscape settings. Bangalow Reserve is located further to the east accessed off Bassett Street with a Business Park located opposite this reserve. Pittwater High school diagonally across Mona Street to the west. Winnererremy Bay Park on the opposite side of Mona Street to the north. An area of dense bushland on the opposite side of Bassett Street to the south.

A sewage easement running parallel to Mona Street has necessitated deep front setbacks for neighbouring properties, to the east of the site, but also contributed to compressed rear setbacks at the back of houses.

The applicant's architect and landscape architect have demonstrated a well-considered and thought-full understanding of the site's opportunities and constraints. The Panel commends the siting strategy and overall response to the urban context.

Scale, built form and articulation

The Panel commends the overall built-form response and architectural articulation of the proposal. It appears that some overshadowing to the neighbouring property at the south-east occurs in winter. Whilst the impact of this is not excessive the Panel suggests that it could be ameliorated by pulling back the roof overhang.

The Panel believes that it could be beneficial to have a smaller apartment 05 (and thereby reduce the floor area). This would ease some of the pressure on the boundary conditions in this corner of the site.

The Panel was informed of submissions that were concerned with the scale and and form of the development. The Panel consider the scale and highly articulated forms to be appropriate and a good fit with the context, helped further by the very large setback.

The scale could be reduced further by setting back the overhanging roof above the main entry and replacing it with a lower-level awning over the entry itself, which would have the further benefit of providing more weather protection for visitors as they enter the complex.

Recommendations

1. Consideration should be given to a reduction in the roof overhang on the south-east to reduce overshadowing to the neighbouring property.
2. Consideration should be given to a reduction in area (and bedroom numbers down from 3 to 2) for apartment 05.
3. Set back the high-level 'flying' roof and replace with a lower level awning over the entry



Landscape

The Panel consider the landscape and public realm approach for this development appropriate and well thought out in terms of creating attractive and useful semi and private garden spaces and a well-considered planting schedule.

The creation of large well-articulated private gardens associated with Units 01,02,03 & 04 within the large sewer setback is a well-crafted and considered approach to the services setback.

Recommendations

4. Consideration should be given to making a non-accessible vegetated roof garden to the roof area on level 1 above apartment 05. This may alleviate some future overlooking issues of units looking to the north-east.

Amenity

The Panel commends the applicant's architect for the well-laid out and planned apartments. The relationship between inside and outside and the overall arrangement and size of rooms in the front apartments is particularly commended. However, apartments 05 and (to a lesser degree) 06 are slightly compromised by their location at the rear. The outlook of apartment 11 would benefit from the provision of a roof garden over apartment 5.

The Panel notes that all of the apartments have 3-bedrooms. The Panel believes that it would be desirable to have more of a mix and suggests that, at the very least, apartment 05 might be better positioned as a 2-bedroom unit. This is also in consideration of the limited setbacks at this corner of the site.

The Panel commends the wonderful open common areas and the overall character of the entries and stairways into apartments.
Recommendation

Façade treatment/Aesthetics

The materiality is generally very good, however, it would be beneficial over the long-term if the amount of rendered masonry could be limited or substituted altogether (eg. with other off-form concrete finishes).

The clerestory skylights are a good way of increasing daylight to the apartments. Skylights could be included in the bathrooms as well.

Recommendations

5. Consideration should be given to substituting rendered masonry with off-form concrete.
6. Consideration should be given to including skylights to the top floor bathrooms.

Sustainability

There is a large amount of glass to a lot of the apartments, particularly apartments 1 and 7, but also to the bedrooms of apartment 4 and 10. This will be having a negative impact on the performance of these apartments in terms of heating and cooling loads and thermal comfort.

The BASIX certificate nominates "no washing machine taps" which is clearly an error because laundries are noted on the plans.

The cooktops, ovens and hot water are all gas, these could be electrified.

Only 8kW PV is included, this could be increased significantly, with portions of the array connected directly to some of the apartment distribution boards, to enable more of the energy to be used on site.

The Panel commends the inclusion of EV charging points for all car spaces.



Recommendations

7. Reduce the amount of glazing to provide reduced heating and cooling loads. This will improve NatHERS score, thermal comfort and energy use
8. Electrify the services with heat pump hot water and induction cooktops, electric ovens
9. Increase the amount of PV and connect some direct to some of the apartments to increase the renewable energy consumption on site.

PANEL CONCLUSION

The panel supports the proposal but suggest the following minor amendments:

1. Reconsider some of the massing to pull back the roof overhang on the south east corner, reduce the number of beds to apartment 5.
2. Include a non-trafficable roof garden on the roof of apartment 5 to improve the amenity of apartment 11 and provide better views from the upper corridor.
3. Electrify the services and increase the amount of PV.
4. Reduce the amount of glazing to some of the apartments.

5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1	DA2022/0068 - 18-22 DALE STREET, BROOKVALE - ALTERATIONS AND ADDITIONS TO AN EXISTING BUILDING
AUTHORISING MANAGER	Phil Lane
TRIM FILE REF	2022/190196
ATTACHMENTS	1 Assessment Report 2 Site Plan and Elevations 3 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 pursuant to clause 4.6 of WLEP 2011 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. DA2022/0068 for alterations and additions to an existing building at Lot CP SP 70852, 18 - 22 Dale Street, BROOKVALE, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0068
Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot CP SP 70852, 18 - 22 Dale Street BROOKVALE NSW 2100
Proposed Development:	Alterations and additions to an existing building
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	The Owners Of Strata Plan 70852
Applicant:	Peta-Louise Holmes
Application Lodged:	08/02/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	18/02/2022 to 04/03/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 18.36%
Recommendation:	Approval
Estimated Cost of Works:	\$ 56,800.00

EXECUTIVE SUMMARY

This report is submitted to the Northern Beaches Local Planning Panel (NBLPP) for consideration of Development Application DA2022/0068 for alterations and additions to an existing mixed use building that is primarily occupied by commercial premises.

The existing commercial building is constructed to the side and rear boundaries and contains two triangular light wells within the north-western and south-western rear corners of the building. The approximate area of the light wells are 9.1sqm and 5.1sqm respectively for the north-western and south-western light wells. The proposed development seeks to install two new vergolas over the existing light wells to provide weather protection to the building. The proposed vergolas include operable louvres.

The maximum building height of the proposed development is 13.02m, which represents a 18.36% variation to the height of buildings development standard, which prescribes a 11m building height limit. Despite the technical non-compliance, the vergola structures do not increase the maximum height of the existing building and will be concealed from view by the existing parapet.

The development is ancillary to a commercial premises, which is a prohibited land use within the IN1 General Industrial zone under the provisions of Warringah Local Environmental Plan (Warringah LEP) 2011. Section 4.67(3) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) stipulates that the provisions contained within an Environmental Planning Instrument do not strictly apply to a development that relies on existing use rights, which in this case applies to the subject application. Despite this, the applicant has submitted a written request under Clause 4.6 to vary the height standard, in line with the recent judgement in the NSW Land and Environment Court Case of *Made Property Group Pty Limited v North Sydney Council [2020] NSWLEC 1332*.

The applicant has demonstrated that compliance with the height standard is both unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the 18.36% variation to Clause 4.3 - Height of buildings of Warringah LEP 2011.

One submission was received following the public exhibition period. The submission raised concern of the validity of the owner's consent, the cost of works, overdevelopment of the site and potential impacts on businesses within the subject commercial building. A detailed assessment of these issues has been conducted and the application has been found to be satisfactory.

It is recommended that the NBLPP approve the application, subject to the conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing commercial premises. Specifically, the works consist of the installation of two new vergolas over existing light wells within the north-western and south-western corners of the building. The proposed vergolas contain operable louvres to allow sunlight into the building when necessary.

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 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - Zone IN1 General Industrial

SITE DESCRIPTION

Property Description:	Lot CP SP 70852 , 18 - 22 Dale Street BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one allotment located on the western side of Dale Street, Brookvale.</p> <p>The site is rectangular in shape with a frontage of 60.35m and a depth of 50.29m. The site has a surveyed area of 3035sqm.</p> <p>The site is located within the IN1 General Industrial zone pursuant to Warringah LEP 2011 and accommodates a part 3-4 storey commercial building with two basement levels below. The building occupies a number of separate commercial tenancies.</p> <p>The land slopes from north to south, representing an approximate slope of 3m.</p> <p>The site contains a number of garden beds with planting along the front boundary. A number of street trees are located adjacent to the front boundary.</p> <p>Description of Surrounding Development</p> <p>The subject site is adjoined by a range of industrial developments, including vehicle repair stations, warehousing and small scale manufacturing developments.</p>

Map:



SITE HISTORY

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

- Development Application No. 2001/0283DA for 3 & 4 Part Storey Industrial, Warehouse and Office Building with 2 Levels of Basement Car Parking and Associated Landscaping approved by Council on 26 September 2001. This consent was subsequently modified on 16 January 2002.
- Development Application No. DA 2005/1176 for Strata subdivision and erection of internal walls to create additional offices within an existing office building including new entry doors, split air-conditioning, electrical supply work and re-instatement of separate essential services approved by Council on 28 June 2006.

APPLICATION HISTORY

The Development Assessment Planner examined the subject site and the surrounds on 24 February 2022.

On 2 March 2022 the applicant submitted an amended Clause 4.6 written request for the height breach. The amended request corrected mis-descriptions within the justification. The amended report did not increase the scale of the proposal or scope of works. Therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan.

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 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 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to a revised Clause 4.6 written request to justify contravention to the height of buildings development standard.</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>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
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

- Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use as:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

*(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered:

1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

Comment:

Council's records indicate that the subject site was approved for a commercial premises under Development Application No. 2001/0283DA on 26 September 2011, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

2. Was the use of the land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment:

The evidence available to Council reveals that the use of the land commenced as a lawful purpose prior to the coming into force of Warringah LEP 2011, which prohibits commercial premises' within the IN1 General Industrial zone.

3. Has the use of the land been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure

(apart from that provision) that the development consent would not lapse?

Comment:

A Final Occupation Certificate (Final Occupation Certificate No. 35474.02, dated 8 August 2003) was issued for the development approved under Development Application No. 2001/0283DA. This indicates that the works were lawfully carried out prior to the coming into force of Warringah LEP 2011, which prohibits commercial premises' within the IN1 General Industrial zone.

- **What is “the land on which the existing use was carried out” for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: “if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose”.

Comment:

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council* (2005) NSWLEC 71, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

Building Height

The site is subject to a 11m maximum building height development standard, as applicable in the IN1 zone. The maximum building height of the proposed development is 13.02m, which exceeds the statutory height limit. Nevertheless, the proposed development does not increase the maximum height of the existing building on the site.

Front Setback

The minimum front boundary setback required within the IN1 zone is 4.5m. The works do not alter the existing front building line, noting that the vergolas are sited at the rear of the building and setback over 4.5m from the front boundary. The vergolas will not be visible from Dale Street.

Side Setback

The IN1 zone does not stipulate a minimum side boundary setback but rather states that side boundary setbacks will be considered on a merit basis. The existing commercial building is setback 60mm from the northern side boundary and 20mm from the southern side boundary. The proposed development does not alter the side setbacks and thus, is considered to be acceptable in this regard.

Rear Setback

The IN1 zone does not stipulate a minimum rear boundary setback but rather states that side boundary setbacks will be considered on a merit basis. The existing commercial building is setback 20mm from the rear boundary. The proposed development does not alter the existing rear setback and thus, is considered to be acceptable in this regard.

Concluding Comments of Bulk and Scale

The proposed development pertains to two new vergolas over existing light wells within the north-western and south-western corners of the building. The works are located within the existing building footprint and do not increase the maximum building height of the existing commercial building. Furthermore, the existing landscape treatment within the front setback area will be maintained. In this regard, the proposed development is considered to maintain an appropriate relationship with the existing and future context of the locality.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

The existing commercial building will not be demolished. The resulting development will maintain a bulk and scale that is acceptable.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

As the works do not increase the existing building height and are confined to the existing footprint, the proposed development will not result in unacceptable amenity impacts, specifically with regards to

views and solar access.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

The proposal has been suitably designed to ensure that it achieves an adequate standard of internal amenity.

Conclusion

The use has been approved under a previous environmental planning instrument and as such, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (Warringah LEP 2011).

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 18/02/2022 to 04/03/2022 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:
Mr Joseph Sanossian	11 Simpson Street BELROSE NSW 2085

One submission was received following the public exhibition period. The following issues were raised in the submission.

- **Owners Consent**

The submission raised concern that the majority of the owners of the commercial building have not consented to the lodgment of the subject development application.

Comment:

The application has been accompanied by a signed document stamped with the common seal of the owners of strata plan No. 70852, thereby demonstrating that owners consent has been provided for the lodgment of the subject development application.

- **Costs of Works**

The submission raised concern that the costs of works may not be an accurately representation of the works proposed.

Comment:

The application has been accompanied by a cost of works summary from the installation company, which stipulates that the cost of works are \$56,800. The cost of works summary form has been prepared in accordance with Council's lodgement requirements.

- **Insufficient Justification for the Development/Overdevelopment**

The submission raised concerns that the proposed works represent overdevelopment of the site and that there are not sufficient planning grounds to justify the works.

Comment:

The proposed vergolas are located within an existing building footprint and do not increase the height of the existing commercial building on the site. Whilst the vergolas are located above the 11m height limit that is applied to the site, the applicant has submitted a written request pursuant to Clause 4.6 of the Warringah LEP 2011 and provided sufficient justification to demonstrate that compliance with the height standard is both unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the 18.36% variation to the height standard.

- **Internal Amenity**

The submission raised concern that the vergolas would compromise internal amenity through enclosing open light wells.

Comment:

The vergolas provide sufficient weather protection to the building and do not significantly compromise the internal amenity of the commercial building. The vergolas contain operable louvres to provide light into the building.

- **On-going expenses**

The submission raised concern that the vergolas would create costly maintenance and liability issues.

Comment:

This is not a matter that Council needs to consider under Section 4.15 of the EP&A Act 1979.

- **Impacts on Businesses within the Building/Vergolas do not benefit all businesses within the Building**

The submission raised concerns that the vergolas would unduly affect businesses within the commercial building.

Comment:

The vergolas provide weather protection to the building and are not considered to unduly impact upon the operation of businesses within the subject commercial building.

Conclusion

The issues raised within the submission have been addressed above. The concerns do not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application.</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>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The application was referred to Ausgrid, who responded stating that a formal assessment was not required.

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 commercial 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 commercial land use.

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 application was referred to Ausgrid, who responded stating that a formal assessment was not required.

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?	Yes
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	13.02m	18.36%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone IN1 General Industrial

The proposed development relies on existing use rights. As such, compliance with the zone objectives is not relevant to this application.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	13.02m
Percentage variation to requirement:	18.36%

The site is subject to a 11m maximum building height under the requirements of Clause 4.3 of the Warringah LEP 2011. The proposed development contains a maximum building height of 13.02m, which represents an 18.36% variation from the development standard.

Whilst Section 4.67(3) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) stipulates that the provisions contained within an Environmental Planning Instrument do not strictly apply to a development that relies on existing use rights, the recent judgement in the Land and Environment Court Case of *Made Property Group Pty Limited v North Sydney Council [2020] NSWLEC 1332* required a written request pursuant to Clause 4.6 to be submitted to vary a development standard, despite the subject development benefiting from existing use rights.

Accordingly, an assessment against the matters within Clause 4.6 of Warringah LEP 2011 is provided below.

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, 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 applicant's written request argues, in part:

"The objectives of the standard have been achieved. The proposed Vergolas will not add to the height of the approved building. The awnings are consistent with the prevailing building height and streetscape character of the area. The roof form is an open structure and fits well into the topography of the allotment without adding to the bulk or scale of the building.

There is no impact in terms of view sharing from adjacent neighbours or public areas and with the awning built over an approved light shaft its add no additional height to the approved building.

The awning has minimal impact with regard to privacy and solar access enjoyed by adjacent properties and maintains adequate sunlight access to the building itself.

In terms of the zone objectives, the locality surrounding the site is displaying evidence of a renewal process, with medium to high density developments. The bulk and scale of the proposed development is generally consistent within the locality. The proposed awning has been designed to meet the day to day needs of tenants and will provide an active use of the shared common open space of the building.

The objectives of the Height of Buildings control remain relevant, and the proposed development is generally consistent with, or not antipathetic to, the objectives of the Height of Buildings control, notwithstanding the numerical variation.

Strict compliance with the height control in this instance would hinder greatly the tenants right to an active use of the open space of the building. The proposed shade structures provide shelter and protection from the weather, contributing the protection of the health and safety of the occupants. The proposed Vergolas do not change or add to, the existing and approved building height.

The proposed awning certainly achieves the objectives of the standard. As the height of the building remains the same as prior to the proposed awning, together with the reasons set out above, it is considered that sufficient environmental planning grounds have been met to justify contravening the development standard in this instance.

The proposed Vergola's (sic) are an open, steel, ecologically sustainable structure that will have minimal long-term effect on the environment. They will be built over an existing hardstand area below the light shaft and has no detrimental effect on neighbouring properties with regard to view sharing, solar access or privacy. It's a high-quality designed and constructed awning that will enhance the occupants use of the building".

Planner Comment:

Council's Development Assessment Planner generally agrees with the applicant's justification to contravene the development standard. In particular, the Assessment Planner agrees that whilst the proposed development exceeds the 11m height plane the works will not increase the maximum height of the existing building on the site. In this regard, the works will have negligible impacts on the amenity of surrounding properties, with specific regard to solar access, views, privacy and visual bulk. In addition, the height breach will not exacerbate the bulk and scale of the building as perceived from the streetscape and surrounding properties.

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 EP&A 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 IN1 General Industrial zone.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the Warringah LEP 2011 are:

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

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposed vergola structures are located over existing light wells and will not increase the height of the existing building on the site. Therefore, the height and scale of the building will continue to maintain an appropriate visual relationship with surrounding and nearby development.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The vergola structures do not increase the maximum height of the existing building and are located within an existing footprint. In this regard, the proposal will not result in any unreasonable amenity impacts, specifically with regard to visual bulk, views, privacy and solar access.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The existing landscape treatment within the front of the site will be maintained subsequent to the development. Irrespective, the site is located within an industrial and commercial precinct and the works would not impact upon the scenic quality of Warringah's coastal and bush environments.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

The vergolas are located at the rear of the building, over 35m from the front boundary, and will not be visible from the public domain.

Zone objectives

The development relies on existing use rights and the zone objectives are not relevant in this case. Nevertheless, the proposal is addressed against the zone objectives as follows:

- *To provide a wide range of industrial and warehouse land uses.*

Comment:

The proposal will not alter the current land use of the site.

- *To encourage employment opportunities.*

Comment:

The proposed development will not preclude the existing employing opportunities within the building.

- *To minimise any adverse effect of industry on other land uses.*

Comment:

The vergola structures will not have an adverse impact on surrounding land uses.

- *To support and protect industrial land for industrial uses.*

Comment:

The proposal does not impact upon adjacent industrial land uses.

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

Comment:

The proposal will not alter the commercial use of the building.

- *To enable a range of compatible community and leisure uses.*

Comment:

The proposal allows for the continuation of the commercial land use.

- *To maintain the industrial character of the land in landscaped settings.*

Comment:

The proposal maintains the existing landscape treatment along the front boundary.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the IN1 General Industrial zone and the objectives of Clause 4.3 of Warringah LEP 2011.

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 PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, 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.

Warringah Development Control PlanBuilt Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B6 Merit Assessment of Side Boundary Setbacks	Merit Assessment (north)	Acceptable on Merit as no change to existing	-	Yes
	Merit Assessment (south)	Acceptable on Merit as no change to existing	-	Yes
B7 Front Boundary Setbacks	4.5m	No change to existing	-	Yes
B10 Merit Assessment Rear Boundary Setbacks	Merit Assessment	Acceptable on Merit as no change to existing	-	Yes

Part B Built Form Controls

The Land and Environment Court Planning Principle established in the judgement by Senior Commissioner Roseth in *Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71* confirms that the provisions of Environmental Planning Instruments and Development Control Plans that derogate or detract from the benefit endowed on a site by existing use rights do not apply to the assessment of applications on sites where existing use rights apply. Therefore, zone objectives and planning controls that govern the size of a development (i.e building height, floor space ratio, building envelope and setbacks) are not strictly applied where existing use rights apply. This includes qualitative provisions as well as quantitative provisions.

Having regard to the above case law, the built form controls contained within the WDCP 2011 compliance table are not strictly applied to this particular application and is, therefore, only included as a record to identify how the proposed development relates to applicable planning controls that would otherwise apply to the subject site if existing use rights did not apply. In this regard, no further assessment is provided in this report relating to the numerical non-compliances identified within the Built Form Controls table above. Instead, this report includes a merit based assessment having regard to the matters for consideration prescribed within Section 4.15 of the Environmental Planning and Assessment Act 1979.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D19 Site Consolidation in the R3 and IN1 Zone	Yes	Yes
D20 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

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 2021

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

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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

Council is not satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

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

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

The proposed development involves alterations and additions to an existing commercial building.

The maximum height of the proposed development is 13.02m, which exceeds the 11m height limit. Notwithstanding, the new vergola structures will not increase the height of the existing building on the site and will be concealed from view by the existing parapet.

When considered against the Warringah LEP 2011 and Warringah DCP 2011 objectives, the proposed development is considered to align with the relevant aims and requirements of these Policies, noting that the development will not result in any unacceptable amenity or environmental impacts.

The concerns raised within the submission have been addressed and do not warrant refusal of the application.

Therefore, the application is recommended for approval.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary Clause 4.3 Height of Buildings development standard pursuant to Clause 4.6 of the WLEP 2011 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 DA2022/0068 for Alterations and additions to an existing building on land at Lot CP SP 70852, 18 - 22 Dale Street, BROOKVALE, 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
Sheet 1 of 6 (Revision B)	20 December 2020	Vergola (NSW) Pty Ltd
Sheet 2 of 6 (Revision B)	20 December 2020	Vergola (NSW) Pty Ltd
Sheet 3 of 6 (Revision B)	20 December 2020	Vergola (NSW) Pty Ltd
Sheet 4 of 6 (Revision B)	20 December 2020	Vergola (NSW) Pty Ltd
Sheet 5 of 6 (Revision B)	20 December 2020	Vergola (NSW) Pty Ltd
Sheet 6 of 6 (Revision B)	20 December 2020	Vergola (NSW) Pty Ltd

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	20 January 2022	Performance Building Consultants

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 sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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

5. 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.

6. External Finishes to Roof

The external finish to the vergolas shall have a medium to dark range (BCA classification M or D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**7. 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.

8. 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.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE****9. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

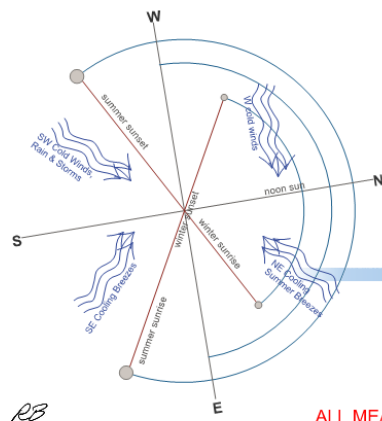
Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

SITE ANALYSIS

EXISTING SITE AREA = 3035 sq.m.
PROPOSED VERGOLA #1 = 18.2 sq.m.
PROPOSED VERGOLA #2 = 9.9 sq.m.

NOTES:-

AS THE PROPOSED VERGOLA IS TO BE BUILT OVER AN EXISTING HARDSTAND AREA WITHIN AN EXISTING COMMERCIAL BUILDING. THERE WILL BE NO INCREASE TO THE EXISTING SITE COVERAGE.
 ALL DOWNPIPES TO BE DIRECTED INTO THE EXISTING STORMWATER DISPOSAL SYSTEM.
 ALL DIMENSIONS ARE TO BE CONFIRMED WITH A SITE MEASURE PRIOR TO MANUFACTURE.



RB

**ALL MEASUREMENTS TO
BE VERIFIED AT C/M**



GENERAL NOTES

All work to be carried out in accordance with the Building Code of Australia, all Local and State Government Ordinances, relevant Australian Standards, Local Electricity and Water Authorities Regulations and all other relevant Authorities concerned.
 All timbers to be in accordance with SAA Timber Structure Code AS1720 and SAA Timber Framing Code AS 1684.
 All work to be carried out in a professional and workmanshiplike manner according to the plans and specification.
 Do not scale off the drawings unless otherwise stated and use figured dimensions in preference.
 All dimensions are to be checked and verified on site before the commencement of any work.
 Locate and protect all services prior to construction.



7 TEPKO ROAD TERREY HILLS NSW 2084
 TEL: (02) 9450 3300
 FAX: (02) 9450 3333

Project:

**PROPOSED VERGOLA
LOUVERED ROOF SYSTEM
AT COMMERCIAL BUILDING**

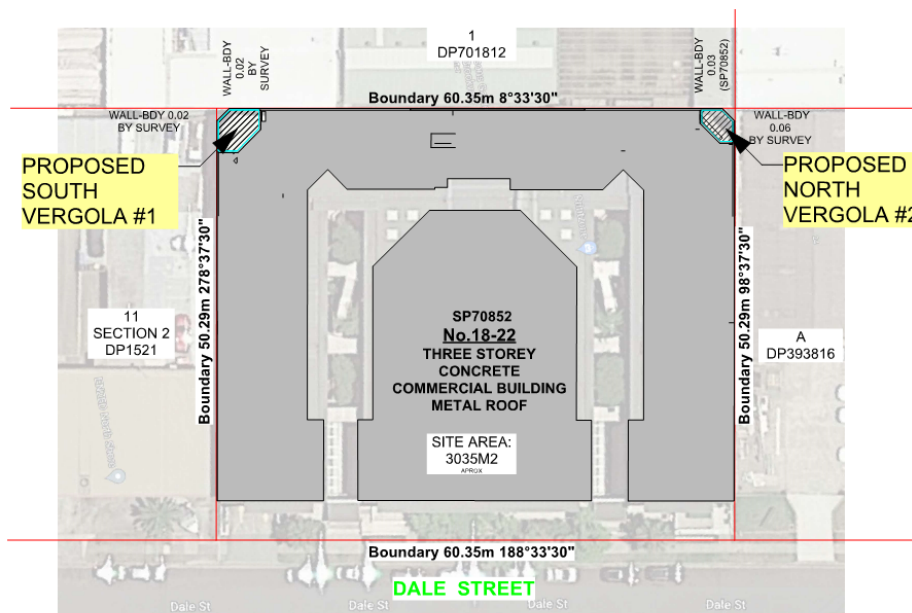
Client:

THE OWNERS - STRATA PLAN: 70852

Address:

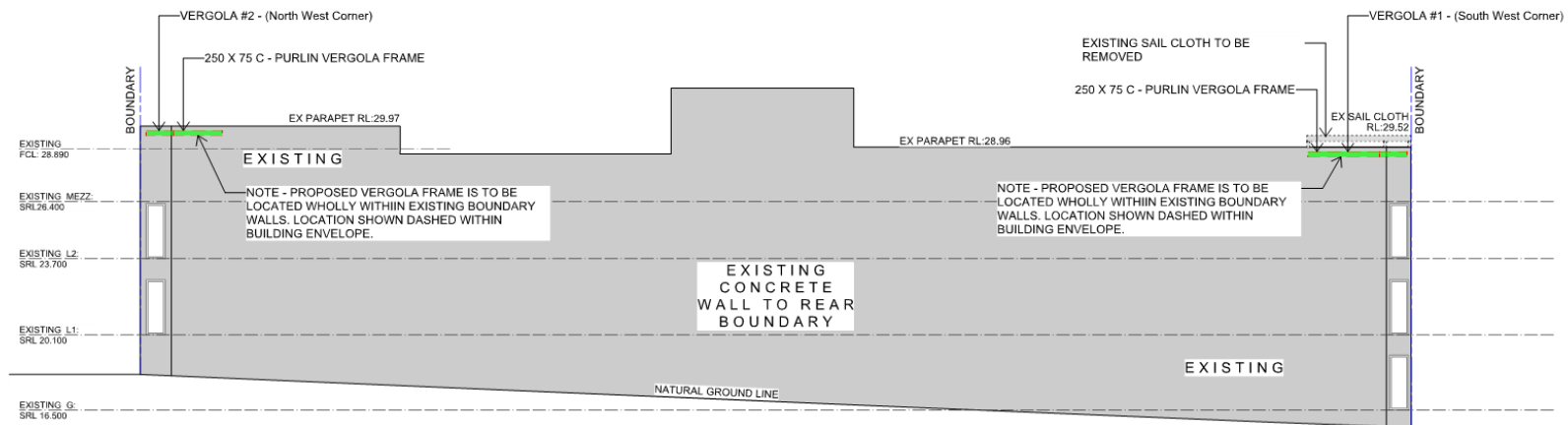
**18-20 DALE STREET
BROOKVALE - 2100**

DATE DRAFTED	20-12-20	AMENDED DATE	A - 15-12-20
SALES REP.	M.H		B - 20-12-20
DRAWN	JGW	SHEET No.	1 OF 6
DRAWING No.	18774	DATE SIGNED	
SCALE	AS NOTED @A3		
CLIENTS SIGNATURE			



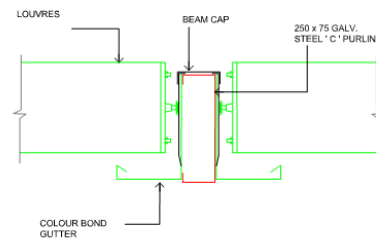
SITE PLAN

Scale 1:500



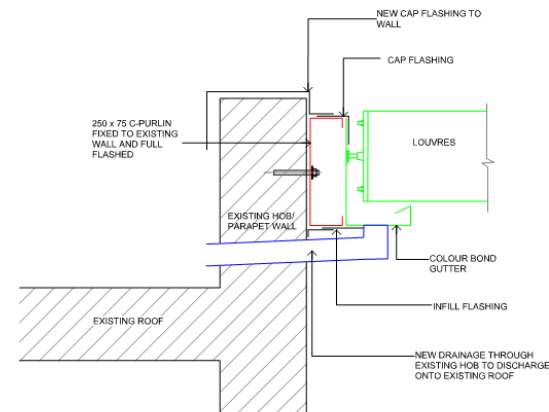
WESTERN (REAR) ELEVATION

SCALE 1:200



CENTRE BEAM DETAIL

SCALE 1:10



FIXING DETAIL

SCALE 1:10

RB

ALL MEASUREMENTS TO
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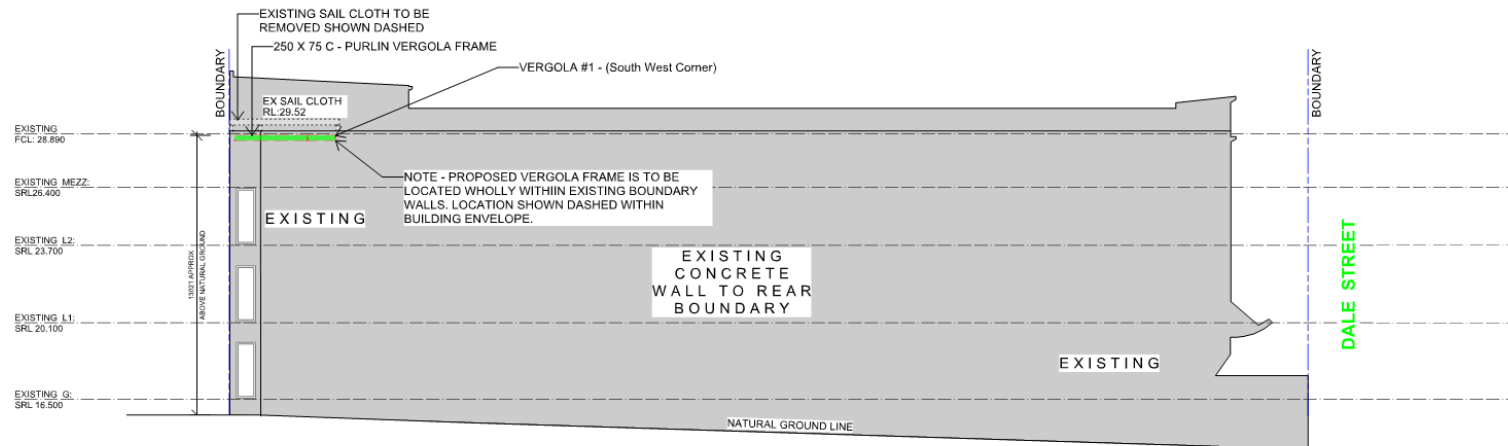
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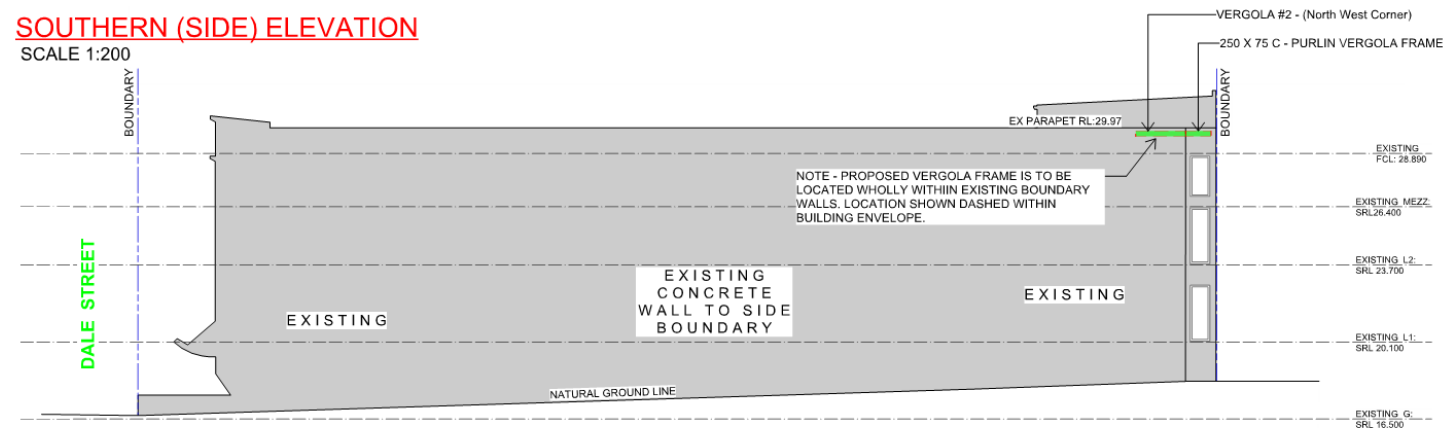
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DATE DRAFTED 20-12-20	AMENDED DATE A - 15-12-20
SALES REP. M.H	B - 20-12-20
DRAWN JGW	SHEET NO. 5 OF 6
DRAWING NO. 18774	DATE SIGNED
SCALE AS NOTED @A3	CLIENTS SIGNATURE



SOUTHERN (SIDE) ELEVATION
SCALE 1:200



NORTHERN (SIDE) ELEVATION
SCALE 1:200

RB

ALL MEASUREMENTS TO
BE VERIFIED AT C/M

GENERAL NOTES

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TEL: (02) 9450 3300
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Project:

**PROPOSED VERGOLA
LOUVERED ROOF SYSTEM
AT COMMERCIAL BUILDING**

Client:

THE OWNERS - STRATA PLAN: 70852

Address:

**18-20 DALE STREET
BROOKVALE - 2100**

DATE DRAFTED	20-12-20	AMENDED DATE	A - 15-12-20
SALES REP.	M.H		B - 20-12-20
DRAWN	JGW	SHEET No.	C -
DRAWING No.	18774	6 OF 6	
SCALE	AS NOTED @A3	DATE SIGNED	
CLIENTS SIGNATURE			

Application to Vary a Development Standard

18 – 22 Dale Street, Brookvale

The purpose of this submission is to formally request a variation to the Height of Buildings control pursuant to Clause 4.6 of the NBC (Warringah) LEP 2011.

1. What is the name of the environmental instrument that applies to the land?

NBC (Warringah) LEP 2011

2. What is the zoning?

General Industrial

3. What are the objectives of the zone?

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To enable a range of compatible community and leisure uses.
- To maintain the industrial character of the land in landscaped settings.

4. What is the development standard being varied?

Height of Buildings

5. Under what clause is the standard listed?

Clause 4.3

6. What are the objectives of the standard?

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

7. What is the numeric value of the development standard in the environmental planning instrument?

13.02m

8. What is the proposed numeric value of the development standard in your development application?

11.0m

9. What is the percentage variation?

16.8%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

In Wehbe v Pittwater Council [2007] NSW LEC 827, Chief Judge of the Land and Environment Court, Preston J recast the long standing 5 point test for consideration of a SEPP 1 objection set out in Winten Property Group Ltd v North Sydney Council (2001). The aim of this test is to determine whether requiring compliance with the standard would be unreasonable or unnecessary in the circumstances. The Chief Judge advised that the requirement to demonstrate that an objection is well founded could be satisfied in any of the following ways:

- 1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 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;*
- 5. the zoning of the particular land is 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 and unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The objectives of the standard have been achieved. The proposed Vergolas will not add to the height of the approved building. The awnings are consistent with the prevailing building height and streetscape character of the area. The roof form is an open structure and fits well into the topography of the allotment without adding to the bulk or scale of the building.

There is no impact in terms of view sharing from adjacent neighbours or public areas and with the awning built over an approved light shaft its add no additional height to the approved building.

The awning has minimal impact with regard to privacy and solar access enjoyed by adjacent properties and maintains adequate sunlight access to the building itself.

In terms of the zone objectives, the locality surrounding the site is displaying evidence of a renewal process, with medium to high density developments. The bulk and scale of the proposed development is generally consistent within the locality. The proposed awning has been designed to meet the day to day needs of tenants and will provide an active use of the shared common open space of the building.

The objectives of the Height of Buildings control remain relevant, and the proposed development is generally consistent with, or not antipathetic to, the objectives of the Height of Buildings control, notwithstanding the numerical variation.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a) (i) and (ii) of the Act?

Strict compliance with the height control in this instance would hinder greatly the tenants right to an active use of the open space of the building. The proposed shade structures provide shelter and protection from the weather, contributing the protection of the health and safety of the occupants. The proposed Vergolas do not change or add to, the existing and approved building height.

12. Are sufficient environmental planning grounds to justify contravening the development standard?

The proposed awning certainly achieves the objectives of the standard. As the height of the building remains the same as prior to the proposed awning, together with the reasons set out above, it is considered that sufficient environmental planning grounds have been met to justify contravening the development standard in this instance.

The Environmental Planning and Assessment Act 1979*Objectives:*

- (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.*

How are the objectives of the Act being met in this instance?

The proposed Vergola's are an open, steel, ecologically sustainable structure that will have minimal long-term effect on the environment. They will be built over an existing hardstand area below the light shaft and has no detrimental effect on neighbouring properties with regard to view sharing, solar access or privacy. It's a high-quality designed and constructed awning that will enhance the occupants use of the building.

Conclusion

This application has shown that there are sufficient environmental planning grounds to justify contravening the development standard and that the development standards relating to building height are unreasonable and unnecessary in this instance.

The proposed will sit over an existing and approved terrace and will not increase the height of the existing and approved building. The proposed is consistent with that of the existing building and will have no adverse effect to the solar access, streetscape or the distinctive character of the area. It is consistent with the objectives of the standard and the objectives for development within the zone.

It is considered that the development will not compromise the planning intent for the site or the character and amenity of the surrounding area. This application has shown justification that the requirements as set out in the decision of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 have been met, to enable council to determine the application.

As part of this assessment, reference is made to Commissioner Roseth in *Pathburn v North Sydney* [2005] NSWLEC 444 where the Senior Commissioner expressed, in terms of the planning principle that deals with impacts on neighbouring properties, the following:

“One should balance the magnitude of the impact with the necessary and reasonableness of the proposal that creates it. An impact that arises from a reasonable or necessary proposal should be assessed differently from an impact of the same magnitude that arises from an unreasonable or unnecessary proposal.”

An impact that arises from a proposal that fails to comply with a planning control is much harder to justify than one that arises from a complying proposal. People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime.”

In this instance, the proposal will not have detrimental amenity impacts on the adjacent allotments in regard to loss of solar access or views resulting from the non-compliance.

In general terms, compliance with the Height of Buildings control is unreasonable or unnecessary in these particular circumstances, and there are sufficient environmental planning grounds to justify the proposed variation to the Height of Buildings control.