



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 21 JUNE 2023

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

A handwritten signature in black ink, appearing to read 'Peter Robinson'.

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 21 June 2023

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	A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. These applications do not satisfy that criterion.	
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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 7 JUNE 2023

RECOMMENDATION

That the Panel note that the minutes of the Northern Beaches Local Planning Panel held 7 June 2023 were adopted by the Chairperson and have been posted on Council's website.

4.0 PUBLIC MEETING ITEMS

ITEM 4.1	DA2022/1874 - 26 ELTHAM STREET, BEACON HILL - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE.
AUTHORISING MANAGER	Adam Richardson
TRIM FILE REF	2023/366626
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan & Elevations

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/1874 for Alterations and additions to a dwelling house on land at Lot 8 DP 30337, 26 Eltham Street, BEACON HILL, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1874
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 8 DP 30337, 26 Eltham Street BEACON HILL NSW 2100
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Brett Phillip Dobeson
Applicant:	Brett Phillip Dobeson

Application Lodged:	09/11/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/04/2023 to 03/05/2023
Advertised:	Not Advertised
Submissions Received:	14
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 533,500.00
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EXECUTIVE SUMMARY

DA2022/1874 seeks consent for alterations and additions to an existing dwelling house.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the application received fourteen (14) submissions by way of objection during the notification periods.

The submissions raise issues which predominately relate to view loss, streetscape impacts, building height and amenity impacts.

The critical assessment issues include view loss and non-compliance with the numeric requirements of controls within the Warringah Development Control Plan, including breaches to the wall height, side

boundary envelope, front boundary setback, and landscaped open space and bushland setting controls. The non-compliance with the built form controls generally arise due to existing excavation, irregular lot shape and the sloping topography. Notwithstanding, it is considered that the proposal has been designed appropriately to remain compatible with the existing built form on the site and in the wider locale without the rise of any adverse amenity impacts. The proposal has been found to have an acceptable impact upon the views of adjoining properties/

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

Development application for alterations and additions to a dwelling house. The works comprise;

- Internal alterations to the first floor.
- Construction of a second floor addition, including a master bedroom, office, sitting room, and deck.

Amended plans received on 11 April 2023

Following a preliminary review of the application Council raised concern with the proposal's impacts to adjoining and surrounding land, particularly in relation to view loss. Amended plans were received on 11 April 2023, which included the following amendments:

- Reduction in overall height to ensure full compliance with the 8.5 metre building height development standard.
- Increased setback to southern side boundary by 0.6 metres.
- Increased front setback to the second floor balcony.
- Rear extension to the second floor sitting room and BBQ area cantilevered over existing roof.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 8 DP 30337 , 26 Eltham Street BEACON HILL NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Eltham Street.</p> <p>The site is irregular in shape with a frontage of 27.4 metres along Eltham Street and a maximum depth of 32.8 metres. The site has a surveyed area of 649.9m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two-storey dwelling with an attached garage.</p> <p>The site slopes to the north-east corner with an approximate fall of 8.0 metres.</p> <p>The site contains rock outcrops, garden beds and shrubbery. There is no evidence of any endangered or threatened species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwelling houses varying in size, age and construction. Eltham Park is directly east from the subject site.</p>

Map:



SITE HISTORY

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

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

Application History

The history of this application is detailed as below;

31 October 2022

Application received.

16 November 2022 to 5 December 2022

Public notification. Six (6) submissions received.

21 December 2022

Preliminary assessment complete.

1 February 2023

Inspection completed at the subject site.

2 February 2023

Request For Information (RFI) letter was sent to the listed Applicant, via email and the NSW Planning Portal. The RFI requested for height poles to be erected to accurately consider the potential extent of view loss. Certification of the height poles was received on 16 February 2023.

27 February 2023

Request For Information (RFI) letter was sent to the listed Applicant, via email and the NSW Planning Portal. The RFI requested amended plans to address concerns with the non-compliant building height, wall height and front setback. It was considered that these non-compliances were a prominent factor leading to the loss of views.

11 April 2023

Additional information was provided to Council in regards to the above letter. This information included an amended master-set with the following changes;

- Reduction in overall height to ensure full compliance with the 8.5 metre building height development standard.
- Increased setback to southern side boundary by 0.6 metres.
- Increased front setback to the second floor balcony.
- Rear extension to the second floor sitting room and BBQ area cantilevered over existing roof.

The amendments were re-notified as it was considered to be in the public interest. The amended plans form basis of the assessment of this proposal.

19 April 2023 to 3 May 2023

Public notification. Twelve (12) submissions received.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a recommended condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of</p>

Section 4.15 Matters for Consideration	Comments
	consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will 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 19/04/2023 to 03/05/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 14 submission/s from:

Name:	Address:
Andrew Dennis	23 / 1030 - 1034 Pittwater Road COLLAROY NSW 2097
Planik Pty Ltd Mr Daniel Roland Bennett	PO Box 577 GYMEA NSW 2227
Mrs Sabrina Eleanor Symonds	13 Cooper Close BEACON HILL NSW 2100

Name:	Address:
Withheld	BEACON HILL NSW 2100
Withheld	TERRIGAL NSW 2260
Mrs Colleen Therese Tobler	9 Cooper Close BEACON HILL NSW 2100
Oliver Clive Roberts	7 Cooper Close BEACON HILL NSW 2100
Mr Patrick John O'Connor	33 McKillop Road BEACON HILL NSW 2100
Mr Justin Benjamin Bradshaw	3 Endeavour Drive BEACON HILL NSW 2100
Mrs Christine Anne Bruce	17 Cooper Close BEACON HILL NSW 2100
Withheld	BEACON HILL NSW 2100
Mr Michael Caruso	31 McKillop Road BEACON HILL NSW 2100
Ashley Oliver Nigel Davies	29 McKillop Road BEACON HILL NSW 2100
Monique Maree Barrett	11 Eltham Street BEACON HILL NSW 2100

The following issues were raised in the submissions:

- **View loss,**
- **Building height,**
- **Streetscape,**
- **Built form non-compliances,**
- **Privacy,**
- **Overshadowing,**
- **Parking,**
- **Wider community needs.**

The above issues are addressed as follows:

- **View loss**

The submissions raised concerns that the proposal will result in unacceptable view loss. In addition, concern is also raised that the submitted plans do not include solar panels, which will potentially have an impact upon views.

Comment:

This issue has been addressed in detail under Clause 'D7 Views' in this report. In summary, a view loss assessment, in accordance with the four-part test detailed within *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*, has been undertaken within this assessment report. The views from the affected properties have been described and the impacts assessed. The detailed assessment finds that the extent of view loss arising from the proposed development is considered to range from negligible to moderate, which is considered acceptable within the context of the view sharing principles, given the vulnerability of the impacted views and the proposal's compliance with the relevant controls that have a significant bearing on the maintenance of views. Furthermore, potential impacts resulting from structures not proposed under this application cannot be considered.

It is considered that on merit, the issues of view loss or impact does not warrant the refusal of the application.

- **Building height**

The submissions raised concerns that proposed addition will create a three-storey development that is out of character with the locality.

Comment:

It is acknowledged that there are few examples of three-storey developments within the locality, however, building height is not expressively restricted to a two-storey height limit, rather, it is regulated by the 8.5 metre development standard under Warringah LEP 2011, which is supplemented by the Wall Height and Side Boundary Envelope controls under Warringah DCP. The proposal has been amended to comply with the Height of Buildings development standard prescribed by the LEP. Notwithstanding this, it is noted that the proposed addition is non-compliant with the Warringah DCP wall height control. Despite this, the merits of this non-compliance have been assessed against the objectives of the relevant control. In summary, the non-compliance is largely a consequence from the site being previously excavated for the existing ground floor, and would comply if measured from extrapolated natural ground levels. It is considered however that the proposed addition as amended provides generous building setbacks and is contained within the prescribed envelope. Overall, the proposed development achieves an acceptable level of compliance with the critical controls that regulate building height within the locality.

This matter does not warrant the refusal of this application.

- **Streetscape**

The submissions raised concerns that the proposal is an over-development of the site which will dominate the streetscape and impact upon the scenic qualities of the adjacent public reserve.

Comment:

Notwithstanding detailed discussions on the scale of the development (which is found to be commensurate to the lot size and surrounding developments) elsewhere in this report, it is considered that the proposed works are adequately articulated to mitigate bulk and scale impacts and sit within a landscaped setting which is integrated and designed to respect the natural site features. In addition, the amended proposal involves increasing the second floor balcony's front setback and providing roof planting within this area, which, will assist in reducing the impact of the built form and softening the appearance of the works when viewed from the public domain. Overall, the proposal is of an acceptable design when considering the site constraints and the existing built form.

This matter does not warrant the refusal of the application.

- **Built-form non-compliances**

The submissions raised concerns that the proposal results in numerous built form non-compliances.

Comment:

It is acknowledged that the proposal includes built form non-compliances relating to the Wall Height, Building Envelope, Front Setback and Landscaped and open space of the DCP. As such, the merits of these non-compliances have been assessed against the objectives of the relevant controls. In summary, the works are found to be consistent with the objectives of these

controls, as the proposal has responded appropriately to the site constraints, while remaining compatible with the existing built form and not giving rise to any adverse amenity impacts.

This matter does not warrant the refusal of this application

- **Privacy**

The submissions raised concerns that the first floor addition will result in adverse privacy impacts for the surrounding residents.

Comment:

The above-mentioned privacy impacts have been discussed in further detail in part 'D8 Privacy' of this report. In summary, adequate physical separation has been maintained between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties. Overall, the proposal will maintain acceptable privacy between buildings.

This matter does not warrant the refusal of the application

- **Overshadowing**

The submissions raised concerns that the proposal will give rise to unacceptable overshadowing impacts.

Comment:

The proposal complies with the requirements of Part D6 Access to Sunlight of WDCP and has been designed so that there are no unacceptable impacts on the adjoining or nearby properties.

This matter does not warrant the refusal of this application.

- **Parking**

The submissions raised concerns that the no additional parking is provided for the proposal.

Comment:

The proposal maintains the use of a dwelling house and is compliant with the minimum parking requirements under Council's planning controls.

This matter does not warrant the refusal of this application.

- **Broader community needs**

The submissions raised concerns that the proposal does not adequately provide for the broader needs of housing in the community.

Comment:

Council's planning controls do not require additional housing stock for redevelopments within R2 Low Density Residential zones involving alterations and additions.

This matter does not warrant the refusal of this application.

REFERRALS

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, subject to Conditions.</p> <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 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A472874_02 dated 18 May 2023).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 30 metres of a structure supporting an overhead electricity transmission line and/or within 5.0 metres 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.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	8.5m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.0m	11.1%	No

B3 Side Boundary Envelope	4m - North	Two encroachments up to 2.6m	65%	No
	4m - South	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	0.9m - North	6.8m (Second floor addition) 1.1m (Second floor deck)	N/A	Yes
	0.9m - South	3.3m (Second floor addition)	N/A	Yes
B7 Front Boundary Setbacks	6.5m	4.1m (Roof) 6.4m (Second floor deck)	36.9% 1.5%	No No
B9 Rear Boundary Setbacks	6m	13.9m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	37% (240.6m ²)	7.5%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The DCP requires a maximum wall height of 7.2 metres. The proposed development has a maximum wall height of 8.0 metres at it highest point.

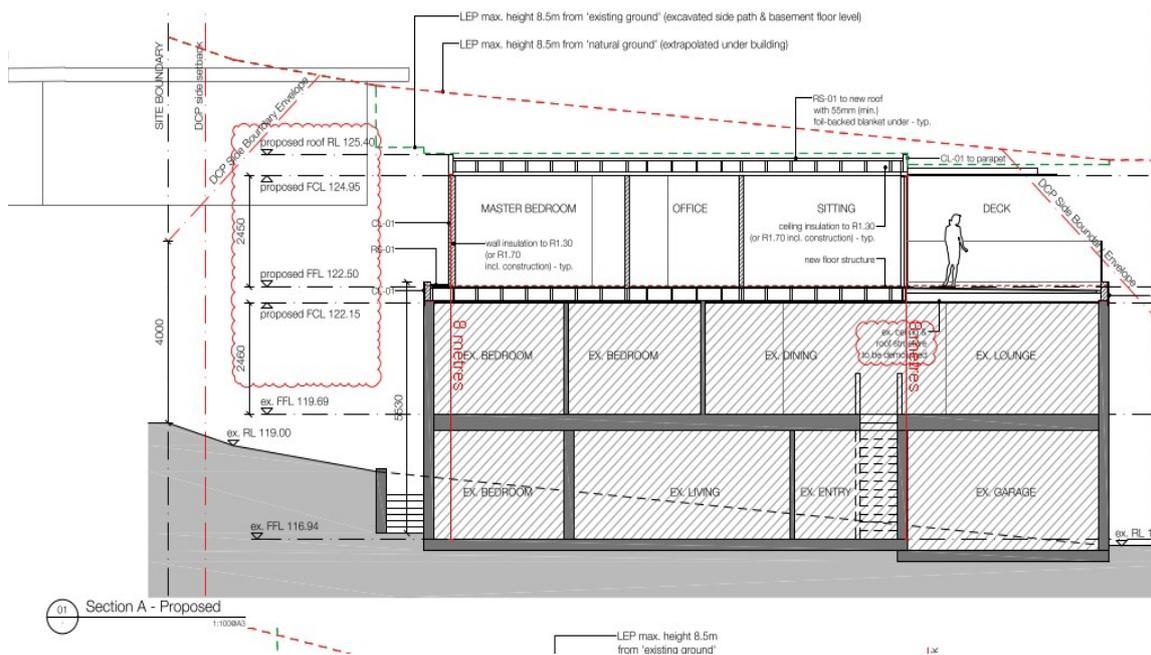


Figure 1. Wall height non-compliance.

Merit consideration:

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

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

Comment:

The second floor addition, as visible from the street, progressively steps in as the wall height exceeds 7.2 metres, while also incorporating, fenestration, balconies, landscaping, eaves and changes in materials to break up built form. The proposed addition is contained within the prescribed building envelope and appropriately set back from the boundaries to minimise the visual impact when viewed from adjoining properties. In addition, the external colours and materials consists of dark and earthy tones, which harmonise with the natural environment and will provide an appropriate transition of development from the adjacent reserve to the east. Overall, the proposed height is considered to be compatible and commensurate with the existing detached development within the locality and will not give rise to any unacceptable visual impacts.

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

Comment:

The proposed addition is located beneath the existing tree canopy level within the locality. In addition, the proposal does not involve any changes to significant landscaping across the site.

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

Comment:

The provision of view sharing is discussed later in this report under Part D7. In summary, the proposal as a whole has been found to achieve reasonable view sharing.

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

Comment:

The proposal achieves acceptable building separation with generous side boundary setbacks. In addition, the portions of the development that exceed the maximum wall height do not contain any intrusive windows nor do they create unacceptable privacy or overshadowing impacts. Further, the proposal's flat roof design minimises overshadowing impacts to adjacent living rooms and private open space on the winter solstice (June 21). Overall, the proposed non-compliance is largely as consequence from the site being previously excavated for the existing ground floor, and would comply if measured from extrapolated natural ground levels. Notwithstanding, the proposal has been suitably designed to minimise the impact of development on adjoining and nearby properties.

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

Comment:

The proposed addition will be located above the existing building footprint and does not involve any significant earthworks. Overall, the proposal responds appropriately to the site's topography.

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

Comment:

Sufficient scope has been provided to enable the innovative roof form and to remain under the 8.5 metre building height plane.

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

B3 Side Boundary Envelope

Description of non-compliance

WDCP requires buildings to be sited within a building envelope determined by projecting planes at 45 degrees from 4.0 metres above ground level (existing) at the side boundaries. The proposed second floor balcony and external stair encroaches the prescribed envelope on the northern boundary.

The proposal has two encroachments on the northern elevation measuring up to 2.6 metres in height. This represents a maximum variation of 65%.

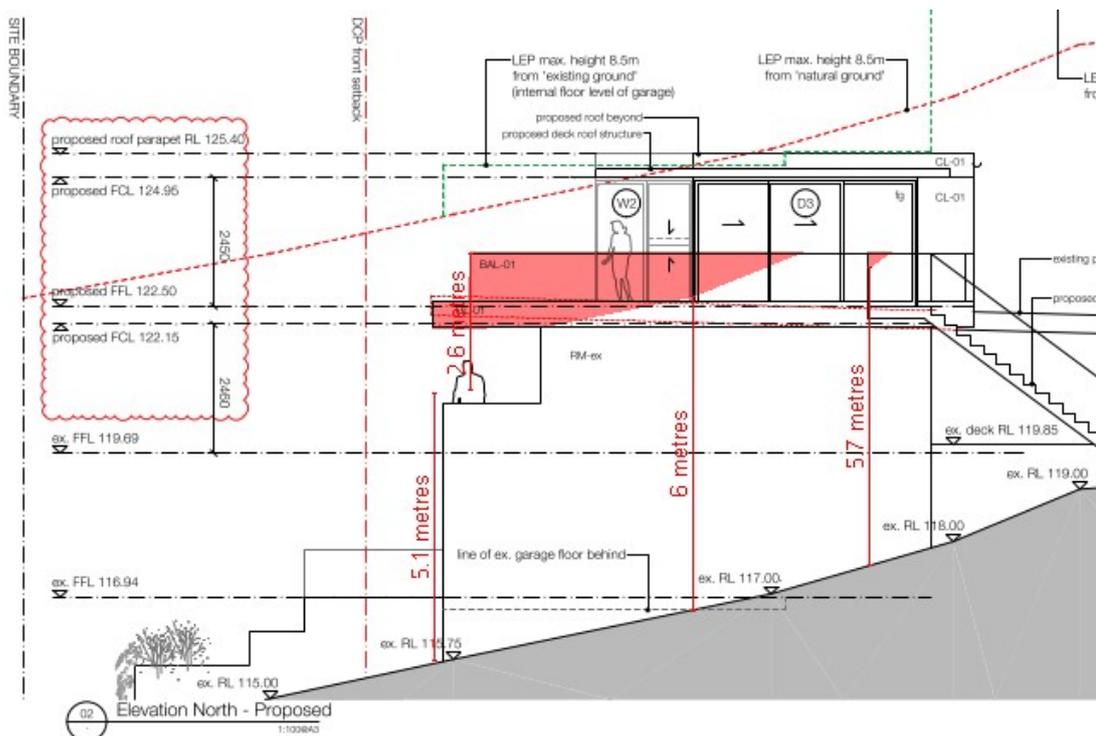


Figure 2. Extent of northern side boundary envelope non-compliance.

Merit consideration

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

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

Comment:

The proposed addition is consistent with other two-three storey dwelling houses within the locality. The second floor balcony complies with WLEP's 8.5 metre height limit and side setback controls, which ensures that the development does not become overbearing upon adjoining properties. Furthermore, the proposal's design incorporates various materials and architectural features to provide visual breaks along the non-compliant wall planes. Overall, the proportions of the encroaching elements are not considered to be unreasonably scaled or bulky. It is noted that the majority of the encroachment is the balcony balustrades, rather than expansive building mass with the upper storey.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The spatial separation proposed between buildings is considered appropriate within the low density setting. It is acknowledged that the proposal includes a second floor balcony that partially encroaches the side boundary envelope, however, these encroachments generally occur at the front of the development and for this reason does not provide direct and close views into adjoining windows or private open space. Furthermore, the submitted shadow diagrams demonstrates compliance with WDCP's access to sunlight control. Overall, it is considered that the proposal ensures adequate light, solar access and privacy by providing reasonable spatial separation between buildings.

- *To ensure that development responds to the topography of the site.*

Comment:

The proposal is located above the existing building footprint and responds appropriately to the topography of the site.

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

B7 Front Boundary Setbacks

Description of non-compliance

The proposed roof and second floor deck encroach the front setback on a minimum setback of 4.1 metres. WDCP requires a minimum setback of 6.5 metres.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The proposal is in a relatively prominent position within the streetscape, given the level difference with the adjacent reserve. However, design of the proposal will successfully achieve a reasonable level of openness within the front setback, while maintaining the visual continuity of buildings and landscape elements. It is considered, that the reduced front setback will not unreasonably affect the visual quality of the surrounding streetscape, as these works will enhance and modernise the appearance of the home and there remains ample opportunities for landscaping to soften the built form. Therefore, the proposal is compatible with the established streetscape of Eltham Street.

- *To achieve reasonable view sharing.*

Comment:

As discussed later in this report the proposal will achieve reasonable view sharing.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposal provides 37% (240.6m²) of the site towards landscaped open space (LOS). WDCP requires a minimum coverage of 40%.

It must be noted that when including the landscaped areas which do not meet the minimum requirements of this control, the proposal provides a landscape coverage of 42.8% (256.7m²), which exceeds the numerical requirements of this control. Furthermore, it is important to note that the carport is located within an existing hardstand area.

Merit consideration

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

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

Comment:

The proposed alteration to the landscaped open space on site is relatively minor, and occurs only behind the existing front building line. It will have no significant impacts on the streetscape.

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

Comment:

The proposal does not involve the removal of any significant vegetation. Furthermore, limited excavation is proposed, as the works will primarily be completed over the existing building footprint. In this regard, the proposal is considered to satisfy this objective.

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

Comment:

The works involve removing a turfed area sized 5.6m² (0.1% of site area), however, this deficit is accounted for when considering the undersized landscaped areas located within subject site's front and rear setbacks. Notwithstanding the minor non-compliance, it is considered that the existing landscape open space is sufficient to allow for the mitigation of the perceived height, bulk and scale of the proposal.

- *To enhance privacy between buildings.*

Comment:

The minor LOS non-compliance will not result in any unreasonable privacy impacts, as the proposal has been adequately sited from the boundaries and sufficient screening is proposed.

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

Comment:

The proposal will continue to provide appropriate outdoor recreational areas that meet the needs of the occupants.

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

Comment:

The site will still provide sufficient space for service functions as there are large areas of landscaping that remain but that cannot be technically included in the calculation.

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

Comment:

The site will retain its ability to adequately facilitate water management.

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

D7 Views

Merit consideration

Multiple submissions received from adjoining and nearby properties along Eltham Street, Cooper Close and McKillop Road, raised concern regarding potential view loss as a result of the proposed development. Upon receipt of amended plans, additional submissions were received which noted that the amended design did not alleviate concerns regarding view loss impacts. Height poles were erected and certified for accuracy. View loss inspections were undertaken at the following properties:

- No. 28 Eltham Street (southern neighbour and alternatively identified as No. 10 Cooper Close),
- No. 8 Cooper Close (western neighbour),
- No. 31 McKillop Road (approximately 45 metres west of the subject site),
- No. 33 McKillop Road (approximately 10 metres west of the subject site).



Figure 4. Site context map, subject site highlighted in blue.

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

- To allow for the reasonable sharing of views.

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four step planning principle outlined within the Land and Environment Court Case of *Tenacity Consulting*

Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

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

Comment to Principle 1:

No. 28 Eltham Street:

This property adjoins the site to the south. There is currently a single-storey dwelling house that enjoys views to the north, east and southeast across an approximate 135-degree arc. The views include landmarks such as Narrabeen Lagoon, Bilgola Headland, Long Reef Headland, associated foreshore areas and the ocean.

No. 8 Cooper Close:

This property adjoins the site to the west. There is currently a two-storey dwelling house that enjoys views to the north and east across an approximate 90-degree arc. The views include landmarks such as Bilgola Headland, Long Reef Headland, associated foreshore areas and the ocean.

No. 31 McKillop Road:

This property is approximately 45 metres to the west. There is currently a two-storey dwelling house that enjoys views to the east. The views include landmarks such as Long Reef Headland, associated foreshore areas and the ocean.

No. 33 McKillop Road:

This property is approximately 10 metres to the west. There is currently a two-storey dwelling house that enjoys views to the northeast and southeast across an approximate 90-degree arc. The views include landmarks such as Bilgola Headland, Long Reef Headland, associated foreshore areas and the ocean.

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

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

Comment to Principle 2:

No. 28 Eltham Street:

This property enjoys views across the side boundary to the north, and the front boundary to the south-east. These views are obtained from both a standing and seated position from internal and external areas of the dwelling on the ground floor from the kitchen, dining and living room areas, bedrooms, as well as the external balcony, as indicated in the following figures:



Figure 5. *Affected View - Living room facing north on the ground level, across the side boundary from a standing position.*



Figure 6. *Unaffected View - Living room facing northeast on the ground level, across the front boundary from a standing position.*



Figure 7. *Affected View - Dining room facing north on the ground level, across the side boundary from a seated position.*



Figure 8. *Partially Affected View - Dining room facing northeast on the ground level, across the front boundary from a standing position.*



Figure 9. *Partially Affected View - Bedroom facing northeast on the ground level, across the side boundary and front boundary from a standing position.*



Figure 10. *Partially Affected View - Bedroom facing north on the ground level, across the side boundary from a standing position.*



Figure 11. *Affected View - Balcony facing northeast on the ground level, across the side boundary from a standing position.*



Figure 12. *Unaffected View - Balcony facing southeast on the ground level, across the front boundary from a standing position.*

No. 8 Cooper Close:

This property enjoys views across the rear boundary to the north, and side boundary to the north-east. These views are obtained generally from a standing position from internal areas of the dwelling on the first floor from the kitchen and dining room areas, as well as the external balcony, as indicated in the following figures:



Figure 13. *Unaffected View - Dining room facing north on the first floor, across the northern rear boundary from a standing position.*



Figure 14. *Unaffected View - Dining room facing northeast on the first floor, across the eastern side boundary from a standing position.*



Figure 15. *Unaffected View - Balcony facing northeast on the first floor, across the eastern side boundary from a standing position.*

No. 31 McKillop Road:

This property enjoys views across the rear boundary to the east. These views are obtained generally from a standing position from internal areas of the dwelling on the first floor from the kitchen and dining room areas, as well as the external balcony, as indicated in the following figures:



Figure 16. *Unaffected View - Dining room facing east on the first floor, across the rear boundary from a standing position.*



Figure 17. *Unaffected View - Kitchen facing east on the first floor, across the rear boundary from a standing position.*



Figure 18. *Unaffected View - Bedroom facing east on the first floor, across the rear boundary from a standing position.*

No. 33 McKillop Road:

This property enjoys views across the side boundary to the north and south, and the rear boundary to the east. These views are generally obtained from standing positions from the external areas of the dwelling including, the rear yard and pool area. Views are also obtained from the first floor. These views are indicated in the following figures:



Figure 19. *Partially Affected View - Pool area facing east on the ground floor, across the eastern rear boundary from a standing position.*



Figure 20. *Unaffected View - Pool area facing northeast on the ground floor, across the northern side boundary from a standing position.*



Figure 21. *Affected view - Pool area facing southeast on the ground floor, across the southern side boundary from a standing position*



Figure 22. *Unaffected View - Balcony facing northeast on the first floor, across the northern side boundary from a standing position.*



Figure 23. Unaffected View - Balcony facing southeast on the first floor, across the southern side boundary from a standing position.

3. Extent of impact

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

Comment to Principle 3:

No. 28 Eltham Street:

As indicated in the figures above (Figures 5 - 12), this property has expansive ocean and district views that are obtained over the northern side boundary, and eastern front boundary from the ground floor of this dwelling.

The dwelling is single storey and generally orientated to the northeast. The kitchen, living and dining rooms are sited in the eastern area of the ground floor and thus obtains the views as shown in Figures 5 - 8. The dwelling's bedrooms are located in the western area of the building and obtain the views shown in Figures 9 - 10. In addition, the balcony has direct access off the dining areas, with the enjoyed views demonstrated in Figures 11-12.

As detailed in Step 1, and visually represented in Step 2, the views over the eastern front boundary include expansive ocean and district views from Long Reef Headland to Dee Why Headland. These views will not be impacted by the proposed development.

The views over the northern side boundary include partial views of Narrabeen Lagoon (including the land and water interface), Bilgola Headland and unobstructed district views of Cromer, Wheeler Heights and Collaroy Plateau.

From the ground floor living and dining rooms (see Figures 5 - 8), the view loss from these rooms include either all or most of the views of Narrabeen Lagoon and Bilgola Headland. In addition, the proposal will result in a reduction of district views from these areas. Given that the views are directly across the side boundaries, and that the expansive eastern outlook is not impacted, the view loss is considered moderate from this area.

From the ground floor bedrooms (see Figures 9 - 10), the view loss from these rooms include either all or most of the views of Long Reef Headland. In addition, the proposal will result in a reduction of district views from these areas. Given that the views are from a bedroom, and obtained from oblique angles over a side boundary, the view loss is considered minor from this area in the context of the above principles.

From the ground floor balcony (see Figures 11 - 12), the view loss from this area includes a reduction of views of Narrabeen Lagoon and Bilgola Headland. However, the view loss varies from certain positions, with impacts occurring on the eastern side when viewing north and reasonable view preservation, when viewed from the western end. Given that the views are directly across the side boundaries, and that the expansive eastern outlook is not impacted, the view loss is considered minor from this area.

This assessment has considered the views obtained for the whole of the site, and it has found that the extent of view loss from this property is minor to moderate, and from this property, an acceptable level of view sharing is obtained. It is noted that at various parts of the property all parts of the current view are available, notwithstanding that in the central portion of the site, part of the available view corridor will be modified.

No. 8 Cooper Close:

From the first floor - The view loss from this area is not discernible given that the first floor level of No. 8 Cooper Close sits 1.28 metres above the proposed ridge line. In this regard, the view loss is considered to be negligible.

No. 31 McKillop Road:

From the first floor - The view loss from this area includes a partial reduction of district views and is considered to be negligible in the context of the above principles.

No. 33 McKillop Road:

As indicated in the figures above (Figures 19 - 23), this property has expansive ocean and district views that are obtained over the north and south side boundaries, and eastern rear boundary from the first floor of this dwelling. In addition, partial ocean views are obtained to the northeast and southeast (over the subject site) from the ground floor pool area.

The dwelling is two-storey and orientated to the east. The living areas and associated balcony are located on the first floor and as indicated in Figures 22 - 23 are not impacted by the proposal.

From the ground floor pool area, the view loss only occurs in the south-east direction and includes a reduction of ocean views over the subject site toward Curl Curl. Given that these views are reasonably obscured by existing landscaping and particularly vulnerable to any form of redevelopment at the subject site, the view loss is considered minor from this area.

This assessment has considered the views obtained for the whole of the site, and it has found that the extent of view loss from this property is negligible, and an acceptable level of view sharing is obtained.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

Clause D7 Views and the intent of Tenacity goes towards the idea of view sharing - rather than view retention. The proposed development is not assessed as having any 'devastating' impacts as it will not block the entirety of anyone's views. However, it is noted that the proposal will result in the loss of views that are clearly important and valuable to the residents surrounding residents.

Notwithstanding, the proposed addition complies with the critical controls relating to view loss, being building height, building envelope, and setbacks. In addition, the applicant has reasonably explored alternative designs, such as flipping the building mass to northern portion of the building, which results in no tangible benefit to view sharing (see Figure 24). Moreover, the proposal has made clear attempts within its design to mitigate view loss impacts, including, minimal floor to ceiling heights, recessed and modulated walls, open balconies, and a flat roof. Overall, the total views enjoyed by the surrounding sites will be reasonably retained.

Given the above considerations, the proposed development is considered to be an acceptable outcome that would be reasonably expected for the site. On balance, the proposed development will result in a reasonable sharing of views.

**VIEW FROM NO. 10
COOPER CLOSE**

**8. REVISED MASSING -
FLIPPED**

Image 1: Height pole photograph with 3d model overlay



Image 2: Aligned 3d model image



Figure 24. View loss diagram - flipped building mass.

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

Comment:

As outlined in the above assessment, the proposal is an innovative design solution that is a good compromise between adding floor space on the upper level of the existing development and minimising view loss.

- To ensure existing canopy trees have priority over views.

Comment:

No tree removal is proposed under this application.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D8 Privacy

Concern is raised that the proposal, specifically the new second floor balcony will give rise to adverse visual and acoustic privacy impacts to the adjoining property to surrounding properties.

The nature and impacts of the proposal is summarised below.

Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The second floor contains a large elevated balcony on the north and east elevations directly accessible from the master bedroom and sitting room. The partially covered balcony is generally orientated toward the street (northeast) to capture the favourable aspect of expansive ocean and district views. The proposed balcony exceeds minimum side and rear setback controls and as a result does not provide direct or close views (less than 9 metres away) into the surrounding private open space and windows of other dwellings. The proposed balcony is not anticipated to generate unreasonable acoustic impacts beyond that expected of day to day living within a low density residential setting. Overall, the proposed second floor has been appropriately designed to prevent any significant privacy impacts, given the acceptable building separation, elevation difference and the direction of the views.

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

Comment:

As above, the proposal will achieve an innovative design solution, which improves the urban environment.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal will not impact upon personal and property security.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$5,335 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$533,500.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

In summary, the application has been assessed with regard to the relevant Warringah LEP and DCP controls which guide the future desired character of the site and locality.

Subject to the recommended conditions of consent, it is considered that the proposal will result in a development that displays reasonable size, scale and density which is compatible with the existing site and surrounding development and will not result in unreasonable amenity impacts to surrounding properties. Overall, the proposal is considered a reasonable response to the site constraints and relevant planning controls.

Accordingly, the application is referred to the NBLPP with a recommendation for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

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 DA2022/1874 for Alterations and additions to a dwelling house on land at Lot 8 DP 30337, 26 Eltham Street, BEACON HILL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA: 1-01 - RevD: Site plan	04 April 2023	Nikki Mote Architect
DA: 2-01 - RevD: First floor demolition plan	04 April 2023	Nikki Mote Architect
DA: 3-01 - RevD: First floor plan	04 April 2023	Nikki Mote Architect
DA: 3-02 - RevD: Second floor plan	04 April 2023	Nikki Mote Architect
DA: 4-00 - RevD: Section A&B	04 April 2023	Nikki Mote Architect
DA: 5-00 - RevD: Eastern elevation	04 April 2023	Nikki Mote Architect
DA: 5-01 - RevD: Northern elevation	04 April 2023	Nikki Mote Architect
DA: 5-02 - RevD: Western elevation	04 April 2023	Nikki Mote Architect
DA: 5-03 - RevD: Southern elevation	04 April 2023	Nikki Mote Architect
Schedule of external materials - RevD	04 April 2023	Nikki Mote Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A472874_02	18 May 2023	Nikki Mote Architect
Preliminary Geotechnical Assessment	5 September 2022	White Geotechnical Group

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	Not stated	Not stated

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	Ausgrid Referral Response	24 November 2022

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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an 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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$5,335.00 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 (as amended).

The monetary contribution is based on a development cost of \$533,500.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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 Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

7. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

8. Boundary Identification Survey

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

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

this consent.

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

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

9. **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 Certifier prior to the issue of the Construction Certificate.

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

10. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifier 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.

11. **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 Certifier 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 TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **Survey Certificate**

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the

wall or structure, to boundary setbacks are in accordance with the approved details.

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier.

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

14. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, 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.

15. **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 Certifier.

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**

16. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard

requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

17. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier 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.

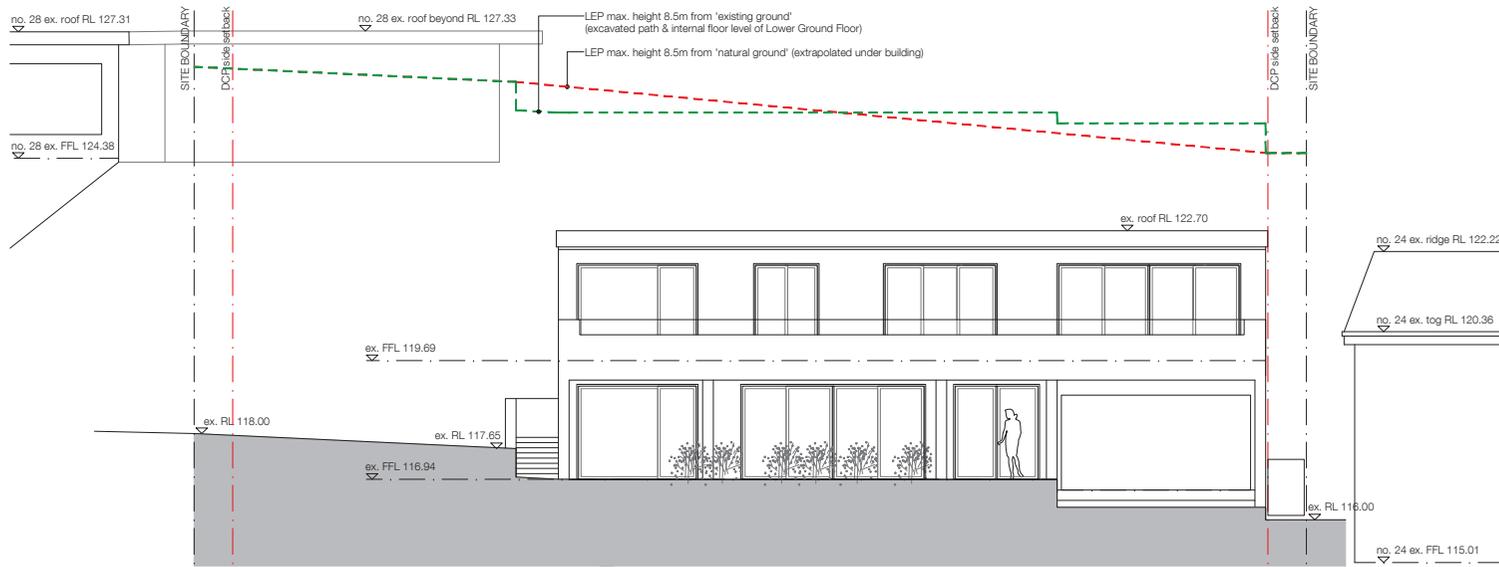
Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

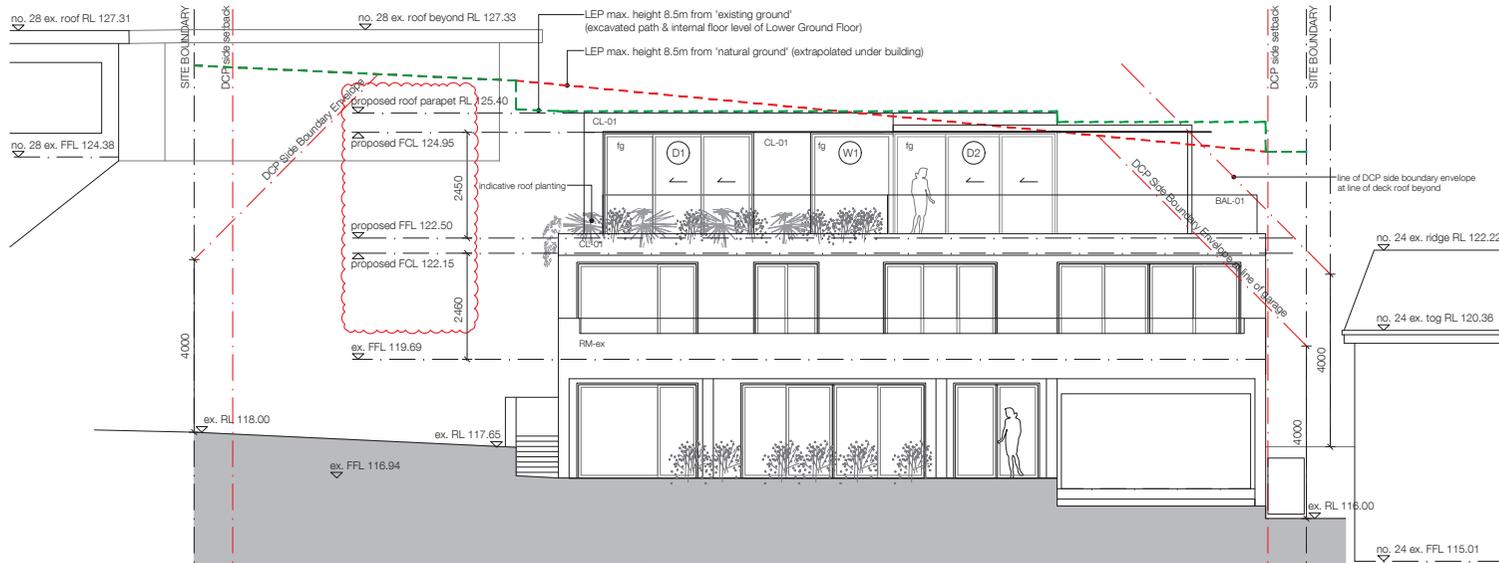
18. **Geotechnical Recommendations**

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.



01 Elevation East - Existing
1:100@A3



02 Elevation East - Proposed
1:100@A3

Check all dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of any drawings and the building of the structure.
Do not scale drawings - refer to figured dimensions only. Any dimensions shall immediately be referred to the architect for clarification.
All drawings may not be reproduced or distributed without prior permission from the architect.

- existing wall
- proposed wall
- wall to be demolished
- LEP Height from 'natural ground'
- LEP Height from 'existing ground'

- LEGEND
- ex existing
 - fg fixed glazing
 - og opaque glazing
 - SA Smoke Alarm in ceiling above to be hard-wired connected to consumer mains, and to comply with NCC 3.7.5.2 and AS 3786
 - W external window (alum. framed & double glazed - typ.)
 - D external glazed door (alum. framed & double glazed - typ.)
 - General Note: refer to BASIX for glass & frame specs for all new windows/ doors
 - Dex external door/ window - existing

- EXTERNAL MATERIALS
- BAL-01 Balustrade - frameless glass detailing to match existing
 - CL-01 Cladding - Type 1 standing seam metal cladding Colorbond 'Monument'
 - CL-02 Cladding - Type 2 timber soffit tongue & groove timber lining boards
 - PV-01 Stone Paving Limestone, or similar
 - RM-ex Rendered Masonry - existing
 - RM-01 Rendered Masonry - proposed integral colour to match existing
 - RS-01 Roof Sheeting Lysaght 'Klipix', Colorbond 'Monument' timber battens - vertical, nom. 40 x 60mm @ 120mm centres primed pine DAF, paint finish in Monument
 - TB-01

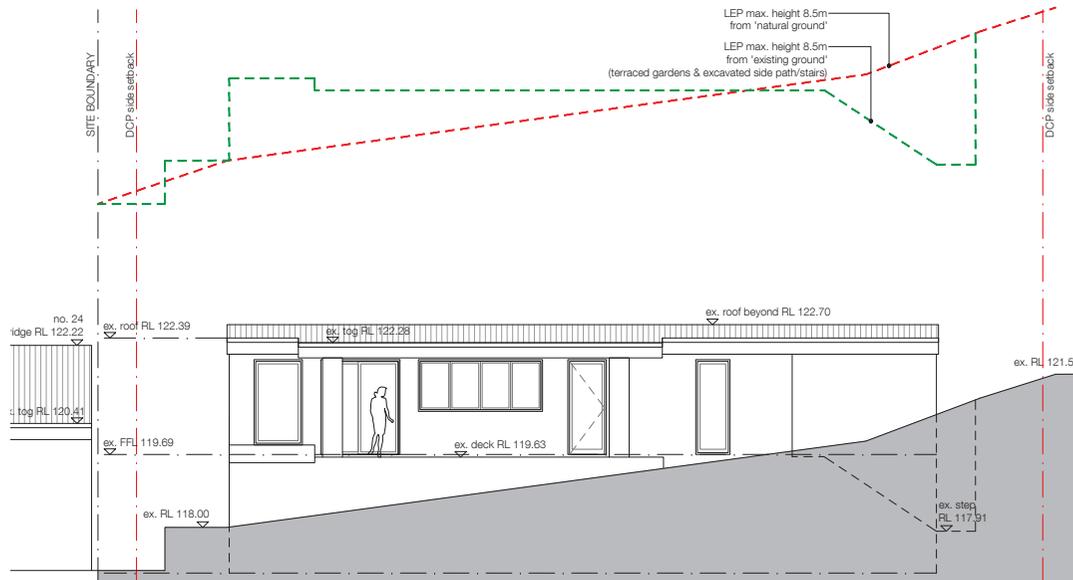
D	04/04/23	Development Application - Revised Submission
C	27/09/22	Development Application Submission
B	10/08/22	For Consultant Coordination
A	20/11/20	For Council
Rev.	Date	Description

Joanna Oakley & Brett Dobson

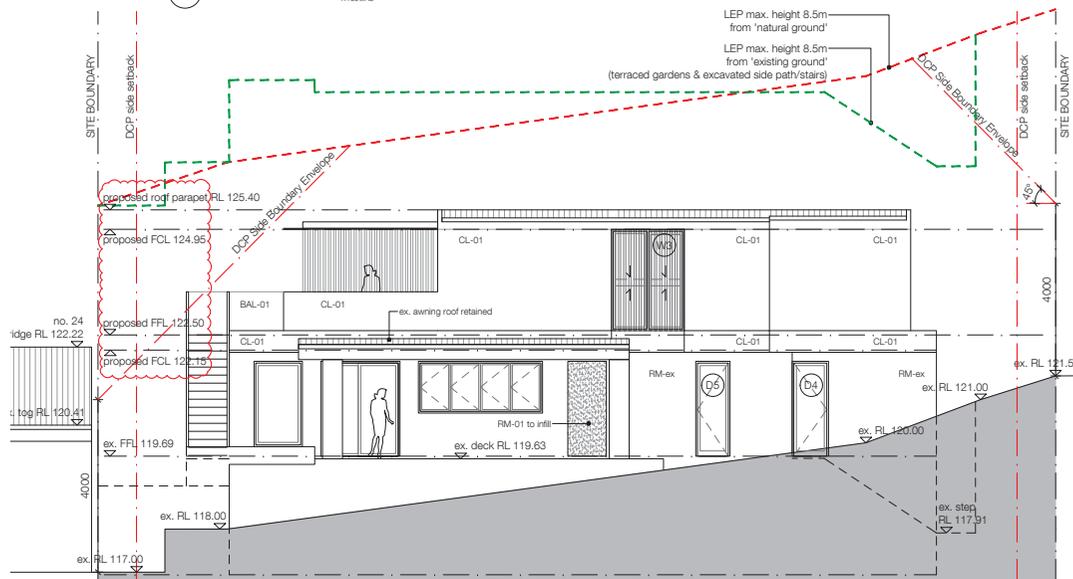
**26 Eltham Street
Beacon Hill**
Lot & SP 30337
Elevation East (Eltham St)
Existing & Proposed

Status	Development Application			
Scale	1:100 @ A3			
Project no.	2105			
Date	11.06.21			
Consent by	AR DA 5 00 D			
Decline	Stage	Type	No.	Reason
	Package			

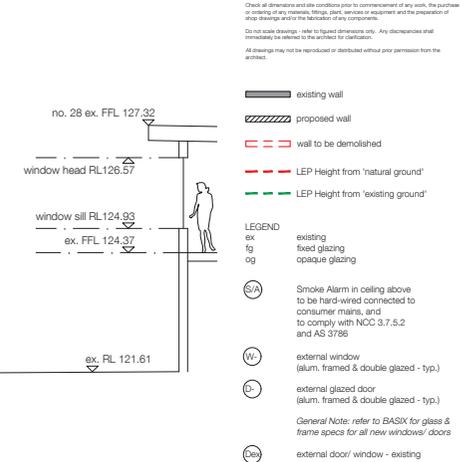
Drawn by:
 Nikki Mote Architect
NSW A&P Regd 6038
0420 503363
nikki@nikkimotearchitect.com



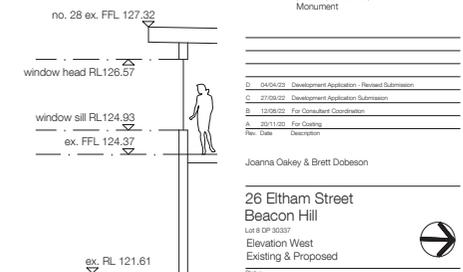
01 Elevation West - Existing
1:100BA3



02 Elevation West - Proposed
1:100BA3



- EXTERNAL MATERIALS**
- BAL-01 Balustrade - frameless glass detailing to match existing
 - CL-01 Cladding - Type 1 standing seam metal cladding Colorbond 'Monument'
 - CL-02 Cladding - Type 2 timber soffit tongue & groove timber lining boards
 - PV-01 Stone Paving Limestone, or similar
 - RM-ex Rendered Masonry - existing Woodland Grey
 - RM-01 Rendered Masonry - proposed integral colour to match existing
 - RS-01 Roof Sheeting Lysaght 'Kliplok', Colorbond 'Monument' timber battens - vertical, nom. 40 x 60mm @ 120mm centres primed pine DAF, paint finish in Monument
 - TB-01



D	04/04/23	Development Application - Revised Submission
C	27/09/22	Development Application Submission
B	10/08/22	For Consultant Coordination
A	20/11/20	For Council Decision

Joanna Oakley & Brett Dobson
**26 Eltham Street
Beacon Hill**
Lot 8 P 30327
Elevation West
Existing & Proposed

Status	Development Application
Scale	1:100 @ A3
Project no.	2105
Date	11.06.21
Drawn by	AR DA 5 02 D
Discipline	Stage Type No. Reason

Drawn by:
Nikki Mote Architect
NSW A/S Reg 4038
0420 903363
nikki@nikkimotearchitect.com

ITEM 4.2**DA2023/0045 - 36 BARDO ROAD , NEWPORT - DEMOLITION
WORKS AND CONSTRUCTION OF A SENIORS HOUSING
DEVELOPMENT INCLUDING BASEMENT CAR PARKING.****AUTHORISING MANAGER** Steve Findlay**TRIM FILE REF** 2023/366634**ATTACHMENTS**
1 [↓](#) Assessment Report
2 [↓](#) Site Plan & Elevations
3 [↓](#) Design & 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, **refuses** Application No. DA2023/0045 for the Demolition works and construction of a seniors housing development including basement car parking on land at Lot 34 DP 4689,36 Bardo Road, NEWPORT, for the reasons for refusal set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0045
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 34 DP 4689, 36 Bardo Road NEWPORT NSW 2106
Proposed Development:	Demolition works and construction of a seniors housing development including basement car parking
Zoning:	R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Housing) 2021
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	BPG Holdings NSW Pty Ltd
Applicant:	Daniel Michael McNamara

Application Lodged:	30/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	03/02/2023 to 17/02/2023
Advertised:	03/02/2023
Submissions Received:	10
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 4,771,508.00
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EXECUTIVE SUMMARY

This development application seeks consent for demolition works and construction of a seniors housing development comprising of six (6) dwellings.

The application is lodged pursuant to the provisions of *State Environmental Planning Policy (Housing) 2021* (SEPP Housing 2021).

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as there were more than 10 submissions received in response to the notification, and the development involves variations to development standards under SEPP Housing, including; Floor Space Ratio, Proximity to Transport Service and Building Envelope.

The applicant has lodged a Class 1 Deemed Refusal appeal to the Land and Environment Court of NSW which, at the time of reporting, remains undetermined.

The applicant was afforded the opportunity to resolve issues raised during the assessment of the application, however those issues remain unresolved.

The submissions received in response to the notification include; incompatibility with the character of the area; overdevelopment; amenity issues (primarily regarding solar access, visual impacts and privacy); construction impacts; traffic and parking; safety; insufficient infrastructure to support the development; wildlife and fauna impacts; tree removal and vegetation impacts; stormwater impacts; excessive excavation and garbage bin collection.

A number of the concerns raised by the notified residents warrant the refusal of the application.

The assessment of the application has found that the proposal in its current form cannot be supported, as it fails to satisfy a number of provisions within the SEPP Housing 2021 and the P21 DCP.

The application does not comply with section 93 of SEPP Housing 2021, which specifies that a consent authority cannot consent to a development application for the purposes of an independent living unit unless it is satisfied that residents will have adequate access to facilities and services. The site is not located within 400m of essential facilities and as such, is reliant on *Keoride*, an on-demand public transport service operating across the Northern Beaches, to meet the requirements of SEPP Housing 2021. The written evidence provided by the applicant has failed to demonstrate *Keoride* meets the requirements of a *transport service* as required by SEPP Housing 2021. The application does not include a written request to vary this development standard.

The application does not comply with section 108 (2)(c) of SEPP Housing 2021, which requires that the density and scale of the buildings, when expressed as a Floor Space Ratio (FSR) is 0.5:1 or less. The proposal would result in an FSR of 0.75:1, which substantially exceeds this requirement by 50.12%. The application does not include a written request to justify the exceedance of the Floor Space Ratio development standard.

The application does not comply with section 84(2)(c)(iii) of SEPP Housing 2021, which requires that, if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site. The proposal comprises 3 storeys, including the basement level. The proposed development does not provide the upper third storey within a plane measured at 45 degrees from the side boundaries. The application does not include a written request to vary this development standard.

Critical assessment issues also include; non-compliances with front and side building line; solar access and visual privacy provisions; impacts on the desired future character of the area; the provision of sufficient private open space; and design for crime prevention.

Council's Traffic Engineer and Water Management Officer have also also raised fundamental concerns with the application with regards to stormwater management, provision of visitor parking and access to facilities and services. The application has also not provided sufficient information enable a complete and proper assessment of the proposed excavation.

In summary, the proposed development is considered to be of excessive bulk and scale, which would result in unreasonable impacts upon the amenity of adjoining properties and inconsistency with the desired character of the locality. The application has also failed to demonstrate by written evidence that residents of the proposed development will have satisfactory access to services and facilities.

This report concludes with a recommendation that the NBLPP should refuse the development application, for the reasons outlined at the end of this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for:

- Demolition of an existing dwelling-house and associated structures
- Excavation and groundworks
- Site preparation works including the removal of trees
- Construction of a three-storey seniors living development comprising six (6) x three-bedroom self-contained independent living units across two (2) buildings. The lowest storey contains a single basement level providing parking for twelve (12) vehicles, garbage storage areas, plant rooms and a pedestrian entry for persons with a disability
- The proposal also includes outdoor common space, landscaping works, terracing, bin storage, driveway, external access pathways, retaining walls and a stormwater system with OSD

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

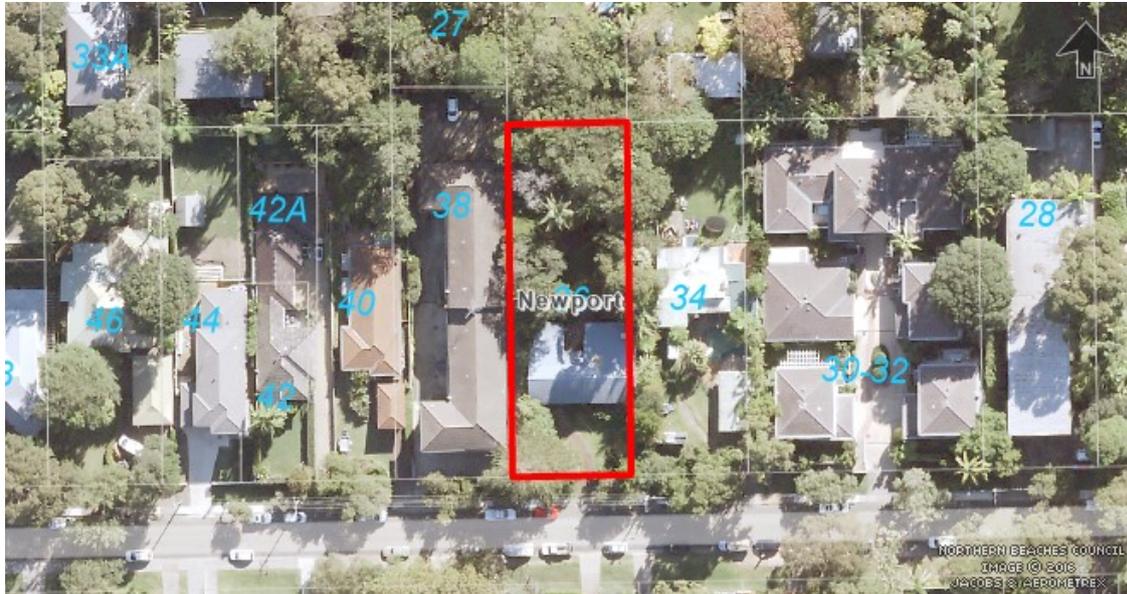
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater 21 Development Control Plan - A4.10 Newport Locality
Pittwater 21 Development Control Plan - B5.15 Stormwater
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
Pittwater 21 Development Control Plan - C1.4 Solar Access

- Pittwater 21 Development Control Plan - C1.5 Visual Privacy
- Pittwater 21 Development Control Plan - C1.7 Private Open Space
- Pittwater 21 Development Control Plan - C1.18 Car/Vehicle/Boat Wash Bays
- Pittwater 21 Development Control Plan - C1.20 Undergrounding of Utility Services
- Pittwater 21 Development Control Plan - C1.21 Seniors Housing
- Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)
- Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 34 DP 4689 , 36 Bardo Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Bardo Road.</p> <p>The site is regular in shape with a frontage of 20.115m along Bardo Road and a depth of 60.96m. The site has a surveyed area of 1,220m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single brick dwelling house.</p> <p>The site contains a gentle fall from north (rear) to the street of approximately 5m providing a fall of around 8%.</p> <p>The site contains a number of trees located mostly along the boundaries and the rear of the site. The front of the site contains a prominent Norfolk Island Pine.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>The area surrounding the site is characterised by residential land uses with the predominant form of development being low density free standing dwellings. Interposed in the area are walk-up residential flat buildings and a number of more recent seniors living developments.</p>

Map:



SITE HISTORY

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

Development Application No. DA2020/0502 - 34 & 36 Bardo Road, Newport

Development Application for demolition works and construction of a Seniors Housing development comprising 12 self-contained dwellings and site consolidation of 34 Bardo Road and 36 Bardo Road, Newport.

This application was refused by Northern Beaches Local Planning Panel on 2 December 2020.

The application was subsequently appealed and approved by the Land and Environment Court of NSW on 2 September 2021

Current Application History

On 28 April 2023, the Applicant commenced Class 1 appeal proceedings against Council's deemed refusal of the current development application

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
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 2021 (EP&A Regulation 2021)	<p>Part 4, <u>Division 2</u> of the EP&A Regulation 2021 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 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter may be addressed via a condition of consent</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). 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. In summary, they have been found to be unsatisfactory and form grounds for refusal of the application.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact</p>

Section 4.15 Matters for Consideration	Comments
	in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The suitability of the site in terms of likely impacts on neighbouring amenity and character has been discussed in detail in various section of this report. In summary, the suitability of the site for the development as proposed in its current form remains uncertain, due to fact that the proposal has not fully addressed the environmental impacts of the proposed development. The proposal has also failed to demonstrate that the residents of the proposed development will have satisfactory access to services and facilities.
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	The provision of seniors housing in the locality is generally in the broader public interest. However, this assessment has found the proposal to be contrary to the relevant requirement(s) of the P21 DCP and SEPP Housing 2021 and will result in a development which will create an undesirable precedent, such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the localised 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 03/02/2023 to 17/02/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 10 submission/s from:

Name:	Address:
Ms Maria Assunta King	13 / 38 Bardo Road NEWPORT NSW 2106
Mrs Pamela Anne Brown	2 / 30 - 32 Bardo Road NEWPORT NSW 2106
Mr Barry Peter Best	7 / 30 - 32 Bardo Road NEWPORT NSW 2106
Mr Christopher Leslie	9 / 38 Bardo Road NEWPORT NSW 2106

Name:	Address:
Mrs Rarin Sribu-Nga	
Mr John Colquhoun	40 Bardo Road NEWPORT NSW 2106
Mr Christopher Keith Brown	5 / 30 - 32 Bardo Road NEWPORT NSW 2106
Ms Megan Katharine Kennedy	PO Box 179 NEWPORT BEACH NSW 2106
Mr Oliver Craig Sharp	12 / 38 Bardo Road NEWPORT NSW 2106
Mr David Maxwell Stewart-Hunter	1 / 30 - 32 Bardo Road NEWPORT NSW 2106
Mr Shane Christopher Cox	14 / 38 Bardo Road NEWPORT NSW 2106

The following issues were raised in the submissions:

- Scale and density of the development, overdevelopment of the site and out of character with the street and Newport Locality
- Cumulative impacts of seniors living development on Bardo Road
- Visual impact to adjoining properties
- Amenity impacts – Solar access, visual and acoustic privacy, visual impacts, and loss of outlook
- Insufficient infrastructure to support the development – street parking, sealed footpaths, public transport
- Landscaped area non-compliance
- Car parking
- Impacts of Keoride during pickup
- Construction impacts - Noise, parking, traffic, safety, restricted hours
- Insufficient Construction Traffic Management Plan
- Safety and parking impacts on adjoining childcare centre during and post construction
- Excessive excavation and damage to adjoining property during construction
- Wind exposure
- Insufficient endemic tree species provided
- Wildlife and fauna impacts
- Tree removal and vegetation impacts
- Additional water runoff, overland flow and stormwater impacts
- Garbage bins and collection
- Sustainability
- Traffic generation
- Loss of property value

The above issues are addressed as follows:

- **Scale and density of the development, overdevelopment of the site and out of character with the street and Newport Locality.**

Comment:

This matter has been addressed within Clause *A4.10 Newport Locality* of this report. In summary, the proposed development is not considered complementary to the desired character for this locality, as it does not propose or present as low density residential development. It is considered that the development does not appropriately minimise the medium density character of the proposal. The non-compliant FSR of 0.75:1 reflects an overdevelopment of the site and contributes to excessive bulk and scale. This issue constitutes a reason for the refusal of the application.

- **Cumulative impacts of seniors living development on Bardo Road.**

Comment:

Seniors housing developments are prohibited in the R2 Low Density Residential zone under the PLEP 2014, however, the development is made permissible under the provisions of SEPP Housing 2021, which overrides the PLEP. Each new application proposed for seniors housing will be assessed on its individual merits and how it responds to relevant planning controls and the character of the area. Clause *C1.21 Seniors Housing* of P21DCP specifies that the cumulative impact of seniors living development with R2 Low Density Residential zone shall be controlled by ensuring the development is consistent with the surrounding area in regard to bulk, scale and character and to avoid creating a dominant 'residential flat building' appearance in the neighbourhood. This matter has been addressed within Clause *C1.21 Seniors Housing* of this report. In summary, it is considered that the excessive gross floor area and building massing across the site, as well as insufficient front and side setbacks does not adequately minimise the building footprint and visual bulk and scale of development, and fails to meet the requirements of this control. This issue constitutes a reason for the refusal of the application.

- **Visual impact to adjoining properties**

Comment:

The proposed building form represents a substantial building mass extending from north to south. It is considered that the development provides insufficient separation, breaks in the built form and visual relief as viewed from adjoining properties, particularly No. 38 Bardo Road. This issue constitutes a reason for the refusal of the application.

- **Amenity impacts – Solar access and privacy**

Comment:

The matter of solar access and privacy has been addressed within clause *C1.4 Solar Access* and clause *C1.5 Visual Privacy* of this report. In summary, it is considered that the development has not been designed to maximise solar access or privacy, particularly for the adjoining dwellings at No.38 Bardo Road. These issues will form reasons for refusal of the application.

- **Insufficient infrastructure to support the development – street parking, sealed footpaths, public transport.**

Comment:

As the site is not located within 400m of essential facilities, the applicant seeks to rely on Keoride, an on-demand public transport service operating across the Northern Beaches, to meet the requirements of SEPP Housing 2021. The written evidence provided by the applicant has failed to demonstrate Keoride meets the requirements of a "transport service" as specified by Clause 93 (2)(b)(i) of SEPP Housing 2021, which states that the transport service must not be an "on-demand booking service" for the transport of passengers for a fare. The application has also failed to demonstrate the exact location of the pick-up and drop-off location of Keoride, and if a suitable access pathway of a sufficient gradient will be available to this location.

Clause 93 (3)(b) & (c) of SEPP Housing 2021 requires that the proposed development must have a suitable access pathway of a sufficient gradient to the required transport service. The application has not demonstrated that a suitable access pathway is available to the required transport service.

The proposal does not provide any convenient on-site parking for visitors. This arrangement is not supported by Council's Traffic Engineer.

These issues will for reasons for refusal of the application.

- **Landscaped area non-compliance**

Comment:

The proposal would comply with the 30% landscaped area requirements (including deep soil zone on at least 15%) as required by SEPP Housing 2021. This overrides the P21 DCP landscaped area requirement.

- **Insufficient car parking**

Comment:

While the proposal provides a sufficient number of parking spaces for residents of the development, Council's Traffic Engineer has raised concerns that the proposal does not provide any convenient on-site parking for visitors and as such, is reliant on on-street parking in Bardo Road. There are existing parking demands in Bardo Road from overflow of parking from residents, who do not have sufficient off-street parking; as well as visitors to the area. Traffic and parking considerations are addressed in further detail by Council's Traffic Engineer under the heading "Internal Referrals" within this report

This will form a reason for refusal of the application.

- **Impacts of Keoride during pickup**

Comment:

As the site is not located within 400m of essential facilities, the applicant seeks to rely on "Keoride", an on-demand public transport service operating across the Northern Beaches, to meet the requirements of SEPP Housing 2021. The written evidence provided by the applicant has failed to demonstrate Keoride meets the requirements of a transport service as specified by Clause 93 (2)(b)(i) of SEPP Housing 2021, which states that the transport service must not be an on-demand booking service for the transport of passengers for a fare.

Insufficient information has been provided with the application to demonstrate the exact location of the pick-up and drop-off location of Keoride, if there is suitable access to these locations and if there will be associated traffic implications with the reliance on Keoride. These issues will for reasons for refusal of the application.

- **Construction impacts - Noise, parking, traffic, safety, restricted hours, insufficient Construction Traffic Management Plan.**

Comment:

If approved, appropriate conditions could be imposed to limit impacts of construction. This could include the provision of an updated Construction Traffic Management Plan (CTMP) to be approved by the Northern Beaches Council Traffic Team prior to the issue of any Construction Certificate, traffic control methods and the restriction of times for excavation works.

- **Safety, traffic and parking impacts on adjoining childcare centre during and post construction.**

Comment:

As above, if approved, appropriate conditions could be imposed to limit impacts on adjoining properties during construction. However, Council's Traffic Engineer has raised concerns that the proposal does not provide any convenient on-site parking for visitors and as such, is reliant on on-street parking in Bardo Road which may conflict with the adjoining childcare centre. This will form a reason for refusal of the application.

- **Excessive excavation and damage to adjoining property during construction**

Comment:

Insufficient information has been provided to ascertain the extent of excavation proposed and potential impacts to adjoining properties. The geotechnical report submitted with the application references plans dated 26/10/22. The plans submitted with the application are dated 17/01/2023. In this regard, there are inconsistencies in the documentation. The geotechnical report also specifies that "the excavation will reach a maximum depth of ~4.6m and, 1.0m from

the W common boundary". The proposed basement plan indicates that there will be separation of 1.5m from the western boundary. In this regard, there is a discrepancy in the documentation. This will form a reason for refusal of the application. If suitable information was received, conditions could be imposed requiring dilapidation surveys establish a pre-development condition report of adjoining properties.

- **Wind exposure**

Comment:

The proposal will not result in unreasonable wind exposure to adjoining neighbours.

- **Insufficient endemic tree species provided.**

Comment:

The proposal has been reviewed by Council's Landscape Officer and Bushland and Biodiversity Officer who are satisfied that the proposal would include sufficient endemic tree species (subject to conditions).

- **Wildlife and fauna impacts.**

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections, subject to conditions. As such, Council is satisfied that the proposal would not result in unreasonable wildlife and fauna impacts.

- **Tree removal and vegetation impacts.**

Comment:

The proposal has been reviewed by Council's Landscape Officer and Bushland and Biodiversity Officer who raise no objections to the proposed tree removal (subject to conditions). The Arboricultural Impact Assessment recommends the retention of the prominent Norfolk Island Pine identified as "T5" including the provision of tree protection measures, such as engagement of a project arborist to supervise any excavation in proximity to the tree.

- **Additional water runoff, overland flow and stormwater impacts**

Comment:

Inadequate details have been provided to address the management of stormwater in terms of the additional impact of water runoff associated with the site changes. This will form a reason for refusal of the application.

- **Garbage bins and collection**

Comment:

The location of the bin storage area at the front of the site and the associated waste collection is supported by Council's Waste Officer (subject to conditions).

- **Sustainability**

Comment:

A BASIX certificate and ABSA Assessor Certificate has been submitted with the application specifying that the proposal meets required sustainability requirements.

- **Traffic generation**

Comment:

The proposal has been reviewed by Council's Traffic Engineer with regards to traffic generation from the additional cars associated with the proposal. Council's Traffic Engineer raised no objections on these grounds.

- **Loss of property value**

Comment:

Property values are not a relevant consideration under Section 4.15 of the EP A Act 1979.

REFERRALS

Internal Referral Body	Comments
<p>Design and Sustainability Advisory Panel</p>	<p>Supported (Subject to Specific Recommendations)</p> <p>The application was presented to the DSAP on 23 February 2023. The Panel generally indicated support for the proposal, subject to the following comments and recommendations:</p> <p>General</p> <p><i>The site is the subject of a current seniors housing consent for twelve (12) Independent Living Units (ILUs) over No.s 34 and 36 Bardo Road. This proposal is for six (6) ILUs, for No. 36 only. It is noted the main difference to what is proposed on this site is the rear unit has gone to 2 stories, as is now permitted.</i></p> <p>Strategic context, urban context: surrounding area character</p> <p><i>While the site is in the R2 Low Density Residential zone, there are residential flat buildings to the west and other seniors housing developments to the east. The character of the area remains low-density its feel due to the small-scale nature of the existing buildings.</i></p> <p><i>The site is on the northern high side of the street, stepping up 1m from the street. There is a significant Norfolk Pine tree in the SW corner of the front yard, which needs to be retained.</i></p> <p><i>The scheme appears to be well resolved and appropriate to its location and surroundings.</i></p> <p>Scale, built form and articulation</p> <p><i>The scale of the buildings are very similar to the neighbouring apartment block, and are under the allowable height.</i></p> <p><i>The buildings have been designed with simple skillion roofs and 'saddlebags' to west side, to minimise the impact of overshadowing to the neighbours.</i></p> <p><i>While the FSR of 0.75:1 is in excess of the 0.5:1 of the SEPP requirements, the landscaped area, building envelope, building height, setback, and parking are all compliant. In this instance, it is the Panel view that the non-compliance is acceptable.</i></p> <p>Access, vehicular movement and car parking</p> <p><i>The location of the Norfolk pine tree has required the driveway and pedestrian access to be located to the east.</i></p>

Internal Referral Body	Comments
	<p><i>Pedestrians will be either taken down to lift lobby by an accessible ramp, or to the front door by way of gentle stairs to the east.</i></p> <p><i>The garage has a very simple and direct layout – straight line with double lockable garages. The garbage room is between the driveway and the pine tree, providing easy access for residents and the street for collection.</i></p> <p>Landscape</p> <p><i>The importance of retaining the Norfolk Island pine is noted and supported.</i></p> <p><i>The landscape is overall well resolved and incorporates appropriate native planting to the site.</i></p> <p><i>The side landscape is broken up by the path, which is noted by Council. However, keeping the buffer to the residential windows is good, as is the ability to grow some climbers to soften the fence.</i></p> <p><i>While small areas of lawn will offer amenity, they might be hard to maintain for older residents.</i></p> <p><u>Recommendations</u></p> <ol style="list-style-type: none"> 1. <i>Retain side path location as is</i> 2. <i>Consider no mow lawn options/species</i> <p>Amenity</p> <p><i>The proposed layout allows for 4 out of 6 apartments to face due north, with 2 facing to the street. The upper south facing apartment is able to capture sun through a highlight in the roof. All have cross flow ventilation. Skylights to bathrooms on the upper level could increase their amenity – good to consider.</i></p> <p><i>The 2-storey building to the rear has freed up more garden space for all to enjoy.</i></p> <p><u>Façade treatment/Aesthetics</u></p> <p><i>The materiality of the buildings and their articulation are understated, relevant to the area and contribute to aesthetically pleasing compositions across the site.</i></p> <p>Sustainability</p> <p><i>It is good to see a scheme that complies with sunlight and ventilation requirements, and bringing good amenity to the occupants.</i></p>

Internal Referral Body	Comments
	<p><i>To ensure these dwellings are “forward-thinking” and the best they can be for their occupants in the future, we strongly recommend that the energy supply is decarbonised, EV charging is supplied and the passive design and thermal performance of the building fabric is increased.</i></p> <p><i>Consider as many PV panels as possible for the roof to enable as much onsite power generation as possible. With a south facing roof, these might need to be on frames, with the aesthetics of these accommodated in the design.</i></p> <p><i>Heat pump systems for apartments or other ways of providing electric hot water should be considered. (The storage of hot water can be considered a defacto battery if heated by PVs during the day.) Consider locations for possible battery storage.</i></p> <p><i>The Panel notes that the new building codes will require an average of 7 stars NatHERS, with no apartments less than 6 stars. With the very comfortable location makes the achievement of this relatively simple. Future disclosure of energy efficiency at point of sale or lease makes this a good investment.</i></p> <p><u>Recommendations</u></p> <ol style="list-style-type: none"> <i>3. All services should be electric – gas for cooking, hot water and heating should be avoided</i> <i>4. Provide EV charging points for each unit, and allow for bi-directional (2-way) charging of EV battery for powering the building</i> <i>5. Include as many PV panels on the roof as possible for both common area and apartment renewable energy supply</i> <i>6. Ensure all apartments have an average 7-star NatHERS score, with no apartment below 6 stars.</i> <p>PANEL CONCLUSION</p> <p><i>The Panel supports the proposal.</i></p> <p><i>The Panel commends the proponents on the well resolved and appropriate scheme but strongly encourages the applicant to make further improvements as recommended.</i></p> <p><u>Planner Comments</u></p> <p>It is noted that the panel supports the proposal with regards to urban design. However, as addressed throughout this report, there are a number of planning issues which remain, particularly with regards to Floor Space Ratio, visual bulk, setbacks and neighbouring amenity.</p>

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, subject to conditions</p> <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><i>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</i></p>
Landscape Officer	<p>Supported, subject to conditions</p> <p>Council's Landscape Referral section have assessed the application against the following policies and controls:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing) 2021; Part 5 Housing for seniors and people with a disability; Division 6 Design principles 99 Neighbourhood amenity and streetscape, for required landscape outcomes; 00 Visual and acoustic privacy, for required landscape outcomes; and Division 7 Non-discretionary development standards, for landscape area and deep soil minimum requirements. • Seniors Living Policy: Part 2 Site Planning and Design; Part 3 Impacts on Streetscape; and Part 4 Impacts on Neighbours. • Pittwater 21 DCP controls B4.22 Preservation of Trees and Bushland Vegetation, C1.1 Landscaping, C1.21 Seniors Housing, and D10 Newport Locality <p>A Landscape Plan and a Arboricultural Impact Assessment are submitted with the application.</p> <p>Landscape Referral are satisfied that clause 99, 100, and 108 of SEPP (Housing) 2021; and Part 2, 3 and 4 of the Seniors Living Policy, is generally achieved as proposed in the Landscape Plan with regard to the landscape outcome setting of the proposed development, including reduction of the built form, replacement tree planting, landscape screening, landscape area and deep soil. It is noted that specific aspects of the proposed Landscape Plan are required to be adjusted to ensure an appropriate landscape outcome including: provision of tall shrub screen planting along the eastern boundary; and removal of lawn areas that are inadequate in area to provide any recreational benefit and replacement with mass planted areas is required, and conditions for an Amended Landscape Plan shall be imposed.</p> <p>The Arboricultural Impact Assessment recommends: the retention of the prominent Norfolk Island Pine identified as T5 including the provision of tree protection measures such as engagement of a project arborist to supervise any excavation in proximity; the removal of one Bottlebrush street tree (TA) to facilitate the proposed driveway; and removal of existing trees T1-T4 and T6-T8 impacted by</p>

Internal Referral Body	Comments
	development works. Landscape Referral raise no objections.
NECC (Bushland and Biodiversity)	<p>Supported, subject to conditions</p> <p>The proposal seeks approval for demolition works and construction of a seniors housing development including basement car parking. The comments on this referral relate to the following controls and provisions:</p> <ul style="list-style-type: none"> • Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.6 Wildlife Corridors <p>The proposal has been submitted with an Arboricultural Impact Assessment (AIA) as well as a Landscape plan including a planting schedule.</p> <p>A total of 8 trees were assessed in the AIA and it has been recommended that trees 1-4 and 6-8 are removed to accommodate the proposed footprint. An additional tree described as TA (<i>Melaleuca viminalis</i>), located on the council verge has also been nominated for removal to facilitate the proposed works, its removal is subject to approval by the Landscape Referral team. A number of additional trees which are found within the development footprint have not been included in the AIA. However, upon review of additional documentation provided and a desktop survey it has been determined that these are exempt species including a Camelia sp. and two Bangalow palms (<i>Archontophoenix cunninghamiana</i>).</p> <p>The provided landscape plan includes a planting schedule that complies with PDCP B4.6 controls ensuring "development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of existing bushland and not include environmental weeds."</p>
NECC (Development Engineering)	<p>Supported, subject to conditions</p> <p>No objections to the proposed seniors living development subject to conditions.</p>
NECC (Water Management)	<p>Not Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy); and • Relevant LEP and DCP clauses. <p>The proposal would significantly increase the total impervious area of</p>

Internal Referral Body	Comments
	<p>the site. Stormwater plans have been provided without supporting evidence that the required water quality parameters will be met. A MUSIC model or equivalent should be provided to demonstrate compliance with the Table 5 – General Stormwater Quality Requirements of the Northern Beaches Water Management for Development Policy.</p> <p>If cartridges are proposed, the stormwater plans should indicate the number and location.</p>
Traffic Engineer	<p>Not supported</p> <p>The proposal is for demolition works and construction of a two-storey seniors living development comprising of six (6) three-bedroom self-contained independent living units across two buildings. The units are to be constructed over a single basement level providing parking for 12 vehicles.</p> <p>Access to facilities and services</p> <p>The Applicant is reliant on Keoride, an on-demand service, to meet the transport service requirements. Keo-ride is not considered adequate under SEPP Housing 2021, as Clause 93 (2)(b)(i), states that the transport service must not be an on-demand booking service for the transport of passengers for a fare. The site is not located within 400m of essential facilities and services, with no new pedestrian infrastructure proposed.</p> <p>The Applicant must provide a suitable accessible path from the site with the provision of additional pedestrian infrastructure to enable safe access across Bardo Road and convenient pedestrian links to the Gladstone Street bus stops.</p> <p>Design for Accessibility - Visitor Parking</p> <p>The proposal provides a total of 12 parking spaces in the basement level car park. The Basement Plan shows that two spaces are designated for each apartment within an enclosed garage, with no proposed visitor spaces. SEPP Housing 2021, Clause 104 (b) of Division 6 Design principles specifies that Seniors housing should provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors. A consent authority must not consent to development for the purposes of seniors housing unless it is satisfied that the design of the seniors housing demonstrates adequate consideration given to the Design principles. The proposal does not provide any convenient on-site parking for visitors and as such, is reliant on on-street parking in Bardo Road. There are existing parking demands in Bardo Road from overflow of parking from residents, who do not have sufficient off-</p>

Internal Referral Body	Comments
	<p>street parking, as well as visitors to the area. The Bardo Road Kindergarten located at No.41 opposite the development also creates additional parking demands in the street.</p> <p>Two visitor parking spaces are required for the six (6) x three-bedroom self-contained independent living units according to Council's Pittwater 21 DCP and the RTA Guide to Traffic Generating Development. The required two visitor parking spaces can be accommodated within the existing parking spaces and basement car park. Spaces must be clearly marked as 'Visitor' and not behind a garage door.</p> <p>Traffic Generation</p> <p>The future traffic generation has been assessed in accordance with RTA Guide to Traffic Generating Developments (2002). The Traffic Impact Statement estimates that the development will generate a minimum of 6 trips and a maximum of 12 trips and the evening peak hour vehicle trips will be a minimum of 0.6 trips and a maximum of 1.2 trips. The overall traffic generation impact on the existing road network is considered to be low.</p> <p>The proposal is not acceptable in its current form due to inadequate access to facilities and services, and lack of visitor parking spaces. The Development Application could be considered if additional visitor parking spaces are provided along with new pedestrian infrastructure connecting the site to bus stops in Gladstone Street.</p>
Waste Officer	<p>Supported, subject to conditions</p> <p>Waste Management Assessment Supported, subject to conditions.</p>
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, with conditions</p> <p>The application was referred to Ausgrid who have raised no objections to the development, subject to compliance with standard requirements. Ausgrid's requirements have been endorsed via condition in the recommendation of this report.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1097224M_11 dated 16 December 2022). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate Nos. 0004783220, 0008286643, 0008286668, 0008286676-02, 0008286684 and 0008286692, all dated 9 December 2022).

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

Commitment	Required Target	Proposed
Water	40	43
Thermal Comfort	Pass	Pass
Energy	45	45

If approved, a condition would be included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Housing) 2021

Part 5 – Housing for seniors and people with a disability

Clause 84 – Development Standards (General)	
Standard	Compliance/Comment
2) Development consent must not be granted for the development unless:	
a) The site area of the development is at least 1,000m ² .	Compliant The site has a surveyed area of 1,226m ² .
b) The frontage of the site area of the development is at least 20m measured at the building line.	Compliant The frontage of the site measured at the building line is 20.115m.
c) For development on land in a residential zone where residential flat buildings are not permitted - the development will not result in a building: <ul style="list-style-type: none"> i) with a height of more than 9.5m, ii) excluding servicing equipment on the roof; and iii) if the roof of the building has serving equipment, that the development 	Non-Compliant The site is within the R2 Low Density Residential zone pursuant to the PLEP which prohibits residential flat buildings. The entire building, including servicing equipment on the roof, is below a height of 9.5m. The proposed development does not provide the

<p>complies with subsection (3); and if the developments results in a building that is more than 2 storeys, that the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.</p>	<p>upper third storey within a plane measured at 45 degrees from the side boundaries contrary to s.84 (2)(c)(iii) of SEPP Housing. The application is not accompanied by a written requests seeking a variation of this development standard.</p>
<p>3) The development may result in a building with a height of no more than 11.5m if servicing equipment on the roof of the building:</p>	
<p>a) Is fully integrated into the design of the roof or contained and suitably screened from view from public places.</p>	<p>Compliant The plans do not detail any rooftop servicing equipment (with the exception of a basement exhaust discharge and lift overrun. These elements are reasonably well contained within the roof and is not anticipated to be readily visible from any public places.</p>
<p>b) Is limited to an area of no more than 20% of the surface area of the roof.</p>	<p>Compliant The rooftop servicing equipment is less than 20% of the surface of the roof.</p>

<p>Clause 85 – Development Standards for Hostels and Independent Living (Self-Care) Units</p>	
<p>Standard</p>	
<p>1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the following under Schedule 4.</p>	
<p>2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4 (being Sections 2, 7 - 13 and 15 – 20) if the development application is made by, or by a person jointly with, a social housing provider.</p>	

The proposal is for the construction of a seniors housing development comprising of Independent Living Units (ILUs). An assessment against Schedule 4 has been completed in the following tables:

Forenote: where an control is assessed as being 'capable of compliance' that indicates that details are not shown on the DA plans to demonstrate compliance, but that those details can readily be included in the Construction Certificate plans if approved, in accordance with the requirements of the Access Report, other reports, and Council's conditions of consent.

<p>Part 1 - Standards applying to hostels and independent living units</p>	
<p>Section 2 - Siting Standards</p>	
<p>1) If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.</p>	<p>Compliant The whole of the site adjoins a public road and wheelchair access via a continuous accessible path of travel (incorporating lifts) is provided to all dwellings, as confirmed by the <i>Access Report</i> (ref: LP_22463) by Lindsay Perry Access.</p>
<p>2) If the whole of the site does not have a gradient of less than 1:10: a) the percentage of dwellings that must</p>	<p>N/A as (1) applies</p>

<p>b) have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50% (whichever is greater), and the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway accessible to all residents.</p>	
<p>3) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</p>	<p>N/A as no communal facilities are proposed</p>
<p>Section 3 - Security</p>	
<p>Pathway lighting:</p> <p>a) must be designed and located so as to</p> <p>b) avoid glare for pedestrians and adjacent dwellings, and must provide at least 20 lux at ground level.</p>	<p>Capable of compliance</p>
<p>Section 4 - Letterboxes</p>	
<p>Letterboxes:</p> <p>a) must be situated on a hard standing area and have appropriate wheelchair access</p> <p>b) by a continuous accessible path of travel,</p> <p>c) (within the meaning of AS 1428.1); and must be lockable, and must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry.</p>	<p>Capable of compliance</p>
<p>Section 5 - Private Car Accommodation</p>	
<p>If car parking (not being car parking for employees) is provided:</p> <p>a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.</p>	<p>Compliant</p> <p>Each unit is provided with a double garage (12 spaces). The garage for Unit 6 provides an arrangement in keeping with AS2890.6, and all other garages are 6.5m in width, thus capable of accommodating accessible carparking.</p>
<p>Section 6 - Accessible Entry</p>	

Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with sections 4.3.1 and 4.3.2 of AS 4299.	Capable of compliance
Section 7 - Interior - General	
Internal doorways must have a minimum clear opening that complies with AS 1428.1.	Capable of compliance
Internal corridors must have a minimum unobstructed width of 1m.	Compliant
Circulation space at approaches to internal doorways must comply with AS 1428.1.	Capable of compliance
Section 8 - Bedroom	
At least 1 bedroom within each dwelling must have: <ul style="list-style-type: none"> a) an area sufficient to accommodate a wardrobe and a bed sized as follows: <ul style="list-style-type: none"> i) for a dwelling in a hostel - a single-size bed, ii) for an independent living unit - a queen-size bed, and b) a clear area for the bed of at least: <ul style="list-style-type: none"> i) 1.2m wide at the foot of the bed, and ii) 1m wide beside the bed between it and the wall, wardrobe or another obstruction, and c) 2 double general power outlets on the wall where the head of the bed is likely to be, and d) at least 1 general power outlet on the wall opposite the wall where the head of the bed is likely to be, and e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and f) wiring to allow a potential illumination level of at least 300 lux. 	Capable of compliance
Section 9 - Bathroom	
1) At least 1 bathroom within a hostel or independent living unit must be on the ground or main floor and have the following facilities arranged within an area that provides for circulation space for a wheelchair around sanitary facilities in accordance with AS 1428.1: <ul style="list-style-type: none"> a) a slip-resistant floor surface, b) a washbasin with plumbing that 	Capable of compliance

<p>c) would facilitate clearances that comply with AS 1428.1, a shower that complies with AS 1428.1, except that the following must be able to be accommodated:</p> <ul style="list-style-type: none"> i) a grab rail, ii) a portable shower iii) head, a folding seat, <p>Note: Sub-section (1)(c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.</p> <p>d) a wall cabinet sufficiently</p> <p>e) illuminated to be able to read the labels of items stored in it, a double general power outlet beside the mirror.</p>	
Section 10 - Toilet	
A dwelling must have at least 1 toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	Capable of compliance
Section 11 - Surface Finishes	
Balconies and external paved areas must have slip-resistant surfaces.	Capable of compliance
Section 12 - Door Hardware	
Door handles and hardware for all doors, (including entry doors and other external doors), must be provided in accordance with AS 4299.	Capable of compliance
Section 13 - Ancillary Items	
Switches and power points must be provided in accordance with AS 4299.	Capable of compliance
Part 2 - Additional Standards for Independent Living Units	
Section 15 - Living Room and Dining Room	
1) A living room must have: <ul style="list-style-type: none"> a) a circulation space in accordance with b) clause 4.7.1 of AS 4299, and a telephone adjacent to a general power outlet. 	Capable of compliance
2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.	Capable of compliance
Section 17 - Access to kitchen, Main Bedroom, Bathroom and Toilet	

In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Compliant
Section 18 - Lifts in Multi-Storey Buildings	
In a multi-storey building containing separate independent living units on different storeys, lift access must be provided to dwellings above ground level of the building by way of a lift complying with clause E3.6 of the Building Code of Australia.	Compliant Each of the two buildings is serviced by one lift that serves both storeys.
Section 19 - Laundry	
An independent living unit must have a laundry that has: <ul style="list-style-type: none"> a) a circulation space at door approaches b) that complies with AS 1428.1, and c) provision for the installation of an d) automatic washing machine and a e) clothes dryer, and a clear space in front of appliances of at least 1,300mm, and a slip-resistant floor surface, and an accessible path of travel to any clothesline provided in relation to the dwelling. 	Capable of compliance Laundry is provided to each unit.
Section 20 - Storage for Linen	
Linen storage must be provided in accordance with clause 4.11.5 of AS 4299.	Capable of compliance
Section 21 - Garbage	
A garbage storage area must be provided in an accessible location.	Compliant

Clause 88 – Restrictions on Occupation of Seniors Housing	
Standard	Compliance/Comment
1) Development permitted under this Part may be carried out for the accommodation of only the following:	
a) seniors or people who have a disability,	Capable of conditional compliance
b) people who live in the same household with seniors or people who have a disability,	Capable of conditional compliance
c) staff employed to assist in the administration and provision of services to housing provided under this Part.	Capable of conditional compliance
2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in sub-section (1) will occupy accommodation to which the development relates.	Capable of conditional compliance The application is for the construction of seniors housing, and it is expected that, if approved, and upon completion, the six units would be sold off. A condition of consent is included in the recommendations of this consent to ensure that

	the occupancy of the development is consistent with clause 88, and thus the consent authority can be satisfied that the building will be occupied in accordance with clause 88.
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Clause 90 – Subdivision	
Standard	Compliance/Comment
1) Development consent may be granted for the subdivision of land on which development has been carried out under this Part.	N/A subdivision not sought in this application
2) Development consent must not be granted for the subdivision of a building resulting from development carried out under this Part on land in Zone E2 Commercial Centre or Zone B3 Commercial Core.	N/A R2 Low Density Residential core.

Clause 91 – Fire sprinkler systems in residential care facilities	
Standard	Compliance/Comment
1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system.	Capable of compliance A fire sprinkler system is capable of being provided in the development, however has not been demonstrated on the plans.
2) Development for the purposes of the installation of a fire sprinkler system in a residential care facility may be carried out with development consent.	Capable of compliance

Division 4 – Site-related requirements

Clause 93 – Location and access to facilities and services (independent living units)	
Standard	Compliance/Comment
1) Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services:	
a) by a transport service that complies with sub-section (2), or	Non-compliant* See commentary below in <i>Discussion on Clause 93 requirements</i>
b) on-site.	Not provided
Note: Facilities and services means:	
a) shops 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.	
2) The transport service must:	
a) take the residents to a place that has adequate access to facilities and services, and	
b) for development on land within the Greater Sydney region:	Non-compliant The submitted Traffic & Transport Report states that the site is located approximately 450m from

<p>i) not be an on-demand booking service for the transport of passengers for a fare, and ii) be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.</p>	<p>bus stops in Gladstone Road to the south, and approximately 530m from bus stops in Barrenjoey Road to the east.</p> <p>As the site is not located within 400 metres of essential facilities, the applicant seeks to rely on Keoride, an on-demand public transport service operating across the Northern Beaches, to meet the requirements of SEPP Housing 2021. The written evidence provided by the applicant has failed to demonstrate Keoride meets the requirements of a transport service as specified by Clause 93 (2)(b)(i) of SEPP Housing 2021, which states that the transport service must not be an on-demand booking service for the transport of passengers for a fare.</p>
<p>3) For the purposes of sub-sections (1) and (2), access is adequate if:</p>	
<p>a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and</p>	<p>Non-compliant The submitted Traffic & Transport Report states that the site is located approximately 450m from bus stops in Gladstone Road to the south, and approximately 530m from bus stops in Barrenjoey Road to the east.</p> <p>As the site is not located within 400 metres of essential facilities, the applicant seeks to rely on Keoride, an on-demand public transport service operating across the Northern Beaches, to meet the requirements of SEPP Housing 2021. The written evidence provided by the applicant has failed to demonstrate Keoride meets the requirements of a transport service as specified by Clause 93 (2)(b)(i) of SEPP Housing 2021, which states that the transport service must not be an on-demand booking service for the transport of passengers for a fare.</p>
<p>b) the distance is accessible by means of a suitable access pathway, and</p>	
<p>c) the gradient along the pathway complies with sub-section (4)(c).</p>	<p>Non-compliant The development application has not demonstrated that a suitable access pathway is available to the required transport service.</p>
<p>4) In sub-section (3):</p>	
<p>a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and</p>	<p>Non-compliant The development application has not demonstrated that a suitable access pathway is available to the required transport service.</p>
<p>b) the distance is to be measured by reference to the length of the pathway, and</p>	<p>Non-compliant The development application has not demonstrated that a suitable access pathway is</p>

	available to the required transport service.
c) the overall average gradient must be no more than 1:14 and the gradients along the pathway must be no more than: i) 1:12 for a maximum of 15m at a time, or ii) 1:10 for a maximum length of 5m at a time, or iii) 1:8 for a maximum length of 1.5m at a time.	Non-compliant The development application has not demonstrated that a suitable access pathway is available to the required transport service.

***Discussion on Clause 93 Requirements**

The site is located 450m from a bus stop in Gladstone Road and 530m to a bus stop in Barrenjoey Road. However, the application seeks to rely on "Keoride" Service. Keoride is an app-based on-demand transport service which allows customers to order a vehicle when they want to travel to key hubs across the Northern Beaches. The written evidence provided by the applicant has failed to demonstrate Keoride meets the requirements of a transport service as specified by Clause 93 (2)(b)(i) of SEPP Housing 2021, which states that the transport service must not be an on-demand booking service for the transport of passengers for a fare. The application has also failed to demonstrate the exact location of the pick up and drop location of Keoride and if suitable access pathway of a sufficient gradient will be available to this location.

Clause 93 (3)(b) & (c) of SEPP Housing 2021 requires that the proposed development must have a suitable access pathway of a sufficient gradient to the required transport service. The development application has not demonstrated that a suitable access pathway is available to the required transport service.

Clause 95 – Water and sewer	
Standard	Compliance/Comment
1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will:	
a) be connected to a reticulated water system, and	Capable of compliance The subject site is serviced by existing water and sewerage infrastructure.
b) have adequate facilities for the removal or disposal of sewage.	Capable of compliance
2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority:	
a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or	Capable of compliance
b) if reticulated services are not available—must satisfy the relevant authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.	N/A

Division 5 – Design requirements

Clause 97 – Design of in-fill self-care housing	
Standard	Compliance/Comment
<p>In determining a development application for development for the purposes of in-fill self-care housing, a consent authority must consider the Seniors Living Policy: Urban Design Guideline for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004.</p>	<p>Non-compliant - see discussion below</p> <p>1. Responding to Context The area surrounding the site is characterised by residential land uses, with the predominant form of development being low-density, detached dwelling houses within landscaped settings. Interposed in the area are walk-up residential flat buildings, multi-dwelling housing and seniors living developments. Newer forms of medium density scale development in the area, including more recently approved seniors living developments, have been predominantly designed to reflect the desired low density character of the area. This has generally been achieved through the breaking up of built form using varied setback, changes in height and roof formation and utilising of a mixture of one and two storey buildings across the site.</p> <p>It is acknowledged that there are examples of residential flat buildings of considerable mass and scale in the vicinity, most notably, that adjoining the subject site at No.38 Bardo Road. However, these residential flat buildings are historical forms of development and are generally atypical to Bardo Road and present a built form, scale and density that should be discouraged in future development.</p> <p>It is considered that the proposed development does not appropriately minimise the medium density character of the proposal. The substantial FSR of 0.75:1 reflects an overdevelopment of the site, contributes to excessive bulk and scale of the built form, and amenity impacts to adjoining neighbours. The proposed building form represents a substantial building mass oriented from north to south and as such, provides a presentation of a 'residential flat building style' appearance. The development provides insufficient separation, breaks in the built form and visual relief, particularly as viewed from adjoining properties.</p> <p>Overall, it is considered the scale, density, bulk and overall massing of the proposed development does not reflect the desired low density residential character of the locality and does not</p>

appropriately respond to the context of the area.

2. Site Planning and design

It is considered that the proposal has failed to meet the following relevant requirements of these guidelines:

- Provide a mix of dwelling sizes and variety of massing and scale of built form within the development.
- Development located towards the rear of the site should be more modest in scale.

3. Impacts on streetscape

The proposed development does not respond to the desirable streetscape character of Bardo Road, contrary to Part 3 of the Seniors Living Policy. The proposed development does not have an identifiable pedestrian entry and has a front elevation dominated by the basement entry. Additionally, the non-compliant front building setback fails to maximise landscaped area to provide additional vegetation to reduce the built form and enhance the existing streetscape. This is discussed in Clause *D10.7 Front building line* of this report.

4. Impacts on neighbours

The proposed building form represents a substantial building mass oriented from north to south. The development provides insufficient separation, breaks in the built form and visual relief as viewed from adjoining properties, particularly No. 38 Bardo Road. This would result in solar access, privacy, and visual impacts due to its scale and proximity to side facing windows and balconies on the side elevation of the adjoining residential flat building at No. 38 Bardo Road. The proposal will not protect sun access or mitigate direct overlooking to private open space of neighbouring development as required by these guidelines and fails to meet the following requirements and objectives:

- *to reduce the apparent bulk of development and its impact on neighbouring properties*
- *to minimise overshadowing*

	<ul style="list-style-type: none"> • <i>to reduce impacts of unrelieved walls</i> • <i>to minimise impacts on the privacy and amenity of adjoining dwellings</i> <p>5. Internal site amenity The internal site layout provides appropriate access to each unit.</p> <p>As address within this report, concern is raised that Apartment 02 and Apartment 05 do not provide appropriate visibility to the approach to the entry from inside the dwellings to encourage crime prevention.</p>
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Clause 98 – Design of seniors housing	
Standard	Compliance/Comment
A consent authority must not consent to development under this Part unless the consent authority is satisfied that the development demonstrates adequate regard has been given to the principles set out in Division 6 (see table below).	Non-compliant - See table below

Division 6 – Design Principles

Clause 99 – Neighbourhood amenity and streetscape	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) recognise that the operational, functional and economic requirements of residential care facilities typically require a different building shape from other residential accommodation, and	-
b) recognise the desirable elements of: <ul style="list-style-type: none"> i) the location’s current character, or ii) for precincts undergoing a transition - the future character of the location so new buildings contribute to the quality and identity of the area, 	<p>Non-compliant The area surrounding the site is characterised by residential land uses, with the predominant form of development being low-density, detached dwelling houses within landscaped settings. Interposed in the area are walk-up residential flat buildings, multi-dwelling housing and seniors living developments.</p> <p>Newer forms of medium density scale development in the area, including more recently approved seniors living developments, have been</p>

	<p>designed to reflect the desired low density character of the area. This has generally been achieved through the breaking up of built form using varied setback, changes in height and roof formation and utilising of a mixture of one and two storey buildings across the site.</p> <p>It is considered that the proposed development does not appropriately minimise the medium density character of the proposal. The substantial FSR of 0.75:1 reflects an overdevelopment of the site, contributes to excessive bulk and scale of the built form, and amenity impacts to adjoining neighbours. The proposed building form represents a substantial building mass oriented from north to south and as such, provides a presentation of a 'residential flat building style' appearance. The development provides insufficient separation, breaks in the built form and visual relief, particularly as viewed from adjoining properties.</p> <p>Overall, it is considered the scale, density, bulk and overall massing of the proposed development does not reflect the desired low density residential character of the locality.</p>
<p>c) complement heritage conservation areas and heritage items in the area, and</p>	<p>N/A</p>
<p>d) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <ul style="list-style-type: none"> i) providing building setbacks to reduce ii) bulk and overshadowing, and iii) using building form and siting that relates to the site's land form, and iv) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and 	<p>Non-compliant</p> <p>The excessive gross floor area of the development and inadequate separation distances to adjoining properties would result in adverse visual and amenity impacts. The proposed building form represents a substantial building mass and bulk oriented from north to south. The development provides insufficient separation, breaks in the built form and visual relief as viewed from adjoining properties, particularly No. 38 Bardo Road. The proposed development would result in solar access, privacy, and visual impacts due to its scale and proximity to side facing windows and balconies on the side elevation of the adjoining residential flat building at No. 38 Bardo Road. This is discussed further throughout this report.</p>
<p>e) be designed so the front building on the site is set back generally in line with the existing building line, and</p>	<p>Non-compliant</p> <p>The proposed development provides a setback of 6.0 metres to apartments 01 and 04 in contravention of the 6.5m front building requirement of P21 DCP. This is discussed</p>

	further within Clause <i>D10.7 Front building line</i> of P21 DCP in this report.
f) include plants reasonably similar to other plants in the street, and	Compliant The proposal has been reviewed by Council's Landscape Officer and Bushland and Biodiversity Officer who raise no objections, subject to conditions.
g) retain, wherever reasonable, significant trees, and	Compliant The proposal has been reviewed by Council's Landscape Officer and Bushland and Biodiversity Officer who raise no objections to the proposed tree removal. The Arboricultural Impact Assessment recommends: the retention of the prominent Norfolk Island Pine identified as T5 including the provision of tree protection measures such as engagement of a project arborist to supervise any excavation in proximity The areas identified as soft landscaping provide a satisfactory level of landscaping.
h) be designed so no building is constructed in a riparian zone.	Compliant

Clause 100 – Visual and acoustic privacy	
Standard	Compliance/Comment
Development for the purposes of seniors housing should consider the visual and acoustic privacy of adjacent neighbours and residents by:	
a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and	Non-compliant The proposed development has not provided sufficient separation or privacy measures to mitigate overlooking into the principle private open space and windows of the neighbouring units at No.38 Bardo Road (west) and the private open space of the dwelling at 25 Irrubel Road (north). The design also results potential privacy impacts to the occupants of the proposed development from the the neighbouring units at No.38 Bardo Road. As such, it is considered that the proposal does not optimise privacy through good design, and will result in unacceptable privacy impacts to the adjoining site at No.38 Bardo Road and 25 Irrubel Road. This is discussed further within Clause <i>C1.5 Visual Privacy of P21 DCP</i> in this report.
b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	Compliant

Clause 101 – Solar access and design for climate	

Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) for development involving the erection of a new building provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and	Non-compliant The proposal would result in the principle private open space (balconies) of the ground floor units of the adjoining neighbour to the west (No. 38 Bardo Road) receiving less than 3 hours of sunlight between 9am and 3pm on June 21st as required by P21 DCP. This is discussed further within Clause C1.4 Solar Access of P21 DCP in this report.
b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	Compliant

Clause 102 – Stormwater	
Standard	Compliance/Comment
Development for the purposes of seniors housing should aim to:	
a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	Non-compliant Inadequate details have been provided to address the management of stormwater in terms of the additional impact of water runoff associated with the site changes. The proposal would significantly increase the total impervious area of the site. Stormwater plans have been provided without supporting evidence that the required water quality and water balance parameters will be met. Inadequate details have been provided to address Water Sensitive Urban Design requirements for water quality, including submission of the water quality model (MUSIC model files or equivalent).
b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	

Clause 103 – Crime prevention	
Standard	Compliance/Comment
Development for the purposes of seniors housing should be designed in accordance with environmental design principles relating to crime prevention, 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 the area, driveway or street, and	Non-compliant Apartments 02 and 05 not comply with the requirements of this clause as they do not provide any visibility to the approach to the entry from inside the apartment.
b) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and	Compliant
c) providing dwellings designed to allow residents to see who approaches their dwellings without the	Non-compliant Apartments 02 and 05 not comply with the

need to open the front door.	requirements of this clause as they do not provide any visibility to the approach to the entry from inside the apartment.
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Clause 104 – Accessibility	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	Non-compliant The development application has not demonstrated that a suitable access pathway is available to the required transport service.
b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Non-compliant The proposal does not provide any convenient on-site parking for visitors and as such, is reliant on on-street parking in Bardo Road. There are existing parking demands in Bardo Road from overflow of parking from residents, who do not have sufficient off-street parking; as well as visitors to the area.

Clause 105 – Waste management	
Standard	Compliance/Comment
Development for the purposes of seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	Compliant The proposed development is supported by an acceptable bin storage areas to the front of the site.

Division 7 – Non-Discretionary Development Standards

Clause 106 – Interrelationship of Division with design principles in Division 6	
Standard	Compliance/Comment
Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the development does not demonstrate that adequate regard has been given to the principles set out in Division 6.	Non-compliant - See table above

Clause 108 – Non-discretionary development standards for independent living units	
Standard	Compliance/Comment
2) The following are non-discretionary development standards in relation to development for the purposes of an independent living unit :	
Height	
a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,	Compliant The entire building, including servicing equipment on the roof, is below a height of 9.5m.
b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m:	

<ul style="list-style-type: none"> i) is fully integrated into the design of the roof or contained and suitably screened ii) from view from public places, and iii) is limited to an area of no more than 20% of the surface area of the roof, and does not result in the building exceeding a height of 11.5m. 	
Density and Scale (FSR)	
<p>c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.</p>	<p>Non-compliant Clause 108 (2)(c) of SEPP Housing 2021 requires that the density and scale of the buildings when expressed as a Floor Space Ratio (FSR) is 0.5:1 (610 m²) or less. The proposal would result in a FSR of 0.75:1 (915.76 m²), which exceeds this requirement by 50.12%.</p> <p>The substantial FSR variation reflects an overdevelopment of the site, contributes to excessive bulk and scale of the built form, and contributes amenity impacts to adjoining neighbours. The development application does not include a written request pursuant to cl.4.6 of PLEP 2014, to justify the exceedance of the Floor Space Ratio development standard.</p> <p>As such this will form a reason for refusal of the application.</p>
Landscaped Area	
<p>d) for a development application made by a social housing provider - at least 35m² of landscaped area per dwelling,</p>	<p>N/A</p>
<p>e) if (d) does not apply - at least 30% of the site area is landscaped,</p>	<p>Compliant 37.7% (462.8sqm)</p>
<p>f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site.</p>	<p>Compliant Deep Soil: 194.6sqm (15.9%) Deep Soil Rear: 119.68sqm (65.4%)</p>
Solar Access	
<p>g) at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.</p>	<p>Compliant 83.3%</p>
Private Open Space	
<p>h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building:</p> <ul style="list-style-type: none"> i) at least 15m² of private open space per ii) dwelling, and 	<p>Compliant</p>

<p>at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor.</p> <p>Note: The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one (see Schedule 4, section 2).</p>	
<p>i) for a dwelling in a multi-storey building not located on the ground floor – a balcony accessible from a living area with minimum dimensions of 2m and:</p> <ul style="list-style-type: none"> i) an area of at least 10m², or ii) for a 1 bedroom dwelling - an area of at least 6m². 	<p>Non-compliant Apartment 05 and Apartment 06 have balconies of 9m² in contravention of this standard. The area of the balcony with a width of less than 2m is excluded from the calculation.</p>
Car Parking	
<p>j) for a development application made by, or made by a person jointly with, a social housing provider - at least 1 parking space for every 5 dwellings,</p>	<p>N/A</p>
<p>k) if (j) does not apply - at least 0.5 parking space for each bedroom.</p>	<p>Compliant 12 parking spaces are provided.</p>

Ausgrid

Section 2.48 of Chapter 2 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.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the continued residential use of the site.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m*	Max**: 9.5m	-	Yes (under SEPP)
Floor Space Ratio	Nil under PLEP (refer to SEPP (Housing) 2021)	N/A	N/A	N/A

***Note:** The PLEP 2014 *Height of buildings map* indicates that the maximum height of building on this site is 8.5m, however clause 84(2)(c) of the SEPP (Housing) 2021, which permits a maximum height of 9.5m (excluding servicing equipment on the roof of the building) prevails, and therefore the maximum height permitted is 9.5m.

****Note:** Maximum height is measured to the ridge of the projecting skylight at RL24.57 as seen in DWG 0628-DA112 01 by Popov Bass below:

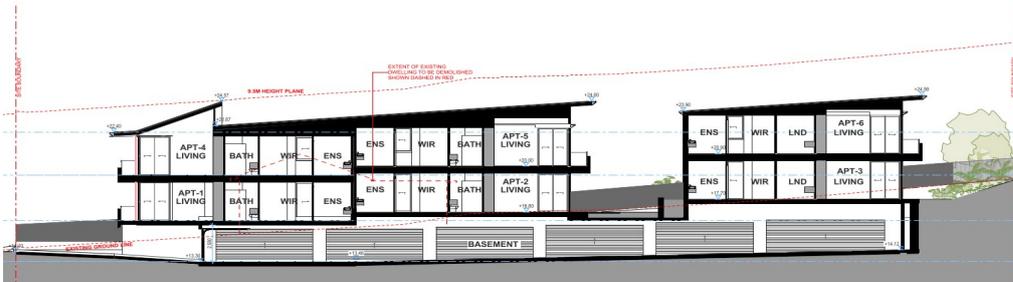


FIGURE 1: Extract of DWG 0628-DA112 01 (longitudinal section) showing 9.5m building height plane and building relationship

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	No
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	No
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	N/A
7.2 Earthworks	No
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

The development application has been lodged pursuant to State Environmental Planning Policy (Housing) 2021. Clause 84 of the SEPP outlines development standards for the site, including height. This specifies that the height requirement for development on land in a residential zone where residential flat buildings are not permitted is 9.5m, excluding servicing equipment on the roof of the building. The proposal complies with this requirement.

4.6 Exceptions to development standards

Description of Non-compliance

Development Standard	1. Section 93 of SEPP (Housing) 2021 - Location and access to facilities and services— independent living
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	<p>units - Proximity to transport service</p> <p>2. Section 108(2)(c) of SEPP (Housing) 2021 Non-discretionary development standards for independent living units - Floor Space Ratio (FSR)</p> <p>3. Section 84(2)(c)(iii) of SEPP (Housing) 2021 - Building Envelope</p>
<p>Requirement</p>	<p>1. Section 93 of SEPP (Housing) 2021 requires that facilities and services are, or the transport service is, located at a distance of not more than 400m from the site and the distance is accessible by means of a suitable access pathway of compliant gradients.</p> <p>2. Section 108(2)(c) of SEPP (Housing) 2021 requires the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.</p> <p>3. Section 84(2)(c)(iii) of SEPP (Housing) 2021 requires that if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.</p>
<p>Proposed</p>	<p>1. Proximity to Transport Service: Reliance on Keoride Service or 450m to Bus Stop</p> <p>2. FSR: 0.75:1</p> <p>3. The proposed development does not</p>

	provide the upper third storey within a plane measured at 45 degrees from the side boundaries
Percentage variation to requirement	<p>1. Proximity to Transport Service: 12.5%</p> <p>2. FSR: 50.12%</p> <p>3. Exceed requirement by up to 3m on the western elevation and 4.8m on the eastern elevation</p>

Assessment of request to vary a development standard

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:

Section 93 of SEPP (Housing) 2021 - Proximity to Transport Service; Section 108(2)(c) of SEPP (Housing) 2021 - Floor Space Ratio (FSR); and Section 84(2)(c)(iii) - Building Envelope of SEPP (Housing) 2021 development standards are 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:

1. Proximity to Transport Service

Section 93 of SEPP Housing specifies that a consent authority cannot consent to a development application for the purposes of an independent living unit unless it is satisfied that residents will have adequate access to facilities and services. The site is not located within 400 metres of essential facilities and as such, is reliant on Keoride, an on-demand public transport service operating across the Northern Beaches, to meet the requirements of SEPP Housing 2021. The written evidence provided by the applicant has failed to demonstrate Keoride meets the requirements of a transport service as specified by Section 93 (2)(b)(i) of SEPP Housing 2021, which states that the transport service must not be an on-demand booking service for the transport of passengers for a fare. Section 93 (3)(b) & (c) of SEPP Housing 2021 requires that the proposed development must have a suitable access pathway of a sufficient gradient to the required transport service. The development application has failed to demonstrate that a suitable access pathway is available to the required transport service.

The development application does not include a written request to vary Section 93 of SEPP Housing 2021.

2. Floor Space Ratio

Section 108 (2)(c) of SEPP Housing 2021 requires that the density and scale of the buildings when expressed as a Floor Space Ratio (FSR) is 0.5:1 or less. The proposal would result in a FSR of 0.75:1, which exceeds this requirement by 50.12%.

The development application does not include a written request to justify the exceedance of the Floor Space Ratio development standard.

3. Building Envelope

Section 84(2)(c)(iii) of SEPP (Housing) 2021 requires that if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site. The proposal comprises of 3 storeys, including the basement level. SEPP (Housing) 2021 does not specifically exclude basement levels when calculating the number of storeys. The proposed development does not provide the upper third storey within a plane measured at 45 degrees from the side boundaries contrary to s.84(2)(c)(iii) of SEPP Housing. The upper level would exceed requirement by up to 3m on the western elevation and 4.8m on the eastern elevation.

The development application does not include a written request to vary Section 84(2)(c)(iii) of SEPP Housing 2021.

The proposal therefore fails the threshold test pursuant to Clause 4.6 (4)(a)(i), which warrants the refusal of the application. In the absence of this, and the requirement for Council to be satisfied with the Applicant's written request, no further assessment against the provisions of Clause 4.6 is possible.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General 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 absence of a written request the concurrence of the Director-General for the variation to the Development Standard cannot be assumed.

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: Inadequate details have been provided to address the management of stormwater in terms of the additional impact of water runoff associated with the site changes.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: If approved conditions could be included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: If approved, conditions could be included in the recommendation of this report that will

minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Note:

The applicant has not provided sufficient information to enable a complete and proper assessment of the proposed excavation. The geotechnical report submitted with the development application references plans dated 26/10/22. The plans with the development application are dated 17/01/2023. In this regard, there is an inconsistency in the documentation. The geotechnical report also specifies that *“the excavation will reach a maximum depth of ~4.6m and, 1.0m from the W common boundary”*. The proposed basement plan indicates that there will be separation of 1.5m from the western boundary. In this regard, there is a discrepancy in the documentation.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

Pittwater 21 Development Control Plan

Built Form Controls

Below is a summary of the developments compliance when measured against the Built Form Controls of the PDCP. As discussed earlier in this report, where there is an inconsistency between a control in the PDCP and the SEPP (Housing) 2021, the latter will prevail as the applicable standard.

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Terrace and Balcony: 6m Facade: 7.37 - 9.39m Basement: 11.1m	7.7% -	No Yes
Rear building line (multi-dwelling housing)	Ground: 3m Upper floor: 4m	Terrace and Balcony: 5.85m Facade: 6.95m Basement: 6m	N/A	Yes
Side building line (multi-dwelling housing)	<u>Front Building (West):</u> Ground: 3m Upper floor: 4m - 4.3m	Basement: 1.5m Facade: 3.2 - 3.7m	50% (Max)	No
	<u>Rear Building (West):</u> Ground: 3m Upper floor: 3.85m - 4.08m	Basement: 1.5m Facade: 3.2m - 3.63m	50% (Max)	No
	<u>Front Building (East):</u> Ground: 3m Upper floor: 3.97m - 4.3m	Pathway: 0.6m Basement: 1.1m - 3m Facade: 2.9m - 3.7m	80% (Max)	No
	<u>Rear Building (East):</u> Ground: 3m Upper floor: 3.825m - 4.23m	Basement: 2.2m- 3m Facade: 2.9m - 3.7m	26.7% (Max)	No
Building envelope	(east) 4.2m	Within Envelope	N/A	Yes
	(west) 4.2m	Within Envelope	N/A	Yes
Landscaped area	50% (613m ²)*	37.7% (462.8m ²)	24.6% (to PDCP)	No (to PDCP) *Complies with SEPP Housing 2021 which overrides P21

				DCP
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***Note: SEPP (Housing) 2021 requires 30% Landscaped Area, and 15% Deep Soil Zone (inclusive)**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	No	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	No	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	No	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	No	No
C1.5 Visual Privacy	No	No
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	No
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
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	No	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	No	No
C1.23 Eaves	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.12 Landscaped Area - General	Yes	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.10 Newport Locality

The desired character outlined in the Locality Statement for the Newport Locality within P21 DCP provides clear guidance on the form of development anticipated for the future. The anticipated character includes:

The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.

Comment

The proposed development is not considered complementary to the desired character for this locality as it does not propose or present as low density residential development. It is considered that the

proposed development does not appropriately minimise the medium density character of the proposal. The substantially non-compliant FSR of 0.75:1 reflects an overdevelopment of the site, contributes to excessive bulk and scale of the built form, and amenity impacts to adjoining neighbours. The proposed building form represents a substantial building mass and as such, provides a presentation of a 'residential flat building style' appearance.

The scale of the development and the site coverage is uncharacteristic and incompatible with the desired character of the locality.

B5.15 Stormwater

Inadequate details have been provided to address the management of stormwater in terms of the additional impact of water runoff associated with the site changes. The proposal would significantly increase the total impervious area of the site. Stormwater plans have been provided without supporting evidence that the required water quality and water balance parameters will be met. Inadequate details have been provided to address Water Sensitive Urban Design requirements for water quality, including submission of the water quality model (MUSIC model files or equivalent). This will form a reason for refusal of the application.

B6.3 Off-Street Vehicle Parking Requirements

Two (2) visitor parking spaces are required for the six (6) x three-bedroom self-contained independent living units in accordance with Pittwater 21 DCP and the Roads and Maritime Services Guide to Traffic Generating Development. The proposal does not provide any convenient on-site parking for visitors and as such, is reliant on on-street parking in Bardo Road. Councils Traffic Engineer has raised objection on these grounds. As such, insufficient visitor parking will form a reason for refusal of the application.

B8.6 Construction and Demolition - Traffic Management Plan

If the application were approved, a condition could be imposed requiring the Applicant to submit an application for a Construction Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. This Construction Traffic Management Plan could be appropriately conditioned to mitigate adverse disruption or nuisance to adjoining residences.

C1.4 Solar Access

Description of Non-compliance

Clause C1.4 of the P21DCP states that private open space of adjoining dwellings are to receive a minimum of three hours sunlight between 9am and 3pm on June 21 (winter solstice). When considering equitable solar access it is noted that at least 50% of private open space should receive sunlight.

Eye of the sun diagrams, have been prepared by a suitably qualified person to assist with the assessment of solar access.

The site most affected by overshadowing with respect to the proposed development is the adjoining neighbour to the west (No.38 Bardo Road, Newport). No.38 Bardo Road consists of three storey residential flat building (including a basement/lower ground floor garage) comprising of 16 units. Of these 16 units, 12 have balconies (and principle private open space) located facing east towards towards the subject site (as demonstrated in figure 1 below). The submitted shadow diagrams demonstrate that all of these balconies currently receive direct solar access at 9am and 10am and a portion of these units receive sunlight at 11am. These balconies do not receive sunlight after 11am.

As demonstrated in Figure 2 below, the proposal would result in four of the ground floor unit balconies (and principle private open space) receiving no sunlight at 9am. This would result in the private open space of four adjoining dwellings receiving less than three hours of sunlight between 9am and 3pm on June 21, which does not comply with the requirements of this control.

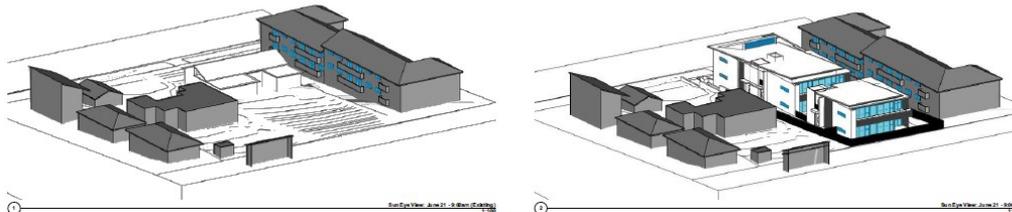


Figure 2 - June 21 9am Eye-of-the-Sun View (Existing on left and proposed on the right).

Merit Consideration

Overall, it is considered that the development has not been designed to maximise solar access for the adjoining dwellings at No.38 Bardo Road. The proposed built form represents a substantial building mass oriented from north to south and the development provides insufficient side setback and breaks in the built form, particularly at the upper levels. Additionally, the proposal would exceed the 0.5:1 Floor Space Ratio requirement as required by *SEPP Housing 2021* by over 50% and would not comply with side setbacks required for multi-dwelling housing as required by P21 DCP. This is not considered to meet the objectives of this control which seek to ensure residential development is sited and designed to maximise solar access and maintain a reasonable level of solar access to adjoining development. The proposal is not considered to achieve the objectives of this control and therefore this will form a reason for refusal of the application.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant Outcomes of the Pittwater 21 Development Control Plan and the objectives specified in s1.3 of the Environmental Planning and Assessment Act 1979. Accordingly, this assessment finds that the proposal is unsupported in this particular circumstance

C1.5 Visual Privacy

Clause *C1.5 Visual Privacy* of P21 DCP requires private open space areas and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres.

The adjoining neighbour to the west (No.38 Bardo Road, Newport) consists of a three storey residential flat building (including a basement/lower ground floor garage) residential flat building comprising of 16 units. Of these 16 units, 12 have balconies (and principle private open space) and living room windows located facing east towards the subject site.

Windows

The following proposed windows on the western elevation of the proposal will be within 9m of balconies and windows of No.38 Bardo Road:

- Apartment 01 (Floor level RL16.2) - Ground floor windows to Bed 1 and Bed 2 (01W001 & 01W002)
- Apartment 02 (Floor level RL16.8) - Ground floor windows to Bed 1 and Bed 2 (02W007 & 02W006)
- Apartment 03 (Floor level RL17.7) - Ground floor windows to Bed 1 and Bed 2 (03W001 & 03W002)

- Apartment 04 (Floor level RL19.4) - First floor windows to Bed 1 and Bed 2 (04W001 & 04W002)
- Apartment 05 (Floor level RL20.0) - First floor windows to Bed 1 and Bed 2 (05W007 & 05W006)
- Apartment 06 (Floor level RL20.9) - First floor windows to Bed 1 and Bed 2 (06W001 & 06W002)

Private Open Space

The following proposed terrace areas on the western elevation of the proposal will be within 9m of balconies and windows of No.38 Bardo Road:

- Apartment 01 and Apartment 02 would have raised terrace/lawn areas along the western boundary which would result in the potential for privacy impacts to the adjoining balconies and windows No. 38 Bardo Road.
- Apartment 5 has an elevated terrace/balcony. The proposed privacy screen on the western elevation does not extend for the full extent of this terrace. As such there is potential for direct overlooking into the adjoining balconies and windows of No. 38 Bardo Road.

Additionally, the proposed first-floor terrace and principle private open space of Apartment 04 would be within 6m of the adjoining northern neighbours (25 Irrubel Road) rear boundary and private open space.

Merit Assessment

Overall, the proposed development has not provided sufficient separation or privacy measures to mitigate overlooking into the principle private open space and windows of the units at No.38 Bardo Road (west) and the private open space of 25 Irrubel Road (north) as required by this control. The design also results potential privacy impacts to the occupants of the proposed units. As such, it is considered that the proposal does not optimise privacy through good design, and will result in unacceptable privacy impacts to the adjoining site at No.38 Bardo Road and 25 Irrubel Road.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes of the Pittwater 21 Development Control Plan and the objectives specified in s1.3 of the Environmental Planning and Assessment Act 1979. Accordingly, this assessment finds that the proposal is unsupported in this particular circumstance.

C1.7 Private Open Space

State Environmental Planning Policy (Housing) 2021 requirements for private open space for each apartment prevail over the DCP requirements. Clause 108 (2)(i) of SEPP Housing 2021 requires that for a dwelling in a multi-storey building not located on the ground floor – a balcony accessible from a living area with minimum dimensions of 2m and 10m² is provided. Apartment 05 and Apartment 06 have balconies with dimensions of 2m and 9m². The area of the balcony with a width of less than 2m cannot be included within the 10m² requirement. Therefore, the proposed development does not provide sufficient private open space in accordance with the requirements of SEPP Housing 2021.

C1.18 Car/Vehicle/Boat Wash Bays

No wash bay has been identified on the plans. However, if approved condition could be imposed to provide a wash bay in accordance with C1.18.

C1.20 Undergrounding of Utility Services

Should the application be considered for approval, a condition of consent would be imposed requiring the provision of underground services to the site.

C1.21 Seniors Housing

The proposed development fails to adequately address the outcomes of Part C.21. The specific outcomes of the control include:

- Visual bulk and scale of development is limited.
- Restricted footprint of development on site.
- Retention of the natural vegetation and facilitate planting of additional landscaping where possible.
- Achieve desired future character of the locality.
- Social mix of residents in the neighbourhood.
- Minimal cumulative impact from seniors housing.

Controls

Cumulative Impact

Seniors housing developed in accordance with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, outside the R3 Medium Density Residential and B4 Mixed Use zones shall:

- *Be in keeping with the development of the surrounding area in regard to bulk, building height, scale and character.*
- *Not result in such an accumulation of Seniors Housing developments to create a dominant social type in the surrounding neighbourhood.*
- *Not result in such an accumulation of Seniors Housing developments to create a dominant 'residential flat building' appearance in the neighbourhood.*

In terms of the development's response to the outcomes and controls of this requirement, it is noted that there are number of existing and historical seniors housing developments currently within this streetscape at No. 30-32 Bardo Road (7 dwellings), No. 24-26 Bardo Road (10 dwellings) and No 49 Bardo Road (5 dwellings), No. 54 Bardo Road (6 dwellings).

The appearance and density of this development however differs from the other developments within this street providing scale and density aligned with a residential flat building. The excessive gross floor area proposed and building massing across the site, as well as insufficient front and side setbacks does not adequately minimise the visual bulk and scale of development and is not compatible with character of the locality, which is primarily low density residential.

The proposal is not considered to successfully address the outcomes and controls of this clause and this forms a reason for refusal of the application.

D10.7 Front building line (excluding Newport Commercial Centre)

Clause D10.7 – *Front Building Line (excluding Newport Town Centre)* of P21 DCP requires a front

setback of 6.5metres. The proposed development provides a setback of 6.0 metres to Apartments 01 and 04 in contravention of this requirement. Additionally, a large portion of the front setback area is dominated by hard surface area which limits potential for substantial landscaping to mitigate the bulk and scale of the built form as viewed from the street.

Given the proposed non-compliance with the Floor Space Ratio and requirement for access pathways for seniors living development, it is considered that the non-compliance with front setback further limits opportunity to provide additional vegetation to reduce the built form and enhance the existing streetscape as required by the outcomes of this clause. As such, this has been included as a reason for refusal of the application.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

Description of Non-Compliance

Clause *D10.8 – Side and Rear Building Line (excluding Newport Town Centre)* of P21 DCP requires side and rear setbacks of 3 metres where the wall height of the building is 3 metres or less. This control also requires that where the wall height is more than 3 metres above ground level (existing), the minimum distance from any point on the external wall and a side/rear boundary is greater than 3 metres (based on the wall height). The proposed development has wall heights of up to 7.3 metres, which requires setbacks of between 4 metres and 4.3 metres for the upper floor. The proposed building has side setbacks of 3.2m – 3.7m on the western elevation and 2.9m – 3.7m on the eastern elevation which does not comply with this control.

The proposed basement would have a side setback of 1.5m from the western boundary and 1.1m - 3m from the eastern boundary.

Additionally, the proposed pathway along the eastern boundary would have a side setback of 0.6m.

Merit Assessment

With regard to the request 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 in clause A4.10 in this report, the proposal is not considered to achieve the desired future character of the locality.

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

Comment:

The proposed building form represents a substantial building mass oriented from north to south. The development provides insufficient separation, modulation, breaks in the built form and visual relief, particularly as viewed from adjoining properties. As such, the bulk and scale of the built form is not adequately minimised.

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

Comment:

The proposal does not result in unreasonable view loss from surrounding private and public places.

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

Comment:

The proposal does not result in unreasonable view loss from surrounding private and public places.

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

Comment:

The proposal does not provide adequate modulation of building bulk and physical separation to ensure that there would be no unreasonable impact on amenity. The proposal would result in the principle private open space (balconies) of the ground-floor units of the adjoining neighbour to the west (No. 38 Bardo Road) receiving less than 3 hours of sunlight between 9am and 3pm on June 21st as required by P21 DCP. This is discussed further within Clause C1.4 Solar Access of P21 DCP in this report. The proposal will also result in unreasonable privacy impacts, particularly to the units of the adjoining neighbour to the west (No. 38 Bardo Road). This is discussed further within Clause C1.5 Visual Privacy of P21 DCP in this report.

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

Comment:

The proposal has been reviewed by Council's Landscape Officer and Bushland and Biodiversity Officer who raise no objections.

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

Comment:

In regard to the identified amenity impacts and visual bulk of the development, a greater level of flexibility in the siting of the development, particularly the upper levels, should be employed by the applicant, to achieve this outcome.

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

Comment:

The location of the access path along the eastern boundary limits opportunities for vegetation and landscaping to be provided to minimise building bulk.

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

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 **not supported**, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$47,715 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,771,508.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

PLANNING CONCLUSION

The proposal, for demolition works and construction of a seniors housing development comprising of six dwellings, has been referred to the Northern Beaches Local Planning Panel (NBLPP) as 10 submissions have been received and the development involves variations to development standards

under SEPP Housing 2021 in relation to; Floor Space Ratio; Proximity to Transport Service; and Building Envelope.

This report has provided a detailed assessment of the proposed development and has found that the proposal, in its current form, is unsuitable and inappropriate for the site. Additionally, the absence of Clause 4.6 Variations are fatal to the application, as they are a precondition to the granting of consent.

Overall, the proposed development is considered to be of excessive bulk, scale and mass, and would result in unreasonable impacts upon the amenity of adjoining properties and inconsistency with the desired character of the locality.

The application has also failed to demonstrate by written evidence that residents of the proposed development will have satisfactory access to services and facilities. The proposal involves a number of variations to critical planning controls, within both SEPP Housing 2021 and Pitwatter 21 DCP, which are intended to ensure a suitable impact and scale and intensity of development.

It is noted that a Class 1 Appeal has been lodged in the Land and Environment Court against the deemed refusal of the application.

For the reasons set out in this report, it is recommended that the application be refused.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/0045 for the Demolition works and construction of a seniors housing development including basement car parking on land at Lot 34 DP 4689,36 Bardo Road, NEWPORT, for the reasons outlined as follows:

1. Reasons For Refusal

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following provisions of Pittwater Local Environmental Plan 2014:

- o **Clause 1.2 Aims of Plan**
- o **Clause 7.2 Earthworks**
- o **Clause 4.6 Exceptions to development standards**

Particulars:

i) The proposed development fails to achieve consistency with the objectives of Clause 1.2 Aims of the Plan of the PLEP 2014 in that the proposal is inconsistent with the desired character of Pittwater's localities.

ii) The applicant has not provided sufficient information to enable a complete and proper assessment of the proposed excavation and earthworks.

iii) The proposal is not accompanied by a written request pursuant to Clause 4.6 Exceptions to Development Standards seeking to justify contraventions of Section 93; Section 108(2)(c) and Section 84(2)(c)(iii) of State Environmental Planning Policy (Housing) 2021

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the State Environmental Planning Policy (Housing) 2021:

- o **Section 84(2)(c)(iii) -Development Standards (Building Envelope)**
- o **Section 93 - Location and access to facilities and services**
- o **Section 97 - Design of in-fill self-care housing**
- o **Section 99 - Neighbourhood amenity and streetscape**
- o **Section 100 - Visual and acoustic privacy**
- o **Section 101- Solar access and design for climate**
- o **Section 104 - Accessibility**
- o **Section 103 - Crime prevention**
- o **Section 108 (2)(c) - Floor Space Ratio**
- o **Section 108 (2)(i) - Private Open Space**

Particulars:

i) The application has failed to demonstrate, by written evidence, that residents of the proposed development will have satisfactory access to services and facilities.

ii) The floor area of the proposed development is excessive and results in associated impacts on the character of the locality and the amenity of adjoining properties.

iii) The proposed development has excessive bulk and scale which would result in unreasonable impacts upon the amenity of adjoining properties and inconsistency with the desired character of the locality.

iii) The application has failed to demonstrate that the design of the proposed development provides adequate consideration for accessibility, in particularly provisions for visitor parking and access to services.

iv) The proposed development does not provide sufficient private open space for Apartment 05 and Apartment 06.

v) The proposed development has not been designed to encourage crime prevention.

3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the Pittwater 21 Development Control Plan:

- **A4.10 Newport Locality**
- **B5.15 Stormwater**
- **B6.3 Off-Street Vehicle Parking Requirements**
- **C1.4 Solar Access**
- **C1.5 Visual Privacy**
- **C1.7 Private Open Space**
- **C1.21 Seniors Housing**
- **D10.7 Front building line (excluding Newport Commercial Centre)**
- **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

Particulars:

i) The proposed development fails to meet the numerical requirements of the front building line and side building line controls. The numerical non-compliances result in a cumulative impact, that increases the built form, resulting in an overdevelopment of the site.

ii) The excessive gross floor area, bulk and scale and building mass of the proposal is not compatible with character of the locality, which is primarily low density residential.

iii) The proposed development presents unacceptable amenity impacts to adjoining properties by way of solar access impacts, and visual privacy impacts, that arise because of the excessive bulk and scale of the proposal.

iv) Inadequate details have been provided to address the management of stormwater in terms of the additional impact of water runoff associated with the site changes.

v) The proposed development does not provide sufficient private open space for Apartment 05 and Apartment 06.

vi) The proposal does not provide any convenient on-site parking for visitors.

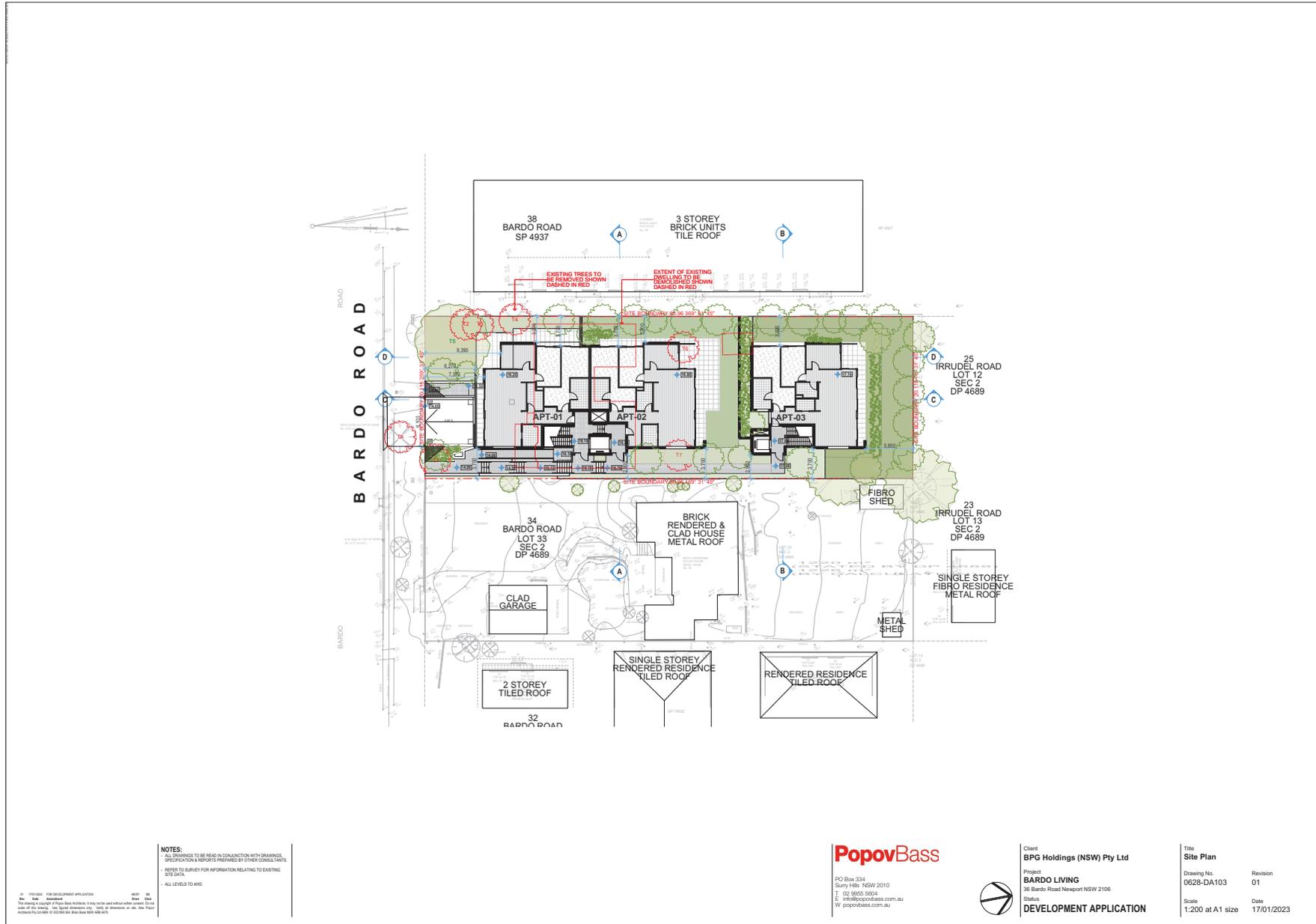
4. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the Desired Future Character of the location and is an over-development of the site.

5. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not within the public's interest.

Particulars:

The proposed development is contrary to the provisions of relevant environmental planning

instruments, development control plans and design guidelines. Notification of the development application has generated a number of submissions for residents in objection to the proposed development. The consent authority could not be satisfied that s.4.15(1)(e) of the Act has been satisfied.



AT 10/2023 - DEVELOPMENT APPLICATION 4621 04
 By Site Assessment 04/01/2024
 This report is prepared by PopovBass Architects. It may not be used without written consent of the Council. Use limited dimensions only. Only as dimensions in the Plan Form attached to this report. (10/2023-DA-1033-04)

NOTES:
 - ALL DRAWINGS TO BE READ IN CONJUNCTION WITH DRAWINGS, SPECIFICATION & REPORTS PREPARED BY OTHER CONSULTANTS.
 - REFER TO SURVEY FOR INFORMATION RELATING TO EXISTING SITE DATA.
 - ALL LEVELS TO AHD.

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 W: popovbass.com.au



Client
BPG Holdings (NSW) Pty Ltd
 Project
BARDO LIVING
 36 Bardo Road Newport NSW 2106
 Status
DEVELOPMENT APPLICATION

Title
Site Plan
 Drawing No.
 0628-DA103
 Revision
 01
 Scale
 1:200 at A1 size
 Date
 17/01/2023



Design + Sustainability Advisory Panel Meeting Report – Date 23 February 2023

Item 4 - DA2023/0045 - 36 Bardo Road NEWPORT

PANEL COMMENT AND RECOMMENDATIONS

General

The site is the subject of a current seniors housing consent for twelve (12) Independent Living Units (ILUs) over No.s 34 and 36 Bardo Road. This proposal is for six (6) ILUs, for No. 36 only. It is noted the main difference to what is proposed on this site is the rear unit has gone to 2 stories, as is now permitted.

Strategic context, urban context: surrounding area character

While the site is in the R2 Low Density Residential zone, there are residential flat buildings to the west and other seniors housing developments to the east. The character of the area remains low-density its feel due to the small-scale nature of the existing buildings.

The site is on the northern high side of the street, stepping up 1m from the street. There is a significant Norfolk Pine tree in the SW corner of the front yard, which needs to be retained.

The scheme appears to be well resolved and appropriate to its location and surroundings.

Scale, built form and articulation

The scale of the buildings are very similar to the neighbouring apartment block, and are under the allowable height.

The buildings have been designed with simple skillion roofs and 'saddlebags' to west side, to minimise the impact of overshadowing to the neighbours.

While the FSR of 0.75:1 is in excess of the 0.5:1 of the SEPP requirements, the landscaped area, building envelope, building height, setback, and parking are all compliant. In this instance, it is the Panel view that the non-compliance is acceptable.

Access, vehicular movement and car parking

The location of the Norfolk pine tree has required the driveway and pedestrian access to be located to the east.

Pedestrians will be either taken down to lift lobby by an accessible ramp, or to the front door by way of gentle stairs to the east.

The garage has a very simple and direct layout – straight line with double lockable garages. The garbage room is between the driveway and the pine tree, providing easy access for residents and the street for collection.

Landscape

The importance of retaining the Norfolk Island pine is noted and supported.

The landscape is overall well resolved and incorporates appropriate native planting to the site.

The side landscape is broken up by the path, which is noted by Council. However, keeping the buffer to the residential windows is good, as is the ability to grow some climbers to soften the fence.

While small areas of lawn will offer amenity, they might be hard to maintain for older residents.



Recommendations

1. Retain side path location as is
2. Consider no mow lawn options/species

Amenity

The proposed layout allows for 4 out of 6 apartments to face due north, with 2 facing to the street. The upper south facing apartment is able to capture sun through a highlight in the roof. All have cross flow ventilation. Skylights to bathrooms on the upper level could increase their amenity – good to consider.

The 2-storey building to the rear has freed up more garden space for all to enjoy.

Façade treatment/Aesthetics

The materiality of the buildings and their articulation are understated, relevant to the area and contribute to aesthetically pleasing compositions across the site.

Sustainability

It is good to see a scheme that complies with sunlight and ventilation requirements, and bringing good amenity to the occupants.

To ensure these dwellings are “forward-thinking” and the best they can be for their occupants in the future, we strongly recommend that the energy supply is decarbonised, EV charging is supplied and the passive design and thermal performance of the building fabric is increased.

Consider as many PV panels as possible for the roof to enable as much onsite power generation as possible. With a south facing roof, these might need to be on frames, with the aesthetics of these accommodated in the design.

Heat pump systems for apartments or other ways of providing electric hot water should be considered. (The storage of hot water can be considered a defacto battery if heated by PVs during the day.) Consider locations for possible battery storage.

The Panel notes that the new building codes will require an average of 7 stars NatHERS, with no apartments less than 6 stars. With the very comfortable location makes the achievement of this relatively simple. Future disclosure of energy efficiency at point of sale or lease makes this a good investment.

Recommendations

3. All services should be electric – gas for cooking, hot water and heating should be avoided
4. Provide EV charging points for each unit, and allow for bi-directional (2-way) charging of EV battery for powering the building
5. Include as many PV panels on the roof as possible for both common area and apartment renewable energy supply
6. Ensure all apartments have an average 7-star NatHERS score, with no apartment below 6 stars.

PANEL CONCLUSION

The Panel supports the proposal.

The Panel commends the proponents on the well resolved and appropriate scheme but strongly encourages the applicant to make further improvements as recommended.

ITEM 4.3	DA2022/1905 - 48 MACTIER STREET, NARRABEEN - CONSTRUCTION OF A SECONDARY DWELLING.
AUTHORISING MANAGER	Adam Richardson
TRIM FILE REF	2023/367741
ATTACHMENTS	1 ↓Assessment Report 2 ↓Site Plan & Elevations

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/1905 for the construction of a secondary dwelling at 48 Mactier Street, NARRABEEN, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1905
Responsible Officer:	DM Planning (external independent planning consultant)
Land to be developed (Address):	Lot B DP 301895, 48 Mactier Street NARRABEEN NSW 2101
Proposed Development:	Construction of a secondary dwelling
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Marc Francis Boin Sharon Ellison Boin
Applicant:	Sharon Ellison Boin
Application Lodged:	10/11/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential – New secondary dwelling
Notified:	11 November 2022 to 1 December 2022; and 4 April 2023 to 18 May 2023
Advertised:	No
Submissions Received:	10
Clause 4.6 Variation:	No
Recommendation:	Approval
Estimated Cost of Works:	\$335,160

EXECUTIVE SUMMARY

DA2022/1905 seeks consent for the construction of a secondary dwelling.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to Council being in receipt of ten (10) or more unique submissions.

Broadly, the submissions raised the following issues:

- Amenity impacts (privacy, shadowing and views)
- Drainage impacts
- Inadequate parking
- Inadequate documentation



The key planning issues in the assessment of this proposal relate to potential impacts on neighbouring properties.

The application has been amended and has been on placed on notification for two x 14 day periods, in accordance with Council's Community Participation Plan. A total of 10 submissions have been received over the course of the two notification periods.

The proposal satisfies the relevant built form controls and planning objectives and does impact unreasonably on the amenity of surrounding and nearby properties.

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for construction of a secondary dwelling comprising of a bedroom, an office, open plan living/kitchen, bathroom and rear ground level open space.

External works comprise of:

- Excavation at the rear to create a level building platform
- Demolition of existing concrete terrace at the rear of the existing dwelling house
- Replacement of synthetic grass with turf at the front of the site
- Landscaping works including additional plantings

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan – D1 Landscaped open space
Warringah Development Control Plan – D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk



SITE DESCRIPTION

Property Description:	Lot B DP 301895, 48 Mactier Street NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Mactier Street.</p> <p>The site is rectangular with a frontage of 10.06 metres to Mactier Street and a depth of 58.295 metres. The site has a surveyed area of 586.3m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates single storey residential dwelling and a detached single garage.</p> <p>The front half of the site is relatively flat, while the rear half of the site slopes steeply with an overall fall of approximately 7.7 metres from the rear (south) to the street frontage with an average gradient of 13.3%.</p> <p>The site is largely devoid of significant vegetation with the exception of one native tree adjacent to the rear boundary.</p>

Map:



Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a mix of low density detached dwellings (46 Mactier Street) and medium density development. The property to the west, 50-54 Mactier Street, contains a row of two storey townhouses which runs the full length of the common boundary. Development to the rear comprises at 39-47 Clarke Street, a residential flat building development.



SITE HISTORY

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

Application DA2022/1712 for the construction of a secondary dwelling was withdrawn on 27/07/2022 by the applicant due to several concerns raised by Council, including landscaped open space, rear setback, visual privacy and building bulk.

Subject application DA2022/1905

On 10 March 2023, after a preliminary assessment of the application, a request for information letter was sent to the applicant, outlining issues with landscaped open space, private open space, and privacy.

On 27 April 2023, the applicant provided amended plans, amended BASIX certificate, amended Statement of Environmental Effects and a landscape plan.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Northern Beaches Community Participation Plan 2019.

As a result of the public exhibition process council is in receipt of ten (10) submissions from:

Name:	Address:
Ken Terrens	10/39-47 Clarke Street West, Narrabeen
Lisa Treble	8/50-54 Mactier Street, Narrabeen
Peter Matthews	46 Mactier Street, Narrabeen
Graeme Alley	50-54 Mactier Street, Narrabeen
Vicki Carlisle	3/50-54 Mactier Street, Narrabeen
Margaret Malar	12/39 Clarke Street, Narrabeen
Tracy Chorley	1/50-54 Mactier Street, Narrabeen
Nathan Bautista	2/50-54 Mactier Street, Narrabeen
Details withheld x two (2) submissions	

Assessment of issues raised

The matters raised within the submissions have been considered and are addressed as follows:

- ***Inadequate landscaped open space — incorrect & misleading landscape plan***

Comment:

Concerns are raised that the proposal does not provide adequate landscaped open space and that areas nominated as landscaped area are not capable of sustaining vegetation. It is noted that the amended proposal has increased the amount of landscaped area and that numerical compliance is now achieved. This issue is discussed in detail in the WDCP section of this report.

Concerns are also raised that the landscape plan contains numerous errors including showing trees that are not present and omitting the Bottlebrush tree adjacent to the rear boundary. These errors are confirmed and therefore a condition is recommended to require the preparation of an amended landscape plan to correct the anomalies.



- ***The proposed landscaping in the rear yard will cause unacceptable impacts on existing views from the apartment to the south (unit 10/39-47 Clarke Street) and the dwelling to the east (46 Mactier Street).***

Comment:

The properties to the south and east object to the planting of the two Water gums (*Tristaniopsis laurina*) in the rear yard due to potential impact on views. To eliminate the potential for future view loss, a recommended condition of consent will require the relocation of one of the Water gums to the front setback area and the deletion of the other. The proposed Lilly Pilly (*Acmena Smithii*) will remain.

- ***Visual Privacy - Windows will overlook 50-54 Mactier Street***

Comment:

The proposed secondary dwelling does not result in unreasonable privacy impacts. This issue is discussed in the WDCP section of this report.

- ***The proposed secondary dwelling has excessive wall height, bulk and scale***

Comment:

The proposal complies with all numerical built form controls. This issue is discussed in detail in the WDCP section of this report. In summary, the proposal has a bulk and scale that is consistent with surrounding development.

- ***The proposed secondary dwelling will result in unacceptable overshadowing to 50-54 Mactier Street***

Comment:

This issue is discussed in detail in the WDCP section of this report. In summary, the proposal is well below the maximum building height and satisfies Council's solar access requirements.

- ***Excavation and land stability***

Comment:

Concerns are raised that the proposed excavation could damage the retaining walls and buildings on the adjoining properties. Recommended conditions of consent will require compliance with the recommendations of the Geotechnical Report and the submission of dilapidation reports for the adjoining properties.

- ***The plans lack detail and contain inconsistencies***

Comment:

As noted above, a recommended condition of consent will require the submission of an amended landscape plan to correct the inaccuracies. The architectural plans submitted are satisfactory for the purposes of development consent assessment. More detailed architectural plans will be required with the Construction Certificate application.

- ***Incorrect Class of Building – Class 1A not class 2-9***

Comment:

The detached secondary dwelling is classified as Class 1A. Compliance with the Building Code of Australia (BCA) requirements for Class 1A buildings will be required with the Construction Certificate application.

- ***Concern regarding impacts of stormwater run-off. Drainage has not been adequately addressed.***



Comment:

Council's Engineers support the proposal with no flood risk identified. The concept stormwater drainage plan, prepared by Modular Engineers Pty Ltd, shows that stormwater runoff from the secondary dwelling will be collected and directed to a 4000 litres rainwater tank with overflow directed to Mactier Street. Recommended conditions of consent will require that the stormwater be disposed of in accordance with Council's Policy and that the stormwater design is certified prior to the issue of the occupation certificate.

• **Inadequate parking**

Comment:

There is no additional parking proposed for the secondary dwelling. This is consistent with the requirements of the SEPP (Housing).

REFERRALS

Internal Referral Body	Comments
Building Assessment	<p>Supported, subject to 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>
Landscape Officer	<p>Supported, subject to conditions</p> <p><u>Additional Information Comment 01/05/23:</u> The amended plans are noted. The landscape proposal is generally supported, and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent.</p> <p><u>Original Comment Summary:</u></p> <ul style="list-style-type: none"> • concern was raised with the non-compliant landscaped open space • tree replacement was requested to offset tree removal.
NECC (Coastal)	<p>Supported subject to conditions</p> <p>The application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Plans and reports lodged in support of the DA; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; and • Warringah LEP 2011 and Warringah DCP 2011. <p>As the subject site is located in the NSW Coastal Zone, the provisions of the Coastal Management Act 2016 and State Environmental Planning Policy (Resilience and Hazards) 2021 will apply.</p> <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies, in particular the objects of the Coastal Management Act 2016 and the provisions of Divisions 3, 4 and 5 of State Environmental Planning Policy (Resilience and Hazards) 2021, subject to conditions.</p>

Internal Referral Body	Comments
	No other coastal planning or development controls relevant to the subject proposal were identified.
Environmental Health	<p>Supported, subject to conditions</p> <p>The subject site is classified as class 3 and 4 acid sulphate soils in accordance with the Warringah Local Environmental Plan 2011. In response to a previous referral response from Environmental Health, a Geotechnical report has been provided in relation to the potential presence of acid sulphate soils (ASS).</p> <p>The report concludes that <i>"it is considered that there is a low to negligible probability of the presence of ASS on -site"</i> Accordingly, the proposal is supported with the recommendation of an appropriate condition of consent should ASS be encountered during works.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported without conditions</p> <p>The development proposes secondary dwelling to the property. The floor level of the proposed secondary dwelling is at 4.7m AHD which is well above the Flood Planning Level of 3.55m AHD. The proposed secondary dwelling is not considered to increase flood risk. The proposed development generally complies with the flood controls in the DCP and LEP.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported, subject to conditions</p> <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 AND ASSESSMENT ACT, 1979 (EP&A Act)

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	There are no current draft environmental planning instruments.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a recommended condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to landscaped open space, rear setback, visual privacy and building bulk.</p> <p><u>Clause 92</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a recommended condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a recommended condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact</p>



Section 4.15 'Matters for Consideration'	Comments
	The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

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)

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application for the secondary dwelling (see Certificate No.1329606S dated 6 April 2023). The BASIX Certificate for the secondary dwelling indicates that the development will achieve the following:

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

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

SEPP (Transport and Infrastructure) 2021

Ausgrid



Section 2.48 of Chapter 2 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.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 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 proposed development is unlikely to cause adverse impacts on the ecological environment, coastal values and processes, marine vegetation, access to the beach or heritage.

(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The proposed development incorporates measures to avoid adverse impacts on the ecological environment, coastal values and processes, marine vegetation, access to the beach or heritage.



Division 4 Coastal use area

2.11 Development on land within the coastal use area

1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*

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 proposal will not impede access to the foreshore or degrade the visual amenity of the coast or heritage.

Division 5 General

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

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

Comment:

The consent authority may be satisfied that the construction of a secondary dwelling within an established residential area would be unlikely to cause increased risk of coastal hazards on the subject site or surrounding lands.

The application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

SEPP (Resilience and Hazards) 2021 Chapter 4 – Remediation of Land Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.



State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021 (Housing SEPP) and the WLEP are consistent in that they both permit secondary dwellings. Pursuant to Clause 1.9 of the WLEP, the WLEP is subject to the provisions of the Housing SEPP over that of the provisions of the WLEP. Clause 8 of the Housing SEPP provides that:

- 8 Relationship with other environmental planning instruments**
Unless otherwise specified in this Policy, if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

Clause 5.4(9) of the WLEP is inconsistent with Clause 52 and Clause 53 of the Housing SEPP. An assessment against these provisions is provided below:

Requirement	Comment	Complies
Chapter 3 – Diverse Housing		
Part 1 Secondary dwellings		
Division 2 Secondary dwellings permitted with consent		
52 Development may be carried out with consent		
(1) Development to which this Part applies may be carried out with consent.		
(2) Development consent must not be granted for development to which this Part applies unless— (a) no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and (b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and (c) the total floor area of the secondary dwelling is— (i) no more than 60m ² , or (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.	The proposal will result in a principal and secondary dwelling located on the site. WLEP 2011 does not impose a maximum GFA/FSR requirement upon the site. Proposed floor area: 60m ²	Yes
53 Non-discretionary development standards – the Act, s 4.15		
(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies— (i) for a detached secondary dwelling—a minimum site area of 450m ² , (ii) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	Site area: 586.3m ² There is currently a single car garage located at the front of the site. There are no changes proposed to the existing car parking arrangements.	Yes

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011



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

Principal Development Standards

Standard	Requirement	Proposed	Variation	Complies
Height of Buildings	8.5m	4.6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
6.1 Acid Sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

R2 Zone objectives

An assessment of the proposed development against the underlying objectives of the R2 Low Density Residential zone is outlined below:

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

Comment:

The proposal provides for the housing needs of the community within a low density residential environment, providing for additional floor space on the site whilst maintaining the landscaped character of the locality. The development satisfies this objective.

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

Comment:

The proposal retains the residential use of the site and therefore this objective is not relevant. The development satisfies this objective.

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

Comment:

The proposal demonstrates consistency with the slope of the land and maintains a landscaped setting with a compliant landscaped area. Sufficient vegetation will be provided to ensure there are no detrimental impacts on the natural environment. The development satisfies this objective.

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

6.1 Acid sulphate soils



Clause 6.1 requires Council to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is in an area identified as Acid Sulfate Soil Class 3 and 4, as indicated on the Warringah Acid Sulfate Soils Planning Map.

Works at depths beyond 1.0 metres below the natural ground surface and/or works by which the water-table is likely to be lowered more than 1.0 metres below the natural ground surface within a Class 3 acid sulphate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 1.8 metres below the natural ground level. As such, a Preliminary Acid Sulfate Soil Assessment has been undertaken by Green Geotechnics dated 14 February 2022. The assessment notes that:

The proposed granny flat is located within the Class 4 portion of the site. Class 4 zone works are generally considered to be low risk for disturbance of potential or actual acid sulphate soils, however further investigation is required to determine if Acid Sulfate Soils are actually present including ASS field tests and confirmatory Scr (Chromium Suite) analysis.

The assessment concludes as follows:

Based on the observations made during the field works, the laboratory analytical results (as compared to the relevant tables in the Guidelines) and subject to the limitations of this report, it is considered that there is a low to negligible probability of the presence of ASS on-site. It is considered that the development and implementation of an Acid Sulfate Soil Management Plan is not required for the proposed development subject to there being no substantial amendments to the proposed development with relation to the depth or scale of excavation.

The application was referred to Council's Environmental Health Officer who has recommended a condition requiring the applicant notify the principal certifying authority of any new evidence of the presence of acid sulphate soils. It is therefore considered that the proposed development is satisfactory with the matters for consideration prescribed in subclause (3) of Clause 6.1 of the WLEP.

WARRINGAH DEVELOPMENT CONTROL PLAN

Built Form Controls

Built Form	Requirement	Proposed	% variation*	Complies
B1 Wall height	7.2m	4.3m	-	Yes
B3 Side boundary envelope	4m (East)	Within envelope	-	Yes
	4m (West)	Within envelope	-	Yes
B5 Side boundary setbacks	0.9m (East)	2m	-	Yes
	0.9m (West)	0.9m	-	Yes
B7 Front boundary setbacks	6.5m	32m	-	Yes
B9 Rear boundary setbacks	6m	13.5m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland setting	40% (234.5m ²)	42% (243.7m ²)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	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
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

D1 Landscaped Open Space and Bushland

The site is required to provide 40% of the site (234.5m²) as landscaped open space (LOS).

The original proposal was deficient in LOS. The proposal has been amended to provide a numerically compliant LOS of 42% (243.7m²). The increase in landscaped area is achieved by removing the artificial turf in the front setback area and the concrete terrace at the rear of the existing dwelling.

Merit consideration

The amended proposal is assessed against the underlying objectives of the control as follows:

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



Comment:

Additional turf is proposed in the front setback area. A recommended condition of consent will require the relocation of a Water Gum to the front setback in order to enhance the streetscape presentation. The proposal will result in an improved landscaped outcome to the front of the site.

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

Comment:

The existing Bottlebrush tree located adjacent to the rear boundary will be retained. The proposal includes the planting of additional trees and shrubs.

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

Comment:

The proposal provides for additional landscaped area and additional vegetation. A recommended condition of consent will require the planting of a canopy tree in the front setback.

- ***To enhance privacy between buildings.***

Comment:

The proposed development will maintain suitable levels of privacy with the adjoining properties.

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

Comment: The proposed development provides appropriate outdoor recreational opportunities.

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

Comment: Adequate space for service functions, including clothes drying has been provided.

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

Comment: The application has been reviewed by Council's Development Engineer who has recommended conditions of consent to ensure appropriate stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, given that there is overall increase in LOS the proposed shortfall is supported, in this particular circumstance.

D6 Access to Sunlight

Clause D6 of WDCP requires that:

1. *Development should avoid unreasonable overshadowing any public open space.*
2. *At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

The submissions raise issues regarding overshadowing from the proposed secondary dwelling.

Shadow diagrams are not required for single storey development as they are generally well below the maximum building height and therefore do not result in unreasonable shadowing impacts.



While there may be some minor additional shadowing to 50-54 Mactier Street in morning, the proposal satisfies the provisions of Clause D6 in that the proposed secondary dwelling will not impact the sunlight available to the private open spaces of this adjoining dwelling by more than 3 hours between 9 am and 3 pm on 21 June. The proposal, therefore, ensures that reasonable access to sunlight is maintained and consequently satisfies the objective of the control.

D7 Views

Clause D7 requires that development provide for the reasonable sharing of views. The roof of the proposed secondary dwelling is below the existing ground level at the rear of the site and therefore there will be no view impacts to properties to the rear.

Two submissions from the properties to the south and east have raised concerns regarding view impacts from proposed tree plantings. To mitigate against future view impacts, a recommended condition of consent will require the relocation of one of the Water Gums and the deletion of the other.

D8 Privacy

The proposed windows in the secondary dwelling are appropriately located and offset from the windows of adjoining properties to maintain a satisfactory level of privacy between dwellings. The east facing windows comprise of a kitchen window and a small bathroom window. They are below the fence line and therefore not expected to result in privacy impacts to the adjoining property at 46 Mactier Street. Additional screen planting along the common boundary will also mitigate privacy impacts. Along the western elevation, there is a small (1.8 metres length x 0.4 metre high) west-facing window to the entry and stairs. The size and position of this window will not result in unreasonable privacy impacts.

D9 Building Bulk

The proposed secondary dwelling satisfies all relevant built form controls including building height, setbacks, side boundary envelope and gross floor area.

The proposal incorporates adequate articulation and a stepped design to follow the slope of the land. The proposal has an acceptable visual impact particularly when viewed in the context of the two storey developments to the east, west and south, which overlook and visually dominate the subject site.

7.12 CONTRIBUTIONS

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$3,351.60 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$335,160.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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



- 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

PLANNING CONCLUSION

This proposal, for the construction of a secondary dwelling at the rear of 48 Mactier Street Narrabeen, has been referred to the Northern Beaches Local Planning Panel (NBLPP) as the proposal constitutes sensitive development due to 10 or more unique submissions being received during the notification periods.

It is considered that despite the submissions that the proposed development when evaluated on its merits is satisfactory, particularly as it accords with the relevant controls of the WLEP and WDCP, as with as SEPP (housing) 2021.

Accordingly, the application is referred to the NBLPP with a recommendation for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of the Northern Beaches Council as the consent authority grants Development Consent to DA2022/1905 for the construction of a secondary dwelling at 48 Mactier Street, NARRABEEN, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
22-75, Sheet 1 Site and roof plan	30/03/2023	RK Designs
22-75, Sheet 2, Ground floor plan	30/03/2023	RK Designs
22-75, Sheet 3, Elevations	30/03/2023	RK Designs
22-75, Sheet 4, Area calculations	30/03/2023	RK Designs

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Plans STW168-2022 (4 sheets)	31/10/2023	Modular Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By

Geotechnical Report	01/02/2022	Green Geotechnics
Arborist Report	30/09/2022	Advanced Arborist Report
BASIX Certificate 1329606S_02	06/04/2023	RK Designs
Statement of Environmental Effects	06/04/2023	RK Designs
External Materials and colours schedule	24/10/2022	RK Designs

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
LA01 and LA02	06/04/2023	Apex Studios

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	24/10/2022	RK Designs

In the event of any inconsistency between the 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. Amendments to the approved plans

The following amendments are to be made to the approved landscape plan:

A landscape plan prepared by a qualified Landscape Architect or Landscape Consultant to a scale of 1:100 or 1:200 and conforming to the Warringah Development Control Plan and relevant conditions of this Consent, must be submitted to Council's or the Principal Certifier's satisfaction with the Construction Certificate application.

The plan shall be consistent with the approved landscape plan referenced in Condition 1 of this consent, subject to the following amendments:

- a) The relocation of one (1) Water Gum to the front setback area and the deletion of the other;
- b) Show the location of the existing Bottlebrush tree located midway along the rear boundary.
- c) Delete the reference to 'retain and protect existing trees' along the western boundary
- d) Show additional planting of *Acmena smithii* (Lilly pilly) along the western boundary

The new trees shall be planted at a minimum pot size of 75L and grown to Australian Standard 2303:2018 Tree stock for landscape use.

Reason: To minimise view impacts to properties located to the south of the site.

3. 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	Ausgrid Referral Response	24 November 2023

(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.

4. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an 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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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 demolishedThe person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
 - (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
 - (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$3,351.60 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 (as amended).

The monetary contribution is based on a development cost of \$335,160.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).



A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

6. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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 Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report 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 Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **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 or stormwater volumes compared to pre-development conditions, arising from the approved development. Details demonstrating compliance are to be submitted to the Certifier for approval prior to issue of the Construction Certificate.

Reason: To make appropriate provision for stormwater management and disposal arising from development, ensuring that the proposed works do not negatively impact receiving waters. 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 Certifier prior to the issue of the Construction Certificate.



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

9. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifier 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.

10. **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 Certifier 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.

11. **Structural Adequacy and Excavation Work**

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

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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **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 and receiving waters from the effects of sedimentation and erosion from the site.

13. **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.



- 46 Mactier Street, Narrabeen
- 50-54 Mactier Street (external retaining walls, fencing and common property adjacent to the shared boundary only)

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. 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 Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

15. Tree and Vegetation Protection

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

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the



- tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) 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 Principal Certifier,
 - 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) 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, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Principal Certifier 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.

16. **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.



17. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

18. **Survey Certificate**

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

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

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier.

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

19. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, 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.

20. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

21. **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 the waste management plan and applicable regulations.

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

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE****22. 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 Certifier prior to the issue of an 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.

23. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing LA01 by Apex Studios dated 06/04/23), as amended by condition 2, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) all tree planting shall be a minimum pre-ordered planting size of 75 litres; meet the requirements of Natspec - Specifying Trees; 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 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s),
- d) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

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

Reason: Environmental amenity.

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

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure bushland management.

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



25. **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(s) and any conditions of consent.

The approved landscaped area, as amended by condition 2, shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

26. **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.

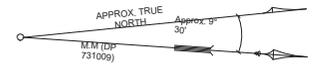
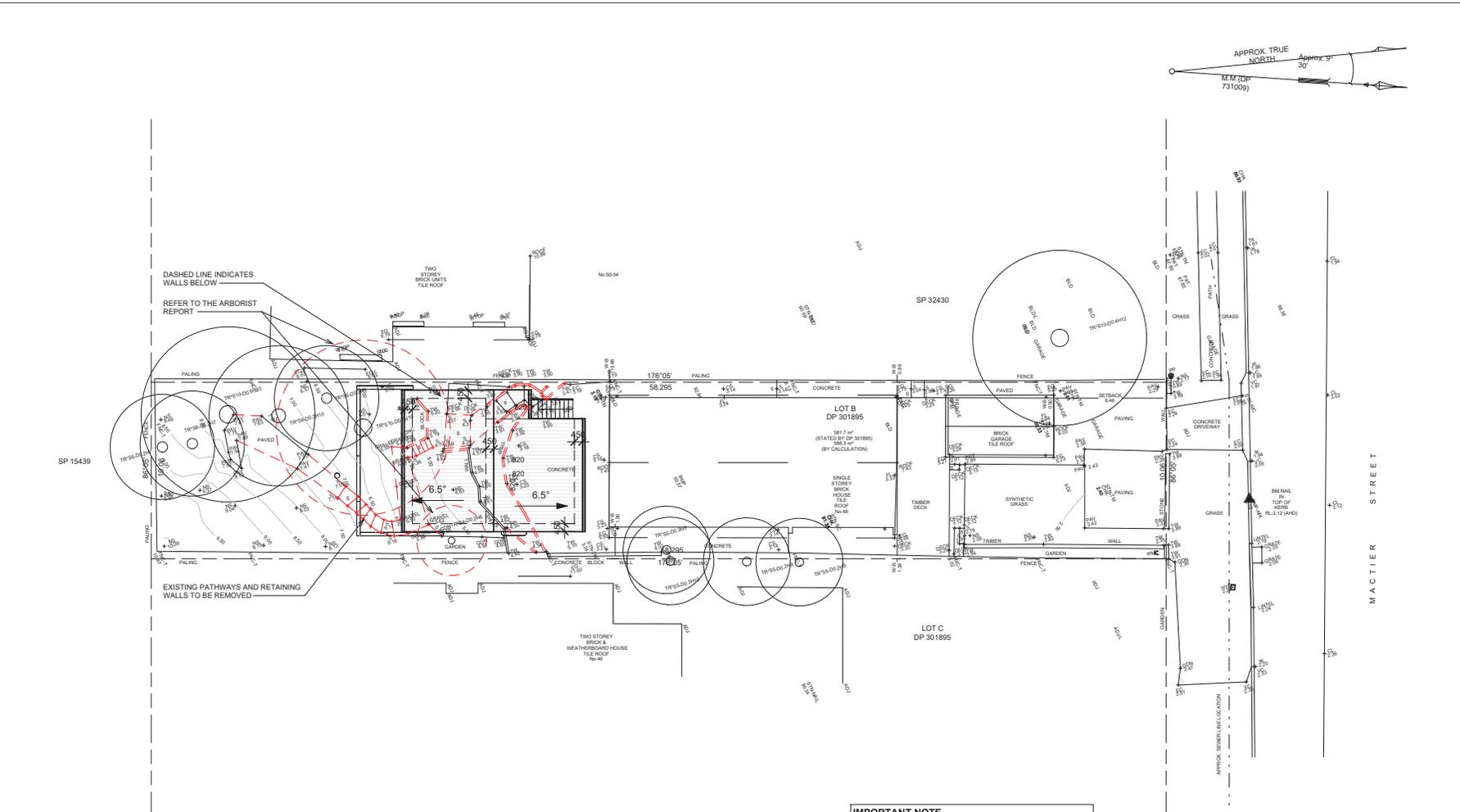
Reason: To ensure geotechnical risk is mitigated appropriately.

FINAL DECLARATION



Consultant Name: Danielle Deegan, DM Planning

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.



1 SITE AND ROOF PLAN
1 : 200

IMPORTANT NOTE
THESE DRAWINGS HAVE BEEN ISSUED FOR DEVELOPMENT APPLICATION PURPOSES ONLY. THEY ARE NOT ISSUED FOR CONSTRUCTION OR CONSTRUCTION CERTIFICATE OR FOR THE PURPOSES OF PRICING BY ANY CONTRACTOR

PRELIMINARY
DO NOT USE FOR CONSTRUCTION



GENERAL NOTES

- All dimensions are to be confirmed on site by the builder/subcontractor. any incongruities must be reported to the Designer before commencement of any work.
- No Survey has been made on the boundaries, all bearings, distances and areas have been taken from the contour survey plan. A Survey must be carried out to confirm the exact boundary locations.
- No construction work shall commence until a site survey confirming the site boundaries has been completed. The contractor is to ensure that the boundary setbacks are confirmed and used, the boundary setbacks take precedence over all other dimensions. The Survey work must be performed by a registered Surveyor.
- In the event of encountering any discrepancies on these drawings, specification or subsequent instructions issued, the Builder/Subcontractor shall contact the designer before proceeding further with any work.
- All construction, control joints and expansion joints in the wall, floors, other locations shall be in strict accordance with the Structural Engineering details. No joints or breaks other than specified, are allowed without written permission from the Engineer.
- Measurements for the fabrication of secondary components such as, windows, doors, internal frames, structural steel components and the like, are not to be taken from these documents. Measurements must be taken on site to suit the work as constructed.
- All structural components shall be in strict accordance to details and specifications as prepared by a structural engineer.
- All existing structures need to be examined for structural adequacy, and it is the Contractor's responsibility to ensure that a certificate of structural adequacy is available prior to the start of any work.

drawn	date	issue	description
LS	04/08/22	A	ISSUE FOR DA
LS	15/08/22	B	ISSUE FOR DA
LS	24/08/22	C	ISSUE FOR DA
LS	30/03/23	D	ADDITIONAL DA INFO

project
PROPOSED CONSTRUCTION OF A GRANNY FLAT AT 48
MACTIER STREET, NARRABEEN 2101 LOT B DP 301895.

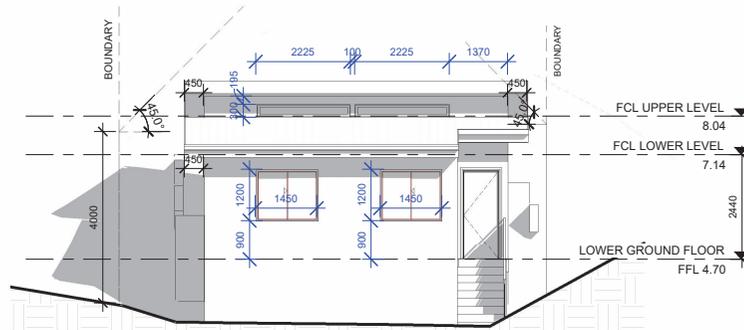


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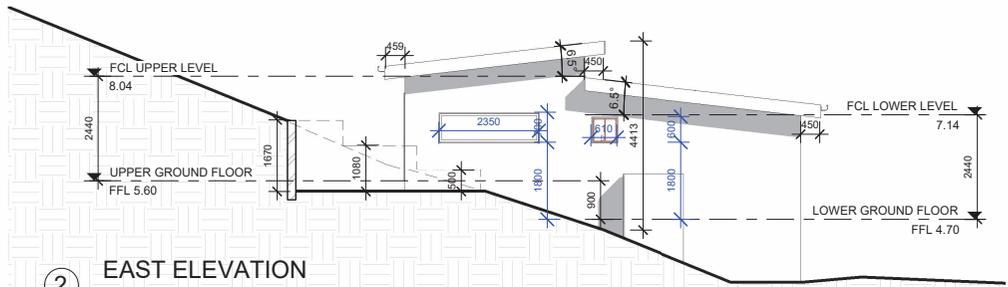
client
SHARON BOIN

drawing	date	sheet no.	scale	issue	checked
SITE AND ROOF PLAN	04/08/22	1	A3 1 : 200	C	?

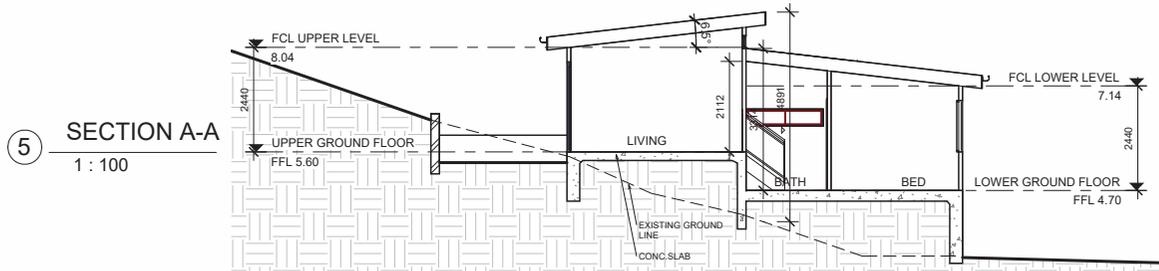




1 NORTH ELEVATION
1 : 100

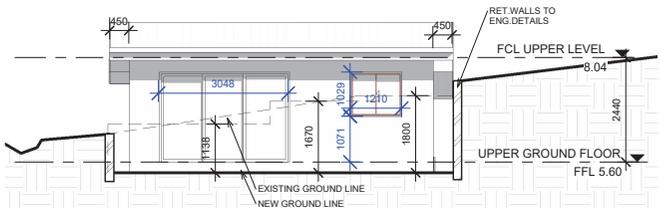


2 EAST ELEVATION
1 : 100

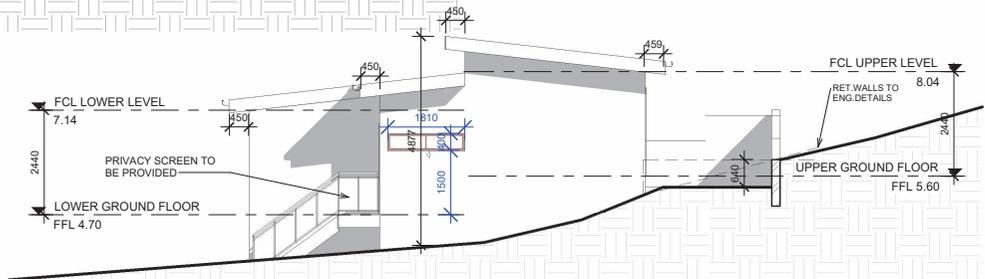


5 SECTION A-A
1 : 100

IMPORTANT NOTE
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3 SOUTH ELEVATION
1 : 100



4 WEST ELEVATION
1 : 100

GENERAL NOTES

- All dimensions are to be confirmed on site by the builder/subcontractor. any incongruities must be reported to the Designer before commencement of any work.
- No Survey has been made on the boundaries, all bearings, distances and areas have been taken from the contour survey plan. A Survey must be carried out to confirm the exact boundary locations.
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true north drawing
ELEVATIONS
project no 22-75 date 04/08/22 sheet no 3 scale @ A3 issue 1 : 100 checked ?



5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1	DA2023/0192 - 1 GRIFFITHS STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL.
AUTHORISING MANAGER	Rod Piggott
TRIM FILE REF	2023/366641
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plans & Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a development involving the demolition of a heritage item.

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. DA2023/0192 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 12 DP 978699, 1 Griffiths Street, FAIRLIGHT, Lot 13 DP 978699, 1 Griffiths Street, FAIRLIGHT subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0192
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 12 DP 978699, 1 Griffiths Street FAIRLIGHT NSW 2094 Lot 13 DP 978699, 1 Griffiths Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Max Frederik Weaver Rachael Weaver
Applicant:	Graphio AM

Application Lodged:	14/03/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/03/2023 to 04/04/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 550,000.00
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EXECUTIVE SUMMARY

The proposal seeks consent for alterations and additions to the existing dwelling house.

The existing building to be partially demolished forms part of Heritage Item No. I55 'Group of 4 houses' located between Nos. 1, 3, 5 and 11 Griffiths Street. The nature of the works are considered 'sensitive development' and such, the application is referred to the Northern Beaches Local Planning Panel for determination.

The proposed development complies with the Height of Buildings and Floor Space Ratio development standards of Manly LEP 2013.



No submissions were received as part of the public exhibition of the application.

The proposal is appropriate for the site and it is recommended that the NBLPP, as the consent authority, grants approval to the development application.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes alterations and additions to an existing dwelling house. The works also include the demolition of a concrete slab and rear patio to accommodate for the rear extension, reconfiguration of the ground floor layout, addition of a pool and associated landscaping works.

The following works are proposed:

Ground Floor:

- Convert existing dining and kitchen area into a master bedroom with ensuite
- Convert existing living room into an office
- Demolition of laundry, shed, concrete pathways and slab to the rear of the site
- Construction of a new open plan kitchen, living room, dining room, mud room, laundry and alfresco

External works:

- Swimming pool
- Demolition of existing garden bed and provision of a larger lawn area with new plantings along the southern fence line

ASSESSMENT INTRODUCTION

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

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



SUMMARY OF ASSESSMENT ISSUES

- Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
- Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
- Manly Development Control Plan - 4.1.5 Open Space and Landscaping
- Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 12 DP 978699 , 1 Griffiths Street FAIRLIGHT NSW 2094 Lot 13 DP 978699 , 1 Griffiths Street FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of two (2) allotment located on a corner allotment, with a primary frontage to Griffiths Street, secondary frontage to William Street and Union Lane.</p> <p>The lots have been amalgamated. The sites are regular in shape with a northern frontage of 15.29m along Griffiths Street. The eastern secondary frontage along William Street measures 26.16m and the southern secondary frontage along Union Lane also measures 15.29m. The western side boundary measures 26.51m. The sites have a surveyed area of 405.3m².</p> <p>The site is located within the R1 General Residential zone and accommodates a single storey clad building with a metal roof. Vehicular access is available to the site via a paved driveway to a concrete hardstand parking area.</p> <p>The site slopes from the south eastern boundary to north towards the Griffith Street primary frontage. The subject site has a moderate fall from the rear yard (RL40.00) to the front boundary (RL38.00) at Griffiths Street, a fall of approximately 2m.</p> <p>The site features landscaping with hedges, small trees and ground covers located within the front, rear and eastern side setbacks.</p> <p>The subject site is identified as heritage item I55, being referred to as “Group of 4 houses” – 1, 3, 5 and 11 Griffiths Street House. The existing dwelling is defined by federation style sandstone and cladding architecture with a pitched corrugated steel roof form.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one and two storey dwelling houses with a variety of architectural styles and built form.</p>

Map:



SITE HISTORY

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

- Development Application DA337/10 for alterations and additions to an existing dwelling including internal alterations, extensions, replacement of roof and external alterations was approved by Manly Council under delegation on the 9 August 2011.
- A Construction Certificate (CC11/171) was issued by the PCA on 31 January 2012 for all works included on the DA description.
- A final occupation (should have been an Interim occupation certificate) was issued by the PCA for the completed works involving “Alterations and additions to an existing dwelling including internal alterations”. The remainder of the works involving “extensions, replacement of roof and external additions” were not included in the OC.

Although DA337/10 was not completed physical commencement of the DA has occurred and as such the Consent is still active. The works subject to the proposed development application are over the same footprint of the approved development application and therefore if this consent is activated and built the previously approved works cannot be constructed. As such, Council does not consider a surrender of consent necessary as the works are not able to coexist with each other on the site.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to heritage.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental</p>

Section 4.15 Matters for Consideration	Comments
	social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/03/2023 to 04/04/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	This application has been referred to Heritage as the subject site contains a heritage item, being part of Item I55 - Group of 4 houses at 1, 3, 5 and 11 Griffiths Street, listed in Schedule 5 of Manly LEP 2013.
	Details of heritage items affected
	Item I55 - Group of 4 houses <u>Statement of significance</u> A group of modest weatherboard cottages illustrative of early development of Fairlight. <u>Physical description</u> Group of timber cottages (one brick infill) with iron roofs c.1910-

Internal Referral Body	Comments	
	<p>1920. Very small scale development; extremely narrow allotments. Significant stone wall from William Street to end of No.5. Development pattern similar to rear of block (Charles Street).</p>	
	<p>Other relevant heritage listings</p>	
	<p>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</p>	<p>No</p>
	<p>Australian Heritage Register</p>	<p>No</p>
	<p>NSW State Heritage Register</p>	<p>No</p>
	<p>National Trust of Aust (NSW) Register</p>	<p>No</p>
	<p>RAIA Register of 20th Century Buildings of Significance</p>	<p>No</p>
	<p>Other</p>	<p>N/A</p>
	<p>Consideration of Application</p>	
	<p>The proposal seeks consent for alterations and additions to the existing dwelling including the demolition of concrete slab, rear patio, sandstone retaining walls and steps to accommodate a rear extension containing a kitchen, living and dining area, addition of a pool, and associated landscape works.</p> <p>The subject site is one of a group of four cottages listed as an item of environmental heritage. The site is within the vicinity of another listed item of environmental heritage - 3 cottages at 15, 17 and 19 Griffith Street. The subject dwelling sits on a corner site with a third frontage to the rear lane.</p> <p>The proposed rear extension is well set back from the main and secondary streets and set behind the main dwelling, except the proposed overlap to the main house by 600mm to its north which is considered to impact the integrity of the main building.</p> <p>Generally new work must recognise and support the heritage significance of the original building and the proposed materials must be recessive and complementary to the main building. Therefore, the wall cladding could be changed to a sheet material rather than the proposed vertical cladding "James Hardie "133mm Smooth Axon Vertical" to be complementary to the original house.</p> <p>The original curtilage must be recognised and supported so that the existing rear garden setting which contributes to the significance of the house could be retained or incorporated into the new design. It is recommended to salvage and reuse the demolished stone walls and steps.</p>	



Internal Referral Body	Comments
	<p>It is noted that the proposed floor to ceiling height varies between 2.6m and 4m, which is considered to be excessive and should be reduced to minimise the visibility and retain the original presentation to the street. The proposed removal of the existing window and insertion of a new window - facing William Street is not supported.</p> <p>Revised comments - 18 May 2023</p> <p>3d images have been provided on 12 May 2023, ensuring that the proposed works will not impact the predominant scale of the heritage item and the streetscape. It is noted that the mass and scale of the proposed rear additions are in respect to the heritage listed building and the adjoining heritage item and do not overpower them.</p> <p>Therefore, no objections are raised on heritage grounds, subject to three conditions.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	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.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A472937_04 dated 15 February 2023).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

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



Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.7m (new works)	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (243.18m ²)	FSR: 0.42:1 (170.4m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	N/A
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

5.10 Heritage conservation

The subject site is identified as heritage item 155, being referred to as “Group of 4 houses” – 1, 3, 5 and 11 Griffiths Street House. The existing dwelling is defined by federation style sandstone and cladding architecture with a pitched corrugated steel roof form.

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 405.4m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	E: 6.9m (based on gradient 1:15)	3.2m	N/A	Yes
	W: 7m (based on gradient 1:12)	3.6m	N/A	Yes
	S: 6.5m (based on gradient 0)	2.6m	N/A	Yes
4.1.2.3 Roof Height	Parapet Height: 0.6m	0.4m	N/A	Yes
	Pitch: maximum 35 degrees	0 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	no changes, consistent with prevailing setback	N/A	N/A

4.1.4.2 Side Setbacks and Secondary Street Frontages	E: 1m W: 1.2m (based on wall height)	1.6m 0.9m	N/A 25%	Yes No
	Windows: 3m	0.9m (minimum)	70%	No
	Secondary street frontage: Prevailing setback / 1m	E: 1.6m, consistent with prevailing setback S: 4.8m	N/A N/A	Yes Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	51% (207.4m ²)	7%	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	58% (121.1m ²)	N/A	Yes
	1 native trees	0 trees	100%	No
4.1.5.3 Private Open Space	18sqm	18>sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	3.4m	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0m	N/A	Yes
	1m curtilage/1.5m water side/rear setback	S: 1.8m W: 2.4m	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

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

Description of non-compliance

Side boundary setbacks must be one third of the wall height. The wall height is 3.6m and therefore a setback of 1.2m is required along the western elevation.

The proposed works are setback 0.9m from the eastern side boundary and therefore present a 25% variation to the required control.

The existing windows and proposed new windows do not comply with the required minimum setback of 3m. A minimum window setback of 0.9m is proposed, which is a 70% variation to the control.

The proposal readily complies with the front and secondary setbacks.

Merit consideration:

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

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



Comment:

There are no changes to the existing front setback and the desired spatial proportions will be maintained.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed alterations and additions are of a modest single storey height and as such are not expected to result in any unreasonable privacy, solar access or view loss. In addition the rear extension is well setback from the streetscape and is expected to maintain the general streetscape pattern.

The existing traffic conditions will remain unchanged.

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

Comment:

Flexibility is required given the site is a corner allotment and is limited by the existing development on site. The location of the alterations and additions will ensure the open space and soft landscaping is maximised whilst not impeding on the amenity of the subject site and adjoining sites.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal does not seek to remove any significant trees and vegetation and comprises of a compliant soft landscaped area.

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

Comment:



N/A - the site is not located within a bushfire prone zone.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The site is located within OS3 and therefore minimum required open space is 55% of the total area and of this open space 35% is required to be soft landscaped area.

The proposal comprises of 51% (207.4m²) of the total site area as open space. This is a 7% (variation to the required minimum open space).

The proposal readily complies with the minimum required soft landscaped area.

Merit consideration:

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

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

Comment:

The proposal does not seek to remove any significant landscaping and will retain all landscaping within the primary frontage.

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

Comment:

All of the proposed open space and soft landscaping is provided at ground level. Ample opportunity will also be provided on site for future planting.

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

Comment:

The proposal is not expected to have any unreasonable amenity impacts on the site, streetscape and surrounding area due to its modest single storey height and footprint. The works are considered to appropriately respond to the site constraints of the corner allotment and existing development.

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



Comment:

The proposed development provides ample soft open spaces for the purpose of onsite water infiltration to minimise stormwater runoff.

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

Comment:

The proposed development is not likely to lead to the significant spread of weeds, or degradation of private open space.

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

Comment:

The proposed development is not likely to affect any existing wildlife habitat and potential for wildlife corridors.

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

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

Description of non-compliance

For a dwelling houses, semi-detached and secondary dwellings, the control requires the provision of two off-street parking spaces.

The existing site contains one off-street parking spaces in the form of a hardstand car parking area within the front boundary fronting Griffiths Street. The proposal does not seek to alter the existing arrangement.

Merit consideration:

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

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

Comment:

The proposed development retains the number of off-street parking spaces. As detailed the proposal provides accessible and adequate parking on site relative to the residential development and the locality for all users.

The provision of two on site car parking spaces on the small allotment would result in the unreasonable removal of open space and landscaping.



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

Comment:

The proposal will continue to provide one on site car parking space with a frontage to Griffiths Street. There are no changes to the existing car parking on site. In addition the proposed works are not expected to place any unreasonable demand on parking within the immediate vicinity.

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

Comment:

The location of the existing hardstand car parking area remains unchanged. The provision of two on site car parking spaces on the small site would result in an undesirable outcome when viewed from the streetscape. The existing car parking is considered to be appropriate for the subject site and the low density residential nature of the works.

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

Comment:

N/A - no excavation or new parking proposed.

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

Comment:

N/A - existing vehicle crossing remains unchanged.

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

Comment:

The existing on site car parking remains unchanged.

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

Comment:

The existing on site car parking remains unchanged.

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



THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly 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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$5,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$550,000.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

PLANNING CONCLUSION

This proposal, for alterations and additions to the existing dwelling house has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to works including partial demolition of a heritage item



When assessed against the MLEP 2013 and MDCP 2013, the proposed development is considered to align with the relevant aims and requirements of these policies, noting that the environmental and amenity impacts resulting from the development are acceptable.

The new works are sympathetic of the heritage character of the site and will maintain an appropriate visual relationship with the surrounding environment.

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 DA2023/0192 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 12 DP 978699, 1 Griffiths Street, FAIRLIGHT, Lot 13 DP 978699, 1 Griffiths Street, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1.00	February 2023	Graphio
DA1.02	February 2023	Graphio
DA3.00	February 2023	Graphio
DA3.01	February 2023	Graphio
DA4.00	February 2023	Graphio
DA5.00	February 2023	Graphio
DA6.00	February 2023	Graphio
DA6.01	February 2023	Graphio
DA6.02	February 2023	Graphio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A472937_04	15 February 2023	Arch Media Solutions
Statement of Heritage Impact	February 2023	Heritage 21

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	N/A	George Bouropoulos

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	Ausgrid Referral Response	N/A

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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until



the issue of an 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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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



by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$5,500.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$550,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.



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

6. **Security Bond**

A bond (determined from cost of works) of \$5,000 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 Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

7. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

8. **External materials**

The proposed vertical wall cladding for the new additions is not appropriate for the period and style of the existing building. This should be changed to a horizontal or plain cladding in order to



be recessive and complimentary to the main building. The proposed colour should be recessive as well. Details demonstrating compliance with this condition should be submitted to Council's Heritage Advisor prior to the issue of the Construction Certificate.

Reason: To ensure that the integrity of the heritage item is maintained.

9. **Existing window to remain**

The proposed removal of the existing window and the insertion of a new window to the William Street facade is not supported. Amended plans demonstrating compliance with this condition should be submitted to Council's Heritage Advisor prior to the issue of the Construction Certificate.

Reason: To preserve the significance of the heritage item.

10. **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 Certifier prior to the issue of the Construction Certificate.

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

11. **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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **Photographic Archival Record**

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the NSW Heritage Division of the Department of Planning and Environment.

This record must be submitted and approved by Council's Heritage Advisor prior to the issue of the Construction Certificate and commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;



- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. 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 Certifier when the external structure of the building is complete.

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

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

14. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

15. Swimming Pool Requirements (existing pool modified by works)



The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 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.

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

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

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

Details demonstrating compliance are to be submitted to the prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

16. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.



