AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

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

WEDNESDAY 16 SEPTEMBER 2026

Beginning at 12:00pm for the purpose of considering and determining matters included in this agenda.

Adam Richardson
Acting 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.

ORDER OF BUSINESS

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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.

5.1 Mod2026/0276 - 101 North Steyne MANLY - Modification of Development Consent DA2025/0022 granted for Demolition of existing structures and construction of a 5 storey residential flat building containing 7 apartments over basement parking 294

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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 APOLOGIES AND DECLARATIONS OF INTEREST

Nil

2 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF THE NORTHERN BEACHES LOCAL PLANNING PANEL MEETING HELD ON 2 SEPTEMBER 2026

RECOMMENDATION

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel Meeting held on 2 September 2026 were adopted by the Chairperson and have been posted on Council's website.

3 CATEGORY 3 APPLICATIONS

Nil

4 PUBLIC MEETING ITEMS

ITEM 4.1 DA2025/1640 - 27 BROWN STREET FORESTVILLE - DEMOLITION WORKS AND CONSTRUCTION OF MULTI DWELLING HOUSING

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

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1640 for Demolition works and construction of multi dwelling housing at Lot 35 DP 27447, 27 Brown Street FORESTVILLE NSW 2087 subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.1.1** - 96 pages] 2. Site Plans & Elevations [**4.1.2** - 3 pages] 3. Design and Sustainability Advisory Panel Report [**4.1.3** - 7 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1640

Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 35 DP 27447, 27 Brown Street FORESTVILLE NSW 2087
Proposed Development:	Demolition works and construction of multi dwelling housing
Zoning:	Warringah LEP2011 - Land zoned 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:	No
Applicant:	Ben Nazem

Application Lodged:	10/11/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	20/11/2025 to 04/12/2025
Advertised:	Not Advertised
Submissions Received:	32
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 2,860,681.00

EXECUTIVE SUMMARY

This development application seeks consent for demolition works and construction of a multi dwelling housing development, comprising a single building in a part two/part three storey height and scale, containing four (4) dwellings each with a single garage integrated on the ground floor level, vehicular access via a shared at grade driveway from Brown Street and associated landscaping.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination, as notification of the development resulted in thirty-two (32) submissions by way of objection. This comprises twenty-five (25) submissions received during the formal notification period and a further seven (7) submissions received outside the notification period. No submissions were received in support of the application.

Concerns raised within the objections primarily relate to; inconsistency with the low density residential character, traffic impacts, inadequate off-street car parking, residential amenity impacts including privacy and construction impacts. The issues raised within the submissions have been considered in the relevant sections of this report and do not constitute matters that warrant refusal of the application. Suitable conditions of consent are also recommended to assist with mitigating the issues raised in the submissions.

The application is lodged pursuant to Chapter 6 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP), which has recently introduced a suite of planning controls that facilitate medium density residential development within the R2 Low Density Residential zone for allotments located within 400m and 800m walking distance from designated town centres. The provisions include non-discretionary development standards that permit a 9.5m maximum building height, floor space ratio of 0.7:1, minimum deep soil landscaped area of 25% and car parking at the rate of one (1) space per dwelling. The proposed development is compliant with the non-discretionary standards that apply pursuant to the Housing SEPP.

Whilst the proposed development is greater in height and density than surrounding one and two storey detached dwelling houses that presently make up the streetscape, the assessment concludes that the development is consistent with the desired future character of the area, given compliance is achieved with the standards under the Housing SEPP. Amendments have been made throughout the assessment process to ensure a predominantly two storey character and built form, provision of increased side setbacks, provision of additional articulation and an increased amount of deep soil landscaping on the site. As a result of these amendments, the resultant development will be more visually compatible with the established two storey low density residential character, while providing an increase in housing supply and an uplift of building density and scale as envisaged by the Housing SEPP.

The development involves minor variations to a number of controls under the Warringah Development Control Plan 2011 (WDCP 2011). Notwithstanding these non-compliances, the assessment has concluded that these variations do not result in adverse streetscape or amenity impacts, and do not prevent the development from achieving the underlying objectives of the WDCP 2011.

The application was referred to Council's Design and Sustainability Advisory Panel (DSAP) as part of the assessment, who were broadly supportive of the development, subject to a number of recommendations.

Therefore, it is recommended that the NBLPP approve the application, subject to the draft recommended conditions of consent.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for demolition works and the construction of a multi dwelling housing development containing four (4) attached dwellings.

Key components of the development are outlined as follows:

- Demolition of the existing dwelling house including a secondary dwelling, garage, shed and associated shed.
- The removal of three (2) exempt species trees and one (1) native tree including one (1) prescribed tree within the road reserve.
- Construction of a part two/part three storey multi dwelling housing development comprising:

  - Four (4) dwellings each with access via the ground floor and each containing three (3) bedrooms, single car garages, roof terraces with a flex room and living rooms. Dwellings 1 and 4 are three storeys with the flex rooms for Dwellings 1 and 4 been positioned furthest from the end of the building to reduce visual bulk to the streetscape and adjoining and surrounding properties,
  - Shared driveway that runs parallel to the south-eastern side boundary, and
  - Bin storage room.

- Landscaping works including shrub planting and tree planting.

- Stormwater is proposed to be conveyed downslope and discharged into Brown Street via rainwater tanks and and on-site detention system.



Figure 1 - Photomontage of the proposed development (as revised) as viewed from Brown Street

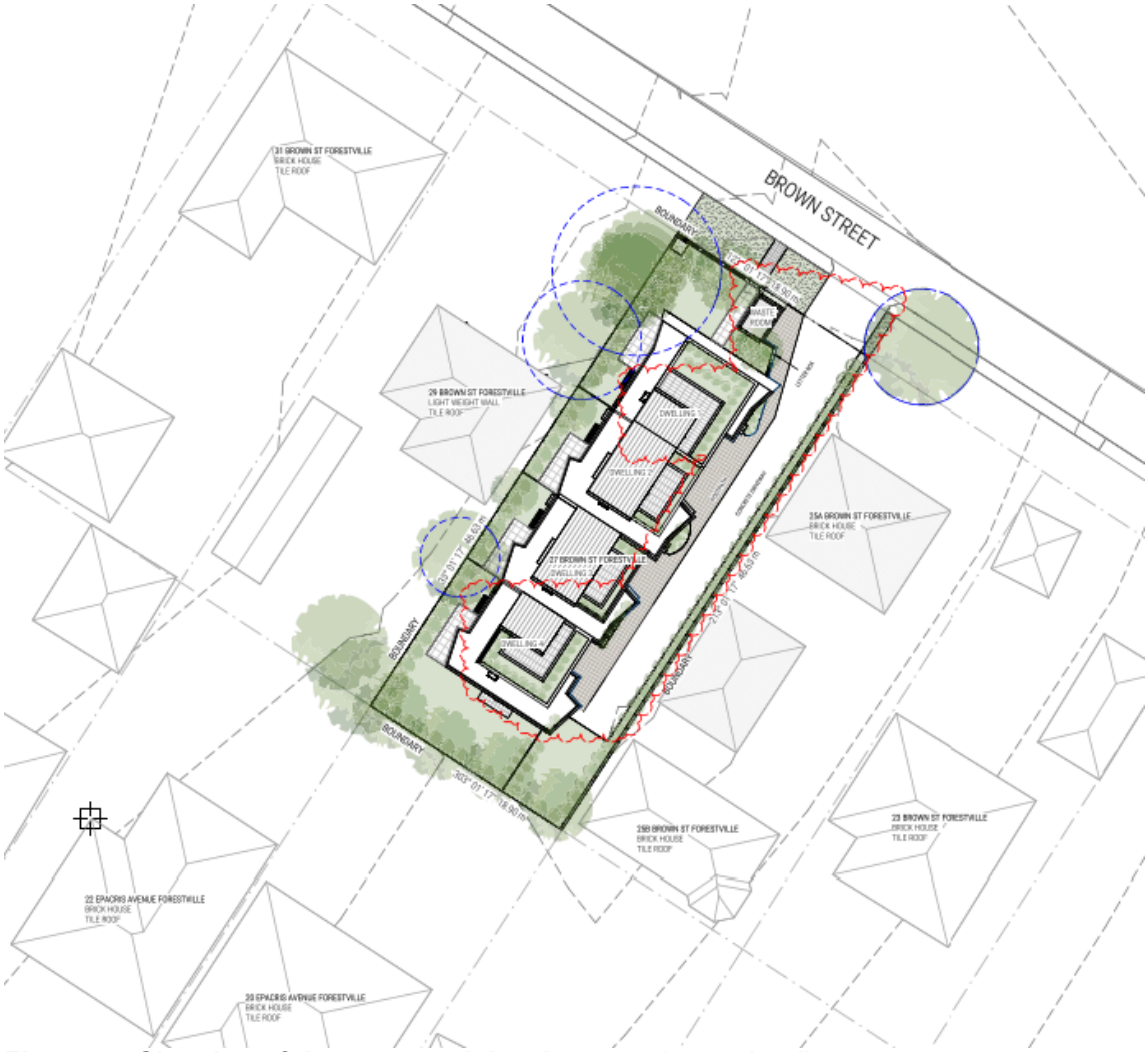


Figure 2 - Site plan of the proposed development (as revised)

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk
Warringah Development Control Plan - G10.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings

SITE DESCRIPTION

Property Description:	Lot 35 DP 27447 , 27 Brown Street FORESTVILLE NSW 2087

Detailed Site Description:	The subject site comprises one allotment located on the south-western side of Brown Street, Forestville, at the intersection with Bentley Avenue. The site is regular in shape, with a frontage of 18.9m to Brown Street and side boundaries extending 46.63m along the north-western and south-eastern boundaries. The site has a surveyed area of 881.3m². The subject site is zoned R2 Low Density Residential under the Warringah Local Environmental Plan 2011 (WLEP 2011) and currently accommodates a single-storey dwelling house, including an attached secondary dwelling, together with associated existing structures. The site is approximately 610m walking distance from the Forestville Town Centre and is located within a 'Low and Mid-Rise Housing' area under State Environmental Planning Policy (Housing) 2021 (Housing SEPP). The site has a relatively gentle fall of approximately 0.8m from the rear boundary towards the front boundary, representing an average slope of less than 2%. The site contains lawn areas within the front and rear yards, together with several small and medium-sized trees and shrubs distributed throughout the property. The site is not subject to any significant environmental constraints. However, the site is burdened by a 1.83m-wide drainage easement located within the north-western portion of the site, extending from the front boundary towards the north-western side boundary. The Brown Street streetscape is characterised predominantly by one- and two-storey detached low-density residential development, including dwelling houses within landscaped settings. The site is located within the Low to Mid Rise Housing Area as it is within 800m from Forestville Town Centre, which is a designated town centre under Chapter 6 of State Environmental Planning Policy (Housing) 2021. Development to the east, west, north and south of the site largely consists of detached low density residential development. Notwithstanding the established character, the streetscape is anticipated to undergo a gradual transition as a result of the site being located within a 'Low and Mid-Rise Housing' area. The emerging character is likely to include a greater diversity of medium-density residential typologies, including multi-dwelling housing, dual occupancies, residential flat buildings and attached dwellings.

Map:



SITE HISTORY

CDC2024/1011 - Proposed Second Dwelling was approved via Complying Development Certificate (CDC) on 19 December 2024.
CDC2024/1011 Proposed granny flat

Pre-lodgement Meeting - PLM2025/0094

A PLM was held on 7 August 2025 to discuss a development scheme involving demolition works and construction of multi-dwelling housing (four (4) attached dwellings).



Figure 3 - PLM Site Plans

The PLM written minutes concluded that:

"The proposal is not supported in its current form. Various recommendations are made in this report relating to privacy, the reduction in building bulk, the presentation of the dwelling, and landscaping outcome."

CURRENT DEVELOPMENT APPLICATION HISTORY

Design and Sustainability Advisory Panel (DSAP)

As part of the assessment process, the application was referred to the Design and Sustainability Advisory Panel (DSAP), who provided design advice in relation to the built form, residential amenity, landscaping, vehicular access and sustainability. The DSAP recommendations are outlined within the section of this report relating to the DSAP Referral Response.

The DSAP Report provided the following conclusion:

"The Panel notes that improvements have been made. It provides in principle support as long as recommendations (noted above) are incorporated including; unresolved environmental, landscape, and design concerns.

Key issues include insufficient landscape detail, excessive hardstand, inadequate canopy provision, and unresolved rooftop terrace design.

While built form, amenity, and sustainability have improved, further refinement is required to enhance

environmental performance, reduce urban heat impacts, and better integrate with the local character.

The Panel recommends simplifying design, increasing planting and shading, improving spatial amenity, and addressing sustainability measures before the Development Application can be adequately supported."

Request for Further Information (RFI)

Following the preliminary assessment of the application, which included a referral to DSAP and an examination of the subject site and the surrounding area, a Request for Further Information letter (RFI) was issued to the applicant raising the following concerns with the development:

- Insufficient information on the plans in relation to the ridge levels and finished ground levels to the Australian Height Datum (AHD).
- Updated BASIX and NatHERS Certificates.
- Measures added to the proposed design to optimise privacy for occupants of the development and occupants of adjoining properties.
- No electric vehicle (EV) charging points being provided within the development.
- Development Engineers - address driveway clearance and design to prevent low point, vehicle crossing conflict with stormwater pit and lintel and an updated stormwater design.
- Traffic Engineers - relocation of the driveway and swept paths.

Design and Sustainability Advisory Panel as follows: -

- *"The Panel has no issue with the additional storey. In context of SEPP Housing objectives to increase housing it is a change that has little negative impact – as long as overshadowing and privacy constraints to neighbours are not negatively impacted.*
- *The Panel does not consider that the internal unit widths (less than DCP 6m) present a problem.*
- *Provide shading to all windows and in particular the northwestern living room windows.*
- *Detail design for driveway thinking of it as a garden element, including detail finishes to thresholds and add rhythm of planters to signify entry consistently.*
- *Amended architectural plans have been provided to the Panel for review and the landscape plan will now need to be updated to reflect the latest issue / revision. The proposal will remove one Council tree from the verge which should be replaced with a more appropriate species for planting below power lines. The area at the southern end of the entry drive needs to be fully resolved delineating hard stand from soft scape.*
- *Consider the use of grass cell pavers with turf infill to the area at the end of the entry drive to allow the required room for vehicle movements while reducing the area of paving.*
- *Include weather protection to openings onto private open spaces and entries.*

PANEL CONCLUSION

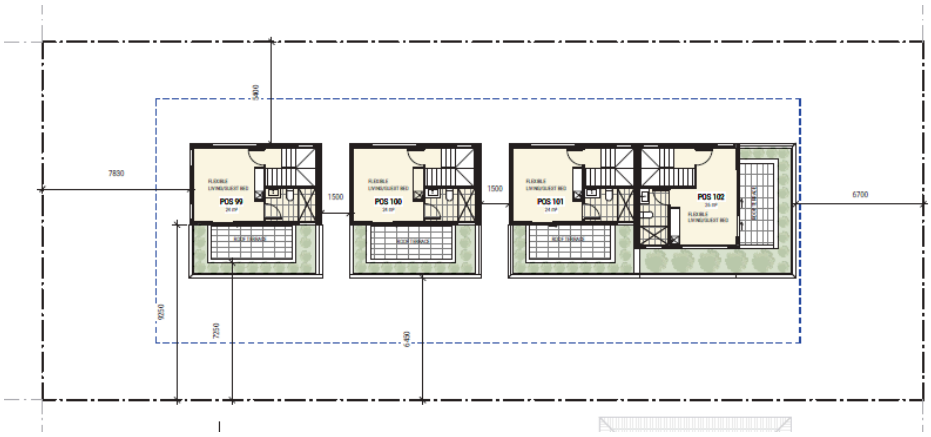
The Panel notes that improvements have been made. It provides in principle support as long as recommendations (noted above) are incorporated including; unresolved environmental, landscape, and design concerns.
Key issues include insufficient landscape detail, excessive hardstand, inadequate canopy provision, and unresolved rooftop terrace design.
While built form, amenity, and sustainability have improved, further refinement is required to enhance environmental performance, reduce urban heat impacts, and better integrate with the local character.
The Panel recommends simplifying design, increasing planting and shading, improving spatial amenity, and addressing sustainability measures before the Development Application can be adequately supported."





Figure 4 - Original Plans lodged with the application

Figure 5 - Amended Plans with reduction in Level 2 and increased setbacks



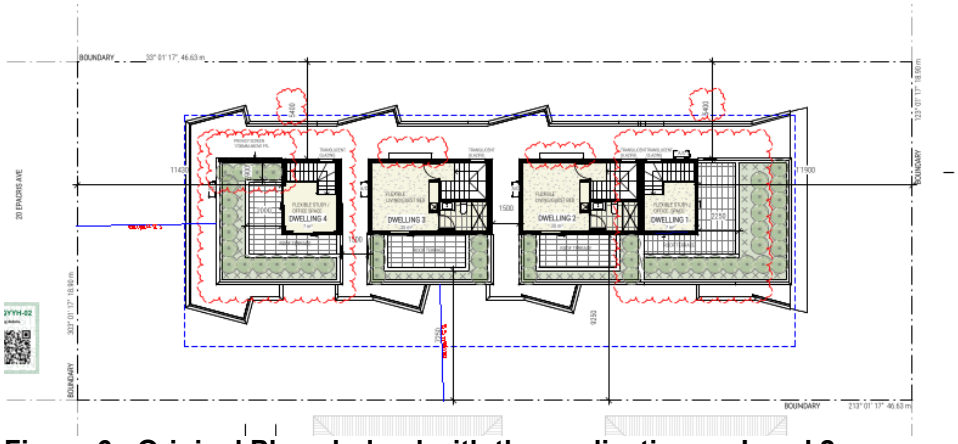


Figure 6 - Original Plans lodged with the application on Level 2

Figure 7 - Amended Plans with reduction gross floor area on Level 2 and increased front & rear setbacks

Amended Plans and Information

The applicant subsequently amended the development application on 10 July 2026 and 25 August 2026 (the latter amendment relating to the architectural plans only, with the bin enclosure amended from brickwork to stone cladding) pursuant to Section 37 of the Environmental Planning and Assessment Regulation 2021, in response to Council's Request for Further Information (RFI) dated 12 May 2026.

The amended plans and supporting information included the following:

- Architectural plans;
- Landscape plans;
- Stormwater plans and Design Statement;
- Street stormwater survey; and
- BASIX and NatHERS Certificates.

The amendments incorporated the following changes to address matters raised by DSAP and Council:

- provision of EV charging facilities within the garages;
- adjustments to the proposed floor levels, noting that the overall building height remains unaltered and complies with the applicable height control;
- relocation of the bin enclosure, which is now separated from the main building and incorporates stone cladding to improve its presentation and address streetscape considerations;
- incorporation of additional privacy measures to windows on Levels 1 and 2, including a privacy screen to the western elevation of the roof terrace associated with Unit 4;
- an overall reduction in the size of the proposed flex rooms on Level 2; and
- clearer delineation between the pedestrian pathway and driveway to improve pedestrian safety and legibility.

The amended development application was not formally re-exhibited, as the amendments were considered to result in a reduced environmental impact. The cumulative impact of the amended development is considered to be lesser than that associated with the development originally exhibited and, accordingly, the amendments did not trigger the requirement for formal re-exhibition pursuant to Council's Community Participation Plan.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (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	See detailed assessment under “DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS” below.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 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. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended architectural, traffic, landscape and stormwater plans including technical documentation. This information was received to Council's satisfaction. Clause 61 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. Clause 69 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. Clause 69 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.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	**(i) Environmental Impact** The environmental impacts of the proposed development on the natural and built environment have been assessed in accordance with the relevant Environmental Planning Instruments, Warringah Development Control Plan 2011 and the requirements of the relevant Referral Bodies, as detailed throughout this report. **(ii) Social Impact** The proposed multi dwelling housing development is not expected to result in any adverse social impacts, as it will not significantly alter the social character or dynamics of the locality. The development would provide an alternative housing choice within an established residential area in close proximity to the Forestville town centre. This is consistent with the intended form of development envisaged by the NSW Government for Low and Mid-Rise Housing (LMR) areas and would result in a minor positive social impact. **(iii) Economic Impact** The proposed development is not expected to result in any detrimental economic impacts on the locality, having regard to the existing and proposed land uses and the nature and scale of the development.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development, noting that multi dwelling housing is permissible with consent under the Housing SEPP. The proposed development generally complies with the applicable planning controls under the Housing SEPP and maintains an appropriate level of compliance with the relevant controls under the Warringah Development Control Plan 2011 (WDCP 2011). The variations to the WDCP 2011 controls are considered reasonable in the circumstances and would not result in unreasonable adverse impacts on surrounding properties or compromise the desired future character of the locality.
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 Matters for Consideration	Comments
Section 4.15 (1) (e) – the public interest	The proposed development would contribute to housing supply within the locality, consistent with the intent of the planning controls under the Housing SEPP, while providing an appropriate building form and landscaped setting that responds to the established low-density residential character of the area. Subject to the recommended conditions of consent, the development would not result in unreasonable adverse residential amenity impacts on neighbouring properties and is generally consistent with the relevant aims and objectives of the applicable Environmental Planning Instruments and the WDCP 2011. On balance, the benefits of the proposed development outweigh any identified impacts. Accordingly, the assessment finds that the development is in the public interest.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)
Definition(s): multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary.

Land Use Zone: R2 Low Denisty Residential

Permissible or Prohibited: Prohibited

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and for reasons and contentions raised in this report, the proposal is generally inconsistent with its relevant aims and objectives

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 application has been publicly exhibited from 20/11/2025 to 04/12/2025 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 32 submission/s from:

Name:	Address:
Mr Edward Charles Stauber	16 Epacris Avenue FORESTVILLE NSW 2087
Mr Christopher Bowman	22 Brown Street FORESTVILLE NSW 2087
Mrs Betty June Hull	33 Brown Street FORESTVILLE NSW 2087
Mr Edward Forsyth Greenbank	20 Epacris Avenue FORESTVILLE NSW 2087
Mr David Jarred Hoy	31 Brown Street FORESTVILLE NSW 2087
Miss Alexis Deanna Hoy	31 Brown Street FORESTVILLE NSW 2087
Ms Negar Shahmoradi Seyed Shojaeldin Movahedian	18 Epacris Avenue FORESTVILLE NSW 2087
Therese Ann Svensson	26 Brown Street FORESTVILLE NSW 2087
Ms Sharon Kim Dalgleish	28 Brown Street FORESTVILLE NSW 2087
Mrs Pauline Linda Nolte	12 Epacris Avenue FORESTVILLE NSW 2087
Mr Christopher Nils Cunningham Julie Anne Young	25 A Brown Street FORESTVILLE NSW 2087
Ms Suzanna Rose	14 Coolabah Crescent FORESTVILLE NSW 2087
Mr Oguz Kologlu Mrs Shane Maree Kologlu	17 Brown Street FORESTVILLE NSW 2087
Mr Frank Charles Nicholas	20 Walkom Avenue FORESTVILLE NSW 2087
Mrs Lisa Ruth Peterson	15 Bentley Avenue FORESTVILLE NSW 2087
Mr Edward John Dean Mrs Ingeborg Dean	18 Brown Street FORESTVILLE NSW 2087
Mr Jeremy David Cook	2 Cleary Avenue FORESTVILLE NSW 2087
Miss Jaye Sweeney	15 Cleary Avenue FORESTVILLE NSW 2087
Mr Vinay Ghanshamdas Mahtani Mrs Prena Vinay Mahtani	15 Brown Street FORESTVILLE NSW 2087
Mr Richard George Kramer	39 Brown Street FORESTVILLE NSW 2087
Jodi Kramer	Address Unknown
Rosa Valore	37 Brown Street FORESTVILLE NSW 2087
Lesley Figgis	29 Brown Street FORESTVILLE NSW 2087
Caoilfionn Murphy	Address Unknown
Miss Wendy Elizabeth Humphery	4 Bentley Avenue FORESTVILLE NSW 2087
Withheld	FORESTVILLE NSW 2087
Mrs Leigh Kathryn Havelka	48 Ferguson Street FORESTVILLE NSW 2087

Name:	Address:
Withheld Withheld Withheld	FORESTVILLE NSW 2087
Brian Paul Reeves	13 Deakin Street FORESTVILLE NSW 2087
Robert Michael Pryer	1 Kapyong Street BELROSE NSW 2085
Mrs Michelle Victoria Georgina Avedissian	34 Epacris Avenue FORESTVILLE NSW 2087
Mr Keith Avedissian	34 Epacris Avenue FORESTVILLE NSW 2087

The following issues were raised in the submissions:

- **Incompatible with Streetscape Character, Reduction in Number of Dwellings and Levels, and Non-Compliance with WLEP and WDCP Controls**

The submissions raised concerns that the proposed development is incompatible with the established streetscape character, noting that it comprises a three-storey multi dwelling housing development within an area predominantly characterised by detached one and two-storey dwellings. Concerns were also raised regarding non-compliance with the WLEP 2011 and WDCP 2011 controls and a request was made for the development to be reduced from four (4) to three (3) dwellings.

Comment: This matter has been discussed in detail within the relevant sections of this report addressing Sections B3 Side Boundary Envelope, B7 Front Boundary Setbacks, D1 Landscaped Open Space and Bushland Setting, and G10.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings of the WDCP 2011, Chapter 6 Low and Mid-Rise Housing of the SEPP (Housing) 2021, and the R2 Low Density Residential zone under the WLEP 2011.

It is acknowledged that the proposed form and scale of development differs from the predominant existing character of the locality, which is generally characterised by detached one and two-storey dwelling houses. However, the introduction of the Low and Mid-Rise (LMR) housing provisions under Chapter 6 of the Housing SEPP has established a planning framework that anticipates medium-density housing typologies within identified areas. The subject site is located within 800m of the Forestville town centre and is therefore within an area where these provisions apply.

The request to reduce the number of dwellings from four (4) to three (3) is not considered necessary to achieve an appropriate planning outcome. The applicable LMR provisions expressly facilitate increased housing density in appropriate locations, and the proposed four-dwelling development remains within the relevant development standards. The number of dwellings is therefore considered appropriate having regard to the applicable planning

framework and the site's proximity to the Forestville town centre.

While the development incorporates three-storey building forms, the uppermost storey is substantially setback from the front, side and rear boundaries. This assists in reducing the perceived bulk and visual prominence of the development when viewed from the surrounding streetscape and adjoining properties. In particular, when viewed from directly in front of the site within the streetscape and from the rear adjoining properties, the development will present with a reduced visual presence and retain a relationship with the predominantly two-storey dwelling house character of the locality.

The development also provides appropriate deep soil areas and planting around the building curtilage. This landscaping will contribute to an appropriate landscape setting and assist in softening the built form when viewed from adjoining properties and the public domain.

On balance, while the proposed development represents a change from the predominant existing built form, it is considered to provide a reasonable response to the established character of the locality while delivering the medium-density housing outcomes anticipated by Chapter 6 of the Housing SEPP. Having regard to the applicable statutory planning framework, the site's location within the LMR area and its proximity to the Forestville town centre, a reduction in the number of dwellings or storeys is not considered warranted.

- **Residential Amenity Impacts**

The submissions raised concerns that the development will adversely impact upon the amenity of surrounding residential properties, specifically having regard to privacy, visual bulk, outlook, solar access and noise intrusion.

Comment: This matter has been discussed in detail within the relevant sections of this report addressing Sections B3 Side Boundary Envelope, B7 Front Boundary Setbacks, D1 Landscaped Open Space and Bushland Setting, D6 Access to Sunlight, and G10.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings of the WDCP 2011.

In summary, the proposed development is not considered to result in any unreasonable or adverse amenity impacts on neighbouring properties in relation to solar access, visual outlook or visual bulk. Additional conditions of consent are recommended to mitigate potential adverse privacy impacts, as discussed in Section D8 Privacy of the WDCP 2011. A separate condition is also recommended to address potential noise impacts associated with mechanical plant.

- **Parking and Traffic Generation, Pedestrian and Vehicular Safety**

The submissions raised concerns that the development will cause adverse traffic impacts on the local road network particularly given the location of the site been located at the

intersection of Brown Street and Bentley Avenue, parking generation, pedestrian and vehicular safety.

Comment: A Traffic Impact Assessment (TIA) prepared by Genesis Traffic, dated 29 October 2025, was submitted with the application. Section 6 of the TIA assesses the anticipated traffic generation of the development and, based on the traffic generation rates for medium density development within Sydney outlined in *The Guide to Transport Impact Assessment (2024)*, estimates that the development would generate an additional two (2) vehicle movements per hour during both the AM and PM peak periods.

The TIA concludes:

"It is concluded on this basis that the development traffic will not unduly impact the surrounding road network."

Council's Traffic Engineer has reviewed the submitted TIA, together with the amended driveway design, and concurs that the anticipated traffic generation and amended driveway arrangement will not result in adverse impacts on the surrounding road network or pedestrian safety. This is subject to the inclusion of the recommended conditions of consent for consideration by the Panel.

Accordingly, having regard to the findings of the TIA, the amended driveway design and the advice of Council's Traffic Engineer, the assessment concludes that the proposed development will not result in adverse traffic or pedestrian safety impacts that would adversely affect the operation or performance of the surrounding road and pedestrian networks.

- **Inadequate Car Parking, Driveway Layout, Driveway Widths (including no passing bay), Garage Dimensions, Turning Area and Internal Pedestrian Access**

The submissions raised concerns that the development does not provide adequate off-street car parking and that the proposed driveway layout, driveway widths (including the absence of a passing bay), garage dimensions, turning area and internal pedestrian access are inadequate.

Comment: Chapter 6 of the Housing SEPP contains a non-discretionary development standard (NDS) requiring a minimum of one (1) car parking space per dwelling for multi dwelling housing. Accordingly, the proposed development is required to provide a minimum of four (4) car parking spaces for the four (4) dwellings.

While the provision of four (4) car parking spaces may appear limited having regard to the scale and nature of the proposed development, the applicable NDS is a mandatory non-discretionary standard. Where a development complies with an NDS, the consent authority cannot impose a more onerous standard or refuse the development on the basis that an alternative or higher parking provision is preferred.

In this regard, the car parking rates contained within the WDCP 2011 for multi dwelling housing, being 1.5 spaces per dwelling together with one (1) visitor car parking space, are overridden by the applicable NDS under the Housing SEPP. The provision of four (4) car parking spaces therefore satisfies the applicable statutory requirement and is considered adequate for the purposes of this assessment.

In relation to the proposed driveway arrangement, Council's Traffic Engineer has reviewed the submitted Traffic Impact Assessment (TIA) and amended driveway design and has advised that the anticipated traffic generation and driveway arrangement will not result in adverse impacts on the surrounding road network or pedestrian safety. This is subject to the inclusion of the recommended conditions of consent.

The proposed garage dimensions have also been reviewed having regard to the relevant requirements of AS 2890.1:2004 *Parking facilities – Off-street car parking*, with appropriate conditions recommended to ensure compliance.

In relation to the internal driveway, a turning area is to be provided at the end of the driveway adjacent to Dwelling 4. A condition is recommended to ensure that this area is appropriately maintained and remains available for vehicle manoeuvring at all times.

The proposed driveway arrangement, including the available areas for vehicle manoeuvring and passing, is considered satisfactory having regard to the limited number of dwellings and garages proposed, being four (4) in total. The amended plans also demonstrate suitable internal pedestrian and vehicular access, providing a safe and functional means of movement throughout the site.

While the driveway presents as a relatively long and linear access arrangement, the proposed landscaping along both sides of the driveway will provide visual relief, soften the built form and contribute to an appropriate landscape setting when viewed from the streetscape.

Having regard to the applicable Housing SEPP parking requirements, the advice of Council's Traffic Engineer, the proposed garage and vehicle manoeuvring arrangements, and the recommended conditions relating to pedestrian access and landscaping, the concerns raised in relation to car parking, driveway design and width, the absence of a dedicated passing bay, garage dimensions, vehicle manoeuvring and internal pedestrian access are considered to have been appropriately addressed.

- **Demolition and Construction Impacts**

The submissions raised concerns in relation to demolition and construction impacts associated with demolition and construction traffic, noise and dust.

Comment: Several conditions of consent are recommended to mitigate demolition and

construction impacts including the implementation of a demolition and construction traffic management plan including a condition for ongoing management of the road reserve to ensure it remains in a serviceable state during the course of demolition and building works.

- **Inadequate Landscaping**

The submissions raised concerns that inadequate landscaping has been provided on the site including the front boundary setback to address the streetscape and sufficiently screen the proposed building.

Comment: As detailed throughout the body of this assessment report, the assessment finds that the proposed development provides adequate landscaping across the site. In particular, the proposal satisfies the applicable deep soil requirements under both the WDCP 2011 and the Housing SEPP, and achieves the requirements of the Tree Canopy Guide.

Council's Landscape Officer has reviewed the submitted Landscape Plan and supports the proposed landscape treatment, stating:

"The submitted Landscape Plan provides a landscape scheme that is able to soften the bulk and scale of the development, enhances the landscape setting, and increases prescribed tree canopy cover with locally native species. Additional planting of understorey vegetation assists with the enhancement of the landscape setting and reduces urban heat."

Having regard to the above, and subject to the recommended conditions of consent, the proposed landscaping is considered to appropriately respond to the streetscape and provide sufficient landscape screening and planting to soften the visual presentation and perceived bulk of the development.

- **Damage to Structural Integrity of Surrounding Buildings**

One submission raised concerns that the development will impact upon the structural integrity of adjoining buildings.

Comment: The application is supported by a Geotechnical Report which provides recommendations to ensure the safe excavation and construction of the site, having regard to the proposed removal of the existing retaining wall, dwelling and associated structures located in close proximity to the side boundaries.

Having regard to the site conditions and the proximity of the proposed works to adjoining properties, it is considered appropriate to require pre- and post-construction dilapidation surveys for the adjoining properties at 25A, 25B and 29 Brown Street. Accordingly, conditions of consent are recommended requiring the preparation of dilapidation reports for these properties prior to the commencement of works, together with post-construction inspections to identify any potential damage attributable to the development.

- **Overshadowing by the development**

The submissions raised concerns that the proposal will result in adverse overshadowing of adjoining properties.

Comment: The assessment of overshadowing has included a detailed review of the submitted solar access diagrams, the internal floor layouts of the adjoining dwellings, and the location of the principal private open space areas associated with each adjoining property. This assessment has been undertaken having regard to the relevant provisions of Section D6 Access to Sunlight of the WDCP 2011.

The assessment confirms that the proposed development complies with the applicable solar access and overshadowing requirements under Sections D6 Access to Sunlight and G10.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings of the WDCP 2011.

- **Loss of Property Value**

The submissions raised concerns that the development would result in a loss of property value within the locality.

Comment: This matter is not considered to be a relevant consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

- **Waste Management**

The submissions raised concerns that the proposed bin storage area is inadequate to service the development, and that its location at the front of the building may result in adverse noise and odour impacts. Concerns were also raised that the bin enclosure does not integrate appropriately with the streetscape or the building.

Comment: The proposed bin storage area is considered adequate to service the development and has been conditioned to ensure compliance with Council's Waste Management Guidelines. A condition of consent is also recommended requiring the waste room to be finished with a smooth surface, with the floor/wall intersection coved, appropriately graded and drained to the sewer. A tap is to be provided in close proximity to facilitate regular cleaning and maintenance. These measures will assist in minimising potential odours and providing an appropriate physical barrier against rodents and other pests.

The amended bin enclosure has also been suitably designed to respond to the streetscape and integrate with the architectural presentation of the building, while maintaining an appropriate and functional arrangement for its intended purpose.

Accordingly, the concerns raised in relation to the adequacy, functionality and visual presentation of the bin storage area are considered to have been appropriately addressed.

- **Tree Removal**

The submissions raised concerns regarding the proposed tree removal and potential impacts on existing trees on adjoining properties.

Comment: The proposed development involves the removal of a number of existing trees within the site. However, Council's Landscape Officer has reviewed the proposal and is satisfied that the impacts associated with the tree removal can be appropriately offset through replacement tree planting within the site. The provision of replacement trees has been incorporated into the recommended conditions of consent.

The replacement planting will assist in maintaining the landscape character of the site and contribute to the biodiversity and amenity values of the locality. In addition, the proposed development does not result in any significant encroachment into the tree protection zones or structural root zones of trees located on adjoining properties. Accordingly, the existing trees on adjoining properties can be retained and are not expected to be adversely affected by the proposed works.

- **Setting a Precedent and Three-Storey Development**

Submissions raised concerns that the proposed development would set an undesirable precedent within the locality and that a three-storey development is inconsistent with the established character of the area, which is predominantly characterised by single and two-storey dwellings.

Comment: A number of submissions raised concerns that the proposed development would establish a precedent for similar development within the locality and is inconsistent with the predominant single and two-storey dwelling character of the surrounding area.

It is acknowledged that the existing streetscape is predominantly characterised by single and two-storey dwelling houses. However, the planning framework applicable to the site has changed with the introduction of the Low and Mid-Rise (LMR) housing provisions under Chapter 6 of the SEPP (Housing) 2021. The subject site is located within the identified LMR area and is therefore subject to planning controls that expressly contemplate increased housing density and medium-density housing typologies within appropriate locations.

The recent approval of DA2025/1133 at 29 Ferguson Street, Forestville, for the demolition of existing structures and construction of multi dwelling housing, which was approved by the Northern Beaches Local Planning Panel on 18 February 2026, demonstrates that multi dwelling housing is now being contemplated within the locality.
Furthermore, residential flat buildings are already established along Warringah Road in close proximity to the subject site, including at 691–695 Warringah Road and 2–4 Darley Street, Forestville. In addition, DA2026/0870 at 679–681 Warringah Road, Forestville, for the demolition of existing structures and construction of a three-storey residential flat building, is currently under assessment. These developments demonstrate that the surrounding area is

transitioning to accommodate a greater range of medium-density housing forms consistent with the strategic planning framework.

Having regard to the above, the proposed development is not considered to establish an inappropriate or undesirable precedent. Rather, the proposal represents a form of development that is contemplated by the applicable LMR provisions of Chapter 6 of the Housing SEPP, which specifically seek to facilitate medium-density housing in locations such as Forestville. The proposal therefore needs to be considered having regard to the current statutory planning framework, rather than solely by reference to the historical built form of the locality.

Accordingly, while the three-storey form represents a departure from the predominant existing dwelling typology, it is considered to be an anticipated form of development within the LMR area and does not, of itself, constitute an unacceptable precedent.

- **Impacts on Public Transport**

Concerns were raised that the proposed development would adversely impact the existing public transport network.

Comment: The proposed development comprises four (4) dwellings each with three (3) bedrooms. Having regard to the relatively small scale of the development and the likely number of additional residents generated, it is not considered that the proposal would result in any significant increase in demand on the existing public transport network along Warringah Road.

Accordingly, the proposed development is not anticipated to have any unreasonable or adverse impacts on the capacity, operation or performance of the existing public transport network.

- **Unresolved Stormwater Management**

Issues were raised that the stormwater management arrangements for the proposed development remained unresolved.

Comment: Initial concerns were raised by Council's Development Engineer regarding the proposed stormwater management arrangements for the development. In response, amended stormwater management plans were submitted on 10 July 2026 addressing the matters raised by Council.

Council's Development Engineer has subsequently reviewed the amended stormwater plans and is satisfied that the stormwater management arrangements are acceptable, subject to the recommended conditions of consent for consideration by the Panel.

Accordingly, the stormwater management concerns raised in the submissions are considered to have been satisfactorily addressed and the proposed stormwater management

arrangements are considered acceptable subject to the recommended conditions

- **Plans are Inaccurate and Misleading**

Issues were raised in the submissions that the plans were inaccurate and misleading, including concerns that the north point was incorrectly shown on the submitted plans.

Comment: The accuracy of the north point shown on the submitted plans was considered during the assessment, including during a site inspection undertaken with an objector. The site inspection confirmed that the north point depicted on the plans is accurate.

In addition, amendments have been made to the plans and supporting information during the assessment process. These amendments have addressed several outstanding matters raised by Council's Traffic and Development Engineers, together with relevant planning matters identified during the assessment by DSAP and Council.

Having regard to the above, the amended plans and supporting information are considered to provide an appropriate and accurate basis for the assessment of the proposed development. The application is therefore considered supportable, subject to the recommended standard and site-specific conditions of consent for consideration by the Panel.

Accordingly, the concerns raised in the submissions regarding the accuracy and reliability of the plans have been appropriately considered and, where necessary, addressed through the amended plans, supporting information and recommended conditions of consent. The matters raised do not warrant refusal of the application or require any further amendments to the proposal.

- **Re-notification of amended plans and information**

Comment: Requests were received for the amended plans and associated information to be re-notified to surrounding properties.

The amendments submitted during the assessment process are considered to result in lesser environmental impacts and/or have been undertaken in response to matters raised by Council. Accordingly, having regard to the provisions of the Northern Beaches Community Participation Plan (NBCPP), further notification of the amended plans and associated information is not considered necessary.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	**CONDITIONS RECOMMENDED** The proposal is for Multi Dwelling Housing under SEPP (Housing) 2021, Chapter 6 'Low & Mid Rise Housing', Part 3 Attached dwellings, multi dwelling housing and multi dwelling housing (terraces). Under Part 3, clause 171 (2) of SEPP Housing 2021, the Tree Canopy Guide for Low and Mid Rise Housing shall be considered in terms of deep soil and tree canopy coverage requirements as identified in Table 5 apply. The landscape objectives and requirements of Warringah DCP Part G10.2 Attached dwellings, multi dwelling housing and multi dwelling housing (terraces) shall be satisfied. It is noted that the deep soil percentage requirements and tree planting requirements for both the Tree Canopy Guide and Warringah DCP Part G10.2 are like for like. An Arboricultural Impact Assessment (AIA) and a Landscape Plan are submitted for consideration by Landscape Referral. Updated comments 13.07.2026: The updated plans are noted and the landscape setting proposal as co-ordinated remains without concern, subject to conditions. The footpath across the public road reserve is not supported and is unnecessary and shall be removed as this will impact street tree planting. Previous comments 26.11.2025: The AIA report determines that all neighbouring trees within residential properties in proximity can be retained and protected including T1 to T3 and that T6 and T7 require arboricultural tree protection measures including fencing, ground and branch protection, and conditions shall be imposed should the application be approved. The public street tree identified as T10 is likewise able to be retained and protected as is subject to arboricultural tree protection measures including fencing, ground and branch protection, and conditions shall be imposed. Existing public tree identified as T9 (Brushbox) is impacted by the proposed driveway and Landscape Referral raise no concerns as this tree should be replaced with a more appropriate public tree under powerlines, and a condition shall be imposed. Removal of nominated trees within the development property raise no concerns as these are exempt species. Landscape Referral calculation of deep soil with a minimum 3 metre measurements is calculated as 25.7% (226.1m2) and this achieves the minimum requirements of both the Tree Canopy Guide and Warringah DCP Part G10.2. The deep soil areas are unobstructed areas as defined in the Tree Canopy Guide able to support tree planting. Tree planting requirements to satisfy both the Tree Canopy Guide and Warringah DCP Part G10.2 are located within deep soil areas, and nine prescribed trees (5 metres and taller) are proposed, and this achieves the minimum

Internal Referral Body	Comments
	requirements under both the Tree Canopy Guide and Warringah DCP Part G10.2. The submitted Landscape Plan provides a landscape scheme that is able to soften the bulk and scale of the development, enhances the landscape setting, and increases prescribed tree canopy cover with locally native species. Additional planting of understorey vegetation assists with the enhancement of the landscape setting and reduces urban heat. Subject to conditions, Landscape Referral raise no concerns. Note to Assessing Planning Officer: the footpath across the public road reserve is not supported and is unnecessary and shall be removed as this will impact street tree planting.
NECC (Development Engineering)	**CONDITIONS RECOMMENDED** The proposed development is in Region 2. Vehicle crossing construction is proposed. On-site detention is required in accordance with Section 9.3.2.6 Pre and Post Development Runoff for Full Computation Method of the Water Management for Development Policy. The following amendments are required to the submitted plans: A. Provide a minimum 3.5m clear width internal driveway access. This should be clear of any obstructions such as plantings and trees. B. The vehicle crossing shall be shown at right angles to the kerb and a minimum of 1 metre clear of any stormwater lintel. C. The slabtank proprietary product is not supported as it does not meet Council's maintenance requirements. D. The applicant is advised to move the internal driveway to the western part of the site, as the existing design may create a trapped low point without an overland flow escape route in the event of pipe blockage. E. A connection into Council's stormwater drainage system will require the submission of an engineering survey by a registered surveyor showing pipe invert levels and pipe size. Locate all crossing services. The OSD orifice level shall be above the hydraulic grade line of the receiving pipe. **Review 27/7/2026** Amended stormwater plans have been reviewed. No objections to approval subject to conditions as recommended.

Internal Referral Body	Comments
Traffic Engineer	**CONDITIONS RECOMMENDED** **Second Referral Response** Driveway modification and pedestrian access changes have been made to the plans provided. The Traffic generation and parking provision has not changed and meets the requirement of the Housing SEPP 2021 - Low and Mod-rise housing. This referral response assesses the access design based on the previous referral response. <u>Vehicle Access</u> The vehicle access to the proposed development has been updated to be perpendicular to the kerb, noting that the location is offset slightly to the end of Bentley Avenue and is located within the zone that is not recommended under AS2890.1, however the property already has access provided in the subject zone and relocating it across to the eastern boundary improves safety at this location. <u>Pedestrian Access</u> The internal driveway shows an area defined as footpath, and this will be conditioned to provide the applicable connect to the Council footpath network in Brown Street along with a wider footpath across the frontage of the subject site and relocation of the existing pram ramps away from the proposed driveway and suitable connection tot he new ramps. While there is significant feedback that the development should be providing more off-street parking the proposal meets the requirement under the SEPP and as such this cannot be pursued. **Initial Referral** The proposal is for demolition works and construction of 4 multi dwelling housing at 27 Brown Street, Forestville. Each dwelling townhouse comprises 3 bedrooms and a single car garage. A Traffic Impact Assessment (TIA) has been prepared by Genesis Traffic (dated 29th October 2025). The Transport Network section has reviewed the proposal with respect to access, parking, and traffic generation impacting the road network. **Traffic Generation** The Traffic Impact Assessment (TIA) states that the future traffic generation has been assessed in accordance with the Guide to Transport Impact Assessment 2024 (GTIA). The TIA reports that the traffic generation from the existing single residential dwelling would

Internal Referral Body	Comments
	generate 1 vehicle trip (0.68 vtph per unit during the AM and 0.77 vtph per unit during the PM peak period). The proposed 4 townhouse units would generate 3 vtph during both the AM and PM peak periods. The proposed development would therefore result in a net increase of 2 vtph during the AM and PM peak periods. The overall traffic generation impact on the existing road network is considered to be low. **Access** Vehicle access is proposed via a 5.6m wide combined entry/exit driveway along the eastern boundary off Brown Street. The proposed driveway is located directly opposite the junction of Brown Street and Bentley Avenue, and within the prohibited zone specified by Figure 3.1 of AS2890.1-2004. The constrained nature of the site is such that it is physically impossible to meet the requirements specified within Figure 3.1 of AS2890.1-2004. The objective of this Figure 3.1 of AS2890.1-2004 is to separate site access movements from the influence of an adjoining intersection, and the proposed access driveway is skewed in a manner which aligns with the intersection with Bentley Avenue. The access driveway should be located perpendicular to Brown Street and as close to the eastern property boundary as possible. It is noted that the Development Engineer referral advised that the driveway be changed to the western part of the site, however this is not supported from a traffic and safety perspective. There is an existing kerb ramp situated within the proposed location of the new access driveway. In order to maintain pedestrian access, new kerb ramps will need to be provided further east in front of No.25 and on the opposite side of the road (redundant kerb ramp removed), along with connections to the existing footpath located on the eastern side of Bentley Avenue. **Swept paths** The swept path analysis for vehicles exiting the garages of Dwelling 1 and Dwelling 3 shows the the B85 vehicle traversing over the proposed landscaping located adjacent to the driveway, and along the eastern property boundary. The current kitchen layout protrudes beyond the garage entrance with the proposed plantings further reducing the manoeuvring area outside the garage. All landscaping in front of the kitchen area would need to be offset at least 1m from the garage and

Internal Referral Body	Comments
	reduced to 1.5m wide (providing a minimum 3.5m unobstructed internal driveway). The swept path analysis also demonstrates that the layout with adjacent garages, shown in the case with Dwellings 1 and 2; provides the best access and manoeuvring area for vehicles. The Applicant should therefore consider whether it is possible to adopt the same layout for Dwellings 3 and 4. This layout could also provide a more substantial landscaping area in the centre of the site (in front of Dwellings 2 and 3) instead of the current narrow strip in front of Dwelling 3. **Parking** The site is located within the area identified by the Department of Planning, Housing and Infrastructure (DPHI) for low and mid-rise housing, which is within 800m walking distance of the Forestville Town Centre. Parking for the proposed development has been assessed in accordance with the requirements of the State Environmental Planning Policy (Housing) 2021, whereby a minimum of 1 car parking space per dwelling is required for multi dwelling housing under the Low and Mid Rise Housing Policy. A total of 4 parking spaces is proposed for the site, providing a single car garage integrated into the design of each dwelling. SEPP (Housing) 2021 does not specify the number of visitor spaces required, however the WDCP requires 1 visitor space per 5 units or part of dwelling. The provision of one car park space for visitors including couriers, delivery drivers and trades should be accommodated on-site where possible. The Traffic team considered the possibility of locating a visitor space at the end of the driveway, but this could have implications on other planning controls and requirements. The proposal is not acceptable in its current form due to issues in relation to vehicle and pedestrian access. It is requested that the above recommendations be considered and addressed in the updated plans along with swept path analysis to demonstrate appropriate access for the amended design. The additional infrastructure works in the public road reserve must also be shown to replace the existing kerb ramp, due to location of the new access driveway.

Internal Referral Body	Comments
Waste Officer	**CONDITIONS RECOMMENDED** Waste storage is sufficient size for 4 townhouses bin allocation and is within 6.5m of the boundary of the property for wheel in / wheel out service. Positive Covenant will be required for service.

External Referral Body	Comments
External - Ausgrid - Section 4.31 of SEPP (Planning Systems) 2021 Development near electricity infrastructure - s4.31 (of SEPP) 2021	**CONDITIONS RECOMMENDED** 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)

Housing and Productivity Contribution

The Housing and Productivity Contribution Order (HPC) requires the applicant to pay $10,833.93 per new dwelling within a medium density development. Under the HPC worked examples document, titled *Housing and Productivity Contributions: Worked Examples* published by the Department of Planning, Housing and Infrastructure in 2024, the applicant is credited for the existing dwelling lot, being the subject site.

As such, the applicant is only required to pay for four new dwellings under the HPC, rather than five dwellings. As such, a condition is recommended requiring the applicant to pay $32,501.78 under the HPC.

SEPP (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the development pursuant to Chapter Two and aims to encourage the design and delivery of sustainable buildings.

The BASIX Certificate and NATHERS Certificate submitted with this application demonstrates that the development meets the required thermal, energy, water and sustainability targets. A condition is recommended to ensure the development is carried out in accordance with the requirements of these certificates.

SEPP (Housing) 2021

Chapter 6 - Part 3 - Attached dwellings, multi dwelling housing and multi dwelling housing (terraces)

Development for the purposes of multi dwelling housing is permissible with development consent pursuant to Chapter 6 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

While multi dwelling housing is prohibited in the R2 zone under the WLEP 2011, it is made permissible pursuant to the Housing SEPP as Section 3.28 of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that the provisions within a State Environmental Planning Policy override those of a Local Environmental Plan.

Clause 171 - Landscaping - multi dwelling housing or multi dwelling housing (terraces)	**Comment**
Before granting development consent to development to which this section applies, the consent authority must consider the Tree Canopy Guide for Low and Mid Rise Housing, published by the Department in February 2025. As the site is 881.3m^2 in area, the development is required to provide 25% (220.3m^2) of the site area as deep soil, which is defined as follows: **Deep soil** — A landscaped area connected horizontally to the soil system and local ground water system beyond and is unimpeded by any building or structure above or below ground with the exception of minor structures*. Deep soil zones with a minimum dimension of 3m allows sufficient space for th planting and healthy growth of new trees that provide canopy cover and assist with urban cooling and infiltration of rainwater to the water table. Deep soil alsc allows for the retention of existing trees. * Minor structures are defined as: a. path, access ramp or area of paving with a maximum width up to 1.2m b. essential services infrastructure (such as stormwater pipes) with a maximum diameter up to 300mm c. landscape structures (such as lightweight fences, light poles or seating) requiring a footing with a maximum size of up to 300mm x 300mm in cross section. The 3 m dimension in deep soil refers to 3 m in every horizontal direction (length and width). This means deep soil is a minimum 9 m^2 (3 m x 3 m).	**Compliant** The development provides 33.7% (296m^2) of the site area as deep soil in accordance with the definition under the Tree Canopy Guide.
Division 2 Non-discretionary development standards—the Act, s 4.15	
Clause 172 - Non-discretionary development standards - multi dwelling housing	**Comment**
(2) The following non-discretionary development standards apply in relation to development for the purposes of multi dwelling housing:	See comments below.

(a) a minimum lot size of 600sqm,	**Compliant** The site is 881.3m^2 in area.
(b) a minimum lot width at the front building line of 12m,	**Compliant** The site is 18.9m wide at the front building line.
(c) if no environmental planning instrument or development control plan that applies to the land specifies a maximum number of car parking spaces per dwelling—a minimum of 1 car parking space per dwelling,	**Compliant** The development provides one car parking space for each dwelling.
(d) a maximum floor space ratio of 0.7:1,	**Compliant** The floor space ratio of the development is 0.67:1 (587m^2 of gross floor area)
(e) a maximum building height of 9.5m.	**Compliant** The maximum height of the development is 9.5m above the existing ground level.

SEPP (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Chapter Two of State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP) applies to the development pursuant to Clause 2.2 and aims to facilitate the effective delivery of infrastructure across the State.

Clause 2.48 of the TI SEPP requires certain development to be referred to the relevant electricity supply authority, and any response is to be considered as part of the assessment. The development has has been referred to Ausgrid for comment under Clause 2.48(2)(a).

The response received from Ausgrid under Clause 2.48(2)(b) has indicated that the development is acceptable, subject to recommended conditions of concurrence which are included in the recommendation of this report.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in non-rural areas

Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) applies to the development pursuant to Clause 2.3 and aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

While the development seeks to remove various trees on the site, Council's Landscape Officer is satisfied that the tree removal will be appropriately offset through the provision of replacement trees on the site, which has been included as a requirement under the recommended conditions of consent. The replacement trees will ensure that the development will not adversely impact upon the biodiversity and amenity values of the locality, consistent with Chapter 2 of the BC SEPP.

Chapter 6 - Water Catchments

Chapter 6 of the BC SEPP applies to the development pursuant to Clause 6.1 as the site is located within the Sydney Harbour Catchment.

Chapter 6 has been considered and it has been determined that the development would meet the requirements and objectives of Chapter 6, insofar as stormwater will be appropriately managed and disposed off with water sensitive urban design measures, which will ensure that the development does not result in pollution or adverse stormwater impacts to the Sydney Harbour Catchment.

SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Chapter Four of State Environmental Policy (Resilience and Hazards) 2021 (RH SEPP) applies to the site pursuant to Clause 4.4 and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.

A search of Council's records and aerial photos indicates that the site has been used for residential purposes for a significant period of time, with no known prior land uses.

It is therefore unlikely that the site has experienced any known contamination. As such, the site is considered suitable for residential occupation by the development and further assessment is not necessary.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

There are no applicable principal development standards under the Warringah Local Environmental Plan 2011 (WLEP 2011) as the non-discretionary building height development standard under the Housing SEPP prevails over the WLEP 2011 pursuant to Section 3.28 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Compliance Assessment

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

Detailed Assessment

Zone R2 Low Density Residential

While the proposed development is prohibited in the R2 Low Density Residential zone under WLEP 2011, it is permissible pursuant to the Housing SEPP, which prevails over the provisions of WLEP 2011 in accordance with Section 3.28 of the EP&A Act.

Notwithstanding the prohibition under WLEP 2011, the assessment considers that the proposed development is consistent with the objectives of the R2 zone for the following reasons:

- The development will contribute to meeting the housing needs of the community by providing additional housing within an established residential area.
- The development will provide a part two to three-storey built form at the street frontage, together with appropriate deep soil landscape areas and suitable planting. The proposed landscaping will be further enhanced through the recommended conditions of consent and will provide an appropriate landscape outcome that responds to and complements the established residential and landscaped character of the locality.

6.2 Earthworks

The objectives of Clause 6.2 of the WLEP 2011 require development:

(a) 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, and
(b) to allow earthworks of a minor nature without requiring separate development consent.

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

Comment: The proposed earthworks are not considered to be of a scale or extent that would result in unreasonable disruption to existing drainage patterns or adversely affect soil stability within the locality.

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

Comment: The proposed earthworks are ancillary to the development and will not unreasonably constrain the future use or redevelopment of the subject land.

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

Comment: The handling and disposal of excavated material will be undertaken in accordance with the Waste Management Plan submitted with the development. A condition of consent is recommended requiring any imported fill material to be of suitable quality and appropriately managed.

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

Comment: The proposed earthworks are not expected to result in unreasonable impacts on the existing or likely future amenity of adjoining properties. Conditions of consent are recommended to appropriately manage potential impacts associated with excavation and construction activities.

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

Comment: The source and management of fill material and the disposal of excavated material will be undertaken in accordance with the Waste Management Plan. A condition of consent is recommended requiring imported fill to be appropriately sourced and of suitable quality, and excavated material to be disposed of at an appropriately licensed facility where required.

(f) the likelihood of disturbing relics

Comment: There are no known relics identified on the subject site, and the proposed earthworks are not considered likely to disturb any relics.

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

Comment: The subject site is not located in close proximity to a watercourse, drinking water catchment or identified environmentally sensitive area. The proposed earthworks are therefore unlikely to result in adverse impacts on such features.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of Clause 6.2 of the WLEP 2011.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment: The subject site is located within Area A of the WLEP 2011 Landslip Risk Map, which represents the lowest level of mapped landslip risk and comprises land with slopes of less than 5 degrees. Notwithstanding the low level of mapped risk, a Geotechnical Investigation Report was submitted with the application and has been considered as part of the assessment.

The proposed development does not involve significant excavation or filling that would be expected to give rise to adverse geotechnical impacts or instability. Accordingly, the development is not considered to present a serious risk to property or life from a geotechnical perspective.

Notwithstanding, a retaining wall is proposed along the south-eastern side boundary. To appropriately manage potential impacts associated with the construction works and safeguard adjoining properties, a condition of consent is recommended requiring dilapidation reports to be prepared for 25A, 25B and 29 Brown Street, Forestville prior to the commencement of works. This will provide a record of the existing condition of the adjoining properties and assist in identifying and managing any potential damage arising from the development (should this occur).

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment: Council's Development Engineer are satisfied that the stormwater management system complies with the Water Management for Development Policy and that water sensitive urban design measures are incorporated into the development. Therefore, it can be concluded that the development is not likely to cause any adverse off-site impacts as a result of stormwater being discharged from the site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment: The development does not involve any significant excavation and will not result in interactions with groundwater.

Having regard to the above assessment, it is concluded that the development complies with Clause 6.4 of the WLEP 2011.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	N/A - this control only applies for sites where the maximum building height development standard is 8.5m. The maximum building height development standard under the Housing SEPP is 9.5m	N/A	N/A	N/A
B3 Side Boundary Envelope	4m / 45 degrees (west)	Outside Envelope	2.5%	**No**
	4m / 45 degrees (east)	Within Envelope	-	Yes

B7 Front Boundary Setbacks	6.5m	6.7m - 6.75m (main facade of building) 5.9m (architecture feature) 11.9m - Level 2 - Flex Room	- 9.2% -	Yes **No** Yes
B9 Rear Boundary Setbacks	6m	6.08m - GF 6.13m - Level 1 7.83m - Level 2 11.43m - Level 2 - Flex Room	- - - -	Yes Yes Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (352.4m^2)	27.7% (243m^2)	31%	**No**

Notes:
1. The bin storage area is permitted within the 6.5m front setback area under Section B7 of the Warringah Development Control Plan 2011 (WDCP 2011).

2. The multi-dwelling housing built form control table is provided within the section of this report relating to Section G10.2 of the WDCP 2011.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
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
G10.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings	No	Yes

Detailed Assessment

B3 Side Boundary Envelope

Description of Non-compliance

Section B3 of the WDCP 2011 requires development to remain within a building envelope that is determined by projecting planes at 45 degrees from a height of 4m above the existing ground level along the side boundaries.

A small portion of the western elevation of the development protrude outside of the envelope control for Dwellings 1, 2 and 3.

As depicted in **Figure 4** below, the non-compliant elements are limited to the stairway elements that provide access to the roof terraces.



Figure 8 - Building Envelope Non-Compliance on Western Elevation Shaded in Purple

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 gazettal of Chapter 6 of the Housing SEPP and the introduction of the Low to Midrise Housing (LMR) area represents a significant change to the planning framework applying to the locality. The Housing SEPP envisages increased housing density and medium density residential development, including multi dwelling housing, with a greater building scale and density than the established detached low-density residential development currently characterising the streetscape and the R2 Low Density Residential zone.

  In this context, the height and bulk anticipated by the Housing SEPP does not necessarily align with all of the existing built form outcomes contemplated by Council's local controls, including the side building envelope control under Section B3 of the WDCP 2011.

  The key Housing SEPP controls establishing an appropriate level of building scale and density are the 9.5m non-discretionary building height development standard and the 0.7:1 FSR non-discretionary development standard. The proposed development complies with both of these standards, demonstrating that the overall scale and density of the development is within the parameters contemplated by the Housing SEPP.

  The building also incorporates articulated side elevations, including varied façade treatments and materials, which assist in breaking up the perceived mass and reducing the visual impact of the building when viewed from adjoining properties and the public domain. The modulation of the built form avoids the presentation of an uninterrupted building mass and contributes to an appropriate streetscape outcome.

  The proposal is further supported by an appropriate landscape design incorporating substantial deep soil landscape areas within the front, western side and rear setbacks, together with vegetation planting around the building. These areas will assist in softening the built form and reducing its visual prominence. Council's Landscape Officer has also recommended conditions requiring additional tree planting within the deep soil landscape areas. The resulting landscape treatment will provide an appropriate transition between the built form and the established landscaped character of the locality.

Having regard to the above, the development is considered to provide an appropriate balance between the increased height, density and built form envisaged by the Housing SEPP and the existing character of the locality. The proposed articulation, setbacks and landscaping will assist in mitigating the visual effects of the building and ensure that it does not become visually dominant by virtue of its height and bulk.

For the reasons outlined above, the assessment finds that the development will not become visually dominant by virtue of its height and bulk, consistent with this objective.

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

  Comment: Section D6 Access to Sunlight of the WDCP 2011 requires development to maintain at least three hours of sunlight between 9.00am and 3.00pm on 21 June to adjoining properties' private open space and principal living areas, where reasonably achievable. Having regard to the north-south orientation of the allotments on the southern side of Brown Street, the eastern adjoining properties, being 25A and 25B Brown Street, are the properties most affected by the proposed development.

  The location of these properties relative to the subject site is shown in Figure 5 below.



Figure 9 - Map of Subject Site and Eastern Adjoining Properties

25A Brown Street - Solar Access

No. 25A Brown Street contains a two-storey dwelling with two identified living areas. The front lounge room is located towards the front of the dwelling, with windows orientated generally to the north, while the rear family room is located towards the rear of the dwelling with windows orientated towards the south.

The submitted 'view from the sun' diagrams demonstrate that the front lounge room will continue to receive solar access between 9.00am and 3.00pm on 21 June. The rear family room is already subject to self-shadowing from the existing dwelling and pergola, which is located directly above the south-facing window.

The principal private open space area of 25A Brown Street is located towards the southern

portion of the allotment. The submitted shadow diagrams demonstrate that this area is already substantially self-shadowed by the existing dwelling. The proposed development would introduce additional overshadowing to this area primarily at approximately 3.00pm on 21 June. Given the existing pattern of overshadowing, the additional impact is not considered to materially alter the limited solar access currently available to this area.

25B Brown Street - Solar Access

No. 25B Brown Street contains a single-storey dwelling with a living room located towards the front of the dwelling, with windows orientated towards the north and east. The submitted 'view from the sun' diagrams demonstrate that the front living room will continue to receive solar access between 9.00am and 3.00pm on 21 June.



Figure 10 - Floor layout of 25B Brown Street with the living room located in the northeast corner and outdoor entertainment space located off the living room on the eastern side of the dwelling (Source: https://www.realestate.com.au/).

Having regard to the constrained dimensions of the allotment, the principal private open space for 25B Brown Street is considered to be the lawn area located between the front alignment of the dwelling and the southern alignment of the garage.

The submitted shadow diagrams demonstrate that this area is already subject to morning overshadowing from the adjoining boundary and the dwelling at 23 Brown Street. The area

receives solar access around midday before becoming self-shadowed by the existing single-storey garage located immediately to the north. The proposed development would primarily contribute additional overshadowing to the area at approximately 3pm on 21 June. Accordingly, the proposal is not considered to result in a material reduction to the already limited solar access available to this private open space area.

Privacy Considerations

The proposed building envelope encroachments are not considered to give rise to unreasonable visual privacy impacts. The broader privacy implications of the development, including the location and treatment of windows, balconies and other potential overlooking opportunities, are considered separately within the assessment of Section D8 of the WDCP 2011.

Having regard to the extent of existing overshadowing affecting the adjoining properties, the orientation and configuration of the allotments, and the solar access demonstrated by the submitted shadow diagrams, the proposal will maintain reasonable levels of solar access to adjoining principal living areas and private open space. The proposal is therefore considered to achieve this objective.

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

Comment: The proposed building form and massing generally follows the existing topography of the site, with the built form stepping down in response to the fall of the land. The design therefore provides an appropriate response to the site's existing levels and minimises the extent to which the development would appear visually excessive when viewed from adjoining properties and the streetscape.

The development is consequently considered to respond appropriately to the topography of the site and achieves this objective.

Having regard to the above assessment, it is concluded that the proposed development is generally consistent with the objectives of Section B3 of the WDCP 2011. While the proposal does not strictly comply with the numerical requirements of the building envelope control, the non-compliance is considered reasonable having regard to the significant change in the planning framework arising from the Housing SEPP and the increased density and built form anticipated within the LMR area.

The proposal complies with the key non-discretionary development standards under the Housing SEPP, incorporates appropriate building articulation, setbacks and landscaping, and does not result in unreasonable impacts in relation to visual dominance, solar access, privacy or the site's topography. Accordingly, flexibility should be afforded to the numerical requirements of the control, consistent with Section 4.15(3A)(b) of the EP&A Act.

B7 Front Boundary Setbacks

Description of Non-compliance

Section B7 Front Boundary Setback of the WDCP 2011 requires development to be setback at least 6.5m from the front boundary (excluding bin storage areas that are permitted in the front setback area). While the principal façade of the building complies with this requirement, a portion of the proposed first-

floor architectural feature is setback 5.9m from the front boundary and therefore does not satisfy the numerical requirement.

Merit Consideration

With regard to the consideration of the variation, the development is considered against the underlying objectives of the control as follows:

- ***To create a sense of openness.***

  Comment: The proposed variation is limited to a portion of the first-floor architectural feature, which projects approximately 600mm beyond the required 6.5m front setback. The feature is incorporated into the overall building design and does not result in the principal building façade being brought forward within the front setback.

  The architectural feature is lightweight in its presentation and is appropriately integrated with the building's overall articulation. The generous front setback to the principal building façade, together with the proposed landscaping within the front setback, will maintain a sense of openness between the development and the street. The minor encroachment is therefore not considered to result in an unreasonable reduction in the perceived openness of the front setback area.

- ***To maintain the visual continuity and pattern of buildings and landscape elements.***

  Comment: The proposed architectural feature provides articulation to the first-floor elevation and assists in breaking up the overall built form when viewed from the street. Rather than presenting as an uninterrupted building wall, the feature introduces variation to the façade and provides visual interest to the street-facing elevation.

  The principal building façade remains compliant with the required 6.5m front setback, while substantial landscaping is retained within the front setback area. The combination of the compliant principal façade, landscaping and articulated first-floor feature will maintain an appropriate relationship with the established pattern of buildings and landscape elements within the streetscape.
  The minor encroachment of the architectural feature is therefore not considered to disrupt the visual continuity of the streetscape or the established relationship between built and landscaped elements.

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

  Comment: The architectural feature is considered to contribute positively to the presentation of the development to the streetscape. Its design provides additional articulation and visual interest to the first-floor elevation and assists in creating a more varied and responsive façade.

  Importantly, the feature does not present as a substantial solid mass projecting into the front setback. Its limited extent, together with the compliant setback of the principal façade and the

proposed front setback landscaping, ensures that the feature will not result in excessive visual bulk or an unreasonable visual impact when viewed from the public domain.
The architectural feature is therefore considered to enhance rather than detract from the visual quality of the streetscape and public domain.

- ***To achieve reasonable view sharing.***

  Comment: The proposed architectural feature is limited in extent and does not significantly increase the overall building height or massing at the front of the site. Given its location and design, the feature will not obstruct or materially interfere with established view corridors from adjoining properties.

  The proposal therefore maintains reasonable view sharing between the subject site and adjoining properties, notwithstanding the minor variation to the numerical front setback requirement.

Having regard to the above assessment, the proposed variation is considered to result in an appropriate planning outcome. The first-floor architectural feature provides articulation and visual interest to the street-facing elevation, while the principal building façade remains compliant with the required front setback. The feature does not result in excessive visual bulk or an unreasonable reduction in the openness of the front setback and is appropriately balanced by the proposed landscaping.

Accordingly, the proposed development is considered to be consistent with the objectives of Section B7 of the WDCP 2011. Flexibility should therefore be afforded to the numerical requirement of the control, consistent with Section 4.15(3A)(b) of the EP&A Act.

C3 Parking Facilities

The proposal provides a single garage to each proposed dwelling. Whilst this does not comply with the minimum requirement for two spaces under Appendix 1 of WDCP, SEPP (Housing) states that if no environmental planning instrument or development control plan that applies to the land specifies a maximum number of car parking spaces per dwelling—a minimum of 1 car parking space per dwelling.

The SEPP therefore prevails and the proposal complies.

D1 Landscaped Open Space and Bushland Setting

Description of Non-compliance

Section D1 of the WDCP 2011 requires a minimum of 40% of the site to comprise landscaped open space (LOS).
The control provides that:
a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc., and any open space areas with a dimension of less than 2 metres are excluded from the calculation;
b) The water surface of swimming pools and impervious surfaces which occur naturally, such as rock outcrops, are included in the calculation;
c) Landscaped open space must be at ground level (finished); and

d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.

The proposed development provides approximately 27.7% (243m²) of the site as LOS, representing a shortfall of approximately 31% from the 40% numerical requirement.

Merit Consideration

The proposed variation is considered against the underlying objectives of Section D1 of the WDCP 2011 as follows:

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

  Comment: The proposed development incorporates landscaped areas within the front setback which, together with the amended landscaping scheme and recommended conditions requiring additional tree planting, will provide an appropriate landscaped presentation to the street.

  The proposed landscaping will maintain the existing landscaped character of the streetscape and provide opportunities for additional vegetation and canopy planting. Accordingly, notwithstanding the numerical shortfall, the development is considered to satisfy this objective.

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

  Comment: The development involves the removal of a number of existing trees from the site. However, Council's Landscape Officer is satisfied that the proposed tree removal can be appropriately offset through replacement tree planting within the site. The provision of replacement trees has been incorporated into the recommended conditions of consent.

  The replacement planting will contribute to the retention of vegetation across the site and assist in maintaining and enhancing the biodiversity, landscape and amenity values of the site and locality. On this basis, the proposed development 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 40% LOS requirement under Section D1 of the WDCP 2011 was established in the context of detached dwelling house development historically anticipated within the R2 zone under the WLEP 2011. The planning framework has subsequently evolved, with the Housing SEPP introducing Low and Mid-Rise Housing provisions that facilitate a broader range of medium density housing forms within appropriately located R2 zoned land, including multi-dwelling housing, residential flat buildings and dual occupancies.

  In this context, the strict application of the 40% LOS control does not necessarily reflect the built form and landscaping outcomes contemplated by the current planning framework for medium density housing. Notwithstanding the numerical shortfall, the proposed development provides more than 25% of the site as deep soil landscaping, consistent with the principles

contained within the NSW Government's Tree Canopy Guide as referenced by the Housing SEPP. The deep soil areas are distributed throughout the site, including within the front, western side and rear setbacks. Additional planting is also proposed within the eastern side setback adjacent to the driveway.

These areas provide sufficient opportunity for the establishment of shrubs and canopy trees and will assist in softening the built form and reducing its visual impact when viewed from the streetscape and adjoining properties. The proposed landscaping outcome is therefore considered to achieve the underlying objective of providing appropriately located landscaped areas capable of supporting vegetation to mitigate the height, bulk and scale of the development.

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

  Comment: The proposed development incorporates appropriate design measures to minimise privacy impacts between the proposed dwellings and adjoining properties. In addition, suitable conditions are recommended to ensure that privacy is appropriately maintained.

  The provision of additional LOS is not considered necessary to achieve the privacy objective in this instance, with privacy impacts able to be satisfactorily managed through the proposed design and recommended conditions of consent.

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

  Comment: Each dwelling is provided with more than 10m² of private open space, with dimensions exceeding 2.5m, consistent with the requirements of Section D2 of the WDCP 2011. The proposed private open space areas provide adequate opportunities for outdoor recreation and are considered appropriately sized and located to meet the reasonable recreational needs of the future occupants. The numerical shortfall in LOS therefore does not prevent the development from achieving this objective.

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

  Comment: Each dwelling is provided with a clothesline within its private open space area. The development therefore provides adequate space for clothes drying and other domestic service functions.

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

  Comment: The proposed stormwater management system has been reviewed and is considered satisfactory, subject to the recommended conditions of consent. In addition, the areas of deep soil landscaping distributed throughout the site will provide opportunities for stormwater infiltration and assist in reducing stormwater runoff. The proposed development therefore provides an appropriate stormwater management outcome notwithstanding the variation to the LOS numerical requirement.

D8 Privacy

Description of Non-compliance

Section D8 Privacy of the WDCP 2011 requires the building layout to be designed to optimise privacy for occupants of the development and occupants of adjoining properties. The proposed development has generally been designed with regard to this requirement, including through the orientation of a number of windows towards the northern front boundary for the master bedrooms within Dwellings 2 to 4.

Notwithstanding, a number of windows at Levels 1 and 2 are located within 6m of the eastern and western side boundaries. While the Apartment Design Guide (ADG) does not apply to the development, the 6m spatial separation provision provides a useful benchmark when considering potential privacy impacts arising from elevated windows and their relationship to adjoining properties.

Given the proximity and elevated position of these windows, privacy attenuation measures are considered necessary to prevent direct overlooking into the private open space and living areas of adjoining properties. It is noted that the recent amendments have incorporated translucent glazing to the stair windows on Levels 1 and 2. Notwithstanding these amendments, conditions of consent are recommended requiring appropriate privacy treatments to the remaining identified windows, including translucent/obscure glazing or high-level windows/raised window sills, to ensure that reasonable visual privacy is maintained for both adjoining properties and the future occupants of the development.

The proposed roof terrace areas are also appropriately setback from the building parapets and incorporate planter boxes to assist in limiting opportunities for direct overlooking. In addition, the floor areas of the flexible rooms associated with Dwellings 1 and 4 have been substantially reduced, with privacy screening also incorporated to the western elevation of the Dwelling 4 roof terrace. These design measures will assist in reducing potential overlooking towards adjoining properties and, together with the setback and landscaping measures, will also assist in mitigating potential noise impacts associated with the use of the roof terraces.

The following privacy attenuation measures to windows are recommended:

Dwellings 1, 2, 3 & 4
Level 1

- WIR (east-facing) – privacy attenuation measures.

Level 2

- Flexible room (west-facing) – privacy attenuation measures.

Dwelling 4
Level 2

- Flexible room (south-facing) – privacy attenuation measures.

The majority of the windows identified as requiring privacy treatment are located within 6m of the eastern and western side boundaries and have the potential to provide direct sightlines towards the principal private open space areas of 25A, 25B and 29 Brown Street. In the absence of appropriate privacy attenuation, these windows have the potential to result in unreasonable overlooking impacts to adjoining properties.

The additional privacy treatment of the south-facing window serving the Level 2 flexible room of Dwelling 4 is also considered warranted, having regard to the elevated position of the room and the potential for

direct sightlines towards adjoining and surrounding properties to the south, including 18, 20 and 22 Epacris Avenue.

Accordingly, the proposed privacy attenuation measures are considered necessary to minimise potential overlooking impacts and ensure an appropriate level of visual privacy is maintained for both the future occupants of the development and adjoining properties.

Submissions were also received from properties located on the northern side of Brown Street, including 24 Brown Street, raising concerns regarding potential privacy impacts. In this regard, the front of the proposed building is located more than 16m from the northern kerb of Brown Street, while the north-eastern corner of the subject site is approximately 30m from the south-western corner of the dwelling at 24 Brown Street.

This separation is substantially greater than the 9m separation contemplated by the relevant privacy provision, which states:

"The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings."

Having regard to the substantial separation provided between the proposed development and the dwellings located on the northern side of Brown Street, the potential for direct or close overlooking is considered limited. Accordingly, no additional privacy attenuation measures are considered warranted in relation to the northern properties.

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 proposed development incorporates a number of design measures to minimise potential privacy impacts, including the orientation of windows towards the front boundary, setbacks to the roof terraces, planter boxes and privacy screening.

  Notwithstanding, given the proximity of a number of Level 1 and Level 2 windows to the eastern and western side boundaries, additional privacy attenuation is considered necessary. Conditions of consent are recommended requiring the identified windows to incorporate appropriate privacy treatments, including obscure/translucent glazing or raised window sills/high-level windows, as appropriate.

  These measures will prevent direct sightlines towards the private open space and living areas of adjoining properties while maintaining appropriate access to natural light and ventilation for the proposed dwellings. The recommended privacy treatments, together with the existing design measures, will ensure that the siting and design of the development provides a high level of visual and acoustic privacy for occupants and neighbours, consistent with this objective.

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

Comment: The development incorporates a range of design responses to address privacy and amenity considerations, including the orientation of windows, building setbacks, roof terrace screening and integrated planter boxes.

Subject to the implementation of the recommended privacy attenuation measures, the development will provide an appropriate design response that balances the provision of housing with the protection of adjoining residential amenity. The development is therefore considered to provide an acceptable design outcome that will contribute positively to the urban environment, consistent with this objective.

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

Comment: The proposed development provides a clear and defined residential layout with appropriate separation between private areas of the development and adjoining properties. The recommended privacy treatments will reduce opportunities for direct overlooking while maintaining appropriate opportunities for passive surveillance and visual connection to areas immediately surrounding the development.

The development, subject to the recommended conditions, will therefore provide an appropriate level of personal and property security for occupants and visitors of both the subject site and adjoining properties, consistent with this objective.

Having regard to the above assessment, it is concluded that the development will achieve the objectives of Section D8 Privacy of the WDCP 2011. While a number of windows require additional privacy attenuation measures due to their proximity to the side and rear boundaries and potential for direct overlooking, these impacts can be appropriately mitigated through the recommended conditions of consent. Subject to compliance with these conditions, the development will provide an acceptable level of visual and acoustic privacy for occupants and adjoining properties.

D9 Building Bulk

Section D9 Building Bulk of the WDCP 2011 requires the following:

1. *Side and rear setbacks are to be progressively increased as wall height increases.*
2. *Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.*
3. *On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:*
   - *The amount of fill is not to exceed one metre in depth.*
   - *Fill is not to spread beyond the footprint of the building.*
   - *Excavation of the landform is to be minimised.*
4. *Building height and scale needs to relate to topography and site conditions.*
5. *Orientate development to address the street.*
6. *Use colour, materials and surface treatment to reduce building bulk.*
7. *Landscape plantings are to be provided to reduce the visual bulk of new building and works.*
8. *Articulate walls to reduce building mass.*

Comments
The final revised design incorporates substantial setbacks to the third storey from the front, rear and side boundaries, with the ground and first floor levels providing the primary built form presentation. The increased setbacks and separation at the upper level assist in reducing the perceived scale and visual prominence of the development when viewed from the street and adjoining properties. While portions of the third storey will remain visible through the front, side and rear setbacks, this is considered an appropriate built form response having regard to the increased density and scale envisaged by the Housing SEPP.

The building elevations are appropriately articulated through varied wall planes, window treatments, façade treatments and a range of external materials and finishes. In particular, the side elevations incorporate varied façade treatments which assist in breaking up the perceived mass of the building when viewed from adjoining properties and the public domain. The modulation of the built form avoids the presentation of large, uninterrupted wall planes and provides visual relief, thereby reducing the overall perceived bulk and visual impact of the development.

The proposal appropriately responds to the site's natural topography. The height and massing of the building generally follow the slope of the land, with the upper level incorporating increased setbacks to reduce its visual prominence. The extent of excavation is limited to that reasonably necessary to accommodate the development and is not considered to be significant. The development also does not involve filling that would result in a finished ground level more than 1m above the existing ground level. Accordingly, the proposal appropriately minimises the extent of cut and fill and responds to the site's existing landform.

The development presents as a two to three-storey built form to Brown Street, with the third storey significantly recessed from the front boundary and rear boundary. The front elevation of Dwelling 1 incorporates suitable fenestration and façade articulation, providing visual interest and an appropriate presentation to the public domain. The orientation and design of the development therefore provide an appropriate street address while responding to the site conditions and surrounding development.
The range of external materials, finishes and surface treatments assists in breaking up the building mass and reducing its perceived bulk. The combination of varied materials, articulated wall planes, window openings and upper-level setbacks provides visual relief and reduces the visual prominence of the development when viewed from the street and adjoining properties.

The proposed landscaping scheme provides substantial planting around the curtilage of the building, including opportunities for canopy and understorey planting. The landscaping will assist in softening and screening the built form, reducing its visual prominence and integrating the development with the established landscaped character of the locality. This landscaping outcome will be further enhanced through the recommended conditions of consent.

Conclusion
Having regard to the above, the proposed development is considered to appropriately address the objectives and requirements of Section D9 of the WDCP 2011. The combination of progressive upper-level setbacks, building articulation, varied materials and finishes, a considered response to the site's topography, appropriate street presentation and substantial landscaping assists in reducing the perceived bulk, scale and visual impact of the development.

While the proposal represents an increased density and scale compared with some of the existing development in the locality, the built form is considered to be an appropriate response having regard to the medium-density housing outcomes envisaged by the Housing SEPP.

The development is therefore considered acceptable with respect to building bulk and is not expected to result in an unreasonable visual or amenity impact on the streetscape or adjoining properties.

G10.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings

Requirement			Proposed	Compliant
Site Layout	R1	Individual dwellings fronting a public road should have habitable rooms oriented towards the street with a clearly identifiable entry. Blank walls that limit opportunities for casual surveillance of the street, common areas, or internal pedestrian pathways should be avoided.	Dwelling 1 includes appropriate fenestration and a habitable room orientated towards Brown Street including an identifiably entryway and pathway.	Yes
	R2	Pedestrian pathways are to be well-lit, separated from vehicular access, and provide a minimum 1 metre wide clear path. Individual dwelling entries should ensure safe access and easy wayfinding. Pedestrian entries are to be directly visible from the public street.	A pedestrian pathway to Dwelling 1 is provided from the front boundary which is 1.2m wide at the minimum point. A condition has been provided by Council's Traffic Engineer to ensure adequate pedestrian access from the front boundary to each of the other respective dwellings (Dwellings 2, 3 and 4).	Yes, subject to condition(s)
	R3	All terraces are to face a public street. No terrace may be located behind another dwelling on the same lot.	N/A - the development does not contain terrace houses.	N/A
	R4	On sloping sites, each dwelling is to be stepped consistently along the slope.	The development steps down with the slope of the land to integrate with the natural landform and landscape.	Yes

<table>
<tr><td rowspan="3">Setbacks and Height</td><td>R5</td><td rowspan="2">In the R2 Low Density Residential zone:</td><td>For developments not subject to the Apartment Design Guide (ADG), where the wall height is 3 metres or less: The minimum side setback is 3 metres.</td><td>The ground floor setback is 3.35m, which is compliant.</td><td>Yes</td></tr>
<tr><td></td><td>For developments not subject to the ADG, where the wall height is more than 3 metres above ground level (existing): The minimum side setback is to be calculated using the formula:
$S = 3 + \frac{H - 2}{4}$</td><td>The development is generally compliant with the upper floor setback requirements, with the exception of portions of the staircases, bathrooms and Bedroom 3 to each dwelling along the western side, together with an architectural feature located on the western side at the front of the building. Notwithstanding these minor encroachments, Level 2 achieves full compliance with the required setback provisions.
<table>
<tr><th>Requirement</th><th>Proposed</th><th>Complies</th></tr>
<tr><td>Ground Floor
3m</td><td>5.85m (east)
3.35m (west)</td><td>Yes
Yes</td></tr>
<tr><td>First Floor
4.075m</td><td>4.32m - 7.09m (east)
2.47m - 3.35m (west)</td><td>Yes
No</td></tr>
<tr><td>Second Floor
4.85m</td><td>5.4m (east)
6.45m (west)</td><td>Yes
Yes</td></tr>
</table></td><td>No, however acceptable on merit</td></tr>
<tr><td>R6</td><td colspan="2">Dwellings are to have a minimum 2 metre setback if fronting internal laneways or driveways unless it can be demonstrated that a reduced setback maintains landscaping, safe vehicle access, pedestrian safety, and adequate amenity.</td><td>The facades of the dwellings have a nil setback from the driveway, however the proposal maintains landscaping, safe vehicle acccess, pedestrian safety (via condition) and adeqaute amenity (screen planting along the eastern side boundary adjacent to the driveway).</td><td>No</td></tr>
</table>

	R7	The ground floor should not be more than 1.3 metres above ground level (existing) and no more than 1 metre below ground level (existing), except where a higher finished floor level is required to meet the applicable Flood Planning Level.	The ground floor of each dwelling is not more than 1.3m above the existing ground level or more than 1m below the existing ground level.	Yes
	R8	In the R2 Low Density Residential zone, developments are not to exceed 2 storeys.	The proposed two-three-storey built form does not comply with the two-storey control of the WDCP 2011. However, the subject site is located within the area to which the Low and Mid-Rise Housing provisions under Chapter 6 of the Housing SEPP apply. The SEPP contemplates increased housing density and potentially a medium-density development with a height of 9.5m. Whilst the development has a third storey, it sits comfortably below the maximum height limit and design in way which the top most storey is positioned within the middle of the floor plate where it is recessive and of a scale that does not dominate the building, nor does it contribute to unreasonable bulk and scale. It is also noted that there are examples of three-storey development within the surrounding LMR area, demonstrating that this scale and form of development is emerging within the locality. Having regard to the applicable planning framework, the proposed built form is considered to be an appropriate response to the site's location within the LMR area and the DCP character control, and is acceptable in this regard.	**No, however acceptible on merit**

Building and Landscape Design	R9	Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21 (that is, to at least 50% of the glazed area of those windows).	As outlined earlier within this report, adjoining properties receive compliant solar access. Additionally, the private open space areas within the development and the living rooms receive 3 hours of sunlight.	Yes
	R10	Each dwelling is to have a storage area of at least 8 cubic metres.	Each dwelling contains compliant storage.	Yes
	R11	Minimum tree planting rates are to be in accordance with the Tables 1, 2 and 3 of G10.2. Existing prescribed trees may be counted towards the total number of required trees.	Council's Landscape Officer has recommended conditions of consent to ensure compliance.	Yes - subject to conditions.
		At least one tree is to be provided within the front setback of each dwelling with a street frontage.	Complies	Yes
		Each tree shall be a locally native species.	The tree planting are native species.	Yes
	R12	The deep soil percentage as identified in Tables 4 to 6 of G10.2 is to be demonstrated.	The development provides compliant deep soil in accordance with the Tree Canopy Guide and this control.	Yes
	R13	Each attached dwelling, terrace or townhouse dwelling is to have a minimum internal width of 6 metres.	The internal width of the dwellings on the ground floor (excluding the garage) are 4.7m - 4.9m. Council has been flexible in applying this provision for this application was considered via a prelodgement meeting prior to the coming into force of Section G10.2 of the WDCP 2011, notwithstanding the fact that there were no savings provisions.	**No, however acceptible on merit**
	R14	End-of-row attached dwellings, townhouses or terraces are to provide windows on side walls to articulate the facade, provided they meet visual and acoustic privacy requirements.	Windows are provided on the side elevations of the development.	Yes

	R15	The minimum floor to ceiling height in all living areas should be 2.7 metres.	The floor to ceiling heights for the living rooms are 2.5m.	**No, however acceptible on merit**
	R16	The depth of any habitable room should not exceed 8 metres from a source of daylight.	The depth of all habitable rooms from daylight sources is less than 8m.	Yes
	R17	All habitable rooms are to be naturally ventilated.	There are windows to all habitable rooms.	Yes
	R18	Dwellings are required to have the following minimum internal floor areas: a. Studio: 35 m² b. 1 Bedroom: 50 m² c. 2 Bedroom: 70 m² d. 3 Bedroom: 90 m²	Each dwelling achieves the required minimum internal floor areas having regard to controls R18, R19 and R20.	Yes
	R19	The minimum internal areas outlined in R18 only include one bathroom. The minimum area of each additional bathroom is 5m² added onto the minimum dwelling area.	See comments above.	Yes
	R20	The minimum area of any additional bedroom to R18 is 12m² added onto the minimum dwelling area.	See comments above.	Yes
	R21	Development located near noise-generating uses, such as employment zones, industrial land, main roads, or late-night venues, is to be designed to minimise noise intrusion.	N/A - the development is located within a suburban area.	N/A
	R22	For residential flat buildings, integrate playable elements free of trip hazards within the communal outdoor space, to encourage children and their families to use shared areas for play.	N/A - a residential flat building is not proposed.	N/A

Vehicle Access, Parking Design and Electric Vehicle (EV) Charging	R23	Vehicle access is to be consolidated and be integrated with the building design.	One vehicular access point for all dwellings is proposed.	Yes
	R24	The total width of all garages, carports or hardstand areas, for all dwellings combined, facing a street frontage is not to exceed 50% of the lot frontage or 7 metres, whichever is the lesser.	N/A - the garages do not face the street frontage.	N/A
	R25	The driveway and vehicle crossover are to be designed in accordance with the current policies and guidelines relating to driveways/vehicle crossovers, noting that all vehicles are to leave the site in a forward direction. Vehicle circulation is to comply with AS2890.1.	Council's Traffic Engineer and Development Engineer is satisfied that this requirement is met.	Yes
	R26	Basements are to remain within the building footprint and not extend into setback or deep soil areas.	N/A - no basement is proposed.	N/A
	R27	Covered space is to be provided for the secure storage of at least 1 bicycle per dwelling.	Bicycle storage is provided within each dwelling.	Yes
	R28	A minimum of one electric bicycle charge point (10A outlet) is to be provided for every four bicycle parking spaces. Where fewer than four bicycle parking spaces are provided, a minimum of one charge point must still be installed.	EV charging is provided within each garage to dwelling at Level 1 charging.	Yes

R29	Development is to incorporate electric vehicle (EV) charging infrastructure in accordance with the following provisions:		See comments above.	Yes
	a.	All residential development is to provide EV charging or EV ready infrastructure for 100% of resident parking spaces, car share spaces and visitor parking.	See comments above.	Yes
	b.	100% of visitor and car share parking spaces and 20% of resident parking spaces are to be fitted with a dedicated charging station (Level 2) prior to the issue of an Occupation Certificate.	The assessment finds that for a smaller multi dwelling housing development that Level 2 charging points are not required.	N/A
	c.	Wayfinding signage is to be provided within the development to guide users to EV charging stations, including those for electric bicycles.	This can be included in the detailed design phase.	Yes
	d.	EV charging points are to be designed and installed in accordance with AS 2890 and other relevant standards.	Conditions are recommended to ensure compliance.	Yes, subject to conditions

		e.	Total electricity load management and electrical fit out is to be considered at the design stage, including:		This can be achieved through the detailed design process.	Yes
			i.	The size and location of any necessary electricity substations.	This can be achieved through the detailed design process.	Yes
			ii.	The electrical distribution boards dedicated are to be fitted with a charging control system to manage and schedule the charging of EVs during off-peak periods, in response to total building demand and EV owner behaviour.	This can be achieved through the detailed design process.	Yes
			iii.	The location of electrical distribution boards so that any future EV charger will require a cable of no more than 5m from the parking bay to the connection point.	This can be achieved through the detailed design process.	Yes

			iv.	The provision for cable trays to support the future installation of 32A single-phase final subcircuits for each electric vehicle car parking space.	This can be achieved through the detailed design process.	Yes
			v.	The size and location of any necessary electricity substations.	This can be achieved through the detailed design process.	Yes
		f.	All EV charging infrastructure, including electrical distribution boards and EV charging points are to be identified on the Development Application plans, Construction Certificate plans and strata plans (if relevant).		Conditions are recommended to ensure compliance.	Yes - subject to conditions

Description of Non-compliance

As detailed within the built form compliance table above, the development does not comply with controls R5, R6, R8 and R13 within Section G10.2 of the WDCP 2011.

Merit Consideration

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

- ***O1 To facilitate a variety of housing types that enhance housing choice, while ensuring compatibility with the scale of surrounding neighbouring developments.***

Comment:

The development provides additional housing stock on the site in the form of medium density multi-dwelling housing, consistent with the type of development envisaged by the State Government for LMR areas. As detailed earlier in this report, the development has been designed to maintain an appropriate visual relationship with the surrounding low-density residential development through the provision of a two/three-storey built form at the front and rear of the development. This is further supported by substantial front and rear setbacks to the upper level, which is centralised within the site to reduce visual bulk and ensure compatibility with the scale of surrounding neighbouring development.

The character of the area is also expected to evolve over time as the streetscape develops to accommodate medium density residential development, including multi-dwelling housing, residential flat buildings and attached dwellings, in accordance with the LMR provisions. Accordingly, while the height and density of the development are greater than the existing detached dwelling typologies within the streetscape, the proposal is consistent with the desired future character of the area.

For these reasons, this objective is achieved.

O2 To ensure developments are designed to provide privacy, solar access, and building separation while supporting safe pedestrian movement and well-integrated vehicular access and parking.

Comment:

As detailed earlier in this report, the development complies with the applicable solar access controls under the WDCP 2011, ensuring that the proposed development and surrounding properties will receive appropriate solar access. The depth of all habitable rooms does not exceed 8m from a light source, ensuring that each room is provided with adequate natural light. All dwellings are provided with cross ventilation through the front and rear of the dwellings, and each dwelling contains compliant proportions of private open space. Accordingly, an appropriate level of residential amenity is afforded to each dwelling.

Suitable conditions are recommended requiring privacy attenuation measures to Dwellings 1, 2, 3 and 4, which will mitigate potential adverse privacy impacts.

The building is highly articulated along the side elevations, which avoids a continuous and linear built form and assists in reducing visual bulk. The elements of the building that encroach into the western side setback at the first-floor level are generally confined to portions of the staircases, bathrooms and three (3) bedrooms associated with each dwelling, together with an architectural feature located along the western side of the building at the front. These elements are not considered to result in adverse impacts to adjoining properties or the streetscape in relation to visual bulk, solar access, view sharing or privacy.

In relation to car parking and vehicular access, the development complies with the applicable car parking requirements under the Housing SEPP. A condition is recommended requiring a turning area at the end of the driveway, adjacent to Dwelling 4, to allow vehicles to safely manoeuvre within the site and enter and exit the site in a forward direction.

For these reasons, the development satisfies this objective.

O3 To minimise building bulk and scale and enhance existing streetscapes through building articulation, materials, and setbacks.

Comment:

As detailed earlier in this report, the density and scale of the development are consistent with the desired future character of the area as envisaged by the planning controls applicable to LMR areas under the Housing SEPP. The development incorporates a high degree of building articulation and varied materials to reduce the perceived bulk and scale of the built form. A suitable landscaping outcome is also provided, subject to the recommended conditions, which will further soften the built form and enhance the presentation of the development to the streetscape.

Accordingly, the development is consistent with this objective.

O4 To enhance the landscape setting, soften the visual impact of built form and increase canopy cover by including trees in deep soil areas.

Comment:

As outlined earlier in this report, a suitable landscaping outcome is provided across the site, subject to the recommended conditions. The proposed landscaping will assist in softening the visual impact of the built form and integrating the development with its surrounding landscape setting.

Accordingly, the development is consistent with this objective.

O5 To ensure high-quality building design with a clear sense of address, featuring well-defined dwelling entries, casual surveillance along the street frontage, and designed driveways and parking areas for safety and minimal visual impact.

Comment:

The development appropriately addresses the street, with each dwelling provided with a clearly defined entry. A landscaped strip incorporating screen planting is provided along the eastern side boundary to assist in preventing a 'gun-barrel' appearance to the driveway, together with additional landscaping adjacent to the individual dwellings.

The proposed dwelling entries, landscaping and site layout provide an appropriate sense of address and contribute to the presentation of the development to the streetscape. The driveway and parking arrangement is also appropriately integrated into the site and, subject to the recommended turning area condition, will provide for safe vehicle manoeuvring.

Accordingly, the development is consistent with this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the objectives of Section G10.2 of the WDCP 2011. In this regard, flexibility should be afforded to the numerical requirements of the control, consistent with Section 4.15(3A)(b) of the EP&A Act.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of $28,607 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,860,681.

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

PLANNING CONCLUSION

This application seeks consent for demolition works and construction of a multi dwelling housing development containing four (4) dwellings.

The application was publicly notified and advertised in accordance with Council's Community Participation Plan and attracted a total of 32 submissions by way of objection (twenty-five (25) submissions received during the formal notification period and a further seven (7) submissions received outside the notification period). No submissions were received in support of the application.

Concerns raised within the objections predominantly relate to; inconsistency with the low density residential character, traffic impacts, inadequate off-street car parking, residential amenity impacts and construction impacts. The issues raised within the submissions have been considered as part of the assessment and do not constitute matters that would warrant refusal of the application. Suitable conditions of consent have been included in the draft consent in relation to issues raised in the submissions.

Following the receipt of Council's Request for Further Information letter, the applicant submitted amended architectural, traffic, landscape and stormwater plans including technical documentation. This information was received to Council's satisfaction.

The amendments made to the proposal have resulted in a development that is more visually compatible with the established low density residential development within the streetscape, while providing an increase in housing supply and uplift of building density and scale as envisaged by the Housing SEPP.

The development was referred to DSAP as part of the assessment, who were supportive of the proposal, and their recommendations have been adequately addressed in the revised design.

The assessment has concluded that the development (as amended) will achieve the desired future character of the area by providing an appropriate multi dwelling housing development that is both compliant with the applicable planning provisions under the Housing SEPP, which is located within a suitable walking distance from the Forestville Town Centre.

The provision of visitor parking within the proposed development is not practical and poses a safety issue for users. Therefore, as the SEPP does not require visitor parking, no such parking will be included. A suitable condition has been imposed in this regard.

While there are some variations to the numerical controls within the WDCP 2011, these variations do not give rise to adverse amenity or streetscape impacts and do not prevent the development from achieving the underlying objectives of the WDCP 2011.

Overall, the development is considered to be consistent with the applicable environmental planning instruments and regulatory provisions. Therefore, the revised development is suitable for the site, the streetscape and locality, and approval of the application is in the public interest.

Accordingly, it is recommended that the NBLPP **approve** the application, subject to the draft set of recommended conditions attached to this report.

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 DA2025/1640 for Demolition works and construction of multi dwelling housing on land at Lot 35 DP 27447, 27 Brown Street, FORESTVILLE, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
   Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
DA000	4	Cover Page	Walsh Architects	24 August 2026
DA030	2	Demolition Plan	Walsh Architects	17 June 2026
DA040	4	Proposed Site Plan	Walsh Architects	6 July 2026
DA101	3	Ground Floor Plan	Walsh Architects	6 July 2026
DA102	3	Level 1 Plan	Walsh Architects	6 July 2026
DA103	3	Level 2 Plan	Walsh Architects	6 July 2026
DA104	3	Roof Plan	Walsh Architects	6 July 2026
DA200	3	Sections	Walsh Architects	6 July 2026
DA300	4	Elevations	Walsh Architects	24 August 2026
DA301	3	Elevations	Walsh Architects	6 July 2026
DA900	3	External Finishes	Walsh Architects	24 August 2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
BASIX Certificate	1818044_02	Building Sustainability Assessments	8 July 2026

NatHERS Certificate	#HR-AW2J54-02	Building Sustainability Assessments	8 July 2026
NatHERS Certificate	#HR-Q072EG-02	Building Sustainability Assessments	8 July 2026
NatHERS Certificate	#HR-GGX0FE-01	Building Sustainability Assessments	21 October 2025
NatHERS Certificate	#HR-ABF07N-02	Building Sustainability Assessments	8 July 2026
Landscape Plan Job No. 108.26(25)/161'A'	Revision A	iscape Landscape Architects	10 June 2026
Stormwater Concept Design Statement	251203	RTS Civil Consulting Engineers	23 June 2026
Stormwater Management Plans Sheets SW001B - SW202B & Sediment & Erosion Control Plans Sheets SE100B & SE200B	Project No. 251203, Revision B	RTS Civil Consulting Engineers	23 June 2026
Arboricultural Impact Assessment	Job No: 2500067	Selena Hannan Landscape Design	14 October 2025
Civil Works Drawings for Proposed Multi-Dwelling Development Sheets C00 - C10	Job No. 250289, Revision A	Smart Structures Australia	5 August 2025
Waste Management Plan for 27 Brown Street Forestville	-	-	27 October 2025
Geotechnical Investigation Report	ESWN-PR-2025-3338	ESWNMAN Geotechnical Engineering Services	31 October 2025
Traffic Impact Assessment	25270	Gensis Traffic	29 October 2025

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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	Referral - Ausgrid	20 November 2025 (as dated on Council's DA tracker)

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

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

3. **Approved Land Use**
Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of multi dwelling housing, which is defined as follows:

- ***multi dwelling housing*** *means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.*

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

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

4. **No Consent for Subdivision**
No consent is granted for subdivision, including Strata subdivision.

Reason: The applicant has not sought consent for subdivision of land.

Note: This condition does not preclude the applicant from obtaining approval for Strata subdivision pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

5. **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.

6. **No Consent for the Removal of Boundary Fencing or Walling**
The existing side and rear boundary fencing that is shared with surrounding private properties is not permitted to be removed or altered under this development consent.

Note: This would not prevent the applicant from constructing new side and rear boundary fencing as exempt development under the provisions of the Dividing Fences Act 1993.

Reason: No landowners consent has been provided for the removal of alteration of shared side boundaries fencing.

7. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.

(c) 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.

(d) At all times after the submission of 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.

(e) 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.

(f) 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.

(g) Prior to the release of the Construction Certificate, payment of the following is required:

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or directly to the Long Service 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.

ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.

(h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(i) 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.

(j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(k) 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.

(l) 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.

(m) 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.

(n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.

(p) 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

8. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $28,606.81 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 $2,860,681.00.

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.

9. **Security Bond**

A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the 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.

10. **Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	**Amount**
Housing and Productivity Contribution	$32,501.78
Total:	**$32,501.78**

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

$$\frac{\textit{highest PPI number}}{\textit{consent PPI number}}$$

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	**Time by which HPC must be paid**
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (https://pp.planningportal.nsw.gov.au/).

5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:

a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,

b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

11. **Construction, Excavation and Associated Works Security Bond(s)**
The applicant is to lodge a bond with Council for the following:

Drainage Works
As security against any damage or failure to complete the construction of stormwater drainage works required as part of this consent a bond of $15 000.

Crossing / Kerb & Gutter / Footpath Works
As security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent a bond of $15,000.

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

12. **On-Site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by RTS Civil Consulting Engineers, job number 251203, drawing number SW001, SW002, SW100, SW101, SW200, SW201, SW202, dated 23/6/2026. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

13. **Vehicular Swept Paths**
Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Principal

Certifier prior to the issue of the construction Certificate.

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

14. **Construction Traffic Management Plan**
A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via https://www.northernbeaches.nsw.gov.au/council/forms. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
    - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
    - Demonstrate that direct access from a public space/road is not viable for each stage of works.
    - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
    - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
    - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
    - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
    - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree

protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.

- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
    - Compare the post-construction report with the pre-construction report,
    - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
    - Should any damage have occurred, identify remediation actions taken.
    - Be submitted to Council with the Occupation Certificate.

- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Due to the proximity of the site adjacent to Forestville Montessori School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

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

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

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

15. **Removal of Redundant Driveways**
All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

16. **On-Street Work Zone**
The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council's website. Applications shall be lodged at least 4 weeks prior to work commencing.

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

17. **Submission of Engineering Plans (standard from development engineers).**
The submission is to include four (4) copies of Civil Engineering plans for the design of:

- Relocation of the existing pram ramps in Brown Street to the southeast, noting the required offsets from the existing driveways and stormwater inlets.
- Any additional footpath construction between the existing footpath network and the new ramp location to be constructed at a width of 2 metres.
- Construction of a new 2 metre wide footpath across the property frontage, inclusive of link paths to the two pedestrian access points to the development.
- Construction of the proposed driveway inclusive of the stormwater inlet modification within the proposed driveway crossover.

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Transport Forum consideration.

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

18. **Pedestrian sight distance at property boundary**
A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

19. **Amendments to the approved plans**
The following amendments are to be made to the approved plans:

a) Privacy Attenuation
The following east, west and south-facing windows are to incorporate appropriate privacy attenuation measures, comprising either translucent glazing or a raised window sill with a minimum height of 1.5 metres above the finished floor level:

Dwellings 1, 2, 3 and 4
Level 1
- WIR (east-facing) – privacy attenuation measures.
- Bedroom 2 (east-facing) - privacy attenuation measures.

Level 2
- Flexible room (west-facing) – privacy attenuation measures.

Dwelling 4
Level 2
- Flexible room (south-facing) – privacy attenuation measures.

The privacy attenuation measures are to be implemented prior to the issue of an Occupation Certificate and maintained for the life of the development.

b) Electric Vehicle Charging
Each garage within the development is to be provided with access to an Electric Vehicle Charging Point with a minimum capacity of 15 amps to facilitate Level 1 electric vehicle charging.

The charging infrastructure is to be installed and operational prior to the issue of an Occupation Certificate.

c) Turning Bay
A turning bay is to be provided at the end of the driveway adjacent to Dwelling 4 to facilitate safe and efficient vehicle manoeuvring within the site.
The turning bay is to be constructed using geocell and/or turf cell and designed in accordance with AS 2890.1 *Parking facilities – Off-street car parking*, based on an 85th-percentile passenger vehicle (B85).
The turning bay is to remain unobstructed and available for vehicle manoeuvring at all times.

d) Relocation of Air Conditioning Units to Terraces
Each air conditioning unit is to be relocated to the respective dwelling terrace to ensure reasonable acoustic and visual amenity for surrounding and adjoining properties.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

20. **Boundary Identification Survey**
The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, 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.

21. **Submission Roads Act Application for Civil Works in the Public Road**
The Applicant is to submit an application (using form number 4025 available on Council website) for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of infrastructure works in the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. A vehicular crossing 5.6 meters wide to be constructed in accordance with Council's Standard Normal profile.
2. Engineering longsections for the proposed driveway.
3. Modification of existing kerb inlet pit to new butterfly grate to suit driveway profile.
4. Construction of a ne kerb inlet pit over the existing Council pipe.
5. Relocation of the existing pram ramps in Brown Street to the southeast, noting the required offsets from the existing driveways and stormwater inlets.
6. Any additional footpath construction between the existing footpath network and the new ramp location to be constructed at a width of 2 metres.
7. Construction of a new 2 metre wide footpath across the property frontage, inclusive of link paths to the two pedestrian access points to the development.
8. Impact on existing street trees to be considered.
9. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

Construction of the proposed driveway inclusive of the stormwater inlet modification within the proposed driveway crossover.

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

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

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

22. **Utilities Services**
Prior to the issue of the Construction Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

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

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

23. **Pre-Construction Stormwater Assets Dilapidation Report**
The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's

Stormwater Assets prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: https://www.northernbeaches.nsw.gov.au/media/60355?1730767288

The pre-construction / demolition Dilapidation Report must be submitted to Council for approval and the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

24. **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.

25. **External Finishes to Roof**
The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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.

26. **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:
- "Tap in" details - see http://www.sydneywater.com.au/tapin
- 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.

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

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

Reason: Protection of the receiving environment.

28. **Waste and Recycling Requirements**
Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. **Project Arborist**
A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:
a) section 1.4, 1.5, 5.9
b) all of section 6
c) identified protection works under Appendix E including fencing, ground and branch protection.

All tree protection measures specified must: be in place before work commences on the site; be maintained in good condition during the construction period; and remain in place for the duration of the construction works. The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2025 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

30. **Tree Removal Within the Property**
This consent approves the removal of existing prescribed trees on the subject site as identified in the approved Arboricultural Impact Assessment. A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

31. **Tree Removal Within the Road Reserve**

This consent approves the removal of existing trees within the road reserve as identified in the Arboricultural Impact Assessment, or as listed below:

a) tree 9 (Brushbox)

b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor, as engaged by the applicant. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.

32. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via https://www.northernbeaches.nsw.gov.au/council/forms. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

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

prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

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

33. **Pre-Construction Dilapidation Report**
Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier 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.

Property / Properties: 25A, 25B & 29 Brown Street, Forestville

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier 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 Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

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

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

Reason: To maintain proper records in relation to the proposed development.

34. **Sediment and Erosion Controls**
For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book,

must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

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

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

DURING BUILDING WORK

35. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
i) all trees and vegetation located on adjoining properties
ii) all trees and vegetation within the road reserve, unless approved for removal.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment
ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project 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 AS4970-2025 Protection of trees on development sites
ix) the activities listed in section 4.2 of AS4970-2025 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees
xi) the tree protection measures specified in this clause must: i) be in place before work

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

The Principal Certifier must ensure that:
c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

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

Reason: Public safety.

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

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

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

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

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

Reason: To ensure public safety.

40. **Handling of asbestos during demolition**
While demolition work is being carried out, any work involving the removal of asbestos must

comply with the following requirements:

- Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material;
- Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA online reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

41. **Demolition Works - Asbestos**
Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

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

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

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

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

42. **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.

(d) At completion of the front fence to demonstrate that the fence does not encroach into the public road reserve.

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.

43. **Maintenance of Sediment and Erosion Controls**
Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

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

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

45. **Property Boundary Levels**
The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

46. **Cut and Fill**
While building work is being carried out, the Certifier must be satisfied that all soil removed from or imported to the site is managed in accordance with the following requirements:
a) All excavated material removed from the site must be classified in accordance with the NSW Environment Protection Authority's (EPA) Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the Certifier.
b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material

identified as being subject to a resource recovery exemption by the EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

47. **Dust Minimisation**
The applicant must take all reasonable measures to minimise dust generated during all works authorised by this consent. During construction, the applicant must ensure that:

a) All trucks entering or leaving the site with loads have their loads covered.

b) Trucks associated with the development do not track dirt onto the public road network.

c) Public roads used by these trucks are kept clean.

d) Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

Reason: To minimise the environmental impacts of construction works.

48. **Waste/Recycling Requirements (Materials)**
During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

49. **Street Tree Planting**
Street tree planting shall be installed in accordance with the following: one (1) Tristaniopsis laurina, located centrally between the proposed driveway edge and the existing power pole.

All street trees shall be a minimum pre-ordered planting size of 75 litres and shall meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use. All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge.

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

Reason: To maintain environmental and streetscape amenity.

50. **Landscape Completion**
Landscape works are to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:
a) landscape works are to be contained within the legal property boundaries
b) the footpath across the public road reserve is not approved
c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan, unless otherwise imposed by conditions
d) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise

scheduled if greater in size; meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, 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
e) mass planting shall be in garden beds prepared with a suitable free draining soil mix and minimum 75mm depth of mulch
f) all vegetation along the frontage road at the driveway shall not impede pedestrian or driver visibility, and vegetation shall not exceed one (1) metre in height within the 2.0 x 2.5m driveway splay.

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.

51. **Condition of Retained Vegetation**
Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:
a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
b) extent of damage sustained by vegetation as a result of the construction works,
c) any subsequent remedial works required to ensure the long-term retention of the vegetation.

Reason: Tree and vegetation protection.

52. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**
The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at: https://www.northernbeaches.nsw.gov.au/media/60355?1730767288

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

53. **Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval**
The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this

consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

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

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

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

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

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

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

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

Reason: To maintain proper records in relation to the proposed development.

56. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link:
https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223

The form for the application can be found on Council's website using the following link:
https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/T
r=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry

Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

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

57. **Garbage and Recycling Facilities**
All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.
Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

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

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

58. **Unit Numbering for Multi Unit Developments**
The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

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

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

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

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

Reason: To ensure consistent numbering for emergency services access.

59. **Sydney Water**
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to

the Building Developing and Plumbing section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

60. **Waste and Recycling Facilities Certificate of Compliance**
The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

61. **Waste/Recycling Compliance Documentation**
Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

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

63. **Authorisation of Legal Documentation Required for Waste Services**
The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. A Compliance Certificate, issued by the Certifying Authority, shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land.

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

64. **Landscape Maintenance**
If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

65. **Landscaping adjoining vehicular access**
The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

66. **Mechanical Plant Noise**
Any mechanical plant including air conditioning units shall not produce noise levels that exceed 5dB(A) 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.

67. **Maintenance of Stormwater Treatment Measures - Minor(Conditions - On-Going)**
Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

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

Reason: Protection of the receiving environment.

68. **Parking**
The development is to maintain the following parking allocation for the life of the development:

(a) 4 x resident parking spaces.

Manoeuvring areas / turning bays must be kept clear of obstructions at all times.

Reason: To ensure appropriate management of parking on site.

69. **Resident Parking Permit Scheme**
Owners and/or occupiers are not eligible to apply for permits in any Residential Parking Permit Scheme that may apply to the area.

Reason: To facilitate the preservation of on-street car parking spaces and the amenity of the

surrounding locality



Certificate No. #HR-F4QYYH-02

Scan QR code or follow website link for rating details.

Assessor name	Krzysztof Kwiatkowski
Accreditation No.	DMN/24/2214
Property Address	27 Brown Street , Forestville, NSW, 2087

http://www.hero-software.com.au/pdf/HR-F4QYYH-02..

July 2026	BSA Reference: 21432
Building Sustainability Assessments	**Ph: (02) 4962 3439**
enquiries@buildingsustainability.net.au	**www. buildingsustainability.net.au**

Important Note

The following specification was used to achieve the thermal performance values indicated on the Assessor Certificate. If the proposed construction varies to those detailed below than the Assessor and NatHERS certificates will no longer be valid. Assessments assume that the BCA provisions for building sealing & ventilation are complied with at construction.

Be aware that BASIX does not over-ride the BCA and the NSW variations must be complied with.

Thermal Performance Specifications (does not apply to garage)			
External Wall Construction			*Added Insulation*
Brick Veneer & Lightweight			R2.7
Internal Wall Construction			*Added Insulation*
Plasterboard on studs			R2.7 to walls adjacent to garage
Plasterboard + studs + shaft liner + studs + Plasterboard (party walls)			R2.0 + R2.0
Ceiling Construction			*Added Insulation*
Plasterboard			R5.0 to ceilings adjacent to roof space under metal roof
Plasterboard			R3.5 to ceilings adjacent to roof space under concrete roof
Roof Construction	*Colour (Solar Absorptance)*		*Added Insulation*
Metal	Medium		Foil + R1.3 blanket
Concrete	Medium		None
Floor Construction	*Covering*		*Added Insulation*
Concrete	As drawn (if not noted default values used)		R2.0 to floors where open below
Concrete	As drawn (if not noted default values used)		R2.0 to floors adjacent to garage
Windows	*Glass and frame type*	*U value*	*SHGC Range*	*Area sq m*
Performance glazing Type A		*2.91*	*0.42 - 0.46*	to U4
Performance glazing Type B		*2.90*	*0.48 - 0.54*	to U4
Performance glazing Type A		*4.50*	*0.47 - 0.53*	to all other UNO
Performance glazing Type B		*4.50*	*0.58 - 0.64*	to all other UNO
Type A windows are awning windows, bifolds, casements, tilt 'n turn' windows, entry doors, french doors				
Type B windows are double hung windows, sliding windows & doors, fixed windows, stacker doors, louvres				
Skylights	*Glass and frame type*	*U*	*SHGC*	*Area sq m*	*Detail*
n/a					
U and SHGC values are according to AFRC. Alternate products may be used if the U value is lower & the SHGC is within the range specified					
Shade elements					*(eaves, verandahs, awnings etc)*
All shade elements modelled as drawn					
Ceiling Penetrations					*(downlights, exhaust fans, flues etc)*
Downlights are modelled as IC rated with insulation fitted over the fixtures					
All exhaust fans are modelled as sealed					
Ceiling Fans used in the Modelling and to be installed in the following areas (each unit):					
1x 1200mm to each bedroom; 3x 1200mm to ground floor living (x2) & flexi room (x1).					

27 Brown Street Forestville

SUMMARY OF BASIX COMMITMENTS FOR EACH UNIT

This is a summary of the BASIX Commitments as detailed in the BASIX Certificate.
Refer to the CURRENT BASIX Certificate for Complete details.
For definitions refer to basix.nsw.gov.au

WATER COMMITMENTS					
Fixtures					
4 Star Shower Heads	Yes (> 6 but <= 7.5 L/min)				
4 Star Kitchen / Basin Taps	Yes		**4 Star Toilet**	Yes	
Alternative Water					
Minimum Tank Size (L)	2000	**Collected from Roof Area (m2)**	18		
Tank Connected To:					
All Toilets	Yes		**Laundry W/M Cold Tap**	Yes	
One Outdoor Tap	Yes				
THERMAL COMFORT COMMITMENTS - Refer to TPA Specification on plans					
ENERGY COMMITMENTS					
Hot Water	Gas Instantaneous 6 Star				
Cooling System	**Living**	1 Phase A/C Ducted		EER 3.0 - 3.5	
	Bedrooms	1 Phase A/C Ducted		EER 3.0 - 3.5	
Heating System	**Living**	1 Phase A/C Ducted		EER 3.0 - 3.5	
	Bedrooms	1 Phase A/C Ducted		EER 3.0 - 3.5	
Ventilation	**1 x Bathroom**	Fan ducted to exterior		Manual on/off	
	Kitchen	Fan ducted to exterior		Manual on/off	
	Laundry	Natural ventilation		N/A	
Natural Lighting	**Window/Skylight in Kitchen**			Yes	
	Window/Skylight in Bathrooms/Toilets			As drawn	
OTHER COMMITMENTS					
Outdoor clothes line	Yes				
Stove/Oven	Gas cooktop & electric oven				
Alternative Energy	n/a				

WALSH ARCHITECTS

T4, 5 Geelong Street,
Fyshwick ACT 2609

E: scott@walsharchitects.com.au
P: 0466 049 880

Nominated Architect : Scott Walsh
ACT 2624

REV NO.	DESCRIPTION	REV DATE
1	FEASIBILITY STUDY	17.06.25
2	FOR DA	27.10.2025
3	DA UPDATED	11.12.2025
4	FOR RFI	06.07.2026

PROPOSED SITE PLAN

SHEET NUMBER DA040

REVISION 4

SCALE @ A1 1 : 200

27 BROWN STREET, FORESTVILLE, NSW



1 WEST SIDE ELEVATION
DA300 1 : 100 @ A1



2 EAST SIDE ELEVATION
DA300 1 : 100 @ A1

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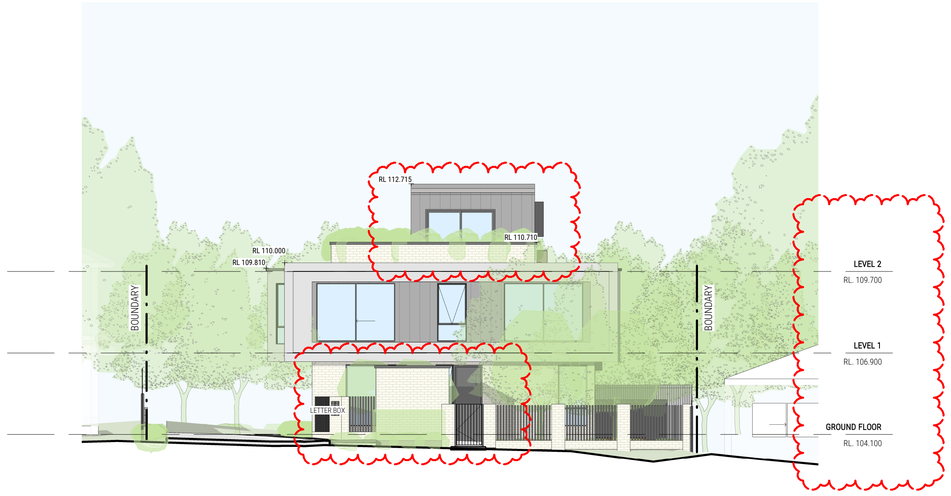
Nominated Architect : Scott Walsh
ACT 2624

REV NO.	DESCRIPTION	REV DATE
1	FEASIBILITY STUDY	17.06.25
2	FOR DA	27.10.2025
3	FOR RFI	06.07.2026
4	FOR RFI	24.08.2026

ELEVATIONS

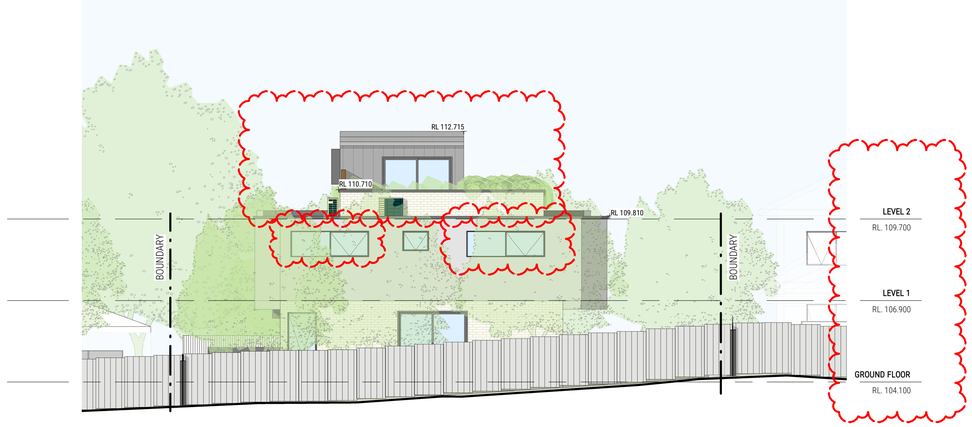
SHEET NUMBER	DA300
REVISION	4
SCALE @ A1	1 : 100

27 BROWN STREET, FORESTVILLE, NSW



1 DA301 NORTH SIDE ELEVATION
1 : 100 @ A1

Certificate No. #HR-F4QYYH-02
Scan QR code or follow website link for rating details.
Assessor name Krzysztof Kwiatkowski
Accreditation No. DMN/24/2214
Property Address 27 Brown Street , Forestville, NSW, 2087
http://www.hers-software.com.au/pdf/HR-F4QYYH-02



2 DA301 SOUTH SIDE ELEVATION
1 : 100 @ A1

WALSH ARCHITECTS

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Nominated Architect : Scott Walsh
ACT 2624

REV NO.	DESCRIPTION	REV DATE
1	FEASIBILITY STUDY	17.06.25
2	FOR DA	27.10.2025
3	FOR RFI	06.07.2026

ELEVATIONS

SHEET NUMBER	DA301
REVISION	3
SCALE @ A1	1 : 100

27 BROWN STREET, FORESTVILLE, NSW

northern beaches council

26 March 2026

DESIGN AND SUSTAINABILITY ADVISORY PANEL MEETING REPORT

DA2025/1640 – 27 Brown Street FORESTVILLE NSW 2087

PANEL COMMENTS AND RECOMMENDATIONS

General

This Development Application was presented to the Panel at Pre-DA stage on 24 July 2025. The advice provided the following conclusion:

SEPP Housing - Chapter 1 Preliminary Section 3 Principles of Policy
The Panel needs to consider the overarching principles set out in SEPP (Housing) Chapter 1 that relate to environmental impacts.
These principles have become increasingly difficult to achieve when affordable housing height and FSR bonuses are applied to TOD rezoned areas and/or additional housing types are permitted in lower density zoned areas all of which require skilful design solutions.
The principals are as follows - (c) ensuring new housing development provides residents with a reasonable level of amenity, (e) minimising adverse climate and environmental impacts of new housing development, (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality.
The Panel acknowledges the permissibility of villa housing types, however, does not support the environmental impacts that run contrary to other policies being satisfied including for urban canopy targets and mitigating urban heat island impacts, and the Northern Beaches desired future character.
Not supported, however, the Panel notes the very early stage of concept design and encourages design development to address the significant issues identified with the housing typology proposed.

The following details are noted: the subject site is zoned R2 Low Density Residential pursuant to the Warringah Local Environmental Plan 2011 and currently accommodates a single storey dwelling house with an attached self-contained unit. The site is burdened by a 1.829m wide drainage easement that runs across the front northwest corner. The site is 500m walking distance from the Forestville Town Centre, hence the site is located within a *"Low and Midrise Housing"* area within the meaning of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), and so the medium density development typology, being "multi-dwelling housing" is permitted on the site pursuant to the Housing SEPP.

Strategic context, urban context: surrounding area character

The Panel has no issue with the additional storey. In context of SEPP Housing objectives to increase housing it is a change that has little negative impact – as long as overshadowing and privacy constraints to neighbours are not negatively impacted.

<u>Recommendations</u>

Previous recommendations from Pre-DA stage:

northern beaches council

I. Provide an architectural understanding of natural systems into the context and site analysis – water, canopy and topography in a wider context – needed to ground the design decisions appropriate to the opportunities afforded and how urban repair and urban heat mitigation measures are considered.

- Not provided. Not pressed.

II. Include wider urban contextual analysis.

- Not pressed.

III. Site coverage and hardstand needs to be minimised to improve the landscape outcomes along the side boundaries to achieve the desired future character under the WLEP and WDCP.

- Acceptable.

IV. Consider alterative multi-dwelling housing typologies for the site that may improve site and amenity outcomes.

- Resolved.

Further recommendations for DA:

1. Nil

Scale, built form and articulation

Ensure 2700mm high (minimum) ceiling height to ground floor habitable rooms.

Maintenance of roof top terraces problematic – additional cost of waterproofing and insulation. Consideration of simpler alternatives might allow applicant to better allocate that money elsewhere.

The Panel does not consider that the internal unit widths (less than DCP 6m) present a problem.

Splayed bay windows to street makes sense in terms of privacy and outlook. Bay windows to driveway a wider (and better) to the windows looking down the boundary. Good the way that it shifts focus towards street and north and better deals with side boundary privacy considerations. The windows on the northern side have smaller glazing areas. Could consider wrapping these windows around the splayed corners of the walls facing side boundaries with openings that have privacy screens.

Modify unit 1 entry and landscape. Move garbage store alongside other side driveway to free up space for landscape.

<u>Recommendations</u>

Previous recommendations from Pre-DA stage:

V. Test alternative site arrangements for the built form that may better support the DCP by minimising building footprints and hardstand in the site.

- Acceptable.

VI. Future design development is to maximise amenity for outlook, natural daylight and cross ventilation pathways while avoiding managing visual privacy between dwellings and neighbouring properties.

- Better.

VII. Further develop the expression of built form and detailed materials palette.

- Acceptable.

VIII. Consider deleting the Level 2 terraces in context of a development that is lower scale, in a low density residential urban context and where sensitivities to long-term maintenance costs are likely to be a factor for future residents.

- Remains.

IX. Consider some reductions to GFA for townhouses 2 and 3 and/or relocation of GFA to address site impacts, which also may provide opportunities for articulating the built form. See also Recommendations at Landscape and Amenity.

- Not pressed further.

Further recommendations for DA:

2. Provide shading to all windows and in particular the northwestern living room windows.
3. Ensure Dwelling 1 street entry is inviting and legible.
4. Connect the Dwelling 1 and Dwelling 4 gardens to living spaces which would negate the need to roof terraces.
5. Consider removing roof terraces and introducing pitched roofs over entire roof to eliminate need for flat roofs– so that study becomes more of an “attic” room.
6. Detail design for driveway thinking of it as a garden element, including detail finishes to thresholds and add rhythm of planters to signify entry consistently.

Access, vehicular movement and car parking

Introduce planter outside unit 3 same as other units 1&2.

Recommendations

Previous recommendations from Pre-DA stage:

X. Explore opportunities to reduce carparking and/or other configurations to minimise the need for vehicle movements along the full extent of the site should be explored.

- Not pressed.

Further recommendations for DA:

7. Nil

Landscape

The proposal is for 4 townhouses with associated driveway to access the four garages. The proposal has been before the DSAP previously which suggested a reduction of the area designated to hardstand area for the driveway. Amended architectural plans have been provided to the Panel for review and the landscape plan will now need to be updated to reflect the latest issue / revision. The proposal will remove one Council tree from the verge which should be replaced with a more appropriate species for planting below power lines. The area at

the southern end of the entry drive needs to be fully resolved delineating hard stand from soft scape.

Recommendations

Previous recommendations from Pre-DA stage:

XI. Reconsider the vehicle parking strategy to increase deep soil landscape along the side boundary(ies).

- Addressed.

XII. If townhouse 2 and 3 courtyards remain a smaller footprint, do not include pocket sized turf lawns but design interesting courtyard gardens possibly with raised planters to cater for older residents.

- See below.

XIII. Consider treating the driveway as a 'living street' if 4 vehicles are required and to minimise impacts.

- Improved but see below.

XIV. Maximise the use of permeable unit paving systems, demonstrating deep soil volumes to support canopy trees in the front and rear setbacks.

- Not resolved.

XV. Front and rear setback areas should be retained in common ownership to better manage longe term quality landscape.

- To be advised.

Further recommendations for DA:

8. The landscape documentation is lacking the type of detailed information that is expected with a Development Application submission and more information such as detailed annotations and cross sections both north – south and east – west should be submitted to allow for a proper assessment of the intended landscape treatments.
9. The landscape documentation must reflect the latest changes to the architectural plan set and should show any stormwater engineering works that may influence the location of the required trees.
10. Consider the use of grass cell pavers with turf infill to the area at the end of the entry drive to allow the required room for vehicle movements while reducing the area of paving.
11. Consider relocating the bin store area adjacent to an area along the eastern side of the driveway.
12. The requirement for canopy cover should be in accordance with table 4 of the Canopy Guide for Low and Mid-Rise Housing which requires one small tree per lot. Consider additional planting of medium or large trees where space allows to assist with providing additional canopy cover to further assist with mitigation of the effects of climate change.
13. Plant selection should contain a significant number of endemic plants selected from the Northern Beaches Council Native Planting Guide – Frenchs Forest District.
14. The minimum size4 of specified trees should be at least 200 litres and a 12-month establishment period provided by a suitably qualified landscape company with experience in maintaining newly planted, super advanced trees.

15. Garden areas are not fully resolved and more design work to accomplish indoor – outdoor room relationship.
16. Front setback area could have more trees including 1 x large canopy tree that would eventually be above the height of the building providing shade.
17. Soft textured, wispy grasses and ground covers to be used in the driveway garden beds to not scratch cars and easily obtained and replaceable.
18. Rooftop terraces should be further resolved – if in fact, they are retained (see other recommendations in built form).
    a. Mechanical shade and deciduous small tree for natural shade to be considered if the roof top, private open space scheme is to be utilised.

Amenity

Floor to floor heights are minimal. 2400mm room heights not adequate. Provide min 2700mmm in living rooms. Requirement for insulation in floor to roof top gardens problematic (cost, construction) and better roofing solution recommended.

Recommendations

Previous recommendations from Pre-DA stage:

XVI. The Panel recommends the following be addressed in future presentations and development application:

a. Creating a generous dwelling entry area that can fit at least 2 people noting the adjacent kitchen. This is the main entry not a 'back-door'.

b. Avoiding winder stairs – while they are spatially efficient, there are inefficiencies/awkward relationships as proposed and winder stair types are more conducive to slips particularly when carrying household items or children for example and are very difficult for moving larger furniture.

c. Co-locate laundries with ground floor powder rooms and alternative stair geometries to avoid being in the main living area and create further spatial efficiencies.

d. Improve outlook and private open space amenity for townhouses 2 and 3 by reducing the building footprints and/or number of rooms to rearrange locations of GFA.

e. Placement of openings that maximise garden outlooks, natural daylight and ventilation and solar amenity particularly during colder months.

f. Provide external solar protection such as generous eaves and external operable shading for windows/doors with aspects within the east through north and west.

g. Include weather protection to openings onto private open spaces and entries.

Further recommendations for DA:

19. See above.

Façade treatment/Aesthetics

Recommendations

Previous recommendations from Pre-DA stage:

- N/A

Further recommendations for DA:
Simply material selection and construction methodology.

Sustainability

Some of the comments from the previous DSAP meeting have been addressed, notably twisting the bedroom windows to the north, a bit more shading, and rainwater reuse. However, there are still a few changes to be undertaken.

Material selections for the building would benefit from further review – use lightweight materials where possible, such as in the shading projection around the northern windows. A timber frame will perform better than a steel-frame, and may be easier to construct as it will not need the thermal breaks in the construction that a steel frame will need.

Recommendations

Previous recommendations from Pre-DA stage:

XVII. Make sure window placements are on both sides of the dwellings / minimum dual aspect to allow for natural cross ventilation.

- Resolved.

XVIII. Ensure there is spatial allowance for servicing, such as heat pumps, hot water systems, rainwater tanks and solar panels.

- Resolved.

XIX. Provide space for bicycle storage.

- Resolved.

XX. Avoid gas for all services.

- Still to be addressed: and remove all gas from the services.

XXI. Include solar panels on the roofs and provision for EV charging.

- Still to be addressed: Include solar panels on the roof for each of the units,

Further recommendations for DA:

20. More shading should be included, especially on the living room glazing. This will reduce heat gain in summer and will also increase usability of the outdoor space.
21. Water Efficiency
    - Landscape design and planting should be water tolerant and suitable for the microclimate.
22. Embodied Carbon Reduction
    - Use lightweight materials instead of concrete wherever possible.
    - Use a timber frame instead of steel to improve thermal performance and reduce the risk of condensation and mould in the apartments.
    - Reuse and/or recycle materials from any demolished buildings (e.g. masonry, timber, fittings, equipment).
    - Design simply: minimise complex structures, large spans, façade steps, and unnecessary finishes.



- Keep building size modest and optimise design of spaces.
- Use fewer materials where possible (e.g. exposed concrete floors, reduced tiling).
- Design for durability and adaptability over time, accounting for different systems and services.
- Preference low-carbon or renewable materials (e.g. timber, recycled steel, low-carbon concrete).

PANEL CONCLUSION

The Panel notes that improvements have been made. It provides in principle support as long as recommendations (noted above) are incorporated including; unresolved environmental, landscape, and design concerns.

Key issues include insufficient landscape detail, excessive hardstand, inadequate canopy provision, and unresolved rooftop terrace design.

While built form, amenity, and sustainability have improved, further refinement is required to enhance environmental performance, reduce urban heat impacts, and better integrate with the local character.

The Panel recommends simplifying design, increasing planting and shading, improving spatial amenity, and addressing sustainability measures before the Development Application can be adequately supported.

ITEM 4.2 DA2026/0489 - THE ESPLANADE NARRABEEN - CONSTRUCTION OF A COMMUNITY WATER SPORTS FACILITY WITH PUBLIC AMENITIES, ANCILLARY CAFE AND ASSOCIATED LANDSCAPE WORK

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant and owner are the council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2026/0489 for Construction of a community water sports facility with public amenities, ancillary cafe and associated landscape work at Lot 7358 DP 1164008, The Esplanade, Narrabeen NSW 2101 subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.2.1** - 93 pages] 2. Site Plans & Elevations [**4.2.2** - 3 pages]

northern beaches council

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0489

Responsible Officer:	Darren Laybutt (GAT & Associates) – Consultant Planner
Land to be developed (Address):	Lot 7358 DP 1164008 The Esplanade, Narrabeen NSW 2101
Proposed Development:	Construction of a community water sports facility with public amenities, ancillary café and associated landscape work
Zoning:	RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	N/A
Consent Authority:	Northern Beaches Local Planning Panel
Land and Environment Court Action:	No
Applicant:	Corona Projects Pty Ltd on behalf of Northern Beaches Council

Application Lodged:	21/04/2026
Integrated Development:	Yes
Designated Development:	Yes – Section 2.7 of SEPP (Resilience and Hazards) 2021 – 'coastal wetlands'
State Reporting Category:	Community Facility
Notified:	11/05/2026 – 08/06/2026
Advertised:	Yes
Submissions Received:	76 submissions (69 unique) • Support: 67 submissions • Object: 9 submissions
Clause 4.6 Variation:	No
Recommendation:	Approval, subject to conditions

Estimated Cost of Works:	$5,341,661

EXECUTIVE SUMMARY

Council has lodged Development Application No. DA2026/0489 seeking consent for the construction of a single storey community water sports facility with public amenities, ancillary café, multipurpose room, and associated landscape work at Jamieson Park, The Esplanade, Narrabeen.

The development also includes the removal of 11 trees and various concrete areas, temporary amenities, bins and picnic tables.

Narrabeen Lakes Sailing Club will be the primary tenant, with boat storage and ancillary facilities occupying the western part of the building. A previous sports amenity building was damaged by fire in 2021 and subsequently demolished. The Sailing Club has been operating from temporary structures and amenities in the intervening period.

The development is "Designated Development" under Section 2.7 of State Environmental Planning Policy (Resilience and Hazards) 2021, as it is development on land identified as coastal wetlands. The Secretary's Environmental Assessment Requirements (SEARs) were obtained, and an Environmental Impact Statement was prepared for the application.

The development is also "regionally significant development" under Section 2.19 and Schedule 6, Clause 3 of State Environmental Planning Policy (Planning Systems) 2021, as it is "*Council related development over $5 million*."

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the application is subject to the Council Related Development Application Policy due to a conflict of interest arising from the fact that the application is made by Northern Beaches Council (through Corona Projects Pty Ltd) for works being proposed on Crown land which is managed by Northern Beaches Council.

The application has been assessed in accordance with the Conflict of Interest Management Strategy dated 29 April 2026 prepared specifically for this application, including public exhibition for 28 days.

The application was lodged on 21 April 2026 and was notified from 11 May until 8 June 2026. A total of 76 submissions were received, with 67 in support and 9 objecting or generally supportive while still raising concerns with the proposal. The main matters raised in the objections and concerns were traffic and parking impacts, adequacy of boat storage, concerns about the safety and risk of vandalism of the café, the size of the café, the scale of the whole development being excessive, and acoustic concerns for night operation of the café and multipurpose space. These matters are discussed within the report.

A request for additional information was issued on 6 July 2026. The majority of the requested information was submitted on 3 August 2026, with some further information and amendments submitted subsequently.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, the application is recommended for approval subject to the conditions outlined in **Attachment 1** of this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises the following works:

- Removal of 11 trees, including one (1) dead tree.
- Demolition or removal of a number of elements in the park adjacent to the site, including temporary toilet structures, concrete areas and paths, picnic tables, bicycle loops, and bins.
- Construction of a single storey, split level community facility comprising the following:
    - Lower split level (RL 2.400mAHD)
        - Two (2) boat storage areas (165m^2 & 43m^2)
        - A workshop (10m^2)
        - Storage area (11m^2)
    - Higher split level (RL 3.550m AHD)
        - Watersport facilities room (34m^2)
        - Café (22m^2), including storage (4m^2) and cool room (3m^2) and area for up to 25 outdoor seats on a covered deck
        - Multi purpose space (30m^2)
        - Canteen (12m^2)
        - Club amenities, including showers and an accessible bathroom.
        - Public amenities, including separate male and female and an accessible bathroom.
        - A covered deck around the perimeter of the elevated split level portion of the building.

- Erection of four (4) building identification signs on the north and eastern façades, comprising:
  - 2 x wall signs “Narrabeen Lakes Sailing Club” – 4.56m wide x 600mm tall
  - 2 x wall signs “Narrabeen Lakes Sailing Club” with contact number and Council logo – 1.2m wide x 1.8m tall

- New permeable paving driveway between the car park loop road and boat storage.

- Ancillary elements, including:
  - Ramps and stairs to access the building.
  - New permeable paving and concrete footpaths within the immediate vicinity of the building.
  - Planting around the perimeter of the building, including replacing trees to be removed.
  - Two (2) bin enclosures on the southern side of the building for separate commercial and Council/Sailing Club bins.
  - Two (2) aboveground rainwater tanks.
  - Various stormwater infrastructure, including discharge into an unnamed waterway leading to Narrabeen Lagoon.

- The building is to be constructed of a mixture of lighter toned brick and lightweight, dark grey metal cladding. A dark grey metal roof is proposed.

- The Plan of Management identifies the following proposed hours of operation:
  - Narrabeen Sailing Club: Monday to Sunday – 7am to 9pm
  - Watersport Facilities: Monday to Sunday – 7am to 6pm
  - Cafe: Monday to Sunday – 7am to 6pm
  - Multipurpose room: Monday to Sunday – 7am to 6pm

Refer to **Figures 1-6** below for key extracts of the plans and the photomontages.

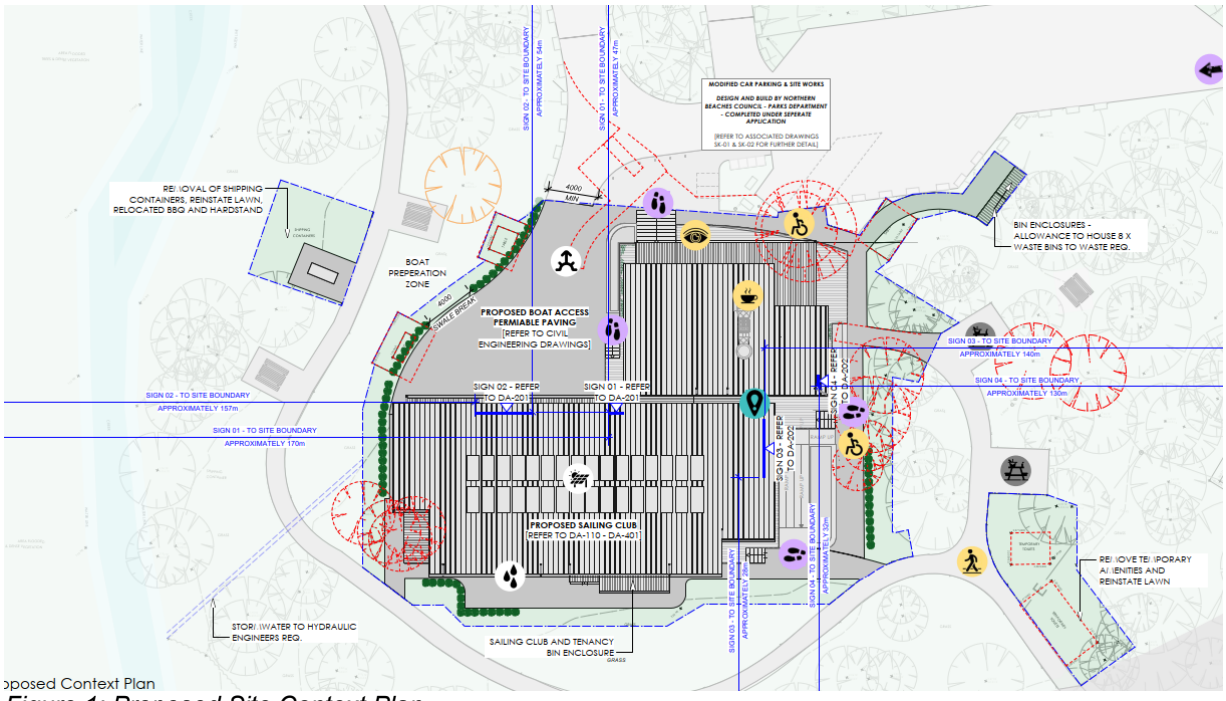


Figure 1: Proposed Site Context Plan

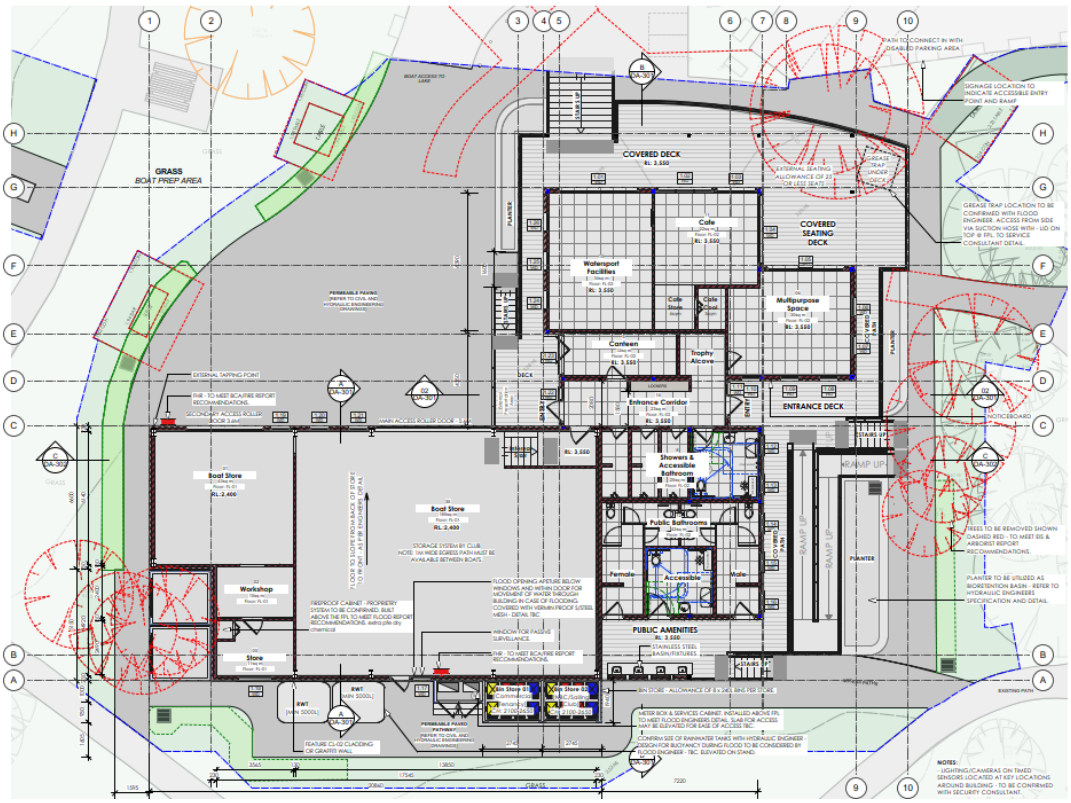
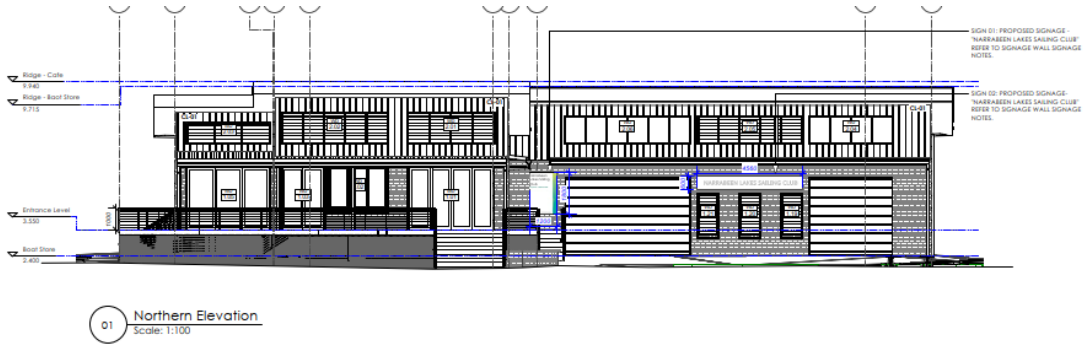


Figure 2: Proposed Floor Plan



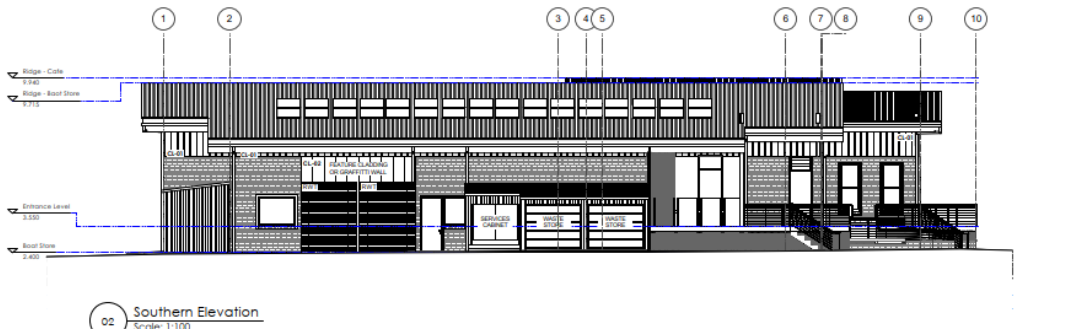


Figure 3: Proposed North and South Elevation

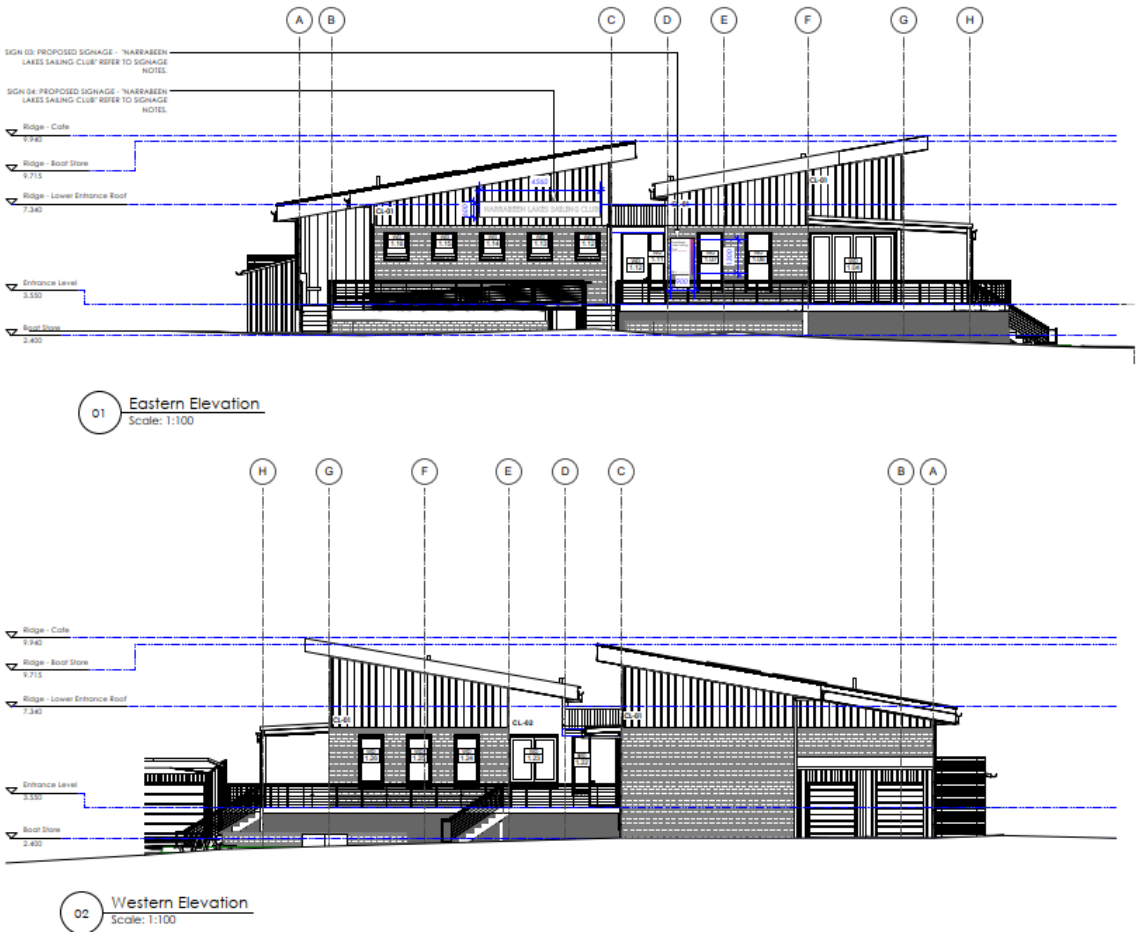


Figure 4: Proposed East and West Elevations



Figure 5: Artist's Impression - View from Boat Ramp



Figure 6: Artist's Impression - View from East of the Building

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 have 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

The main issues that arose during the assessment included:

- Clarification of the Scope of Works: A number of documents associated with the original submission of the application referenced various upgrades that were proposed to the western section of the Jamieson Park car park, including a new loop road, removal of a tree and various excavation works to facilitate that upgrade. The architectural plans included some references to these works being undertaken by others, while some portions did not, creating confusion as to what exactly formed part of this development application. The Environmental Impact Statement also referenced dredging

works associated with the construction of concrete areas associated with the boat ramp, work which was not identified on any plan.

Clarification was requested and obtained, which resulted in the removal of all work associated with the car park and limits the development scope to the proposed community facility and associated infrastructure, new paths, and associated tree removal, which is assessed within this report. No dredging or works to boat ramps are proposed.

Further upgrades to the car park are under consideration but will form a separate application.

- Flooding: The proposed building is a single storey. The Flood Planning Level (FPL) is 3.55m AHD, which the finished floor levels of the non-recreational areas are proposed to be constructed at. However, the Probable Maximum Flood (PMF) is 5.02m AHD, well above any floor level in the building. Council's Flooding Engineer required further assessment of the emergency response, particularly in regard to shelter in place refuge above the PMF, including further commentary to justify why a refuge is not provided.

  Further information was ultimately submitted in an amended Flood Report, referencing the nature and occupancy profile of the development as central to the assessment of an appropriate emergency response. As a non-habitable recreational facility with no overnight occupation or residential component, it is a building with discretionary and weather dependent use. Consequently, the risk during a flood event is very small and will allow sufficient lead time to evacuate, and a shelter in place refuge is neither practical nor appropriate in this context. Council's Flooding Engineer was satisfied with this, subject to conditions.

- Operational Details: Limited information was provided on the operational details, including hours of operation, and inconsistencies in the presented information. These aspects were clarified through the assessment process.

SITE DESCRIPTION

Property Description:	Lot 7358 DP 1164008 The Esplanade, Narrabeen NSW 2101
Detailed Site Description:	The subject site is land commonly known as Jamieson Park and is legally described as Lot 7358 in Deposited Plan 1164008. The lot is some 44,662.9m^2 in area and irregularly shaped with a northern and eastern boundary to Narrabeen Lagoon. Refer to **Figure 7**. Jamieson Park contains a public at-grade car park comprising 58 car spaces, various footpaths, picnic tables, temporary amenities, bins, two boat ramps, and open space. Substantial tree and canopy cover are present, with some cleared areas. The main portion of the site relevant to the application is a cleared area of land partly bounded by a generally circular footpath, south of the western end of the at-grade car park. Refer to **Figure 8** and the photos in **Figures 9-16**. The Esplanade is the sole road access point from the southeast of the site. The majority of the lot is zoned RE1 Public Recreation, including the area relevant for the application. It is identified as Crown Land, with Northern Beaches Council being the Crown Land Manager. Refer to

	Figure 17. A modest portion of the lot to the east is zoned W1 Natural Waterways. The development area is generally flat with a modest fall to the west toward an unnamed waterway leading to Narrabeen Lagoon.



Figure 7: Locality Map (site outlined in orange) (Source: SDT Explorer)



Figure 8: Site Location Map (Source: Northern Beaches Mapping)



Figure 9: View southwest toward the proposed building location from the loop road



Figure 10: View south to the development area from loop road



Figure 11: View of temporary storage and structures used by the Sailing Club, and picnic table and BBQ to be removed



Figure 12: View east toward development site, including temporary amenities in the background



Figure 13: View west to the temporary storage of boats in the southwestern portion of the development area, near the waterway



Figure 14: View north to the development area from the southwestern part of the loop path



Figure 15: Temporary boat storage in the southwestern part of the site



Figure 16: View east toward temporary public amenities

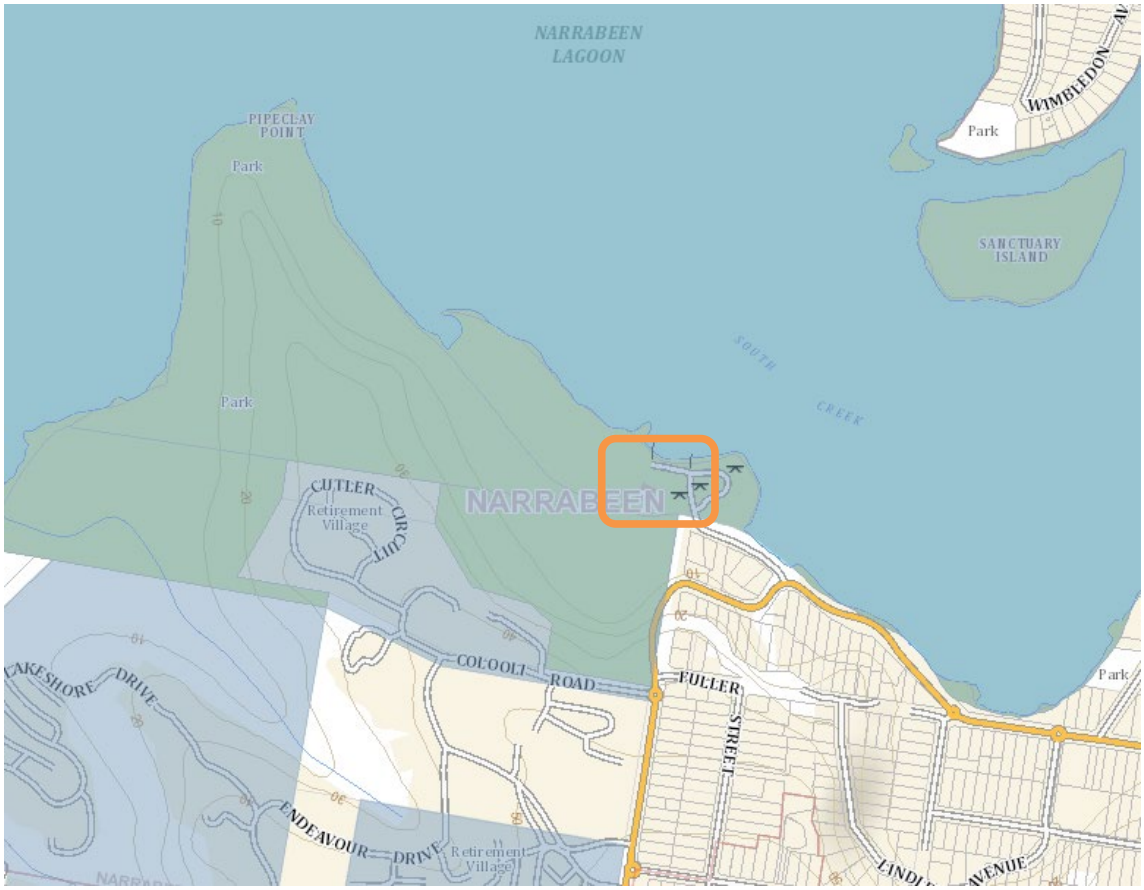


Figure 17: Crown Land Map (Crown land shaded blue) (Source: NSW Planning Portal Spatial Viewer)

DESCRIPTION OF LOCALITY

The site is on the southern side of Narrabeen Lagoon, approximately 1km southwest of the centre of Narrabeen.

The land adjoins a pocket of R2 Low Density Residential zoned land some 80m to the southeast comprising 1-2 storey dwelling houses. The RSL LifeCare ANZAC Village is some 200m to the south, upslope and separated by substantial vegetation, typically 2-3 storeys in height.

Land to the west is also Crown Land, forming part of the broader park and typically accessed by the public as part of the Narrabeen Lagoon Trail.

SITE HISTORY

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

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

A Pre-Lodgement Meeting was held on 30 September 2025 (PLM2025/0135). The minutes of this meeting have been considered in the planning assessment within this report.

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 3.17 of the EP&A Act 1979 permits an environmental planning instrument to contain provisions declaring any class or description of development to be Designated Development for the purposes of this Act. The proposed development is Designated Development pursuant to Section 2.7(2) of State Environmental Planning Policy (Resilience and Hazards) 2021 as it is the carrying out of development on land identified as "coastal wetlands" on the relevant map. Part 4, Division 4.3, Section 4.10 of the EP& Act 1979 states that Designated Development is development that needs consent. The submitted development application addresses this need. Section 4.12(8) of the EP&A Act states that a development application for Designated Development is to be accompanied by an Environmental Impact Statement prepared by or on behalf of the applicant in the form prescribed by the regulations. An Environmental Impact Statement was prepared in accordance with the regulations and accompanied the application.

Section 4.15 'Matters for Consideration'	Comments
	Section 4.20 of the EP&A Act 1979 states that a development consent for Designated Development has effect on and from the end of 28 days after it is registered on the NSW planning portal. Schedule 1, Section 8 of the EP&A Act 1979 requires a minimum exhibition period of 28 days for Designated Development. The application was exhibited for 28 days, from 11/05/2026 to 08/06/2026.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion under 'Draft Environmental Planning Instruments' in this report.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	Part 3, Division 3, Section 56 of the EP&A Regulation 2021 requires Designated Development to be published on the consent authority's website as soon as practicable after a development application is lodged. Acknowledgement of the application was published on Northern Beaches Council's website shortly after lodgement. Section 58 of the EP&A Regulation 2021 requires a notice to be exhibited on the land to which the Designated Development relates. A notice was erected on the site. Section 60 of the EP&A Regulation 2021 requires a copy of all submissions to be issued to the Planning Secretary. This was undertaken. Part 4, Division 2 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. Section 29 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. Section 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested on 6 July 2026 in relation to clarifying the proposed works to the car park, operational details and amendments to the Plan of Management, consistency in the proposed signage, further flooding and waste information, and to resolve various inconsistencies in the submitted information relating to tree removal, dredging, and responding to submissions.

Section 4.15 'Matters for Consideration'	Comments
	Section 61 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. Section 62 and/or 64 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. Section 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. Section 69 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. Part 8, Section 2 of the EP&A Regulation 2021 outlines the environmental assessment requirements for an Environmental Impact Statement prepared under the Act, Section 4.12(8) or Division 5.1. Section 173 requires the responsible person to apply to the Planning Secretary for the environmental assessment requirements. An application was made, and the Secretary's Environmental Assessment Requirements (SEARs) were obtained on 29 January 2026 (SEAR 2053). Section 178 of the EP&A Regulation 2021 details an expiry of the SEARs of 2 years after notice. The development application was lodged within 2 years of obtaining SEARs. Part 8, Division 5 of the EP&A Regulation 2021 outlines the form and content of an Environmental Impact Statement. The submitted Environmental Impact Statement is consistent with the form and content requirements, including the principles of ecologically sustainable development pursuant to Section 193.
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	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the next sections of this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.

Section 4.15 'Matters for Consideration'	Comments
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 refusing the application in the public interest.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

A draft Northern Beaches Local Environmental Plan (LEP) and Development Control Plan (DCP) went on exhibition from Monday 20 July 2026 until 30 August 2026. As a formally exhibited draft environmental planning instrument, regard must be given to the Northern Beaches Local Environmental Plan pursuant to Section 4.15(1)(b)(ii) of the EP&A Act.

The proposed development is and will remain defined as a community facility. The definition states:

community facility *means a building or place—*
(a) owned or controlled by a public authority or non-profit community organisation, and
(b) used for the physical, social, cultural or intellectual development or welfare of the community,
but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

The land is and remains zoned RE1 Public Recreation. All proposed land uses will remain permissible with consent in the zone. Refer to the Warringah Local Environmental Plan 2011 discussion later in this report for further detail on the land use and zoning.

There are no notable changes to site affectations, environmental hazards or clauses under the LEP to the subject application. The proposal is consistent with the draft LEP.

EXISTING USE RIGHTS

Not relevant to the application.

BUSHFIRE PRONE LAND

The site is identified as bushfire prone land. Refer to **Figure 18** below.

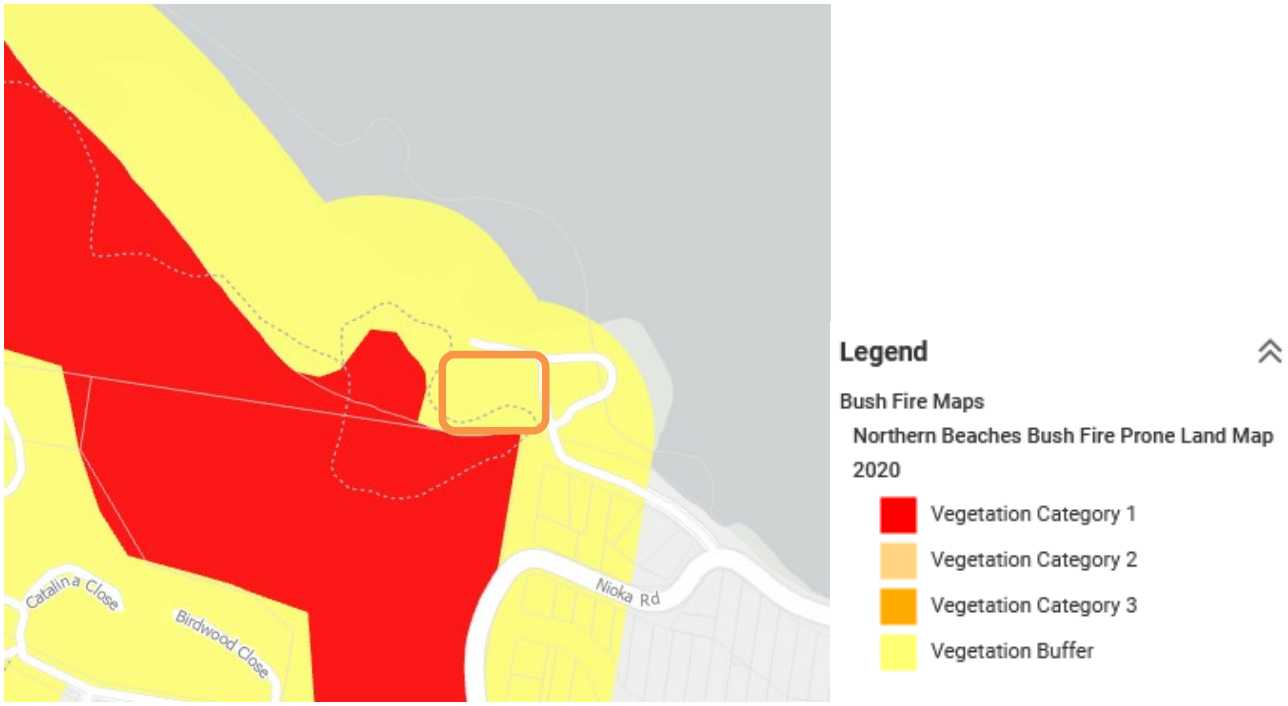


Figure 18: Extract of Northern Beaches Bush Fire Prone Land Map 2020

The specific portion of the site where works are proposed is identified as the Vegetation Buffer, adjacent to land identified as Vegetation Category 1.

Newcastle Bushfire Consulting prepared a Bushfire Assessment for the application. Pre-DA Advice was also provided from NSW Rural Fire Services (RFS), which agreed with the recommendations of the report.

Pursuant to Section 4.14 of the EP&A Act, a referral to RFS was undertaken during the assessment of the application. General Terms of Approval (GTAs) were received on 25 May 2026, identifying standard bushfire management measures, including:

- Maintaining an 11m radius around the building as an Inner Protection Area
- Construction of the building must meet a BAL-29 standard.
- Water and utility requirements.
- Landscaping requirements, with a minimum of 1m wide pedestrian circulation around the building.
- The preparation of a Bush Fire Emergency Management and Evacuation Plan prior to occupation of the development.

No concerns are raised from the ability for the site and development to meet the requirements of the GTAs. The application is therefore acceptable with regard to the relevant bushfire provisions.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process, Council is in receipt of 76 submissions (69 unique).

In accordance with the Northern Beaches Council Community Participation Plan (NBCPP), submissions received from the same person or on behalf of the same dwelling are counted as one unique submission. Accordingly, 67 submissions were received in support and 9 in objection.

Name:	Address:
Mr Gunther Gangolf Burghardt	3 The Esplanade NARRABEEN NSW 2101
Mrs Wendy Gail Smyth	240 South Creek Road WHEELER HEIGHTS NSW 2097
Mark Butler	17 A Bruzzano Place CROMER NSW 2099
Nick Davies	Address Unknown
Mr Chris Parker	Address Unknown
Mr Timothy John Woolnough	23 Brinawa Street MONA VALE NSW 2103
Mr David Allan Loomes	6 Marina Place BELROSE NSW 2085
Gregory Harris	Address Unknown
Mr Richard Charles Thomas	49 Mary Street BEACON HILL NSW 2100
Rhys David Llewellyn	5 / 15 Clarke Street NARRABEEN NSW 2101
Mel Williams	Address Unknown
Mr Anthony Stewart Johnston	6 Valley View Road FRENCHS FOREST NSW 2086
Jennifer Ross Adam Ross	Address Unknown
Melisse Cooper	Address Unknown
Mr Lee Jason Antill	63 Mona Vale Road MONA VALE NSW 2103
Mr Neil Driscoll	37 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Mr James Gough Liz Gazzard Mrs Joy Elaine Gough Liz Gough Miss Sammy Gough Becky Gough	10 Waterview Street MONA VALE NSW 2103
John Veale	Address Unknown
Narrabeen Lakes Sailing Club Incorporated	PO Box 86 DEE WHY NSW 2099
Nicole Louise Dobson	6 / 1 Avon Road DEE WHY NSW 2099
Mr Ian Douglas Milton	72 Veterans Parade WHEELER HEIGHTS NSW 2097
Ms Alexandra Fletcher Fitzgerald	27 Tulich Avenue DEE WHY NSW 2099
Mr Robert Nicoll	13 Irrawong Road NORTH NARRABEEN NSW 2101
Mrs Vanessa Wendy Bernadine Harvey	11 Kent Street COLLAROY NSW 2097
Felicity Ann Faed	95 Stella Street COLLAROY PLATEAU NSW 2097
Ms Robin Gay Watson	27 / 57 Queens Parade NEWPORT NSW 2106
Mr Rodney Bosland	4 Nioka Road NARRABEEN NSW 2101
Niall Powers	12 Totala Place ELANORA HEIGHTS NSW 2101
Ms Alexandra Oenone Charlotte Merritt	69 Nandi Avenue FRENCHS FOREST NSW 2086
Robert Scott McLelland	Goonaroo 1049 Eualdrie Road GRENFELL NSW 2810
Aymeric Cabuil	Address Unknown
Aubrey Gough	Address Unknown
Paul Kelly	Address Unknown
Mr Jonathan James Kaufman	49 Cashel Crescent KILLARNEY HEIGHTS NSW 2087
Isaac Pudney	Address Unknown
Mrs Pamela Joy Johnston	8 Valley View Road FRENCHS FOREST NSW 2086
Chris Sacre	Address Unknown
Chris Leyland	Address Unknown
Stephen Macleod	Address Unknown
Katie Moor	53 Undercliffe Road EARLWOOD NSW 2206
Mr Christopher Peet Hornsby Ms Julia Elizabeth Catherine Hornsby	16 Honeyeater Grove WARRIEWOOD NSW 2102
Dianne Margaret Canning	7 / 146 - 148 Ocean Street NARRABEEN NSW 2101
Oliver Gough	Address Unknown
Margaret Kim Murray	8 Nioka Road NARRABEEN NSW 2101
Justin Carey	47/26 Holland Street TOOWONG NSW 4066
Mr Colin Thomas Huxley	300 Alfred Street CROMER NSW 2099

Name:	Address:
Mrs Helena Jacoba Van De Linde	71 Palmgrove Road AVALON BEACH NSW 2107
Andrew Stephen Fong	Invalid address NSW
Bryan Clark	Address Unknown
Mr Peter Grahame Chapman	PO Box 339 DEE WHY NSW 2099
Kate Carey	Address Unknown
Mahesh Ranasinghe	Address Unknown
Brice Maxime Lacker	32 / 48 A Consul Road BROOKVALE NSW 2100
Isabella Winks	Address Unknown
Mr Ivan Barbar Signorelli	1 Tutus Street BALGOWLAH HEIGHTS NSW 2093
Mr Paul Albert Cutler	28 Wallaby Circuit MONA VALE NSW 2103
Renee Deerness	Address Unknown
Keith McIntosh	Address Unknown
Christopher Sant	11 Arthaldo Court NICHOLLS NSW 2913
Mr Nathan Robert Wrightson	103 Veterans Parade COLLAROY PLATEAU NSW 2097
Mr Edward Guy Yates	7 Fitzpatrick Avenue West FRENCHS FOREST NSW 2086
Mrs Kassandra May Roach	5 Heather Street WHEELER HEIGHTS NSW 2097
David Johnson	Address Unknown
Palm Beach Sailing Club P.B.S.C. Incorporated	1 Iluka Road PALM BEACH NSW 2108
Mr Nicholas James Marshall-Mccormack	2 Hilma Street COLLAROY PLATEAU NSW 2097
Hon. Jacqui Scruby MP NSW Government - Member For Pittwater	1725 Pittwater Road MONA VALE NSW 2103
Ms Nada Ann Sekulich	26 The Esplanade NARRABEEN NSW 2101
Peter Dabbs	Address Unknown
Cindy Zhang	11 Penrhyn Avenue PYMBLE NSW 2073

The following issues were raised in the submissions:

- Increase in traffic / congestion / parking pressure
- Café size is excessive / crime prevention
- Acoustic impacts
- Adequacy of storage for dragon boats
- Cost of construction
- Car-trailer parking

The above issues are addressed as follows:

Increase in Traffic / Congestion / Parking Pressure
Several submissions raised concerns that the local access roads to Jamieson Park are already under pressure and the proposal will increase traffic and parking demand without additional parking.

Comment:
A Transport Impact Assessment accompanied the application, prepared by PTC. The report was reviewed by Council's Traffic Engineer and found to be satisfactory with regard to traffic generation and required parking.

As the Club has continued to operate without such facilities, the reconstruction of Sailing Club facilities is not likely to materially increase traffic and parking demand from the current operation.

The café is likely to serve the Sailing Club and existing park users (i.e. walkers, local residents), rather than as a destination café / standalone trip creator. Consequently, it has been assessed as unlikely to increase traffic congestion or parking demand materially.

Some of the intended uses of the multipurpose space will increase traffic and parking demand, such as community events and recreational gatherings. However, the proposal was found to be satisfactory as the parking demand study found there to be capacity in the car park in peak periods, and the SIDRA intersection analysis found the nearby intersections operating at an A level of service, the highest level.

Consequently, the proposal is satisfactory regarding the traffic and parking implications.

Café Size is Excessive / Crime Prevention
Several submissions raised concerns that a kiosk style café would be preferred due to traffic generation and risk of vandalism, particularly with the extensive glazing proposed.

Comment:
The traffic generation aspect is discussed above.

Security systems will be installed in accordance with conditions of consent to address vandalism risk, including appropriate lighting and CCTV. Access to the building will be secure outside of operational hours.

The size of the café is relatively modest at 22m^2, excluding back of house. It is not considered to be excessive.

Adequacy of Storage for Dragon Boats
Submissions have raised concerns that there is no dedicated space proposed to store the dragon boats.

Comment:
The project team responded to state that the dragon boats will be provided with a dedicated hard stand space near the creek, with means of securing the boats. This will form part of a separate forthcoming park upgrade application.

Acoustic Impacts
Submissions raised concerns around the acoustic impacts of the café and multi purpose space.

Comment:
The originally submitted and notified application stated that the hours of operation were between 7am and 10pm. It was unclear whether this applied to all land uses or only the Sailing Club areas, as information was limited and conflicting.

Clarification was requested as part of the assessment process. The proposed hours of operation were clarified as:

- Narrabeen Sailing Club: Monday to Sunday – 7am to 9pm
- Watersport Facilities: Monday to Sunday – 7am to 6pm
- Cafe: Monday to Sunday – 7am to 6pm
- Multipurpose room: Monday to Sunday – 7am to 6pm

It is not proposed to operate the café or multipurpose space during the evening or at night. It is therefore unlikely that the development will create a noise nuisance on the local residential properties.

General noise management measures will be incorporated into the Plan of Management as part of a condition of consent.

Cost of Construction
A submission raised concern over the cost of the development using ratepayers' money.

Comment:
The cost of development is not a consideration under Section 4.15 of the EP&A Act.

Car-Trailer Parking
A submission requested allowance for car-trailer parking for boats and paddlecraft.

Comment:
There is no specific requirement for car-trailer parking in the Warringah Development Control Plan 2011.

While the initial application indicated potential upgrades to the car park, this has been clarified to be part of a future, separate application. It is understood that plans are not yet finalised.

Any application to upgrade the car park will require public exhibition. At the time of the exhibition, should car-trailer parking not form part of the application, the request can be made.

On 7 July 2026, all those that made a submission were advised in writing of the additional details that had been received. No further submissions were received in response.

REFERRALS

Internal Referral Body	Comments
Development Engineering	**CONDITIONS RECOMMENDED** First Referral – 3 July 2026 No objections to the proposed community sports facility and cafe subject to conditions. Second Referral – 12 August 2026 The reviewed plans and updated stormwater plan is acceptable, no objections to the development subject to conditions.
Environmental Health – Acid Sulfate Soils	**CONDITIONS RECOMMENDED** Referral – 5 May 2026 This application is seeking consent for; • Removal of allocated concrete areas, bins, ground coverings, and picnic tables; • Removal of 12 trees, including T5, T34, T35, T36, T37, T65, T66, T73, T74, T75, T77 and T92; • Construction of a new single storey community facility with associated public amenities and ancillary café; • Construction of new pedestrian pathways, new concrete pavement for boat access and minor alterations/extension of the existing carparking area. The land is situated on Acid Sulfate Soils class 1,2 and 3. The Statement of Environmental Effects states, 'The plans supplied do not indicate foundational detail however it is reasonable assumed that excavation and ground disturbance to some extent will be required for subsurface works such as slab, piers, foundations etc.' An Acid Sulfate Soils Management Plan has been provided with the application. The report has been prepared by Douglas Partners dated 25

Internal Referral Body	Comments
	February 2026, project no 236707.01. Environmental Health can provide relevant conditions of consent.
Environmental Health – Commercial Use	**CONDITIONS RECOMMENDED** <u>Referral – 5 May 2026</u> This application is seeking consent for; • Removal of allocated concrete areas, bins, ground coverings, and picnic tables; • Removal of 12 trees, including T5, T34, T35, T36, T37, T65, T66, T73, T74, T75, T77 and T92; • Construction of a new single storey community facility with associated public amenities and ancillary café; • Construction of new pedestrian pathways, new concrete pavement for boat access and, minor alterations/extension of the existing carparking area. Detailed plans for the fit out of the cafe haven't been provided however the concept can be conditioned and detailed plans provided prior to CC.
Landscape	**CONDITIONS RECOMMENDED** <u>First Referral – 15 June 2026</u> Landscape Referral find that the scope of works and land area under the development application is not clear and concise to continue the assessment. There is documentation on drawing DA-105 to suggest the scope of works as defined by the "proposed site security fence" which logically may define the scope of works. However, other plans and notation of "design by others" and "separate scope" requires explanation and clarification. Documentation under the development application should only be for the proposed works to be executed. Drawing DA-401 suggests works beyond the limits of drawing DA-105 and the inclusion of the Draft Concept Plan 'Building & Landscape Extent of Works' drawing number L-001 and SK-02 confuses the scope of works under this development application. Accurate delineation and documentation of the proposed development application is required. To assist the applicant, Landscape Referral note the following reports / plans: ***Arboricultural Impact Assessment:*** No concerns are raised with the recommendations for tree removal as listed in the report, except it is not known why T5 requires removal as the location of this tree is outside of the scope of works under drawing DA-105 and is part of identified carpark works under a "separate scope". The Draft Environmental Impact Statement (page 7) additionally suggests trees T6, T7, T8 and T9 and any other relevant trees require removal as part of the proposed car park works, and this is not identified on plans or indicated as works under this development application.

Internal Referral Body	Comments
	Landscape Plan: Under the Architectural plans a Landscape Plan drawing number DA-402 is submitted, and no concerns are raised with the landscape proposal. However, the inclusion of the Draft Concept Plan 'Building & Landscape Extent of Works' plan should be removed from the documentation unless this is part of the proposed works to be delivered under this application. The reports and plans need to be specific and clearly documented in what is proposed under the development application. <u>Second Referral – 10 August 2026</u> Reports and Plans have been amended to include only works under the development application. Any future works not included as part of this development application is not referred to in this assessment. An Arboricultural Impact Assessment and a Landscape Plan are submitted for consideration by Landscape Referral. ***Arboricultural Impact Assessment (AIA):*** No concerns are raised with the recommendations for tree removal as listed in the report. Eleven trees are recommended for removal in the AIA report including the following: trees 34, 35, 36, 37, 65, 73, 74, 75 and 77 (all She Oak), 66 (Dead) and 92 (River Oak), to accommodate the proposed development works. Tree protection measures as identified in sections 2.2 and 2.3 of the AIA report shall be subject to imposed conditions. ***Landscape Plan:*** The Landscape Plan drawing number DA-401 provides for tree replacement to offset tree canopy loss and drawing number DA-402 provides for planting works as part of the development works, and no concerns are raised with the landscape proposal.
Natural Environment – Biodiversity	**CONDITIONS RECOMMENDED** <u>First Referral – 10 June 2026</u> The comments in this referral relate to the following applicable controls and provisions: SEPP (Resilience and Hazards) 2021 - Coastal Wetlands and Proximity Area Warringah DCP Clause E2 Prescribed Vegetation Warringah DCP Clause E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat Warringah DCP Clause E4 Wildlife Corridors Warringah DCP Clause E5 Native Vegetation Warringah DCP Clause E6 Retaining unique environmental features Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets

Internal Referral Body	Comments
	Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). A BDAR prepared by Narla Environmental (April 2026) has been submitted with the application. The BDAR confirms the impact to 0.22ha of Plant Community Type 4028 - Estuarine Swamp Oak Twig-rush Forest and the removal of 12 trees (5, 34, 35, 36, 37, 65, 66, 73, 74, 75, 77, 92) as identified in the submitted Arboricultural Impact Assessment (rainTree consulting, March 2026). This PCT is associated with the following Endangered Ecological Communities: • Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (BC Act); and • Coastal Swamp Oak (Casuarina glauca) Forest of New South Wales and South East Queensland ecological community (EPBC Act 1999) The assessed residual impacts of the development result in the following offset requirements under the Biodiversity Offsets Scheme: • One (1) ecosystem credit for PCT 4028 - Estuarine Swamp Oak Twig-rush Forest. A Vegetation Management Plan (Narla Environmental, April 2026) has been prepared and submitted with the application to comply with the statutory requirements under SEPP (Resilience and Hazards) 2021 - Coastal Wetlands and Proximity Area. The VMP defines vegetation management zones and identifies the relevant actions for weed control and revegetation to be implemented over a minimum period of five (5) years for compliance with applicable controls and provisions. This VMP will also guide the recommended conditions of consent including and not limited to the planting of tree replacements. The proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland and impacts to the natural environment will be appropriately managed and mitigated where possible. <u>Second Referral – 10 August 2026</u> Amended documents have been submitted with the application and the outcome of the original biodiversity referral remains unchanged with the exception that tree 5 originally proposed for removal will now be retained. The proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland and impacts to the natural environment will be appropriately managed and mitigated where possible.
Natural Environment - Coastal	**CONDITIONS RECOMMENDED** <u>First Referral – 30 June 2026</u> This application was assessed in consideration of: • Supplied plans and reports; • Coastal Management Act 2016;

Internal Referral Body	Comments
	• State Environmental Planning Policy (Resilience & Hazards) 2021 (sections 2.10, 2.11 & 2.12); • State Environmental Planning Policy (Biodiversity & Conservation) 2021 (Part 6.3); • Relevant LEP and DCP sections of the Warringah Local Environmental Plan (LEP) 2011 and Warringah Development Control Plan (DCP) 2011. The application is generally consistent with relevant planning controls. ***Coastal Management Act 2016*** The subject site is located within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The development application is in line with the objects, as set out under section 3 of the Coastal Management Act 2016. ***State Environmental Planning Policy (Resilience & Hazards) 2021*** The subject site is located on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, section 2.10, section 2.11 and section 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021 apply for this development application. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Corona Projects dated March 2026 the development application satisfies requirements under section 2.10, section 2.11 and section 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021. ***Warringah LEP 2011 and Warringah DCP 2011*** No other coastal related issues identified. As such, it is considered that the development application generally does comply with the requirements of the coastal relevant sections of the Warringah LEP 2011 and Warringah DCP 2011.
Natural Environment - Flood	**CONDITIONS RECOMMENDED** <u>First Referral – 20 May 2026</u> The proposal is for the construction of a new building at Jamieson Park to replace the previous sports amenities building that was significantly damaged by fire. It comprises two land categories: Recreational use: Boat store, workshop, storerooms Business use: Cafe, water sports facilities, multipurpose space, canteen, bathrooms, amenities The site is flood affected, with the following applicable data: 1% AEP flood level: 3.05m AHD Flood Planning Level (FPL): 3.55m AHD Probable Maximum Flood (PMF) Level: 5.02m AHD Flood Risk Precinct: Medium/High Flood Hazard Category: H5

Internal Referral Body	Comments
	The proposal has been reviewed against Clause 5.21 of the Warringah LEP and Section E11 of the Warringah DCP, with reference to the submitted Flood Management Report (19.02.25) and plans. Flood storage is improved and floor levels are satisfactory. Floor levels for the business use part of the premises are at the FPL of 3.55m AHD, and for the recreational use part, they are permitted to be at ground level. However, emergency response has not been adequately addressed. With a flood hazard category of H5, the DCP requires that the Flood Management Report includes an emergency response assessment and that a shelter in place refuge is required at the PMF level. The refuge has not been provided, nor any appropriate justification as to why not. The proposed development can be further assessed once emergency response has been satisfactorily addressed. <u>Second Referral – 26 August 2026</u> The proposal has been reviewed against Clause 5.21 of the Warringah LEP and Section E11 of the Warringah DCP, with reference to the submitted Flood Management Report (24.08.26) and plans. Flood storage is improved and floor levels are satisfactory. Floor levels for the business use part of the premises are at the FPL of 3.55m AHD, and for the recreational use part, they are permitted to be at ground level. Emergency response has been satisfactorily addressed and will be further detailed in Flood Emergency Response Plan, which is to be prepared and endorsed by Council staff prior to the issue of the Construction Certificate.
Natural Environment - Riparian	**CONDITIONS RECOMMENDED** <u>Referral – 29 June 2026</u> The riparian assessment is based on the submitted Waterway Impact Statement, Marine Habitat Survey, Vegetation Management Strategy, and supporting documentation. The site is wholly within mapped riparian land; however, works are largely confined to previously disturbed areas, maintaining a 10 m setback to the creek and Narrabeen Lagoon. The proposal involves removal of 10 Casuarina trees and disturbance to approximately 1,400 m² of mapped Coastal Wetland, with no direct impacts to aquatic habitats. Impacts have been minimised through design and are expected to be minor. Mitigation measures, including erosion and sediment controls, stormwater treatment, and compensatory planting (2:1), together with the Vegetation Management Strategy, are expected to improve riparian condition over time. While not fully compliant with DCP Clause E8 due to APZ encroachment, this is considered unavoidable given site constraints.

Internal Referral Body	Comments
	No objection is raised from a riparian perspective, subject to implementation of the proposed mitigation measures and refinement of the Vegetation Management Strategy at detailed design stage.
Parks, Reserves and Foreshores	**CONDITIONS RECOMMENDED** <u>First Referral – 15 June 2026</u> Parks Reserves & Referral find that the scope of works and land area specific to the development application work is not clearly delineated to continue the assessment. The land area is zoned RE1 Public Recreation, and to assist the applicant it is noted that the proposed works is permissible and meets the objectives of the zone, being: • To enable land to be used for public open space or recreational purposes. • To provide a range of recreational settings and activities and compatible land uses. • To protect and enhance the natural environment for recreational purposes. • To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value. The proposed works does not compromise the Jamieson Park Plan of Management permitted activities, principles and guidelines. However, the reports and plans do not clearly identify the scope and limits of the proposed works under the development application, with the inclusion of plans for car park and landscape works outside of the perceived scope for construction of a community facility, where plans indicate works as "design by others" and "separate scope". Documentation shall only be for the proposed works to be executed under any approved consent of the development application. <u>Second Referral – 10 August 2026</u> Reports and Plans have been amended to include only works under the development application. Any future works not included as part of this development application is not referred to in this assessment. The land area is zoned RE1 Public Recreation, and to assist the applicant it is noted that the proposed works is permissible and meets the objectives of the zone, being: • To enable land to be used for public open space or recreational purposes. • To provide a range of recreational settings and activities and compatible land uses. • To protect and enhance the natural environment for recreational purposes. • To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value. The proposed works does not compromise the Jamieson Park Plan of Management permitted activities, principles and guidelines, and thus Parks Reserves and Foreshores Referral raise no objections.

Internal Referral Body	Comments
Traffic	**CONDITIONS RECOMMENDED** <u>First Referral – 5 June 2026</u> The proposal seeks approval for the construction of a new Sports Amenities Building within Jamieson Park, Narrabeen Lagoon, to support established water-based and community recreation activities. No changes are proposed to the primary vehicular access arrangements. Minor modifications to the internal car park are proposed, including the introduction of a loop road near the boat ramp. This results in a net loss of one parking space; however, a minimum of two accessible parking spaces will be retained. Parking occupancy surveys undertaken on Thursday 26 February and Saturday 28 February 2026 indicate that the existing 58-space car park operates with available spare capacity. Peak demand was observed at 2:00 pm on Saturday, with seven spaces remaining available. Accordingly, the minor reduction in parking supply is considered acceptable, noting that existing demand reflects ongoing recreational use since 2021. The Warringah Development Control Plan (DCP) does not specify parking rates for this type of facility. A comparative assessment based on observed site conditions has therefore been applied. Based on the above, the existing parking provision, including bicycle parking, is considered adequate to service the development. Trailer parking is not specifically required under the DCP and can be accommodated within the current parking supply. Servicing arrangements are generally unchanged. Waste collection will continue via the side access road. Café servicing by a Small Rigid Vehicle (SRV) within the proposed loop road is supported by swept path analysis. Notwithstanding the absence of a dedicated loading bay, the proposed servicing arrangement is considered acceptable. SIDRA modelling demonstrates that surrounding intersections operate at Level of Service (LOS) A during weekday and weekend peak periods, indicating adequate network capacity. **Traffic Impact** Traffic surveys, including a 7-day tube count and intersection counts, indicate peak activity occurs on Sunday mornings, with up to 114 vehicle trips recorded between 10:00 am and 11:00 am. The proposal is not expected to increase traffic generation beyond existing levels, as it represents the formalisation of an established use. **Conclusion** The proposal constitutes the reinstatement of an existing recreational use and is supported from a traffic and parking perspective, subject to appropriate conditions of consent. <u>Second Referral – 13 August 2026</u> Additional information, including more detailed architectural plans and updated reports, has been submitted by the applicant. The additional

Internal Referral Body	Comments
	information does not propose any changes to the traffic generation or parking arrangements associated with the proposal. Accordingly, the Traffic Team raises no concerns and supports the application, subject to the inclusion of appropriate conditions of consent.
Waste	**CONDITIONS RECOMMENDED** Referral – 28 April 2026 Lot 7358 DP 9999 does not exist as referenced in the Waste Management Plan. Section 5 - On-going waste management for non-residential and mixed use developments should be completed and the waste storage area design and location requirements should meet the requirements of the Northern Beaches Waste Management Guidelines Chapter 5.2 and 5.3 and the relevant parts of Chapter 4. Statement of Environmental Effects refers to Wray & Cutcliffe Waste and Construction Management Plan dated 14/4/2026. DA-105 details construction storage and waste storage during construction only with only visual representation on the architectural plans. An Operational Waste Management Plan is required to demonstrate how bins will be serviced as proposed waste storage is at rear of building for the commercial (cafe) storage and the community centre waste storage. There is no demonstration of how bins will be moved to a suitable collection point and who will be moving these bins. Proposed floor plan DA-110 does not demonstrate bin movement paths and maximum trafficable distance should not exceed 15m for collection or for movement. The commercial and community bin storage rooms need to be within 6.5m of the parking area for both a commercial waste vehicle and council's facility generated waste vehicle which is 10.5m long. Waste collection contractors cannot be asked to wheel bins over 100m to the car park. Jamieson Park currently has a public litter bin enclosure containing 3 x 240L red lid waste bins and 1 x 240L yellow lid recycling bin. Proposed Context Plan DA-102 shows "Bin Enclosure - Refer to Parks Masterplan". Please provide copy of Parks Masterplan with detail of Bin enclosure - do we assume that the bin enclosure currently in place would be reinstated following the completion of the building works. This would need to be confirmed by Public Cleansing in addition to Parks. Second Referral – 10 August 2026 Provision of a temporary holding waste storage for both the commercial cafe operation and for the operational needs of the facility (separated) allows for collection of waste by a commercial contractor (for the cafe) and for collection of facility waste as required.
Water Management	**CONDITIONS RECOMMENDED** Referral 18 May 2026

Internal Referral Body	Comments
	The Catchment Team has reviewed the submitted stormwater documentation against Northern Beaches Council's Water Management for Development Policy. The proposal is for the construction of a community water sports facility, including public amenities, ancillary café and associated landscaping works, within a sensitive receiving environment adjacent to Narrabeen Lagoon. The application incorporates a suite of Water Sensitive Urban Design (WSUD) measures providing a comprehensive stormwater quality treatment train, including: Biofiltration system (raingarden); Vegetated swales; and Rainwater tank with reuse, These measures are considered appropriate for the scale and nature of the development and are capable of achieving Council's water quality objectives, subject to detailed design, sizing and maintenance being addressed at the construction certificate stage. It is also noted that the proposed outlet structure (headwall and discharge point) to the adjacent creek is to be designed and constructed in accordance with the WaterNSW Controlled activities- Guidelines for outlet structures on waterfront land. Subject to the detailed design of WSUD measures and confirmation of compliance with the WaterNSW requirements at the relevant approval stages, the proposed stormwater management strategy is considered to be consistent with Council's policy framework.
Strategic Planning and Place (Development Contributions)	**CONDITIONS RECOMMENDED** Referral 08/09/2026 **Assessment of Contributions** The Northern Beaches Section 7.12 Contributions Plan 2024 (the Contribution Plan) applies to the site. Development Contribution is levied on specific development with a development cost exceeding $100,000.00. Section 2.5 of the Plan specifies what development is exempt from development contributions. The two exemptions relevant to this development are as follows: • *Local infrastructure to be carried out by or on behalf of Council. If a building has commercial/retail floorspace, a contribution will be applicable for the costs associated with the commercial/retail component.* • *The repair and rebuilding of development that has been destroyed by flooding, fires or other natural disasters. A contribution will be required for any part of the works that seeks to intensify or enlarge the original development. This will be determined by Council.*

Internal Referral Body	Comments
	The proposed development: • Is local infrastructure carried out by Council, and will be a Council asset upon completion • Comprises 27m2 of commercial/retail floorspace in the form of a café • Seeks to rebuild the former facility which was destroyed by fire in 2021, however the proposed facility is larger than the original facility. Accordingly, a contribution is payable on the commercial/retail component. **Determining the cost of development** The submitted estimated cost summary (TRIM 2026/520882) identifies the cost to construct the café component as $390,881.00 (excluding GST) – refer to excerpt below. Under section 208(4) of the EP&A Regulation, statutory taxes, levies and charges payable in connection with the development are excluded from the proposed cost of development. The $6,723 in Authority Fees & Charges has therefore been excluded. No other costs are eligible to be removed from the cost of development. Accordingly, the cost of development is as follows: • $390,881.00 minus $6,723.00 = $384,158.00 (excluding GST) • $384,158.00 plus 10% GST = **$422,573.80.** **Contribution levy** Pursuant to section 2.7 of the Contribution Plan, a 1% contribution applies to the cost of the commercial/retail component. 1% of $422,573.80 = $4,225.738 The contribution payable is $4,225.70, rounded to the nearest 10 cents in accordance with the business unit rules.

External Referral Body	Comments
Aboriginal Heritage Office	**CONDITIONS RECOMMENDED** <u>First referral dated 21/05/2026</u> Reference is made to the proposed development at the above area and Aboriginal heritage. There are known Aboriginal sites in the area. No sites are recorded in the current development area, however, the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites. The Aboriginal Heritage Office recommends a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional. The assessment would provide information on what potential Aboriginal heritage issues exist on the land and recommendations for any further action if required.

External Referral Body	Comments
	Second referral dated 02/09/2026 Reference is made to the proposed development at the above location and to Aboriginal cultural heritage. An Aboriginal Heritage Due Diligence Assessment was prepared by Talking Walls in 2026. The Aboriginal Heritage Office (AHO) has reviewed the report and agrees with the recommendations made: • No further archaeological assessment is required for this area. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Unexpected Finds / Stop Work Clause It should be noted that under the National Parks and Wildlife Act 1974, all Aboriginal objects are protected, whether recorded or not. If any suspected Aboriginal objects, cultural materials, or human remains are uncovered during works: 1. All work must cease immediately in the vicinity of the find. 2. The area must be made safe and protected from further disturbance. 3. The Aboriginal Heritage Office must be contacted as soon as practicable for advice. 4. If the material is confirmed as Aboriginal, Heritage NSW and the relevant Aboriginal Land Council must be notified in accordance with section 89A of the Act, and works must not recommence until appropriate authorisation is provided. If human remains are uncovered during construction or earthworks: 1. All works must cease immediately in the vicinity of the find. 2. The area must be secured and protected from further disturbance. 3. NSW Police must be contacted immediately, in accordance with statutory requirements. 4. Works must not recommence unless authorised by NSW Police and relevant authorities.
Ausgrid	**CONDITIONS PROVIDED** This letter is Ausgrid's response under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Ausgrid consents to the development subject to the following conditions: -. The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets. **Ausgrid Overhead Powerlines are in the vicinity of the development.** The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

External Referral Body	Comments
	The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. **New Driveways - Proximity to Existing Poles** Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance. **New or modified connection** To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; https://www.ausgrid.com.au/Connections/Get-connected Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries
Department of Climate Change, Energy, the Environment and Water – Water Group	**GTA'S NOT REQUIRED** Referral – 26 May 2026 The Department of Climate Change, Energy, the Environment and Water-Water Group has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency is necessary. Exemption Water Management (General) Regulation 2025 Schedule 4, 46 Works undertaken by public authorities. **Planner Note**: The incorrect reference in Water Management (General) Regulation 2025 has been used in the referral. This does not affect its outcome. The correct reference is in Part 4, Division 2, Section 64(2) *Exemption from requirement to hold controlled activity approvals*, which states: *(2) A public authority, other than Landcom, the Superannuation Administration Corporation or their subsidiaries, is exempt from the Act, section 91E(1) in relation to carrying out controlled activities in all circumstances.*

External Referral Body	Comments
Department of Primary Industries and Regional Development	**GTA'S NOT REQUIRED** Referral – 28 May 2026 DPIRD Fisheries has reviewed the proposal in light of those provisions and has no objections, subject to the proponent meeting the impact mitigation measures in the Marine Habitat Survey (H2O Consulting Group Pty Ltd , Version D0 , Dated: 09 March 2026) and the General Terms of Approval (GTAs) that follow. As per s.4.47(3) of the Environmental Planning and Assessment Act 1979 , any consent issued by Council must be consistent with these GTAs. 1. A permit under the Fisheries Management Act 1994 for dredge and /or reclamation works (for the construction of concrete areas associated with the boat ramp) or a Controlled Activity Approval (CAA) under the Water Management Act 2000 is to be obtained prior to the commencement of dredging and/or reclamation works. Permit application forms are available from the DPIRD Fisheries website at: https://www.dpi.nsw.gov.au/fishing/habitat/help/permit ; and 2. Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms. **Planner Note**: No dredging works are proposed, as clarified in the course of the application. The abovementioned GTAs therefore are not relevant to the actual scope of works.
Metropolitan Local Aboriginal Land Council	**CONDITIONS PROVIDED** Having reviewed the Aboriginal Heritage Due Diligence Assessment in full, I agree with the findings of the archaeologist. The assessment demonstrates that: • The site is entirely reclaimed land. • There are no Aboriginal objects present within the study area. • There is no archaeological potential for in situ deposits. • The observed shell material is not cultural in origin. • The proposed development will not result in harm to Aboriginal objects under the National Parks and Wildlife Act 1974 (NSW). Accordingly: • The proposal represents a due diligence exercise only. • There will be no impact to Aboriginal cultural heritage. • No further Aboriginal heritage assessment or management measures are required. As standard practice should unexpected Aboriginal objects be identified during construction, works should cease in the immediate area and the find managed in accordance with legislative requirements.

External Referral Body	Comments
NSW Rural Fire Services	**CONDITIONS PROVIDED** Referral – 25 May 2026 I refer to your correspondence dated 30/04/2026 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the Environmental Planning and Assessment Act 1979. The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions: **Asset Protection Zones** **Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.** 1. From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the property around the building, must be maintained as an inner protection area (IPA), in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019, in all directions for a distance of 11 metres. When establishing and maintaining an IPA the following requirements apply: ● tree canopy cover should be less than 15% at maturity; ● trees at maturity should not touch or overhang the building; ● lower limbs should be removed up to a height of 2m above the ground; ● tree canopies should be separated by 2 to 5m; ● preference should be given to smooth barked and evergreen trees; ● large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings; ● shrubs should not be located under trees; ● shrubs should not form more than 10% ground cover; and ● clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation. ● grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and, ● leaves and vegetation debris should be removed. **Construction Standards** **Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.** 2. Proposed construction must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019. **Water and Utility Services** **Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

External Referral Body	Comments
	3. The provision of water, electricity and gas, must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019: ● reticulated water is to be provided to the development where available; ● all above-ground water service pipes external to the building are metal, including and up to any taps; ● an additional hydrant, must be provided having coverage of the development in accordance with AS2419.1. ● where practicable, electrical transmission lines are underground; ● where overhead, electrical transmission lines are proposed as follows: a) lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and b) no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines. ● reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used; ● all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side; ● connections to and from gas cylinders are metal; ● polymer-sheathed flexible gas supply lines are not used; and, ● above-ground gas service pipes are metal, including and up to any outlets. **Landscaping Assessment** **Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.** 4. Landscaping within the required asset protection zone, must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated: ● A minimum 1 metre wide area, suitable for pedestrian traffic, must be provided around the immediate curtilage of the building; ● Planting is limited in the immediate vicinity of the building; ● Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters); ● Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30%(OPA) at maturity and trees do no touch or overhang buildings; ● Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies; ● Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown; ● Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter); ● Avoid climbing species to walls and pergolas; ● Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building; ● Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and, ● Low flammability vegetation species are used. **Emergency and Evacuation Planning Assessment**

External Referral Body	Comments
	Intent of measures: to provide suitable emergency and evacuation arrangements for occupants. 5. A Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan. The plan must include, but be limited to contact details for the local Rural Fire Service office and procedures for co-ordinated evacuation of the site in consultation with local emergency services. A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

ENVIRONMENTAL PLANNING INSTRUMENTS

All environmental planning instruments have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each environmental planning instrument have been considered in the assessment, many provisions contained within the instruments are not relevant or are enacting, definitions and operational provisions.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

Environmental Planning and Assessment Act 1979 & Regulation 2021 (Designated Development)

The proposed development was identified as designated development pursuant to Section 4.10 of the EP&A Act and Section 2.7 of State Environmental Planning Policy (Resilience and Hazards) 2021, as the land is within land identified as coastal wetlands.

Under Section 4.12(8) of the EP&A Act, an application for designated development is to be accompanied by an environmental impact statement. Part 8, Division 2 of the Environmental Planning and Assessment Regulation 2021 (Regulations) requires any environmental impact statement to be prepared based on environmental assessment requirements issued by the Planning Secretary. SEARs were obtained on 29 January 2026 (SEAR 2053), and the submitted Environmental Impact Statement was based on the environmental assessment requirements within the SEARs.

The matters contained within the SEARs have been addressed in the Environmental Impact Statement and supporting documentation.

Section 193 Principles of Ecologically Sustainable Development
Pursuant to Section 193 of the EP&A Regulations, the principles of ecologically sustainable development are an assessment requirement of any Environmental Impact Statement. The Environmental Impact Statement contains an assessment of this section in Part 6.0.

Section 193 states:

(1) The principles of ecologically sustainable development are the following—
(a) the precautionary principle,
(b) inter-generational equity,

(c) conservation of biological diversity and ecological integrity,
(d) improved valuation, pricing and incentive mechanisms.

The Environmental Impact Statement responded with the following:

These principles are met in the following ways:

a. *The precautionary principle: scientific evidence including that quoted throughout this report demonstrates that there is no lack for full scientific certainty. Environmental risks have been identified through technical studies addressing wetlands, biodiversity, flooding, contamination, and stormwater. No serious or irreversible environmental damage has been identified and appropriate mitigation and management measures will be implemented to ensure ecological values are protected. A precautionary approach has therefore been applied.*
b. *Inter-generational equity: The new building and associated works are not expected to impact on the ability for the health, diversity, and productivity of the environment to be maintained or enhanced for the benefit of future generations. The development restores community infrastructure for current and future generations who will benefit from both protected environmental values and access to community infrastructure.*
c. *Conservation of biological diversity and ecological integrity: the reasonable scale of the proposal is not expected to have any unreasonable adverse biological or ecological impacts. This has been considered in depth within the ecological reports prepared that support this application.*
d. *Improved valuation, pricing, and incentive mechanisms: The development internalises environmental costs through incorporating water-sensitive urban design measures, energy-efficient building design, material durability, and resilience, and construction environmental management controls. Environmental protection measures are integrated into the project design and budget, consistent with ESD principles.*

The assessment within the Environmental Impact Statement is deemed satisfactory as:

- The expert reports (and as concurred by Council's internal experts and external agencies) have agreed that the development has minimal environmental impact risk, and what risks there are have been mitigated and/or can be mitigated further during construction provided the recommendations are adopted. These will be adopted through conditions of consent.
- The new building will serve the public for current and future generations without compromising the health, diversity and productivity of the environment in and around the site.
- The development does not compromise the biological diversity and ecological integrity of the local environment, subject to the aforementioned mitigation measures detailed in the expert reports listed in Condition 1 of the draft conditions of consent.
- The environmental protection and mitigation measures have been factored into the development cost.

The application has given due consideration to the principles of ecologically sustainable development and is acceptable.

Crown Land Management Act 2016

As noted in **Figure 17**, the site is Crown land, Crown Reserves (R71235), and is for the purpose of Public Recreation. Northern Beaches Council serves as the Crown land manager.

Section 1.4 Principles of Crown Land Management

The principles of Crown land management in Section 1.4 of the Crown Land Management Act (CLM Act) 2016 are:

(a) that environmental protection principles be observed in relation to the management and administration of Crown land, and
(b) that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible, and
(c) that public use and enjoyment of appropriate Crown land be encouraged, and
(d) that, where appropriate, multiple use of Crown land be encouraged, and
(e) that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
(f) that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.

The assessment of relevant environmental considerations and conservation of natural resources is throughout the remainder of this assessment report, particularly in regard to matters of biodiversity and vegetation management, water management and marine habitat. The development footprint is primarily in cleared land associated with the previous building's location (and additional cleared land). Tree removal has been minimised, and replacement planting is proposed at a 2:1 ratio. In summary of the assessment below, the assessment has determined that the impacts are minimal.

It is agreed that the application serves the enhancement of the public use and enjoyment of Jamieson Park, reintroducing formalised facilities for the Narrabeen Lakes Sailing Club (a key user of the immediate area), the return of formalised public amenities (currently in temporary structures), as well as a café to serve the public and fund ongoing maintenance, and a leasable multipurpose room.

The proposal is therefore aligned with the principles.

Division 3.6 Plans of Management and Other Plans

Pursuant to Section 3.36(3) of the CLM Act 2016, if a Plan of Management (POM) has been adopted, no activities may be undertaken on or in relation to the dedicated or reserved Crown land to which it relates unless they are in accordance with the plan.

A POM was adopted for Jamieson Park on 18 April 2000.

The vision statement in the POM is as follows:

"*To maintain and enhance Jamieson Park's role as a "significant natural area" in the Warringah open space system, ensuring protection and conservation of identified values through appropriate management, in a way which best meets the environmental, recreational, educational and social needs of the present community and future generations."*

The proposed development is considered to align with the vision statement. The reasons for this are:

- The development is satisfactory with regard to the protection and conservation of native vegetation;
- The environmental impacts of the development are minimised; and
- The proposed community facility supports the recreational, educational and social needs of the community.

As above, the specific details of how the assessment arrived at the above conclusions occur in the following sections of this report.

Specific to the area of Jamieson Park relevant to the Narrabeen Lakes Sailing Club, an extract of the Landscape Masterplan (North-East) is shown in **Figure 19**.

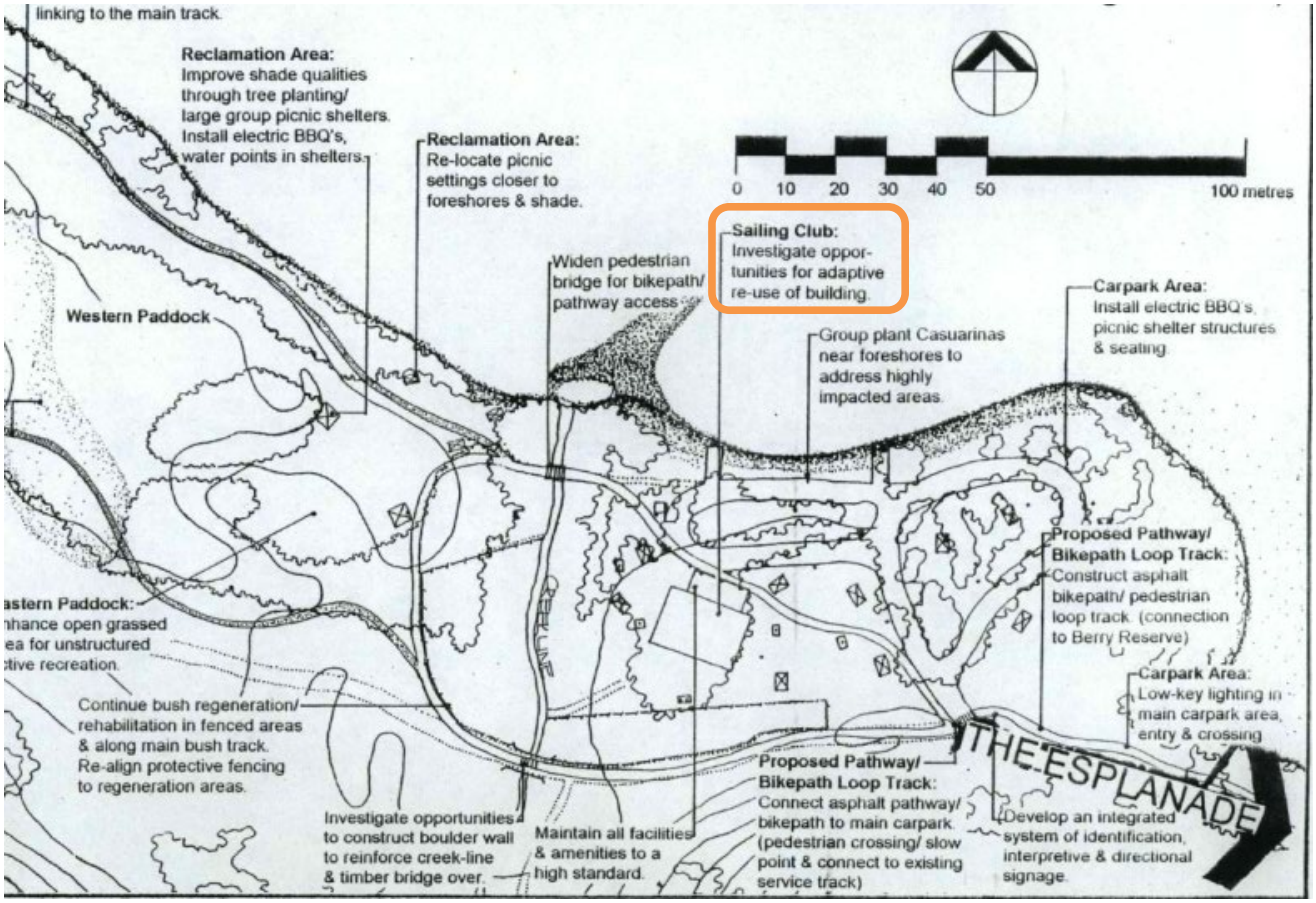


Figure 19: Extract of Jamieson Park Landscape Masterplan (Figure ES2)

The notation relevant to the location of the Sailing Club states, "*investigate opportunities for adaptive re-use of building.*"

In Section 4.0 Management Strategies, the POM references the Sailing Club in relation to the following (see p.63 of the POM):

Values	Item	Means of Achievement (Management Actions)	Means of Assessment (of the actions)	Priority
Water-based recreation and access	K1	**Sailing Club / water-based activities** Review catchment management issues which directly impact on the viability of the Sailing Club & the building's facilities / equipment (subject to Estuary Management Plan recommendations in 2001)	Investigations completed and recommendations implemented	Medium
	K2	Ensure flexibility in permitting appropriate uses of the building (eg. Water-based recreation & / or hiring of equipment or environment education, bush walking / interpretation)	Facilities providing appropriate recreational opportunities which are broadly-based and equitable in accordance with guidelines [see items F1 – F6 and G1]	High
	K3	Investigation options for adaptive reuse of un-leased portion of the building	Investigation completed and recommendations implemented	Ongoing
	K4	Continue current lease to Narrabeen Lakes Sailing Club with option for renewal upon expiration date	Lease renewal evaluated before expiration date in accordance with lease guidelines	Ongoing

In response to the above, it is considered that the proposed application is in general alignment with the means of achievement as:

- The assessments provided with the application and the review undertaken by Council's relevant experts have determined no catchment management issues affect the development application and use of the land.
- The POM permits the lease of the previous building to community sailing groups (i.e. Narrabeen Lakes Sailing Club).
- The commentary relating to adaptive reuse of the un-leased portion of the building is no longer relevant due to the fire and subsequent demolition of the previous building.
- The proposed new building provides adequate facilities for the Narrabeen Lakes Sailing Club, as well as a café for park users and the broader public, public amenities, and a multipurpose room that can be leased for multiple community uses, including but not limited to meetings, training sessions, community events and recreational gatherings.
- Narrabeen Lakes Sailing Club continues to have a lease arrangement with Northern Beaches Council.

The above, and the assessment of the environmental matters of the application in the remainder of this assessment report, are considered to demonstrate the development aligns with the Jamieson Park POM.

Consequently, the development is satisfactory with regard to the relevant considerations of the CLM Act 2016.

Biodiversity Conservation Act 2016

The development works occur in an area noted on the Biodiversity Values Map as containing biodiversity values. Refer to **Figure 20**.



Figure 20: Biodiversity Values Map (Source: NSW Planning Portal Spatial Viewer)

Pursuant to Section 7.7 of the Biodiversity Conservation Act 2016, a development that is likely to significant affected threatened species must be accompanied by a Biodiversity Development Assessment Report (BDAR). As the site is identified on the Biodiversity Values Map, the BDAR is required.

A BDAR was submitted with the application, prepared by Narla Environmental. The original iteration of the application sought the removal of 12 trees, an impact occurring over an area 0.22ha of two endangered ecological communities:

- Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (BC Act); and
- Coastal Swamp Oak (Casuarina glauca) Forest of New South Wales and South East Queensland ecological community (EPBC Act 1999)

The report concluded that a biodiversity offset of one (1) ecosystem credit was required under the Biodiversity Offset Scheme.

The proposal was amended to reduce the number of trees sought for removal to 11 (including one dead tree). This did not alter the requirement for one (1) ecosystem credit as part of the Biodiversity Offset Scheme.

A Vegetation Management Plan was also prepared and submitted, with a weed control and revegetation plan to be implemented over a minimum period of five (5) years. Additionally, trees to be removed as part of the proposed development are required to be replaced at a 2:1 ratio in the area marked as suitable within the Plan (see **Figure 21**).



Figure 21: Image identifying suitable locations for replacement tree plantings (Source: p.10 of Vegetation Management Plan)

Council's Biodiversity expert reviewed the documents and was satisfied that the proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland and impacts to the natural environment will be appropriately managed and mitigated where possible, subject to conditions of consent. These conditions form part of the draft conditions in Attachment 1.

A Waterways Impact Statement and Marine Habitat Survey were also submitted with the application, both prepared by H20 Consulting Group. Both documents determine that the impacts of the development are minimal and will be mitigated further by implementation of various recommendations, including instituting Tree Protection Zones, preparation of a Construction Management Plan, erosion and sediment controls, revegetation to be based on representative species of the ecological community proposed for removal, and more.

These documents and the Vegetation Management Plan were reviewed by Council's Riparian officer who raised no objection, subject to the implementation of the proposed mitigation measures and conditions of consent. These conditions form part of the draft conditions in Attachment 1.

Coastal Management Act 2016

The site is identified as land in a coastal zone pursuant to Section 5 of the Coastal Management Act (CM Act) 2016, as the land is identified as coastal wetlands, in a coastal use area and coastal environment area on the relevant maps. Refer to **Figures 22-24**.

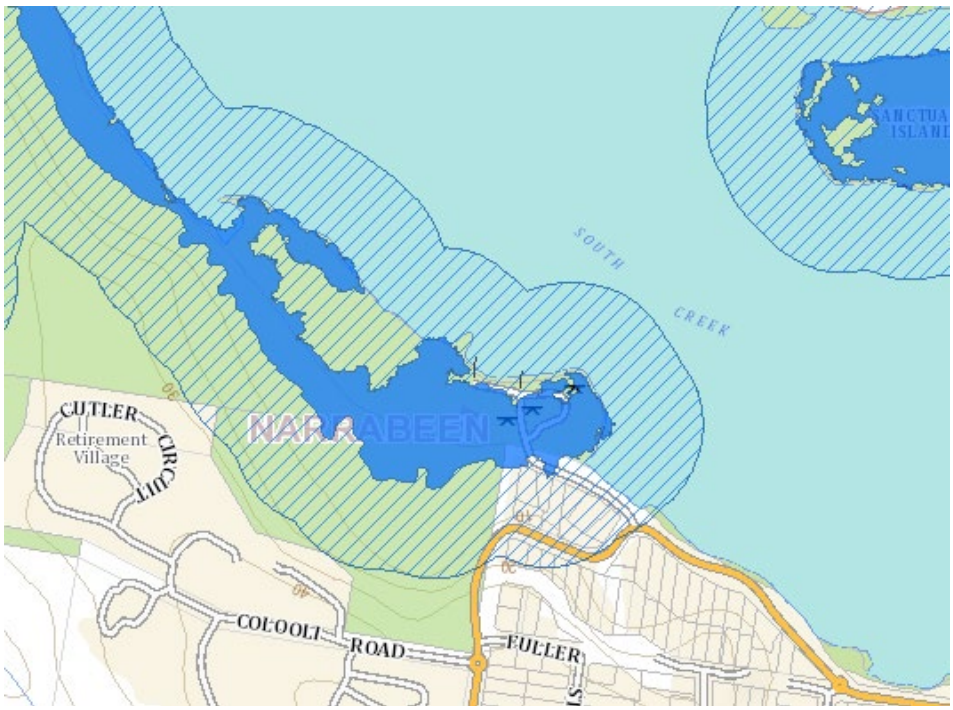


Figure 22: Coastal Wetlands Map (Source: NSW Planning Portal Spatial Viewer)

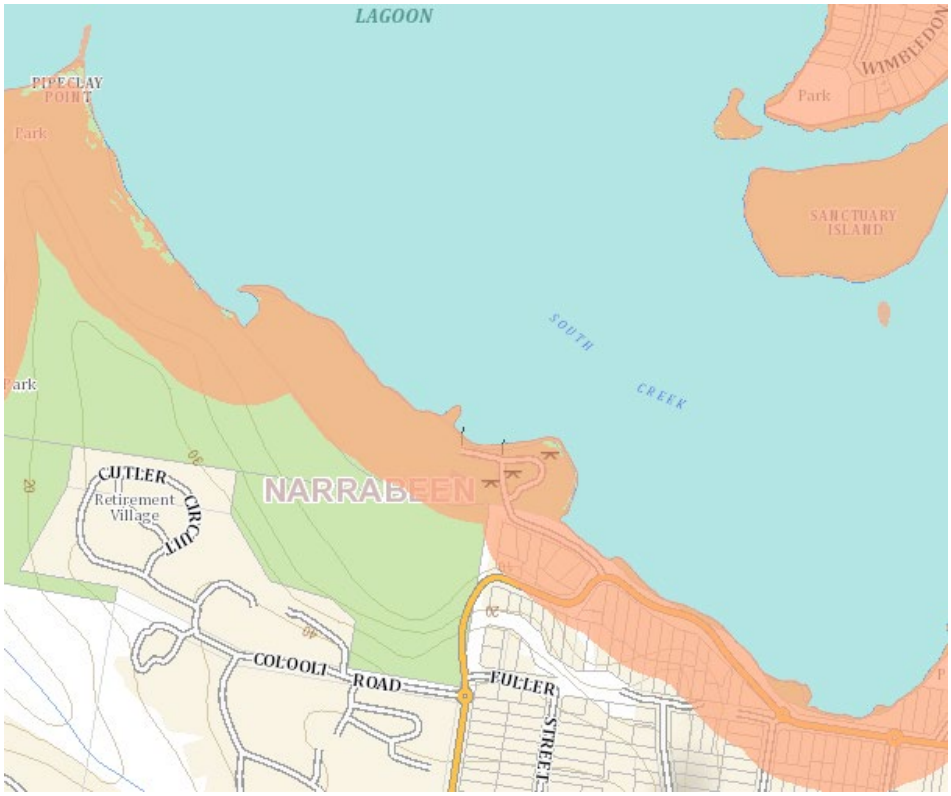


Figure 23: Coastal Use Area Map (Source: NSW Planning Portal Spatial Viewer)

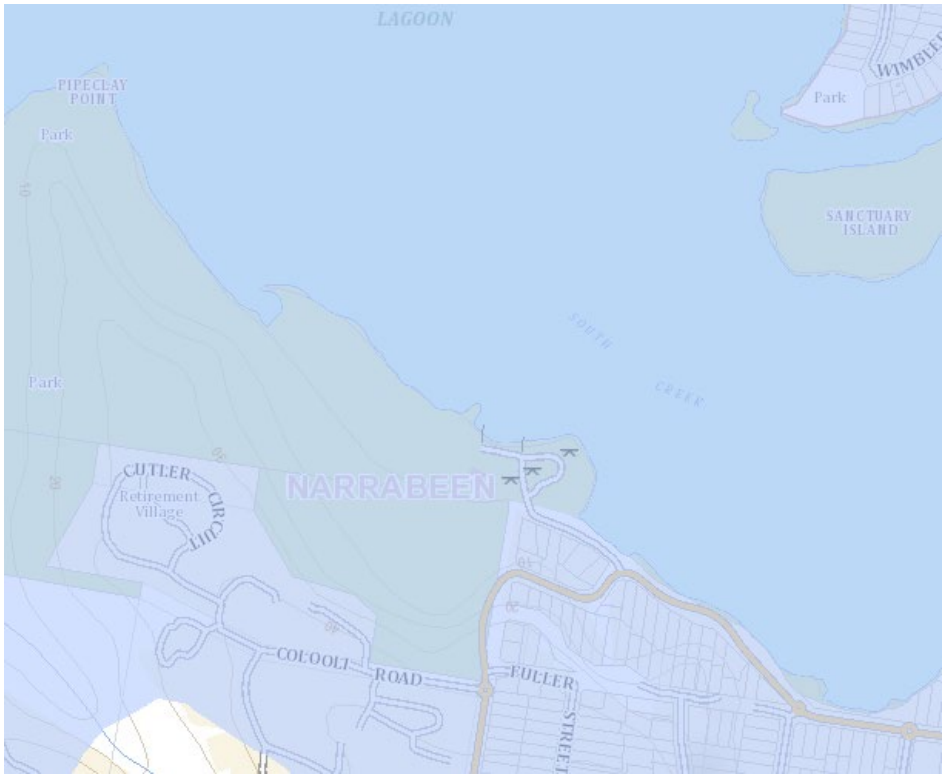


Figure 24: Coastal Environment Map (Source: NSW Planning Portal Spatial Viewer)

Section 6 Coastal Wetlands and Littoral Rainforests Area

Section 6 of the CM Act 2016 states:

(2) The management objectives for the coastal wetlands and littoral rainforests area are as follows—
(a) to protect coastal wetlands and littoral rainforests in their natural state, including their biological diversity and ecosystem integrity,
(b) to promote the rehabilitation and restoration of degraded coastal wetlands and littoral rainforests,
(c) to improve the resilience of coastal wetlands and littoral rainforests to the impacts of climate change, including opportunities for migration,
(d) to support the social and cultural values of coastal wetlands and littoral rainforests,
(e) to promote the objectives of State policies and programs for wetlands or littoral rainforest management.

The proposed development is considered to have satisfied the management objectives as:

- The assessment of the submitted BDAR, Vegetation Management Plan, Waterways Impact Statement and Marine Habitat Survey by the relevant experts has determined that the coastal wetlands will be protected, including their biological diversity and ecosystem integrity, subject to the recommendations and mitigation measures within the reports, and included in the draft conditions of consent.
- As relevant to the proposal, restoration of the vegetation in the immediate vicinity forms part of the Vegetation Management Plan, including a five (5) year weed control and revegetation plan.
- The management measures, including the restoration mentioned above, will improve the resilience of the coastal wetlands.
- The development application is deemed to support the social and cultural values of the local wetlands through the preservation of vegetation and water quality as part of the development and careful ongoing management as identified in the Vegetation Management Plan.
- The proposal is consistent with the relevant State policy for wetlands (see SEPP (Resilience and Hazards) 2021 section).

Given the above, the management objectives for the coastal wetlands are considered to be achieved.

Section 8 Coastal Environment Area

Section 8 of the CM Act 2016 states:

(2) The management objectives for the coastal environment area are as follows—
(a) to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,
(b) to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,
(c) to maintain and improve water quality and estuary health,
(d) to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,
(e) to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,
(f) to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.

The proposed development is considered to have satisfied the management objectives as the submitted reports and plans demonstrate that the environmental values and natural processes of Narrabeen Lagoon will not be harmed by the proposed works. The development will incorporate various recommendations and mitigation measures to offset tree removal, reduce drainage impacts, and maintain and improve public access and amenity.

Section 9 Coastal Use Area

Section 9 of the CM Act 2016 states:

(2) The management objectives for the coastal use area are as follows—
(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that—
(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and
(ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
(iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
(v) the use of the surf zone is considered,
(b) to accommodate both urbanised and natural stretches of coastline.

The Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011 do not contain any planning controls that govern the building envelope (i.e. height, FSR, setbacks, site coverage, etc.) for community facilities on RE1 Public Recreation zoned land. Instead, the bulk, scale and size are assessed on a merit basis.

A merit assessment finds the development type, bulk, scale and size to be appropriate as:

- The building primarily fits within an existing cleared area, with minimal tree removal to accommodate the development.
- The size of various internal spaces is governed by existing and future needs, including space for storage of boats (and removing them from sitting outside in the public domain), public amenities that are sized appropriately for the demand in this portion of Jamieson Park, a café of sufficient size to successfully operate and generate income for ongoing maintenance, and a multipurpose room of sufficient size to allow modest gatherings and similarly generate income for ongoing maintenance.
- The height of the building is up to 7.95m. The building sits below the canopy of surrounding trees, while being directly informed by the 3.55m AHD FFL and the storage heights required for the boats. The building height is both practical and reasonably necessary.
- As a community facility, the type of building is acceptable and appropriate for development within the coastal use area.
- The materials and finishes used are appropriate for the local environment and are low maintenance (brick, metal).

Regarding cultural and built heritage, there are no built heritage items in the vicinity of the works. The application has been supported by an Aboriginal Heritage Due Diligence Assessment, which found no further need for archaeological assessment as the development area is entirely land formed from dredging and reclamation of the former lagoon bed. The Aboriginal Heritage Office reviewed the report during the assessment of the application and raised no objection. Similarly, the Metropolitan Local Aboriginal Land Council was satisfied by the assessment and required no further study, subject to standard unexpected find protocol conditions of consent, which have been included.

The development has been supported by a stormwater design that has been assessed and found to be satisfactory by Council's Development Engineer regarding water sensitive urban design measures.

The proposed building maintains adequate public open space in the locality while providing a building that supports local recreational activities through the space for the Narrabeen Lakes Sailing Club, café and multipurpose space.

The development is not within the surf zone.

The proposal aligns with the management objectives of the coastal use area.

The above determines that the application is satisfactory under the CM Act 2016.

Fisheries Management Act 1994

The site is proximate to South Creek within Narrabeen Lagoon, an important key fish habitat.

The Department of Primary Industries and Regional Development – Fisheries were referred the application due to the works within proximity of the fish habitat. Fisheries reviewed the Marine Habitat Survey, and General Terms of Approval (GTAs) were obtained on 28 May 2026.

The GTAs form part of the draft conditions of consent in Attachment 1.

Water Management Act 2000

The subject site is within 40m of Narrabeen Lagoon. Pursuant to Section 91 of the Water Management Act 2000, an integrated development referral was made to the Department of Climate Change, Energy, the Environment and Water – Water Group.

However, a response was received identifying that an exemption applied to works undertaken by public authorities in the Water Management (General) Regulation 2025. Part 4, Division 2, Section 64(2) *Exemption from requirement to hold controlled activity approvals* states:

> *(2) A public authority, other than Landcom, the Superannuation Administration Corporation or their subsidiaries, is exempt from the Act, section 91E(1) in relation to carrying out controlled activities in all circumstances.*

Consequently, no further assessment is required.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal Management

As noted earlier in this report, the subject site is identified as “coastal wetlands” pursuant to Section 2.7 of State Environmental Planning Policy (Resilience and Hazards) 2021. The land is also identified as in the coastal use area and coastal environment. Refer to **Figures 22-24**.

Accordingly, the following sections of Chapter 2 are relevant to the application:

- 2.7 Development on certain land within coastal wetlands and littoral rainforests area
- 2.10 Development on land within the coastal environment area
- 2.11 Development on land within the coastal use area
- 2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

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

> *(4) A consent authority must not grant consent for development referred to in subsection (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.*

The development was supported by a suite of documents that directly and indirectly relate to the assessment of the biophysical, hydrological and ecological integrity of the coastal wetland, including but not limited to the BDAR, Vegetation Management Plan, Marine Habitat Survey, Waterways Impact Statement, and the stormwater and erosion and sediment controls. The application has been assessed by the relevant internal

referrals and external agencies, and each aspect has been found to be satisfactory with regard to the level of impact and the recommended mitigation measures, as relevant, subject to conditions of consent.

Consequently, the biophysical, hydrological and ecological integrity of the coastal wetland will be protected.

2.10 Development on land within the coastal environment area
The relevant considerations are addressed in the table below.

2.10 Development on land within the coastal environment area	Comment
(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,	The assessment of the various documents submitted with the application and a request for additional information process has concluded that the integrity and resilience of the biophysical, hydrological and ecological environment will not be harmed by the proposal, subject to conditions of consent.
(b) coastal environmental values and natural coastal processes,	The development reinforces the public and recreational use of the land and, per the above assessment, the environmental values.
(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,	The water quality will remain acceptable following the development, subject to the mitigation measures and conditions of consent imposed by the BDAR, Vegetation Management Plan, Marine Habitat Survey, Waterways Impact Statement, and Council's Development Engineer, Riparian, Biodiversity and Coastal officers.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	As above.
(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,	The development occurs on public open space, in a generally cleared area associated with a previous boat club and amenities building. The new building is larger, but does not negatively affect key areas of the public open space, and will also include new paths and vegetation, and is designed to facilitate access for persons with a disability.
(f) Aboriginal cultural heritage, practices and places,	An Aboriginal Heritage Due Diligence Assessment, which found no further need for archaeological assessment as the development area is entirely land formed from dredging and reclamation of the former lagoon bed. The Aboriginal Heritage Office reviewed the report during the assessment of the application and raised no objection. Similarly, the Metropolitan Local Aboriginal Land Council was satisfied by the assessment and required no further study, subject to standard unexpected find protocol conditions of consent, which have been included
(g) the use of the surf zone.	The development does not affect the surf zone.
(2) Development consent must not be granted to development on land to which this section 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 subsection (1), or	The assessment has determined that the building is well sited to mitigate adverse impacts and, where an impact is occurring (such as tree removal), the impact is minimised and mitigated.

2.10 Development on land within the coastal environment area	Comment
(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.	

2.11 Development on land within the coastal use area
The relevant considerations are addressed in the table below.

2.11 Development on land within the coastal use area	Comment
(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,	The proposal does not adversely affect access to Narrabeen Lagoon.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	All overshadowing falls on existing open space and some trees to the south of the site. However, this area is of very low use currently and will continue to be so following construction of the building. No wind funnelling or view loss issues arise in this application.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The building does not disrupt views toward the coast or (as relevant to the site) Narrabeen Lagoon.
(iv) Aboriginal cultural heritage, practices and places,	No impact, subject to conditions of consent.
(v) cultural and built environment heritage, and	No heritage identified on the site.
(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	The development is designed and sited to avoid adverse impacts.
(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.	

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards
There is no aspect of the proposed development that is considered to cause increased risk of coastal hazards on the site or any other site.

Given the above, the proposal is acceptable under the relevant considerations of Chapter 2 of SEPP (Resilience and Hazards) 2021.

northern beaches council

Chapter 4 Remediation of Land

The provisions of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated and, if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

An assessment of Section 4.6(1) follows in the table below.

Section 4.6(1)	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless— (a) it has considered whether the land is contaminated, and	The site has been used for recreational purposes for an extended period of time. It is unlikely that the land is contaminated. An Asbestos Clearance Certificate was submitted with the application. The document was prepared following the demolition of the previous, fire damaged building. The certificate confirmed that no visible asbestos containing material was observed in the area.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The land is not suspected or known to be contaminated.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	Not relevant.

On the basis of the above, Section 4.6 has been adequately addressed, and the application can be supported subject to conditions of consent relating to unexpected finds protocols.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas

The proposed development seeks the removal of 11 trees within the sphere of influence of the proposed works, including one (1) dead tree.

The proposed trees for removal are identified in the tree removal plan in **Figure 25**.

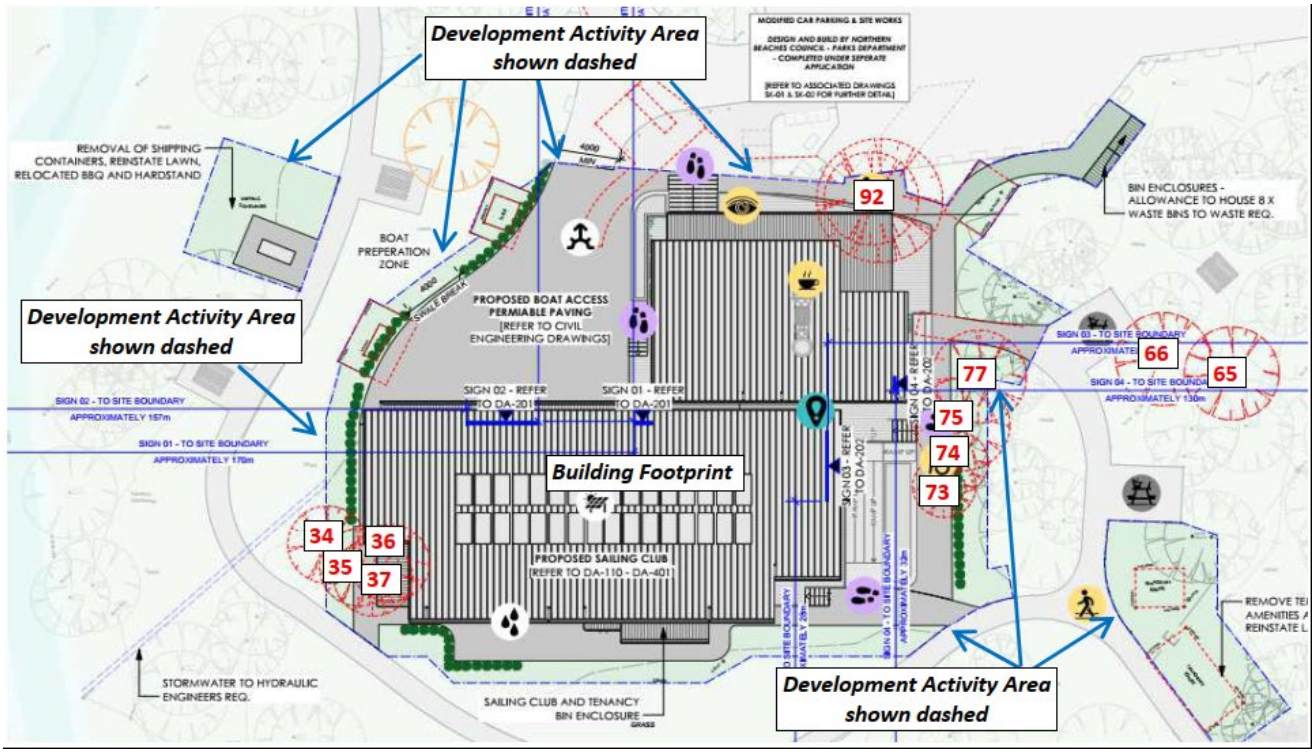


Figure 25: Tree Removal Plan (Source: Arboricultural Impact Assessment)

The majority of the trees are required to be removed to construct the new community facility, while T65 is dead, and T66 is due to its poor health and location adjacent to the proposed revised footpath and picnic table area.

Council's Landscape officer reviewed the report and raised no objections subject to the imposition of conditions.

Given the above, the proposal is satisfactory under Chapter 2.

Chapter 4 Koala Habitat Protection 2021

Chapter 4 applies to the development as Northern Beaches Council is listed in Schedule 2 of the SEPP. Section 4.9 of this chapter outlines that this section applies if the land is at least 1 ha and does not have an approved koala management plan. As there is no approved koala plan of management for the land and the land exceeds 1ha, the consent authority must assess whether the development is likely to have any impact on koalas or koala habitat.

The submitted BDAR stated the following:

> *The Subject Property contains suitable habitat (where 15% or greater of the total number of trees within any Plant Community Type are the regionally relevant species of those listed in Schedule 3 of the SEPP).*
>
> *However, during the site assessment, no koalas or signs of koala occupancy (scats, scratch marks) were observed within the Subject Property. A spatial search using the NSW Wildlife Atlas (NDCCEEW 2026e) reveals no records within a 2.5km radius of the Subject Property that are within 18 years. The nearest record within the last 18 years is 3km away from the Subject Property. As such, the vegetation within the Subject Property is unlikely meet the definition of Core Koala Habitat as defined by the SEPP.*

Given the above, no further assessment is required under Chapter 4.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 Advertising and Signage

The proposed development includes four (4) total signs that are defined as building identification signs. The signs are illustrated in the plan extracts below.

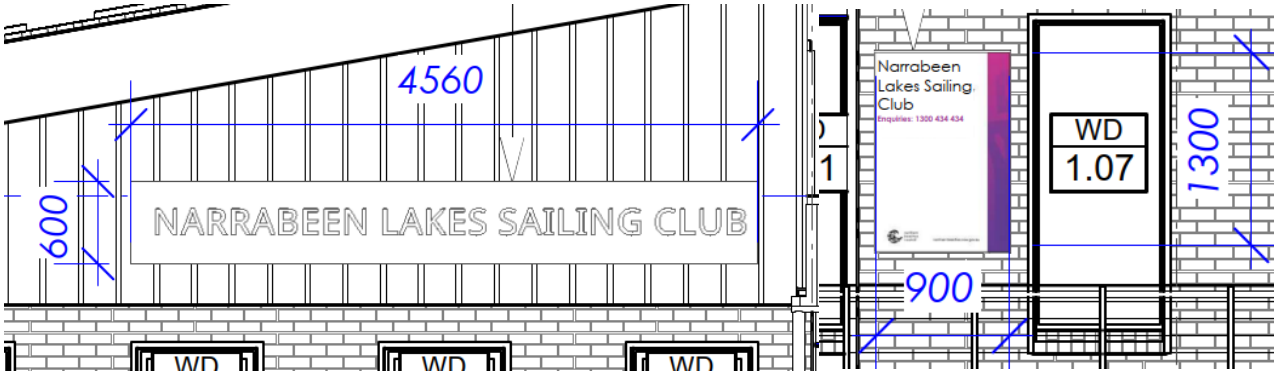


Figure 26: Proposed Signs

The signs are:

- 2 x wall signs “Narrabeen Lakes Sailing Club” – 4.56m wide x 600mm tall
- 2 x wall signs “Narrabeen Lakes Sailing Club” with contact number and Council logo – 1.2m wide x 1.8m tall

No sign is proposed to be illuminated.

Pursuant to Section 3.6, the signage must be consistent with the objectives of the Chapter and satisfy the assessment criteria in Schedule 5. These are assessed below.

The aims of the Chapter are:

(1) This Chapter aims—
(a) to ensure that signage (including advertising)—
(i) is compatible with the desired amenity and visual character of an area, and
(ii) provides effective communication in suitable locations, and
(iii) is of high quality design and finish, and
(b) to regulate signage (but not content) under Part 4 of the Act, and
(c) to provide time-limited consents for the display of certain advertisements, and
(d) to regulate the display of advertisements in transport corridors, and
(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

The proposed signs are consistent with the aims as the size and design are compatible with the building, sized appropriately for their function and the scale of the building, provides effective communication on the two most prominent approach elevations of the building (north and east) and is of a high quality design and finish.

The assessment criteria in Schedule 5 are assessed in the table below.

Schedule 5 Assessment Criteria	Comment
1. Character of the Area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed community facility aligns with the intended use of the public recreation land. The signage associated with the facility is compatible with the permitted land uses and, in turn, the character. No particular theme is observed.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	
2. Special Areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The signs are fixed to the north and east elevations of the building, generally facing the pedestrian and vehicle approaches. The signage is modest in scale (2.74m^2 and 2.16m^2), subservient to the overall building and no illumination is proposed. The signs will not detract from the amenity or visual quality of Jamieson Park and nearby waterway.
3. Views and Vistas	
Does the proposal obscure or compromise important views?	No. The signs do not obscure views, impact skylines or reduce the quality of vistas.
Does the proposal dominate the skyline and reduce the quality of vistas?	
Does the proposal respect the viewing rights of other advertisers?	
4. Streetscape, Setting or Landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale of the signs is appropriate for the landscape, noting their subservient scale to the proposed building, which is independently of a scale acceptable in the setting and landscape. The signs are functional, do not screen unsightliness, do not protrude above buildings or tree canopies and do not require ongoing vegetation management.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	
Does the proposal screen unsightliness?	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	
Does the proposal require ongoing vegetation management?	
5. Site and Building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes. The signs are of a scale that comfortably fits on the building and remains subservient to the development as a whole.
Does the proposal respect important features of the site or building, or both?	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	
6. Associated Devices and Logos with Advertisements and Advertising Structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No illumination is proposed. The Northern Beaches Council logo forms part of two of the smaller signs, an integral element of identifying the owner of the building but mostly sized. Satisfactory.
7. Illumination	
Would illumination result in unacceptable glare?	No illumination is proposed.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	
Is the illumination subject to a curfew?	
8. Safety	
Would the proposal reduce the safety for any public road?	No. Signs are attached to the building. No safety concerns arise.

Schedule 5 Assessment Criteria	Comment
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

Given the above, the signs are acceptable under Chapter 3 of SEPP (Industry and Employment) 2021.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 Standards for Non-Residential Development

The proposed development is a non-residential development with an identified cost of works of over $5 million. Pursuant to Section 3.2, development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

An Embodied Emissions Form was provided. The relevant provisions of Chapter 3 have been satisfied.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2 State and Regional Development

The proposal is regionally significant development pursuant to Section 2.19(1) as it meets the criteria in Schedule 3 of Schedule 6 of the Planning Systems SEPP, as the proposal is development on Council-owned land with an estimated development cost of more than $5 million.

The application must be determined by the relevant local planning panel for the area, being the NBLPP in the case of the subject development.

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

Land Zoning and Permissibility

The land is zoned RE1 Public Recreation under the Warringah Local Environmental Plan (WLEP) 2011. Refer to **Figure 27**.

The proposed development is defined as a “community facility” under WLEP 2011, a use listed as permitted with consent.

The definition states:

> ***community facility*** *means a building or place—*
> *(a) owned or controlled by a public authority or non-profit community organisation, and*
> *(b) used for the physical, social, cultural or intellectual development or welfare of the community,*
> *but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

The proposed building is to be owned and controlled by Northern Beaches Council, a public authority. The building contains facilities for the Narrabeen Lakes Sailing Club, which will provide opportunities for the physical and social development of the community.

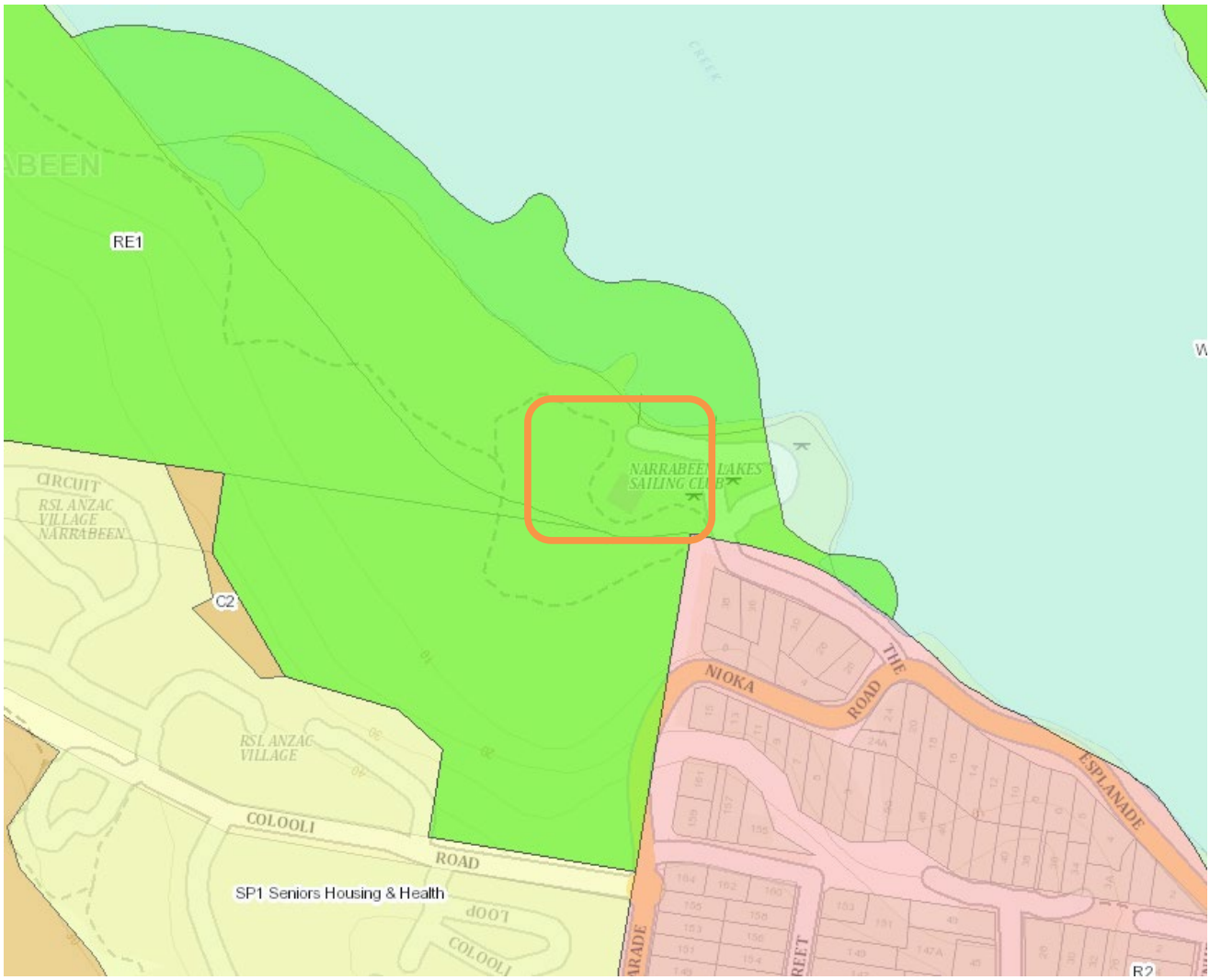


Figure 27: Land Zoning Map (Source: NSW Planning Portal Digital EPI Viewer)

A canteen is proposed to support the Sailing Club operation. It is ancillary to the primary use as a community facility and therefore permitted with consent.

A multipurpose room is proposed within the building. The space is intended to be leased out to the community. The room may therefore contribute to the social, cultural and intellectual development, and form part of the community facility definition.

The building contains a café that will be leased out to a third party. The café is defined as a restaurant or café under WLEP 2011. However, it is also ancillary to the primary function of the building as a community facility. It is permitted with consent in both scenarios. It is defined as:

> ***restaurant or cafe*** *means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—*
>
> *(a) an artisan food and drink industry, or*
>
> *(b) farm gate premises.*

***Note**.*
*Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.*

Lastly, the development proposes building identification signs, also listed as permitted with consent. The signs are defined as:

***building identification sign** means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services.*
***Note**.*
*Building identification signs are a type of **signage**—see the definition of that term in this Dictionary.*

All land uses proposed are permitted with consent.

Zone Objectives

The objectives of the RE1 Public Recreation zone are:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

The proposed development is consistent with the objectives as it will support the use of the land to be used for recreational purposes.

Compliance Assessment

Section	Compliance with Requirements
2.7 Demolition	Yes
5.21 Flood Planning	Yes
6.1 Acid Sulfate Soils	Yes
6.2 Earthworks	Yes
6.4 Development on Sloping Land	Yes

Detailed Assessment

Section 5.21 Flood Planning

The site is identified as partly medium and partly high risk flooding. Refer to **Figure 28**.

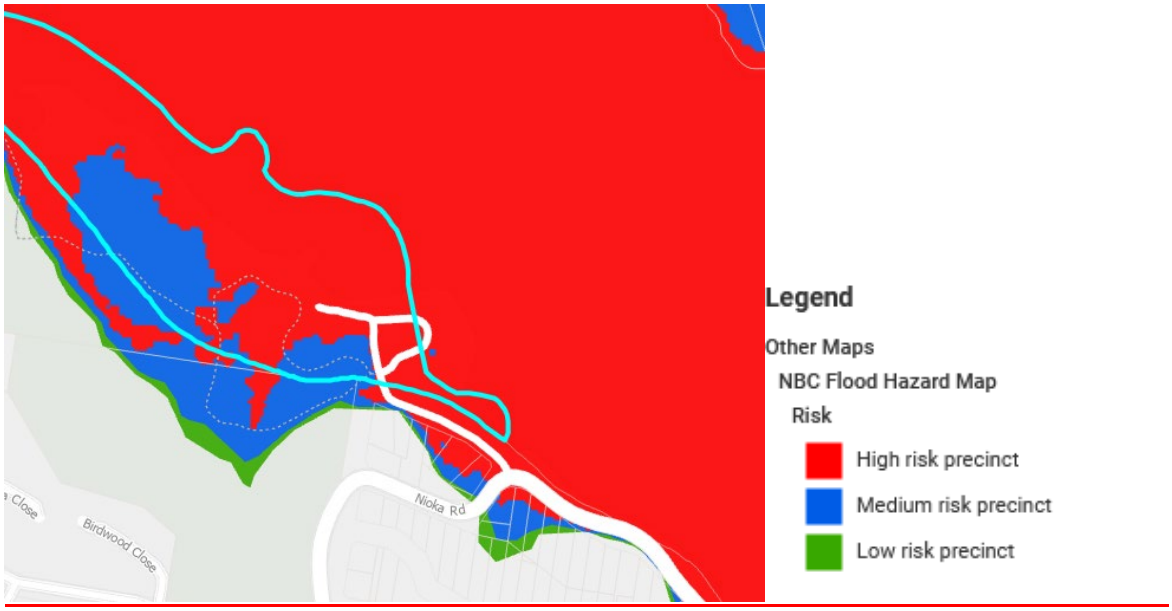


Figure 28: Flood Hazard Map (Source: Northern Beaches Council Online Maps)

Council's pre-lodgement advice identified a 1% AEP flood level of 3.05m AHD and a Flood Planning Level (FPL) of 3.55m AHD. The advice further acknowledged that the boat storage and associated amenities could sit below the FPL. However, the non-recreational areas (i.e. the café, watersports room and multipurpose room) would need to be set at or above the FPL.

The proposed levels align with the pre-lodgement advice: the boat storage and related components are set at 2.4m AHD, while the non-recreational uses are proposed at 3.55m AHD.

NB Consulting Engineers prepared a Flood Management Report for the application. Council's Flood Engineer reviewed the report, and further information was requested regarding emergency response scenarios in the Probable Maximum Flood (PMF) scenario. The PMF level is 5.02m AHD, 1.47m above the FPL.

The updated Flood Report stated:

> *"The property is affected by a Flood Life Hazard Category of H5 and flood free evacuation above the PMF (5.02m AHD) is not possible. There is no first-floor level proposed for this development with the highest finished floor level proposed at RL 3.55m AHD.*
>
> *To provide a shelter-in-place refuge above the PMF level would require substantial alterations to the development, including the construction of an additional elevated floor and compliant stair or ramp access available to all occupants, including wheelchair users, without reliance on mechanical means. The building has been designed with raked ceilings to maximise the internal clearances required for boat storage and the watersports and café areas. The only areas with lower ceiling heights are above the amenities; however, the pitched roof geometry provides insufficient roof space to accommodate a refuge that satisfies the DCP requirements for occupant capacity, accessibility and emergency equipment. A complaint refuge would therefore require a fundamental redesign of the proposed building.*
>
> *Beyond the practicalities of providing a refuge, the nature and occupancy profile of the development is central to the assessment of the appropriate emergency response. The proposed development is a non-habitable recreational facility with no residential or overnight occupation, and its use is largely discretionary and strongly weather dependant. It is expected that in the lead-up to and during a severe storm or flood event:*

- *The sailing club will be closed and any scheduled sailing events cancelled. Sailing is a weather dependant activity and will not take place in conditions that typically give rise to flooding.*
- *There will likely be no bushwalkers or other park users in the vicinity of the proposed sailing club, as Jamieson Park is a fair-weather recreational destination and visitation during severe weather is minimal.*
- *The on-site café and function centre may be staffed or partly occupied, however the number of people on site will be minimal, and any staff or patrons present will be subject to the closure and evacuation procedures of the Flood Emergency Response Plan to be prepared at the Construction Certificate stage.*

Accordingly the population at risk during a flood event is expected to be very small and will generally consist of awake occupants of a staffed and managed facility where the staff will have flood emergency training. The number of these at-risk occupants is expected to be substantially lower than the expected fair-weather patronage of the facility for which a shelter-in-place refuge would ordinarily need to be sized for. This large difference between the potential at-risk occupants compared to the fair-weather patronage is unique to this development and it is therefore appropriate to assess the emergency response requirements on a merits basis accordingly.

In NBCE's opinion, a shelter-in-place refuge is not a practical or appropriate solution for the proposed development. The preferred emergency management strategy is the pre-emptive closure of the facility and the evacuation of any occupants to flood-free land prior to the onset of hazardous flood conditions and well before flood conditions isolate the site. The decision to close the premises will need to be based on weather forecasts and rainfall and water-level gauge information, recognising the low level of The Esplanade roadway as the sole means of vehicle egress from Jamieson Park. Removing occupants from the flood hazard before it develops provides a better safety outcome than requiring occupants to remain within the flood hazard area during an extreme flood event. Provision of an on-site refuge could work against this outcome by encouraging occupants to remain on site rather than leave early.

Further, this development is intended to replace the pre-existing boat shed and adjoined café which burnt down in 2021. This replacement development has proposed a higher floor level, and as such, has a reduced risk to property and life compared to the pre-existing building, which should also be considered in the assessment of this development.

NBCE's recommendation not to provide an on-site refuge is specific to the circumstances of this site and development. That is, the development is a non-habitable, weather dependant recreational facility with no overnight accommodation and where occupancy reduces to minimal numbers in the conditions that typically precede a flooding event. Further, the development is a replacement of the pre-existing facility, and with improved flood performance. These circumstances substantially distinguish the proposal from residential and other developments proposed in high hazards areas.

NBCE recommend a Flood Emergency Response Plan be prepared at the construction certificate stage to establish the warning triggers and procedures for pre-emptive closure of the facility. This will include cancellation of sailing and function events and closure of the café ahead of forecast severe weather to prevent the facility from being occupied in the event of flood. This will help ensure any inadvertent occupants have safe passage from the site to a designated refuge outside the extent of the PMF."

Council's Flooding Engineer has agreed with the above assessment and has provided conditions of consent to require the stated Flood Emergency Response Plan.

The application is therefore satisfactory under Section 5.21 of WLEP 2011.

northern beaches council

Section 6.1 Acid Sulfate Soils

The site is identified as Class 2 acid sulfate soil. Refer to **Figure 29**.

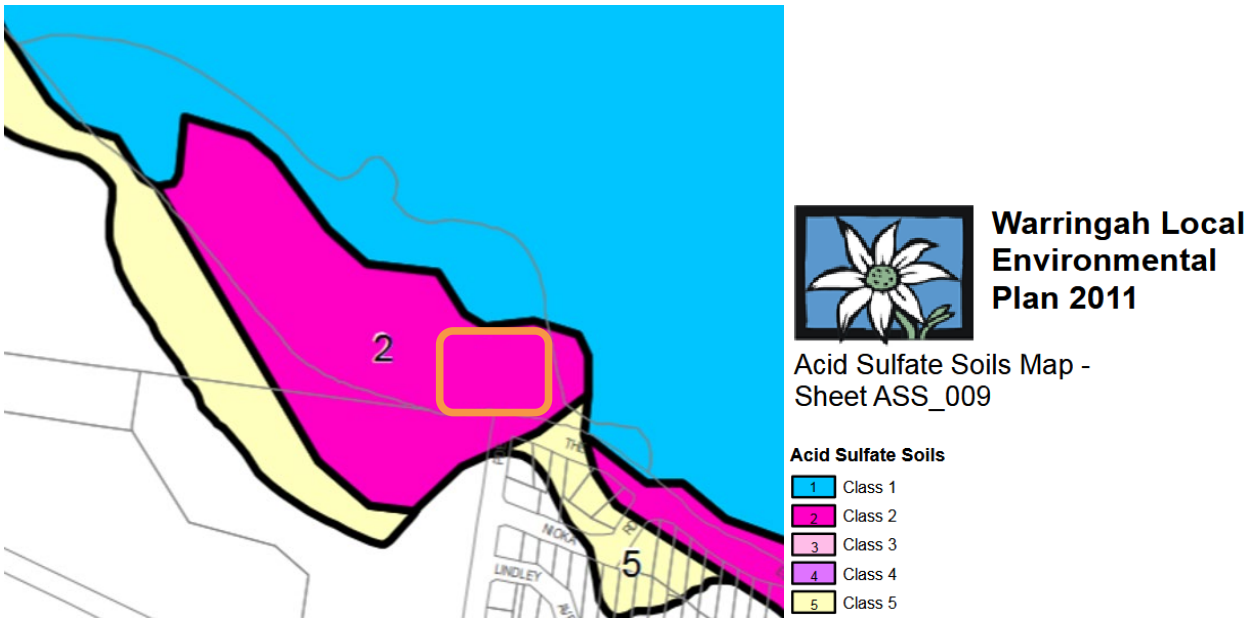


Figure 29: Acid Sulfate Soils Map (Source: NSW Legislation website)

The proposal includes works below the natural ground surface consisting of minor earthworks to erect the building and stormwater infrastructure.

Douglas Partners prepared an Acid Sulfate Soils Management Plan for the application. The Plan was reviewed by Council officers and found to be satisfactory subject to conditions of consent.

Section 6.4 Development on Sloping Land

The site is identified as Area A with a slope of <5 degrees on the Landslip Risk Map. Refer to **Figure 30**.

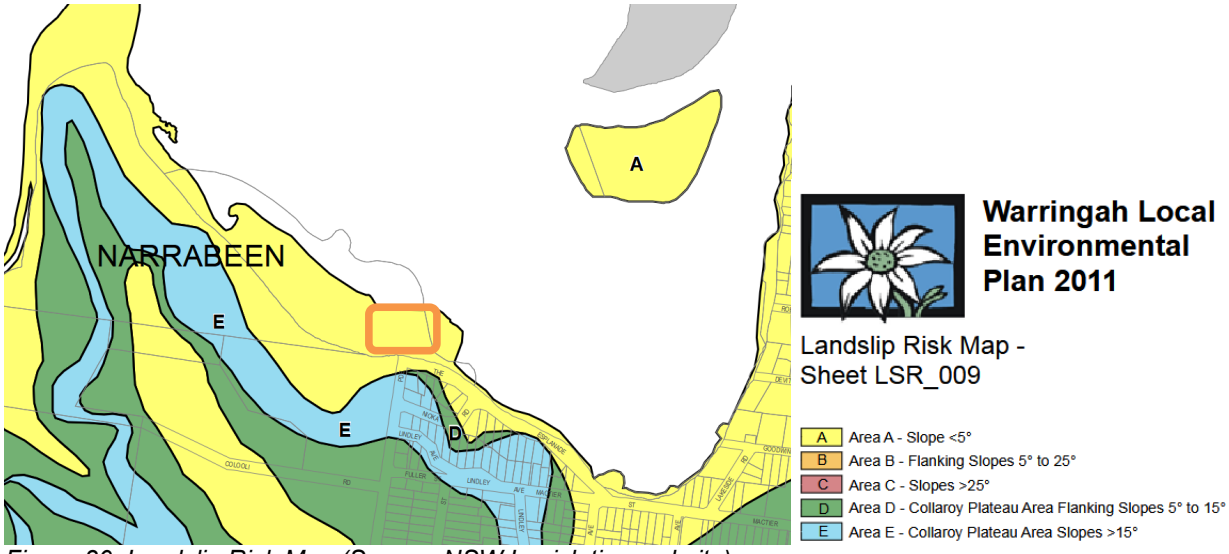


Figure 30: Landslip Risk Map (Source: NSW Legislation website)

The proposed works raise no concerns regarding landslip risk. Further, the development has been assessed by Council's Development Engineer, as well as Coastal and Riparian teams, who raise no concerns that the

development will cause significant impacts because of stormwater discharge from the site or on subsurface flow conditions.

The development is therefore consistent with the section.

Warringah Development Control Plan 2011

Compliance Assessment

The relevant parts of the WDCP 2011 that apply to the development application are:

- Part C Siting Factors
- Part D Design
- Part E The Natural Environment

The relevant sections are addressed within the table below, with further comments provided below the table where required.

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
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
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened Species, Populations	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E7 Waterways and Riparian Lands	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes
E11 Flood Risk	Yes	Yes

Detailed Assessment

C2 Traffic, Access and Safety

Deliveries
The typical delivery demands for the community facility will be generally undertaken by smaller commercial vehicles, consistent with the scale of the café. No dedicated loading space has been assessed as necessary, and the existing parking spaces are capable of accommodating the loading vans.

While it does not form part of the current application, the indicative design for the car park upgrades includes a new loop road between the building and the boat ramp to the north. Swept paths of an SRV were provided in the report, which confirmed the car park could still accommodate the vehicle, ensuring that even larger vehicles are likely accommodated in the future.

The application is acceptable in this regard.

C3 Parking Facilities

Car Parking
The application does not propose to introduce or remove any car parking from the Jamieson Park car park.

The WDCP 2011 does not contain specific car parking rates for a community facility. Accordingly, the car parking rate is to be on merit.

The Traffic Impact Assessment submitted with the application contained a car park survey which identified an existing surplus during the peak periods, with seven (7) parking spaces available at the busiest observed period. Council's Traffic Engineer reviewed the report and found the application satisfactory and the existing car park sufficient to accommodate the demand of the development.

C3(A) Bicycle Parking and End of Trip Facilities

The WDCP 2011 does not contain a specific bicycle parking requirement for a community facility.

The demolition plan indicates the area under and around the bicycle loops adjacent to the public bins at the western end of the car park is to be removed. Although the plan does not indicate the bicycle loops, it is presumed these could be removed to facilitate the works.

Although there is no bicycle parking rate, it is considered reasonable to impose a condition requiring the reinstatement of four (4) bicycle spaces. A draft condition is included in Attachment 1.

C4 Stormwater

The proposed development was supported by a stormwater plan. The plan was reviewed by Council's Development Engineer and was supported subject to conditions.

The drainage solution for the site includes a pipe leading southwest, where a rip rap and headwall will be installed to facilitate drainage into the unnamed creek. Refer to **Figure 31**.

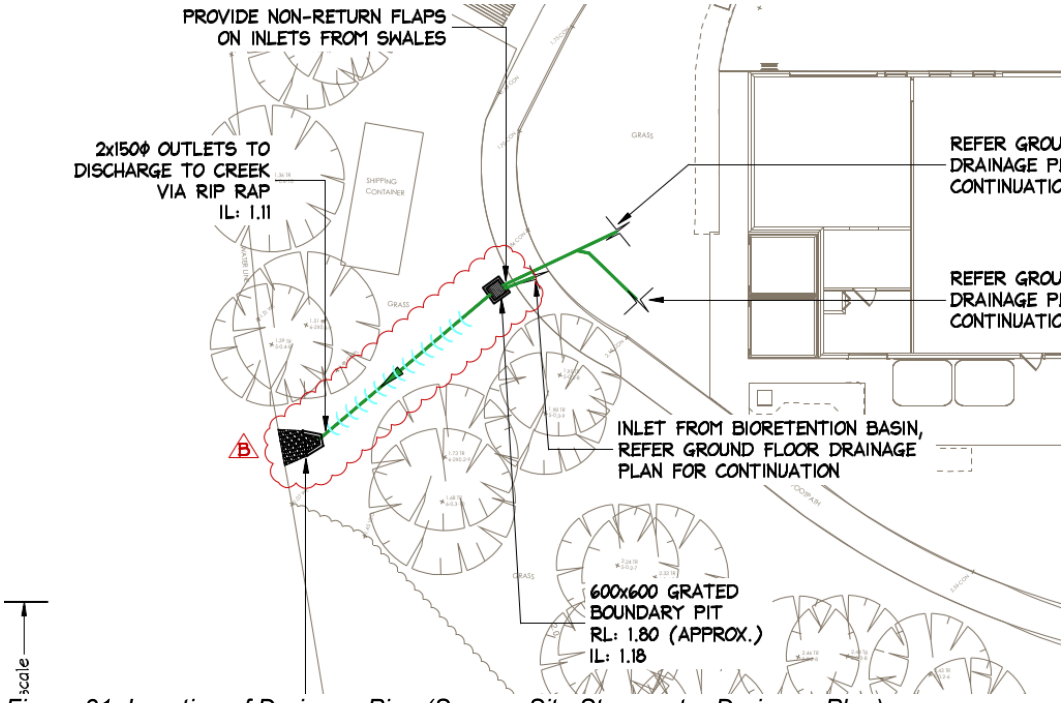


Figure 31: Location of Drainage Pipe (Source: Site Stormwater Drainage Plan)

The location of the stormwater pipe required further assessment from the arborist to confirm that no trees would be detrimentally affected by the works. This was sought in the request for additional information and provided as part of the response.

No trees are required to be removed to facilitate the drainage solution.

C9 Waste Management

The application was supported by an Operational Waste Management Plan prepared by Elephants Foot.

All bins will be stored behind the proposed community facility, located on the southern, least visible side of the building. Two (2) enclosures are proposed, one (1) for the café and one (1) for the sailing club and Northern Beaches Council.

Bins will be transferred to a temporary holding area for collection located adjacent to the car park. Refer to **Figure 32**.

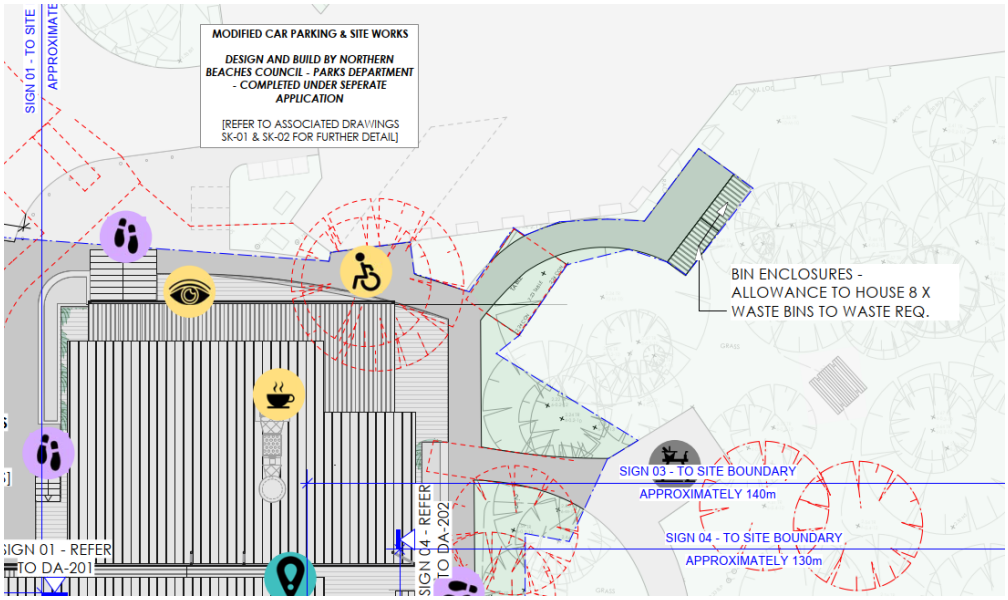


Figure 32: Extract of the site plan identifying the temporary bin enclosure

The waste arrangements were reviewed and supported by Council's Waste officer.

D6 Access to Sunlight

"*Development should avoid unreasonable overshadowing any public open space.*"

While no shadow diagrams were submitted, the overshadowing cast by the building will fall on open space and some vegetation. The area to the south of the building is a low use space currently and, following construction, will likely be even less used except for access to the waste storage area and services on the back of the building.

Consequently, the development will not have an unreasonable overshadowing impact.

Coastal Crown Land Guidelines 2023

The Department of Planning, Housing and Infrastructure – Crown Lands & Public Spaces (Crown Lands) reviewed the proposal at the time of the request for SEARs. Crown Lands requested that the proposed works be consistent with the Crown Land Coastal Guidelines.

The Guidelines contain 5 principles, which are:

- Principle 1 – Crown land management should align with Coastal Management Programs (CMP)
- Principle 2 – Coastal hazard risk should be considered when issuing tenures over coastal Crown land
- Principle 3 – Coastal protection works on coastal Crown land on the open coast, should be low impact or non-structural, where feasible or practicable
- Principle 4 – Private structural coastal protection works on the open coast should be wholly located within the boundaries of the property the works are intended to protect
- Principle 5 – Non-commercial dredging on coastal Crown land should be in the broader public and /or environmental interest

The proposed development does not conflict with any CMP, increase coastal hazard risk, involve or require any coastal protection works or dredging.

The development is consistent with the Guidelines.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats. This is discussed in further detail under the Biodiversity Conservation Act 2016 and in the referral comments earlier in the report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design, subject to conditions of consent relating to adequate lighting and CCTV to address nighttime vandalism.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of $4,225.70 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the cost of the commercial café, see the referral comments from Council's Development Contribution Officer.

Note: The Contributions Plan makes provision that "*the repair and rebuilding of development that has been destroyed by flooding, fires or other natural disasters. A contribution will be required for any part of the works that seeks to intensity or enlarge the original development. This will be determined by Council."*

Accordingly, the contributions outlined above are reflective of the portion to intensify and enlarge over the previous building.

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;
- Draft Northern Beaches Local Environmental Plan;
- Warringah Local Environmental Plan 2011;
- Warringah Development Control Plan 2011; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Environmental Impact Statement, 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

The development application seeks to construct a new community facility to replace and enhance the previous building that was destroyed by fire in 2021. The development supports the ongoing use of Jamieson Park by the public, including the Narrabeen Lakes Sailing Club, through boat storage and repair facilities, public amenities, a café to serve the public and help fund ongoing maintenance of the park and building, and a multipurpose room that may be leased for gatherings, meetings, and other events.

The development is a suitable land use, size and scale for a community facility within the constraints and environmental considerations of the site, including its flood affectation. The environmental impacts of the development have been carefully considered and found to be satisfactory, inclusive of the mitigation measures and recommendations of the expert consultant reports, plans, and the referral conditions of consent.

The development saw a majority of public support during the exhibition phase. The objections raised have been adequately addressed in this report.

Overall, the development is consistent with the relevant planning instruments and can be supported.

REASON FOR DETERMINATION

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Development Application DA2026/0489 for the construction of a community water sports facility with public amenities, ancillary café and associated landscape work at Jamieson Park, The Esplanade, Narrabeen (Lot 7358 DP 1164008), be **APPROVED** pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent in **Attachment 1**.

ATTACHMENT 1

Draft Conditions of Consent

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
   Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	**Revision**	**Plan Title**	**Drawn By**	**Date**
DA-001	T	Cover Page/Colours and Finishes	Wray and Cutcliffe Architects	30/07/2026
DA-102	T	Proposed Context Plan	Wray and Cutcliffe Architects	30/07/2026
DA-104	T	Existing Site and Tree Protection Plan	Wray and Cutcliffe Architects	30/07/2026
DA-105	T	Waste/Construction Management Plan	Wray and Cutcliffe Architects	30/07/2026
DA-106	T	Proposed Cut, Fill and Demolition Plan	Wray and Cutcliffe Architects	30/07/2026
DA-110	T	Proposed Floor Plan	Wray and Cutcliffe Architects	30/07/2026
DA-140	T	Proposed Site and Upper Roof Plan	Wray and Cutcliffe Architects	30/07/2026
DA-141	T	Proposed Site and Lower Roof Plan	Wray and Cutcliffe Architects	30/07/2026
DA-201	T	Proposed Northern and Southern Elevation	Wray and Cutcliffe Architects	30/07/2026
DA-202	T	Proposed Eastern and Western Elevation	Wray and Cutcliffe Architects	30/07/2026

DA-301	T	Proposed Cross Section A & B	Wray and Cutcliffe Architects	30/07/2026
DA-302	T	Proposed Long Section C & D	Wray and Cutcliffe Architects	30/07/2026
DA-401	T	Landscape Plan – Context and Schedule	Wray and Cutcliffe Architects	30/07/2026
DA-402	T	Landscape Plan	Wray and Cutcliffe Architects	30/07/2026
DA-501	T	Window Schedule	Wray and Cutcliffe Architects	30/07/2026
DA-701	T	Ramp Details	Wray and Cutcliffe Architects	30/07/2026
D01	A	Stormwater Drainage General Notes	NB Consulting Engineers	06/03/2026
D02	B	Site Stormwater Drainage Plan	NB Consulting Engineers	17/07/2026
D03	A	Ground Floor Stormwater Drainage Plan	NB Consulting Engineers	06/03/2026
D04	A	Lower Roof Stormwater Drainage Plan	NB Consulting Engineers	06/03/2026
D05	A	Roof Stormwater Drainage Plan	NB Consulting Engineers	06/03/2026
D10	A	Stormwater Drainage Details Sheet 1	NB Consulting Engineers	06/03/2026
D11	A	Stormwater Drainage Details Sheet 2	NB Consulting Engineers	06/03/2026
D20	A	WSUD Drainage Plan Sheet 1	NB Consulting Engineers	06/03/2026
D11	A	WSUD Drainage Plan Sheet 2	NB Consulting Engineers	06/03/2026
C01	A	Civil General Notes	NB Consulting Engineers	16/04/2026
C10	A	Site Plan	NB Consulting Engineers	16/04/2026
C20	A	Driveway Access Plan – Sheet 1	NB Consulting Engineers	16/04/2026
C21	A	Driveway Access Plan – Sheet 2	NB Consulting Engineers	16/04/2026
C22	A	Driveway Access Plan – Sheet 3	NB Consulting Engineers	16/04/2026
C23	A	Driveway Access Plan – Sheet 4	NB Consulting Engineers	16/04/2026

C24	A	Driveway Access Plan – Sheet 5	NB Consulting Engineers	16/04/2026
C30	A	Overall Proposed Contour & Spot Levels Layout Plan	NB Consulting Engineers	16/04/2026
C31	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 1	NB Consulting Engineers	16/04/2026
C32	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 2	NB Consulting Engineers	16/04/2026
C33	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 3	NB Consulting Engineers	16/04/2026
C34	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 4	NB Consulting Engineers	16/04/2026
C35	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 5	NB Consulting Engineers	16/04/2026
C36	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 6	NB Consulting Engineers	16/04/2026
C37	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 7	NB Consulting Engineers	16/04/2026
C38	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 8	NB Consulting Engineers	16/04/2026
C39	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 9	NB Consulting Engineers	16/04/2026
C40	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 10	NB Consulting Engineers	16/04/2026
C41	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 11	NB Consulting Engineers	16/04/2026
C42	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 12	NB Consulting Engineers	16/04/2026
C43	A	Proposed Contour & Spot Levels Layout Plan (Approximate) – Sheet 13	NB Consulting Engineers	16/04/2026
C50	A	Longitudinal Sections – Sheet 1	NB Consulting Engineers	16/04/2026
C51	A	Longitudinal Sections – Sheet 2	NB Consulting Engineers	16/04/2026
C52	A	Longitudinal Sections – Sheet 3	NB Consulting Engineers	16/04/2026
C53	A	Longitudinal Sections – Sheet 4	NB Consulting Engineers	16/04/2026
C54	A	Longitudinal Sections – Sheet 3	NB Consulting Engineers	16/04/2026
C55	A	Longitudinal Sections – Sheet 5	NB Consulting Engineers	16/04/2026
C56	A	Longitudinal Sections – Sheet 6	NB Consulting Engineers	16/04/2026

C57	A	Longitudinal Sections – Sheet 7	NB Consulting Engineers	16/04/2026

Approved Reports and Documentation			
Document Title	**Version**	**Prepared By**	**Date**
Accessibility Compliance Assessment Report	02 (Report Number A25_488_Access_DA)	Absolute BCA & Accessibility Consulting	11.03.2026
Acid Sulfate Soils Management Plan	0 (Project 236707.01)	Douglas Partners	25 February 2026
Arboricultural Impact Assessment Report	2 (Ref No – 1926)	Rain Tree Consulting	3 August 2026
BCA Compliance Assessment Report	02 (Report Number A25_488_BCA_DA)	Absolute BCA & Accessibility Consulting	11.03.2026
Bushfire Assessment	1	Newcastle Bushfire Consulting	11/11/2025
Construction Noise and Vibration Management	0 (Report Reference: 260109)	Pulse White Noise Acoustics	4 March 2026
Flood Report	C (Project No. 2506114)	NB Consulting Engineers	25/08/2026
Marine Habitat Survey	D0 (Job No. 2645)	H20 Consulting Group	09 March 2026
Operational Waste Management Plan	B (Report No. 708480)	Elephants Foot Consulting	03/08/2026
Report on Geotechnical Investigation	0 (Project No. 236707.00)	Douglas Partners	15 October 2025
Streamlined Biodiversity Development Assessment Report	1.0 (Project No. CORO7)	Narla Environmental	April 2026
Vegetation Management Plan	2.0 (Project No. CORO7)	Narla Environmental	25 August 2026
Waste Management Plan	-	-	-
Waterways Impact Statement	1.0 (Job No. 2645)	H20 Consulting Group	10 April 2026

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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	Referral - Ausgrid	01/05/2026
NSW Rural Fire Services	Referral - RFS	25 May 2026

Department of Primary Industries and Regional Development - Fisheries	Referral – Department of Primary Industries (Fisheries)	28 May 2026

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 a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than $25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected
ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
iii) Building/s that are to be demolished
iv) For any work/s that is to be carried out
v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

(i) Swimming Pools Act 1992
(ii) Swimming Pools Amendment Act 2009
(iii) Swimming Pools Regulation 2018
(iv) Australian Standard AS1926 Swimming Pool Safety
(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

5. **Approved Materials and Finishes**
The finishes, materials and colour scheme approved under Condition 1 and details approved under any other relevant condition(s) of this consent must not be altered or amended at the construction certificate stage without a separate Section 4.55 approval.

Condition reason: To ensure that the development is finished in accordance with the approved plans and documentation.

6. **Signage Illumination**
No approval has been granted for any illuminated elements as part of the business identification signs.

Reason: To protect amenity and limit impacts on nocturnal fauna.

7. **Extent of works**
No approval has been granted for works within the Council car park and loop road beyond those identified with the architectural plans listed in Condition 1.

Reason: To clarify the extent of the approved works.
No approval has been granted for any illuminated element as part of the business identification signs.

FEES / CHARGES / CONTRIBUTIONS

8. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $4,225.70 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 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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9. **Preparation of Construction and Fit Out Plans for Food and Drink Premises**
Before the issue of a construction certificate, detailed plans of all food and beverage preparation, serving and storage areas (including for perishable stock, waste, chemicals and personal belongings) must be prepared by a suitably qualified person.
The detailed plans must be prepared in accordance with the following editions in force on the date of determination and provided to Council for approval.

- Food Standards Code (Australia) and Food Safety Standard 3.2.3 – Food Premises and Equipment
- Food Act 2003 and Food Regulation 2015
- Australian Standard 4674:2004 :Design, Construction and Fit-out of Food Premises
- Plumbing Code of Australia and Australian Standard/New Zealand Standard AS/NZS 3500 series on Plumbing and Drainage
- Sydney Water commercial trade wastewater requirements for food premises, and
- Any relevant Water Services Association of Australia code of practice, guidelines, policies and requirements.

Reason: To ensure detailed construction and fit out plans are submitted which comply with the relevant standards.

10. **Preparation of Mechanical Ventilation Plans**
Before the issue of a construction certificate, detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person.

The detailed plans must be in accordance with the following and submitted to Council:

1. Australian Standard 1668: - The use of ventilation and airconditioning in buildings; and
2. ensure all generate heated air, smoke, fumes, steam or grease vapours do not:
   cause a nuisance to persons within or nearby to the premises, or
   cause air pollution as defined under the NSW Protection of the Environment Operations Act 1997

Reason: To ensure that detailed professional plans of the approved mechanical ventilation system are submitted before the issue of a construction certificate.

11. **Flood Effects Caused by Development**
There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 3.05m AHD.

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

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

12. **Building Components and Structural Soundness**
B1 - All new development below the Flood Planning Level of 3.55m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 3.55m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 3.55m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

13. **Floor Levels**
C1 - Floor levels within the areas designated for business use (ie everywhere apart from the boat store, workshop, and storeroom areas) shall be set at or above the Flood Planning Level of 3.55m AHD, as per the plans.

C3 - The areas designated for business use are to be built on piers with at least 50% of the perimeter of the underfloor area of open design from the natural ground level up to the 1% ARP flood level of 3.05m AHD, to allow clear passage of floodwaters.

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

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

14. **Emergency Response**

E1 - A Flood Emergency Response Plan is to be prepared and endorsed by Council staff prior to its submission to the Principal Certifier for approval. The FERP is to establish the warning triggers and procedures for pre-emptive closure of the facility, addressing factors such as the cancellation of sailing and function events and closure of the café ahead of forecast severe weather. An audible alarm linked to an online water level gauge is to be installed within the kiosk and configured to activate when Narrabeen Lagoon reaches a predetermined trigger level.
Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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

15. **Storage of Goods**
Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 3.55m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

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

16. **Ecosystem Credit Retirement – Like for Life**
Before the issue of a construction certificate:
The class and number of ecosystem credits in the table/s below must be retired to offset the residual biodiversity impacts of the development;
Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority.

Table 1. Like for like ecosystem credits to be retired - threatened ecological community

Impacted threatened ecological community	Number of ecosystems credit	Hollow bearing trees (HBTs)	IBRA subregions from which credits can be used to offset the impacts from development	Threatened ecological community that can be used to offset the impacts from development
PCT 4028 – Estuarine Swamp Oak Twig-rush Forest	1	No	Pittwater OR From an IBRA subregion within 100km of the outer edge of the impacted site	Estuarine Swamp Oak Twig-rush Forest

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

17. **No Clearing of Vegetation**
Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

18. **Delineation of Asset Protection Zones**
Prior to the commencement of any vegetation clearance/modification, the boundaries of the bushfire Asset Protection Zone (APZ) are to be surveyed and clearly marked by way of temporary fencing, flagging tape or markers. Clearing of vegetation for APZ establishment must only occur within the marked APZ boundaries.

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

Reason: To protect native vegetation and wildlife.

19. **Engagement of Project Ecologist**
A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the approved Biodiversity Development Assessment Report (NARLA Environmental, April 2026).

The Project Ecologist must have one of the following memberships / accreditation:
Practising member of the NSW Ecological Consultants Association
(https://www.ecansw.org.au/find-a-consultant/) OR
Biodiversity Assessment Method Accredited Assessor under the relevant legislation
(https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor)

Evidence of engagement of the Project Ecologist is to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

20. **Erosion and Sediment Control Plan**
An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater.

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

Reason: To protect the receiving environment.

21. **Stormwater Outlet Structure to Creek**
Stormwater outlet structures to the creek must be designed in accordance with DPE Water's Guidelines for Outlet Structures on Waterfront land. Guidelines can be found on the DPE website.

No mortar is to be used on the outlet. Rocks must be placed using an interlocking system with varying rock sizes. The surface should be a textured finish to break up and dissipate sheet flows.

This design is to be submitted to the Principal Certifier prior to the release of the Construction Certificate.

Reason: To protect the surrounding creek bank from the effects of localised erosion.

22. **Installation and Maintenance of Sediment and Erosion Controls**
Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban

Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: To protect the receiving environment.

23. **Aquatic Environment Protection**
Environmental safeguards are to be used during construction to protect the aquatic environment. Appropriate methods must be installed and secured to ensure damage to the aquatic environment is minimised. Actions and recommendations of the aquatic ecology report must be followed.

Reason: To protect the aquatic environment.

24. **Car Parking Standards**
The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

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

25. **Car Parking Finishes**
All driveways, car parking areas and pedestrian paths are to be appropriately graded and surfaced and drained to prevent stormwater runoff. Details of treatment to these areas are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

26. **Construction Traffic Management Plan**
A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Safe Work accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via https://www.northernbeaches.nsw.gov.au/council/forms. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.

- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
    - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
    - Demonstrate that direct access from a public space/road is not viable for each stage of works.
    - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
    - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
    - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
    - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
    - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
    - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
    - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
        - Compare the post-construction report with the pre-construction report,
        - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
        - Should any damage have occurred, identify remediation actions taken.
        - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Due to the proximity of the site adjacent to Mona Vale Public School, heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic will be restricted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.

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

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

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

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

27. **Detailed Design of Stormwater Treatment Measures**
A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Stormwater plans from NBConsulting Engineers drawing 2506114 REV A dated 06.03.2026 and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

28. **Utilities Services**
Prior to the issue of the Construction Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

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

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

29. **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.

30. **Plan of Management**
Prior to the issue of any Construction Certificate, a Plan of Management is to be prepared for the premises to the satisfaction of the Principal Certifier. The plan shall include details to manage the requirements detailed as follows:

Site and Context Details

(i) Street address and lot number of the land to which the Management Plan applies.
(ii) Date of preparation.
(iii) A description of the uses of the premises as well as any secondary/ancillary uses. This may be in the form of a floor or site plan indicating the use of all areas within the building or site.
(iv) Types of activities within the premises including any variations at different times of the day, week or in different seasons.
(v) A schedule of proposed hours of operation for each day of the week for all areas of the premises.

Operational Details

(i) Name and contact details of operator/manager and type of management arrangement.
(ii) The procedure for receiving, recording and handling complaints regarding the operation of the premises. A Complaints Register should be maintained on site which includes the following information:
    - Complaint date and time.
    - Name, address and contact details of person making the complaint.
    - Nature of complaint.
    - Name of person taking the complaint.
    - Action undertaken by premises to resolve the complaint.
    - Follow up and outcome.
(iii) Details of training and induction procedures to ensure staff are aware of the provisions of the Management Plan and emergency procedures.
(iv) Any requirements in respect of the on-going management of the premises arising from any conditions placed on the Development Determination.

Noise/Amenity

(i) Details on all measures that will be undertaken to ensure that the operation of the premises will not adversely affect the amenity of the locality by way of noise.

Safety and Security

(i) Details on systems and procedures to ensure the safety and well being of staff, patrons/residents and/or other users of the premises including:
- Risk management procedures appropriate to the service provisions (e.g. accident and injury etc).
- Method of surveillance of entries and/or common areas (i.e. CCTV).
- Location and monitoring of security alarms.

Waste Management

(i) Details on how and when waste will be collected.
(ii) Details of when (frequency) and how the premises will be cleaned and serviced.
(iii) Location of waste storage areas.

Fire Safety

(i) Details on proposed fire safety regime including:
- Annual certification (if required).
- Maintenance of emergency systems.
- Actions to reduce fire risks.
- Provision of an emergency evacuation plan.

Flood Safety

(i) A summary of the flood risk and actions to be undertaken during a flood event based on the Flood Emergency Response Plan required to be prepared under a separate condition of consent.
(ii) The requirement that any leasee of the building is provided with a copy of the approved Flood Emergency Response Plan and is aware of any responsibilities required under the Plan.

Reason: To ensure the premises are maintained in an appropriate manner and clear operational and emergency guidance is detailed.

31. **External Lighting**

Before the issue of a construction certificate, plans detailing external lighting must be prepared by a suitably qualified person. The lighting plan must be consistent with the approved plans and documents, and the following requirements:

- comply with AS 1158: Lighting for Roads and Public Spaces;
- comply with AS 4282: Control of Obtrusive Effects of Outdoor Lighting
- lighting must be placed at all entrances to, and exits from the premises
- lighting must provide coverage of the premises and surrounding areas for visibility and to reduce hidden areas;
- lighting must not interfere with traffic safety;
- lighting must not give rise to obtrusive light or have adverse impacts on the amenity of surrounding properties; and
- external lighting must not flash or intermittently illuminate unless required for safe ingress/egress of vehicles crossing a pedestrian footway or approved vehicle entrance.
- Relevant council development control plan

The lighting plan must be submitted to the certifier:

Note – All above documents refer to the version in effect at the time the consent is granted.

Reason: To ensure external lighting is provided for safety reasons and to protect the amenity of the local area.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. Transport for NSW approval must be obtained for a Work Zone on State Roads.

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

33. **Temporary Protection Fencing – Exclusion Zones**
Prior to the commencement of any works onsite, temporary mesh construction fencing is to be erected surrounding areas of retained native vegetation on the site as mapped in the approved Biodiversity Management Plan.

Details demonstrating compliance must be prepared by the Project Ecologist and submitted to the Principal Certifier prior to any commencement.

Reason: To protect native vegetation.

34. **Working and Access on Reserves Permit**
Works (undertaken by principal contractors working without Council supervision) on land owned or managed by Council require a “Working on Reserves” permit prior to commencement. Applications can be obtained from Council’s website or the Parks Assets business unit.

Reason: Public safety and the protection of Council infrastructure.

DURING BUILDING WORK

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

Reason: Public safety.

36. **Acid Sulfate Soils**
All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan prepared by Douglas Partners dated 25 February 2026 ref. no. 236707.01.R.001.Rev0.

Reason: To ensure management of potential acid sulfate soils.

37. **Requirement to notify above 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.

38. **Site Contamination – Acid Sulfate Soils**
All stockpiles of potentially contaminated soil must be stored in a secure area in a way that is not likely to cause pollution or be a public health risk.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines.

Copies of all test results and disposal dockets must be retained by whom? for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:
i) Protection of the Environment Operations Act 1997;
ii) Environment Protection Authority, Waste Classification Guidelines (2014);
iii) Water Quality Australia, National Acid Sulfate Soils Guidance (2018); and
iv) Acid Sulfate Soil Advisory Committee, Acid Sulfate Soil Manual (1998).

Reason: To protect environment and public health.

39. **Requirement to Notify about New Contamination Evidence**
Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

40. **Unexpected Finds – Aboriginal**
If any suspected Aboriginal site, objects, or cultural materials are uncovered during works an Unexpected Finds protocol must be followed:
1. All work must cease immediately in the vicinity of the find.
2. The area must be made safe and protected from further disturbance.
3. The Aboriginal Heritage Office must be contacted as soon as practicable for advice.
4. If the material is confirmed as Aboriginal, the appropriate NSW heritage authority and the relevant Aboriginal Land Council must be notified in accordance with relevant legislation, and works must not recommence until appropriate authorisation is provided.

If human remains are uncovered during construction or earthworks:
1. All works must cease immediately in the vicinity of the find.
2. The area must be secured and protected from further disturbance.
3. NSW Police must be contacted immediately, in accordance with statutory requirements.
4. Works must not recommence unless authorised by NSW Police and relevant authorities.

Reason: Aboriginal Heritage Protection.

41. **Tree Removal**
This consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment as listed below:

a) trees 34, 35, 36, 37, 65, 73, 74, 75 and 77 (all She Oak), 66 (Dead) and 92 (River Oak)
b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

42. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
   i) all trees within the site area not approved for removal, including trees and vegetation nominated for retention on the approved reports and plans
   ii) all trees and vegetation located on adjoining properties
   iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
   i) tree protection shall be in accordance with AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment, and in particular sections 2.2 and 2.3
   ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project 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 of AS4970-2025 Protection of trees on development sites
   ix) the activities listed in section 4 of AS4970-2025 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
   x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees
   xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

43. **Compliance with Biodiversity Impact Mitigation Measures – During Construction**
All impact mitigation measures specified in the approved Biodiversity Development Assessment Report and Vegetation Management Plan are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To avoid and minimise impacts to biodiversity.

44. **Pre-Clearance Survey – Certified by Project Ecologist**
Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

45. **Wildlife Protection**
If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

46. **Protection of Habitat Features**
All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

47. **Clearing for Asset Protection Zones – Project Ecologist to Certify**
Clearing of vegetation during works for APZ establishment must only occur within the surveyed and permanently marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Principal Certifier.

Reason: To protect native vegetation and wildlife.

48. **Stockpiling Materials**
During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

49. **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 to local regulations.

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

50. **Pollution Control**
Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

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

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

52. **Waste/Recycling Requirements (Materials)**
During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete. Evidence including quantities of disposal for waste and recycling is to be retained on site and to be provided to Council at the conclusion of the project.

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

53. **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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

54. **Stormwater Disposal**
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes and the approved construction certificate plans by a suitably qualified engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

55. **Acid Sulfatte Soils Management Confirmation**
Details demonstrating compliance with the approved Acid Sulfate Soil Management Plan prepapred by Douglas Partners dated 25 February 2026 ref no. 236707.01.R.001.Rev0 is to be submitted to the satisfaction of the principle certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

56. **Food Premises Final Inspection**
Before the issue of an occupation certificate, the food premises shall be inspected by an Authorised Officer of Northern Beaches Council under the Food Act 2003, to determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design, Construction and Fit-out of Food Premises and approved plans forming part of this development.

Reason: To enable council to ensure compliance with the Food Act 2003 before the business commences.

57. **Registration with Regulatory Authority**
The business must be registered with the appropriate regulatory authority, prior to the Occupation Certificate being issued.

Reason: Legislative requirement.

58. **Mechanical Ventilation Certification**
Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

> Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”; and
> Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

Certification is to be provided to the Principal Certifier prepared by a suitably qualified person to demonstrate that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

59. **Landscape Completion**
Landscape works are to be implemented in accordance with the approved Landscape Plan numbered DA-401 and DA-402, and inclusive of the following conditions:
a) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans, unless otherwise imposed by conditions
b) all tree planting shall be a minimum pre-ordered planting size of 45-75 litres; meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, 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) mass planting shall be installed at minimum of at least 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in garden beds prepared with a suitable free draining soil mix and minimum 75mm depth of mulch

d) where the land is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

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.

60. **Certification of Works as Executed**
A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:
1. Floor levels are set at or above the required level.
2. There has been no filling on the land other than what has been approved.
3. Openings are provided under floor areas where required for the free passage of flood waters.

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

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

61. **Building Components and Structural Soundness**
B2 - A suitably qualified structural engineer is to certify the structural integrity of the new development up to the Flood Planning Level of 3.55m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 3.55m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

62. **Compliance with Biodiversity Impact Mitigation Measures - Post Construction**
All impact mitigation measures specified in the approved Biodiversity Development Assessment Report and Vegetation Management Plan are to be implemented at the appropriate stage of development.

Written and photographic evidence of compliance is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To avoid and minimise impacts to biodiversity.

63. **Protection of Habitat Features – Certified by Ecologist**

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

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

64. **Native Landscaping**
Any new landscaping is to incorporate a minimum 100% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the findings of the approved Biodiversity Development Assessment Report and Vegetation Management Plan.

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

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

65. **Replacement of Canopy Trees**
At least 24 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the approved Biodiversity Development Assessment Report and approved Vegetation Management Plan.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

66. **Clearing for Asset Protection Zones – Project Ecologist to Certify**
Clearing of vegetation for APZ establishment must only occur within the surveyed and permanently marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To protect native vegetation and wildlife.

67. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

68. **Priority Weed Removal and Management**
All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the

development footprint are to be removed using an appropriate control method.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

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

Reason: To protect wildlife habitat.

70. **Compliance with Biodiversity Impact Mitigation Measures – Ongoing**
All impact mitigation measures specified in the approved Biodiversity Development Assessment Report and Vegetation Management Plan are to be implemented at the appropriate stage of development.

Successful establishment/initiation of ongoing biodiversity measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To avoid and minimise impacts to biodiversity.

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

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993. Existing trees shall be protected in accordance with AS4970-2025 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

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

72. **Certification for the Installation of Stormwater Treatment Measures**
A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the construction certificate approved plans. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

73. **Stormwater Treatment Measures Operation and Maintenance Plan**
An Operation and Maintenance Plan for the water quality devices is to be prepared to ensure the proposed stormwater treatment measures remain effective.

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

Reason: Protection of the receiving environment.

74. **Bicycle Parking**
The four (4) bicycle loops currently present near the site are to be reinstated or replaced to maintain four (4) bicycle parking spaces near the site.

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

Reason: To maintain the quantum of bicycle parking available in the park at the completion of the development.

75. **External Lighting**
Prior to the issue of Occupation Certificate, the Principal Certifier must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard 1158.3:2020 Pedestrian area (Category P) lighting – Performance and design requirements and Australian Standard 4282:2019 Control of the obtrusive effects of outdoor lighting.

Reason: To protect public health and amenity.

76. **Sydney Water**
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

77. **Plan of Management**
The requirements of the Plan of Management required by this consent are to be fully implemented in perpetuity from the issue of an Occupation Certificate.

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

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

78. **Maintenance of Asset Protection Zones**

Vegetation clearing for ongoing APZ maintenance must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

79. **Control of Domestic Dogs/Cats**
Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

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

Reason: To protect native wildlife and habitat.

80. **Air Conditioning Noise**
Any future air conditioning shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest habitable room within any other residential premise as defined under the Building Code of Australia, Protection of the Environment Operations Act 1997 and its statutory instruments as well as any relevant Environmental Protection Authority guidelines.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

81. **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 Plans and any conditions of consent.

A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

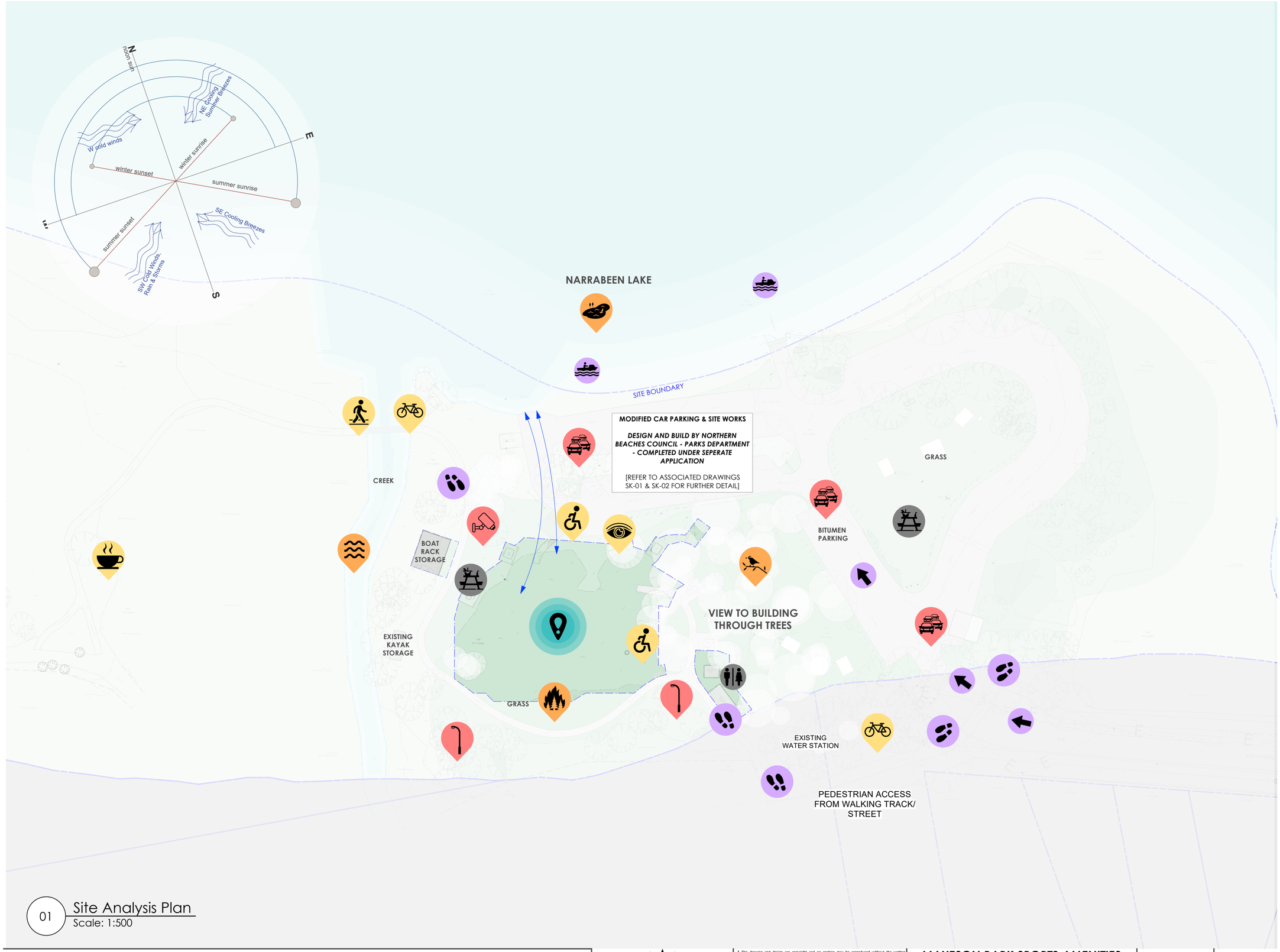
Reason: To maintain local landscape amenity.

FINAL DECLARATION



Consultant Name: Darren Laybutt (GAT & Associates Pty Ltd) – Consultant Town Planner

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



01 Site Analysis Plan
Scale: 1:500

PLANNING CONSTRAINTS / CONSIDERATIONS

Ecologically Sensitive Area - Protection of Wildlife Flora and Fauna

Flood Zoning: Resilient/Repairable Design - application of Specific building codes and standards for Flood mitigation

Bush fire prone land classification: Specific building code, Australian rules/codes apply for Flood mitigation.

Ecologically Sensitive Area - Protection adjoin lake - construction and user pollution to be mitigated/managed

Acid Sulfate Soil zoning: Testing to be completed as per consultant requirements.

CONSTRAINTS

Lack of Surveillance: Both passive and active surveillance to be considered and improved

Lack of Lighting: Both public and private lighting to be to be considered.

Public access: Delineation between public and private zones/facilities to be considered.

Pedestrian Safety - Car collision risk. Active pedestrian/boat and car cross overs - delineation of pathways to be considered.

OPPORTUNITIES - COMMUNITY

Pedestrian Access: Connections existing busy walking tracks. Default exposure provides opportunity for Passive Community engagement/ Marketing.

Cycling Access: Connections to existing tracks - user transport options + passive community exposure

Level Site - Accessible site - opportunity to provide ample equitable facilities.

Place making/Point of interests: Possibility for Public Cafe or Kiosk to generate club income.

Lake Views - Opportunity for integrated Look-out points in the vicinity / Ample views from proposed facilities.

EXISTING SITE FACILITIES

APPROXIMATE PROPOSED SPORTS AMENITIES LOCATION

BOAT ACCESS

PEDESTRIAN ACCESS

VEHICLE ACCESS

TEMPORARY TOILETS

PICNIC FACILITIES

OPPORTUNITIES - SUSTAINABILITY PRINCIPALS

Northern Orientation: Siting gives opportunity for building to be oriented toward North and Views.

Orientation of Openings: Logical orientation facing towards cooling summer breezes to maximise passive ventilation

Shading: Shading to western facade - consider locating secondary facilities as buffer.

Water: Implement onsite water re-use and storage.

Biophilic Design: Site regenerative landscape solutions, explore linking and integrating external landscape and built form/Interiors.

Resilient Design: Design for resilience and longevity in specifically in consideration of flood and bushfire zoning.

Renewable Energy: Ample space and suitable orientation to house solar panels/battery storage system.

Materials/Embodied energy: Specify Site appropriate and locally soured materials and labour - efforts to reduce pre-construction embodied energy.

Issue	Description	Date
T	DA UPDATES & AMMENDS	30/07/2026
S	RFI RESPONSE FOR REVIEW	14/07/2026
R	PARKS DWG INTEGRATION	14/04/2026
Q	SIGNAGE AMMENDMENT	10/04/2026
P	DEVELOPMENT APPLICATION	10/04/2026

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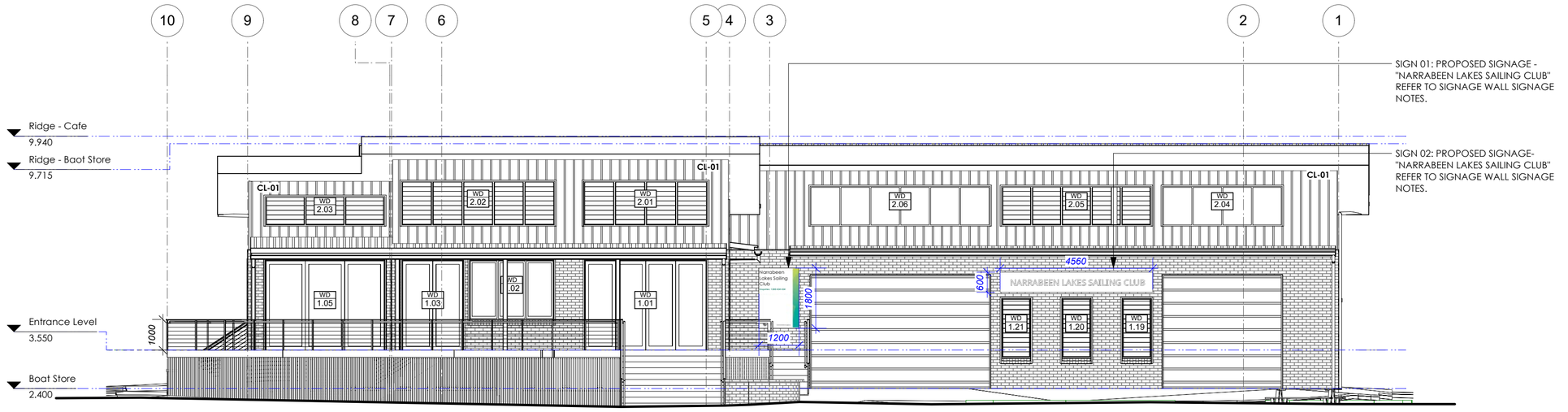
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* This drawing is to be read in conjunction with all relevant consultant reports, the Engineer's Drawings & Specification, Conditions of Contract and Accompanying Natspec Specification.
* Electronic data transfer should be scanned for viruses before use and any loss or damage (incl. consequential damage) caused to the receipient of electronic data, by its direct or indirect use, is not the liability of the designer or Wray and Cutcliffe Architects Pty. Ltd.
* All work in accordance to BCA - N.C.C, Australian Standards & all relevant authorities.
* Waterproof/ Weatherproofing Details to Master Builders Industry Guidelines and to meet performance standards as well as Australian Standards.

JAMIESON PARK SPORTS AMENITIES

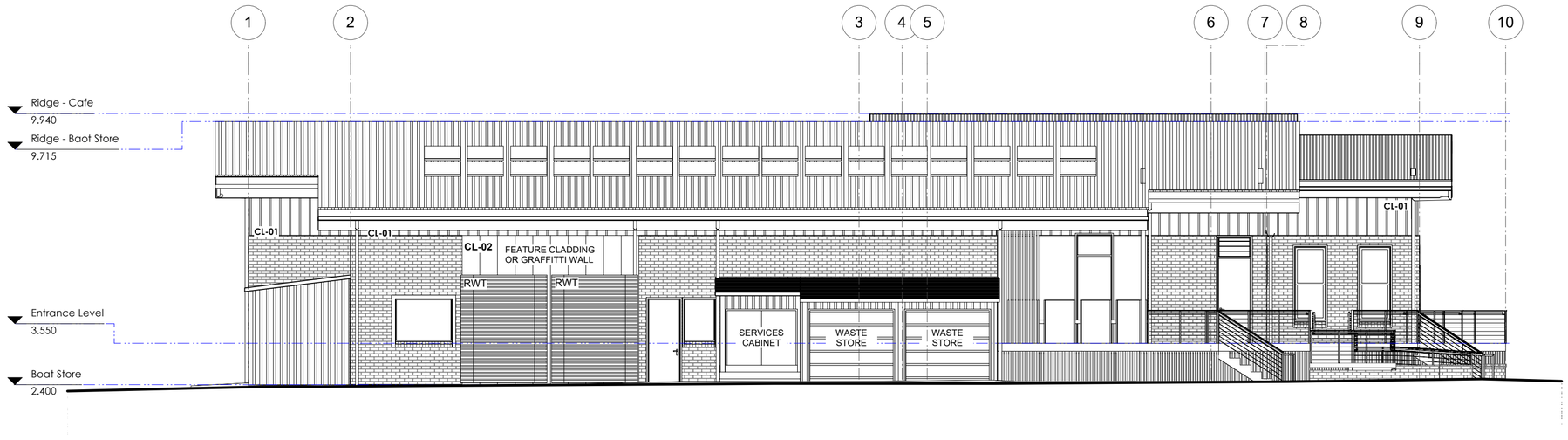
TITLE: Existing Site Analysis and Context Plan
CLIENT: Northern Beaches Council
AT: Jamieson Park
The Esplanade, Narrabeen, NSW, 2101
Lot 7358, DP 1164008

DATE 30/07/2026
SCALE @A2
DRAWN JGW/AC
JOB NO. #2306

DWG DA-101
ISSUE T



01 Northern Elevation
Scale: 1:100



02 Southern Elevation
Scale: 1:100

Finishes Legend

Code	Description
BWK-01	Feature Brickwork
CL-01	Lightweight Cladding
CL-02	Fiber Cement Feature Cladding
DP-01	Downpipe
FC-01	Fibre Cement Fascia
FL-01	Floor Finish - Concrete
FL-02	Floor Finish - Tile 01
FLASH-01	Flashing
GUT-01	Half-Round Gutter - Minimum 150mm
GUT-02	Half-Round Gutter - Minimum 200mm
PLB-01	Plasterboard - Walls
PLB-02	Plasterboard - Ceiling
RFS-01	Metal Roof Sheeting
SK-01	Skirting Board
TDB-01	Timber Decking Board

WALL MOUNTED SIGNAGE NOTES:

All signage to be built in accordance with 'Northern Beaches Council' Signage Guidelines.

All building idenifiders are to be constructed with a Barrier 104 aluminium frame extrusion or similar. See page 53 for frame construction.

Wall fixing panel is to be fixed using appropriate fastners depending on wall structure and material.

Structural elements, fixings and footings to be verified and confirmed by the sign manufacturers engineer.

STANDARD SPECIFICATIONS: [AS PER NORTHERN BEACHES COUNCIL SIGNAGE GUIDELINES].

1. FRAME - Barrier 104 aluminium frame extruxion or similar.

2. SIGN FACE - Digitally printed on 3M 7725 White Vinyl finished with 3M 1160 Anti-Graffiti Film. Print is single sided only on 3mm aluminium composite.
NOTE: In vandalism-prone areas, standard 3mm aluminium is recommended.

3. REAR PANEL - 3mm aluminium composite.

4. DOUBLE SIDED TAPE - 12mm Strip of 3M RP45 double sided tape as per 3M manufacturing specifications, used to fixed both sign face and rear panel to frame.

5. SPLIT BATTEN - HD2 split batten. Fixed to rear panel with 2 strips

6. SUPPORTS - RMS Rib extrusion for strengthening sign face. Secured to frame using 4mm countersunk rivets.

7. WALL FIXING PANEL - 3mm aluminium with lower split batten.

8. FONT - *'Muli'* in accordnce with Northern Beaches Council, Signage Guidelines.

9. SIZE - Refer to elevational dimensions - depth [AS PER NORTHERN BEACHES COUNCIL SIGNAGE GUIDELINES].

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* Waterproof/ Weatherproofing Details to Master Builders Industry Guidelines and to meet performance standards as well as Australian Standards.

JAMIESON PARK SPORTS AMENITIES

TITLE Proposed Northern and Southern Elevation

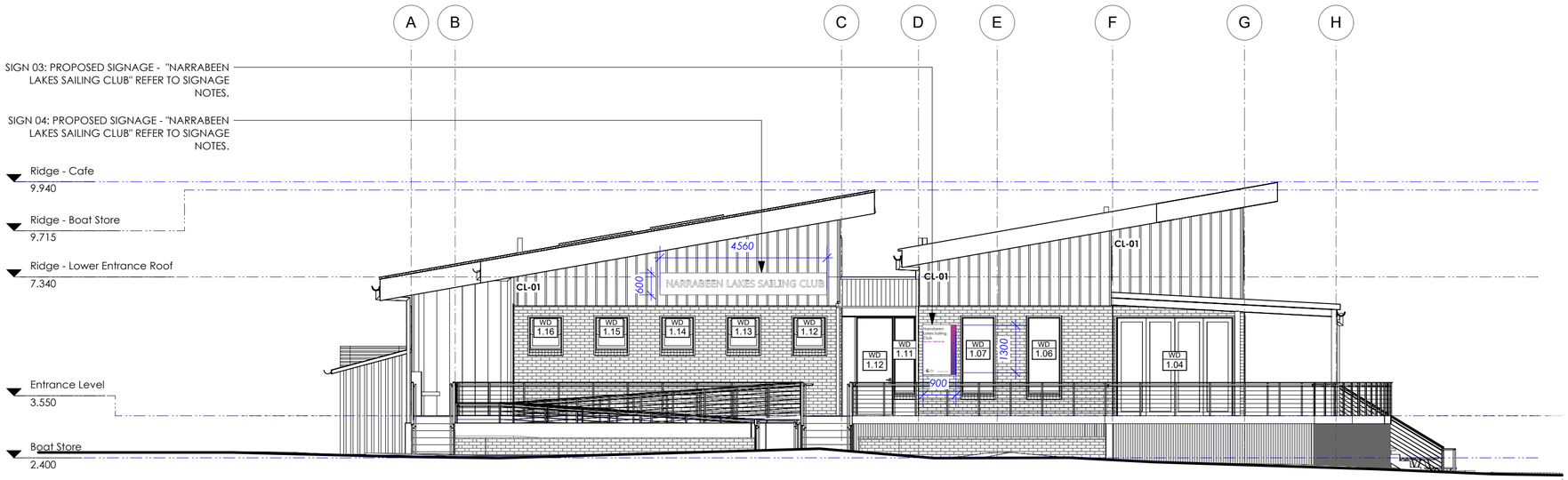
CLIENT Northern Beaches Council

AT Jamieson Park
The Esplanade, Narrabeen, NSW, 2101
Lot 7358, DP 1164008

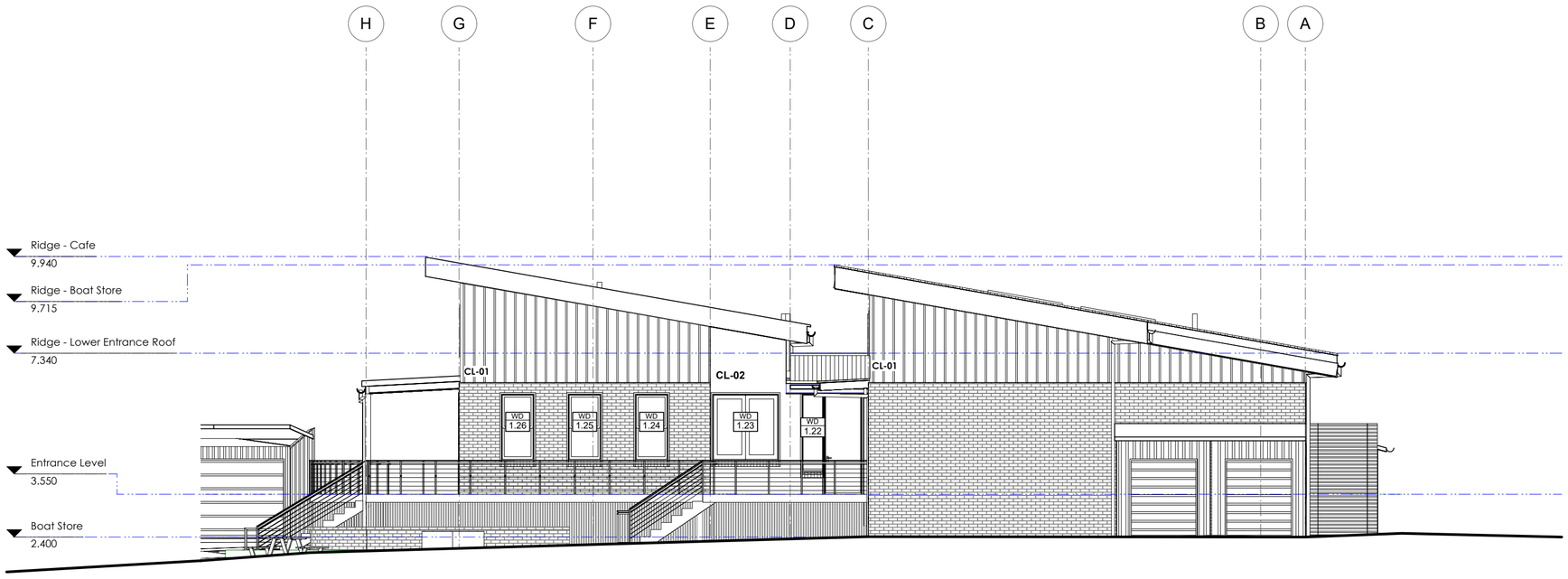
DATE 30/07/2026
SCALE @A2
DRAWN JGW/AC
JOB NO. #2306

DWG **DA-201**
ISSUE **T**

Issue	Description	Date
T	DA UPDATES & AMMENDS	30/07/2026
S	RFI RESPONSE FOR REVIEW	14/07/2026
R	PARKS DWG INTEGRATION	14/04/2026
Q	SIGNAGE AMMENDMENT	10/04/2026
P	DEVELOPMENT APPLICATION	10/04/2026



01 Eastern Elevation
Scale: 1:100



02 Western Elevation
Scale: 1:100

Finishes Legend

Code	Description
BWK-01	Feature Brickwork
CL-01	Lightweight Cladding
CL-02	Fiber Cement Feature Cladding
DP-01	Downpipe
FC-01	Fibre Cement Fascia
FL-01	Floor Finish - Concrete
FL-02	Floor Finish - Tile 01
FLASH-01	Flashing
GUT-01	Half-Round Gutter - Minimum 150mm
GUT-02	Half-Round Gutter - Minimum 200mm
PLB-01	Plasterboard - Walls
PLB-02	Plasterboard - Ceiling
RFS-01	Metal Roof Sheeting
SK-01	Skirting Board
TDB-01	Timber Decking Board

WALL MOUNTED SIGNAGE NOTES:

All signage to be built in accordance with 'Northern Beaches Council' Signage Guidelines.

All building idenifiders are to be constructed with a Barrier 104 aluminium frame extrusion or similar. See page 53 for frame construction.

Wall fixing panel is to be fixed using appropriate fastners depending on wall structure and material.

Structural elements, fixings and footings to be verified and confirmed by the sign manufacturers engineer.

STANDARD SPECIFICATIONS: [AS PER NORTHERN BEACHES COUNCIL SIGNAGE GUIDELINES].

1. FRAME - Barrier 104 aluminium frame extruxion or similar.

2. SIGN FACE - Digitally printed on 3M 7725 White Vinyl finished with 3M 1160 Anti-Graffiti Film. Print is single sided only on 3mm aluminium composite.
NOTE: In vandalism-prone areas, standard 3mm aluminium is recommended.

3. REAR PANEL - 3mm aluminium composite.

4. DOUBLE SIDED TAPE - 12mm Strip of 3M RP45 double sided tape as per 3M manufacturing specifications, used to fixed both sign face and rear panel to frame.

5. SPLIT BATTEN - HD2 split batten. Fixed to rear panel with 2 strips

6. SUPPORTS - RMS Rib extrusion for strengthening sign face. Secured to frame using 4mm countersunk rivets.

7. WALL FIXING PANEL - 3mm aluminium with lower split batten.

8. FONT - *'Muli'* in accordnce with Northern Beaches Council, Signage Guidelines.

9. SIZE - Refer to elevational dimensions - depth [AS PER NORTHERN BEACHES COUNCIL SIGNAGE GUIDELINES].

WRAY AND CUTCLIFFE
ARCHITECTS
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* All work in accordance to BCA - N.C.C, Australian Standards & all relevant authorities.
* Waterproof/ Weatherproofing Details to Master Builders Industry Guidelines and to meet performance standards as well as Australian Standards.

JAMIESON PARK SPORTS AMENITIES

TITLE Proposed Eastern and Western Elevation

CLIENT Northern Beaches Council

AT Jamieson Park
The Esplanade, Narrabeen, NSW, 2101
Lot 7358, DP 1164008

DATE 30/07/2026
SCALE @A2
DRAWN JGW/AC
JOB NO. #2306

DWG **DA-202**
ISSUE **T**

Issue	Description	Date
T	DA UPDATES & AMMENDS	30/07/2026
S	RFI RESPONSE FOR REVIEW	14/07/2026
R	PARKS DWG INTEGRATION	14/04/2026
Q	SIGNAGE AMMENDMENT	10/04/2026
P	DEVELOPMENT APPLICATION	10/04/2026

ITEM 4.3 DA2026/0781 - 638 PITTWATER ROAD BROOKVALE - ALTERATIONS AND ADDITIONS TO A SHOP TOP HOUSING DEVELOPMENT APPROVED UNDER DEVELOPMENT CONSENT DA2019/0239 & DA2024/1684

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards and is a development to which *State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment)* applies and is 4 or more storeys in height.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, r**efuses** Application No. DA2026/0781 for Alterations and additions to a shop top housing development approved under Development Consent DA2019/0239 & DA2024/1684 at Lot 1 DP 1001963, 638 Pittwater Road BROOKVALE NSW 2100 for the reasons for refusal set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.3.1** - 54 pages] 2. Site Plans & Elevations [**4.3.2** - 5 pages] 3. Clause 4.6 [**4.3.3** - 15 pages] 4. Design and Sustainability Advisory Panel Report [**4.3.4** - 9 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0781

Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 1 DP 1001963, 638 Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Alterations and additions to a shop top housing development approved under Development Consent DA2019/0239 & DA2024/1684
Zoning:	Warringah LEP2011 - Land zoned E3 Productivity Support WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	S & A Apartments Pty Ltd

Application Lodged:	17/06/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	01/07/2026 to 15/07/2026
Advertised:	01/07/2026
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 128.18%
Recommendation:	Refusal

Estimated Cost of Works:	$ 10,381,781.00

EXECUTIVE SUMMARY

The current Development Application (DA) (DA2026/0781) is an ***Amending DA*** that seeks consent for alterations and additions to an approved four-storey shop top housing development on the site that has been previously approved under two separate Development Consents, No. DA2019/0239 and DA2024/1684. This amending DA seeks to provide an additional two levels of residential accommodation with roof top communal open space resulting in a total of 74 apartments over 5 residential floor levels comprising; 39

x 1 bedroom, 18 x 2 bedroom and 17 x 3-bedroom apartments, and commercial tenancies on the ground floor. The Amending DA increases the number of apartments from 60 to 74 and results in a six-storey building with roof top communal open space facilities.

The application is reported to the Northern Beaches Local Planning Panel (NBLPP) for determination as it is triggered under the Minister's Directions for Local Planning Panels, meeting the following criteria:

- the proposal is subject to Chapter 4 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) and is four-stories or greater in height; and
- the proposal has a maximum building height of 25.1 metres, which involves a 128.18% (14.1 metre) variation to the 11.0 metre height of buildings development standard under Clause 4.3 of the Warringah Local Environmental Plan 2011 (WLEP 2011).

The applicant has submitted a written request pursuant to Clause 4.6 of the WLEP 2011 seeking a variation to the 11.0 metre height standard. The applicant's written request is largely predicated on the fact that the resulting building height is consistent with the future building heights anticipated for the site under the Brookvale Structure Plan (BSP).

The applicant's written request is fundamentally deficient in that the BSP is a strategic planning document that has not been incorporated into a draft Environmental Planning Instrument (EPI). As such, the NBLPP, as the consent authority, cannot give any statutory, and determining weight to the BSP having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979. Additionally, the resulting six-storey building form is incompatible with the height and scale of surrounding development within the catchment of the site, which is largely characterised by two and three-storey developments with some outliers of four-storey development. In this regard, the applicant has failed to demonstrate that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify this significant departure from the 11.0 metre standard.

Other critical issues that have been identified during the assessment of the application relate to; inconsistency with the design quality principles for residential apartment development under the Housing SEPP, operational waste management, public domain upgrades and the car parking allocation. These matters have been addressed in the body of this report and also form part of the recommended reasons for refusal.

Council's Design and Sustainability Advisory Panel (DSAP) reviewed the application during the assessment process and raised significant concerns that are consistent with the recommended reasons for refusal.

As a result of the public exhibition process, one (1) submission objecting to the proposal was received. The objection raised concerns in relation to; the building height/character, waste management, traffic, pedestrian safety and matters relating with the existing Development Consents on the site. The concerns in relation to building height/character, waste management and pedestrian safety are concurred with and form part of the recommended reasons for refusal.

It is concluded that the lodgment of the current application is premature, and pre-empts the potential, but not imminent and certain new planning controls for the site arising out of the BSP, will result in a six-storey building that is unacceptable in its height and scale and will have a significant impact on the existing built environment by virtue of a building that is significantly taller and incompatible with surrounding development and more critically, much larger than the scale of development anticipated under the current planning controls on the site.

In this regard, approval of the development is not in the public interest and represents an inappropriate planning pathway.

It is therefore recommended that the NBLPP ***refuse*** the application for the reasons outlined above.

PROPOSED DEVELOPMENT IN DETAIL

Development Application No. DA2024/1684 - Development Consent Applying to the Site

On 6 August 2025, the NBLPP granted development consent to an Amending DA that involved alterations and additions to the approved three-storey shop top housing development largely to create a fourth storey containing 20 residential apartments, which increased the number of apartments from 40 apartments to 60 apartments. A rooftop communal open space level was also approved.

This development consent amended Development Application DA2019/0239 pursuant to Sections 4.17(1)(b) and (5) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

A photomontage of the approved development is depicted in **Figure 1**.



Figure 1 – Photomontage of the approved development when observed from the corner of Pittwater Road and Orchard Road

Development Application No. DA2026/0781 - Current Development Application

The current DA is an ***Amending DA*** that seeks consent for alterations and additions to the approved four-storey shop top housing development, largely involving an additional two levels of residential accommodation with roof top communal open space resulting in a total of 74 apartments over 5 residential floor plates comprising 39 x 1 bedroom, 18 x 2 bedroom and 17 x 3 bedroom apartments and commercial tenancies on the ground floor.

The ***Amending DA*** increases the number of apartments from 60 to 74.

The previously approved Basement Level B1 commercial floor space is converted to residential visitor, motorcycle and storage/ plant areas.

Specifically, the proposal involves:

Basement Level B3

- Amendments to the parking layout to comply with Condition 14 of DA2024/1684.

Basement Level B2

- Amendments to the parking layout to comply with Condition 14 of DA2024/1684.

Basement Level B1

- Removal of the subterranean commercial floor space to facilitate the provision of residential visitor parking and plant/ storage areas together with changes required to comply with Conditions 14 and 21 of DA2024/1684.

Ground Floor Plan

- Deletion of Commercial Unit 1 internal stairs to basement.

First Floor Plan

- Changes to façade materiality and privacy screen detailing and introduction of a narrow planter to corner element.

Second Floor Plan

- Changes to façade materiality and privacy screen detailing, introduction of a narrow planter to corner element and introduction of a linking bridge to the Charlton Lane residential pavilions.

Third Floor Plan

- Changes to façade materiality and privacy screen detailing, introduction of a narrow planter to corner element and introduction of a linking bridge to the Charlton Lane residential pavilions.

Fourth Floor Plan (New Level of Residential Accommodation)

- This new floor plate incorporates 1 x two-bedroom and 6 x three-bedroom apartments with adjacent private open space areas and integrated permitter planter boxes.

Fifth Floor Plan (New Level of Residential Accomodation)

- This new floor plate incorporates 2 x two-bedroom and 5 x three-bedroom apartments with adjacent private open space areas and integrated permitter planter boxes.

Roof Top Terrace

- Roof top communal open space is provided including BBQ area, shade structures, vegetable garden, play equipment and feature trees (refer to accompanying landscape plans. PV panels and integrated permitter planter boxes are also provided.

A photomontage of the proposed development is depicted in **Figure 2.**



Figure 2 – Photomontage of proposed development under the Amending DA when observed from the corner of Pittwater Road and Orchard Road

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant

Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - 2.5 Additional permitted uses for particular land
Warringah Development Control Plan - A.5 Objectives
Warringah Development Control Plan - B2 Number of Storeys
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - C2 Traffic, Access and Safety
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - C9 Waste Management
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 1 DP 1001963 , 638 Pittwater Road BROOKVALE NSW 2100

Detailed Site Description:	The subject site is located on the eastern side of Pittwater Road, the northern side of Orchard Road and the western side of Charlton Lane. The site is located within the Brookvale locality. The site is 'L' shaped and has an area of 2,662 square metres (sqm). The site has boundaries of 16.21 metres (m) to Pittwater Road, 7.365m with the corner of Pittwater Road and Orchard Road, 90.61m to Orchard Road, 40.235m to Charlton Lane, 39.655m to the shared boundary with 642 Pittwater Road, and 21.925m and 39.85m to the shared boundaries with 640 Pittwater Road. The site is currently vacant, comprising of a large hardstand area and several trees that are confined to the eastern and western edges of the site. The site is zoned E3 Productivity Support under the Warringah Local Environmental Plan 2011 (WLEP 2011). The surrounding development consists of industrial properties to the east and north, commercial properties to the west and the Brookvale bus depot to the south. Warringah Mall is located a few hundred metres to the south-west. Development along the Pittwater Road corridor ranges between one to four storeys in height, with a predominant height between two to three storeys. A four-storey shop top housing development exists at 517 Pittwater Road located approximately 260m to the north of the site, while the NBLPP has also recently approved a four-storey shop top housing development under Development Application DA2023/1371 at 8 Roger Street, which is located approximately 130m to the south-west of the site.

Map:



SITE HISTORY

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

Development Application No. DA2019/0239

On 15 April 2020, the Northern Beaches Local Planning Panel granted development consent to Development Application DA2019/0239 for demolition works and the construction of a three-storey shop top housing development, comprising of:

- Three levels of basement parking with 164 car parking spaces with separate motorcycle and bicycle parking, residential storage and commercial storage for the largest tenancies.
- Three ground floor retail/business tenancies with additional basement floor space for the largest tenancies, waste storage and service vehicle loading areas, and eight small-office style units (i.e. SOHO apartments which are non-residential).
- Two storeys of residential apartments containing 40 apartments in total with a mix of studio, one-bedroom, two-bedroom and three-bedroom apartments, with communal open space being provided on the podium level (i.e. 2nd storey).
- An illuminated light disk on the roof on the corner of Pittwater Road and Orchard Road.
- Vehicular access via Charlton Lane for residential, retail and business parking, and via Orchard Road for loading and services.

The applicant has physically commenced the development consent in accordance with Section 96(2) of the Environmental Planning and Assessment Regulation 2021, as the works undertaken to date are sufficient to physically commence a consent for development consents granted before 15 May 2020.

Modification Application No. Mod2020/0598

On 24 February 2021, Council modified Development Application DA2019/0239 under Modification

Application Mod2020/0598 pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The Modification Application approved the following modifications to the development consent:

- Minor modifications to the basement level layouts to reduce the total number of approved car parking spaces from 157 to 152.
- The provision of mezzanine storage areas to each of the approved commercial tenancies including those associated with the SOHO apartments.

These modifications did not alter the approved height, bulk or footprint of the development, nor did they alter the external finishes and materials of the building.

Development Application No. DA2024/1684 - The Current Development Consent

On 6 August 2025, the NBLPP granted development consent to an amending development application that involved alterations and additions to the approved three-storey shop top housing development largely to create a fourth storey containing 20 residential apartments, which increased the number of apartments from 40 apartments to 60 apartments. A rooftop communal open space level was also approved.

This development consent modified Development Application DA2019/0239 pursuant to Sections 4.17(1)(b) and (5) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

CURRENT DEVELOPMENT APPLICATION HISTORY

On 19 August 2026, Council wrote to the applicant requesting that the DA be withdrawn on the basis that:

- The six-storey building form was not supported due to it being incompatible with surrounding development and more critically, much larger than the scale of development anticipated under the current planning controls.
- The Design and Sustainability Advisory Panel (DSAP) raised critical issues in relation to the strategic context, built form, design excellence, internal amenity of the apartments, future re-development impacts and sustainability considerations.
- The car parking arrangement was inadequate.
- Due to the increase in both traffic volume and pedestrian activity generated from the shop top housing development and Brookvale precinct, the existing pedestrian refuge in Orchard Road near the intersection with Pittwater Road, is to be upgraded to Council’s standard design drawings with barrier kerbs.
- The on-going waste management arrangements were not consistent with Council's Waste Management Guideline's.

Council's position is that the approved four-storey built form on the site is the most optimal and best use for the site having regard to the scale of surrounding development and the current planning controls. As such, Council did not invite amendments to the application.

On 2 September 2026, the applicant requested that Council finalise its assessment to be reported to the NBLPP for determination with a refusal recommendation.

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	The draft Northern Beaches Local Environmental Plan does not introduce any changes in land use zoning or change the current development standard for building height of 11m that applies to the site.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters could be addressed via a condition of consent in the event the application was recommended for approval. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters could be addressed via a condition of consent in the event the application was recommended for approval.
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Referral Bodies, Environmental Planning Instruments and Warringah Development Control Plan 2011 (WDCP) sections in this report. The assessment concludes that the development will have an unacceptable and significant impact on the existing built environment by virtue of a building that is significantly taller and incompatible with surrounding development and more critically, much larger than the scale of development anticipated under the current planning controls. This matter forms a recommended reason for refusal. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	There are no environmental or physical constraints on the site that would preclude the carrying out of the 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	The development is contrary to the aims and objectives of State Environmental Planning Policy (Housing) 2021, State Environmental Planning Policy (Sustainable Buildings) 2022, the Warringah Local Environmental Plan 2011 (WLEP 2011) and the WDCP and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. Basically, the lodgement of the DA at this particular time is premature and seeks to pre-empt the potential future planning controls arising out of the Brookvale Structure Plan, which is not appropriate and not an acceptable planning pathway. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 01/07/2026 to 15/07/2026 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 1 submission/s from:

Name:	Address:
Mrs Ann Jenkins	53 Brighton Street CURL CURL NSW 2096

One (1) submission objecting to the development was received. The following issues were raised in the submission:

- **Scale, Bulk and Streetscape**

  The submission raised concerns that:

"The overall height, bulk and mass of the proposed development will create a dominant built form along Orchard Road and Charlton Lane. The building presents as a large, continuous structure that is inconsistent with the existing character of the surrounding area and will significantly alter the visual amenity of the neighborhood".

Comment:

As detailed within the body of the report, the height and bulk of the development is found to be incompatible with the local context and the desired future character of the area as envisaged by the current planning controls that apply to the site. Accordingly, the application is recommended for refusal on this basis.

- **Traffic and Vehicle Movements**

The submission raised concerns that:

"The proposal will generate a considerable increase in vehicle movements associated with all the apartments, retail premises and commercial SOHO units. I am concerned that the Traffic Impact Assessment may underestimate the cumulative effect of resident vehicles, visitors, deliveries, service vehicles and commercial traffic.

Particular attention should be given to vehicle movements into and out of the basement parking via Charlton Lane, pedestrian safety, and the interaction between local traffic and vehicles entering and leaving Pittwater Road.

On any day, it is difficult to enter traffic in Sydenham Road from Charlton Lane as often the exit of the lane is blocked by queued traffic waiting to get onto Pittwater Road. Charlton Lane is a very slim lane that allows for two-way traffic, but traffic cannot pass each other as they have to pull close to the side to allow an oncoming car to pass.

It is really important that someone comes and watches the operation of the lane over at least a 72 hour period to truly understand its current operation. Any addition to the current situation, will make the lane unable to be navigated safely".

Comment:

Transport for NSW and Council's Traffic Engineer have reviewed the application in relation to traffic generation and concluded that the development does not create a level of traffic generation that would significantly disrupt the existing traffic network. Therefore, this issue does not have determining weight.

- **Waste Management**

The submission raised concerns that:

"The Waste Management Plan raises serious concerns. According to the documentation, approximately 56 residential 240-litre bins, together with additional commercial waste bins, will be placed on Orchard Road and Charlton Lane for weekly collection. This arrangement will result in a substantial number of bins occupying the public roads and footpaths on collection days.

I request that Council carefully assess whether the proposed waste collection arrangements are practical, safe and consistent with Council's waste management requirements. There must be a more practical way of dealing with the rubbish in this day and age".

Comment:

As detailed within the sections of this report relating to Section C9 of the WDCP and Council's Waste Regulatory and Compliance Offer's referral response, the operational waste management arrangement is not satisfactory. This forms a recommended reason for refusal.

- **Pedestrian Safety**

The submission raised concerns that:

"Charlton Lane will become a focal point for basement vehicle access, waste collection and servicing. Increased vehicle movements in what is currently a constrained laneway raise concerns regarding pedestrian safety, vehicle conflicts and emergency access.

There is no dedicated pedestrian pathway - people need to walk on the road, duck deliveries, and be very aware of vehicles entering and leaving premises along the lane. It is currently a hazard at the best of times, and I find myself often having to wait for deliveries to be completed before I can move down the lane in my car or on foot.

I don't think the traffic assessment included in the plans has fully considered the current operation of the lane. I do not know where all the garbage bins noted below are going to be placed in the laneway - but this again, will reduce the functionality of the laneway - and I do not know how resident's vehicles will have enough space to enter and exit safely the proposed building".

Comment:

As detailed within the section of this report relating to Section C2 of the WDCP and Council's Traffic Engineering referral response, upgrades to pedestrian pathways are required and have not been accounted for by the development. This matter forms a recommended reason for refusal.

- **Commercial Activity**

The submission raised concerns that:

"The inclusion of 3 retail premises and 8 SOHO commercial units will generate activity beyond that associated with a purely residential development. I request Council carefully assess loading arrangements, delivery access, customer parking, servicing requirements and the cumulative impacts of commercial operations on surrounding residential and commercial properties. There is currently little if no, street parking during the working week on Orchard Road due to time restrictions so I am not sure where visitors to the commercial operations will park if there is no room on site for them".

Comment:

The retail and SOHO commercial developments are already approved on the site and do not form part of this amending DA.

- **Construction Impacts**

  The submission raised concerns that:

  "Excavation for three basement levels will inevitably involve significant heavy vehicle movements, excavation works, vibration, noise and dust over an extended period. Council should ensure that appropriate construction traffic management and mitigation measures are in place to minimize impacts on neighboring business and residents".

  Comment:

  The excavation for the basement levels are already approved on the site and do not form part of this amending DA. Only layout changes to the approved basement footprint form part of this amending DA.

- **Capital Investment Value**

  The submission raised concerns that:

  "The Development Application identifies a Capital Investment Value of $10,381,781. Given the substantial scale of the proposal, including 3 basement levels, commercial premises and 74 residential apartments, I request Council confirm that the Capital Investment Value has been independently assessed and accurately reflects the true scope and scale of the proposed development. The buildings aesthetics, structure, suitability and safety needs to withstand the test of time".

  Comment:

  The capital investment value (CIV) reflects the works proposed under the amending DA, rather than the entire development as a whole. In the event the application was approved, a suitable condition could be included to ensure development contributions are appropriately levied for amending DA, which would be paid in addition to the approved development based on the CIV of the approved development.

Several of the concerns raised within the submission have merit and are consistent with the recommended reasons for refusal.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	***Matters for Consideration*** The Panel does not support the proposal in its current form. Although the amended scheme has addressed some previous concerns, including improvements to apartment orientation and the acceptability of the additional height, it fails to demonstrate an appropriate response to the Brookvale Structure Plan and the desired future character of the precinct. Significant issues remain regarding strategic context, built form, design excellence, internal amenity, future redevelopment impacts, sustainability and unresolved recommendations from the previous review. The Panel considers that further refinement of the building's massing, architectural expression, courtyard design, environmental performance and contextual analysis is necessary to achieve a high-quality urban design outcome that supports the long-term evolution of the precinct. **Assessment Officer Comment:** The DSAP's detailed recommendations can be viewed on the DSAP Report published on Council's website.
Building Control - Fire and Disability upgrades	***Conditions Recommended*** The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application subject to inclusion of the attached conditions of approval and consideration of the notes below. Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.
Environmental Health (General)	***Conditions Recommended*** This application is seeking consent for alterations and additions to a shop top housing development. The alterations and additions involve an additional 2 levels of residential accommodation with roof top communal open space resulting in a total of 74 apartments over 5 residential floor plates comprising 39 x 1 bedroom, 18 x 2 bedroom and 17 x 3 bedroom apartments. The previously approved Basement Level B1 commercial floor space is converted to residential visitor, motorcycle and storage/ plant areas. Environmental Health would require the additional residential units to be constructed with the same acoustical treatments as approved under DA2019/0239 and DA2024/1684. Therefore, a condition of consent will be applied to ensure acoustical construction measures are applied prior to CC.

Internal Referral Body	Comments
Landscape Officer	***Matters for Consideration*** The development application again seeks alterations and additions to the shop top housing development approved pursuant to DA2019/0239 and DA2024/1684 involving an additional two levels of residential accommodation with roof top communal open space. Tree removal is covered by the parent development consent DA2019/0239, and no further comments are required. Under this development application the following plans are submitted for consideration by Landscape Referral: A Public Domain Plan is submitted for works in the road reserve verge, along with Landscape Plans for works within the property. The Landscape Plans for works within the property on the ground floor level, residential levels 1, 2, 3, 4, 5 and the rooftop, are noted and raise no concerns. The submitted Public Domain Plan for works in the road reserve verge remains a concern as the documentation does not provide the requested information under Condition 11 - Amended Landscape Plans - Public Domain of development consent DA2024/1684 including part (c) all public domain works shall be completed in accordance with Northern Beaches Public Space Vision & Design Guidelines. The submitted public domain plans do not address the condition requirements as identified in 11. a) i) ii) iii) iv), 11. b) i) ii) iii), and 11. c). The development site is located within the Brookvale Structure Plan precinct and identified as being at the south-eastern gateway to the Brookvale Commercial Town Centre commercial shopping strip located along Pittwater Road and is visually prominent. Northern Beaches Public Space Vision & Design Guidelines (BNPSV&DG) identifies the site frontage as an Urban 'high street' and the Pittwater Road frontage and in front of the main entry shall be paved with granite pavers as identified in the BNPSV&DG to the full width extent of the verge including placement of a kerb ramp. The proposed concrete path, street tree planting and grass verge along Orchard Road is acceptable as documented. The granite paver for the Urban 'high street' is Sesame Grey, exfoliated finish, 600 x 300 x 40mm on concrete slab, and stretcher bond pattern. It is considered that under this development application, this matter shall be co-ordinated and signed-off as approved under the determination with stamped plans.

Internal Referral Body	Comments
NECC (Development Engineering)	***Conditions Recommended*** The proposed development relies upon the previous approvals for the site and includes additional levels above the current approvals. The application does not modify the area designated for the proposed on-site stormwater detention tank. A condition has been included to connect stormwater from this development into the approved detention system of the original approval. There are no changes to the driveway access to the site. The proposal meets the objectives of the DCP controls subject to conditions as recommended.
NECC (Water Management)	***Conditions Recommended*** The Catchment Team has reviewed the proposal, noting the background and previously approved developments under DA2019/0239 and DA2024/1684. Based on the submitted information, no significant changes to the approved stormwater management approach are identified as a result of the proposed modifications. Accordingly, no objection is raised from an integrated stormwater management perspective.

Internal Referral Body	Comments
Traffic Engineer	***Matters for Consideration*** The subject site at 638 Pittwater Road has been subject to a number of Development Applications and Modifications over the years. This application is for a shop top housing development involving an additional 2 levels of residential accommodation with roof top communal open space resulting in a total of 74 apartments over 5 residential floor plates comprising 39 x 1 bedroom, 18 x 2 bedroom and 17 x 3 bedroom apartments. The previously approved Basement Level B1 commercial floor space is converted to residential visitor, motorcycle and storage/ plant areas. **Parking Requirements** A Traffic Impact Assessment (TIA) has been prepared by Apex Engineers (dated April 2026), with respect to the parking and traffic generation impacting the road network. The TIA has recalculated the parking requirements and allocation based on the previous approved Development Application DA2024/1684, by adjusting the increased residential and visitor parking requirements for the residential component, and simply deducting the Commercial Unit 1 Basement area from the non-residential parking component. The additional 14 residential units (3 x 2 bed units + 11 x 3 bed units) proposed requires 20 residential spaces and 3 residential visitor spaces under the WDCP 2011. A total of 86 residential spaces and 15 residential visitor is required, which has been provided within the Basement car park. It should be noted that the previous assessment undertaken by the Traffic team took into consideration the car park layout and number of spaces on each Basement level when allocating the non-residential parking spaces to accommodate the future uses proposed at that time. The assessment indicated that the applicable parking rates and required number of spaces in accordance with the WDCP2011: Commercial (Unit 1) = 22 @ 1 space per 40m2 (863/40m2) *Basement Commercial = 19 @ 1 space per 40m2 (763/40m2)* Retail/Business (Unit 2 & 3) = 10 @ 1 space per 16.4m2 GLFA (167/16.4m2) SOHO (Unit 1-8) = 20 @ 1 space per 40m2 (794/40m2) Total for mixed-use = 52 spaces (*71 if Basement Commercial area is used as offices) As the current proposal removes the entire Basement Commercial area (763m2) on B1 plan, the parking layout and allocation should also be reviewed, with any surplus parking allocated for Visitor/Customer parking as intended in the previous proposals. The changes to the proposal allows the full allocation of parking for the non-residential component to be applied in a practical layout across the basement car park, with Basement Level B3 unchanged for

Internal Referral Body	Comments
	residential parking. The following amendments are therefore recommended to the parking layout and allocation shown on the Basement Level plans, Drawing Nos A02C, A03C and A04C. a) Basement Level B3 - Residential Parking (65 spaces including 4 adaptable (AS4299) and 2 accessible (AS2890.6) spaces) • The residential bicycle parking area (40 bike racks) must be shown to be within a secure room/enclosure with entry door. b) Basement Level B2 - Residential Parking (21 spaces including 2 adaptable (AS4299) spaces), SOHO (Unit 1-8) parking (20 spaces including 2 accessible (AS2890.6) space), and Retail/Business Unit 2 & 3 parking (10 spaces including 2 accessible (AS2890.6) spaces). • Reallocate 10 spaces for Retail/Business parking, situated together near Lifts L3 and 4. • Reallocate 20 spaces for SOHO parking c) Basement Level B1 - Resident Visitor parking (15 spaces including 2 accessible (AS2890.6) spaces), Commercial (Unit 1) parking (22 spaces including 1 accessible (AS2890.6) space), and Visitor/Customer parking (6 spaces including 1 accessible (AS2890.6) space). • Reallocate 1 Resident Visitor parking space to Commercial parking • Reallocate a further 21 spaces to Commercial parking (total 22) **Public Domain and Active Transport Works** Due to the increase in both traffic volume and pedestrian activity generated from the shop-top development and Brookvale precinct, the existing pedestrian refuge in Orchard Road near the intersection with Pittwater Road, is to be upgraded to Council's standard design drawings with barrier kerbs. Any realignment of the pedestrian crossing point would also require adjustments to the kerb ramps. The Public Domain Plan, Dwg Sheet LP01, Revision A; does not show the required extension of the footpath to Charlton Lane with provision of a kerb ramp. The proposal is not acceptable in its current form. It is requested that the above recommendations be considered and addressed in the updated plans so that the proposal can be reviewed for further consideration.

Internal Referral Body	Comments
Waste Officer	***Matters for Consideration*** 74 Units shop top housing with commercial and retail below and 3 levels of basement parking Commercial / retail bin room with loading/service bay off Orchard Rd on Ground Level Residential Bin Room 1 - Services Lifts 1 & 2 with 30 units above on Ground Level Residential Bin Room 2 - Services Lifts 3 & 4 with 44 units above on Ground Level Bulky waste storage room 14.1m^2 (29.4m^3) in Basement B2 (no presentation area for bulky waste) DA2019/0239 40 units approved DA2024/1684 60 units approved Documents reviewed Barry Rush & Associates P/L Plan A03C 24/4/2026 & Barry Rush & Associates P/L Plan A05B Issue B 24/4/2026 Waste Management Plan Apex Engineers April 2026 (Report references the Warringah Waste Management Plan (2010) which has been replaced by the Northern Beaches Waste Management Guidelines (Nov 2016) Any new street trees should not impede parking for domestic waste collection vehicles (10.5m long HRV). Please indicate on the plans on Orchard Rd that there is sufficient space for waste collection from Waste Storage Room 1 and from Waste Storage Room 2 via Charlton Lane. Increase of 14 units will result in additional bins being provided. For the approved DA 2024/1684 for 60 units council would have supplied: 20 x 240l red lid waste, 13 x 240l blue lid paper recycling, 13 x 240l yellow lid container recycling, 2 x 240l vegetation recycling (and 6 x 240l food recycling containers). Total 54 x 240l waste containers. For 74 units proposed under DA 2026/0781, council would supply: 25 x 240l red lid waste, 16 x 240l blue lid paper recycling, 16 x 240l yellow lid paper recycling, 2 x 240l vegetation recycling and 7 x 240l food recycling containers. Total 66 x 240l waste containers. Food organics recycling has been mandated by the NSW Government since the approval of DA2024/1684. Ground Level Bin storage Room 1 measured at 20.161m2 Internal door width 0.91m door opens inwards and must open outwards. Services Lifts 1 & 2 with 30 Units above. Roller door 2.76m wide (10R 7B 7Y 2G 3FO would be provided)

Internal Referral Body	Comments
	Ground Level Bin storage Room 2 measured at 31.099m2 Internal door width 0.889m door opens inwards and must open outwards. Services Lifts 3 & 4 with 44 Units above. Roller Door 2.297m wide (15R 10B 10Y 2G 4FO would be provided) Commercial waste storage measured at 31.357m2. Door width 1.9m opening outwards Loading/Service Vehicle Bay for 3.6m x 6.4m vehicle with 3.5m height clearance If the bin rooms are supplied with waste containers arranged per the dwellings above them, they need to accommodate 29 bins in Bin Room 1 and 41 bins in Bin Room 2. Bins should be presented in their streams and not stacked. All doors to all bin storage rooms must be a minimum of 1.2m wide and open outwards. Bulky storage must be separate from waste storage. Doors to the bulky storage area must open outwards and be a minimum of 1.2m but recommend 1.5m to accommodate larger furniture items. A temporary presentation area for bulky waste items must be nominated on the plans. Bulky items must not be placed on the kerbside at any time. It may be necessary to turn SOHO unit 5 or part thereof into a bulky storage and collection point to facilitate collections. A Building Manager will need to manage the bin rooms and ensure bins are rotated so that all bins are utilised and there is no contamination of recycling streams. An Operational Waste Management Plan is required prior to occupation to be provided to Council and for Strata and residential use once the building is operational. As noted above, since the original approvals in 2019 and 2024 the NSW Government has mandated the provision of food waste recycling for every domestic dwelling in NSW and this service is to be provided by July 2030. NBC is still determining how the service will be provided ie: an additional food organics bin or combined food organics/garden organics. The calculations above allow for 24L per week per dwelling of food organics in addition to the allocated 2 vegetation organics bins per 200m2 or landscaped area for multi unit dwellings. We request confirmation that the supplied bins for 74 units will fit into the bin rooms in a manner that they can be accessed by residents and collection contractors alike. Presentation area for bulky waste is required to be shown on the plans as the contractors will not collect from the basement and bulky waste must not be placed on the pavement. For commercial and retail waste food recycling will also need to be factored into the development if there is a likelihood that a café/restaurant be included. Doors to the commercial bin room area sufficient to accommodate 660l and 1100l bins for commercial and the

Internal Referral Body	Comments
	service loading bay will accommodate commercial collection vehicles.

External Referral Body	Comments
External - Ausgrid - Section 4.31 of SEPP (Planning Systems) 2021 Development near electricity infrastructure - s4.31 (of SEPP) 2021	***Conditions Recommended*** 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.
Concurrence - Transport for NSW - SEPP (Transport and Infrastructure) 2021, s2.118	***Conditions Recommended*** Reference is made to Council's referral regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment under clause 2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021. TfNSW notes that there are no changes to the vehicular access proposed under the original application. As such, TfNSW reiterates the comments and recommended conditions provided in TfNSW's submission on the previous development application, referenced SYD24-02079/01 dated 10 January 2025 (TAB A), which remain applicable.

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)

Housing and Productivity Contribution

In the event the application was recommended for approval, a condition would be recommended requiring development contributions under the Housing and Productivity Contribution Order to be paid. This would amount to a sum of $151,675.16 for the 14 new apartments subject to this amending DA.

SEPP (Sustainable Buildings) 2022

The submitted BASIX certificate accounts for the added floors but includes all the car parking and none of the basement area. This is not consistent with what is being developed and is hence not compliant. A new certificate should be provided which encompasses the whole building.

The development fails to meet the requirements of State Environmental Planning Policy (Sustainable Buildings) 2022. This matter forms a recommended reason for refusal.

SEPP (Housing) 2021

Chapter 4 - Design of Residential Apartment Development

Clause 144 of State Environmental Planning Policy Housing 2021 (Housing SEPP) stipulates that:

(1) This chapter applies to development only if:
- *(a) the development consists of:*
  - *(i) the erection of a new building,*
  - *(ii) the substantial redevelopment or the substantial refurbishment of an existing building, or*
  - *(iii) the conversion of an existing building, and*
- *(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and*
- *(c) the building contains at least 4 dwellings.*

This amending DA proposes an additional 14 residential apartments to an approved shop top housing development containing 60 apartments. The resulting development will have 74 residential apartments within a six-storey building. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 of the Housing SEPP are applicable to the assessment of this application

As previously outlined within this report Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

Referral to design review panel for development applications

Clause 145 of Housing SEPP requires:

(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).

Comment:

Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report, who do not support the proposal.

Determination of development applications and modification applications for residential apartment development

Clause 147 of SEPP Housing requires that:

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—
(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
(b) the Apartment Design Guide,
(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Comment:

The below part of the report makes an assessment against the design quality principles contained within Schedule 9 (a) and an assessment is carried out against the ADG below (b).

As detailed below, the development is inconsistent with the design quality principles of Schedule 9. This matter forms a recommended reason for refusal.

The consent authority has considered the advice received from the DSAP. Overall, the DSAP was not supportive of the proposal. The recommended reasons of refusal capture the concerns raised by the DSAP.

Non-discretionary development standards for residential apartment development

Clause 148 of the Housing SEPP contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide
(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment:

As noted in the below assessment, the proposal meets the minimum requirements of the ADH in relation to Part 3J, 4D and 4C. This assessment has not required more onerous standards and does not recommend refusal of any of these reasons.

DESIGN QUALITY PRINCIPLES - Schedule 9

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The established character of development within the catchment of the site is predominantly two to three storeys, with there being some examples of four-storey development at 517 Pittwater Road located approximately 260m to the north of the site, and the NBLPP has also recently approved a four-storey shop top housing development under DA2023/1371 at 8 Roger Street, which is located approximately 130m to the south-west of the site.

The proposed six-storey development is significantly incompatible with the local context and the scale of development anticipated under the current planning controls that are in force. In this regard, the development does not satisfy Principle 1.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

As detailed above, the development does not achieve a scale, bulk and height that is compatible with the existing or desired future character of the area. In this regard, the development does not satisfy Principle 2.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

For the reasons outlined above, the resulting building density is not appropriate for the site and its context, thereby failing to satisfy Principle 3.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and

operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The development is generally satisfactory having regard to the internal amenity criteria contained within the ADG. As such, it cannot be concluded that Principle 4 is not achieved.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

While Council's Landscape Officer has raised concerned in relation to public domain landscaping, the existing conditions of consent under Development Application DA2024/1684 include all specifications to overcome the Landscape Officer's concerns. The Landscape Officer has merely raised concerns that the amending DA does not incorporate these measures on the DA plans.

As such, Principle 5 is not offended.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The development is generally satisfactory having regard to the internal amenity criteria contained within the ADG. As such, it cannot be concluded that Principle 6 is not achieved.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and

purpose.

Comment:

There are opportunities for passive surveillance of the lower podium communal open space from various apartments and opportunities for passive surveillance of the public domain from various apartments. The is also secure access to the residential lifts that are separate from the commercial access points.

The development is consistent with Principle 7.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The development provides a mix of one, two and three-bedroom apartments to cater for a variety of demographics, living needs and household budgets. As detailed above, the rooftop communal open space will provide excellent amenity for residents within the building and encourage social interaction.

The development is consistent with Principle 8.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The proposal incorporates a variety of materials, colours and textures, in addition to modulated wall planes and roof planting, to provide for an aesthetically pleasing building, notwithstanding the fact that the height, bulk and scale of the proposal is not appropriate in the context of the site and its surrounding context.

The development is consistent with Principle 9.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by the Housing SEPP.

Development Control	Criteria / Guideline	Comments

<table>
<tr><td colspan="3">Part 3 Siting the Development</td></tr>
<tr><td>Site Analysis</td><td>Does the development relate well to its context and is it sited appropriately?</td><td>Inconsistent

As demonstrated above, the development does not relate well to its context.</td></tr>
<tr><td>Orientation</td><td>Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?</td><td>Inconsistent

For the reasons outlined above, the development does not respond well to the streetscape.</td></tr>
<tr><td>Public Domain Interface</td><td>Does the development transition well between the private and public domain without compromising safety and security?

Is the amenity of the public domain retained and enhanced?</td><td>Consistent

As detailed within the section of this report relating to Principle 7 of the Housing SEPP, the safety and security of residents will be safeguarded.</td></tr>
<tr><td>Communal and Public Open Space</td><td>Appropriate communal open space is to be provided as follows:
1. Communal open space has a minimum area equal to 25% of the site
2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)</td><td>Consistent

28.48% (758.2sqm) of the site is communal open space (COS) at the roof top level. The COS at the podium level is excluded from the COS calculations as it will receive limited sunlight.</td></tr>
<tr><td>Deep Soil Zones</td><td>Deep soil zones are to meet the following minimum requirements:

<table>
<tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr>
<tr><td>Less than 650m^2</td><td>-</td><td rowspan="4">7%</td></tr>
<tr><td>650m^2 – 1,500m^2</td><td>3m</td></tr>
<tr><td>Greater than 1,500m^2</td><td>6m</td></tr>
<tr><td>Greater than 1,500m^2 with significant existing tree cover</td><td>6m</td></tr>
</table>
</td><td>Inconsistent

5.33% (142sqm) of the site contains deep soil landscaping; however, this area along the Charlton Road frontage is only 4.5m in width as there is a 1.5m wide path adjacent to the building. This matter is not determinative in the refusal recommendation.</td></tr>
</table>

<table>
<tr>
<td>Visual Privacy</td>
<td>Minimum required separation distances from buildings to the side and rear boundaries are as follows:

<table>
<tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr>
<tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr>
<tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr>
<tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr>
</table>

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</td>
<td>Consistent

First Four Storeys
12m between building envelopes internally within the site.

Fifth and Sixth Storeys
18m between tower elements internally within the site.</td>
</tr>
<tr>
<td>Pedestrian Access and entries</td>
<td>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?

Large sites are to provide pedestrian links for access to streets and connection to destinations.</td>
<td>Consistent

Pedestrian access to the building is accessible and easily identifiable.</td>
</tr>
<tr>
<td>Vehicle Access</td>
<td>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</td>
<td>Consistent

The vehicular access points to the building remain unchanged from the approved scheme.</td>
</tr>
<tr><td colspan="3">Part 4 Designing the Building</td></tr>
<tr><td colspan="3">Amenity</td></tr>
</table>

<table>
<tr><td>Solar and Daylight Access</td><td>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:

• Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</td><td>Inconsistent

50/74 (67.58%) of the apartments receive 2 hours of sunlight on June 21. Despite the minor shortfall, the residents would have access to a large COS at the roof level and the apartments are generally all reasonably appointed. As such, this is not determinative in the refusal recommendation.</td></tr>
<tr><td></td><td>• A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</td><td>Consistent

No apartments receive no sunlight.</td></tr>
<tr><td>Natural Ventilation</td><td>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:

• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</td><td>Consistent

55/77 apartments (74%) are cross ventilated.</td></tr>
<tr><td></td><td>• Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</td><td>Consistent

No cross through apartments exceed 18.</td></tr>
<tr><td>Ceiling Heights</td><td>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

<table>
<tr><td colspan="2">Minimum ceiling height</td></tr>
<tr><td>Habitable rooms</td><td>2.7m</td></tr>
<tr><td>Non-habitable</td><td>2.4m</td></tr>
<tr><td>For 2 storey apartments</td><td>2.7m for main living area floor

2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr>
<tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr>
<tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr>
</table>
</td><td>Consistent

The floor to ceiling heights are compliant.</td></tr>
</table>

<table>
<tr>
<td>Apartment Size and Layout</td>
<td>Apartments are required to have the following minimum internal areas:

<table>
<tr><th>Apartment type</th><th>Minimum internal area</th></tr>
<tr><td>Studio</td><td>35m^2</td></tr>
<tr><td>1 bedroom</td><td>50m^2</td></tr>
<tr><td>2 bedroom</td><td>70m^2</td></tr>
<tr><td>3 bedroom</td><td>90m^2</td></tr>
</table>

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m^2 each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m^2 each.</td>
<td>Consistent for New Apartments

All new apartments proposed on the fifth and sixth storeys comply.</td>
</tr>
<tr><td></td><td>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</td><td>Consistent</td></tr>
<tr><td></td><td>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</td><td>Consistent</td></tr>
<tr><td></td><td>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</td><td>Consistent</td></tr>
<tr><td></td><td>Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).</td><td>Consistent</td></tr>
<tr><td></td><td>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</td><td>Consistent</td></tr>
<tr><td></td><td>Living rooms or combined living/dining rooms have a minimum width of:
• 3.6m for studio and 1 bedroom apartments
• 4m for 2 and 3 bedroom apartments</td><td>Consistent</td></tr>
<tr><td></td><td>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</td><td>Consistent</td></tr>
</table>

<table>
<tr>
<td>Private Open Space and Balconies</td>
<td>All apartments are required to have primary balconies as follows:

<table>
<tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr>
<tr><td>Studio apartments</td><td>4m2</td><td>-</td></tr>
<tr><td>1 bedroom apartments</td><td>8m2</td><td>2m</td></tr>
<tr><td>2 bedroom apartments</td><td>10m2</td><td>2m</td></tr>
<tr><td>3+ bedroom apartments</td><td>12m2</td><td>2.4m</td></tr>
</table>

The minimum balcony depth to be counted as contributing to the balcony area is 1m</td>
<td>Consistent

All apartments comply, noting that the narrower components less than the minimum depth requirement of the balconies are 1m and meet the minimum depth for calculation where the minimum depth at the wider points are achieved.</td>
</tr>
<tr>
<td>Common Circulation and Spaces</td>
<td>The maximum number of apartments off a circulation core on a single level is eight.</td>
<td>Consistent

The maximum number of apartments off a circulation core is six apartments.</td>
</tr>
<tr>
<td>Storage</td>
<td>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

<table>
<tr><th>Dwelling Type</th><th>Storage size volume</th></tr>
<tr><td>Studio apartments</td><td>4m2</td></tr>
<tr><td>1 bedroom apartments</td><td>6m2</td></tr>
<tr><td>2 bedroom apartments</td><td>8m2</td></tr>
<tr><td>3+ bedroom apartments</td><td>10m2</td></tr>
</table>

At least 50% of the required storage is to be located within the apartment.</td>
<td>Consistent</td>
</tr>
<tr>
<td>Acoustic Privacy</td>
<td>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</td>
<td>Consistent

All new apartments proposed are more than 3m from the listed noise source.</td>
</tr>
</table>

Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	**Consistent** As detailed elsewhere within this report under the section relating to State Environmental Planning Policy (Transport and Infrastructure) 2021, the Noise Impact Assessment submitted with this DA has provided recommendations pertaining to glazing and insulation type to ensure that the apartments are not adversely impacted by noise emissions.
Configuration		
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	**Consistent** A mix of one, two and three-bedroom apartments are proposed across the entire development.
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	**Consistent** The facade treatment is acceptable.
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	**Consistent** The roof area contains a generous area of COS and also on-slab planting and PV charging.
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	**Consistent** The existing conditions of consent under DA2024/1684 address the concerns raised by the Landscape Officer.

<table>
<tr>
<td>Planting on Structures</td>
<td>When planting on structures the following are recommended as minimum standards for a range of plant sizes:
<table>
<tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr>
<tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m3</td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr>
<tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m3</td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr>
<tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m3</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr>
<tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr>
<tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr>
<tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr>
</table>
</td>
<td>Consistent

The roof planting is acceptable.</td>
</tr>
<tr>
<td>Universal Design</td>
<td>Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features</td>
<td>Consistent</td>
</tr>
<tr>
<td>Mixed Use</td>
<td>Can the development be accessed through public transport and does it positively contribute to the public domain?

Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</td>
<td>Consistent

The development is located in close proximity to public transport services.</td>
</tr>
<tr>
<td>Awnings and Signage</td>
<td>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.

Signage must respond to the existing streetscape character and context.</td>
<td>Consistent

The approved awnings on the ground floor are retained.</td>
</tr>
<tr>
<td colspan="3">Performance</td>
</tr>
<tr>
<td>Energy Efficiency</td>
<td>Have the requirements in the BASIX certificate been shown in the submitted plans?</td>
<td>Consistent</td>
</tr>
</table>

Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	**Consistent**
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	**Inconsistent** Refer to Waste Management referral response.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	**Consistent**

SEPP (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Various provisions within Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP) are applicable to this application. They are assessed below.

Section 2.48 - Determination of development applications - other development

Section 2.48 of Chapter 2 requires the relevant electricity authority (i.e. Ausgrid) to consider any development application (or an application for modification of consent) for any development carried out in close proximity to electrical infrastructure.

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.

Section 2.119 - Development with frontage to a classified road

Section 2.119 of the TI SEPP requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
(i) the design of the vehicular access to the land, or
(ii) the emission of smoke or dust from the development, or
(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The development is consistent with these requirements for the following reasons:

- Access to the site and the development is maintained via Carlton Lane and Orchard Road, which are not classified roads.

- Transport for NSW have assessed the application and are satisfied that the additional traffic generated by the development will not adversely impact upon the performance of Pittwater Road, being the classified road.

- The development relates to shop top housing and will not generate any significant on-going smoke or dust emissions, noting that the air emissions from the additional vehicles will not cause significant air quality impacts.

- The Noise Impact Assessment submitted with this application has provided recommendations in relation to the glazing and insulation type to ensure that the new residential apartments are not adversely impact by road traffic noise.

Section 2.120 - Impact of road noise or vibration on non-road development

Section 2.120 of the TI SEPP requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—
(a) residential accommodation,
(b) a place of public worship,
(c) a hospital,
(d) an educational establishment or centre-based child care facility.

(2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—
(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway) —40 dB(A) at any time.

The development is consistent with these requirements for the following reasons:

- The assessment has considered the *Development near rail corridors and busy roads -interim guideline* and finds that the development is consistent with this guideline, as appropriate measures will be in place to ensure that residential development is not adversely impact by road noise and vibration.

- The Noise Impact Assessment submitted with this application has provided recommendations in relation to the glazing and insulation type to ensure that the new residential apartments achieve the required noise amenity criteria for habitable rooms.

As demonstrated above, the development satisfies the relevant provisions of the TI SEPP.

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. The matter of land contamination was considered as part of the assessment of Development Application DA2019/0239. Condition 19 of Development Consent DA2019/0239 has included a requirement for a Detailed Site Investigation (DSI) (i.e. Phase 2 Environmental Site Assessment) to be carried out prior to the commencement of excavation or construction work on the site. If the DSI requires any remediation to occur on the site, Condition 19 contains a requirement for site remediation works to be undertaken prior to the commencement of excavation or construction work on the site.

It is noted that no additional excavation works are proposed under this amending Development Application. As such, the assessment finds that the conditions imposed under Development Consent DA2019/0239 are sufficient to ensure that the site can be made suitable for the proposed shop top housing development.

The amending DA is consistent with Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	11.0m maximum	22.2m (parapet at the corner of the site) – 25.1m (lift overrun)	128.18% (14.1m)	**No**

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	No
6.4 Development on sloping land	Yes

Detailed Assessment

2.5 Additional permitted uses for particular land

While prohibited in the E3 Productivity Support zone, "shop top housing" is permissible with consent as an additional permitted land use on the site pursuant to section 5 of Schedule 1 of the WLEP 2011. This is contingent on the development not having an adverse impact on the adjoining E4 General Industrial zone land.

The development does not result in adverse impacts on the adjoining E4 zone, insofar as the development does not sterilize or hinder adjoining land from being developed to their industrial potential.

The BCA Report and Noise Impact Assessment submitted with this application provide recommendations in relation to insulation and glazing to ensure the apartments are not adversely impact by industrial or road noise.

4.6 Exceptions to development standards

Clause 4.3 of the WLEP 2011 states that the maximum height of development on the site must not exceed 11.0m above the existing ground level.

The existing development consent (DA2024/1684) has a maximum height of **15.15m** (parapet) - **18.8m** (lift overrun). The approved height is compatible with established development in the catchment of the site, notwithstanding the variation to the standard.

This amending DA seeks to provide an additional two storeys including a roof top terrace above the approved shop top housing development. The resulting development has a maximum height of **22.2m** (parapet at the corner of the site) – **25.1m** (lift overrun), which results in a 128.18% (14.1m) variation to the 11.0m standard.



Figure 3 - Plan extract showing extent of 11 metre building height breach southern façade

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(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.

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The applicant's Clause 4.6 variation request has sought to satisfy subclause (a) by demonstrating that the proposal is consistent with the objectives of Clause 4.3 of the WLEP 2011 and by demonstrating that the underlying objectives or purpose of standard are not relevant to the development . The matter of *Wehbe v Pittwater Council [2007] NSWLEC 827* has established that these two methods are appropriate to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant's justification can be summarised as follows:

Consistency with Objectives of Height Standard

(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

"The question is whether the building height breaching elements contribute to the height and scale of the development to the extent that the resultant building forms will be incompatible with the height and scale of surrounding and nearby development and in this case the desired future height of development endorsed by Council within the BSP. That is, will the non-compliant building height breaching elements result in a built form which is incapable of coexisting in harmony with surrounding, nearby and future development to the extent that it will appear inappropriate and jarring in a streetscape and urban design context.

In relation to this section of Pittwater Road buildings do not exhibit consistency in terms of height, form or design with buildings ranging in height from 1 to 4 storeys. In this regard we note that the other 4 storey buildings are located at the northern gateway to this section of Pittwater Road at No's 517 and 694 Pittwater Road as depicted in the following images. To the extent that the proposal introduces a 6 storey form with roof top communal open space over at the southern gateway to this section of Pittwater Road, and having regard to the 8 storey building height anticipated by the BSP, I have formed the considered opinion that the non-compliant building elements will not contribute to the height and scale of the development to the extent that the resultant building form will be incompatible with the height and scale of surrounding, nearby and future BSP development. That is, the non-compliant building height breaching elements will not result in a built form which is incapable of coexisting in harmony with surrounding, nearby and future development to the extent that it will appear inappropriate or jarring in a streetscape and urban context.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the proposed development by virtue of its building height offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the site's visual catchment and the 8 storey/ 30m height of development anticipated by the BSP. This objective is satisfied notwithstanding the building height non-compliance.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Having inspected the site and its immediate surrounds I am satisfied that the non-compliant building height breaching elements will have no impacts on views, overshadowing or privacy.

This objective is satisfied notwithstanding the building height non-compliance.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

The site is not located in a coastal or bush environment.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

The resultant height is considered to be appropriate within the context of the zone and the height anticipate by the adopted BSP. The proposed development is a highquality architectural response for the site, that will positively contribute to the streetscape and the wider Brookvale Locality as depicted in the following photomontage. The height non-compliance is associated with Level 4 of the proposed development, which is set back from the level below and is to be finished in darker materials to ensure that it is appropriately recessive in the streetscape context and not visually offensive as depicted in the photomontage below.

This objective is satisfied notwithstanding the building height non-compliance.

The non-compliant component of the development, as it relates to building height, demonstrates consistency with objectives of the height of building standard objectives. Adopting the first option in Wehbe strict compliance with the height of buildings standard has been demonstrated to be is unreasonable and unnecessary.

This objective is satisfied notwithstanding the building height non-compliance.

The non-compliant component of the development, as it relates to building height, demonstrates consistency with objectives of the height of building standard objectives. Adopting the first option in Wehbe strict compliance with the height of buildings standard has been demonstrated to be is unreasonable and unnecessary".

Assessment Officer Comment:

The assessing officer has carefully considered the justification provided by the applicant and does not concur that the proposed development is consistent with the objectives (in particular objective (a)) of Clause 4.3 of the WLEP 2011 for the following reasons:

- While the existing Development Consent No. DA2024/1684 breached the 11-metre height standard by essentially a storey plus roof top communal open space and lift overruns, the resulting building is compatible with established development within Brookvale. It is noted that there was agreed planning merit to the Clause 4.6 variation request for Development Consent No. DA2024/1684.

- The established character of development within the catchment of the site is predominantly two to three storeys, with there being some examples of four-storey development at 517 Pittwater Road located approximately 260m to the north of the site, and the NBLPP has also recently approved a four-storey shop top housing development under Development Application No. DA2023/1371 at 8 Roger Street, which is located approximately 130m to the south-west of the site. The proposed six-storey development is significantly incompatible with the local context and the scale of development anticipated under the current planning controls that are in force.

- The Clause 4.6 variation request for the current proposal (i.e. the amending DA) seeks to justify the significant departure to the height of buildings development standard by outlining that the building height is compliant with future building heights anticipated for the site under the Brookvale Structure Plan (BSP). It is noted that the BSP is a strategic planning document that has not been incorporated into a draft environmental planning instrument (EPI). As such, the NBLPP, as the consent authority, cannot give any statutory, and determining weight to the BSP having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The underlying objectives or purpose of standard are not relevant to the development

"This request also relies on the second way in relation to objective (a) in that the objective does not anticipate the circumstance where the height and scale of surrounding and nearby development does not reflect the desired future character of an area which in this instance anticipates an 8 storey/ 30m building height outcome on the land and along the Pittwater Road corridor generally.

Strict compliance is unreasonable and unnecessary given the consistency of building height with the height anticipated by the recently endorsed BSP. Strict compliance would thwart an opportunity to achieve a built form outcome on this site consistent with the desired future character for the area in circumstances where the BSP has undergone public consultation and has been endorsed by the elected Council.

Adopting the second way in Wehbe strict compliance with the height of buildings standard has been demonstrated to be is unreasonable and unnecessary".

Assessment Officer Comment:

As outlined above, the BSP is a strategic planning document which outlines Council's strategic intent, that has not been incorporated into a draft environmental planning instrument (EPI). As such, the NBLPP, as the consent authority, cannot give any statutory, and determining weight to the BSP having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

Notwithstanding this statutory impediment to granting consent, it is noted that the proposal could not proceed under the BSP in the future as it does not achieve various requirements of the BSP to benefit from the height uplift, including but not limited to the consolidation of the site with 640 Pittwater Road, the provision of additional building setbacks rather than a nil setback treatment and the delivery of affordable housing. As such, the 11-metre height standard would continue to apply for this development if the BSP is adopted in the future.

In this regard, the applicant has not demonstrated that the underlying objectives or purpose of the height of buildings development standard are not relevant to the development.

Consequently, the applicant has not demonstrated that compliance with the height of buildings development standard is unreasonable or unnecessary, contrary to subclause (a).

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, in part:

Ground 1 – Brookvale Structure Plan

"In circumstances where the desired future height of surrounding and nearby development as anticipated by the recently endorsed BSP is 30 metres (8 storeys) along the Pittwater Road Mixed use corridor compliance with the 11m height standard would thwart an opportunity to achieve a built form outcome on this site consistent with the desired future character for the area.

To the extent that compatibility in an urban context requires consideration to be given to not only the existing character of an area but also the desired future or emerging character I am satisfied that the height and scale of the proposal, notwithstanding the building height non-compliant elements, will be compatible with the height and scale of surrounding, nearby and development anticipated by the recently endorsed BSP.

Although the draft BSP has not been formally made I consider the outcome has a heightened level of certainty given that such building height has been endorsed by the elected Council during the BSP process which involved informal public exhibition/ consultation and extensive consideration by Council

staff and elected Councillors.

In this instance, the Council endorsed desired future building height control/ standard envisages a change of character and accordingly I consider the proposed building height and scale to be compatible with the desired future character of surrounding, nearby and future development notwithstanding the building height breaching elements proposed.

Strict compliance would result in a building form and height inconsistent with the desired future character for development within the precinct and on land which could be said to be an important corner site in a gateway location into the precinct. Under such circumstances, strict compliance would result in a poor planning and urban design outcome being a form inconsistent with the building height anticipated by the recently endorsed BSP.

Council's acceptance of the proposed height variation will ensure the orderly and economic development of the site, in so far as reflects consistency with Council's own findings conveyed in the BSP being that additional building height is appropriate along this section of Pittwater Road.

Ground 2 - Consistency with objectives of the Act

Strict compliance would thwart an opportunity to achieve a built form outcome on this site consistent with the desired future character for the area in circumstances where the BSP has undergone public consultation and has been endorsed by the elected Council.

Approval of the variation will promote the orderly and economic use and development of land (1.3(k)) consistent with the recently endorsed BSP.

There are sufficient environmental planning grounds to justify contravening the development standard".

Assessment Officer Comment:

The assessing officer has carefully considered the justification provided by the applicant and concludes that the environmental planning grounds advanced by the applicant are not sufficient for the following reasons:

- The Clause 4.6 variation request for the current proposal (i.e. the amending DA) seeks to justify the significant departure to the height of buildings development standard by outlining that the building height is compliant with future building heights anticipated for the site under the Brookvale Structure Plan (BSP). It is noted that the BSP is a strategic planning document that has not been incorporated into a draft environmental planning instrument (EPI). As such, the NBLPP, as the consent authority, cannot give any statutory, and determining weight to the BSP having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.
  Notwithstanding this statutory impediment to granting consent, it is noted that the proposal could not proceed under the BSP in the future as it does not achieve various requirements of the BSP to benefit from the height uplift, including but not limited to the consolidation of the site with 640 Pittwater Road, the provision of additional building setbacks rather than a nil setback treatment and the delivery of affordable housing. As such, the 11-metre height standard would continue to apply for this development if the BSP is adopted in the future.

- The resulting six-storey building would have an unacceptable and significant impact on the existing built environment by virtue of a building that is significantly taller and incompatible with surrounding development and more critically, much larger than the scale of development anticipated under the current planning controls on the site. In this regard, if the development does not constitute an

orderly and economic use and development of land, contrary to the objects of the Environment Planning and Assessment Act 1979.

Consequently, the applicant has not demonstrated that there are sufficient environmental planning grounds to justify a variation to the height of buildings development standard, contrary to subclause (b).

Public Interest

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Conclusion

The applicant has not satisfied the pre-conditions to granting consent pursuant to Clause 4.6 of the WLEP 2011 for a variation to Clause 4.3 of the WLEP 2011. This matter forms a recommended reason for refusal.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B2 Number of storeys	3 storeys maximum	6 storeys	100%	**No**
B5 Side Boundary Setbacks	Northern Boundaries - Merit Assessment	Nil Setback (consistent with approval)	-	Yes - acceptable on merit
B7 Front Boundary Setbacks	Western half of site (Pittwater Road and Orchard Road) – must be consistent with adjoining buildings	Nil setback to Pittwater Road and Orchard Road – consistent with adjoining buildings	-	Yes
	Eastern half of site (Orchard Road and Charlton Lane) – 4.5m	Orchard Road – Nil setback – consistent with DA2019/0239 Charlton Lane – 6.0m	100% -	**No** Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	No	No
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
C3 Parking Facilities	No	No
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
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

A.5 Objectives

The objectives of the WDCP are as follows:

• *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood*
• *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome*
• *To inspire design innovation for residential, commercial and industrial development*
• *To provide a high level of access to and within development.*
• *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained*
• *To achieve environmentally, economically and socially sustainable development for the community of Warringah.*

The resulting six-storey building would have an unacceptable and significant impact on the existing built environment by virtue of a building that is significantly taller and incompatible with surrounding development and more critically, much larger than the scale of development anticipated under the current planning controls on the site.

As such, it is concluded that the development fails to respond to the qualities of surrounding development, contrary to the objectives of the WDCP.

This matter forms a recommended reason for refusal.

B2 Number of Storeys

Description of Non-compliance

The proposed development results in a six-storey building with communal roof top elements, contrary to Section B2 of the WDCP which limits development to a maximum height of three-storeys on the site.

Comment:

The objectives of the control are:

- *To ensure development does not visually dominate its surrounds.*
- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*
- *To provide equitable sharing of views to and from public and private properties.*
- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*
- *To provide sufficient scope for innovative roof pitch and variation in roof design.*
- *To complement the height of buildings control in the LEP with a number of storeys control.*

As demonstrated within the section of this report relating to Clause 4.3 of the WLEP 2011, the six-storey development building would have an unacceptable and significant impact on the existing built environment by virtue of a building that is significantly taller and incompatible with surrounding development.

In this regard, the development is inconsistent with the objectives of Section B2 of the WDCP. This matter forms a recommended reason for refusal.

B7 Front Boundary Setbacks

Section B7 of the WDCP requires development to be setback 4.5m from the eastern half of the site along the Orchard Road frontage and a nil setback (which is consistent with adjoining buildings) for the western half of the site closer to Pittwater Road. A 4.5m setback to Charlton Lane is also required.

The development provides a compliant 6.0m setback to the Charlton Lane frontage; however, maintains a nil setback to the Orchard Road frontage for the lower levels as per the development consent, with the upper two storeys under the amending DA being setback 600mm to the planter boxes and 3.0m to the facade.

The setbacks to the Orchard Road frontage are consistent with the approved scheme and are deemed to be acceptable on merit for the reasons outlined within the Assessment Report for Development Application DA2024/1684.

C2 Traffic, Access and Safety

Council's Traffic Engineer has raised the following concerns in relation to public domain and active transport works:

"Due to the increase in both traffic volume and pedestrian activity generated from the shop-top development and Brookvale precinct, the existing pedestrian refuge in Orchard Road near the intersection with Pittwater Road, is to be upgraded to Council's standard design drawings with barrier

kerbs. Any realignment of the pedestrian crossing point would also require adjustments to the kerb ramps. The Public Domain Plan, Dwg Sheet LP01, Revision A; does not show the required extension of the footpath to Charlton Lane with provision of a kerb ramp".

As such, the pedestrian access arrangements are not acceptable, contrary to Section C2 of the WDCP, which forms a recommended reason for refusal.

C3 Parking Facilities

Council's Traffic Engineer has raised the following concerns in relation to the car parking layout:

"A Traffic Impact Assessment (TIA) has been prepared by Apex Engineers (dated April 2026), with respect to the parking and traffic generation impacting the road network. The TIA has recalculated the parking requirements and allocation based on the previous approved Development Application DA2024/1684, by adjusting the increased residential and visitor parking requirements for the residential component, and simply deducting the Commercial Unit 1 Basement area from the non-residential parking component. The additional 14 residential units (3 x 2 bed units + 11 x 3 bed units) proposed requires 20 residential spaces and 3 residential visitor spaces under the WDCP 2011. A total of 86 residential spaces and 15 residential visitor is required, which has been provided within the Basement car park.

It should be noted that the previous assessment undertaken by the Traffic team took into consideration the car park layout and number of spaces on each Basement level when allocating the non-residential parking spaces to accommodate the future uses proposed at that time. The assessment indicated that the applicable parking rates and required number of spaces in accordance with the WDCP2011:

- *Commercial (Unit 1) = 22 @ 1 space per 40m2 (863/40m^2)*
- **Basement Commercial = 19 @ 1 space per 40m2 (763/40m^2)**
- *Retail/Business (Unit 2 & 3) = 10 @ 1 space per 16.4m2 GLFA (167/16.4m^2)*
- *SOHO (Unit 1-8) = 20 @ 1 space per 40m2 (794/40m2)*
- *Total for mixed-use = 52 spaces*
- *(*71 if Basement Commercial area is used as offices)*

As the current proposal removes the entire Basement Commercial area (763m2) on B1 plan, the parking layout and allocation should also be reviewed, with any surplus parking allocated for Visitor/Customer parking as intended in the previous proposals. The changes to the proposal allows the full allocation of parking for the non-residential component to be applied in a practical layout across the basement car park, with Basement Level B3 unchanged for residential parking. The following amendments are therefore recommended to the parking layout and allocation shown on the Basement Level plans, Drawing Nos A02C, A03C and A04C.

a) Basement Level B3 - Residential Parking (65 spaces including 4 adaptable (AS4299) and 2 accessible (AS2890.6) spaces)

- *The residential bicycle parking area (40 bike racks) must be shown to be within a secure room/enclosure with entry door.*

b) Basement Level B2 - Residential Parking (21 spaces including 2 adaptable (AS4299) spaces), SOHO (Unit 1-8) parking (20 spaces including 2 accessible (AS2890.6) space), and Retail/Business Unit 2 & 3 parking (10 spaces including 2 accessible (AS2890.6) spaces).

- *Reallocate 10 spaces for Retail/Business parking, situated together near Lifts L3 and 4.*
- *Reallocate 20 spaces for SOHO parking.*

c) Basement Level B1 - Resident Visitor parking (15 spaces including 2 accessible (AS2890.6) spaces),

Commercial (Unit 1) parking (22 spaces including 1 accessible (AS2890.6) space), and Visitor/Customer parking (6 spaces including 1 accessible (AS2890.6) space).

- *Reallocate 1 Resident Visitor parking space to Commercial parking.*
- *Reallocate a further 21 spaces to Commercial parking (total 22)".*

As these required amendments are not currently shown on the architectural plans and are unable to be conditioned, the proposal fails to satisfy Section C3 of the WDCP. This matter forms a recommended reason for refusal.

C9 Waste Management

Section C9 of the WDCP requires the development to be consistent with Council's Waste Management Guidelines. Council's Waste Regulatory and Compliance Officer has reviewed the application and raised several concerns in relation to the operational waste management plan, which does not meet Council's Waste Management Guidelines for the following reasons:

- The door widths for the bin holding rooms are not wide enough.
- There is inadequate space for bulky waste items in the bulky waste rooms.
- There is inadequate space within the bin holding rooms to cater for 74 residential apartments.
- The Waste Management Plan states that residential bins will be held on Orchard Road and Charlton Road during collection days, rather than transported from bin holding areas by Council staff.

A detailed assessment of these issues is carried out within the Waste Regulatory and Compliance Officer referral response.

This critical issue in servicing the development forms a recommended reason for refusal, noting that the proposal is inconsistent with Section C9 of the WDCP and Council's Waste Management Guidelines.

D9 Building Bulk

Section D9 of the WDCP requires as follows:

1. Side and rear setbacks are to be progressively increased as wall height increases.
2. Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.
3. On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:
The amount of fill is not to exceed one metre in depth.
Fill is not to spread beyond the footprint of the building.
Excavation of the landform is to be minimised.
4. Building height and scale needs to relate to topography and site conditions.
5. Orientate development to address the street.
6. Use colour, materials and surface treatment to reduce building bulk.
7. Landscape plantings are to be provided to reduce the visual bulk of new building and works.
8. Articulate walls to reduce building mass.

As demonstrated within the sections of this report relating to the Housing SEPP and Clause 4.6 of the WLEP 2011, the height and scale of the development does respond appropriately to the local context. As

such, the developments fails to satisfy requirement 7 of Section D9 including the associated objectives of the control.

This matter forms a recommended reason for refusal.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of $103,818 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $10,381,781.

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, 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
- Consistent 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

Council is not satisfied that the Applicant’s written request under Clause 4.6 of the Warringah Local

Environmental Plan 2011 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

PLANNING CONCLUSION

This amending DA, involving substantial alterations and additions to an approved four-storey shop top housing development, seeks to create an additional two-storeys of residential accommodating, involving 14 new residential apartments with roof top COS, alongside other minor changes to the approved four-storey shop top housing development.

The proposed development has a maximum height of 25.1m, which involves a 128.18% (14.1m) variation to the 11.0m height of buildings development standard under Clause 4.3 of the WLEP 2011. The applicant has submitted a Clause 4.6 variation request seeking to vary the 11.0m height standard. As outlined in the body of this report, the applicant's Clause 4.6 variation request has failed to demonstrate that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify this significant departure from the 11.0 metre standard, noting that the applicant's justification is predicated on the fact that the proposal complies with the future heights adopted for the site under the BSP, which is a strategic planning document that has not been incorporated into a draft environmental planning instrument.

As such, the NBLPP, as the consent authority, cannot give any statutory, and determining weight to the BSP having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

Council's Design and Sustainability Advisory Panel reviewed the application during the assessment process and raised significant concerns that are consistent with the recommended reasons for refusal.

Other critical issues that have been identified during the assessment relate to; inconsistency with the design quality principles for residential apartment development under the Housing SEPP, operational waste management, public domain upgrades and the car parking allocation. These matters have been addressed in the body of the report and also form part of the recommended reasons for refusal.

The issues raised as part of the public submission have also been considered in the body of the report and captured by the recommended reasons for refusal where there is merit to the concern raised.

Overall, the resulting six-storey development would have a significant impact on the existing built environment by virtue of a building that is essentially a minimum two-storeys (plus roof top elements) taller than established development within the catchment of the site. This issue results in a development that fails to satisfy the design quality principles for residential apartment development as contained within the Housing SEPP, given the proposal fails to fit it within the established context or be consistent with the desired future character of the area as envisaged by the applicable planning controls.

The approval of the development is not in the public interest and represents an inappropriate planning pathway given the status of the current and potential future planning controls for the Brookvale Town Centre.

It is therefore recommended that the NBLPP ***refuse*** the application, subject to the reasons for refusal attached to this report.

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 DA2026/0781 for the Alterations and additions to a shop top housing development approved under Development Consent DA2019/0239 & DA2024/1684 on land at Lot 1 DP 1001963,638 Pittwater Road, BROOKVALE, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Chapter 2 of State Environmental Planning Policy (Sustainable Buildings) 2022.

   Particulars

   a) The submitted BASIX Certificate only accounts for the 14 new residential apartments and fails to account for the entire development as a whole.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Chapter 4 of State Environmental Planning Policy (Housing) 2021. In particular, the proposed development fails to satisfy the following design quality principles for residential apartment development within Schedule 9 of State Environmental Planning Policy (Housing) 2021:

   - Principle 1: Context and neighbourhood character.
   - Principle 2: Built form and scale.
   - Principle 3: Density.

   Particulars

   a) The six-storey built form is incompatible with the scale of surrounding development within the visual catchment of the site and is significantly taller than the scale of development anticipated under the current planning controls for the site.

   b) The height, bulk and scale of the development will have an unacceptable impact on the existing built environment.

   c) The proposed built form is inconsistent with the existing built form permitted by the current planning controls and would set an undesirable precedent for future similar development within the locality.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of buildings of the Warringah Local Environmental Plan 2011.

   Particulars

   a) The proposed development has a maximum height of 25.1 metres, which is a significant

variation to the maximum standard of 11 metres.

b) The proposed six-storey development which exceeds the 11 metre standard by a significant extent is not compatible with the height and scale of surrounding and nearby development. Therefore, the proposed development fails to satisfy the objectives of Clause 4.3 of the Warringah Local Environmental Plan 2011.

5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011 (WLEP 2011).

Particulars

a) The consent authority is not satisfied that the applicant's variation request under Clause 4.6 of WLEP 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings of buildings has adequately demonstrated that:

i. compliance with the standard is unreasonable or unnecessary, and

ii. there are sufficient environmental planning grounds to justify the contravention.

6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the requirements and objectives of the following provisions within the Warringah Development Control Plan 2011:

- A.5 Objectives.
- B2 Number of Storeys.
- C2 Traffic, Access and Safety.
- C3 Parking Facilities.
- C9 Waste Management.
- D9 Building Bulk.

7. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development will have an unacceptable and significant impact on the existing built environment by virtue of a building that is significantly taller and incompatible with surrounding development and more critically, much larger than the scale of development anticipated under the current planning controls on the site.

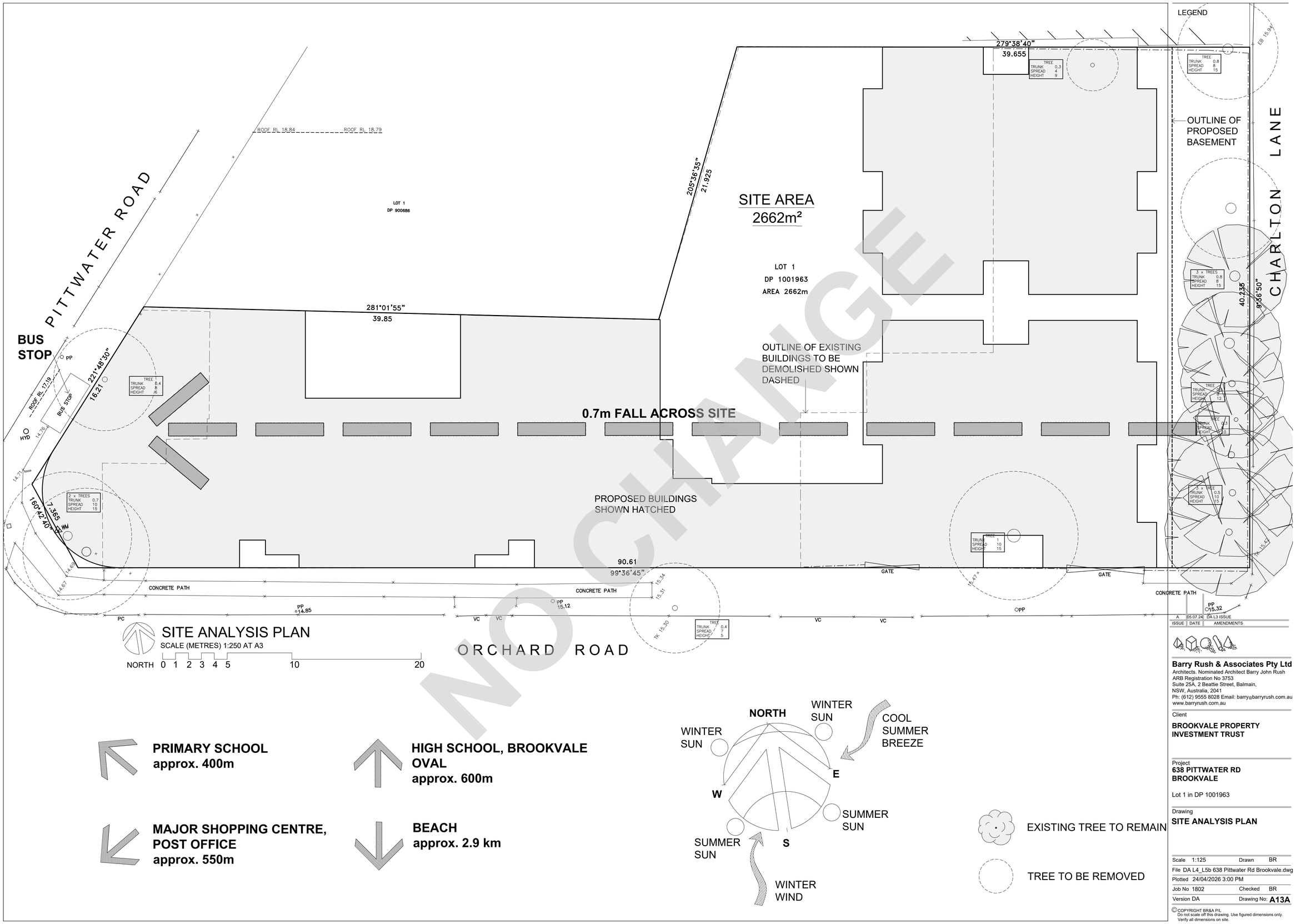
8. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Northern Beaches Council's Waste Management Guidelines.

9. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest.

Particulars

a) The development is contrary to the aims and objectives of State Environmental Planning Policy (Housing) 2021, State Environmental Planning Policy (Sustainable Buildings) 2022, the

Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan 2011 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 is not in the public interest.



SITE ANALYSIS PLAN

SCALE (METRES) 1:250 AT A3

PRIMARY SCHOOL
approx. 400m

HIGH SCHOOL, BROOKVALE OVAL
approx. 600m

MAJOR SHOPPING CENTRE, POST OFFICE
approx. 550m

BEACH
approx. 2.9 km

EXISTING TREE TO REMAIN

TREE TO BE REMOVED

ISSUE	DATE	AMENDMENTS
A	05.07.24	DA L3 ISSUE

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Client
BROOKVALE PROPERTY INVESTMENT TRUST

Project
638 PITTWATER RD BROOKVALE

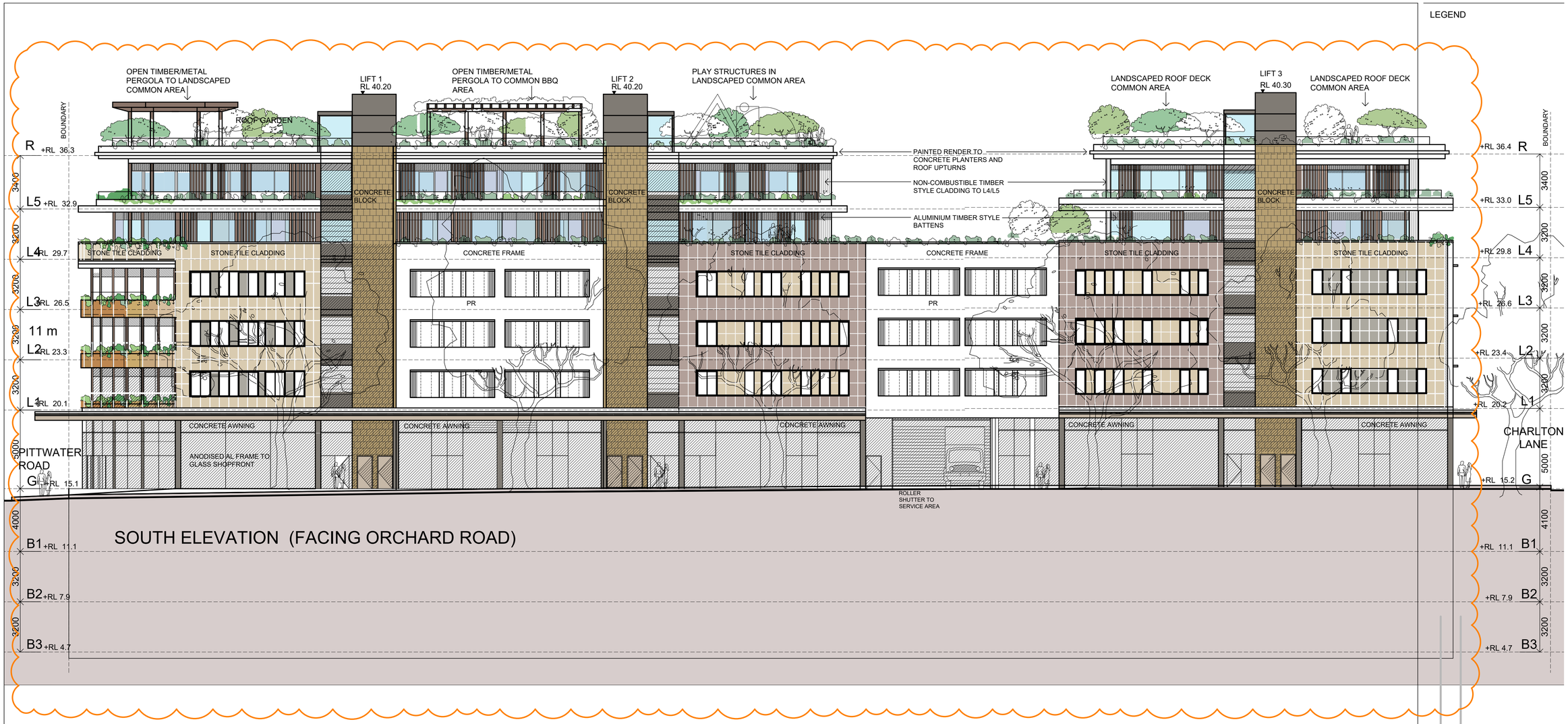
Lot 1 in DP 1001963

Drawing
SITE ANALYSIS PLAN

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Job No	1802	Checked	BR
Version	DA	Drawing No:	**A13A**

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HAIGE
NO CHANGE



LEGEND

DA REVISIONS

ISSUE	DATE	AMENDMENTS
A	24.04.26	DA L4 & L5 ISSUE

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Client

BROOKVALE PROPERTY INVESTMENT TRUST

Project

638 PITTWATER RD BROOKVALE

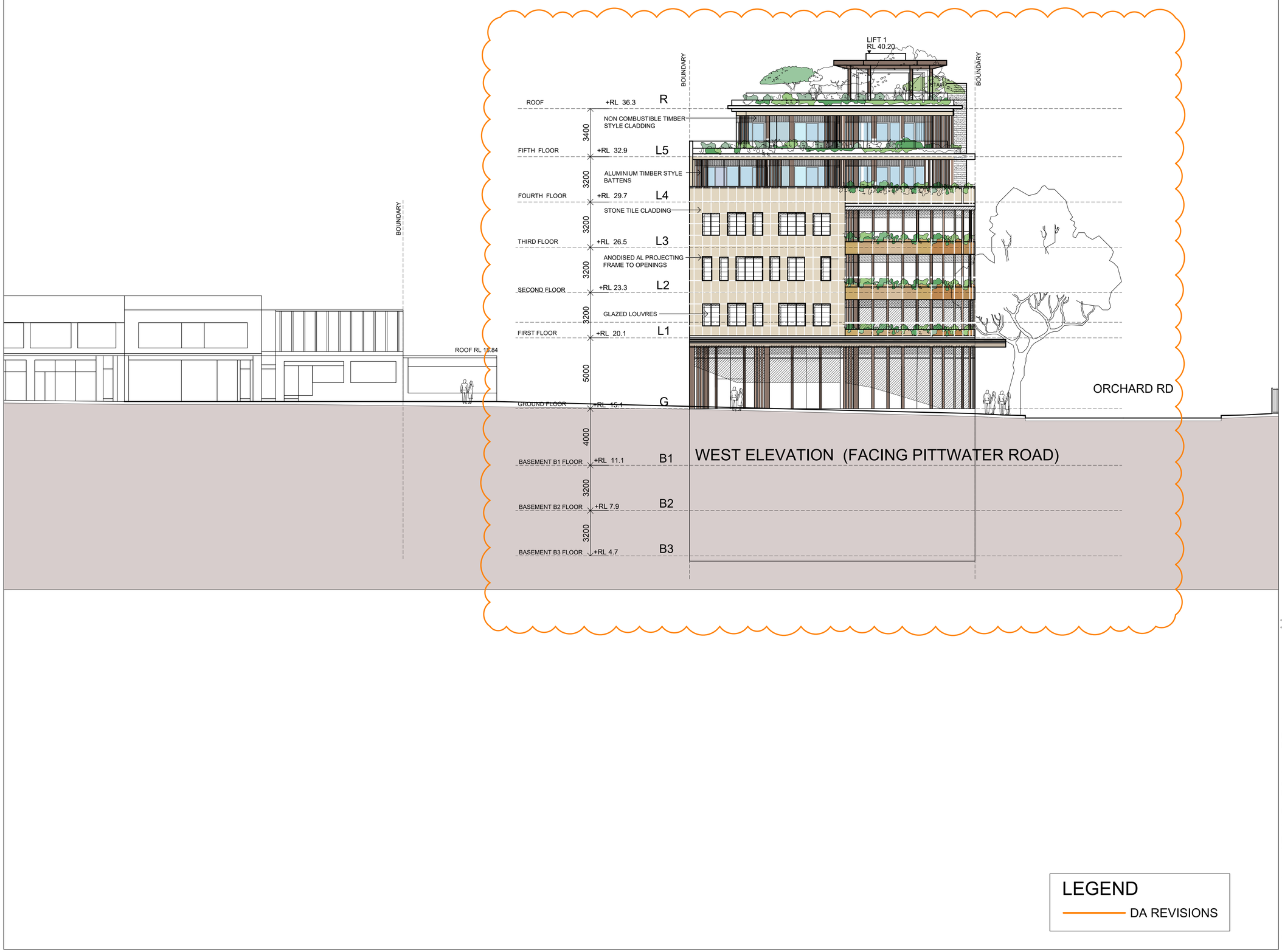
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Drawing

ELEVATION SOUTH

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LEGEND

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LEGEND

ISSUE	DATE	AMENDMENTS
A	24.04.26	DA L4 & L5 ISSUE

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Project
638 PITTWATER RD BROOKVALE

Lot 1 in DP 1001963

Drawing
ELEVATION WEST

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ISSUE	DATE	AMENDMENTS
A	24.04.26	DA L4 & L5 ISSUE

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BROOKVALE PROPERTY INVESTMENT TRUST

Project

638 PITTWATER RD BROOKVALE

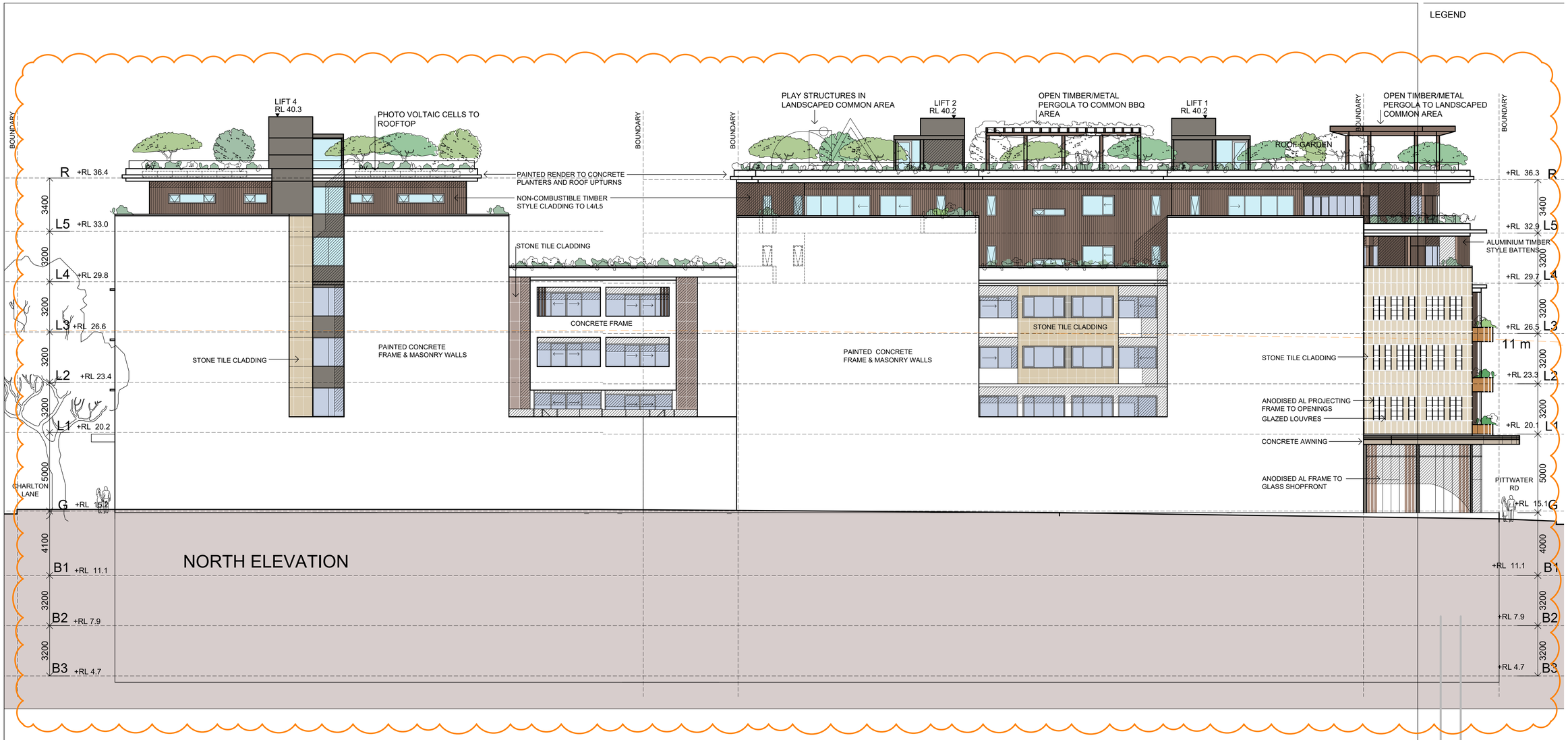
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Drawing

ELEVATION EAST

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LEGEND

DA REVISIONS

ISSUE	DATE	AMENDMENTS
A	24.04.26	DA L4 & L5 ISSUE

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Client
BROOKVALE PROPERTY INVESTMENT TRUST

Project
638 PITTWATER RD BROOKVALE

Lot 1 in DP 1001963

Drawing
ELEVATION NORTH

Scale	1:125	Drawn	BR
File	DA L4_L5b 638 Pittwater Rd Brookvale.dwg		
Plotted	24/04/2026 3:00 PM		
Job No	1802	Checked	BR
Version	DA	Drawing No:	**A27A**

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TOWN PLANNERS

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Clause 4.6 variation request - Height of buildings
Alterations and additions to a shop top housing development
638 Pittwater Road, Brookvale

1.0 Introduction

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

This request has been prepared in the knowledge that there is no statutory limitation to the extent of a variation sought to a development standard pursuant to clause 4.6 and the former variation mechanism SEPP No. 1 having regard to the findings of Cripps J in the matter of *Legal & General Life of Australia Limited v North Sydney Municipal Council & Anor [1989] NSWLEC 203* namely:

> *To date the Court has had no occasion to attempt to define the limits of the dispensing power based upon an objection that compliance with the standard is unnecessary or unreasonable in the circumstances of a case. It has expressed the opinion that an objection is well founded if it is shown that the underlying purpose of the development standard is satisfied by the particular development proposed (see SCMP Properties Pty Limited v North Sydney Municipal Council 15 April 1983 unreported….*
>
> *The discretion vested in councils under SEPP No 1 is wide and, subject to limitations to be found in the instrument itself and in its relation to the Environmental Planning and Assessment Act, is unconfined. The express limitation is that the council must be of the opinion that the objection is well founded and the grant of consent is consistent with the aims set out in cl 3 of the Policy. The implied limitation is that the discretion must be exercised by reference to planning considerations the width and generality of which is to be found in s 5 and s 90 of the Environmental Planning and Assessment Act. The above interpretation of the width of the discretion derives essentially from SEPP No 1 itself, the validity of which was not challenged. Moreover, I can see no reason in principle why the discretion should not be wide. The purpose of SEPP No 1 is to provide flexibility in the decision making process. Parliament has entrusted to councils the function of administering some of the planning laws of the State.*
>
> *SEPP No 1 is simply a planning tool designed to improve the decision making process.*

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2.0 Warringah Local Environmental Plan 2011 (WLEP)

2.1 Clause 4.3 - Height of buildings

Pursuant to Clause 4.3 of Warringah Local Environmental Plan 2011 (WLEP) the height of a building on the subject land is not to exceed 11 metres in height. The objectives of this control are as follows:

> *(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
>
> *(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
>
> *(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
>
> *(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Building height is defined as follows:

> ***building height*** *(or* ***height of building****) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*

Ground level existing is defined as follows:

> ***ground level (existing)*** means the existing level of a site at any point.

The lift overruns have a maximum height of approximately 25.1 metres representing a variation of 14.1 metres or 128%. The non-compliant building elements are depicted in the following images.

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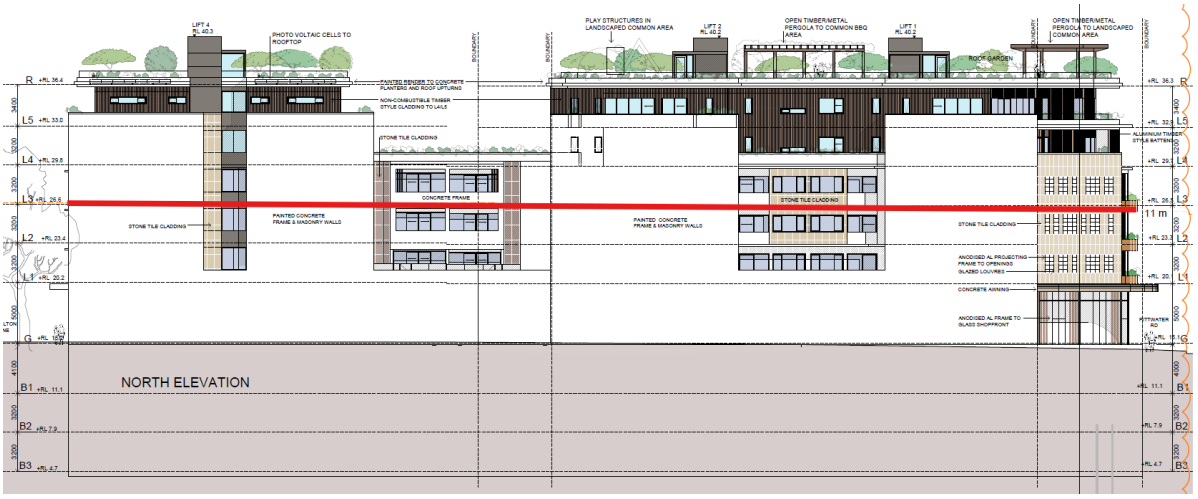


Figure 1 – Plan extract showing extent of 11 metre building height breach northern facade

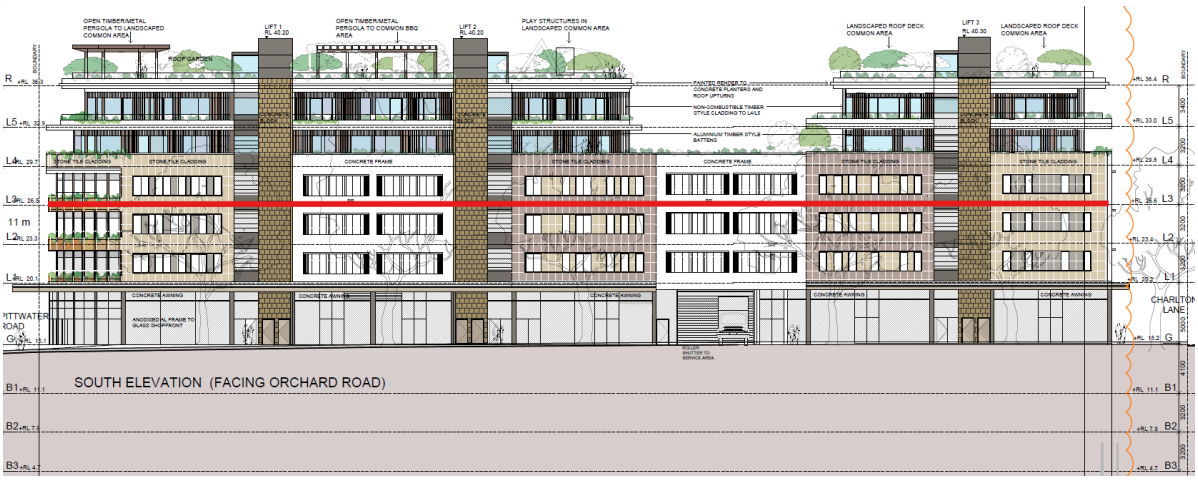


Figure 2 – Plan extract showing extent of 11 metre building height breach southern façade

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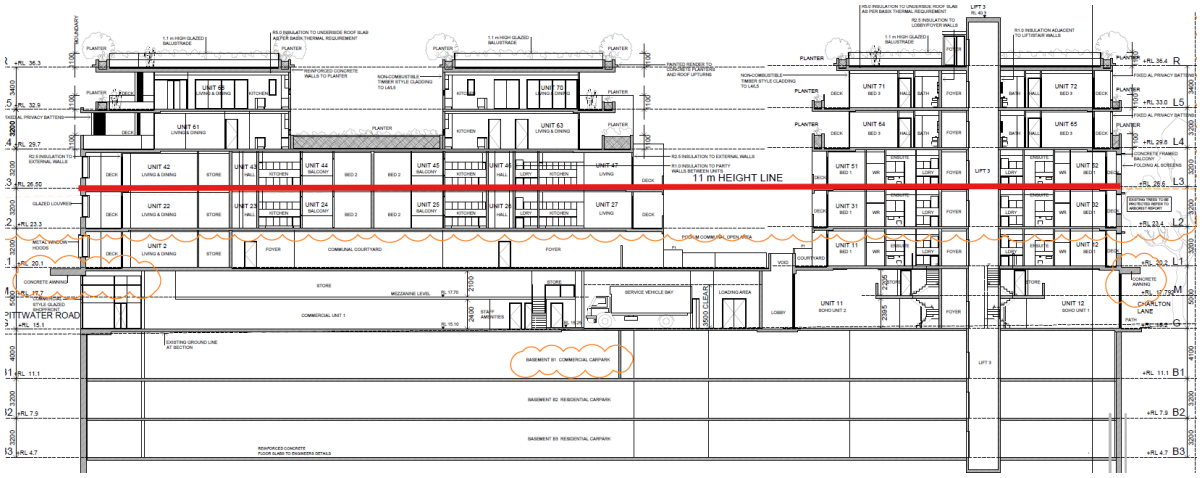


Figure 3 – Plan extract showing extent of 11 metre building height breach through building section

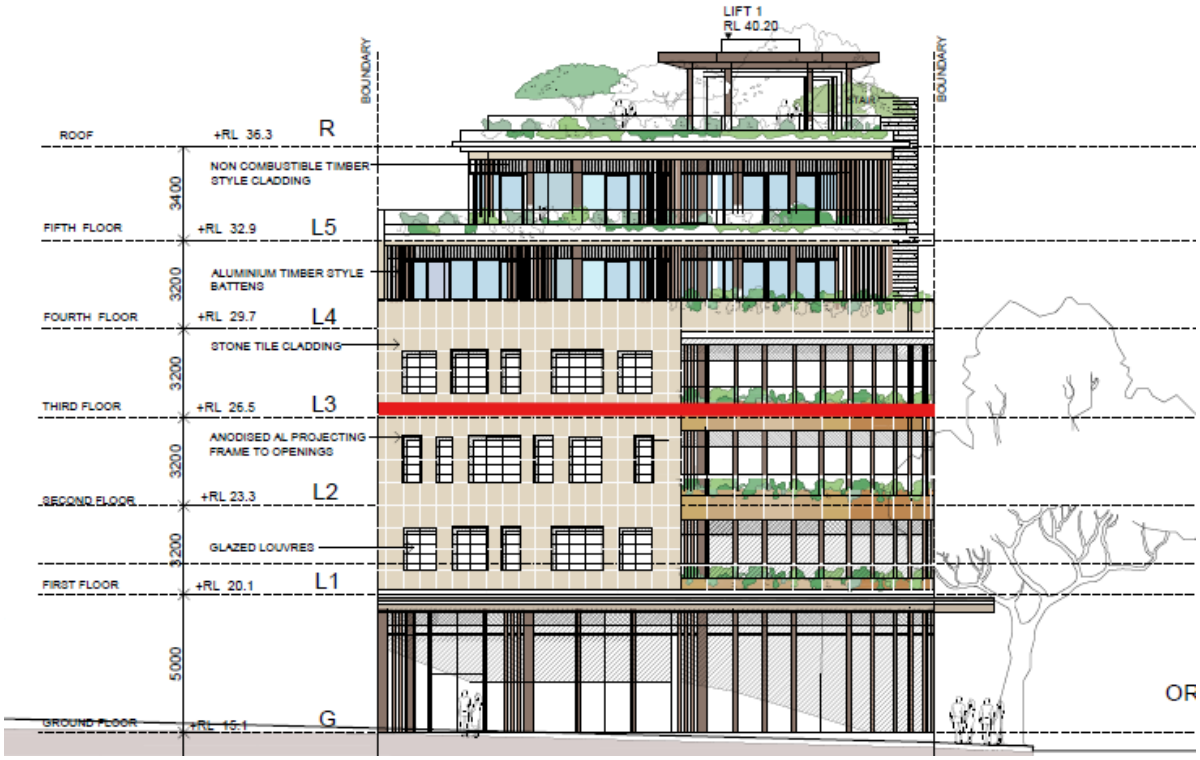


Figure 4 – Plan extract showing extent of 11 metre building height breach on the Pittwater Road facing façade.

This application seeks to provide additional apartments through the construction of two (2) additional storeys of residential accommodation noting that the shop top housing land use, height, form and residential density proposed are consistent within anticipated for development on the land following the adoption of the Brookvale Structure Plan (BSP) by Northern Beaches Council at its meeting of 28 November 2023 which anticipates building heights of 30 metres or 8 storeys on the site.

The proposed lift overruns sit some 4.9 metres below the BSP anticipated building height of 30 metres.

2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of WLEP provides:

(1) The objectives of this clause are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The decision of Chief Justice Preston in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal *in RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] & [51] where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.
At [90] of *Initial Action* the Court held that:

> *"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."*

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of WLEP provides:

> *(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.*

This clause applies to the clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) of WLEP provides:

> *(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.*

The proposed development does not comply with the height of buildings provision at 4.3 of WLEP which specifies a maximum building height however strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard.

The relevant arguments are set out later in this written request.

3.0 Relevant Case Law

In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* continue to apply as follows:

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17. *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*

18. *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*

19. *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*

20. *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*

21. *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*

22. *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is clause 4.3 of WLEP a development standard?

2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:

   (a) compliance is unreasonable or unnecessary; and

   (b) there are sufficient environmental planning grounds to justify contravening the development standard

4.0 Request for variation

4.1 Is clause 4.3 of WLEP a development standard?

The definition of "development standard" at clause 1.4 of the EP&A Act includes:

> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*

Clause 4.3 WLEP prescribes a height provision that relates to certain development. Accordingly, clause 4.3 WLEP is a development standard.

4.2(a) Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in Wehbe v Pittwater Council [2007] NSWLEC 827.

The first option, which has been adopted in this case, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

<u>Consistency with objectives of the height of buildings standard</u>

An assessment as to the consistency of the proposal when assessed against the objectives of the standard is as follows:

> *(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Response: Consideration of building compatibility is dealt with in the Planning Principle established by the Land and Environment Court of New South Wales in the matter of *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*. At paragraph 23 of the judgment Roseth SC provided the following commentary in relation to compatibility in an urban design context:

> 22 *There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.*

The question is whether the building height breaching elements contribute to the height and scale of the development to the extent that the resultant building forms will be incompatible with the height and scale of surrounding and nearby development and in this case the desired future height of development endorsed by Council within the BSP. That is, will the non-compliant building height breaching elements result in a built form which is incapable of coexisting in harmony with surrounding, nearby and future development to the extent that it will appear inappropriate and jarring in a streetscape and urban design context.

In relation to this section of Pittwater Road buildings do not exhibit consistency in terms of height, form or design with buildings ranging in height from 1 to 4 storeys. In this regard we note that the other 4 storey buildings are located at the northern gateway to this section of Pittwater Road at No's 517 and 694 Pittwater Road as depicted in the following images. To the extent that the proposal introduces a 6 storey form with roof top communal open space over at the southern gateway to this section of Pittwater Road, and having regard to the 8 storey building height anticipated by the BSP, I have formed the considered opinion that the non-compliant building elements will not contribute to the height and scale of the development to the extent that the resultant building form will be incompatible with the height and scale of surrounding, nearby and future BSP development. That is, the non-compliant building height breaching elements will not result in a built form which is incapable of coexisting in harmony with surrounding, nearby and future development to the extent that it will appear inappropriate or jarring in a streetscape and urban context.

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Figure 5 – Photograph of the 5 storey development at 517 Pittwater Road, Brookvale



Figure 6 – Photograph of the 4 storey development at 694 Pittwater Road, Brookvale



Figure 7 – Photograph of the 6 storey development at 23 Roger Street, Brookvale

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* I have formed the considered opinion that most observers would not find the proposed development by virtue of its building height offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the site's visual catchment and the 8 storey/ 30m height of development anticipated by the BSP. This objective is satisfied notwithstanding the building height non-compliance.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Response: Having inspected the site and its immediate surrounds I am satisfied that the non-compliant building height breaching elements will have no impacts on views, overshadowing or privacy.

This objective is satisfied notwithstanding the building height non-compliance.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Response: The site is not located in a coastal or bush environment.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

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Response: The resultant height is considered to be appropriate within the context of the zone and the height anticipate by the adopted BSP. The proposed development is a high-quality architectural response for the site, that will positively contribute to the streetscape and the wider Brookvale Locality as depicted in the following photomontage. The height non-compliance is associated with Level 4 of the proposed development, which is set back from the level below and is to be finished in darker materials to ensure that it is appropriately recessive in the streetscape context and not visually offensive as depicted in the photomontage below.

This objective is satisfied notwithstanding the building height non-compliance.

The non-compliant component of the development, as it relates to building height, demonstrates consistency with objectives of the height of building standard objectives. Adopting the first option in *Wehbe* strict compliance with the height of buildings standard has been demonstrated to be is unreasonable and unnecessary.



Figure 8 – Photomontage of proposed development

This objective is satisfied notwithstanding the building height non-compliance.

The non-compliant component of the development, as it relates to building height, demonstrates consistency with objectives of the height of building standard objectives. Adopting the first option in *Wehbe* strict compliance with the height of buildings standard has been demonstrated to be is unreasonable and unnecessary.

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The underlying objectives or purpose of standard are not relevant to the development given the consistency of building height with the height anticipated by the recently endorsed BSP

This request also relies on the second way in relation to objective (a) in that the objective does not anticipate the circumstance where the height and scale of surrounding and nearby development does not reflect the desired future character of an area which in this instance anticipates an 8 storey/ 30m building height outcome on the land and along the Pittwater Road corridor generally.

Strict compliance is unreasonable and unnecessary given the consistency of building height with the height anticipated by the recently endorsed BSP. Strict compliance would thwart an opportunity to achieve a built form outcome on this site consistent with the desired future character for the area in circumstances where the BSP has undergone public consultation and has been endorsed by the elected Council.

Adopting the second way in *Wehbe* strict compliance with the height of buildings standard has been demonstrated to be is unreasonable and unnecessary.

4.2(b) Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

> *23. As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
>
> *24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard".*
> *The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.*

25. *The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

Sufficient environmental planning grounds

Ground 1 – Brookvale Structure Plan

In circumstances where the desired future height of surrounding and nearby development as anticipated by the recently endorsed BSP is 30 metres (8 storeys) along the Pittwater Road Mixed use corridor compliance with the 11m height standard would thwart an opportunity to achieve a built form outcome on this site consistent with the desired future character for the area.

To the extent that compatibility in an urban context requires consideration to be given to not only the existing character of an area but also the desired future or emerging character I am satisfied that the height and scale of the proposal, notwithstanding the building height non-compliant elements, will be compatible with the height and scale of surrounding, nearby and development anticipated by the recently endorsed BSP.

Although the draft BSP has not been formally made I consider the outcome has a heightened level of certainty given that such building height has been endorsed by the elected Council during the BSP process which involved informal public exhibition/ consultation and extensive consideration by Council staff and elected Councillors.

In this instance, the Council endorsed desired future building height control/ standard envisages a change of character and accordingly I consider the proposed building height and scale to be compatible with the desired future character of surrounding, nearby and future development notwithstanding the building height breaching elements proposed.

Strict compliance would result in a building form and height inconsistent with the desired future character for development within the precinct and on land which could be said to be an important corner site in a gateway location into the precinct. Under such circumstances, strict compliance would result in a poor planning and urban design outcome being a form inconsistent with the building height anticipated by the recently endorsed BSP.

Council's acceptance of the proposed height variation will ensure the orderly and economic development of the site, in so far as reflects consistency with Council's own findings conveyed in the BSP being that additional building height is appropriate along this section of Pittwater Road.

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Ground 2 - Consistency with objectives of the Act

Strict compliance would thwart an opportunity to achieve a built form outcome on this site consistent with the desired future character for the area in circumstances where the BSP has undergone public consultation and has been endorsed by the elected Council.

Approval of the variation will promote the orderly and economic use and development of land (1.3(k)) consistent with the recently endorsed BSP.

There are sufficient environmental planning grounds to justify contravening the development standard.

5.0 Conclusion

Pursuant to clause 4.6(4)(a), the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

> *(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.*

As such, I have formed the considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

Yours Sincerely



Greg Boston
Boston Blyth Fleming Pty Ltd
Director

June 2026

northern beaches council

23 July 2026

DESIGN AND SUSTAINABILITY ADVISORY PANEL MEETING REPORT

DA2026/0781 - 638 Pittwater Road BROOKVALE NSW 2100

PANEL COMMENTS AND RECOMMENDATIONS

General

This Development Application was presented to the Panel for an existing development consent for a four-storey shop top housing development approved under Development Consent No. DA2024/1684. The advice provided the following conclusion:

> *The Panel acknowledge the existing consent which the applicant benefits, and the constraints associated with the assessment being limited to the discrete scope of the current amending Development Application. Advice has been provided in relation to the existing consent, as this current application provides an opportunity for the applicant to make significant improvements and overcome identified construction issues to the 2019 consent.*
> *In regards to the scope of the current application, the proposal in its current form is not supported. The proposal compounds issues with privacy, acoustic privacy, solar access, natural light and ventilation with the approved development (but not yet constructed) that sits below. These impacts must be considered and addressed in conjunction with the likely development outcomes/resulting impacts which could be realised from adjoining properties redevelopment. It is likely that to address these issues a reduction in the proposed floorplate will be required to remove the resulting impacts on the approved building below.*

Strategic context, urban context: surrounding area character

Because the Brookvale Structure Plan envisages much greater building heights for the Pittwater Road precinct (i.e. up to 16-storey developments) in the future, it must be accepted that the desired future character along this strip is evolving to a height greater than the current planning controls.

The proposed 6 storey height of the development is therefore not considered to be an appropriate contextual fit for the site.

The surrounding potential future built form has to be illustrated in all drawings including plans, sections, elevations and 3D studies as well as analysis of overshadowing and solar.

Assuming BSP adopted, the Panel notes that additional uplift can only be permitted if site amalgamation occurs. The Applicant suggests that economic considerations may prevent this. The Panel acknowledges this, but its role is to provide advice on urban design and in regard to this the Panel is not convinced that approval of the subject proposal would result in a desirable urban design outcome for the area and/or site.

In particular, the Panel is concerned that approval of 6 storey building on this site would sterilise the potential of adjacent sites and/or substantially reduce solar amenity of the subject site.

The project is characterised by a base, a middle and 3 or 4 “tops”. It creates an awkward assemblage of forms and languages that will create an even less-compelling urban environment assuming much taller neighbouring buildings are permitted to be built.

The remnant issue of poor way-finding has yet to be resolved as has the distinction between commercial and residential uses.

Deep and high centralised courtyards have no prospect of planting and have poor amenity outcomes resulting from their placement deep into the site and zero-lot boundary condition with adjacent sites. Should these adjacent sites be developed in the future these problems will be compounded.

Recommendations

Previous recommendations from Pre-DA stage:

I. Provide streetscape analysis scenarios to test and support any proposed additional storey: under the existing LEP controls; and the Brookvale Structure Plan with current draft LEP amended controls.
    - Not resolved and further work required

II. Generally, the façade treatments must retain the approved level of detail and modelling of building elements if not actively seek to improve them.
    - Further work required

III. The additional storey is to present a clear physical separation from the storeys below including areas of wall planes extending from storeys below. This is needed so the base, middle and top of the building is coordinated to be 3-dimensionally defined.
    - Further work required

IV. The curved corner façade is to increase the modulation more consistent with the approved DA and reduce the extent of glazing. This is needed to address the following:
    a. So, building elements in the façade demonstrate a 3-dimensional quality to the edge detailing
    b. So, junctions of materials and articulation of building elements can better control long-term weathering,
    c. To increase the level of visual interest as a positive contribution to the street, and
    d. Better manage resident amenity. Note: dark tinted glazing or colour-backed glazed panels to manage solar heat gain and/or visual privacy is not supported as it disengages from the public domain, has poor internal amenity for residents/
    - Not resolved and further work required

Further recommendations for DA:

1. Reassess the proposed six-storey built form having regard to the evolving desired future character envisaged by the Brookvale Structure Plan (BSP).
2. Demonstrate how the proposal responds to the anticipated future context of taller development, rather than the existing built form alone.
3. Prepare comprehensive contextual analysis illustrating the potential future built form of adjoining sites in accordance with the BSP and SEPP Housing Schedule 9 Design Principles. Include future context modelling in all plans, sections, elevations, 3D visualisations, overshadowing diagrams and solar access studies.
4. Demonstrate that the proposal will integrate appropriately with the future urban form and will not prejudice the orderly redevelopment of surrounding sites. Acknowledge that additional

height and density under the BSP are intended to be achieved through site amalgamation and demonstrate how the proposal supports, rather than undermines, this planning objective.
5. Review the proposed building height, scale and massing to ensure the development does not sterilise or constrain the redevelopment potential of adjoining properties.
6. Demonstrate that the proposal will not unreasonably reduce the future solar access or amenity of either the subject site or neighbouring redevelopment sites.
7. Simplify the architectural composition to achieve a more cohesive and enduring built form that responds appropriately to the anticipated higher-density urban context.
8. Review the relationship between the building base, middle and upper levels to create a more integrated architectural expression.
9. Resolve outstanding wayfinding issues to provide clear and intuitive pedestrian movement throughout the development.
10. Improve the legibility and distinction between the commercial and residential components through building design, entries and circulation.
11. Reconfigure the central courtyards to improve access to sunlight, natural ventilation, outlook and opportunities for meaningful landscaping.
12. Ensure courtyard dimensions are capable of supporting substantial deep soil planting and canopy trees.
13. Assess the long-term amenity of the courtyards assuming future redevelopment of adjoining sites and redesign the proposal where necessary to maintain acceptable levels of sunlight, outlook and residential amenity.
14. Demonstrate that the proposal achieves a high-quality urban design outcome that is compatible with both the desired future character of the precinct and the strategic objectives of the Brookvale Structure Plan.

Scale, built form and articulation

The Panel is of the view that the extra height that is sought under the amended proposal is acceptable but does not adequately address the broader strategic objectives of significant extra height in the area. Internal unit amenity needs better context analysis showing surrounding built form (needs to show max permissible built form).

The Panel notes that previous recommendations regarding the separation distances between apartments at the upper (proposed new levels) have been made. However, whilst all units now benefit from a principle street elevation or mid-way break in the building mass (and no longer seem to have habitable rooms relying on courtyards for light and ventilation) the overall amenity of apartments that have frontages to these courtyards could be further improved.

Introduce bay windows to units facing courtyards to optimise northern exposure and amenity even though these windows would be opening on to courtyards.

Given the prominent corner location of the site and the projected height and density envisaged under the BSP, the Panel would like to see a building that can substantively and credibly meet design excellence - with excellent levels of internal and external amenity across all building levels.

<u>Recommendations</u>

Previous recommendations from Pre-DA stage:

V. The addition is to be physically defined not rely on painted surface finishes.
    - Not resolved

VI. The top floor is to be modulated consistently so that it expresses the termination of the built form – top floor and roof.

- Comment: e.g. proposal resolves recommendation/further work required

VII. Building height – floor-to-floor heights should be included in the current application to demonstrate a minimum of 3.2 metres plus realistic structural depths in section drawings. This should be increased where wet areas are proposed above habitable rooms of units below.

- Further work required

VIII. Reinstate the framing building elements deleted from openings to street frontages – also required to mitigate western sun.

- Further work required

IX. See Amenity for implications for acoustic treatments and natural ventilation that may impact on the built form of the addition.

- Further work required

Further recommendations for DA:

15. Demonstrate how the proposed additional height responds to the broader strategic objectives of the precinct, particularly the future built form envisaged under the Brookvale Structure Plan (BSP).
16. Prepare a comprehensive contextual analysis illustrating the maximum permissible future development on surrounding sites and assess the proposal against this future urban context. Include plans, sections, elevations, 3D visualisations and solar access studies showing the relationship between the proposal and the anticipated future built form.
17. Further improve the internal amenity of apartments, particularly those adjoining internal courtyards.
18. Review the design of courtyard-facing apartments to maximise access to natural light, outlook and ventilation.
19. Introduce bay windows or similar architectural elements to courtyard-facing apartments to improve northern solar access, outlook and overall residential amenity.
20. Ensure apartment layouts optimise passive design outcomes and provide a high level of internal amenity across all dwelling types.
21. Reassess separation distances and building configuration at the upper levels to enhance privacy, daylight access and visual amenity.
22. Given the site's prominent corner location, refine the architectural design to deliver a landmark building that makes a positive contribution to the streetscape.
23. Demonstrate that the proposal achieves a standard of design excellence appropriate to its strategic location and the future character envisaged by the Brookvale Structure Plan.
24. Ensure the development provides consistently high levels of internal and external amenity for residents across all building levels.
25. Refine the overall built form and architectural expression to ensure the development remains functional, attractive and adaptable within the anticipated higher-density urban environment.

Access, vehicular movement and car parking

No additional comments.

Recommendations

Previous recommendations from Pre-DA stage:

X. Consideration be given to car parking to be at the minimum required rates where impacts could be reduced.

- Not resolved

XI. Considered whether amenity improvements can be made between the ground level truck/loading and adjacent SOHO and podium above.

- For council assessment

Further recommendations for DA:

26. None

Landscape

No additional comments – see additional recommendations below.

Recommendations

Previous recommendations from Pre-DA stage:

XII. Consideration should be given to street planting within a structural root cell system to enhance the streetscape and provide critical shade to the development. Tree species with an appropriate canopy spread should be selected to minimise or indeed eliminate the need for heavy pruning of branches on the building side of the trees in future years.

a. Further work required

XIII. Some building articulation to allow for planting on structures or some type of planter boxes to soften the building with overspill planting should be considered – including the detailed design of awnings to allow trees to grow and for canopy spread over time.

- Acceptable

XIV. The existing trees along the eastern boundary need to be assessed by a Level 5 Arborist and appropriate measures taken to ensure their health is protected and long-term viability is delivered.

XV. The proposal should consider a green roof option with low growing ground covers – (there are several companies specialising in this area) to respond to reducing the heat island effect, reduce the reliance on heating and cooling, and improve the performance of rooftop PV.

Further work required

XVI. The internal courtyard area does not seem to address the space well and does not provide much in the way of vegetation especially tree planting. Consideration for redesigning this space including its relationship with the ground level could be undertaken with little design changes to any other part of the building or infrastructure.

Further work required

Further recommendations for DA:

27. The Panel require further information about the landscape detailing for both public domain and roof terraces to ensure high-quality outcomes.

28. The Panel agree with the council landscape comments in general and note a public domain plan needs to be provided in accordance with council's specific requirements for granite paving type and details along with other Street streetscape components.

Amenity

See above.

Recommendations

Previous recommendations from Pre-DA stage:

XVII. Solar modelling – sun-eye (or views-from-the-sun) analysis is to include compliant building envelopes for future development of neighbouring sites/sites in the vicinity to determine solar performance and overshadowing to and from permitted development.

- Not resolved

XVIII. Natural ventilation and cross ventilation – all new units are to demonstrate they satisfy the ADG design criteria. It is recommended natural and cross ventilation performance be improved through deletion of 2 or three units, which would still result in a net increase of 17 units. This would enable the Lift 2 lobbies to be open and create a single northern courtyard space linking the airflow path to the Charlton Lane as a similar treatment to the open entry between buildings L3 and L4.

- Not resolved

XIX. Natural daylight – all new units are to provide natural daylight to all habitable rooms consistent with ADG design criteria.

- Not resolved adequately with regards to neighbouring sites

XX. Floor-to-floor heights – the applicant should consider broadening the current application to include all residential floor to floor heights be increased to a minimum of 3.2 metres noting additional height may be required for additional ceiling insulation for wet areas/terraces and the like above habitable rooms below, and to accommodate adequate structure for the podium, paving and landscape and complaint waterproofing.

- Acceptable

XXI. Existing departures from the ADG minimum performance – it is recommended there is an opportunity as an Amending DA, for the development to address existing deficiencies to improve the overall building performance and resident amenity expected by ADG minimum performance benchmarks.

- Acceptable

XXII. Clarify lift lobbies 3 and 4 - for managing the perceive conflicts for the SOHO back of house and residential uses.

- Not resolved

XXIII. Clarify natural ventilation – how is it proposed for single aspect units in the noisy location.

- Not resolved

XXIV. Confirm acoustic requirements – for the fourth-floor level. This may impact on the building line and how the addition relates to the levels below such as the need for wintergardens, setting the building mass inboard of the building edge below.

- Not resolved

Further recommendations for DA:

29. None

Façade treatment/Aesthetics

None.

Recommendations

Previous recommendations from Pre-DA stage:

XXV. Reinstate building elements such as framing around wintergardens, so that the facades demonstrate a modulated depth needed to contribute positively to the streets.

- Not pressed

XXVI. Minimise the use of high maintenance materials such as painted finishes that do not perform well over the long term. On-going and frequently required maintenance so the quality of the building's appearance is retained over the life of the building is an unreasonable burden for future residents when more robust and durable materials are available.

- Not resolved

XXVII. Reconsider the massing, materiality and colour selection for the fourth storey addition and include meaningful parapet edge detailing to terminate the wall plane around the building and generous roof eaves for shadow reveals and solar protection for exposed aspects.

- Not resolved

Further recommendations for DA:

30. None

Sustainability

A complete assessment of the sustainability features and performance of the proposal is not possible. Concerns are raised about BASIX compliance. There are two certificates, which when taken together do not provide an accurate picture of performance. The submitted BASIX certificate accounts for the added floors but includes all the car parking and none of the basement area. This is not consistent with what is being developed and is hence not compliant. A new certificate should be provided which encompasses the whole building.

The problems might be capable of resolution if a single certificate is provided for the whole building. It will however mean that the whole building has to be made to conform with current BASIX requirements. Thermal load compliance may not be achieved any more, and reaching compliance may require changes to the façade (to window sizes).

If there is to be retention of two BASIX certificates; applicant needs to make sure all common areas have been accounted for across the two certificates, and the solar provision from both certificates needs to be shown on the plans.

Furthermore, the proposed amendments to the development have not adequately addressed all recommendations from the previous Panel, including removal of gas and increasing the size of the solar system.

Recommendations

Previous recommendations from Pre-DA stage:

XXVIII. Remove gas from the building.

- Not resolved and further work required

XXIX. Gas cooktops can be replaced with induction.

- Not resolved and further work required

XXX. The gas hot water system should be replaced by heat pump - the location may need to be on the roof to ensure adequate ventilation.

- Not resolved and further work required

XXXI. A 9kW PV array is very small for this size building. Increase the array and consider a green roof under the PV.

- Not resolved and further work required

XXXII. Also consider increasing the PV provision to avoid challenges of proposed 4-star dryers which are heavier and impact architectural layouts and structural requirements.

- Not resolved and further work required

XXXIII. Surplus car parking should not be provided, ensure the spaces provided are restricted to the minimum required for the development.

- Not resolved and further work required

XXXIV. The solar protection for the fully glazed corner wintergardens is to be provided which should include providing a solid balustrade to also address visual privacy.

- Not resolved and further work required

Further recommendations for DA:

31. Provide a new BASIX certificate which encompasses the whole development so that compliance with energy and water efficiency requirements can clearly be demonstrated. Ensure the information on the certificate is consistent with the plans, such as common area sizes, services and solar provision.
32. Change services to electric – electric or induction cooktops and electric hot water systems.
33. Increase the size of the solar array and consider including a green roof under the solar to improve efficiencies.

PANEL CONCLUSION

The Panel does not support the proposal in its current form. Although the amended scheme has addressed some previous concerns, including improvements to apartment orientation and the acceptability of the additional height, it fails to demonstrate an appropriate response to the Brookvale Structure Plan and the desired future character of the precinct. Significant issues remain regarding strategic context, built form, design excellence, internal amenity, future redevelopment impacts, sustainability and unresolved recommendations from the previous review. The Panel considers that further refinement of the building's massing, architectural

expression, courtyard design, environmental performance and contextual analysis is necessary to achieve a high-quality urban design outcome that supports the long-term evolution of the precinct.

5 NON-PUBLIC MEETING ITEMS

ITEM 5.1 MOD2026/0276 - 101 NORTH STEYNE MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA2025/0022 GRANTED FOR DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A 5 STOREY RESIDENTIAL FLAT BUILDING CONTAINING 7 APARTMENTS OVER BASEMENT PARKING

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. Mod2026/0276 for Modification of Development Consent DA2025/0022 granted for Demolition of existing structures and construction of a 5 storey residential flat building containing 7 apartments over basement parking at Lot CP SP 4518, 101 North Steyne MANLY NSW 2095 subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**5.1.1** - 46 pages] 2. Site Plans & Elevations [**5.1.2** - 3 pages]

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2026/0276

Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot CP SP 4518, 101 North Steyne MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2025/0022 granted for Demolition of existing structures and construction of a 5 storey residential flat building containing 7 apartments over basement parking
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Emelia D'Urso

Application Lodged:	26/05/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	09/06/2026 to 23/06/2026
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This application seeks consent for the modification of Development Consent DA2025/022 granted for the demolition of an existing brick flat building and construction of a 5 storey residential flat building with basement carparking, associated landscaping and site works.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the modification increasing the existing variation to the building height by more than 10%. The proposed changes include increasing the lift height overrun by 1.1m (4.27m or 32.7% variation) and the building parapet by 0.75m (3.8m or 29.2% variation) over the 13m Manly LEP height of buildings development

standard.

The application was notified in accordance with the Northern Beaches Community Participation Plan and 2 submissions were received within the statutory notification period. Concerns raised in the objections relate to increased height, streetscape, heritage, variation from LEC consent, privacy, building bulk, setbacks, overshadowing and reduce housing yield within the LMR.

Critical assessment issues included consideration of reasons for the modification to the building height and addressing submission issues. No unreasonable impact on views, privacy, streetscape, overshadowing arise with the modification been substantially the same in its environmental impact. The proposal is consistent with the reasons for granting consent conditions applied by the NSW Land and Environment Court.

This report concludes with a recommendation that the NBLPP grant approval to the modification application, subject to conditions to accompany the modification determination.

PROPOSED DEVELOPMENT IN DETAIL

A modification to Development Consent DA2025/0022 dated 20 March 2026 is sought for minor alterations to the approved residential flat building development, comprising the following:

- Increase in height across the building to accommodate 3.25m floor-to-floor height on each residential level, resulting in an overall 750mm building height increase to the building upper parapet and an increase of 1.1m to the top of the lift overrun RL.
- Reduction in the total number of apartments from seven (7) to five (5) through the amalgamation of selected units within the building.
- Minor internal and external changes associated with BCA / design refinements depicted on the plans and elevations ('clouded' red) D098 to DA450 dated 11.5.2026, which requires modification of the referenced plans and supporting documentation in DA2025/0022.
- The reduction in units therefore triggers a change to the HPC condition, however the cost of works remains the same as per the EDC provided. (Note: The existing redbrick flat building has 8 dwelling units within it)
- Stormwater water sensitive urban design report details have been revised to accompany the modifications plans.
- BASIX, Design Verification, Traffic access, BCA and Fire safety report details have been updated to accompany the modification plans.
- View impact analysis details have been submitted to accompany the design changes.

(Note: no change is proposed to FSR, setbacks, open space, parking or landscaping)

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

Environmental Planning and Assessment Act 1979 - Section 4.56 -
Manly Local Environmental Plan 2013 - Zone R3 Medium Density Residential
Manly Local Environmental Plan 2013 - 4.3 Height of buildings
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)
Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
Manly Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot CP SP 4518 , 101 North Steyne MANLY NSW 2095

Detailed Site Description:	The Site has a total area of approximately 636m² and exhibits a dual frontage to North Steyne to the east and Pine Lane to the west. The subject land is currently developed with a 3 storey redbrick residential flat building with parking at the rear with laneway access from . The existing building contains 8 apartments. A vehicle driveway exists down both sides of the building with the ground level side setback and rear of the site being a bitumen surface.   *Image1: Front of the site facing Manly Beachfront and; Image 2: Rear of the site off Pine Lane.* The site's northern and southern boundaries adjoin existing residential flat buildings at 102-104 North Steyne and 98 North Steyne respectively. The site is located directly opposite North Steyne Reserve and Queenscliff Beach, and is in close proximity to the Manly Corso, Manly Beach, Manly Wharf, and Manly Oval. The immediate surrounding area is predominantly a mix of medium density residential and recreational land uses, with retail and hospitality venues within close proximity.

	Image 3 (below): Map of site and surrounds.

Map:



SITE HISTORY

Development Application No.DA2025/0022 for demolition of the existing structure and construction of a five storey residential flat building containing seven apartments over basement parking, was approved by the NSW LEC in Proceedings No.2025/210459 on 20 March 2026.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the LEC agreement (Decision judgement with conditions) and assessment details for DA2025/0022, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56 - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	

Section 4.56 - Other Modifications	Comments
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2025/0022 (**NSW LEC Proceedings No.2025/210459)** for the following reasons: Consideration of whether a development to which the consent as modified relates is substantially the same • *The modification to increase floor to floor heights is triggered by BCA and fire safety systems that require thicker floor slabs to enable regulatory clearances and floor drainage systems.* • *The overall use and appearance of the building remains consistent with the approved use however the reduced number of apartments attracts revision of the housing contribution.* • *The work requires change to conditions and the approved plans from the NSW LEC consent. The principle reasons for granting approval for a building that is consistent with the objectives of the zone.* Reviewing the above comments it is concurred that the proposed modification is substantially the same as the development for which the consent was originally granted and can be considered under Section 4.56 of the Act. • The overall use and appearance of the building remains consistent with the approved plans and is of minimal impact, subject to modification conditions to reference the modified plans / documents. • The building bulk and floorspace, streetscape appearance, landscaping, parking, setbacks and floor space remain consistent. • While the building height is increasing this is measured to the lift overrun and to the clerestory level roof top. The change is incremental floor to floor due to BCA requirements current compliance standards for construction of multi-storey residential buildings. • The modified building remains consistent with the reasons for granting approval and consideration of the public interest have been made. There is no critical loss of views, landscaping or solar access, privacy or general amenity (as detailed in this report and demonstrated by the supporting documents provided with the application). • Considerations of "substantially the same" in dealing with ("other modifications") the modification the changes area consistent with the assessment approach used by the NSW LEC in that overall the use, setbacks, streetscape appearance, major components and context of the building

Section 4.56 - Other Modifications	Comments
	in its setting in the street is consistent with the original court approval. • The proposed modifications do not contradict previous recommendations by DSAP with the original design review.
(b) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	Development Application DA2025/0022 did not require concurrence from the relevant Minister, public authority or approval body. The 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.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2025/0022.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Assessment

In accordance with Section 4.56 (1A) of the Environmental Planning and Assessment Act 1979, in determining a modification application made under Section 4.56, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Section 4.15(1) is addressed in the table below.

The reasons given by the consent authority for the grant of the consent that is sought to be modified is discussed as follows:

Comment on reasons for determination of DA2025/0022

The reasons for the granting of the original consent have been considered in the assessment of this modification application. The proposed changes will result in a modified development that will not conflict with the original reasons for the granting of consent. In summary, proposed changes will result in a modified development that required changes to condition/s applied relating to plan references and supporting documents. The reduced number of dwellings for the site also does not attract HPC provisions of SEPP (Housing) 2021. The existing consent contains conditions requiring compliance with the *Building Code of Australia* (also referred to as the National Construction Code) and Australian Standards. Therefore, the modifications are consistent with seeking to meet those regulatory requirements.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See detailed assessment under “DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS” below.
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 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 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. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. The applicant has provided a statement from the architect addressing this provision of the regulations for the purposes of the modification of consent. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case apart from confirming height and RL calculations made to ensure consistency in addressing LEP and DCP considerations. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent with the original consent. Clauses 62 and/or 64 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 with the original consent. Clause 69 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 with the original consent. Clause 69 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 with the original consent.
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed modified development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed modified development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed modified development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development modification.
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. Matters raised in submissions in summary include, building height, view intrusion, privacy, wall height, setbacks and changes to LEC conditions.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Residential flat building

Land Use Zone: R3 Medium Density Residential

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is inconsistent/consistent with its relevant aims and objectives.

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 application has been publicly exhibited from 09/06/2026 to 23/06/2026 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 2 submission/s from:

Name:	**Address:**
Architectural Projects Pty Ltd	Studio 1 181 Lawson Street DARLINGTON NSW 2008
Colco Consulting Pty Ltd	29 A Amiens Road CLONTARF NSW 2093

In summary the following issues were raised in the submissions (Multiple submissions from a single residence, or on behalf of, are 'counted' as a single submission). (Note that a 3rd submission was later withdrawn but did not raise additional issues)

- 1. Height change to building despite LEC consent
- 2. General non-compliances with LEP & DCP & ADG
- 3. Streetscape and character
- 4. Setbacks and wall height
- 5. Heritage items
- 6. Overshadowing and solar access
- 7. Building bulk and scale
- 8. Architectural design report
- 9. Gross floor area
- 10. Privacy of balconies
- 11. Apartment mix
- 12. Loss of views

The above issues are addressed as follows:

1. *Concern that the modification alters the agreed height by the applicant and approved plans of the development as approved by the NSW Land and Environment Court.*

Comment:
Conditions of consent and LEC approval are not prohibitions on an approved development being able to be modified and any proposed changes being considered on merit. In this case the consent contains conditions requiring compliance with the BCA and Australian Standards and the applicant has outlined a disparity between the ADG and more recent regulations for fire protection and slab drainage standards for apartment building construction. The changes are minor in impact for each floor but have a cumulative increase of 0.75m at roof level and 1.1m for the lift overrun. Therefore, the need to apply for a modification of consent by the applicant pursuant to clause 4.56 of the EP& A Act is warranted. The NSW LEC established that a modification of consent is not subject to the provisions of clause 4.6 and therefore elements that affect building height are considered on merit without the strict application of clause 4.6. The height change does not create unreasonable amenity impacts to surrounding land despite the increased variation to the approved height with the overall building appearance remaining substantially the same.

2. *Concern that the proposal has a range of non-compliances with the LEP, DCP and ADG*

Comment:
The principal built form controls and non-compliances with the DCP and ADG have been previously considered on merit and assessed in detail with the original application. These include basement parking and floor level setbacks, landscaping, front and rear setbacks, solar access, wall height, POS, floor space and the like. Non-numeric controls of privacy, views, materials, drainage, building bulk, streetscape, heritage and the like were also addressed with the original DA and remain substantially the same. The non-compliance with height and changes to solar access are addressed within this report. Considerations of views have also been demonstrated to remain substantially the same by way of the detail view analysis prepared by *Urbaine,* dated 20.5.2026. This generalised concern with LEP, DCP and ADG compliance has been considered with the assessment of the modification and review of the original DA, including LEC determination and reasons for granting approval. The modification changes proposed

are not materially inconsistent with the original DA or based on unjustified reasons that warrant refusal of the modification.

3. *Concern that the proposal is inconsistent with the Styene streetscape and character of the locality.*

Comment:
The general shape and appearance, including colours and materials, fenestration, balcony and wall alignments remain substantially the same in terms of the streetscape. The overall height change remains consistent with average height of buildings in the vicinity and follow the general design response that floor space / walls and other elements above the LEP height plane be set back to reduce upper storey building bulk in similar pattern to other buildings along North Steyne streetscape.

4. *Concern that the setbacks are not adequate for the increased wall height.*

Comment:
The applicant has not sough to modify the vertical wall plans and wall alignments. While this technically changes with each marginal floor increase as per height to side setback ratio, the change is fractional and there is sufficient articulation along the wall planes and appropriate design response to retain consistent privacy protection, no unreasonable overshadowing and consistency with views in consideration of the increased height.

5. *Concern that the proposed modification is unsympathetic to the Heritage listed items near the site including stone kerbs, Ocean foreshore, North Steyne Surf Club and Beach reserve.*

Comment:
The modification does not unreasonably alter the context of the building in association with Heritage adjacent or nearby heritage items. The existing consent contains conditions regarding protection or replacement of the heritage sandstone kerb sections and these requirements remain unchanged by the modification.

6. *Concern that the modification will increase overshadowing to adjacent apartments, including No.98-100 North Steyne*

Comment
This issue has been addressed in detail under the heading *3.4.1 Sunlight Access and Overshadowing* within this report. In summary, there is minor change to solar access from the height change however the change is marginal and does not cause any unreasonable loss of solar amenity on 21 June for adjacent private property or public land. Detailed solar access diagrams have been provided to demonstrate solar access that is consistent with DCP and the ADG.

7. *Concern that the proposal further increases bulk and scale of the building*

Comment
Overall the further increase in building bulk and scale is only related to mandatory compliance with fire protection systems and floor drainage standards to meet BCA and Australian Standards and Regulations applying to multi-storey apartment building construction and safety. The proposal does not alter FSR and the increase in the height (in terms of scale) by comparison to adjacent buildings does not cause unreasonable amenity impacts.

8. *Concern that the height is increasing and the Architectural Design Report should not be supported for the modification*

Comment
The Design report has been reviewed in association with consideration of the general design principles pursuant to SEPP (Housing) 2021 and is considered satisfactory given the limited changes that the modification proposes.

9. *Concern that the Gross floor area remains in breach of the permissible FSR for the site.*

Comment:
No change is proposed to the approved FSR and while the building height is being raised the change does not create unreasonable bulk or scale when viewed from Manly Beachfront reserve or in contest of the surrounding pattern of development.

10. *Concern that privacy will be affected and changes should be made to straighten balcony corners or add-in additional screening of the curved balconies.*

Comment
The change to the lower floors is minimal in terms of floor level comparison with adjacent apartment and the overall height changes do not unreasonably remove existing privacy treatment. Privacy along the side boundaries is adequately screened by side window alignment and privacy remains consistent with considerations already included in the original approved design. Elements of the building that the applicant has not sought to change such as the balcony configuration / area cannot be used as an opportunity to add additional structures or reshape the balcony design as these are not nominated as proposed changes by the modification application.

11. *Concern that the proposal alters the apartment mix and is, in effect, providing even less housing with the LMR contrary to the NSW government housing policy.*

Comment
While the apartment mix is being modified this does not necessarily equate to lesser occupancy since the number bedrooms or the type of unit can influence the overall occupancy of a building. For example 5 x 2 bedroom small units may likely provide housing for singles and couples, potentially 10 persons or less. However, 3 x 4 bedroom larger family sized units may likely provide housing for 3 families, of potentially 4 or 5 persons in each, being 12 to 15 persons.

12. Concern that the increased height of floor has an incremental loss of views for neighbouring apartments.

Comment
Specific apartment views raised include apartment Nos. 6, 10 and 12 within the adjoining building 102-104 North Steyne. The applicant has provided a detailed visual impact assessment to determine the view sharing impact. The site faces Manly beachfront and therefore easterly facing apartments along North Steyne commonly have broad-sweeping views toward the ocean as well as some side views along the beachfront reserve. Details are addressed under the heading *3.4.3 Maintenance of views* within this report. In summary the views are across side setbacks and the existing shape and open style of the front balconies with floor to floor height changes do not cause additional unreasonable loss of views.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	**Supported.** General Comments This application is seeking modifications to DA2025/0022. The modifications include; Increase in height across the building to accommodate 3.25m floor-to-floor height on each residential level, resulting in an overall 750mm building height increase; and reduction in the total number of apartments from seven (7) to five (5) through the amalgamation of units across the building. The modifications do not alter previous conclusions in relation to Acid Sulfate Soils therefore no further assessment into Acid Sulfate Soils is required. Recommendation SUPPORTED - no conditions
Environmental Health (Contaminated Lands)	**Supported.** General Comments This application is seeking modifications to DA2025/0022. The modifications include; Increase in height across the building to accommodate 3.25m floor-to-floor height on each residential level, resulting in an overall 750mm building height increase; and Reduction in the total number of apartments from seven (7) to five (5) through the amalgamation of units across the building. The modifications do not change bulk excavations or previous conclusions in relation to Contaminated Land. The previous consent conditions as applied by the LEC for the Detailed Site Investigation and the Remedial Action Plan remain in place. Recommendation SUPPORTED - no conditions

Internal Referral Body	Comments
Landscape Officer	**Supported** The plans and SEE indicate that no additional landscape features are impacted and no significant change is proposed to the overall landscape outcome. No objections are raised regarding landscape issues. Existing condtiions are considered still relevant and adequate. <u>Recommendation</u> SUPPORTED - no conditions.
NECC (Coast and Catchments)	**Supported** The proposed modifications do not impact the assessment of coastal matters considered for DA2025/0022. It should be noted however that this referral has focused on the impact of the proposal on coastal processes and hazards. The assessment of compliance with controls applying to visual amenity, scenic qualities or aesthetic appearance of the foreshore or surrounding coastal environment will be undertaken by the development assessment officer assessing this development application. <u>Recommendation</u> SUPPORTED - no conditions.
NECC (Development Engineering)	**Supported.** The proposed modification to the approval does not alter the original assessment of the application by Development Engineering. The proposal meets the objectives of the DCP controls with no additional or modified conditions of consent recommended. <u>Recommendation</u> SUPPORTED - no conditions.

Internal Referral Body	Comments
NECC (Flooding)	**Supported.** This development seeks to increase the building height for each residential level and reduce the number of apartments through the amalgamation of units across the building. The proposal has been assessed against Section B3.11 of the Pittwater DCP and Clause 5.21 of the Pittwater LEP. This is modification to the original DA2025/0022. The building footprint and Finish Floor Level remain unchanged. The proposal is therefore supported. Recommendation SUPPORTED - no conditions.
NECC (Water Management)	**Supported.** The proposed stormwater management strategy, which incorporates principles of stormwater conservation, reuse and filtration, is considered satisfactory. The Environment and Resilience team has reviewed the proposed modification and raises no objection on water management grounds. WaterNSW general term of approval IDAS1166821 is applicable to the proposal. The proposed modification meets the objectives of the DCP controls and Council Water Management for development policy subject to the amendment of condition 18 and 61 of consent DA2025/0022 as follows. Recommendation SUPPORTED - modified conditions to updated WSUD report references
Parks, reserves, beaches, foreshore	**Supported.** Parks Reserves and Foreshores Referral raise no concerns with the proposed modifications, as the proposed modifications do not impact upon the adjoining parkland reserve character, community amenity or usage. Recommendation SUPPORTED - no conditions

<table>
<tr><th>Internal Referral Body</th><th>Comments</th></tr>
<tr><td>Strategic and Place Planning (Heritage Officer)</td><td>
Not supported.
<table>
<tr><td>HERITAGE COMMENTS</td></tr>
<tr><td>Discussion of reason for referral</td></tr>
<tr><td>The proposal has been referred to Heritage as the subject site has been located within the vicinity of a number of heritage items:
Item I68 - Ocean foreshores - Manly municipal area, boundary adjacent to the ocean
Item I173 - North Steyne Surf Club - North Steyne, Manly
Item I174 - Beach Reserve - Merrett Park North Steyne and South Steyne, Manly
Item I2 - All stone kerbs - Manly municipal area</td></tr>
<tr><td>Details of heritage items affected</td></tr>
<tr><td>Item I68 - Ocean foreshores
<u>Statement of Significance</u>
Natural landscape. Part of coastal zone east coast of Australia. Part entrance to Sydney Harbour. Listed due to its aesthetic, historic, and scientific significance to the area.

Item I173 - North Steyne Surf Club
<u>Statement of Significance</u>
The North Steyne Surf Life Saving Club (NSSLSC) and building is historically significant for its continuous association with surf lifesaving and use as a surf lifesaving club in the same location for nearly 100 years.

Item I174 - Beach Reserve
<u>Statement of Significance</u>
High significance as natural sand beach and cultural backdrop of paved promenade and first coastal plantings of Norfolk Island Pines.

Item I2 - All stone kerbs
<u>Statement of Significance</u>
Stone kerbs are heritage listed.
<u>Physical Description</u>
Sandstone kerbing to streets relating to paving and kerbing of streets in the nineteenth century.
Mostly located within Manly Village area and adjacent lower slopes of Eastern Hill and Fairlight.</td></tr>
<tr><td>Other relevant heritage listings</td></tr>
<tr><td>
<table>
<tr><td>SEPP (Biodiversity and Conservation) 2021</td><td>No</td><td></td></tr>
<tr><td>Australian Heritage Register</td><td>No</td><td></td></tr>
<tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr>
<tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr>
</table>
</td></tr>
</table>
</td></tr>
</table>

Internal Referral Body	Comments

RAIA Register of 20th Century Buildings of Significance	No	
Other	No	

Consideration of Application

The proposal seeks consent to modify the LEC approved development by increasing the floor to floor height to 3.25m - resulting an overall height increase of 750mm and amalgamating the units to reduce the total number from 7 to 5. While the internal changes as a result of amalgamation raises no heritage concerns the proposed height increase is not supported. Under the ADG guidelines a floor to floor height of 3.1m is standard and compliant, therefore the requested 3.25m height is considered unnecessary. The proposal is located within the vicinity of a number of heritage items and a sensitive heritage context. Given that the LEC approved bulk and scale already exceed the acceptable limits of Manly planning controls; this unjustified height increase will further exacerbate the visual impact on the surrounding heritage context and the existing streetscape.

Therefore, Heritage require amendments to the proposal.

Consider against the provisions of CL5.10 of MLEP 2013.

Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No

Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No

Planning Comment:

The recommendation that the modification be amended to reduce the floor to floor height is not concurred with in consideration that the applicant has provided supporting evidence and expert building construction reports to demonstrate compliance with regulatory fire separation clearances and floor drainage systems that result in minimum 3.25m floor to floor. Reducing the floor to ceilings to 2.6m or less would result in ADG non-compliance with minimum ceiling clearance for appropriate amenity and flat building design. Additionally the parent consent contains conditions requiring compliance with relevant building codes, Standards and the like the CC plans need to meet. The consent contains heritage conditions regarding the sandstone kerbs and overall the modifications do not create unreasonable impact on the adjacent beachfront reserve. In this regard, the site is also within the LMR and as such the State government has mandated building height controls pursuant to SEPP (Housing) 2021 which prevail over the LEP and the site is not within a heritage conservation area, and is adjacent similar sized flat buildings. Therefore, heritage comments above have been addressed and approval of the modification is recommended.

Internal Referral Body	Comments
Traffic Engineer	**Supported.** Traffic Engineering Review Comments – 101 North Steyne, Manly - Mod2026/0276 The Modification seeks approval for changes to the approved development including: - reducing the number of apartments from 7 to 5 by amalgamation of units there is no change to the approved quantum of car or bicycle parking or to the vehicle access arrangements. Changes to the carparking levels do not impact upon the functionality of the parking spaces. There are no traffic engineering concerns with the development. No additional conditions to impose. Recommendation SUPPORTED - no conditions.
Waste Officer	**Supported.** Reduction in number of dwellings from 7 to 5 results in one less waste bin being supplied. There have been no changes to the waste storage and location of the temporary bin holding area for collection. Existing conditions applicable to DA2025/0022 to apply. Recommendation SUPPORTED - no conditions.

External Referral Body	Comments
External - Ausgrid - Section 4.31 of SEPP (Planning Systems) 2021 Development near electricity infrastructure - s4.31 (of SEPP) 2021	**Supported with conditions.** 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 for the modification as per the referral response dated 5.5.2026.

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)

Housing and Productivity Contribution

The modification has merged 2 of the units so that there is a dwelling density reduction for 7 to 5. The H&PC will be paid with the construction certificate for the whole of the development as already addressed by the parent condition 4(g) (iii) which reads as follows:

"Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment." No change is required to this condition 4(g)(iii) which remains in force as it is based on indexation to the calculated at the time of payment as relevant.

Condition 6 "Housing and productivity contribution - Development consents" however details an amount of $40,000 to be paid and therefore this condition would need to be modified to reduce by 2 dwelling units as proposed by the applicant. However, it is noted the site currently contains 8 Units and therefore the HPC contribution (based on *additional dwellings*) will not apply as the modification proposes only 5 dwellings.

Based on the HPC requirement to pay a contribution based on additional dwellings, and the applicant is *reducing number of dwelling Units currently on the site (including that approved)* it is recommended Condition 6 be deleted.

SEPP (Sustainable Buildings) 2022

An amended BASIX certificate has been submitted with the application (see Certificate No.1778522M_04 dated 19 May 2026).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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

SEPP (Housing) 2021

Chapter 4 Design of residential apartment development

144 Application of chapter

"(1) In this policy, development to which this chapter applies is referred to as residential apartment

development.

(2) This chapter applies to the following—

(a) development for the purposes of residential flat buildings,
(b) development for the purposes of shop top housing,
(c) mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.

(3) This chapter applies to development only if—

(a) the development consists of—

(i) the erection of a new building, or
(ii) the substantial redevelopment or substantial refurbishment of an existing building, or
(iii) the conversion of an existing building, and

(b) the building is at least 3 storeys, not including underground car parking storeys, and
(c) the building contains at least 4 dwellings."

Comment:
Pursuant to clause 144 (3)(ii) the modification works and associated changes are substantially the same overall as per the "test" pursuant to the modified development being “essentially” or “materially” the same as the (currently) approved development - *Moto Projects (no. 2) Pty Ltd v North Sydney Council [1999] 106 LGERA 298 per Bignold J.*

Therefore no further detailed assessment under *SEPP (Housing) 2021* or the *Apartment Design Guide* is required for landscaping works, side wall setbacks, front setbacks, privacy, internal amenity, car parking, access or open space areas. The changes affect the floor to floor heights to meet regulatory compliance with fitting fire control systems and BCA floor drainage.

The works will affect the overall building height and therefore associated impacts on overshadowing, view amenity building bulk and streetscape.

Considerations of overshadowing, views, privacy, heritage and building bulk are addressed under the Manly DCP and ADG sections of this report as appropriate.

Apartment Design Guide
Part 1 - Context (2A to 2H)
The modification application remains consistent with the ADG for context as no significant change to external appearance of the building in its context is changing apart from floor to floor heights addressed under Part 2 and Part 4.

Part 2 - Controls (3A to 3J)
Floor space, building depth, setbacks , separation, street setbacks and side setbacks remain the same for the overall development as approved.
The change to building height (and consequently its profile envelope) are addressed in this report in terms of height and contexts in the streetscape. Overall the height change is triggered by conflicting design regulations to meet fire / slab thickness requirements and maintain 2.7m floor to ceiling heights. Ceiling height have been retained in favour of a 150mm increase slabs to meet fire and drainage design standards.

Part 3 - Siting (3A to 3J)
The siting considerations for the building including open space, visual privacy, deep soil zones, pedestrian and vehicle access and bike parking remain consistent with the approved scheme.

Part 4 - Building Design (4A to 4X)

Solar amenity
Detailed overshadowing and solar access diagrams have been provided on drawings DA800 D Sun Eye Views, DA801 D Shadow Plan and DA802 D Shadow elevations. The most visible change is at 9am and 3pm on 21 June however the change is not significant enough to create non-compliance solar access pursuant to the ADG. Change at the top level are cast primarily over adjacent roof line and therefore do not unreasonably impact private open space.

Privacy
Due to the floor to floor height increasing in a consecutive manner from floor to floor the change at the lower levels is more marginal than at the top floor. The building has been designed to the private open space and living areas have an outlook directed toward the beachfront with side windows setback and / or screened. Screening devices including blade walls, landscape planters, fixed louvre screens and internal operable blinds.

Overall the changes does not create any unreasonable impact on privacy to adjacent dwellings by overlooking or direct window to window privacy.

Configuration
The change to less apartment does not add floor space or building bulk overall since the change enables 'family sized' apartments and potentially more livable units for families. This is in variation in housing choice to the most to common combination of "2 bed x 2 bath" apartments available.

Apartment Amenity and Performance
The applicant has provided compliance diagrams demonstrating consistency with the ADG for cross ventilation and landscaping. (Plans 806D and 807D). The proposal has been provided with a revised BASIX certificate and WSUD report to demonstrate performance requirements of the ADG.

Part 5 - Review Panels
The applicant has provided design statement by a qualified architect to demonstrate that proposed modification work proposed remains consistent with the *Design Principles* of Schedule 9 and the ADG. The modification application was not referred to further review by NBC DSAP as the changes proposed are not adverse to the original DSAP Review recommendations (made on 27.2.2025) in terms of sustainability and DSAP's design recommendations made with the original DA. The DA was able to incorporate DSAP requirements during the NSW LEC Proceedings in order to achieve a S34 Agreement. The modification changes are consistent with existing conditions for BCA and regulatory compliance with Australian Standards for fire safety and wet area drainage needed for Class 2 Building design. The design and sustainability recommendations to be included at BCA stage (eg.energy / water / landscaping/ design quality) remain consistent with the proposal to be progressed to CC stage given the modification application being needed to resolve particular BCA compliance matters. The height change does not adversely impact the public streetscape when compared to the other RFB's along this section of North Steyne. Overall there is no unreasonable amenity impacts on neighbouring properties as demonstrated by the solar access analysis, view considerations and design review details provided by the applicant.

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 within the 21 day statutory period.

Other Service Authority Requirements

Referral is not required to *Transport for NSW* and no other infrastructure service authority issues are raised. Sydney Water manage their assets and development work by separate administrative processes directly with Sydney Water.

SEPP (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 envi cause an adverse impact on the following:
   a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) an
   b) coastal environmental values and natural coastal processes,
   c) the water quality of the marine estate (within the meaning of the Marine Estate Manager coastal lakes identified in Schedule 1,
   d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlan
   e) existing public open space and safe access to and along the foreshore, beach, headlan
   f) Aboriginal cultural heritage, practices and places,
   g) the use of the surf zone.

Comment:
The parent DA assessment has addressed this part of the SEPP and the modification application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and

Hazards) 2021.

2) Development consent must not be granted to development on land to which this clause applies u
   a) the development is designed, sited and will be managed to avoid an adverse impact refe
   b) if that impact cannot be reasonably avoided—the development is designed, sited and wi
   c) if that impact cannot be minimised—the development will be managed to mitigate that in

Comment:
The parent DA assessment has addressed this part of the SEPP and the modification application complies with the requirements of Chapter 2 of the SEPP.

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
   a) has considered whether the proposed development is likely to cause an adverse impact
      i) existing, safe access to and along the foreshore, beach, headland or rock platfc
      ii) overshadowing, wind funnelling and the loss of views from public places to fore
      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 im
      ii) if that impact cannot be reasonably avoided—the development is designed, site
      iii) if that impact cannot be minimised—the development will be managed to mitiga
   c) has taken into account the surrounding coastal and built environment, and the bulk, scal

Comment:
The parent DA assessment has addressed this part of the SEPP and the modification application complies with the requirements of Chapter 2.

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 as modified is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:
The parent DA assessment has addressed this part of the SEPP and the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The works the amalgamation of 2 apartments, BCA refinements for basement elements and fire safety that include increased floor to floor levels (to 3.25m) resulting increased building height from 16.4m to 17.15m. The modification changes do not raise any adverse impact on the coastal management zone.

The parent DA assessment has addressed this SEPP and the modification application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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 and commercial purposes for a significant period of time with no prior land uses. The parent DA assessment has addressed this SEPP and in summary the modification work and the existing 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 and commercial land use.

The requirements of the SEPP were addressed under the original DA assessment and consent conditions.

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	Approved	Proposed	Complies
Height of Buildings: (EGL RL5.95 at lift loc.)	13m	16.17m (RL22.12 lift overrun) (var. 3.12m) 24.3% (RL22.00 roof level) 16.05 (var.3.05m) 23.5%	17.27m (RL23.22 lift overrun) (var.4.27m) 32.8% (RL22.75 roof level) 16.8m (var.3.8m) 29.2%	No* 1.1m change 0.75m change
Floor Space Ratio (Site area 636sqm)	FSR:1.5:1 (954sqm)	FSR:1.89:1 (GFA 1,201sqm)	(No change)	Yes (as approved)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	N/A

Clause	Compliance with Requirements
4.4 Floor space ratio	N/A
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	N/A
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone R3 Medium Density Residential

Proposed Use	Permitted or Prohibited
Residential Flat Building	Permitted with consent

The underlying objectives of the R3 Medium Density Residential zone:
(See also associated detailed considerations addressed under the heading "height of buildings" within this report)

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

  Comment:
  The height change proposed to increase the floor to floor levels does not impact the overall provision of housing. Under the circumstances the modification seeks to meet housing needs for compliance design in terms of safety and design standards.

- *To provide a variety of housing types within a medium density residential environment.*

  Comment:
  The variation to the LEP height control does not impact this objectives. The reduction in unit numbers provides an alternative arrangement for larger family sized unit accomodation.

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

  Comment:
  The modification does not introduce any other facilities or services to the building floor space. Floor space is unchanged.

- *To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

Comment:
The variation to the height control does not impact this objective.

- *To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination*

Comment:
The variation to the height control does not impact this objective.

4.3 Height of buildings

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	13m
Proposed:	17.27m
Percentage variation to requirement:	32.8% (1.1m)

Assessment of request to vary a development standard:

Whilst the modification application will result in a building height that exceeds the maximum permitted by Clause 4.3 of the Manly LEP 2013, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.56 of the Environmental Planning and Assessment (EPA) Act 1979, which is a free standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 4.56 is subject to its own stand-alone tests (such as the 'substantially the same' test and consideration used in 4.55 modifications also and the relevant Section 4.15 matters, as appropriate) and does not rely upon having a Clause 4.6 variation in order to determine the modification application in the same way as a new DA.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to modification applications. As such, the applicant is not required to submit a written request adequately addressing the matters required to be demonstrated by cl 4.6(3).

Notwithstanding that Clause 4.6 does not strictly apply to Section 4.56 modification applications, the merits of the variation have been assessed with regard to the objectives of the height of buildings development standard and the underlying objectives of the R3 Medium Density zone. Notwithstanding that Clause 4.6 does not strictly apply, the assessment has also taken into consideration the relevant tests of the judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 in dealing with development proposals seeking to vary a development standard.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Comment:

- The highest point of the variation is the lift overrun currently approved as a 24.3% variation (16.17m) and equates to a 1.1m change due to the cumulative floor level increases. The main building roof profile will increase by 750mm in order to achieve 3.25m compliance floor to floor spacing that complies with regulatory requirements for BCA/NCC drainage and fire management systems. A 2.7m ceiling height will be maintained as per the ADG for habitable rooms. Given the regulatory requirements compliance with the development standard is unreasonable to seek that the proposal remain at the same height already approved with a lesser ADG ceiling heights, noting that the building design standards and BCA / NCC compliance are more recent changes to building design to ensure best practice in inter-floor fire and slab drainage systems.

There are sufficient environmental planning grounds to justify contravening the development standard,

Comment:

- The increased height does not create any unreasonable loss of solar access, view impact or building bulk and scale impacts toward adjacent private and public land. The applicant has provided a detailed BCA and fire safety reports to address the disparity between the ADG and more recent building construction standards for fire and slab drainage associated with residential flat buildings. The changes do not adversely impact landscaping, heritage considerations, parking, side setbacks and front / rear setbacks in terms of the existing spatial separation and streetscape appearance. Additionally, the proposal remains consistent with the objectives of medium density zone. Therefore the applicant has provided sufficient planning grounds to justify the minor height increase.

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.

4.3 Height of buildings

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:
The building height and roof form remains consistent with the prevailing building heights along South Steyne and the desired future character. (This includes consideration that the DFC in subject to influence by the LMR provisions imposed by the state government via SEPP Housing which prevails over the local height control.)

b) to control the bulk and scale of buildings,

Comment:
The modified development remains consistent with the approved floor space and has not altered the spatial separation to the street or along the side setbacks. The highest increase is associated with the lift structure that is set in from the side of the building and therefore is partly concealed from view in terms of bulk and scale. The main surrounds of the apartment levels have increased with an overall increase in height of 750mm. In context with the bulk and scale of adjacent

buildings the height changes creates no unreasonable additional amenity impacts.

c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),

Comment:
The height of the building elements located above the 13m building height standard do not present as offensive, jarring or unsympathetic in a streetscape context nor the built form characteristics of development within the sites visual catchment. Accordingly it can be reasonably concluded that the proposal is compatible with its surroundings when viewed from South Steyne, Pine Street and the public domain (Manly Beachfront) and surrounding properties.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:
The height increase will not create any non-compliance to solar access for adjacent land or unreasonable loss of daylight to Manly Beachfront reserve.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses,

Comment:
The height and floor to floor height changes do not add any unreasonable overall visual bulk to the overall building when viewed from street level and do not impact any environmental protection zone or bushland vegetation.

The development is consistent with the objectives of the control and is acceptable on merit, subject to conditions.

Conclusion:
For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density residential zone (as previously addressed in context to the modified height).

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Comment:
The subject application is made under Section 4.56 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

4.6 Exceptions to development standards

Whilst the modification will result in a building height that contravenes the maximum permitted by Clause

4.3 of the MLEP 2013, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.56 of the *Environmental Planning and Assessment Act 1979*, which authorises the development for which consent was granted to be modified, notwithstanding any breach of development standards. As such, no document pursuant to Section 35B of the *Environmental Planning and Assessment Regulation 2021* or Clause 4.6 is required.

The matters set out in Section 4.55(3) are addressed in the relevant sections of this report.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 636.3qm	**Requirement**	**Approved** (NSW LEC - amended plans)	**Proposed** (MOD)	**Complies**
4.1.1.1 Residential Density and Dwelling Size	Dwelling Size: 1 bedroom dwelling: 50sqm 2 bedroom dwelling: 70sqm 3 bedroom dwelling: 90sqm	All units meet the minimum requirements Units range from U1 - 230.6sqm U2 - 261.5sqm U3 - 261.6sqm U4 - 256sqm U5 - 195.1sqm	No change	Yes
4.1.2.1 Wall Height	13m	15.4m side wall (RL21.17) (not including clerestory) (As approved by NSW LEC)	16.1m (RL21.92) (not including clerestory)	No. Increased by 750mm incremental floor to floor changes.
4.1.2.3 Roof Height	Height: 2.5m	0.3m	No change	Yes (roof slab)
	Parapet Height: 0.6m	0.6m clerestory 0.9m balustrade terrace	No change	No (As approved by NSW LEC)
	Pitch: maximum 35 degrees	2 degree or less	No change	Yes

4.1.4.1 Street Front Setbacks (**South Steyne**)	Nil	2.1m to 3.2m basement (B1-B2) GL - 1.9m-4.9m - deck GL - 4.5m-9.6m - wall L1-L3 - 3.7- 5.3m - balcony L1-L3 - 4.5m-9.6m - wall L4-4.2m-6.7 - balcony L4-9.7m-11.3m - wall	No change	No (As approved by NSW LEC)

4.1.4.2 Side Setbacks and Secondary Street Frontages **(Pine Lane)**	Side Setback (see ADG. DCP 1m in 3m) DCP Street setback 6m or consistent with adjacent	Basement (B1-B2) 0.0m North Basement (B1-B2) 0.0m South GL- 4.4m - 1.7m drive/wall North GL-3.1m-1.7m entry/wall South L1 to L3 - 1.7m to 2.5m North L1 to L3 - 1.7m to 2.5m South L4-1.7m-3.1m North L4-1.7m-3.2m South **Secondary Frontage** 2.0m basement (B1 B2) (western setback) GL- 4.9m deck GL-5.5m-7.5m wall (Merit setbacks applied as per ADG and Design Ver. Statement)	No change	No (As approved by NSW LEC)
	Windows: 3m	<3m (Merit setbacks applied as per ADG and Design Ver. Statement)	No change	No (As approved by NSW LEC)

4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area:	Total open space 50% of site area (318.1sqm)	>50% 421sqm (66.1%) (terraces, paths, gardens & balconies)	No change	Yes (As approved by NSW LEC)
	Open space above ground maximum 40% of total open space (127.2sqm)	(OS applied as per ADG and Design Ver. Statement) 158sqm (37% of 421sqm)	No change	Yes (As approved by NSW LEC)
4.1.5.2 Landscaped Area	Landscaping area 30% of total open space (95.4sqm)	144sqm LOS gardens 34% 16sqmx3m soil width. 3.8% (Merit LOS 7% applied as per ADG and Design Ver. Statement)	No change	No (As approved by NSW LEC) 45sqm deep soil (7% - ADG complies)
	3 native trees	3 trees	No change	Yes (As approved by NSW LEC)
4.1.5.3 Private Open Space	12sqm per dwelling	All units comply	No change	Yes (As per ADG)
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	Basement (with lower split level)	No change	Yes
Schedule 3 Parking and Access	1 per Unit 0.2 per 2-bed Unit 0.5 per 3-bed Unit 0.25 per Unit Visitor parking	2 spaces per Unit plus visitor space (17 car spaces + 2 visitor spaces)	No change	Yes (As approved by NSW LEC)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.6 Accessibility	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
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

Merit consideration:

- *To minimise any negative visual impact of walls, fences and carparking on the street frontage.*
- *To ensure development generally viewed from the street complements the identified streetscape.*
- *To encourage soft landscape alternatives when front fences and walls may not be appropriate.*

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

Comment:
The building is articulated with variations in the wall planes for the front, and sides and rear of the building created by window arrangements, screening treatment, balcony shapes and wall design. Fencing is not changing as part of the modification and the basement carparking arrangements are to be

retained. The floor to floor change (generally being minor increase 150mm per floor to achieve 3.25m does not create an unreasonable or jarring impact on the street from the approved scheme and comparative appearance to adjacent flat buildings within the visual catchment of the site. The streetscape impact is consistent with the approved building appearance and soft landscape elements are not being reduced or ground level wall fencing elements changing.

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.

3.4.1 Sunlight Access and Overshadowing

Description of non-compliance

The objectives of the control are:

To provide equitable access to light and sunshine.
To allow adequate sunlight to penetrate:
- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:
- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:
The modification changes proposed to the building height have been provided with solar access diagrams to demonstrate the approved and new overshadowing impact to be created. Diagrams show "view from the sun", plan view overshadowing and elevational views for the 21 June between 9am and 3pm. The most pronounced change is in the morning 9am to 10am and 2pm to 3pm. The diagrams demonstrate that the increased height does not create unreasonable loss of solar access or non-compliance pursuant to the DCP. (Note that ADG requirements are met and discussed previously under the heading SEPP (Housing) 2021 within this report.)

The development is consistent with the objectives of the control and is acceptable on merit.

3.4.3 Maintenance of Views

Merit Assessment
The adjustment to the floor to floor heights by 150mm each per floor will have a marginal impact on side views for adjacent apartments. Apartments at adjacent properties have different RL floor heights due to historical changes in building controls and designs proposed. In dealing with this modification the parent DA was required to meet flood planning levels as well as ADG requirements that dictated floor level outcomes. Generally this issued was addressed in detail during the assessment and design considerations (including design changes made via "Section 34" LEC processes. The view contentions were therefore resolved sufficiently to the Court proceeding to enable the granting consent. The site has

been visited however no site works have commenced for the DA. The modification therefore revisits this issue with the revised and detailed view impact analysis undertake by *Urbaine,* dated 20.5.2026

The objectives of the control are:

- *To provide for view sharing for both existing and proposed development and existing and future Manly residents.*
- *To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).*
- *To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.*

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

Merit Assessment of view loss and view sharing considerations:
1. *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example 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, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

- Direct views (east) of the ocean and beach are not affected by the modification. These are the primary and dominant water view outlook.

Site inspection and the view analysis show that side views existing along the road / beachfront across the side view. These views partly require viewlines over / across front setbacks and balcony spaces and are partly obscured by other building, structures, tree lines and the like close to the road / front setback area.





Image 4: Context of the existing building and setting of adjacent apartments, and Image 5 Photomonage of proposal

2. *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.

View across the site are gained from living areas, and balconies that are at a comparable height for adjacent apartments within both No.98-100 South Steyne and 102 North Steyne. The applicant has provided a detailed view analysis to demonstrate the urban outlook with a series of photomontages of the completed building superimposed. Due to the forward position and acute angle side views the standing view lines provides principal utility. Sitting views directly into the side boundary do serve any utility due to limited outlook and principal ocean horizon and beach view directly East. Side standing views is considered to be a more "casual" view line in the circumstances.


Image 6: Context of side views impact (north) determined by photomontage impression. Level 4 98-100 North Steyne


Image 7: Context of side views impact (south) determined by photomontage impression. Level 4 102-104 South Steyne.



Image 8: Context of side views impact (south) determined by photomontage impression. Level 3 No.102-104 North Steyne

3. *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 percent 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.*

- The extent of the impact is considered to be minor considering the approved shaping of the front balconies and living room area, including that the front setback distance is not changing as part of the modification. The front element has "wrap around" glazed elements and building bulk and floor level / balcony positions are consistent with the general street alignment of other buildings. The view change is marginal and does not interfere with critical water areas or iconic elements. Broad easterly views of the ocean and beach are unaffected.
- View loss qualitative impact (both north boundary view line and south boundary view line) is rated as **minor** (and consistent with the parent DA) given the height non-compliance and pattern of adjacent apartment building development along North Steyne.

4. *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.*

- The applicant has provided a detailed view analysis of the expected view impact crated by the building modification.

- Consideration of design skill would require more significant changes to balcony elements and alternative 'deemed to comply' solutions if a 3.25m floor to floor height is not used to comply with Regulatory building design and safety requirements. The lift height change does not adversely impact views and the incremental floor to floor height changes are considered

acceptable in the circumstanced of view impact considerations pursuant to this clause of the Manly DCP.

The development is consistent with the objectives of the control and is acceptable on merit.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Description of non-compliance
The maximum building height measured to the top of the lift shaft is 17.27m (variation of 4.27m / 32.8%).

The objectives of the control are:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
(b) to control the bulk and scale of buildings,
(c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),
(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

- The prevailing height of the is 0.75m higher with the floor to floor changes and the lift therefore is marginally increased from this due to the overrun requirements.
- The overall appearance of building bulk remains consistent with the existing approved built form. The building bulk is provided with satisfactory articulation and visual interest due to balcony shapes, wall recesses and varied wall planed including having the top storey stepped back to minimise visual impact on the streetscape.
- View interference toward public open space of Manly Beachfront reserve is minimal and no unreasonable additional overshadowing or loss of public amenity.
- The modification elements to the building do not unreasonably affect solar access to adjacent apartments or public space.
- The modification elements and change of building bulk do not adversely impact any environmental protection zone, existing vegetation or the topography of bushland or other land uses.

The development is consistent with the objectives of the control and is acceptable on merit, subject to conditions.

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

Merit consideration
The objectives of the control are:

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.
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.*

To promote flexibility in the siting of buildings.
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.*

To assist in appropriate bush fire asset protection zones.

Comment:
The street frontage along South Steyne is characterised by residential flat buildings of 4 storeys or more, interspersed with some isolated shop top housing and the Manly Beachfront along the opposite side of the road. The modification changes do not alter the overall character of the building as the changes involve minor BCA issues and design refinements to selected internal elements.
No significant change to privacy or overshadowing is created, including considerations of overlooking, direct sunlight, natural light between buildings and air flow / cross ventilation. Landscape open space remains compliant with the ADG for 7% deep soil zones and no change is proposed to private open space areas. A landscape setting is retained at ground floor level. The modification changes do not affect open space areas, urban bushland or fire asset protection zones.

The modified development is consistent with the objectives of the control and is acceptable on merit.

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 2024

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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
- Inconsistent 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 modification of consent to DA2025/0022 has been referred to the *Northern Beaches Local Planning Panel* (NBLPP) due to exceeding the "height of buildings" development standard by more than 10%.

The concerns raised in the objections have been addressed within the assessment report and no critical issues have arisen to warrant refusal of the modification application.

Particular assessment issues of views impact, overshadowing, building bulk, streetscape, heritage, privacy and consistency with the Manly DCP have been addressed. With respect to the Manly LEP 2013, clause 4.6 does not strictly apply to modification applications, however the modification creates a technical non-compliance with the LEP height of buildings development standard. The height increase has been considered against the relevant objectives. Other modification elements involve minor refinements to internal columns, fire protection and the like as well as amalgamating 4 of the 7 Units. This enables opportunity for the 5 remaining larger units to be more suited to family type occupancy (potentially 4 or more persons per unit).

Overall, the modified development is of an acceptable design quality, that when evaluated against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval, subject to modification condition set out below.

REASON FOR DETERMINATION

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2026/0276 for Modification of Development Consent DA2025/0022 granted for Demolition of existing structures and construction of a 5 storey residential flat building containing 7 apartments over basement parking on land at Lot CP SP 4518,101 North Steyne, MANLY, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
MOD2026/0276 PAN-641235	Date of this determination	Modification to building height Condition 1A Added - Approved plans
DA2025/0022 NSW LEC 2025/210459 PAN-502051	20.3.2026	Demolition of existing structures and construction of a 5 storey residential flat building containing 7 apartments over basement parking

Modified conditions

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

"1A. Modification of Consent - Approved Plans and supporting documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
DA001	D	Site Plan	Smart Design Studio	11.5.2026
DA002	D	Site Demolition Plan	Smart Design Studio	11.5.2026
DA098	E	B2 Plan	Smart Design Studio	11.5.2026
DA099	E	B1 Plan	Smart Design Studio	11.5.2026
DA100	E	L00 Plan	Smart Design Studio	11.5.2026
DA101	E	L01-L02 Plan	Smart Design Studio	11.5.2026

DA102	E	L03 Plan	Smart Design Studio	11.5.2026
DA103	G	L04 Plan	Smart Design Studio	11.5.2026
DA104	F	Roof Plan	Smart Design Studio	11.5.2026
DA400	E	Elev - N S	Smart Design Studio	11.5.2026
DA401	E	Elev - E W	Smart Design Studio	11.5.2026
DA450	E	Sect - A B	Smart Design Studio	11.5.2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
BASIX Certificate	1778522M_04	IGS	19.5.2026
Regulatory Compliance Report BCA	4	Certatude	20.5.2026
Floor to Floor Height report 1041	1	Fire Safety Engineering Pty Ltd	11.5.2026
Stormwater Management and WSUD Report	1	Integrated Group Services	24.4.2026

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development."

B. Add Condition No.2A Compliance with Other Department, Authority or Service Requirements

"2A 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	15.6.2026

(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."

C. Delete Condition No.6 Housing and productivity contribution - Development consents, to read

as follows:

"6. [Condition Deleted]"

C. Modify Condition No.18 Detailed Design of Stormwater Treatment Measures, to read as follows:

"18. Detailed Design of Stormwater Treatment Measures

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the STORMWATER MANAGEMENT WSUD REPORT from IGS Project No. EN-N24-238 Date: 28/04/2026 and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment."

D. Modify Condition No.61 Stormwater Treatment Measures Operation and Maintenance Plan, to read as follows:

"59. Certification for the Installation of Stormwater Treatment Measures

An Operation and Maintenance Plan summary must be prepared to ensure the stormwater treatment measures continue to operate effectively.

The Plan must be attached to the Positive Covenant (and to the community or strata management statement, if applicable) and must be provided as a concise summary not exceeding two pages including:

Summary of stormwater treatment measures
- Simple plan showing locations
- Brief description of each measure and its purpose
- Summary of management responsibilities, funding, and contact details

Ongoing maintenance
- Summary of routine maintenance activities and frequency
- WHS considerations
- Waste disposal requirements
- Renewal/replacement expectations
- Requirement to keep maintenance records and provide them to Council on request.

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

Reason: Protection of the receiving environment."

LEGEND

New Wall

Existing/Neighbouring Wall

To be Demolished

Site Boundary

NOTES

01 All dimensions to be verified on site.

02 Report any discrepancies or omissions to SDS prior to construction.

03 All drawings to be read in conjunction with specification.

04 All drawings to be read in conjunction with consultants' drawings.

05 All structure to structural engineer's details.

06 Refer to architect for ambiguous details or when clarification is required.

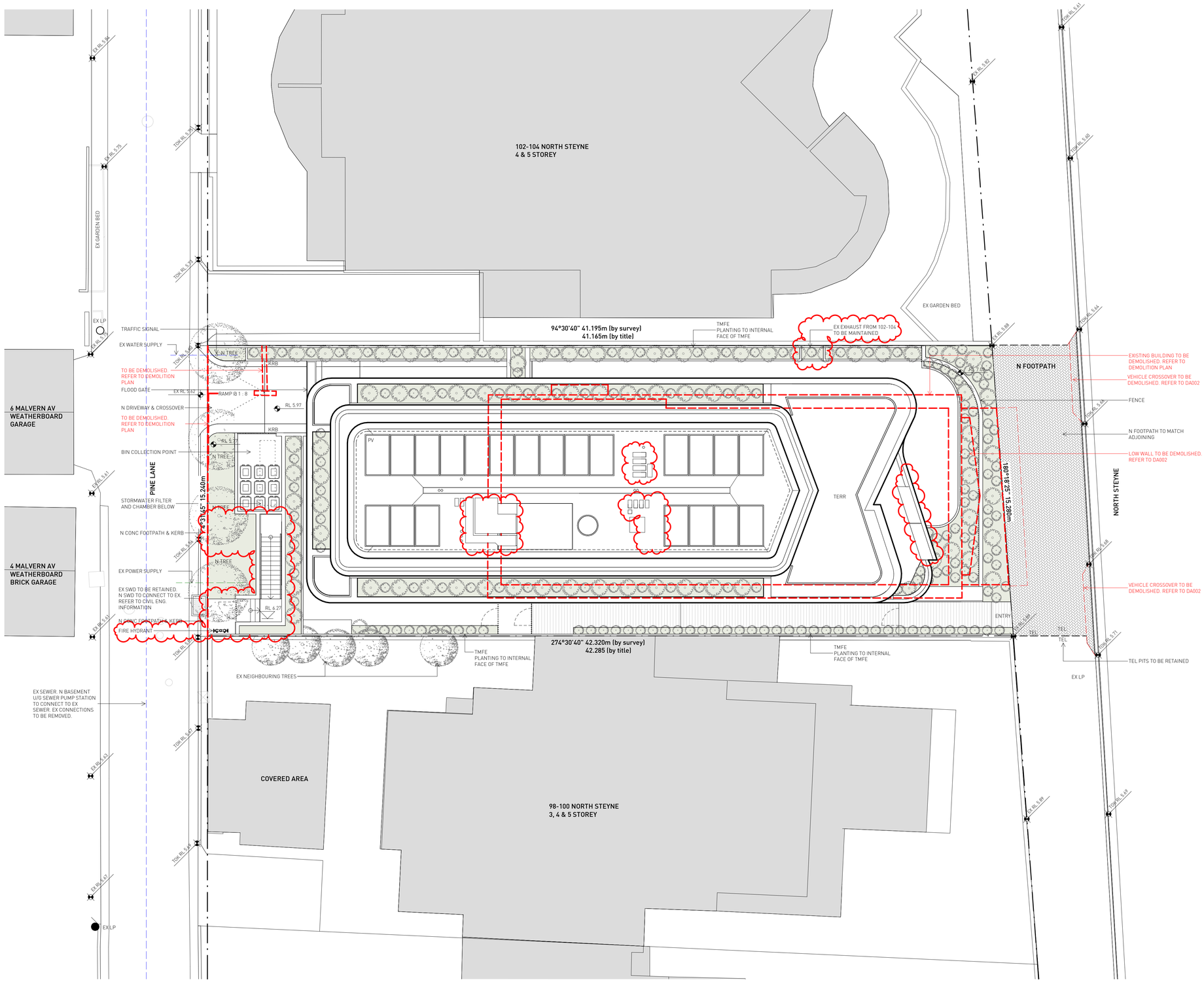
07 Minor changes to form and configuration may be required when drawings are subsequently prepared for construction purposes after the grant of development consent

08 All drawings are based on survey information provided

09 Note that apartment tags show NSA, not GFA.

PRELIMINARY
NOT FOR CONSTRUCTION

issue	reason	date
A	DA ISSUE	19.12.24
B	RESPONSE TO THE CONTENTIONS	14.08.25
C	LEC PLANS	17.11.25
D	SECTION 4.56 MODIFICATION	11.05.26



Certificate No. # R4Z45L7Y8A
Scan QR code or follow website link for rating details.
Assessor name Patrick Phelan
Accreditation No. DMN/12/1407
Property Address 101 North Steyne, Manly, NSW, 2095
https://www.frl5.com.au/QRCodeLanding?PublicId=R4Z45L7Y8A&GrpCert=1

smart design studio
+61 2 8332 4333
14 stokes avenue alexandria nsw 2015 australia
nominated architects william smart nsw 6381 / christina markham nsw 5569

| 0 | 1000 | 2500 | 5000

drawing copyright
do not scale drawings
scale **1:100 @ A1 uno**

drawing by **IP**
senior qa **NL**
approved by **NL**

project **2408 NORTH STEYNE 101**
drawing title **SITE PLAN**
drawing number **DA001 D**

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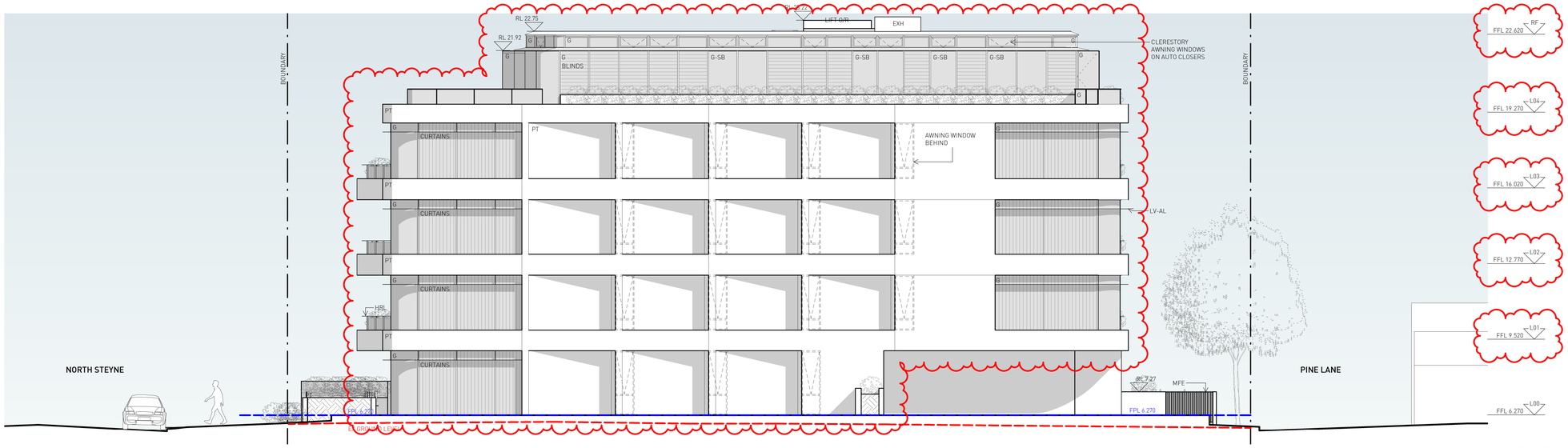
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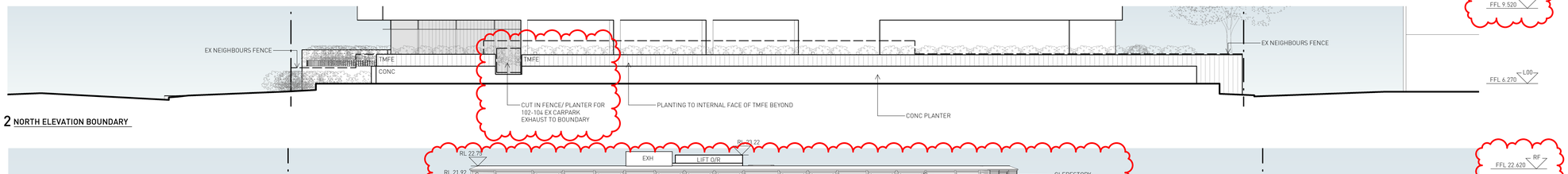
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PRELIMINARY
NOT FOR CONSTRUCTION

issue	reason	date
A	DA ISSUE	19.12.24
B	RESPONSE TO THE CONTENTIONS	14.08.25
C	WITHOUT PREJUDICE	11.09.25
D	LEC PLANS	17.11.25
E	SECTION 4.56 MODIFICATION	11.05.26



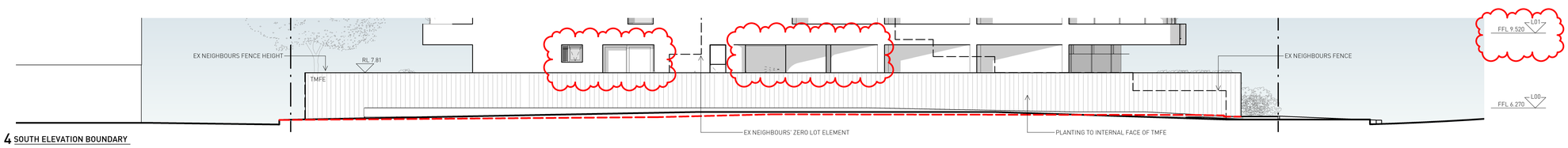
1 NORTH ELEVATION



2 NORTH ELEVATION BOUNDARY



3 SOUTH ELEVATION



4 SOUTH ELEVATION BOUNDARY

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do not scale drawings
scale **1:100 @ A1 uno**

drawing by **IP**
senior qa **NL**
approved by **NL**

project **2408 NORTH STEYNE 101**
drawing title **ELEV - N S**
drawing number **DA400 E**

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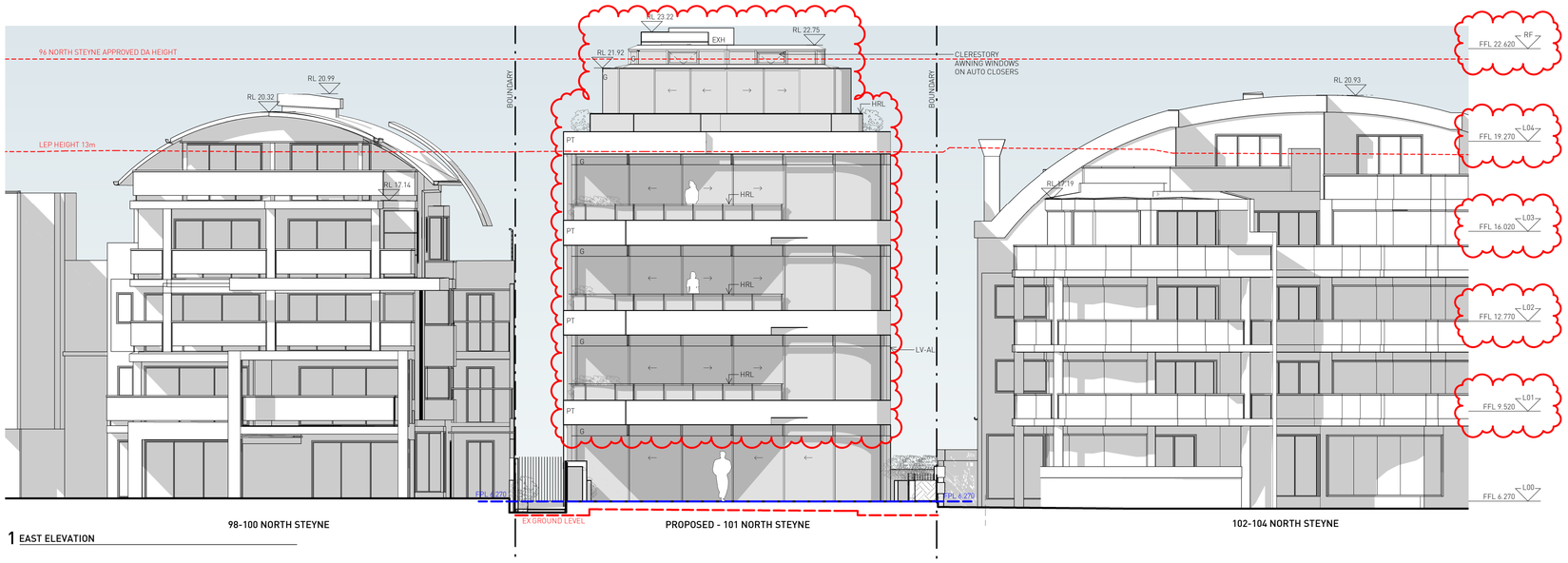
05 All structure to structural engineer's details.

06 Refer to architect for ambiguous details or when clarification is required.

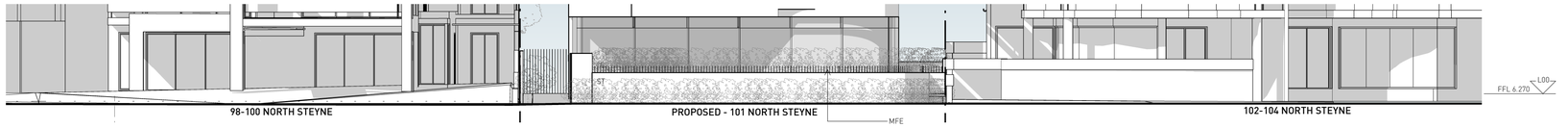
07 Minor changes to form and configuration may be required when drawings are subsequently prepared for construction purposes after the grant of development consent

08 All drawings are based on survey information provided

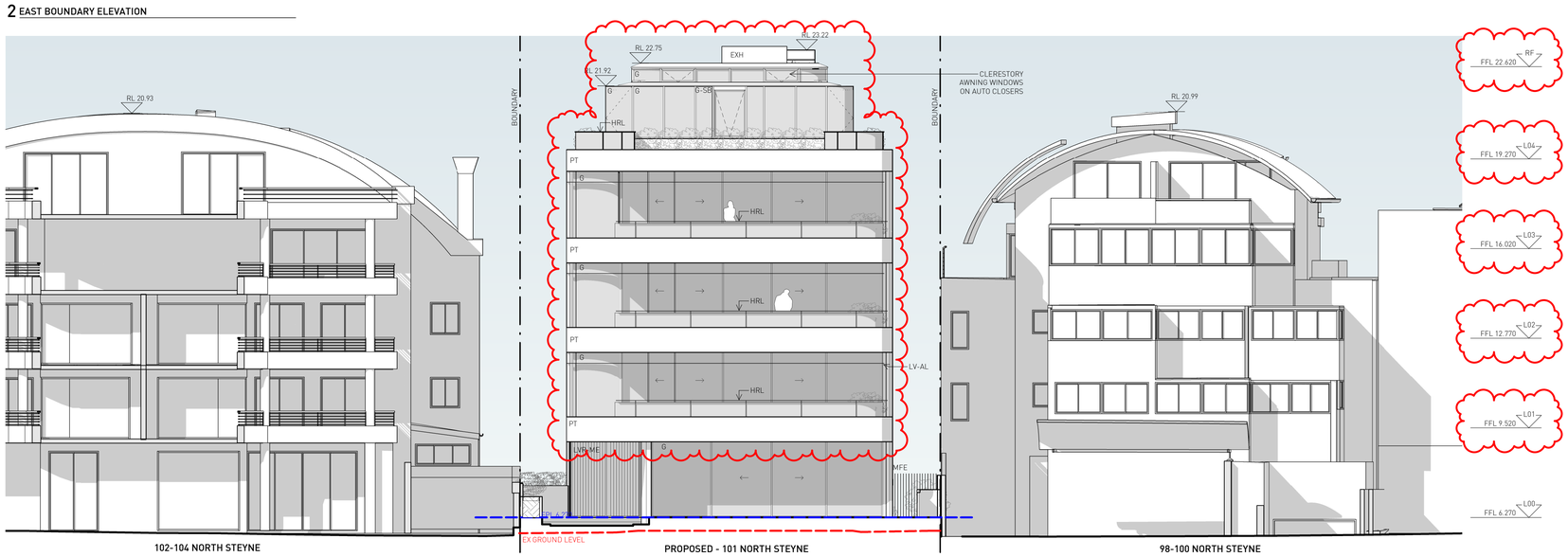
09 Note that apartment tags show NSA, not GFA.



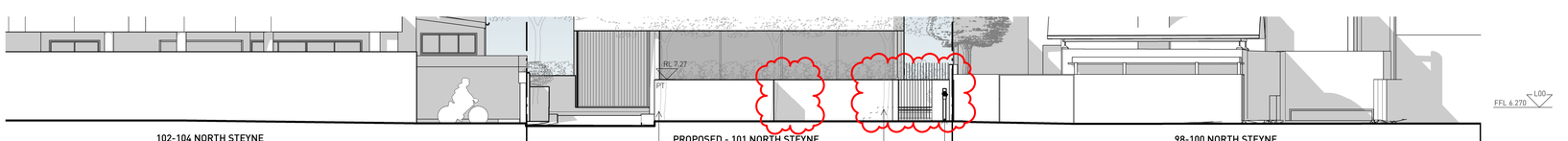
1 EAST ELEVATION



2 EAST BOUNDARY ELEVATION



3 WEST ELEVATION



4 WEST BOUNDARY ELEVATION

PRELIMINARY
NOT FOR CONSTRUCTION

issue	reason	date
A	DA ISSUE	19.12.24
B	RESPONSE TO THE CONTENTIONS	14.08.25
C	WITHOUT PREJUDICE	11.09.25
D	LEC PLANS	17.11.25
E	SECTION 4.56 MODIFICATION	11.05.26

Certificate No. # R4Z45L7Y8A
Scan QR code or follow website link for rating details.
Assessor name Patrick Phelan
Accreditation No. DMN/12/1407
Property Address 101 North Steyne, Manly, NSW, 2095
https://www.fr5.com.au/QRCodeLanding?PublicId=R4Z45L7Y8A&QrCert=1

smart design studio

+61 2 8332 4333
14 stokes avenue alexandria nsw 2015 australia
nominated architects william smart nsw 6381 / christina markham nsw 5569

| 0 | 1000 | 2500 | 5000

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drawing by **IP**
senior qa **NL**
approved by **NL**

project **2408 NORTH STEYNE 101**
drawing title **ELEV - E W**
drawing number **DA401 E**

ITEM 5.2 DA2025/1800 - 29 BATTLE BOULEVARDE SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Special Height Provision Standard of Clause 4.3a pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1800 for Alterations and additions to a dwelling house at Lot 5 DP 4889 & Lot LIC 3002086, 29 Battle Boulevarde SEAFORTH NSW 2092 subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**5.2.1** - 58 pages] 2. Site Plans & Elevations [**5.2.2** - 5 pages] 3. Clause 4.6 [**5.2.3** - 11 pages] 4. Clause 4.6 [**5.2.4** - 10 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1800

Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 5 DP 4889, 29 Battle Boulevarde SEAFORTH NSW 2092 Lot LIC 3002086, 29 Battle Boulevarde SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned C3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Billy Maynard Architects Pty Limited

Application Lodged:	13/12/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/01/2026 to 28/01/2026
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	4.3 Height of buildings: 38.8%
Recommendation:	Approval

Estimated Cost of Works:	$ 2,235,612.00

EXECUTIVE SUMMARY

This development application seeks consent for Alterations and additions to a dwelling house including a single car carport. The driveway and turntable were approved under a previous Development application and subsequent modifications.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation to clause 4.3A Special height provision of the Manly Local Environment Plan 2013 (MLEP). There is also a variation to clause 4.3 Height of buildings, however, this is not a trigger for a referral to the LPP as the LPP has delegated that function back to Council. Notwithstanding this, this variation forms part of the

considerations required by the LPP'..

The application was notified in accordance with the Community Participation Plan (CPP) and that two submissions were received. Concerns raised in the objections predominantly relate to concerns with the existing approved driveway, privacy, overshadowing and bulk and scale.

Critical assessment issues included variation to the special height provision, building height, side setback and parking design and the location of garages.

The Clause 4.6 variation to the Height of Buildings development standard arises primarily from the site's existing excavated condition and the significant level difference between the front boundary and the dwelling. While this results in a 38.8% variation for a small portion of the building, the site has been substantially altered through historical excavation. When assessed against extrapolated natural ground levels, the building would have a maximum height of approximately 7.9m, below the 8.5m height limit. The remaining portions of the development comply with the height standard, with the variation largely attributable to past site excavation rather than the scale or design of the proposal.

The written request to vary the Special Height Provisions development standard arises from the proposed carport, which exceeds the prescribed height limit of RL 43.21 by 0.34m, reaching RL 43.55. The Clause 4.6 submission demonstrates that the variation satisfies the legislative requirements and is acceptable on planning merits. Importantly, the proposed carport is lower than the previously approved carport on the site. While it will result in a very minor reduction in harbour views from the street, the majority of views will be retained, including significant water views to the south, south-east and south-west. Accordingly, the variation is considered minor and supportable.

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

PROPOSED DEVELOPMENT IN DETAIL

The application seeks approval for alterations and additions to a dwelling house. The works include the following:

Ground Floor Level (Carport Roof Level):

- Shallow pitched carport roof with a curved design which covers the car parking spaces, entry and access to the proposed lift below.

Level 3 (Carport Level):

- One car parking space, lift access, stairs, new adjoining green roof to the east of the carport, with two circular skylights.

Level 2 (Home Office Level):

- The Home Office, lift access, water closet and sink, breezeway, sliding entry gate, and stairs to access the levels below.

Level 1 (Home Gym Level - New):

- The Home Gym, shower, water closet, lift, breezeway and stairs.

Level 0 (Storage/Lower Entry Level):

- Cellar, storage, lift access, breezeway and stairs.

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 - Zone C3 Environmental Management
Manly Local Environmental Plan 2013 - 4.3 Height of buildings
Manly Local Environmental Plan 2013 - 4.3A Special height provisions
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Local Environmental Plan 2013 - 6.2 Earthworks
Manly Local Environmental Plan 2013 - 6.8 Landslide risk
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 5 DP 4889 , 29 Battle Boulevarde SEAFORTH NSW 2092 Lot LIC 3002086 , 29 Battle Boulevarde SEAFORTH NSW 2092

Detailed Site Description:	The subject site consists of one allotment located on the southern of Battle Boulevarde, Seaforth. The site is regular in shape with a frontage of 18.29 metres along Battle Boulevarde and a depth of 60 metres. The site has a surveyed area of 1,008m². The site is located within the C3 Environmental Management zone and accommodates a two-storey detached dwelling house and swimming pool. The front of the dwelling has recently be excavated. The site slopes steeply down from north (front) to south (rear) by approximately 30 metres, to mean high water mark and contains mature vegetation and landscaping. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by detached dwelling houses.

Map:



SITE HISTORY

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

Application DA134/2016
Construction of double carport, a new driveway with vehicle turntable, new external stairs, new cabana, decking to the existing swimming pool, tree removal and landscaping Determined - 30/11/2016

Application Mod2025/0256
Modification of Development Consent DA134/2016 granted for Construction of double carport, a new

driveway with vehicle turntable, new external stairs, new cabana, decking to the existing swimming pool, tree removal and landscaping
Determined - 18/08/2025

Application Mod2024/0397
Modification of Development Consent DA134/2016 granted for Construction of double carport, a new driveway with vehicle turntable, new external stairs, new cabana, decking to the existing swimming pool, tree removal and landscaping
Determined - 30/08/2024

Application Mod2023/0651
Modification of Development Consent DA134/2016 granted for Construction of double carport, a new driveway with vehicle turntable, new external stairs, new cabana, decking to the existing swimming pool, tree removal and landscaping
Determined - 05/03/2024

A large portion of the front of the site has been excavated, this commenced under the original development approval and earlier modifications. Driveway works also fall under the previous approval.

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	See detailed assessment under “DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS” below.
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 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 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. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Development Engineering, Landscaping, Bushland and Biodiversity referrals and a request for a clause 4.6 for the special height variation. Clause 61 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. Clause 69 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. Clause 69 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.
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Dwelling House

Land Use Zone: C3 Environmental Management

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

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 application has been publicly exhibited from 13/01/2026 to 28/01/2026 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 2 submission/s from:

Name:	Address:
Mr Martin Andrew Hill	33 A Battle Boulevarde SEAFORTH NSW 2092
Mr Bill Drakopoulos	31 Battle Boulevarde SEAFORTH NSW 2092

The following issues were raised in the submissions:

- Existing driveway including construction impacts and safety
- Access to sunlight and over shadowing
- Privacy
- Bulk and scale

The above issues are addressed as follows:

- **Existing driveway concerns including constructure and safety**
  The submission raises concerns that insufficient information has been provided regarding the proposed replacement of the existing timber fence with a concrete driveway wall facing Battle Boulevard. It questions whether the previous approvals and Section 138 approval adequately address the proposed wall and raises concerns regarding its structural stability, drainage performance, potential ground movement risks, and ongoing maintenance responsibilities.

Further concerns relate to the reported demolition of the shared driveway wall and installation of formwork before detailed information was made available to affected neighbours. The submitter also contends that the Traffic Engineer's Report focuses primarily on pedestrian safety and does not adequately assess potential impacts on vehicle and cyclist safety. In addition, temporary formwork erected on site reportedly reduced visibility for vehicles accessing the shared driveway, resulting in concerns regarding traffic safety.

Comment:
The current application is limited to the construction of a carport and associated structures, all of which are located wholly within the subject site. The existing driveway and turntable were approved under previous development consents and are not part of the works currently under assessment.

While the submitted plans note that the retaining wall was approved under S138A2024/0032, Council records indicate that this wall has not been approved. Council's Road Assets Team has advised that a modification application is required to assess the retaining wall; however, no such application has been lodged to date.

A condition of consent will be included to clarify that any approval granted relates only to the works contained within the subject site, namely the proposed carport and ancillary structures, and does not authorise any changes to the driveway, turntable, retaining wall, or other works outside the scope of this application.

- **Access to sunlight and over shadowing**
The submissions raised concerns that proposal would result in over shadowing to the garden of no. 31 Battle Boulevard.

Comment:
The shadow diagrams submitted with the application show that the proposal complies with the requirements of clause 3.4.1 Sunlight Access and Overshadowing

- **Privacy**
The submissions raised concerns that carport would result in overlooking of impacts to the adjoining property at no. 31 Battle Boulevard.

Comment:
No. 31 Battle Boulevard is located immediately west of the site. The proposed carport has a nil setback to the western boundary, which is consistent with the original carport on the site as well as the carport approved under the original development consent and subsequent modifications.

While the carport may provide some views towards No. 31 Battle Boulevard, it is a low-intensity structure intended solely for vehicle parking and access, and is not designed or used as an area for outdoor living or congregation. Access to the dwelling is provided via stairs located on the eastern side of the site, directing occupants away from the shared western boundary with No. 31.

Furthermore, views towards windows on No. 31 are already available from the existing driveway and the public street. As such, the proposal is not expected to result in any significant increase in overlooking or adverse privacy impacts beyond those that currently exist.

- **Bulk and scale**
  The submissions raised concerns that proposed close proximity to the side boundary resulted in 'cluttered' feeling.

  Comment:
  The submission raises concerns that the proposed structure's proximity to the side boundary will create a "cluttered" appearance. However, the site contains a significant fall from Battle Boulevard down to the level of the existing dwelling, and the proposed structure is located within an existing excavated area along the front boundary. As a result, a substantial portion of the development is recessed into the site and sits below the level of No. 31 Battle Boulevard.

  The scale, height and form of the proposed structure are consistent with surrounding modern dwellings and parking structures along the southern side of Battle Boulevard. Importantly, the development does not alter the existing dwelling, which remains substantially lower than the adjoining properties. Given its location, limited visual prominence and integration with the site's topography, the proposal will not create an unduly cluttered appearance or an excessive sense of enclosure. The existing sense of openness across the site and surrounding area will be largely retained.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported, subject to conditions*** Council's Landscape Referral section have considered the application against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings <u>Additional Information Comment 21/07/2026:</u> The amended plans are noted. Tree 6 is now proposed for retention. The pavement works around the base of tree 6 will need to be designed in collaboration with an Arborist to ensure tree impact is acceptable as per the Australian Standard. A Tree Protection Specifications and Tree Protection Plan shall be prepared and a Project Arborist shall supervise any works in the Notional Root Zone of tree 6. The landscape proposal, within the property boundaries, is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. Replacement tree planting within the property boundaries is required. All on structure landscape planters shall meet Council's minimum soil depth requirements. Any works in the road reserve shall be subject to approval or otherwise under the correct pathway. <u>*Original Comment:*</u> *It is noted the Arboricultural Impact Assessment (AIA) states tree 6 is exempt under the 2 metre circumstance. In order for a tree to be exempt under the 2 metre circumstance the tree must be "Located within two metres of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building). The measurement is made from the building to the base of the tree trunk". Please provide clarification that the base of the tree trunk is within 2 metres of the existing approved building i.e. the measurement must be from the base of the tree trunk to the nearest building edge at the level of the base of the tree. It appears the 300mm stated in the AIA is measured to an upper level of the building.*

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Supported, subject to conditions*** Updated Comments The removal of Tree 6 *Eucalyptus pilularis* is not part of the revised proposal, and therefore complies with the biodiversity related planning controls listed below. Previous Comments 18/12/2025 This referral response assesses the likely impacts of the proposed development against the applicable Biodiversity values related legislation and planning controls. This includes State Environmental Planning Policy (Resilience and Hazards) 2021 cl. 2.10 Development on land within the coastal environment area and Manly Local Environment Plan 2013 cl 6.5 Terrestrial biodiversity. The information provided with the application does not include any justification for the removal of Tree 6 *Eucalyptus pilularis* when assessed against the above biodiversity controls, and is therefore unlikely to maintain terrestrial biodiversity values. Further all previous development applications and modifications did not include removal of Tree 6. This referral has not assessed whether or not a permit or approval is required under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 2 Vegetation in non-rural areas, or Council Policies or Guidelines.

Internal Referral Body	Comments
NECC (Coast and Catchments)	***Supported, subject to conditions*** **Coastal Management Act 2016** The subject site is located within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under section 3 of the Coastal Management Act 2016. Comment: On internal assessment the proposed development does generally comply with the objectives of the Coastal Management Act 2016 with respect to matters related to coastal processes and hazards. As such the application is generally consistent with the objects of the Coastal Management Act 2016. This referral has not assessed the compliance of the proposed development, for any potential impact on the scenic value of the area in accordance with the objectives of section 3(a) of the Coastal Management Act 2016 that relate to scenic impact. Assessment of compliance with section 3(a) of the Coastal Management Act 2016 will be by the development assessment officer assessing this development application. **State Environmental Planning Policy (Resilience & Hazards) 2021** The subject site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Section 2.10 (coastal environment area) and section 2.11 (coastal use area) of the State Environmental Planning Policy (Resilience & Hazards) 2021 do not apply as the subject site is located within the Foreshores and Waterways Area within the meaning of the State Environmental Planning Policy (Biodiversity & Conservation) 2021. Hence, only section 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021 applies for this DA. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by GSA Planning dated December 2025 the DA satisfies the requirements under section 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021. This referral has not assessed the compliance of the proposal, against any potential impact on the visual amenity or scenic qualities of the coast in accordance with section 2.11(1)(a)(ii) and section 2.11(1)(a)(iii) of the State Environmental Planning Policy (Resilience & Hazards) 2021. Assessment of compliance with these sections of the State Environmental Planning Policy (Resilience & Hazards) 2021 will be undertaken by the development assessment officer assessing this development application.

Internal Referral Body	Comments
	As such, it is considered that the application does generally comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. **State Environmental Planning Policy (Biodiversity & Conservation) 2021** **Water Catchments – Sydney Harbour Catchment** The subject site is located within the Sydney Harbour Catchment area identified on the State Environmental Planning Policy (Biodiversity & Conservation) 2021 Sydney Harbour Catchment Map. Therefore, Part 6.2 of the State Environmental Planning Policy (Biodiversity & Conservation) 2021 applies to the proposed development. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE), the DA satisfies the requirements of Part 6.2 of the State Environmental **Planning Policy (Biodiversity & Conservation) 2021.** **Foreshore and Waterways Area** The subject site is located within the State Environmental Planning Policy (Biodiversity & Conservation) 2021 Foreshores and Waterways Area Map. Hence Part 6.3 of the State Environmental Planning Policy (Biodiversity & Conservation) 2021 and the Sydney Harbour Foreshores and Waterways DCP 2005 apply in assessing this DA. Development consent, among others, must consider section 6.28 of the State Environmental Planning Policy (Biodiversity & Conservation) 2021. It should be also noted that this referral has not assessed the compliance of the proposal, against any potential impact on the visual amenity or scenic qualities of the coast. This will be undertaken by the development assessment officer assessing this application. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by GSA Planning dated December 2025, the DA satisfies the Planning Principles and Matters for Consideration of the Foreshore and Waterways Area. **MLEP 2013 and MDCP 2013** **Manly Foreshores Area** The subject site is shown within the “Manly Foreshores Area” in MLEP 2013 mapping. Hence, section 6.10 –Limited development on foreshore area of the MLEP 2013 applies for any development within the foreshore area. Comment: The DA proposes no works on the foreshores area and hence, the DA is not required to satisfy the objectives and requirements of section 6.10 of the MLEP 2013. **Sydney Harbour Foreshore and Waterways DCP** The subject site is shown as located within the Sydney Harbour

Internal Referral Body	Comments
	Foreshore and Waterways Area maps. Part 5 Design requirements for proposed development located above the Mean High-Water Mark of the Sydney Harbour Foreshores and Waterways DCP applies. On internal assessment, the DA satisfies the objectives and requirements of the relevant sections of the Sydney Harbour Foreshores and Waterways DCP.
NECC (Development Engineering)	***Supported, subject to conditions*** The proposal is to reconfigure the carport structure approved under DA134/2016 and MOD2024/0397 including two new levels, lift and external stair access. The proposed changes to the carport reduces the length of the carport to approximately 4.6m for the eastern parking space which is not acceptable. The parking area shall be located entirely within the site and the dimensions are to comply with the requirements of AS2890.1. It is unclear if changes are proposed to the approved driveway adjacent to the boundary. Proposed changes to the driveway and any retaining walls in the road reserve are to be shown on the plans and sections. Amended plans are requested for further assessment. **Additional information Provided 3/7/2026** Amended architectural plans for the carport structure has been reviewed. Referral completed and conditions recommended. *Note to Planner:* • *The applicant has proposed a motor cycle parking space as the second parking space is not compliant. Please include a condition requiring all parking to be located within the subject site to ensure no encroachment in the road reserve.* • *The architectural plans shows a retaining wall along the boundary indicating it was approved under S138A2024/0032. Please note this wall has not been approved as Council's Road Asset Team requested the applicant to submit a Modification Application for the assessment of the retaining wall. The Road Asset team and Planning team raised concerns regarding the height of the retaining wall at the boundary. However no MOD was lodged to address the retaining wall at the boundary.* • *Please ensure, via condition or amended plans, that the retaining wall along the boundary is **not** included as part of this approval.*

Internal Referral Body	Comments
NECC (Riparian Lands and Creeks)	***Supported, subject to conditions*** This application was assessed in consideration of: - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; - Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy. This proposal is supported. Details below. *Riparian* The site abuts Middle Harbour and as such proposed development must not significantly impact on the biophysical, hydrological or ecological integrity of the waterway or the quantity and quality of surface and ground water flows that it receives. *Sediment Management* Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.

External Referral Body	Comments
External - Ausgrid - Section 4.31 of SEPP (Planning Systems) 2021 Development near electricity infrastructure - s4.31 (of SEPP) 2021	***Supported, subject to conditions*** 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.
Aboriginal Heritage Office	***Supported, subject to condition*** Reference is made to the proposed development at the above area and Aboriginal heritage. No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1795308S_02 dateD 12 November 2025).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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 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 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
      ii) platform for members of the public, including persons with a disability,
      iii) overshadowing, wind funnelling and the loss of views from public places to
      iv) foreshores,
      v) the visual amenity and scenic qualities of the coast, including coastal headlands,
      Aboriginal cultural heritage, practices and places,
      cultural and built environment heritage, and
   b) is satisfied that:
      i) the development is designed, sited and will be managed to avoid an adverse
      ii) impact referred to in paragraph (a), or
      iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
      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:
Council has considered whether the proposed development is likely to cause an adverse impact on that listed in (a) and is satisfied that the development has been designed, sited and will be managed to avoid any adverse impact. Council is also satisfied that the bulk, scale and size of the development is appropriate when considering the surrounding coastal and built environment.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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	11.8m	38.8%	No
Special height provisions	RL 43.21	RL 43.55	N/A	No
Floor Space Ratio	FSR: 0.4:1 (435.2m2)	FSR: 0.34:1 (374.1m2)	N/A	Yes

Compliance Assessment

Clause	**Compliance with Requirements**
4.3 Height of buildings	No
4.3A Special height provisions	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone C3 Environmental Management

The underlying objectives of the C2 Environmental Conservation zone:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
  Comment:
  The proposed development does not adversely affect the ecological, scientific, cultural or aesthetic values of the area.

- *To provide for a limited range of development that does not have an adverse effect on those values.*
  Comment:
  The proposed development does not have an adverse effect on the ecological, scientific, cultural or aesthetic values of the area.

- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*
  Comment:
  The revised proposal retains the existing tree that was previously proposed for removal, thereby preserving the established tree canopy on the site. The amendments do not result in

the removal or significant pruning of any retained trees and are not expected to adversely impact the health, structure, or canopy spread of existing vegetation.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*
  Comment:
  The propose development does not negatively impact on nearby foreshores, significant geological features or bushland.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*
  Comment:
  The proposed development will not adversely affect water run off or water quality.

- *The proposed development is sympathetic to and consistent with the surrounding vegetation, topography and land uses.*T
  Comment:
  The proposed development is sympathetic to and consistent with the surrounding vegetation, topography and land uses.

4.3 Height of buildings

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	11.8m
Percentage variation to requirement:	38.8%

4.3 Height of buildings

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The proposed building height and roof form are consistent with the site's topography, the scale and height of surrounding development, and the existing and desired future streetscape character of the locality. The roof form is compatible with both the existing dwelling on the site and the prevailing architectural character of nearby development. In addition, the light weight roof and building has been appropriately articulated through the use of recessed and modulated wall planes, fenestration, and eaves, which reduce visual bulk and provide variation to the built form. Accordingly, the development presents a built form that integrates appropriately with its surroundings and contributes positively to the character of the streetscape.

b) to control the bulk and scale of buildings,

Comment:

The proposed structure is considered acceptable with regard to its variation to the Height of Buildings

development standard and complies with the relevant built form controls of the MDCP, including most setbacks and wall height requirements. The structure is located behind the existing dwelling and sits below street level, reducing its visual prominence when viewed from the public domain. Furthermore, the development provides adequate landscaped area and private open space consistent with Council's requirements. Collectively, these factors demonstrate that the structure is of a bulk and scale anticipated for the site and surrounding locality, and that its overall footprint and built form are not excessive.

c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),
Comment:
The proposed development is designed and sited so as not to result in any unreasonable view loss to or from public or private land.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
Comment:
The proposed development is acceptable with respect to the requirements of Clauses 3.4.1 Sunlight Access and Overshadowing and 3.4.2 Privacy and Security of the MDCP.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses,
Comment:
The development is not within a recreation or environmental protection zone.

4.3A Special height provisions

With respect to the written request to vary the special height provisions development standard under Clause 4.3A of the Manly Local Environmental Plan 2013, the objective of the clause are addressed as follows:

The objective of this clause is to maintain public views to Sydney Harbour from street level on local roads above steeply sloping sites on certain land.
Comment:
The proposed carport will result in some reduction of harbour views from the street. However, the majority of existing views will be retained through the eastern portion of the site and above the roof of the carport. Importantly, the proposed carport is lower than the structure approved under DA134/2016, as subsequently modified by MOD2025/0256. In addition, the approved carport roof extended further into the site, whereas the proposed carport is located closer to the front boundary, reducing its intrusion into the view corridor and minimising view impacts.

The site has limited opportunities for on-site parking, and the proposal provides a practical parking solution while maintaining a reasonable level of public views through and over the site.

The proposed carport exceeds the Special Height Provisions development standard of RL 42.80, reaching a maximum height of RL 43.55. Notwithstanding this variation, the development would only result in a minor reduction in views from street level. Significant water views to the south, south-east and south-west, including views of the Spit Bridge and marina, would be retained. The development is considered to be appropriately designed and sited to reasonably preserve views from the public domain despite the departure from the prescribed height limit, and therefore achieves the objective of the clause.

4.6 Exceptions to development standards

(i) Clause 4.3 Height of buildings

The application seeks consent to vary a development standard as follows:

Development standard: Clause 4.3 Height of buildings
Requirement: 8.5m
Proposed: 11.38m
Percentage of variation: 38.8%

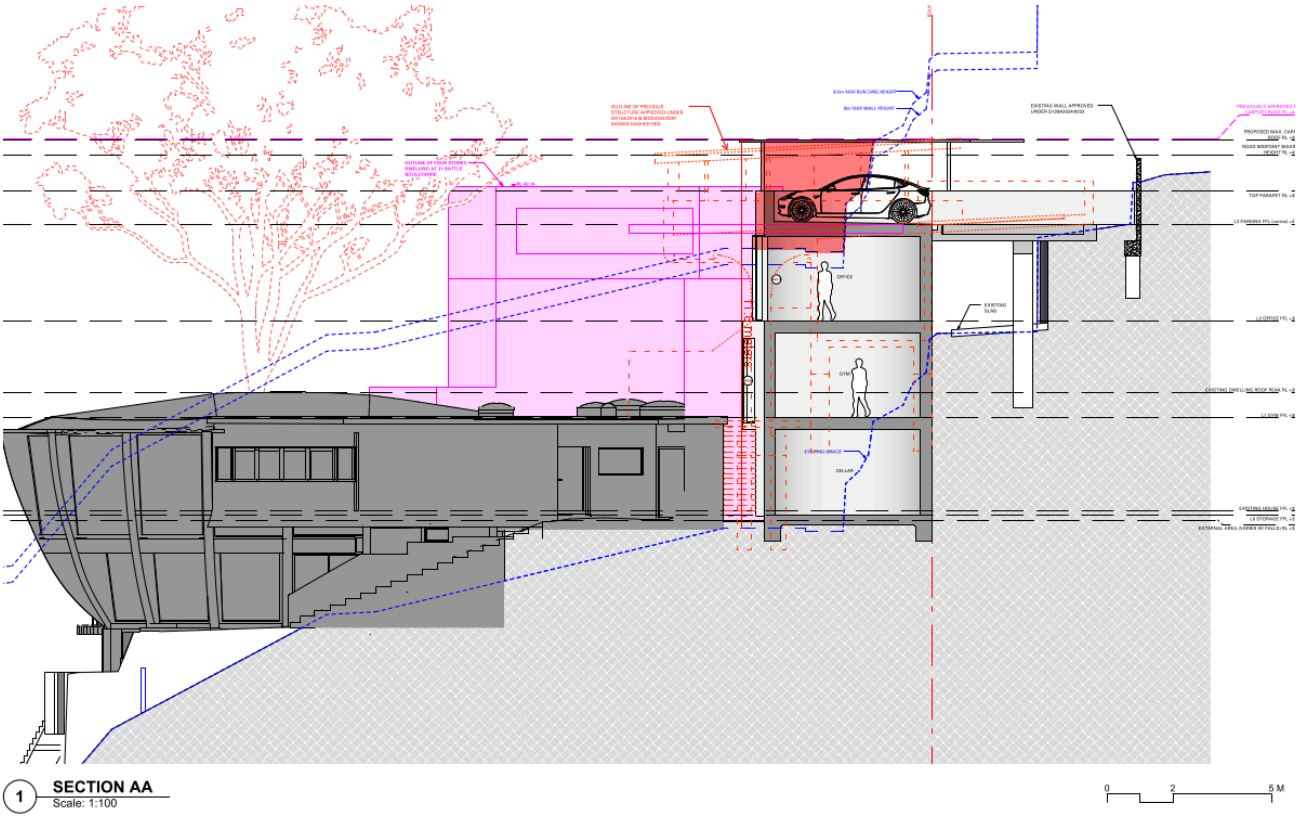


Image 1: *building height non-compliance highlighted in red.*

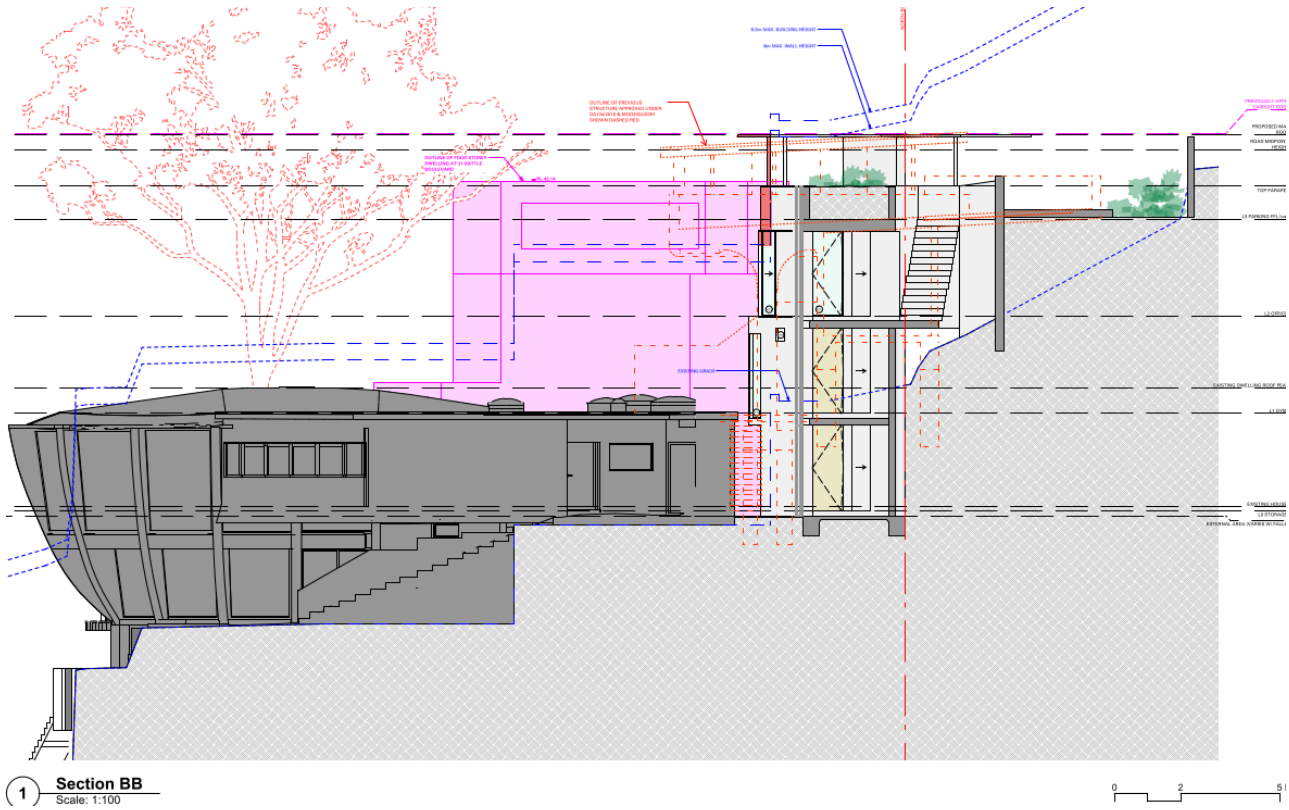


Image 2: *building height non-compliance highlighted in red.*

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the MLEP 2013 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:
(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.
Comment:
The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:
(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
Comment:
Clause 4.3 Height of buildings is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:
(3) Development consent must not be granted to development that contravenes a development standard

unless the consent authority is satisfied the applicant has demonstrated that—
(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
Comment:
Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Heigh of buildings is unreasonable or unnecessary in the circumstances of this application for the following reasons:

Summary of Wehbe Test 1 Assessment

- The proposal satisfies **Test 1 of Wehbe**, as the objectives of the height development standard are achieved despite the non-compliance.
- The variation does not undermine the low-density residential character of the locality and the development remains consistent with Council's intended built form outcomes.

Building Height, Roof Form and Streetscape Character

- The structure has been designed to respond to the site's steep topography and is largely located below street level within an existing excavated area.
- The development is visually recessive, being concealed from the streetscape and partially screened by the existing dwelling when viewed from the harbour.
- The proposed flat carport roof is lower than the previously approved carport roof RL and incorporates a green roof, reducing visual prominence.
- The additional height results from lowering the ground level to provide accessible entry, rather than increasing the perceived height or bulk of the structure.
- The proposal remains compatible with the prevailing character of the area, which is characterised by large detached dwellings on steeply sloping sites.
- The height variation will not significantly impact the streetscape, as the street-facing portion of the structure remains compliant.

Bulk and Scale

- The proposal achieves a **compliant Floor Space Ratio (FSR)**.
- The majority of the built form is concealed by topography and existing development, limiting its visual impact.
- The development maintains an appropriate bulk and scale consistent with the locality.

Views

- The proposed carport roof is lower than previously approved and the areas below are largely concealed within the site.
- The portion of the roof exceeding the height standard forms part of a flat roof that remains compliant at the street frontage.
- The proposal will have negligible impact on public and private views, including views to and from the harbour and foreshores.

Solar Access

- The development has been designed to minimise overshadowing.
- More than one-third of existing sunlight to adjoining private open space is retained between 9am and 3pm.
- Adequate solar access to neighbouring properties is maintained.

Vegetation and Topography

- The design has regard to the site's existing vegetation and topography.
- Existing trees are retained where possible and generous landscaped areas are provided.

- Cut and fill has been minimised to preserve the site's natural landform and scenic character.

Conclusion

- The proposal achieves the objectives of the height development standard by:
    - Maintaining consistency with the site's topography, surrounding development and streetscape character.
    - Controlling bulk and scale.
    - Preserving views and solar access.
    - Respecting existing vegetation and the natural landform.
- Accordingly, the height development standard is considered unreasonable and unnecessary in this particular circumstance, notwithstanding the proposed variation.

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of buildings is unreasonable or unnecessary in the circumstances of this application for the following reasons:

The development achieves all objectives of the building height standard despite exceeding the numeric control. Therefore, strict compliance with clause 4.3 is unreasonable or unnecessary, satisfying the first limb of the Wehbe test.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.
Comment:
In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, in part:

'There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. These include existing excavated areas, improved design outcomes and environmental amenity. These will now be discussed.

Existing Excavated Areas
The proposed non-compliance is in part a function of the existing excavation on-site to accommodate the existing development. Prior excavation was identified as an environmental planning ground in the recent judgement in Merman Investments Pty Ltd v Woollahra Council [2021] NSWLEC 1582 where Commissioner O'Neill stated at [83]:

The grounds relied on by the applicant in the written request under cl 4.6 must be environmental planning grounds by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). I am satisfied that the

prior excavation of the site and the consequent distortion of the height of buildings plane over the site, when compared to the topography of the hill, is an environmental planning ground sufficient to justify contravening the development standard. I am satisfied that the focus is on the aspect of the development that contravenes the development standard, being the areas of the building envelope that are directly above the former excavation of the site, and not the development as a whole… (emphasis added)

This conclusion is also relevant here as the subject site has excavated areas which drop the height limit. When considering the judgement by Commissioner O'Neill in Merman, the area of exceedance is above areas of existing excavation. The topography results in varied existing ground lines through the site, which results in portions of the building exceeding the height standard. Notwithstanding, the extent of non-compliance is limited the southern portion of the carport and associated structure and will present a predominantly compliant built form to Battle Boulevard.

Improved Design Outcomes
To achieve a fully compliant building height, the result would be the deletion of part of the top storey and the carport roof. This would then limit internal amenity for future occupants and compromise the design integrity of the proposal, without noticeably benefitting surrounding properties or the public domain. Compliance would require a substantial lowering of floor to ceiling heights to less than the minimum 2.7m and lowering of floor levels, which would increase the extent of excavation required. Accordingly, the proposed variation is considered a well-designed outcome, consistent with Object (g) of the EPA Act 1979.

The proposed parking level RL also reflects the height previously approved and is required to comply with NCC and relevant Australian Standards relating to driveway gradients and parking geometry. Any reduction in the parking RL would result in non-compliance with these regulatory requirements, create accessibility constraints inconsistent with universal access principles, and increase pressure for on-street parking along Battle Boulevard.

Environmental Amenity
Our assessment has demonstrated the proposal will maintain neighbours' privacy and views while providing adequate solar access, which would be similar to a compliant building height. The proposal also complies with the maximum FSR and does not represent an overdevelopment of the site.

The height variation is an integral part of the architecturally designed carport and associated structure which will provide a high level of amenity of the future occupants. As demonstrated, the building has been designed to maintain neighbour and local amenity and contribute positively to the streetscape and local character.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).'

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 height of buildings for the following reasons:

There are sufficient environmental planning grounds to justify contravening the height development standard, as the breach arises from adapting an existing non-compliant building in line with the MDCP preference for retention over demolition. The proposed alterations promote the orderly and economic use of land,

enhance residential amenity, and align with the objectives of the EP\&A Act. The minor non-compliance results in site specific benefits—such as improved design and amenity—that justify the variation under Clause 4.6, without requiring the development to produce a “better” outcome than a compliant one.

The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:
Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:
Council is satisfied as to the matters set out in Clause 4.6 of the MLEP 2013.

It is considered on balance, that having regard to the particular circumstances the proposed departure from height of buildings development standard is acceptable and it is reasonable that flexibility to the standard be applied.

(ii) Clause 4.3A Special height provision

Development standard: Clause 4.3A Special height provision
Requirement: 42.80 RL
Proposed: 43.55 RL
Percentage of variation: 1.75%

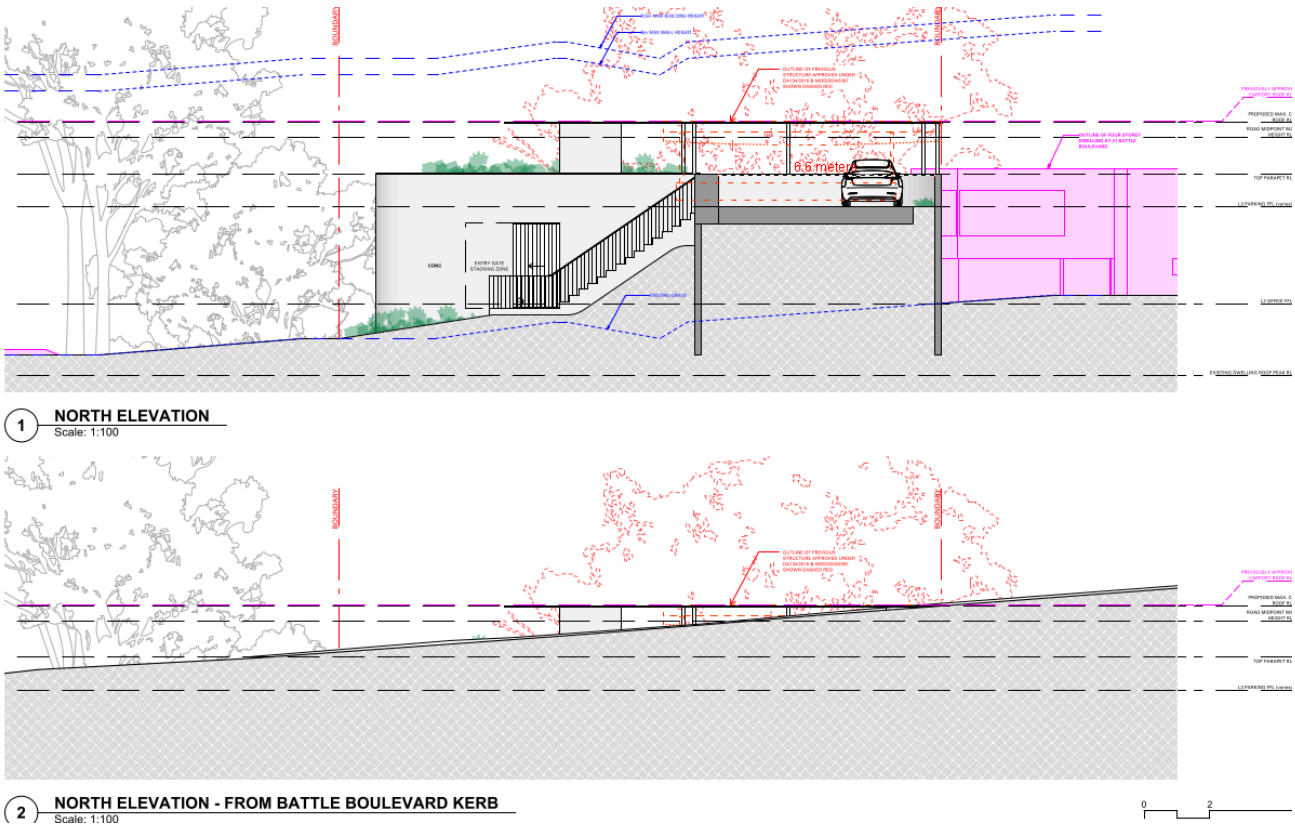


Image 3: *Proposal north elevation and elevation when viewed from the street.*

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the MLEP 2013 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:
(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.
Comment:
The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:
(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
Comment:
Clause 4.3A Special height provisions is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
Comment:
Council is satisfied that the Applicant has demonstrated that compliance with 4.3A Special height provisions is unreasonable or unnecessary in the circumstances of this application for the following reasons:

Objective: Maintain public views to Sydney Harbour from street level on local roads above steeply sloping sites

- The proposal has been designed to maintain public views to Sydney Harbour from street level.
- The structure is located largely below street level within an existing excavated area and is concealed by the site's steep topography.
- The proposed carport roof has a lightweight, flat-roof design with a maximum RL of 43.55 AHD, which is 40mm lower than the previously approved carport roof RL of 43.59 AHD.
- The office, gym and storage areas beneath the carport are contained within the existing excavation and are not visible from the surrounding streetscape.
- The structure is partially screened by the existing dwelling when viewed from the harbour.
- The portion of the roof that exceeds the height standard forms part of a flat roof that remains compliant at its northern, street-facing end.
- Any reduction in public views is minor, with the development maintaining the primary harbour view corridors from the street.
- As a result, the proposal is not expected to result in adverse impacts on views to or from nearby residential properties or public spaces, including Sydney Harbour and its foreshores.

The proposal achieves the objective of maintaining public harbour views despite the height variation. The exceedance is minor, visually unobtrusive, and largely concealed by the site's topography and existing development. Accordingly, the objective of the development standard is achieved notwithstanding the non-compliance.

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3A Special height provisions is unreasonable or unnecessary in the circumstances of this application, because the proposed development is consistent with the objective of Clause 4.3A and the objectives of the C3 Environmental Management zone. Assessment of these objectives is detailed in the relevant sections of this assessment report.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.
Comment:
In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield

Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, in part:

'The proposal is permissible within the C3 Environmental Management Zone and is consistent with the zone objective. The proposed height is compatible in the surrounding density and scale in the area. The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". Accordingly, we provide the following reasons for contravening the development standard:

Minor Extent of Breach
The proposal exceeds the development standard by 450mm (1.04%). In our opinion, the extent of variation is very minor and will not be readily perceptible when viewed from Sydney Harbour or Battle Boulevard. It will also continue to meet the objective of the standard by maintaining public views to Sydney Harbour, as previously discussed.

Relationship to Approved Non-Compliance and Technical Nature of the Variation (existing excavation)
As indicated, the roof RL of the approved carport is non-compliant and in fact some 40mm higher than the proposed carport RL. The proposed variation is in part a function of the existing excavation on-site to accommodate the existing development. Prior excavation was identified as an environmental planning ground in the recent judgement in Merman Investments Pty Ltd v Woollahra Council [2021] NSWLEC 1582 where Commissioner O'Neill stated at [83]:

The grounds relied on by the applicant in the written request under cl 4.6 must be environmental planning grounds by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). I am satisfied that the prior excavation of the site and the consequent distortion of the height of buildings plane over the site, when compared to the topography of the hill, is an environmental planning ground sufficient to justify contravening the development standard. I am satisfied that the focus is on the aspect of the development that contravenes the development standard, being the areas of the building envelope that are directly above the former excavation of the site, and not the development as a whole… (emphasis added)

This conclusion is also relevant here as the subject site has excavated areas which drop the height limit. When considering the judgement by Commissioner O'Neill in Merman, the area of exceedance is above areas of existing excavation. The topography results in varied existing ground lines through the site, which results in portions of the building exceeding the height standard. Notwithstanding, the extent of non-compliance is less than the approved carport roof. While it does not meet the special height provisions standard, the northern portion of the carport roof and associated structure and will present a predominantly compliant built form to Battle Boulevard in terms of overall building height.

Contextual Compatibility
Despite the minor variation, the proposal will maintain compatibility within the context of surrounding development. When viewed from the harbour, the proposal will be partially obscured by the existing dwelling,

which remains the more dominant built form. The location of the proposal, including the carport at its northern end, is similar to the approval and in fact lower in terms of roof RL which represents an improvement and a reduction in the extent of the variation. The proposal and creates a stepped, recessive appearance relative to the house when viewed from the water. The majority of the proposal will not be visible from Battle Boulevard due to its location below street level, the provision of a lightweight flat roof, and its surrounding approved and proposed landscaping. It also creates a stepped built form along the street frontage, which limits the area of height breach within the visual catchment of the streetscape (see Figure 3).

Improved Design Outcomes
To achieve a fully compliant building height, the result would be the deletion of the carport roof. This would then limit internal amenity for future occupants and compromise the design integrity of the proposal, without noticeably benefitting surrounding properties or the public domain. Alternatively, compliance would require a lowering of floor to ceiling heights to less than the minimum 2.6m required to accommodate the nearby lift opening at the same level, or the lowering of floor levels, which would increase the extent of excavation required. Accordingly, the proposed variation is considered a well-designed outcome, consistent with Object (g) of the EPA Act 1979.

The proposed parking level RL also reflects the height previously approved and is required to comply with NCC and relevant Australian Standards relating to driveway gradients and parking geometry. Any reduction in the parking RL would result in non-compliance with these regulatory requirements, create accessibility constraints inconsistent with universal access principles, and increase pressure for on-street parking along Battle Boulevard.

Other Matters for Consideration:
It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development in terms of solar access privacy and views; achieves the objectives of the C3 Environmental Management Zone and the relevant DCP built form and amenity provisions; and results in an improved streetscape outcome for the site. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the departure of the special height provisions.

This report demonstrates the proposed dwelling will be compatible with nearby and future development. The proposed area of contravention is minor, will not be readily perceptible from the harbour, and is lower than the approved development. It will therefore not affect streetscape amenity or existing characteristics of the precinct/locality.
We consider grounds that relate to the subject matter, and the objects of the EPA Act (Section 1.3): in particular:

(g) to promote good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings,
…
(k) to promote the orderly and economic use and development of land

The proposal will upgrade an approved carport above ancillary dwelling uses within a contemporary and articulated development that is appropriate for the streetscape. These works allow the site to achieve orderly and economic development of the site, through design excellence for improved amenity.

Accordingly, in our opinion, the non-compliance will be consistent with the existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).'

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3A Special Height Provisions. The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying Objects 1.3(c) and (g) of the EPA Act.

Public Interest:
Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:
Council is satisfied as to the matters set out in Clause 4.6 of the MLEP 2013.

It is considered on balance, that having regard to the particular circumstances, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard beapplied.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

(a) 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, and
(b) to allow earthworks of a minor nature without requiring separate development consent.

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:
The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(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:
The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been 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 application was referred to Council's Heritage Advisor, who is supportive of the proposed development subject to conditions of consent, which have been included in the recommendation of this report.

(g) the proximity to and potential for adverse impacts on any watercourse, 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:
Conditions are included in the recommendation of this report that will minimise the impacts of the development.

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 s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.8 Landslide risk

The objectives of this clause are to ensure that development on land susceptible to landslide—

(a) matches the underlying geotechnical conditions of the land, and
(b) is restricted on unsuitable land, and
(c) does not endanger life or property.

In this regard, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account the risk of landslide—

(a) site layout, including access,
(b) the development's design and construction methods,
(c) the amount of cut and fill that will be required for the development,
(d) waste water management, stormwater and drainage across the land,
(e) the geotechnical constraints of the site,
(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:
The proposed development is supported by architectural plans, stormwater plans, and a geotechnical report, which demonstrate the proposal is acceptable with respect to the above matters. The proposed development has also been reviewed by Council's Development Engineer, who has raised no objection to the proposal, subject to conditions of consent, which are included in the recommendation of this report.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and that—

(a) the development is designed, sited and will be managed to avoid any landslide risk or significant adverse impact on the development and the land surrounding the development, or
(b) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or
*(c) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impac*t.
Comment:
Given the above, the proposed development is demonstrated to be designed, sited and managed to avoid landslide risk and significant adverse impact on the subject site and surrounding land.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1088m^2	**Requirement**	**Proposed**	**% Variation***	**Complies**
4.1.2.1 Wall Height	W: 8m (based on gradient 1:4+)	8m	N/A	Yes
	E: 8m (based on gradient 1:4+)	7.6m	N/A	Yes
4.1.2.2 Number of Storeys	2	3	N/A	No
4.1.2.3 Roof Height	Parapet Height: 0.6m	0.1m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line	Nil	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	W: 2.6m (based on wall height)	Nil	100%	No
	E: 2.5m (based on wall height)	1.2m	52%	No
4.1.4.4 Rear Setbacks	8m	No change	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	69.7% (702.8m^2)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (245.9m$^{702.8}$) of open space	75.9%	N/A	Yes
4.1.5.3 Private Open Space	18m^2 per dwelling	18m^2+	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	7.4m	19.3%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4.1 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
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	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
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

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

Description of non-compliance

4.1.4.2 Side setbacks and secondary street frontages

Clause 4.1.4.2 Side setbacks and secondary street frontages stipulates that the setbacks between any part of a building and the side boundary must not be less than one third of the height of the building. The wall height of the eastern façade is 7.6m, thereby requiring a side setback of 2.5m. The eastern facade is setback 1.2m from the side boundary. The wall height of the western façade is 8m, thereby requiring a side setback of 2.6m. The western facade has a nil setback from the side boundary.

Comment:
The objectives of the control are:

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.
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.*

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

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

The proposed development is consistent with the established character of car parking on the southern side of Battle Boulevard. The majority of the works sit below street level and will maintain the visual quality of the streetscape. The proposal will maintain the approved side setback of the car parking on the site.

While the proposal includes numerical non-compliances with the prescribed side setback controls, an acceptable level of residential amenity will be maintained. Privacy impacts are appropriately mitigated through the careful siting of windows, ensuring there are no unreasonable overlooking impacts to adjoining dwellings or their private open space.

The proposed variations are considered reasonable and provide appropriate design flexibility, allowing for a modernised dwelling without resulting in any undue amenity impacts on neighbouring properties.

The development will not detract from the broader site context, including adjoining open space lands or National Parks, and is consistent with the objectives of State Environmental Planning Policy No. 19 – Urban Bushland. No significant vegetation removal is proposed, and suitable landscaped open space is provided to accommodate deep soil zones, new plantings, and ongoing vegetation.

As the site is not identified as bushfire-prone land, bushfire planning considerations are not applicable in this

instance.

The development is consistent with the objectives of the control and is acceptable on merit.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance
Clause 4.1.6.1 of MDCP 2013, Under MDCP Clause 4.1.6, dwellings require the provision of two off-street parking spaces. The proposal only has space form one carpark.

The clause also requires garages forward of the building line to be designed and sited to not dominate the street frontage. In particular:

c) the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.

The site is 18.22m wide requiring a max width of the garage of 6m. The proposed width of the garage is 6.6m, which is non-compliant with the width control requirement.

Comment:
The objectives of the control are:
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).
Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.
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.
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.
Objective 5) To ensure the width and number of footpath crossings is minimised.
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.
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.

The application proposes a single-car carport with motor bike parking on a site. Prior to the previous approved development application, the site only had one space available that encroached on to Council land. The development does not intensify site use. The driveway and parking layout are efficient, safe, and functional, and the proposed excavation has no anticipated impacts on site stability or groundwater flow.

The proposal will retain the exisiting drive approved under the previos Development Application and subsequent modifications and includes one footpath crossing, which is consistent with surrounding residential development.

Adequate landscaping is retained on the site and a green roof, demonstrates compliance with relevant controls. The site also has access to public transport in the surrounding area.

The development is consistent with the objectives of the control and is acceptable on merit.

4.4.5 Earthworks (Excavation and Filling)

Description of non-compliance
The proposal involves additional excavation to accommodate the proposed structure. The excavation has a maximum depth of 6m at one point, which exceeds the 1m requirement. The total amount of excavation on the site is

Merit consideration
With regard to the consideration for a variation, the development is considered against the underlying objective of the control as follows:

Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:

- *Limiting excavation, "cut and fill" and other earthworks;*
- *Discouraging the alteration of the natural flow of ground and surface water;*
- *Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

Comment:
The excavation works are not considered to be excessive and are reasonable within the C3 Environmental Management zone. The excavation works do not significantly alter the site topography or compromise the ability to establish the proposed landscape treatment on the site as they are located in an area already highly distrubed and screen from the foreshore and streetscape. The application has been accompanied by a Geotechnical Report which states that the proposal will achieve an acceptable level of risk, subject to adherence to the recommendations stipulated within the report. A condition has been an acceptable condition has been recommended to ensure compliance with the recommendations within the Geotechnical Report.

Having regard to the above assessment, it is concluded that the objectives of the control have been achieved. Therefore, the application is supported on merit 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 inconsistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of $22,356 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,235,612.

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

Council is satisfied that the Applicant’s written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify variation of the development standard contained within Clause 4.3A Special height provisions has adequately addressed and demonstrated that:

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

PLANNING CONCLUSION

This proposal, for alterations and additions to a dwelling house has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to variation to the Special height provision if the MLEP.

The concerns raised in the objections have been addressed in the report.

Critical assessment issues included variation to the special height provision, building height, side setback and parking design and the Location of Garages.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

REASON FOR DETERMINATION

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3A Special height provisions, pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1800 for Alterations and additions to a dwelling house on land at Lot 5 DP 4889, 29 Battle Boulevarde, SEAFORTH, Lot LIC 3002086, 29 Battle Boulevarde, SEAFORTH, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
   Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
DA04		Site Plan	Billy Maynard Architects Pty Limited	3/07/2026
DA05		Excavation Plan	Billy Maynard Architects Pty Limited	3/07/2026
DA06		Demolition Plan	Billy Maynard Architects Pty Limited	3/07/2026
DA07		Roof Plan	Billy Maynard Architects Pty Limited	3/07/2026
DA08		Level 3 Plan	Billy Maynard Architects Pty Limited	3/07/2026
DA09		Level 2 Plan	Billy Maynard Architects Pty Limited	3/07/2026
DA10		Level 1 Plan	Billy Maynard Architects Pty Limited	3/07/2026
DA11		Level 0 Plan	Billy Maynard Architects Pty Limited	3/07/2026

DA12		Section AA	Billy Maynard Architects Pty Limited	3/07/2026
DA13		Section BB	Billy Maynard Architects Pty Limited	3/07/2026
DA14		West Elevation	Billy Maynard Architects Pty Limited	3/07/2026
DA15		East Elevation	Billy Maynard Architects Pty Limited	3/07/2026
DA16		South Elevation	Billy Maynard Architects Pty Limited	3/07/2026
DA17		North Elevation	Billy Maynard Architects Pty Limited	3/07/2026
DA23		Schedule of Colours and Materials	Billy Maynard Architects Pty Limited	3/07/2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
DA 01 - Design Principle DA 02 - Landscape plan - L3 DA 03 - Landscape Plan - L0 DA 04 - Landscape Section - north DA 05 - Landscape Section - south DA 06 - Landscaped section - west DA 07 - Landscaped section - east DA 08 - Materials + character images DA 09 - Plant schdule	C	Billy Maynard Architects	26.11.2025
C-DA050 - Civil Services Erosion and Sediment Control Plan and Details C-DA100 - Civil Services Roof and Level 3 Drainage Plan C-DA101 - Civil Services Level 2 and 1 Drainage Plan C-DA102 - Civil Services Level 0 Drainage Plan C-DA300 - Civil Services Details	P2	JHA Services	4.11.25
Arboricultural Impact Assessment & Tree Protection Plan	Version 4	Tree Survey	19 November 2025

BASIC Certificate	Certificate number: 1795308S_02	BILLY MAYNARD ARCHITECTS PTY LIMITED	12 November 2025
GEOTECHNICAL INVESTIGATION: Proposed Outbuilding at 29 Battle Boulevard, Seaforth	J6328	White Geotechnical Group	19th November, 2025.

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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/D

(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. **No Approval for Secondary Dwelling**
No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

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

4. **Prescribed Conditions**
   (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
   (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
   (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
      (i) showing the name, address and telephone number of the Principal 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.

5. **General Requirements**

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

Demolition and excavation works are restricted to:
- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.

(c) 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.

(d) At all times after the submission of 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.

(e) 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.

(f) 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.

(g) Prior to the release of the Construction Certificate, payment of the following is required:

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or directly to the Long Service 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.

ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.

(h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(i) 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.

(j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(k) 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.

(l) 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.

(m) 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.

(n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.

(p) 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.

6. **Car parking**

All vehicle parking must be accommodated wholly within the subject site.

Reason: To ensure that vehicles do not encroach upon the public road reserve and to maintain safe and efficient use of the public domain.

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $22,356.12 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 $2,235,612.00.

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.

8. **Security Bond**

A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any

damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the 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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9. **Pavement Design Near Trees to be Retained**

a) Pavement layout plans for the works around the base of existing tree 6 shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a Landscape Architect/Landscape Designer, complying with AS 4970-2025 Protection of trees on development sites.

b) The Arborist shall review, comment, recommend design revision as required and approve the pavement layout, to ensure the location and levels will be manageable in terms of tree protection measures.

c) The Arborist shall submit certification to the Certifier that the location and levels of the pavement are accepted.

d) The agreed pavement layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

10. **Tree Protection Specifications and Tree Protection Plan**

a) A Tree Protection Specifications (TPS) and Tree Protection Plan (TPP) shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures in accordance with AS 4970-2025 Protection of trees on development sites, specifically 2.2.6 Tree Protection Specifications and Tree Protection Plan, to protect the following trees:
i) tree 6 - located to the west of the dwelling in the side setback.

b) The TPS and TPP shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating but not limited to the following:
i) location of all trees identified for retention, including extent of canopy,
ii) access routes throughout the site for construction activity,
iii) location of tree protection fencing / barriers,
iv) root protection in the form of mulching or boards proposed within the tree protection zone,
v) trunk and branch protection within the tree protection zone,

vi) location of stockpile areas and materials storage,
vii) other general tree protection measures.

Reason: Tree protection.

11. **On Slab Landscape Planters**
a) Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, drainage and services connections.

b) The following soil depths are required to support planting: 300mm for groundcovers and grasses; 600mm for shrubs; and 1000mm for small trees.

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

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

12. **No Clearing of Vegetation**
Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

13. **Stormwater Disposal**
The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) , indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be discharged to the rear via the existing system.

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

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

14. **Amendments to the approved plans**
The following amendments are to be made to the approved plans:

- The 'Existing Wall approved under S138A2024/0032' shown within the road reserve does not form part of this application and should be removed from all plans.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

15. **Submission Roads Act Application for Civil Works in the Public Road**
The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of [INSERT] which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. Pedestrian access stairs off the driveway.

A positive covenant shall be registered on Title prior to Occupation Certificate in respect to ongoing maintenance responsibilities of the structures approved in the Public Road for the following structures:

- Driveway
- Turntable
- Pedestrian access stairs

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.
An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

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

16. **Waste Management Plan**
A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

18. **Sydney Water "Tap In"**
The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:
- "Tap in" details - see http://www.sydneywater.com.au/tapin
- 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

19. **Project Arborist**
a) A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Tree Protection Specifications and Tree Protection Plan.

b) The Project Arborist shall be in attendance and supervise all works as nominated in the approved Tree Protection Specifications and Tree Protection Plan.

c) All tree protection measures specified must:
i) be in place before work commences on the site, and
ii) be maintained in good condition during the construction period, and
iii) remain in place for the duration of the construction works.

d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2025 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

20. **Pre-Construction Dilapidation Report**
Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier 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.

Property / Properties: Nos. 27 and 31 Battle Boulevarde SEAFORTH.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier 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 Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

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

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

Reason: To maintain proper records in relation to the proposed development.

21. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

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

location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

DURING BUILDING WORK

22. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
i) all trees within the site not approved for removal,
ii) all trees and vegetation located on adjoining properties,
iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Tree Protection Specifications and Tree Protection Plan,
ii) existing ground levels shall be maintained within the tree protection zone of trees to be

retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project 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 AS 4970-2025 Protection of trees on development sites,
ix) the activities listed in section 4.2 of AS 4970-2025 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:
i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Tree Protection Specifications and Tree Protection Plan.

Reason: Tree and vegetation protection.

23. **Wildlife Protection**
If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

24. **Protection of Habitat Features**
All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

25. **Road Reserve**
The applicant shall ensure the public footways and roadways adjacent to the site are

maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

26. **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.

27. **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.

28. **Maintenance of Sediment and Erosion Controls**
Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

29. **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.

30. **Stockpiling materials**
During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of

according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

31. **Pollution Control**
Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

32. **Aboriginal Heritage**
If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

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

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

33. **Landscape Completion**
a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s), and inclusive of the following conditions:
i) landscape works are to be contained within the legal property boundaries,
ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
iii) one locally native tree shall be installed within the property boundaries; to achieve at least 6 metres height at maturity; selected from Northern Beaches Council's Native Planting Guide - Manly Ward, and shall be located at least 3 metres from buildings and other trees or more, and at least 1.5 metres from common boundaries,
iv) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn,
v) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at minimum 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,
vi) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

b) 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.

34. **Condition of Retained Vegetation**
a) Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on existing tree 6 required to be retained, including the following information:
i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
ii) extent of damage sustained by vegetation as a result of the construction works,
iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

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

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

36. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

37. **Priority Weed Removal and Management**
All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

38. **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.

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

development.

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

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

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

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

Reason: To maintain proper records in relation to the proposed development.

40. **Waste Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

41. **Positive Covenant for the Maintenance of Structures in the Public Road**
The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the completed request forms (NSW Land Registry standard forms 13PC) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved S138 plan by a Registered Surveyor), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and other responsibilities of the structures in the Public Road Reserve as identified in Condition Submission of Roads Act Application for Civil Works in the Public Road in this consent. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services.

A copy of the certificate of title demonstrating the creation of the positive covenant for the ongoing maintenance and other responsibilities of the structures 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 adequate provision is made for the structures in the road reserve be maintained to an appropriate standard.

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

42. **Landscape Maintenance**

a) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

b) 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.

c) 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.

d) A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

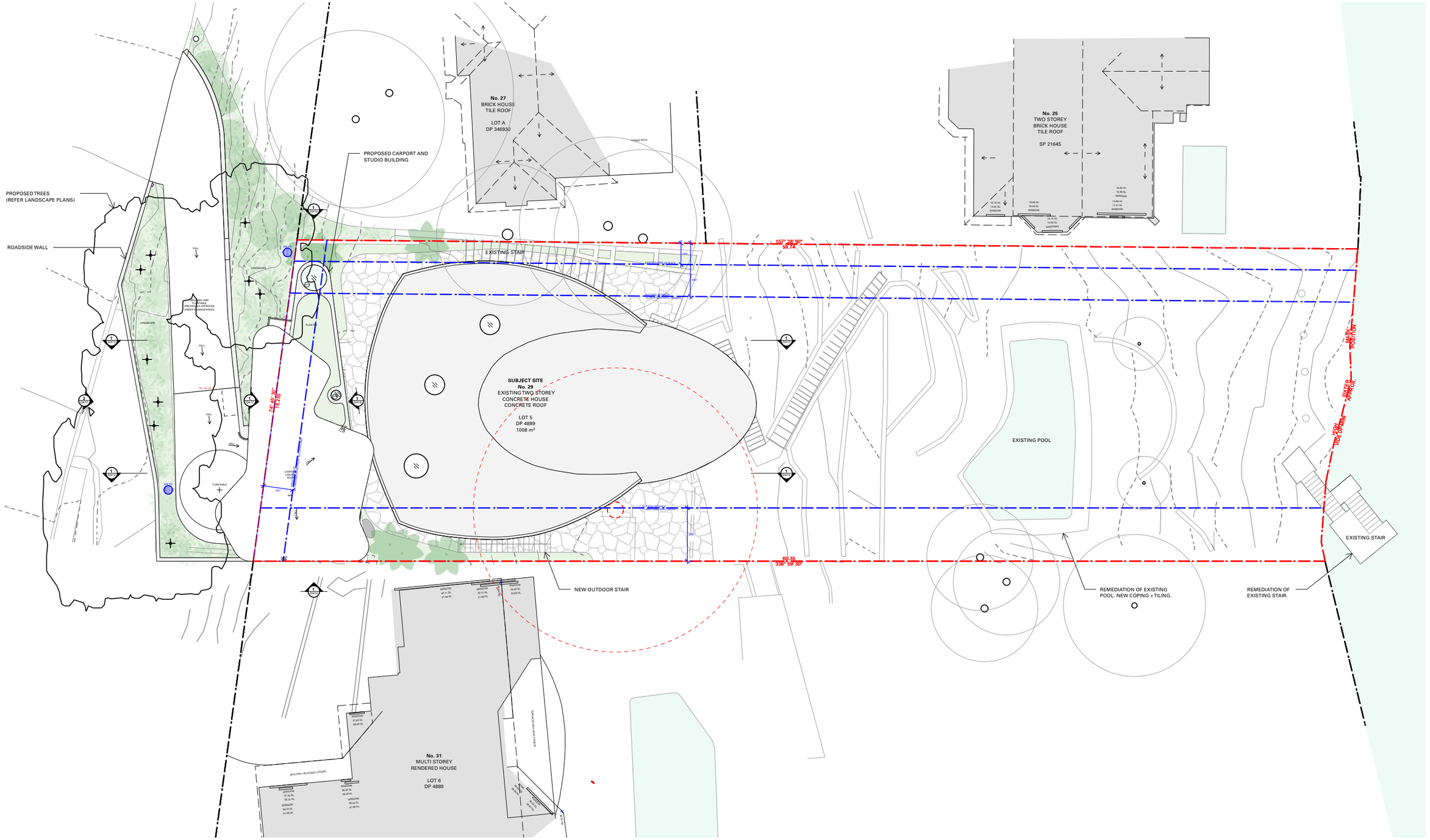
e) The approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

43. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.



1 Site Plan

Scale: 1:200

0 5 10 M

BILLY MAYNARD ARCHITECTS

- COMPLY WITH RELEVANT AUTHORITIES REQUIREMENTS
- COMPLY WITH NCC & BCA
- COMPLY WITH ALL RELEVANT AUSTRALIAN STANDARDS
- DIMENSIONS IN MILLIMETRES
- USE FIGURES DIMENSIONS ONLY
- DO NOT SCALE
- IF DISCREPANCY EXISTS NOTIFY ARCHITECT
- BUILDER TO CONFIRM ALL DETAILS & DIMENSIONS PRIOR TO CONSTRUCTION
- COS - CONFIRM ON SITE
- IF IN DOUBT ASK
- FINAL RLs SUBJECT TO CHANGE BASED ON EXISTING SITE CONDITIONS

PRELIMINARY: NOT FOR CONSTRUCTION

NOTE:
BOUNDARY AND PROPERTY SITE INFORMATION IS BASED ON DETAILED PROPERTY SURVEY #24540 BY CMS CONSULTING SURVEYORS.

CONFIRM BOUNDARY LOCATION AND LEVELS ON SITE PRIOR TO COMMENCEMENT OF CONSTRUCTION.

LEGEND
BK BRICK/ MASONRY
GL GLASS
GU GUTTER
CONC CONCRETE
CPT CARPET
CTP COOKTOP
FR FRIDGE
GAL GALVANISED
JU JOINERY UNIT
MC METAL CLADDING
MB MESH BALUSTRADE
PV PHOTOVOLTAIC PANEL
RWO RAINWATER OUTLET
REN RENDER
SC STEEL COLUMN
SK SINK
TC TIMBER CLADDING
TF TIMBER FLOOR
TIL CERAMIC TILE
GB GLASS BLOCK

ISSUE	DATE	REVISION
DA	26/11/2025	

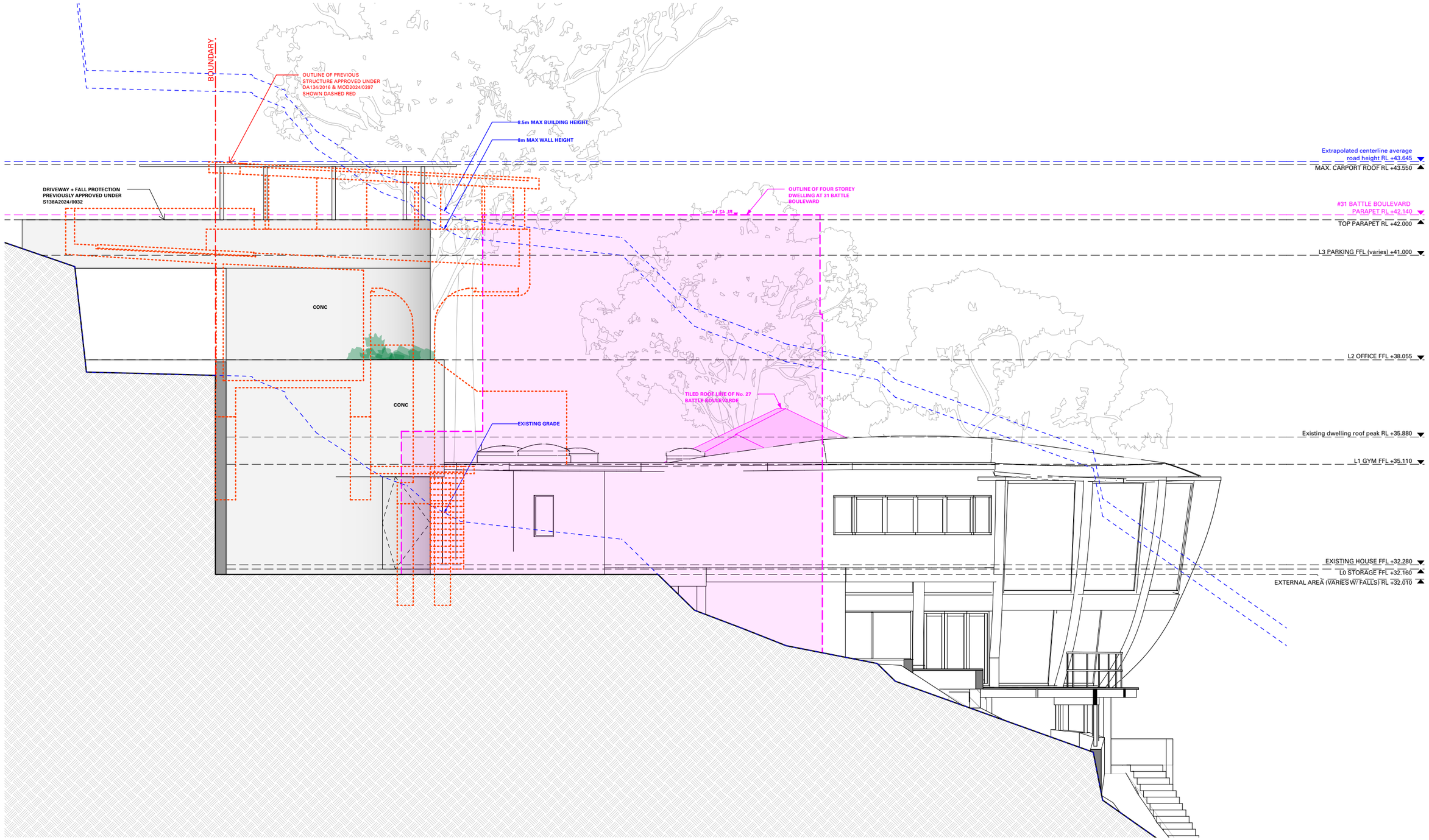
PROJECT	VENDOME HOUSE	DATE #	26/11/2025
CLIENT	KATHRYN WOOD-ENRIQUEZ	SCALE @ A3	
DWG	SITE PLAN	DRAWN	BM/OP
ADDRESS	29 BATTLE BOULEVARD, SEAFORTH	CHKD	BM

PROJECT #

DWG # DA04

REVISION

Billy Maynard Architects Pty Limited NSW ARB 12138 **E**: mail@bmaynard.com **T**: 0414904430



1 WEST ELEVATION

Scale: 1:100

0 2 5 M

BILLY MAYNARD • ARCHITECTS •

- COMPLY WITH RELEVANT AUTHORITIES REQUIREMENTS
- COMPLY WITH NCC & BCA
- COMPLY WITH ALL RELEVANT AUSTRALIAN STANDARDS
- DIMENSIONS IN MILLIMETRES
- USE FIGURES DIMENSIONS ONLY
- DO NOT SCALE
- IF DISCREPANCY EXISTS NOTIFY ARCHITECT
- BUILDER TO CONFIRM ALL DETAILS & DIMENSIONS PRIOR TO CONSTRUCTION
- CDS - CONFIRM ON SITE
- IF IN DOUBT ASK
- FINAL RLs SUBJECT TO CHANGE BASED ON EXISTING SITE CONDITIONS

PRELIMINARY: NOT FOR CONSTRUCTION

NOTE:
BOUNDARY AND PROPERTY SITE INFORMATION IS BASED ON DETAILED PROPERTY SURVEY #24540 BY CMS CONSULTING SURVEYORS.

CONFIRM BOUNDARY LOCATION AND LEVELS ON SITE PRIOR TO COMMENCMENT OF CONSTRUCTION.

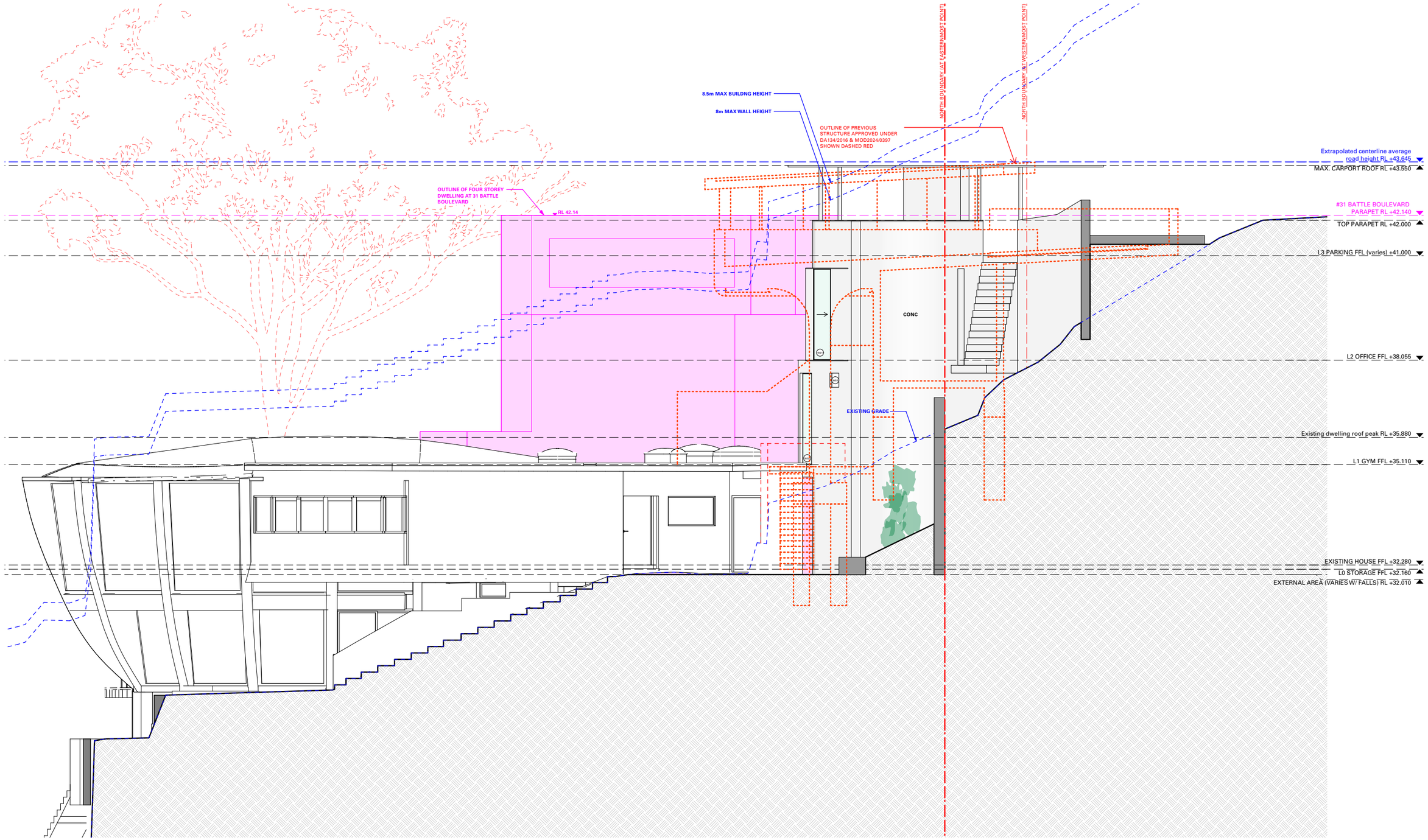
LEGEND
BK BRICK/ MASONRY
GL GLASS
GU GUTTER
CONC CONCRETE
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JU JOINERY UNIT
MC METAL CLADDING
MB MESH BALUSTRADE
PV PHOTOVOLTAIC PANEL
RWO RAINWATER OUTLET
REN RENDER
SC STEEL COLUMN
SK SINK
TC TIMBER CLADDING
TF TIMBER FLOOR
TIL CERAMIC TILE
GB GLASS BLOCK

ISSUE	DATE	REVISION
DA	26/11/2025	

PROJECT	VENDOME HOUSE	DATE #	26/11/2025
CLIENT	KATHRYN WOOD-ENRIQUEZ	SCALE @ A3	
DWG	WEST ELEVATION	DRAWN	BM/OP
ADDRESS	29 BATTLE BOULEVARD, SEAFORTH	CHKD	BM

PROJECT # DWG # DA14 REVISION

Billy Maynard Architects Pty Limited NSW ARB 12138 **E**: mail@bmaynard.com **T**: 0414904430



1 EAST ELEVATION

Scale: 1:100

0 2 5 M

BILLY MAYNARD • ARCHITECTS •

- COMPLY WITH RELEVANT AUTHORITIES REQUIREMENTS
- COMPLY WITH NCC & BCA
- COMPLY WITH ALL RELEVANT AUSTRALIAN STANDARDS
- DIMENSIONS IN MILLIMETRES
- USE FIGURES DIMENSIONS ONLY
- DO NOT SCALE
- IF DISCREPANCY EXISTS NOTIFY ARCHITECT
- BUILDER TO CONFIRM ALL DETAILS & DIMENSIONS PRIOR TO CONSTRUCTION
- CDS - CONFIRM ON SITE
- IF IN DOUBT ASK
- FINAL RLs SUBJECT TO CHANGE BASED ON EXISTING SITE CONDITIONS

PRELIMINARY: NOT FOR CONSTRUCTION

NOTE:
BOUNDARY AND PROPERTY SITE INFORMATION IS BASED ON DETAILED PROPERTY SURVEY #24540 BY CMS CONSULTING SURVEYORS.

CONFIRM BOUNDARY LOCATION AND LEVELS ON SITE PRIOR TO COMMENCMENT OF CONSTRUCTION.

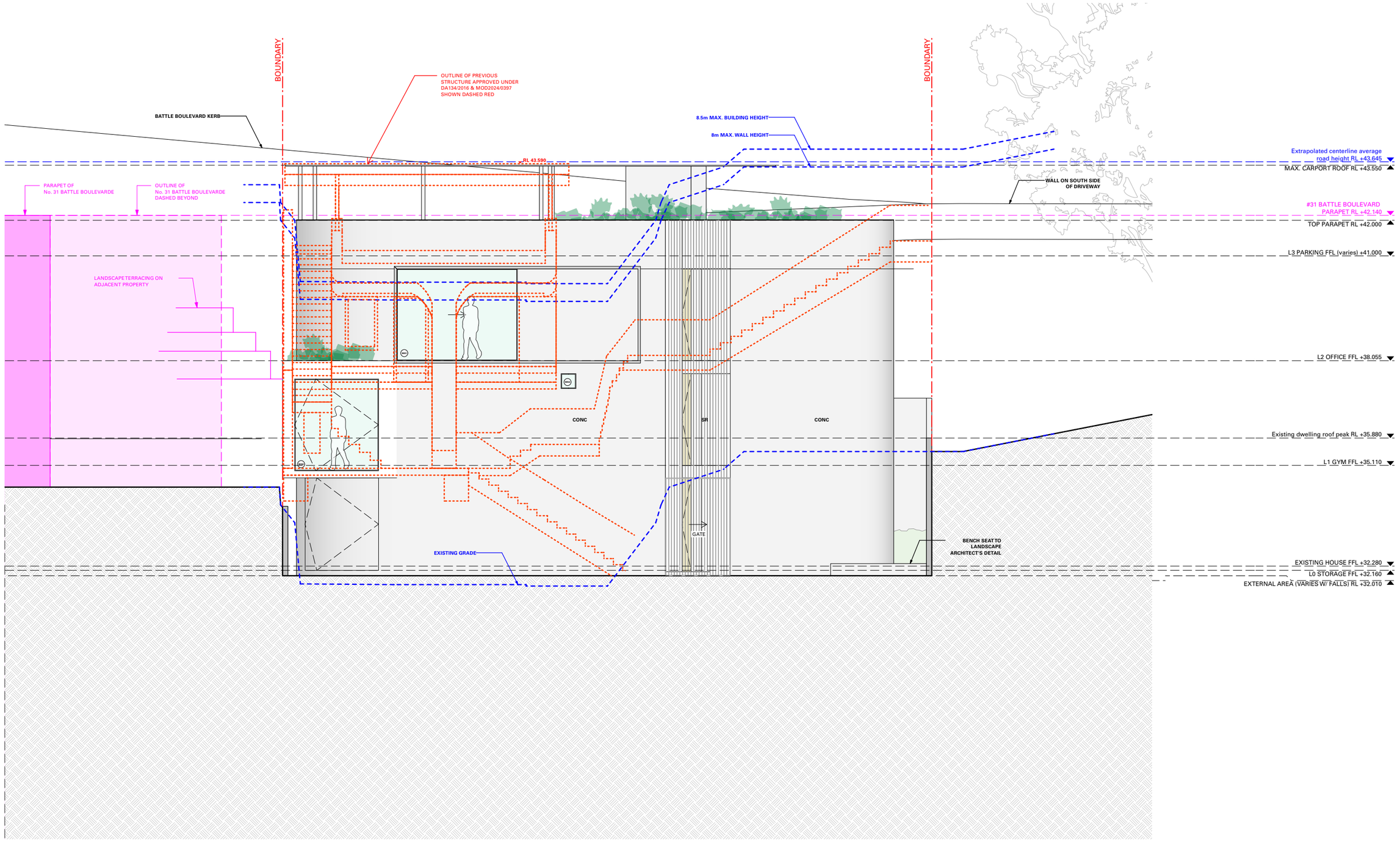
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ISSUE	DATE	REVISION
DA	26/11/2025	

PROJECT	VENDOME HOUSE	DATE #	26/11/2025
CLIENT	KATHRYN WOOD-ENRIQUEZ	SCALE @ A3	
DWG	EAST ELEVATION	DRAWN	BM/OP
ADDRESS	29 BATTLE BOULEVARD, SEAFORTH	CHKD	BM

PROJECT # DWG # DA15 REVISION

Billy Maynard Architects Pty Limited NSW ARB 12138 **E**: mail@bmaynard.com **T**: 0414904430



1 SOUTH ELEVATION

Scale: 1:100

0 2 5 M

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PRELIMINARY: NOT FOR CONSTRUCTION

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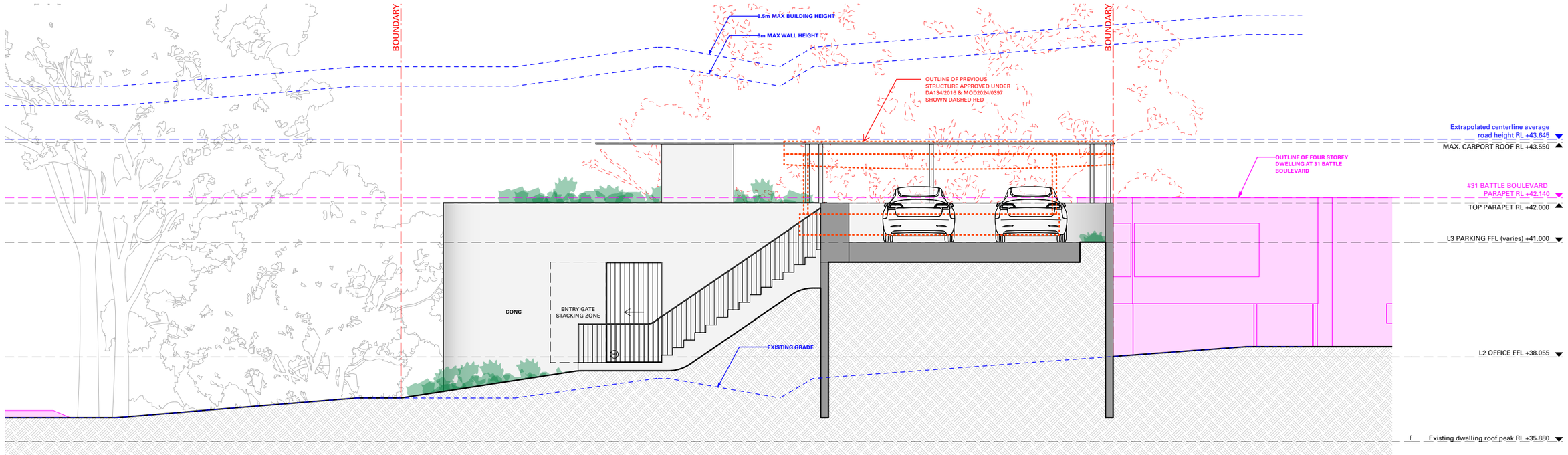
ISSUE	DATE	REVISION
DA	26/11/2025	

PROJECT VENDOME HOUSE
CLIENT KATHRYN WOOD-ENRIQUEZ
DWG SOUTH ELEVATION
ADDRESS 29 BATTLE BOULEVARD, SEAFORTH

DATE # 26/11/2025
SCALE @ A3
DRAWN BM/OP
CHKD BM

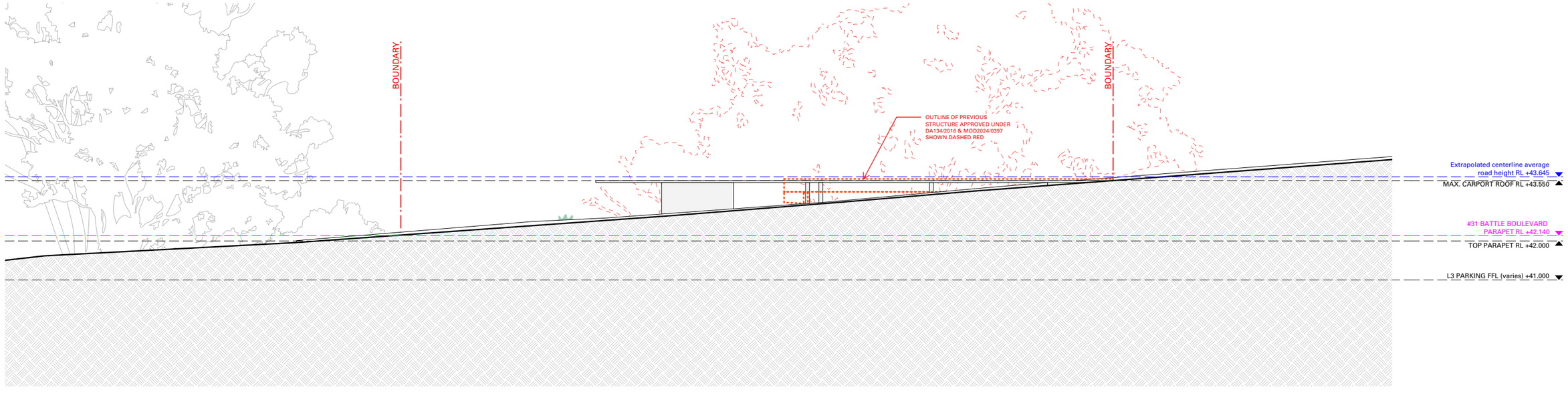
PROJECT #
DWG # DA16
REVISION

Billy Maynard Architects Pty Limited NSW ARB 12138 **E**: mail@bmaynard.com **T**: 0414904430



1 NORTH ELEVATION

Scale: 1:100



2 NORTH ELEVATION - FROM BATTLE BOULEVARD KERB

Scale: 1:100

0 2 5 M

BILLY MAYNARD · ARCHITECTS

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PRELIMINARY: NOT FOR CONSTRUCTION

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ISSUE	DATE	REVISION
DA	26/11/2025	

PROJECT	VENDOME HOUSE	DATE #	26/11/2025
CLIENT	KATHRYN WOOD-ENRIQUEZ	SCALE @ A3	
DWG	NORTH ELEVATION	DRAWN	BM/OP
ADDRESS	29 BATTLE BOULEVARD, SEAFORTH	CHKD	BM

PROJECT # DA17 DWG # REVISION

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MANLY LEP 2013
Clause 4.6 Exceptions to Development Standards – Special Height Provisions
No. 29 Battle Boulevard, Seaforth

Proposed Alterations and Additions

Prepared for	Prepared by	Date	Reference
Kathryn Margaret Wood C/- Billy Maynard Architects Level 2/397 Riley Street Surry Hills NSW 2010	GSA Planning	17 June 2026	25560

GSA Planning

MANLY LOCAL ENVIRONMENTAL PLAN (LEP) 2013

CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

APPLICANT'S NAME: Kathryn Margaret Wood c/o Billy Maynard Architects

SITE ADDRESS: No. 29 Battle Boulevard, Seaforth

PROPOSAL: Proposed Alterations and Additions

(i) Name of the applicable planning instrument which specifies the development standard:

Manly Local Environmental Plan (LEP) 2013

(ii) The land is zoned:

The objectives of the C3 Environmental Management are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*
- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*
- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*
- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

(iii) The number of the relevant clause therein:

Clause 4.3A – Special Height Provisions which is stated, inter alia:

4.3A Special height provisions

(1) The objective of this clause is to maintain public views to Sydney Harbour from street level on local roads above steeply sloping sites on certain land.

(2) Despite clause 4.3 (2), the height of a building on a lot identified as "Special height provisions" on the Height of Buildings Map must not exceed the height of the highest point of the road adjoining the centre point of the lot boundary that adjoins the road that is the frontage to that lot.

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

1.0 Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

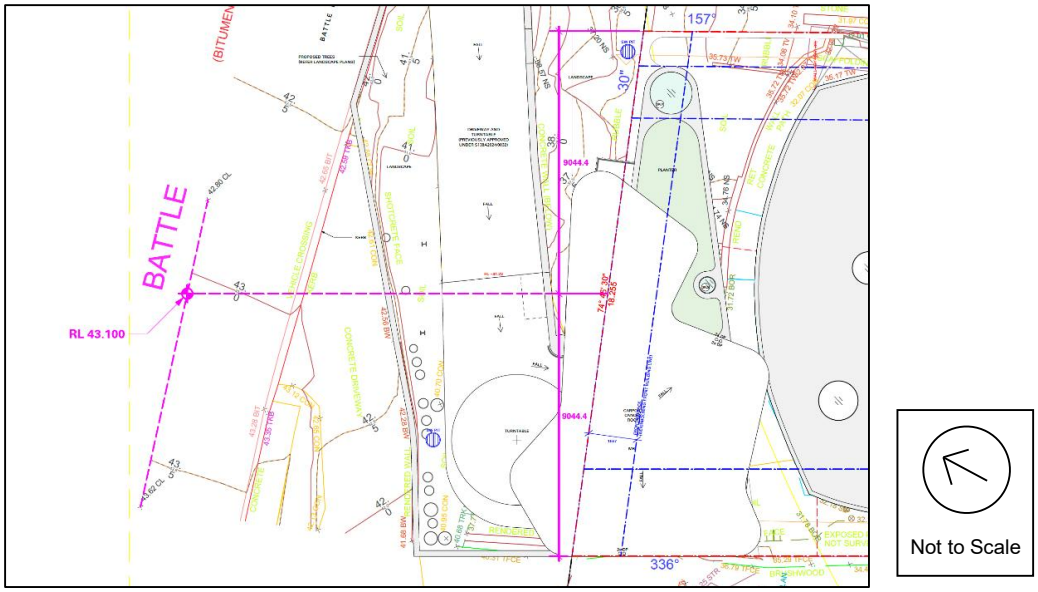
2.0 Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3A of the LEP – Special Height Provisions. This Clause operates in conjunction with the height map which indicates a maximum 8.5m applies to the subject site and is identified as a site to which additional height provisions apply. Clause 4.3A is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The proposal will have a maximum height of up to 11.54m, measured from the top of the carport roof at RL 43.45 AHD to the existing ground line immediately below. This is justified in a Clause 4.6 for Height of Buildings, submitted separately.

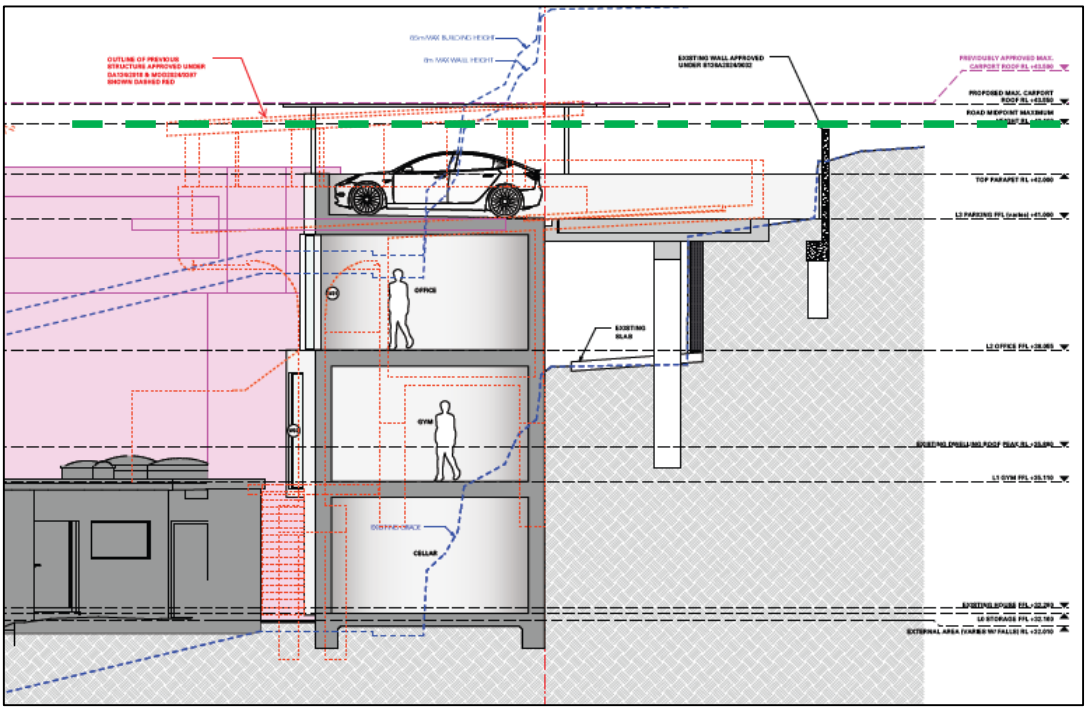
Under Clause 4.3A, the height of a building on the site must not exceed the highest point of the road adjoining the mid-point of the lot boundary that adjoins the road, that is the frontage to that lot.

Based on the survey information provided, the spot level for the road centreline is RL 43.10 AHD. The previously approved carport roof was at RL 43.59 AHD which exceeded the current standard. The proposed maximum carport roof level is at RL 43.55 AHD which exceeds the current standard by 1.04% (see **Figure 1** and **Figure 2** on the following page).



Source: CMS Surveyors

Figure 1: Extract of Survey Plan Identifying Highest Point of Road at the Mid-Point of the Lot Boundary



Source: CMS Surveyors

Figure 2: Sectional Diagram of Proposal, Relative to Highest Point of Road (dashed green) at the Mid-Point of the Lot Boundary

3.0 Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

> Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development…In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

Objective (a)	*to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
Objective (b)	*to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Flexibility is sought in the application of the special height provision development standard to the proposed development in the circumstance of this particular case. It is in our opinion that the proposed building height is appropriate. The proposed height of the carport is in response to the site constraints. The extent of variation is minor and results from the need to provide compliant headroom in the proposed carport, which is determined

by the levels of the previously approved and constructed portion of the driveway. Despite the height variation, it will be well integrated with the existing development and will not be readily visible from the street. As the northern portion of the carport and associated structure largely complies with the development standard for overall height generally, and the structure is situated partially below the street level, the variation will not be readily discernible from the street, ensuring contextual compatibility with neighbouring building heights.

The proposed building height remains consistent and in fact lower than the RL of the approved carport roof under the previous DA 134/2016 and the subsequent approved modifications.

Importantly, when compared to the approved DA, the proposal will be largely concealed behind or below the existing roadway, and there will unlikely be a perceptible change to the building's height, bulk, or visual presentation when viewed from Battle Boulevard or the harbour. The area of breach occurs only to the roof over the carport area on the western portion of the structure, with the eastern portion generally compliant with the height plane.

Strict compliance would unreasonably impact the design integrity and amenity of the carport for the future occupants of the site, without noticeably benefitting surrounding properties or the public domain. The proposal has been designed to ensure neighbours' and public amenity is maintained. The height variation will facilitate the construction of a carport over a home office, gym and store which avoids adverse impacts to the scenic qualities of the foreshore. This is achieved through the siting of the structure within the front setback and set lower than the roof pf the approved carport.

The proposal also complies with the FSR development standard. This ensures that the new building envelope is unlikely to cause significant overshadowing or loss of privacy to nearby properties.

As indicated, the height breach is in part a function of the need to provide compliant floor to ceiling heights (which will accommodate the lift opening at the same level) and will provide an architecturally consistent built form. Flexibility in this circumstance will provide a better outcome for and from development. To refuse this application would prevent orderly and economic use and development of the land. On this basis, the height variation is consistent with the objectives of Clause 4.6.

4.0 Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

> *(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
> *(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
> *(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

4.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

> These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Despite the proposed development's non-compliance with the applicable height development standard, the proposal achieves the desired low-density character of the area. The proposal provides a bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development achieves the objective of the height standard are explained below.

(1) to maintain public views to Sydney Harbour from street level on local roads above steeply sloping sites on certain land.

The proposal has been designed to maintain public views to Sydney Harbour from street level, and on local roads above steep sites. The entire structure sits largely below street level within an existing excavated area in the front setback, which is concealed from the streetscape and surroundings due to the steep topography.

The proposed carport roof is flat, has a lightweight design and has a maximum roof RL of 43.55 AHD that is 40mm below the approved carport roof RL at 43.59 AHD. This ensures the development remains consistent with the character of surrounding properties. The office, gym and storage levels below the carport are within an existing excavated area in the front setback which is concealed from the streetscape and surroundings due to the steep topography, which minimises the loss of views. The structure is also partially concealed by the existing dwelling when viewed from the harbour. Importantly, the area of height breach forms part of a flat roof that complies with the height at its northern (street) end. Accordingly, no adverse view impacts to and from residential development or public spaces are anticipated.

4.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The proposal is permissible within the C3 Environmental Management Zone and is consistent with the zone objective. The proposed height is compatible in the surrounding density and scale in the area. The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". Accordingly, we provide the following reasons for contravening the development standard:

Minor Extent of Breach

The proposal exceeds the development standard by 450mm (1.04%). In our opinion, the extent of variation is very minor and will not be readily perceptible when viewed from Sydney Harbour or Battle Boulevard. It will also continue to meet the objective of the standard by maintaining public views to Sydney Harbour, as previously discussed.

Relationship to Approved Non-Compliance and Technical Nature of the Variation (existing excavation)

As indicated, the roof RL of the approved carport is non-compliant and in fact some 40mm higher than the proposed carport RL. The proposed variation is in part a function of the existing excavation on-site to accommodate the existing development. Prior excavation was identified as an environmental planning ground in the recent judgement in *Merman Investments Pty Ltd v Woollahra Council* [2021] NSWLEC 1582 where Commissioner O'Neill stated at [83]:

The grounds relied on by the applicant in the written request under cl 4.6 must be environmental planning grounds by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). I am satisfied that the prior excavation of the site and the consequent distortion of the height of buildings plane over the site, when compared to the topography of the hill, is an environmental planning ground sufficient to justify contravening the development standard. I am satisfied that the focus is on the aspect of the development that contravenes the development standard, being the areas of the building envelope that are directly above the former excavation of the site, and not the development as a whole… (emphasis added)

This conclusion is also relevant here as the subject site has excavated areas which drop the height limit. When considering the judgement by Commissioner O'Neill in Merman, the area of exceedance is above areas of existing excavation. The topography results in varied existing ground lines through the site, which results in portions of the building exceeding the height standard. Notwithstanding, the extent of non-compliance is less than the approved carport roof. While it does not meet the special height provisions standard, the northern portion of the carport roof and associated structure and will present a predominantly compliant built form to Battle Boulevard in terms of overall building height.

Contextual Compatibility

Despite the minor variation, the proposal will maintain compatibility within the context of surrounding development. When viewed from the harbour, the proposal will be partially obscured by the existing dwelling, which remains the more dominant built form. The location of the proposal, including the carport at its northern end, is similar to the approval and in fact lower in terms of roof RL which represents an improvement and a reduction in the extent of the variation. The proposal and creates a stepped, recessive appearance relative to the house when viewed from the water. The majority of the proposal will not be visible from Battle Boulevard due to its location below street level, the provision of a lightweight flat roof, and its surrounding approved and proposed landscaping. It also creates a stepped built form along the street frontage, which limits the area of height breach within the visual catchment of the streetscape (see **Figure 3**).



Source: Billy Maynard Architects

Figure 3: Photomontage - as Viewed from the Driveway

Improved Design Outcomes

To achieve a fully compliant building height, the result would be the deletion of the carport roof. This would then limit internal amenity for future occupants and compromise the design integrity of the proposal, without noticeably benefitting surrounding properties or the public domain. Alternatively, compliance would require a lowering of floor to ceiling heights to less than the minimum 2.6m required to accommodate the nearby lift opening at the same level, or the lowering of floor levels, which would increase the extent of excavation required. Accordingly, the proposed variation is considered a well-designed outcome, consistent with Object (g) of the EPA Act 1979.

The proposed parking level RL also reflects the height previously approved and is required to comply with NCC and relevant Australian Standards relating to driveway gradients and parking geometry. Any reduction in the parking RL would result in non-compliance with these regulatory requirements, create accessibility constraints inconsistent with universal access principles, and increase pressure for on-street parking along Battle Boulevard.

Other Matters for Consideration:

It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development in terms of solar access privacy and views; achieves the objectives of the C3 Environmental Management Zone and the relevant DCP built form and amenity provisions; and results in an improved streetscape outcome for the site. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the departure of the special height provisions.

This report demonstrates the proposed dwelling will be compatible with nearby and future development. The proposed area of contravention is minor, will not be readily perceptible from the harbour, and is lower than the approved development. It will therefore not affect streetscape amenity or existing characteristics of the precinct/locality.

We consider grounds that relate to the subject matter, and the objects of the EPA Act (Section 1.3): in particular:

> *(g) to promote good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings,*
> *…*
> *(k) to promote the orderly and economic use and development of land*

The proposal will upgrade an approved carport above ancillary dwelling uses within a contemporary and articulated development that is appropriate for the streetscape. These works allow the site to achieve orderly and economic development of the site, through design excellence for improved amenity.

Accordingly, in our opinion, the non-compliance will be consistent with the existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

5.0 Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the C3 Environmental Management Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

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Table 1: Compliance Matrix

Para (*Initial Action*)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3A: Special Height Provisions	
12	What is the control	1 & 2	"the height of a building on a lot identified as "Special height provisions" on the Height of Buildings Map must not exceed the height of the highest point of the road adjoining the centre point of the lot boundary that adjoins the road that is the frontage to that lot." Based on survey information provided the height is not to exceed RL 43.10 AHD	
14	**First Precondition to Enlivening the Power** – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	**1st Positive Opinion** – 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 Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	**First Aspect is Clause 4.6(3)(a) -** That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in *Wehbe*.	5.1	The proposal satisfies Test 1 of *Wehbe*: • The objectives of the standard are achieved notwithstanding the non-compliance with the standard;	YES
23-24	**Second Aspect is Clause 4.6(3)(b)** – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: • The proposed height facilitates a low/medium density development achieves the planning objectives of the area; • The extent of breach is minor and less than the approved development • The variation is in part a function of the existing excavated areas within the site • The proposal is compatible within the context of the streetscape and surrounding development • non-compliance contributes to the improved design outcomes and amenity of the development, this is consistent with Object (g) of the EPA Act;	YES

			• The area of non-compliance maintains neighbours' privacy, solar access and views, and will not have an adverse impact on neighbouring windows or private open space.	

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MANLY LEP 2013 Clause 4.6 Exceptions to Development Standards – Height of Buildings

Proposed Alterations and Additions at

No. 29 Battle Boulevard, Seaforth

Prepared for:
Kathryn Margaret Wood
c/o Billy Maynard Architects
Level 2 / 397 Riley Street
Surry Hills NSW 2010

Prepared by:
GSA PLANNING
Urban Design, Environmental & Traffic Planners
(A.B.N 89 643 660 628)
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p: 02 9362 3364
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JOB NO. 25560
November 2025

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CPP CERTIFIED PRACTISING PLANNER

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MANLY LOCAL ENVIRONMENTAL PLAN (LEP) 2013
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

APPLICANT'S NAME: Kathryn Margaret Wood

SITE ADDRESS: No. 29 Battle Boulevard, Seaforth

PROPOSAL: Proposed Alterations and Additions

1. (i) Name of the applicable planning instrument which specifies the development standard:

Manly Local Environmental Plan (LEP) 2013

(ii) The land is zoned:

C3 Environmental Management. The objectives of the C3 Zone are as stated:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*
- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*
- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*
- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings which is stated as follows:

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

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

(b) to control the bulk and scale of buildings,

(c) to minimise disruption to the following—

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

(e) to ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

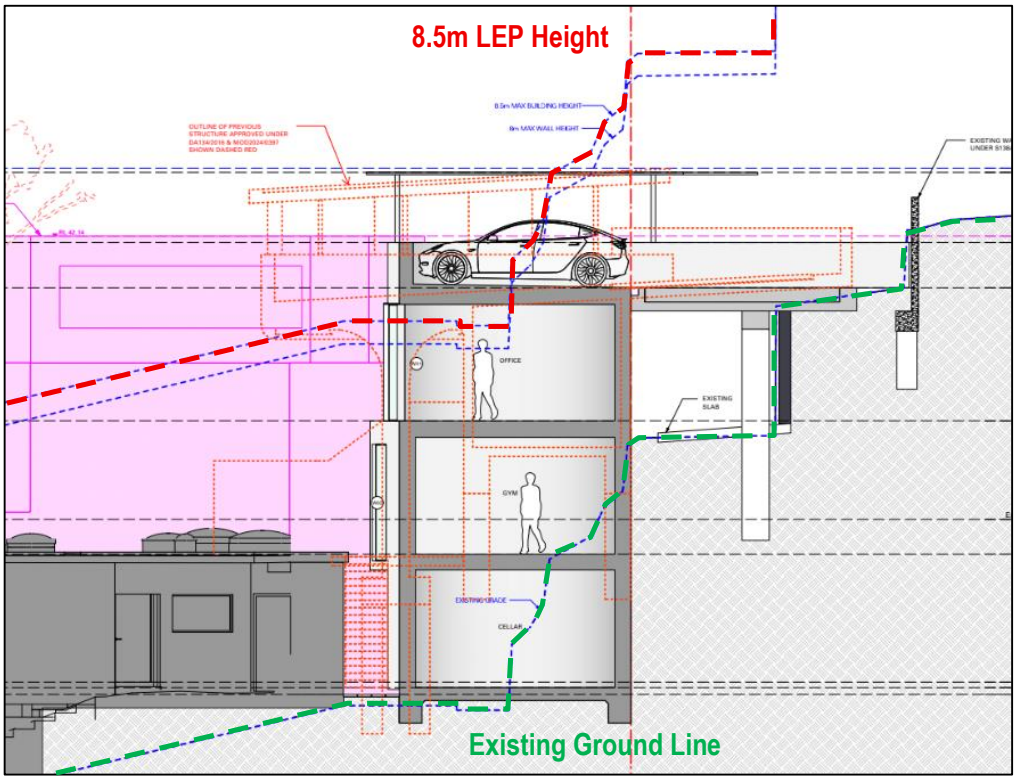
2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the height map which indicates a maximum 8.5m applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The proposal will have a maximum height of up to 11.54m, measured from the top of the carport roof at RL 43.45 to the existing ground line immediately below. The area of additional height represents up to 3.04m (35.76%) variation (see **Figure 1).**



Source: Billy Maynard Architects

Figure 1: Section Demonstrating Maximum Height

The proposed height variation relates in part to the topography of the land, with the drop in the existing ground level resulting from previous excavation to accommodate the existing development. As the northern portion of the carport and associated structure largely complies with the development standard, and the structure is situated partially below the street level, the variation will not be readily discernible from the street, ensuring contextual compatibility with neighbouring building heights.

The proposed building height remains consistent with the approved height under DA 134/2016 and the subsequent approved modifications. The only additional height arises due to the necessary lowering of the base of the building to align with the proposed entry level and provide accessible access. This adjustment results in a reduced RL at the lower ground level rather than an increase in the perceived building height.

Importantly, when compared to the approved DA, the additional bulk is entirely concealed behind or below the existing dwelling and the roadway. Consequently, there is no perceptible change to the building's height, bulk, or visual presentation when viewed from Battle Boulevard or the harbour. The non-compliance occurs only to the western portion of the structure, with the eastern portion generally compliant with the height plane.

The amenity of neighbouring properties in terms of streetscape, privacy, solar access and views will be maintained. Enforcing strict compliance would unreasonably impact the design integrity of the ancillary structure at the southern end and create an inconsistent built form.

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

> Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development…In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

Objective (a)	*to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
Objective (b)	*to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Flexibility is sought in the application of the height development standard to the proposed development in the circumstances of this particular case. It is in our opinion that the proposed building height is appropriate, irrespective of the extent of variation. The proposed built form has been designed to respond to the site constraints, and the additional height is due to the altered topography of the existing site. Despite the height variation, it will be well integrated with the existing development and not be readily visible from the street.

Strict compliance would unreasonably impact the design integrity of the building and internal amenity for the future occupants of the site, without noticeably benefitting surrounding properties or the public domain. The proposal has been designed to ensure neighbours' and public amenity is maintained. The height variation allows for a high-quality carport, home office, gym and store which avoids adverse impacts to the scenic qualities of the foreshore. This is achieved through the siting of the structure within the front setback and the provision of a green roof, which softens the built form from the public domain.

The proposal also complies with the FSR development standard. This ensures that the new building envelope is unlikely to cause significant overshadowing or loss of privacy to nearby properties.

As indicated, the height non-compliance is in part a function of existing excavation and will provide an architecturally consistent built form. Flexibility in this circumstance will provide a better outcome for and from development. To refuse this application would prevent orderly and economic use and development of the land. On this basis, the height variation is consistent with the objectives of Clause 4.6.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

> *(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
>
> *(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
>
> *(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

5.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

> These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Despite the proposed development's non-compliance with the applicable height development standard, the proposal achieves the desired low density character of the area. The proposal provides a bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development achieves the objectives of the height standard are explained below.

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

The proposal has been designed to respond sensitively to the topographic landscape. The entire structure sits largely below street level within an existing excavated area in the front setback, which is concealed from the streetscape and surroundings due to the steep topography. The structure is also partially concealed by the existing dwelling when viewed from the harbour. This ensures the built form remains visually recessive and maintains the natural scenic qualities of the foreshore environment. The proposed flat carport roof is below the approved carport roof RL, which ensures the development remains consistent with the character of surrounding properties. A green roof is also proposed, which will soften the built form from Battle Boulevard.

The proposed building height maintains consistency with the approved building height under DA 134/2016 and subsequent approved modifications. The only additional height results from a lowered ground RL to provide accessible entry levels, not from an increase in the structure's overall perceived height. As the additional bulk is wholly concealed below the street level and screened by the existing dwelling when viewed from the harbour, the variation does not alter the perceived height, scale or visual impact of the development.

'Desired future character' is not defined in the LEP. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 ('*SJD*'), Preston CJ states at [63], inter alia:

> …the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.

Accordingly, the desired future character is shaped by the text of the LEP and recent approvals in the vicinity. Each of these will now be discussed. The relevant clauses in the LEP which relate to urban character and built form are:

a. *The zoning of the land (Clause 2.2 and the Land Zoning Map);*
b. *The zone objectives (Clause 2.3);*
c. *The land use table (at the end of Part 2); and*
d. *The development standards in Part 4:*
    i. *Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 8.5m.*
    ii. *Clause 4.3A Special Height Provisions which requires the height of the building must not exceed the height of the highest point of the road adjoining the centre point of the lot boundary that adjoins the road that is the frontage to that lot.*

The proposal continues to contribute to the mix of permissible low-impact residential uses within this zone. As no changes are proposed to the existing dwelling, the established built form, scale and character of the site are retained. The area of the height breach presents as a lightweight structure, and remains compatible with the surrounding residential context. In other words, the height and envelope is compatible with the area's desired future character as per the Court judgement of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112. In this judgement, Clay AC notes at [69]:

> *The desired future character in my opinion must take into account the form of the buildings to the east which the Council approved under effectively the same controls as present. Those buildings exceed the height and floor space ratio controls. As the Applicant pointed out in submissions, this is not a case where there is an adjacent development approved and constructed many years ago which sits as an anomaly in the street. The developments under construction represent the recently expressed attitude of the Respondent to the controls and what is desired in this part of Cross Street.*

This approach was confirmed in the appeal of this case by Preston CJ that the desired future character should be informed by the nearby and future development and not limited by the development standards. The locality is characterised by large single-dwelling houses on steeply sloping topography. As the proposed height variation is towards the southern end of the structure and the height at the street frontage is compliant and consistent with adjoining properties, it will not significantly impact the streetscape.

Therefore, the proposal is compatible with the neighbourhood's desired future character and the heights of the surrounding development. We therefore consider contravening the development standard to provide an improved development on a site within the emerging context and topographical constraints as justified as sufficient environmental planning grounds.

(b) to control the bulk and scale of buildings,
The proposal achieves a compliant FSR, and the bulk of the structure is largely concealed from Battle Boulevard due to its location within an existing excavated area on the steeply sloping site. When viewed from the harbour, the structure is also partially obscured by the existing dwelling, which is the more dominant built form.

(c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),
The proposed carport roof is flat and below the approved carport roof RL. The office, gym and storage levels below are within an existing excavated area in the front setback which is concealed from the streetscape and surroundings due to the steep topography, which minimises the loss of views. The structure is also partially concealed by the existing dwelling when viewed from the harbour. Importantly, the area of height breach forms part of a flat roof that complies with the height at its northern (street) end.

Accordingly, no adverse view impacts to and from residential development or public spaces are anticipated.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
The proposal has been sympathetically designed retain over a third of existing sunlight to the private open space of adjacent properties between 9am-3pm.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.
The existing vegetation and topography of the site and its surrounds has been taken into consideration in the proposal, which retains trees where possible and provides generous soft landscaped areas whilst minimising cut and fill to preserve the prominent topography of the site.

In our opinion, the proposal meets the objectives of the LEP Clause 4.3 Height of Buildings by ensuring consistency with the landscape and streetscape; controlling the building's bulk and scale; maintaining

views and solar access; and ensuring appropriate vegetation is provided and the topography of the site is maintained.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. These include existing excavated areas, improved design outcomes and environmental amenity. These will now be discussed.

Existing Excavated Areas

The proposed non-compliance is in part a function of the existing excavation on-site to accommodate the existing development. Prior excavation was identified as an environmental planning ground in the recent judgement in *Merman Investments Pty Ltd v Woollahra Council* [2021] NSWLEC 1582 where Commissioner O'Neill stated at [83]:

> *The grounds relied on by the applicant in the written request under cl 4.6 must be environmental planning grounds by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). I am satisfied that the prior excavation of the site and the consequent distortion of the height of buildings plane over the site, when compared to the topography of the hill, is an environmental planning ground sufficient to justify contravening the development standard. I am satisfied that the focus is on the aspect of the development that contravenes the development standard, being the areas of the building envelope that are directly above the former excavation of the site, and not the development as a whole… (emphasis added)*

This conclusion is also relevant here as the subject site has excavated areas which drop the height limit. When considering the judgement by Commissioner O'Neill in *Merman*, the area of exceedance is above areas of existing excavation. The topography results in varied existing ground lines through the site, which results in portions of the building exceeding the height standard. Notwithstanding, the extent of non-compliance is limited the southern portion of the carport and associated structure and will present a predominantly compliant built form to Battle Boulevard.

Improved Design Outcomes

To achieve a fully compliant building height, the result would be the deletion of part of the top storey and the carport roof. This would then limit internal amenity for future occupants and compromise the design integrity of the proposal, without noticeably benefitting surrounding properties or the public domain. Compliance would require a substantial lowering of floor to ceiling heights to less than the minimum 2.7m and lowering of floor levels, which would increase the extent of excavation required. Accordingly, the proposed variation is considered a well-designed outcome, consistent with Object (g) of the EPA Act 1979.

The proposed parking level RL also reflects the height previously approved and is required to comply with NCC and relevant Australian Standards relating to driveway gradients and parking geometry. Any reduction in the parking RL would result in non-compliance with these regulatory requirements, create accessibility constraints inconsistent with universal access principles, and increase pressure for on-street parking along Battle Boulevard.

Environmental Amenity

Our assessment has demonstrated the proposal will maintain neighbours' privacy and views while providing adequate solar access, which would be similar to a compliant building height. The proposal also complies with the maximum FSR and does not represent an overdevelopment of the site.

The height variation is an integral part of the architecturally designed carport and associated structure which will provide a high level of amenity of the future occupants. As demonstrated, the building has been designed to maintain neighbour and local amenity and contribute positively to the streetscape and local character.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

6. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the C3 Environmental Management Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix

Para (*Initial Action*)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	8.5m	
14	**First Precondition to Enlivening the Power** – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	**1st Positive Opinion** – 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 Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	**First Aspect is Clause 4.6(3)(a)** - That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in *Wehbe*.	5.1	The proposal satisfies Test 1 of *Wehbe*: • The objectives of the standard are achieved notwithstanding the non-compliance with the standard;	YES
23-24	**Second Aspect is Clause 4.6(3)(b) –** The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: • The non-compliance is in part a function of the existing excavated area which drops the height line; • The non-compliance contributes to the good design and amenity of the development, this is consistent with Object (g) of the EPA Act; • The area of non-compliance maintains neighbours' privacy, solar access and views, and will not have an adverse impact on neighbouring windows or private open space.	YES

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ITEM 5.3 DA2026/0789 - 401C/23 ROGER STREET BROOKVALE - ALTERATIONS AND ADDITIONS TO A UNIT WITHIN AN EXISTING SHOP-TOP HOUSING DEVELOPMENT

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of WLEP 2011as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2026/0789 for Alterations and additions to a unit within an existing shop-top housing development at Lot 88 SP 97298, 401 / 23 Roger Street BROOKVALE NSW 2100 subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**5.3.1** - 24 pages] 2. Site Plans & Elevations [**5.3.2** - 3 pages] 3. Clause 4.6 [**5.3.3** - 17 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0789

Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 88 SP 97298, 401 / 23 Roger Street BROOKVALE NSW 2100
Proposed Development:	Alterations and additions to a residential unit within an existing shop-top housing development
Zoning:	Warringah LEP2011 - Land zoned E3 Productivity Support WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Perception Planning

Application Lodged:	17/06/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	02/07/2026 to 16/07/2026
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 80.1%
Recommendation:	Approval

Estimated Cost of Works:	$ 65,000.00

EXECUTIVE SUMMARY

The development application seeks consent for alterations and additions to an existing shop top housing development, consisting of a new awning structure over a balcony to a residential unit.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation to the height of buildings development standard of greater than 10%, with the proposed maximum height of the

awning being 19.8m which is a variation of 80.1% to the standard of 11m.

The variation to the height of buildings development standard has been supported by a written variation request pursuant to Clause 4.6 of Warringah Local Environmental Plan 2011. The variation to the development standard arises as a consequence of the existing building having an approved height of 20.66m. The new awning is proposed to be located below the existing maximum ridge level.

It is noted that amended information was submitted during the assessment period in response to a Request for Further Information (RFI). The amendments reduced the proposed works from a roofed and enclosed balcony to rather an open awning only. Additional information included an updated written Clause 4.6 variation request, survey plan and schedule of finishes.

The applicant's written Clause 4.6 variation request is discussed in detail within this report and contends that whole compliance with the standard is unnecessary or onerous in this instance given the location of the proposed works below the existing approved building height and within the existing building footprint, whilst also stating that the proposed awning shall be largely in keeping with the context of the overall built form of the existing building and surrounding character. This justification and reason within the variation request is accepted.

The application was notified in accordance with Council’s Community Participation Plan. One (1) submission was received during the notification period which raised concerns in relation to strata owner's consent, potential impacts to common property as well as visual impacts resulting from the proposed structure. As discussed within this report, it is considered suitable owner's consent from the strata committee has been submitted with the application whilst amended plans as outlined above have suitably reduced the proposal to an acceptable extent.

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

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to an existing shop top housing development, consisting of the following works:

- A new awning structure over a balcony to an upper floor residential unit (Unit C401/Lot 88 in SP 97298)

It is noted the application as originally lodged proposed a roof cover and enclosure of the balcony, however, following the issuance of a Request for Further Information (RFI) letter by Council to the applicant, the proposal was amended to delete the enclosed elements of the design to propose an open awning structure only.

The full schedule of amended information is provided within the site history section of this assessment report.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks

SITE DESCRIPTION

Property Description:	Lot 88 SP 97298 , 401 / 23 Roger Street BROOKVALE NSW 2100

Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of the intersection of Roger Street and Old Pittwater Road, Brookvale. The site is irregular in shape The site has an area of 3482.4m². The site is located within the E3 Productivity Support zone pursuant to Warringah Local Environmental Plan 2011 and accommodates an existing shop top housing development. The site falls moderately towards the east. The surrounding area is characterised by commercial buildings with shopfronts consisting of a mix of retail and office uses. Adjoining the site at No. 517 Pittwater Road, Brookvale is a 4 to 5 storey mixed residential and commercial building. To the south-west of the site along Roger Street, commercial, automotive and light industrial uses predominate, while the area to the north-west of the site is characterised by low to medium density residential development, Brookvale Oval and educational school uses.

Map:



SITE HISTORY

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

- Development Application **DA2014/1125** for Alterations and Additions to an existing hotel, construction of a mixed use retail/commercial and residential development with an associated Voluntary Panning Agreement and stratum subdivision (Approved by Sydney East Region Joint Planning Panel on 14/05/2015)

- Development Application **DA2015/0583** for the subdivision of Lot 11 DP 1000708, No. 511-513 Pittwater Road Brookvale into two new lots known as lots 111 and 112 (Approved by Council staff on 11/09/2015)

- Complying Development Certificate **CDC2018/0595** for a 90 Lot Strata Subdivision including 2 utility car space lots (Approved by private certifier on 17/05/2018)

Background to Assessment of Current Application

On 28/08/2026 the applicant submitted amended information in response to a Council Request for Further Information (RFI) letter, including the following:

- The deletion of the proposed balcony enclosure with only an open awning remaining.
- A written Clause 4.6 variation request in relation to the proposed non-compliance of the awning with Clause 4.3 Height of Buildings of WLEP 2011.
- A Survey Plan (prepared by Urban Surveying dated 14/08/2026).
- A schedule of materials and finishes for the proposed awning to be of a neutral finish that is sympathetic to the existing building.

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	See detailed assessment under “DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS” below.
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 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 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. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to a Council Request for Further Information and provided by the applicant on 28/08/2026. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. Clauses 62 and/or 64 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. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. Clause 69 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.
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Shop top housing

Land Use Zone: Land zoned E3 Productivity Support

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

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 application has been publicly exhibited from 02/07/2026 to 16/07/2026 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 1 submission/s from:

Name:	Address:
Withheld	BROOKVALE NSW 2100

One (1) submission was received during the community notification period and the following concerns were raised:

- **Owner's consent**

Concern was raised that inadequate owner's consent has been obtained from the strata committee of the building

Comment
The proposed plans indicate all works shall not be located on any common property and be wholly contained within the subject strata unit. Notwithstanding, owner's consent has been provided to Council from the strata committee complete with a common seal stamp.

- **Impacts to common property**

Concern was raised the proposed works will result in physical impacts to common property within the strata building and the structural integrity of adjoining units

Comment

As above, the proposed plans indicate all works shall not be located on any common property and be wholly contained within the subject strata unit. Notwithstanding, any physical impact to common property or other units on the strata title is considered to be a matter under the jurisdiction of the building strata.

- **Visual impact**

Concern was raised regarding the visual obtrusiveness of the proposed structure including incompatible colour and finish

Comment
As discussed elsewhere in this report, amended plans have been received during the assessment period which have reduced the proposed built form from a balcony enclosure into an open awning only. A Clause 4.6 variation request to the height of buildings development standard has also been submitted by the applicant and considered within this assessment report to be acceptable on merit. Furthermore, a schedule of finishes and materials has also been provided demonstrating the proposed awning shall be sympathetic to the finishes of the existing building. The proposed visual presentation of the structure is therefore considered acceptable.

REFERRALS

Internal Referral Body	Comments
Building Control - Fire and Disability upgrades	**REFERRAL COMPLETED, NO CONDITIONS** 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. *Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Modified Construction Certificate stage.*

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.A1840761 dated 07/04/2026).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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

SEPP (Housing) 2021

Chapter 4 Design of residential apartment development

Application of Chapter

Clause 144 of State Environmental Planning Policy Housing 2021 (SEPP Housing) stipulates that:

(1) This chapter applies to development only if:
- *(a) the development consists of:*
  - *(i) the erection of a new building, or*
  - *(ii) the substantial redevelopment or the substantial refurbishment of an existing building, or*
  - *(iii) the conversion of an existing building, and*
- *(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and*
- *(c) the building contains at least 4 dwellings.*

Comment
The proposed development is not considered result in the substantial redevelopment or the substantial refurbishment of the existing building and therefore Chapter 4 of SEPP (Housing) does not apply in this instance.

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	11.0m	19.8m	80.1%	**No**

Compliance Assessment

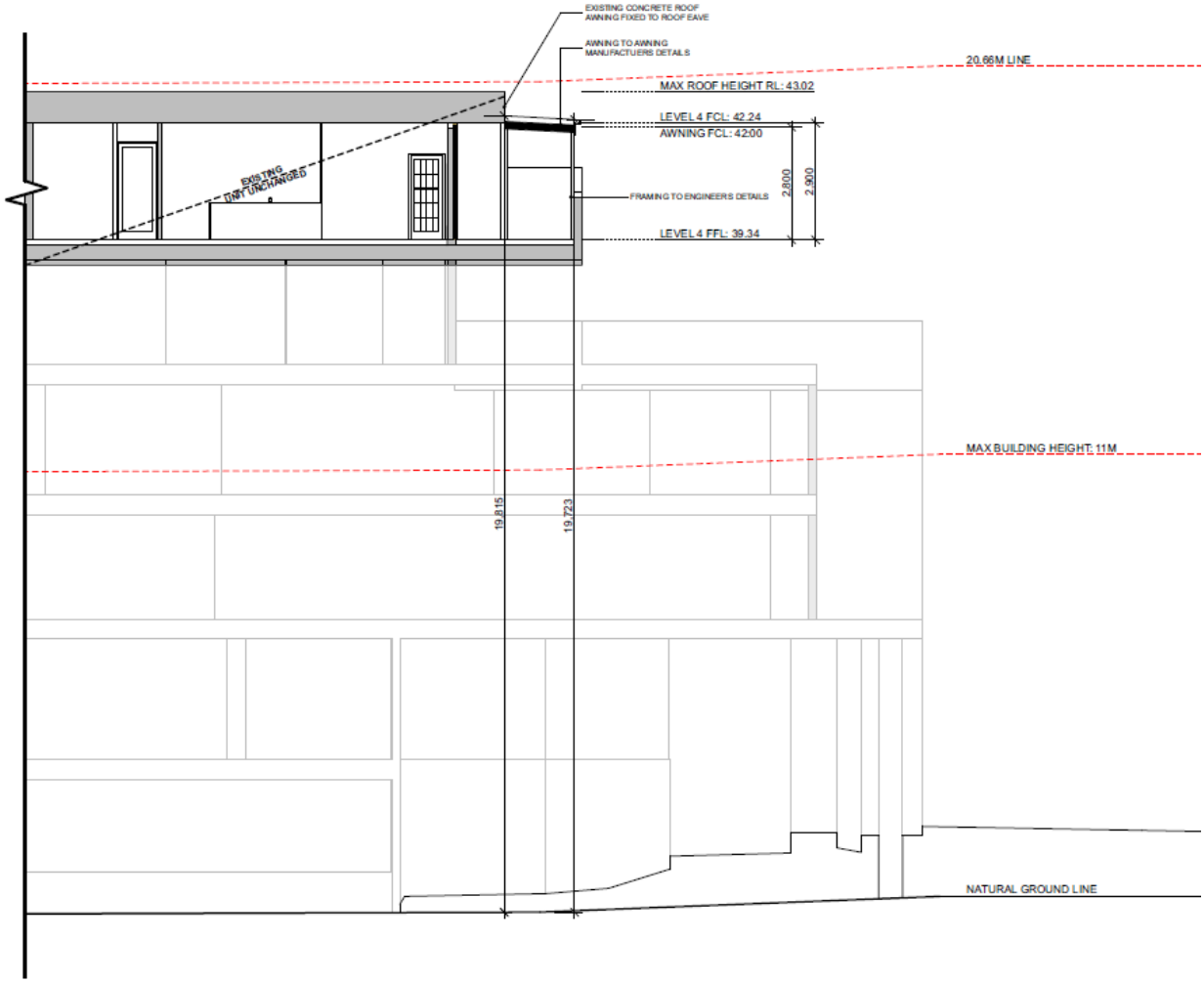
Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes

Detailed Assessment

4.6 Exceptions to development standards

Based on the proposed awning roof level in comparison to the surveyed existing ground level of the subject site, the application seeks consent to vary the height of buildings development standard as follows:

Development standard: Clause 4.3 Height of Buildings
Requirement: 11.0m
Proposed: 19.8m
Percentage of variation: 80.1%



With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(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.

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

As outlined within the matter of Wehbe v Pittwater Council [2007] NSWLEC 827, it was established that in order to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, an applicant must demonstrate either of the following:

- the objectives of the development standard are achieved notwithstanding non-compliance with the standard; or
- the underlying objective or purpose of the standard is not relevant to the development; or
- the underlying objective or purpose would be defeated or thwarted if compliance was required; or
- the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
- the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.

In the context of the above criteria, the applicant's justification can be summarised as follows:

- *The existing building exceeds the maximum prescribed building height of 11 metres and the proposed alterations will not exceed the maximum height of the existing building.*
- *The proposed development results in a minor addition to an existing medium density multi-unit building, and as such is broadly in keeping with the desired future character of the area.*
- *The proposed alteration is located amongst buildings of similar nature, scale, and design and therefore reflects the scale and hierarchy of the locality.*
- *Further development requiring development consent on the subject site would not be plausible if compliance with Clause 4.3 was required.*
- *Previous variations within the local context indicate Council has historically applied a suitable level of flexibility to the standards where appropriate.*

Comment
The justification provided by the applicant is generally concurred with, particularly given the proposed works are located below the ridge level of the existing building, within the existing building footprint and does not alter the existing maximum building height. The proposed addition does not readily alter the

overall built form presentation of the existing building when viewed from adjoining sites or the public domain and does not impact the existing compatibility of the on-site development with the surrounding character. It is therefore considered that whole compliance with the development standard would be unreasonably onerous in this particular instance.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, in part:

- *A compliant height is not possible for the proposed development, as the subject strata unit (unit 401C, SP 97298) is built above the maximum building height as prescribed within WLEP 2011.*
- *The proposed height variation is appropriate in the context of surrounding built form and neighbourhood character.*
- *Visual bulk or streetscape impacts are minor*
- *No impacts to views*
- *No unreasonable overshadowing impacts*
- *No privacy impacts*

Comment
The environmental planning grounds advanced by the applicant are considered to be well-founded and are generally concurred with.

The existing balcony of which the proposed awning relates to is located well above the prescribed height of buildings standard and therefore numerical compliance is not able to be achieved. Notwithstanding, the proposal remains below the existing ridge level of the building and does not alter the existing maximum building height. The proposed exceedance relates to a minor structure and does not give rise to any significant adverse impacts in terms of visual bulk, amenity, streetscape character or neighbouring properties.

As such, the non-compliance is considered acceptable in the circumstances of the case.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the WLEP 2011.

It is considered on balance, that having regard to the particular circumstances, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	Merit Assessment (East)	See discussion	-	Yes
B7 Front Boundary Setbacks	Consistent with adjacent buildings	See discussion	-	Yes
B9 Rear Boundary Setbacks	N/A (dual frontage)	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
C9 Waste Management	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes

Detailed Assessment

B6 Merit Assessment of Side Boundary Setbacks

The objectives of the control are as follows:
• *To provide ample opportunities for deep soil landscape areas.*
• *To ensure that development does not become visually dominant.*
• *To ensure that the scale and bulk of buildings is minimised.*
• *To provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained.*
• *To provide reasonable sharing of views to and from public and private properties.*

Comment
The control states that side boundary setbacks shall be determined on a merit basis. The existing building has varied eastern side setbacks due to the highly irregular configuration of the eastern side boundary. As a result, the proposed awning has a minimum setback of 1m to the boundary adjoining 511-513 Pittwater Road directly to the east, but however substantially larger setbacks up to 20m to the boundaries adjoining 515 and 517 Pittwater Road to the north-east. Notwithstanding, the proposed

awning is located within the existing building footprint and does not alter the existing setbacks of the development. The awning is an open, lightweight structure that shall not create unreasonable additional bulk in the context of the existing building and its presentation to the eastern side boundary. The site is also located within a commercial precinct where minimal and nil setbacks are not uncommon.

The proposal is therefore considered acceptable on merit.

B7 Front Boundary Setbacks

The objectives of the control are as follows:
• *To create a sense of openness.*
• *To maintain the visual continuity and pattern of buildings and landscape elements.*
• *To protect and enhance the visual quality of streetscapes and public spaces.*
• *To achieve reasonable view sharing.*

Comment
In accordance with the Front Boundary Setback Map under WDCP 2011, the front setback control for the subject site requires development to be 'consistent with adjacent buildings'. The proposed awning structure is well setback from the street frontage to Old Pittwater Road, as well as to the front building line of the existing building. As discussed elsewhere in this report, the proposed awning is an open and lightweight structure that shall not be readily discernible from the streetscape in the context of the overall existing building. The existing front setback arrangement is therefore considered to be generally unchanged and unimpacted.

The proposal is therefore acceptable in this context.

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 2024

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

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;

- Environmental Planning and Assessment Regulation 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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

PLANNING CONCLUSION

The development application involved alterations and additions to an existing shop top housing development, comprising of the construction of a new awning structure over an existing balcony serving a residential unit.

The application falls under the delegation of the Northern Beaches Local Planning Panel (NBLPP) due to a variation exceeding 10% to the Height of Buildings development standard. The proposed awning reaches a maximum height of 19.8m, representing a 80.1% variation to the 11m height limit prescribed under Warringah Local Environmental Plan 2011.

A Clause 4.6 variation request is submitted and which has been reviewed as part of the assessment. The request demonstrates that strict compliance with the development standard is unnecessary in the circumstances of the case, noting that the proposed awning is wholly contained below the approved maximum building height and remains within the existing building footprint. It is also considered that the proposal is generally consistent with the existing built form and character of the subject site and surrounding area. There are sufficient environmental planning grounds put forward by the applicant. Accordingly, the applicant's justification for the variation is concurred with.

During the assessment process, the applicant submitted amended plans and supporting documentation in response to a Council Request for Further Information. These amendments reduced the proposal from a roofed and enclosed balcony to an open awning structure as well as provided an updated schedule of finishes. The amended proposal has resulted in a reduced visual presence and is acceptable on merit.

One (1) submission was received during the public notification period raising concerns regarding strata owner's consent, common property and visual impacts. These matters have been considered in the assessment. It is concluded that appropriate owner's consent has been provided by the strata committee and that the amended design adequately suitably mitigates potential visual impacts.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended for approval.

REASON FOR DETERMINATION

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Warringah Local Environmental Plan 2011 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2026/0789 for Alterations and additions to a residential unit within an existing shop-top housing development on land at Lot 88 SP 97298, 401 / 23 Roger Street, BROOKVALE, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
   Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
1	A	Site Plan	Sorensen	28/08/2026
3	A	Level 4 - Proposed	Sorensen	28/08/2026
4	A	Elevations	Sorensen	28/08/2026
5	A	Section & Schedule of Materials	Sorensen	28/08/2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
Waste Management Plan	1	Perception Planning	16/02/2026
BASIX Certificate	A1840761	R8 Star	07/04/2026

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal 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.

3. **General Requirements**

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

Demolition and excavation works are restricted to:
- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.

(c) 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.

(d) At all times after the submission of 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.

(e) 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.

(f) 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.

(g) Prior to the release of the Construction Certificate, payment of the following is required:

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or directly to the Long Service 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.

ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.

(h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(i) 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.

(j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(k) 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.

(l) 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.

(m) If proposing to undertake works on Council property, a “Road Opening Permit” will need to be applied for from Council, and all applicable charges paid, prior to the commencement of any work. 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. Please contact Road Restorations Team at Council if unsure whether a Road Opening Permit is required.

(n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.

(p) 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

4. **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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

6. **External Finishes to Roof**
The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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.

DURING BUILDING WORK

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

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

9. **Waste Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

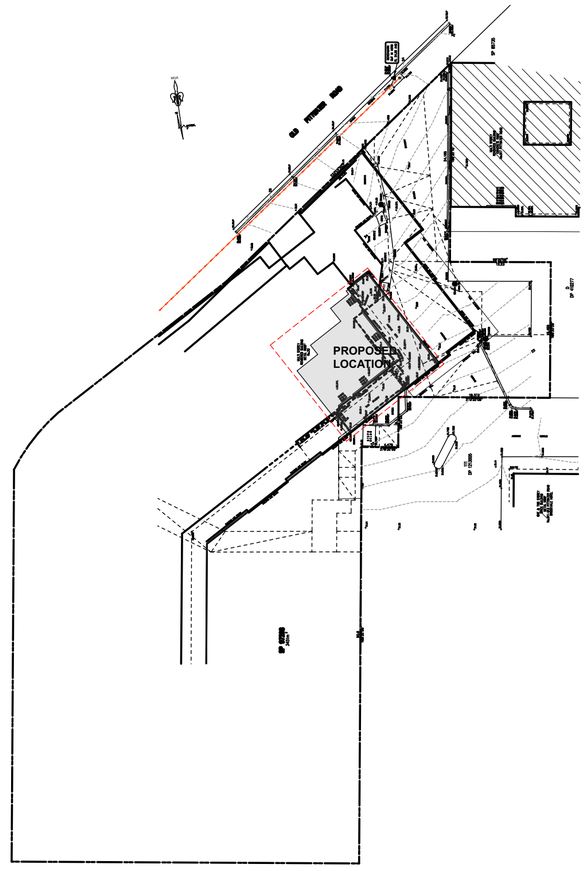
Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

LEGEND

AW	AWNING WINDOW
BFD	BI-FOLD DOOR
CONC	CONCRETE
C.O.S.	CHECK ON SITE
CPT	CARPET
CSD	CAVITY SLIDING DOOR
CB	CORNER BASIN
CT	COOKTOP
CW	CASEMENT WINDOW
DCSD	DOUBLE CAVITY SLIDING DOOR
DH	DOUBLE HUNG WINDOW
DP	DOWNPIPE
FG	FIXED GLASS
f.w.	FLOOR WASTE
GB	GLASS BLOCKS
gr.	EXHAUST GRILLE
HWS	HOT WATER SYSTEM
LW	LOUVRE WINDOW
M.H.	MANHOLE
PLD	PANEL-LIFT DOOR
RD	ROLLER DOOR
REF	REFRIGERATOR
SD	SLIDING DOOR
s.d.	SMOKE DETECTOR
SW	SLIDING WINDOW
SH	SHOWER
TOW	TOP OF WALL
VA	VANITY BASIN
WB	WALL BASIN
WM	WASHING MACHINE
WC	WATER CLOSET

GENERAL NOTES

1. ALL WORK IS TO BE CARRIED OUT IN ACCORDANCE WITH THE REQUIREMENTS COUNCIL, THE BUILDING CODE OF AUSTRALIA AND CURRENT AUSTRALIAN STANDARDS.
2. ALL DIMENSIONS AND LEVELS TO BE CONFIRMED PRIOR TO CONSTRUCTION.
3. REPORT ANY DISCREPANCIES TO THE DESIGNER.
4. DO NOT SCALE OFF THESE DRAWINGS.
5. THESE PLANS ARE TO BE READ TOGETHER WITH THE ENGINEERS DRAWINGS AND SPECIFICATION.
6. SCALES APPLY TO A3 SHEET.
7. THE BUILDER IS TO CHECK ALL FLOOR, CEILING AND ROOF LEVELS TO ENSURE THAT THE FINISHED ROOF HEIGHT DOES NOT EXCEED THE DA APPROVED RL & HEIGHT LIMIT.
8. A REGISTERED SURVEYOR IS TO SET OUT THE BUILDING & CONFIRM ALL LEVELS.
9. ALL STORMWATER TO BE CONFIRMED BY STORMWATER ENGINEERING.



SITE PLAN

1:500

BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA
NATIONAL DESIGN AWARDS 2019 WINNER

ISSUE	DETAILS
REV A	04/08/2026 - REMOVED WINDOWS & ENCLOSURE WALL

SORENSEN DESIGN & PLANNING

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reception@sorensendesign.com.au
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PROJECT: **PROPOSED AWNING AT 23 ROGER STREET, BROOKVALE**

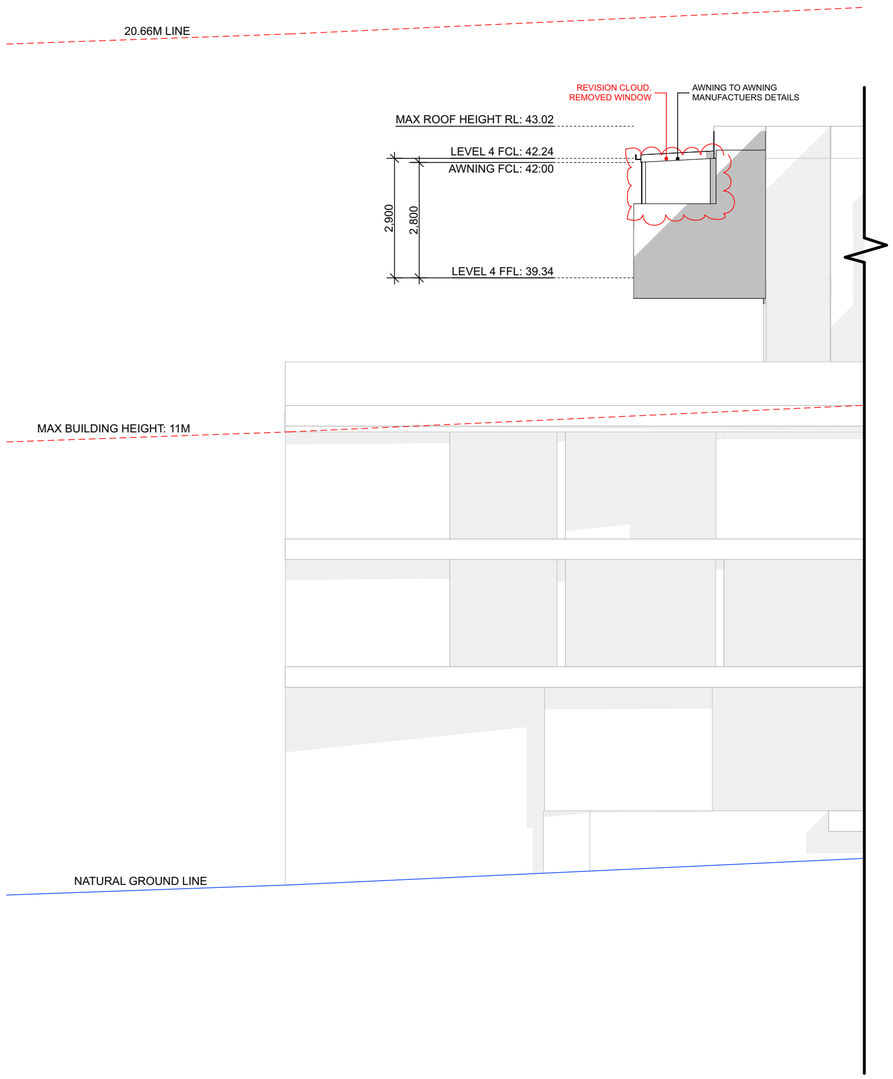
CLIENT: **FOURIE**

TITLE: **SITE PLAN**

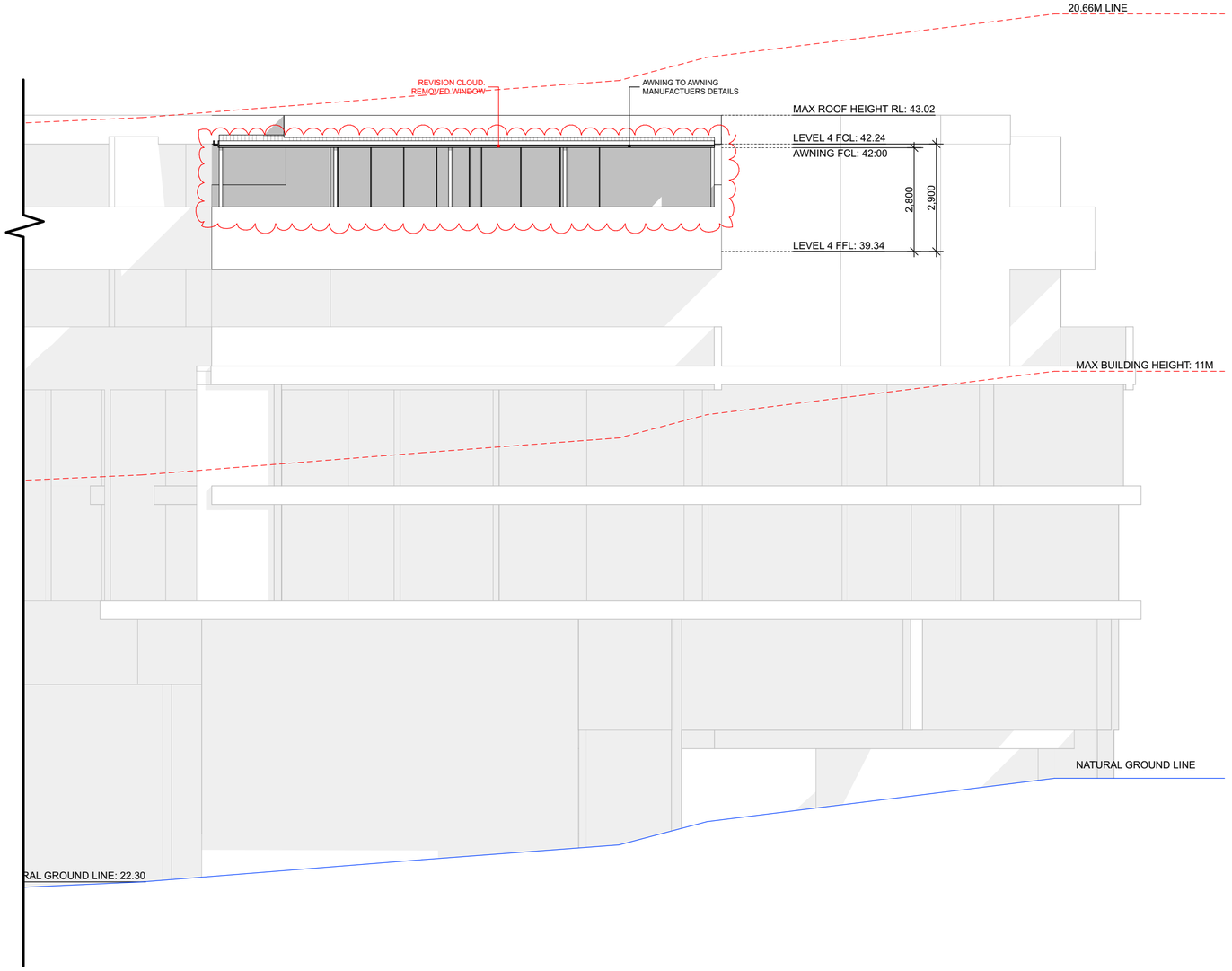
FILE: **2503779** DATE: **03/09/2026** SHEET: **1** OF **7**

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A2



NORTH WEST
1:100



NORTH EAST
1:100

ISSUE	DETAILS
REV A	04/08/2026 - REMOVED WINDOWS & ENCLOSURE WALL

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PROJECT: **PROPOSED AWNING AT 23 ROGER STREET, BROOKVALE**

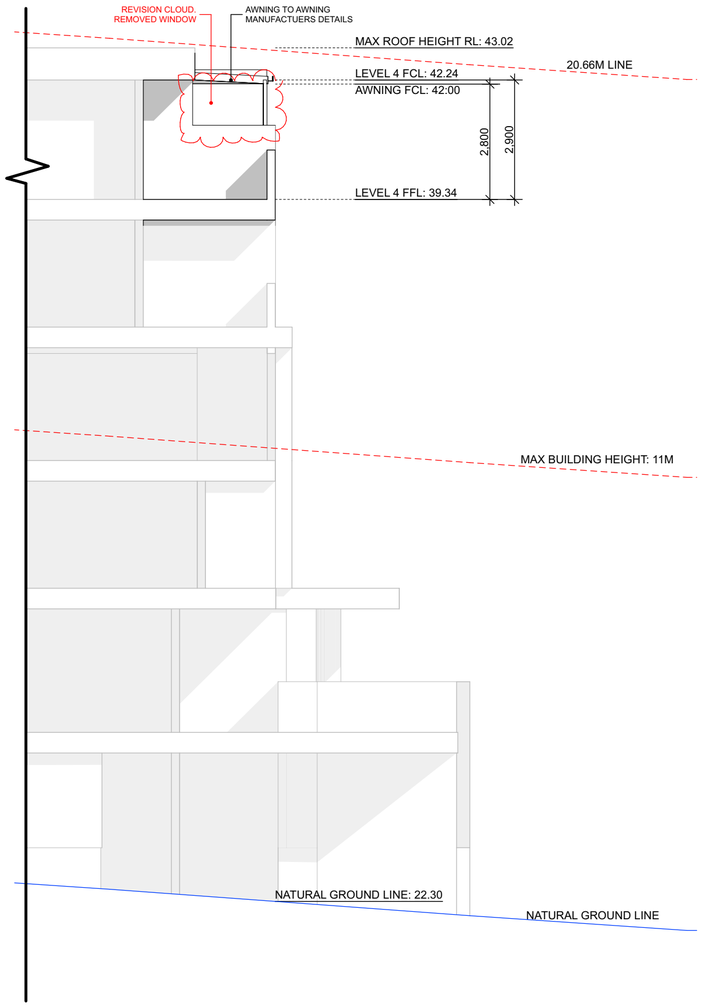
CLIENT: **FOURIE**

TITLE: **ELEVATIONS**

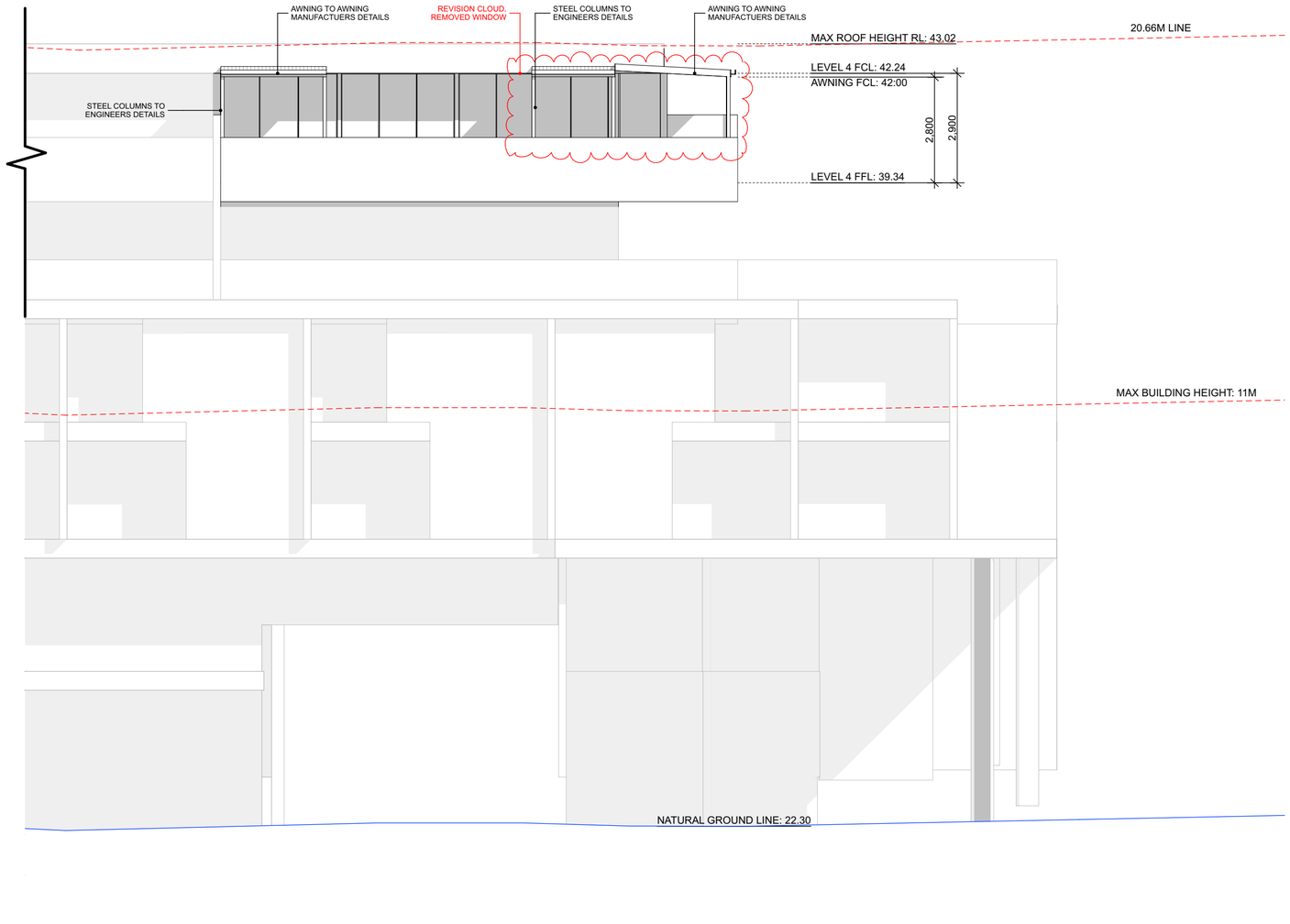
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A2



SOUTH WEST
1:100



SOUTH EAST
1:100

REV	ISSUE	DETAILS
A		04/08/2026 - REMOVED WINDOWS & ENCLOSURE WALL

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PROJECT: **PROPOSED AWNING AT 23 ROGER STREET, BROOKVALE**

CLIENT: **FOURIE**

TITLE: **ELEVATIONS**

FILE: **2503779** DATE: **03/09/2026** SHEET: **5** OF **7**

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A2

PERCEPTION PLANNING

REQUEST TO VARY DEVELOPMENT STANDARD

WARRINGAH LEP 2011

CLAUSE 4.3 – BUILDING HEIGHT

23 ROGER STREET, BROOKVALE NSW 2100

(LOT 88 SP97298)

Prepared for: Phillip & Sharonne Fourie

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PP Reference	J005258
Prepared for (client)	Philip & Sharonne Fourie

Document Versions and Control

Variation to development standard, Lot 88 Unit 401c 23 Roger St Brookvale

Version	Date	PP ref	Author	Reviewed by
1	17/08/2026	Clause 4.6 – Lot 88 Unit 401c 23 Roger St Brookvale	TS	

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EXECUTIVE SUMMARY

Perception Planning Pty Ltd have prepared this submission because of a variation to a development standard at Lot 88 Unit 401c 23 Roger St Brookvale ('the site'). This report has been prepared to support the Development Application for an Awning structure to the balcony of Lot 88 Unit 401c 23 Roger St Brookvale Roger St Brookvale.

The proposed development results in a 'building' measuring greater than the maximum building height (HoB) applicable to the land specified under Clause 4.3 of the Warringah Local Environmental Plan 2011 ('**WLEP**'). The site contains a prescribed maximum height of building of 11m. The highest point of the proposed alteration measures 19.815m above the natural ground level, to the roof of the proposed awning, representing a 8.815m or 80.136% variation. It is noted the awning structure has a maximum height of 2.9m however due to the location within the existing residential strata building, the overall building height is 20.66m.

Clause 4.6 of the WLEP provides for an appropriate degree of flexibility in applying certain development standards such as building height to achieve better planning outcomes.

- The proposed height of building is appropriate when considering it in relation to the existing built form of the residential flat building, form of surrounding buildings, and location of the site.

- The proposed development (including additional height) integrates in with the desired contemporary built form of the area and will have no significant impact on the 'views' held by existing properties or recreational areas.

- Despite the variation, the proposed development will achieve the objectives of the development standard and the objectives of the relevant land use zone being E3 Productivity Support, through presenting a functional design that improves the outdoor living space for the site.

This report demonstrates that the proposed development should not be refused on the basis of a variation to the maximum height of buildings development standard resulting from the development.

TERMS AND ABBREVIATIONS

EP&A Act	Environmental Planning & Assessment Act 1979
EPI	Environmental Planning Instrument
FSR	Floor Space Ratio
DA	Development Application
LGA	Local Government Area
CCLEP	Central Coast Local Environmental Plan
SEPP	State Environmental Planning Policy
SEE	Statement of Environmental Effects
VIA	Visual Impact Assessment

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Appendix	Document	Prepared by	Reference
1	Architectural Plans	Sorensen	2503779
2	Survey	Urban Surveying	26082

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SITE AND PROPOSED DEVELOPMENT

1. Describe the site.

The site is located at Lot 88 Unit 401c 23 Roger St Brookvale and is legally identified as Lot 88 in Strata Plan 97298. The location of the site within the surrounding locality is shown in **Figures 1 and 2**. The site is located within the Warringah Local Government Area (LGA).

The site is irregular in shape and has an area of 3,482m^2 and is currently zoned E3 Productivity Support under the Warringah Local Environmental Plan 2011 ('the LEP') and is located within an existing residential flat building. The site adjoins residential units, commercial businesses, and a school.

The site is an existing residential strata building with a variety of businesses to the lower level and residences above. Access to the site is via Roger St. There is a significant diversity in size and style, with a considerable number of existing similar developments with height variations located E3 Zone.



Figure 1 - Aerial View of Site (Nearmap, 2026)



Figure 2 - Street View of Site (Google Maps 2026)

2. Describe the proposed development.

The objective of the proposed development is to obtain development consent for an awning structure (the proposal) at Lot 88 Unit 401c 23 Roger St Brookvale. The characteristics of the proposed development are as follows:

- Installation of awning structure over an existing unit balcony,
- The awning shall be located on the north eastern side of the development.
- The awning has an area of 74m² and a maximum height of 2.9m from the balcony floor
- The proposal does not alter the overall height of the existing unit dwelling.
- The awning is required to cover an area used frequently by the resident and will provide protection from the sun and weather.
- The awning will be either grey or the same colour as the existing balcony windows

The proposed development will provide a well-coordinated and sustainable development with no foreseeable impact on the character of the surrounding area. This DA is consistent with the relevant planning framework.

An assessment of the proposed development has not identified any unreasonable adverse environmental impacts likely to arise as a result of the proposal.

PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

3. What is the environmental planning instrument/s you are seeking to vary?

Warringah Local Environmental Plan 2011

4. What is the site's zoning?

E3 Productivity Support

5. Identify the development standard to be varied.

What is the development standard being varied?

Height of Buildings – 11m

What clause is the development standard listed in the EPI?

Clause 4.3 – Height of buildings

"building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like".

What are the objectives of the development standard?

The objectives of Clause 4.3 are as follows:

(a) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively contribute to the streetscape and public spaces,

(b) to protect the amenity of residential accommodation, neighbouring properties and public spaces in terms of—

(i) visual and acoustic privacy, and

(ii) solar access and view sharing,

(c) to establish a transition in scale between medium and high density centres and adjoining lower density and open space zones to protect local amenity,

(d) to ensure that buildings respond to the natural topography of the area.,

6. Identify the type of development standard.

The development standard is numerical.

7. What is the numeric value of the development standard in the environmental planning instrument?

11m above ground level. As per the Standard Instrument “ground level (existing)” is defined as:

> *‘**ground level (existing)** means the existing level of a site at any point.’*

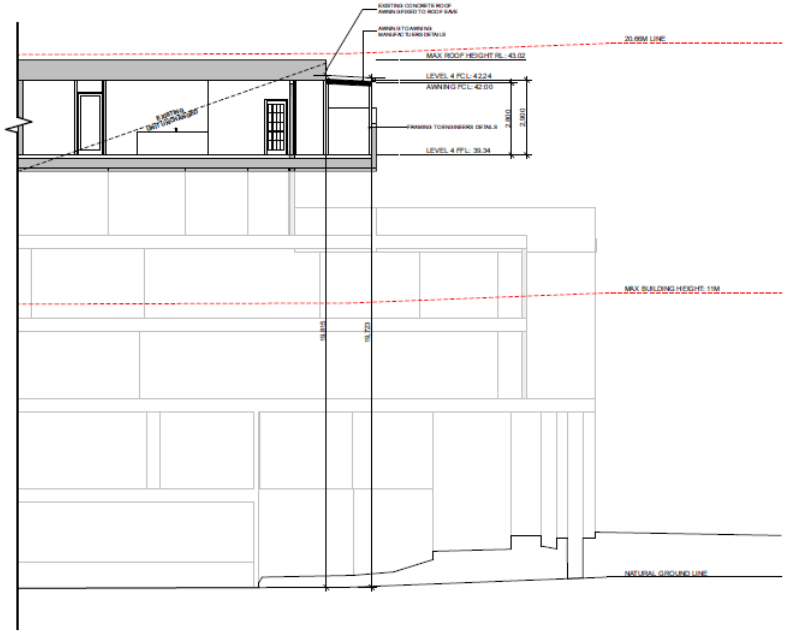
8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

The proposed alteration exceeds the maximum 11m development standard (height of buildings) by 8.815m, which expressed as a percentage is a 80.136% breach. The proposed variation is represented in the Architectural Plans at **ATTACHMENT 1** and the RL Confirmation at **ATTACHMENT 2**.

The highest point of the proposed alteration measures 19.815m above the lowest ground level directly below the subject balcony. The exceedance is demonstrated in **FIGURE 3**.

MATERIALS SCHEDULE

MATERIALS	STEEL FRAMED DESIGN, C/ OLD RIGID RO OFING	
FRAME COLOUR	SOUTHERLY COLORBOND	
ROOF COLOUR	GUN METAL GREY	
GUTTER COLOUR	SOUTHERLY COLORBOND	



SECTION A-A
1:100

BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA
NATIONAL DESIGN AWARDS 2019 WINNER
Design Matters National

REV	DETAILS
A	04/08.2026 - REMOVED WINDOWS & ENCLOSURE WALL

SORENSEN DESIGN & PLANNING

PROJECT: PROPOSED AWNING AT 23 ROGER STREET, BROOKVALE
DRAWN: TOURE
TITLE: SECTION A-A & MATERIALS SCHEDULE
JOB NO: 503.779
DATE: 03.09.2025
SHEET: 6 OF 7
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9. Visual representation of the proposed variation

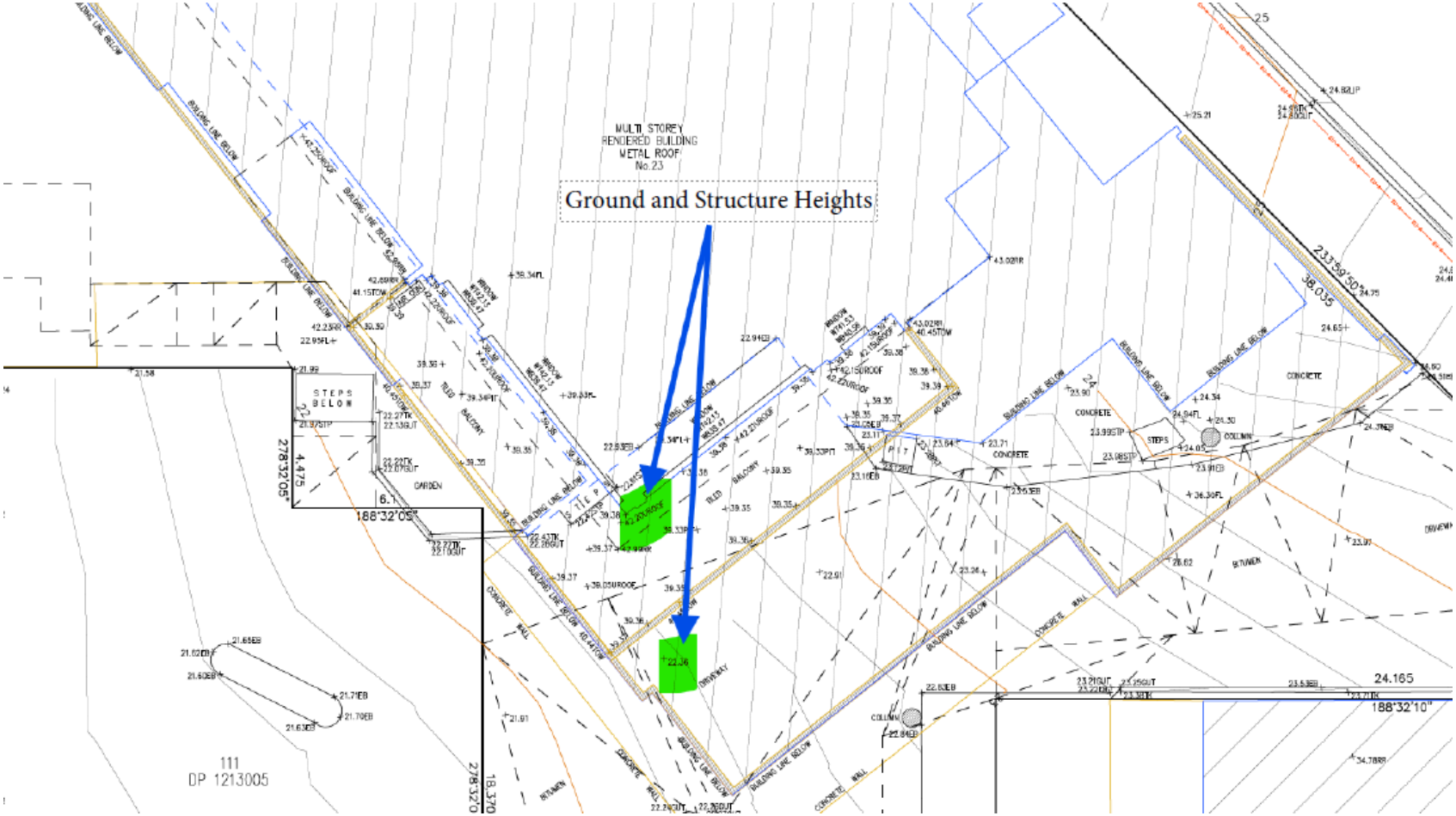


Figure 3 – Demonstration of Area of Variation (Sorensen, 2026)

JUSTIFICATION FOR THE PROPOSED VARIATION

10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

There are five common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary (items a to e), in accordance with the Five Part Test (*Wehbe vs Pittwater Council*). The five possible ways and associated assessment are set out in **TABLE 1** below. Three of them are relevant in this case.

Table 1: Development standard compliance assessment

a) Are the objectives of the development standard achieved notwithstanding the non-compliance?
The first way is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The objectives of Clause 4.3 are: *(a) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively contribute to the streetscape and public spaces,* *(b) to protect the amenity of residential accommodation, neighbouring properties and public spaces in terms of—* *(i) visual and acoustic privacy, and* *(ii) solar access and view sharing,* *(c) to establish a transition in scale between medium and high density centres and adjoining lower density and open space zones to protect local amenity* *(d) to ensure that buildings respond to the natural topography of the area* a) The proposed development presents a awning structure to a unit contained as part of an existing residential strata building. It is noted that the existing residential building exceeds the maximum building height of 11 metres. The proposed alteration is to be located on the existing balcony of unit 401c. The proposed exceeding element will not exceed the maximum height of the existing building. The exceeding element is for a awning structure to the existing balcony and will not significantly increase bulk. The scale of the proposed development is appropriate for the context and character of Roger st and surrounding development within the locale. The proposed development results in a minor addition to an existing medium density strata building, and as such is broadly in keeping with the desired future character of the area. As such, the proposed alteration is consistent with Objective A. b) The proposed alteration is located amongst buildings of similar nature, scale, and design and therefore reflects the scale and hierarchy of the locality. It is noted the site is located adjacent Roger St to the north west to the Northeast, and Pittwater road to the northeast. The proposed development proposes to exceed the height limit of 11m for a awning ancillary to an existing building. It is noted that the subject residential strata building, and many other buildings exceed the height limit. The proposed addition is located to the north east of the building. Based on the orientation of the existing residential

flat building, the proposed addition is not likely to significantly impact view for surrounding properties. Additionally, due to the minor nature of the proposal, solar access is unlikely to be significantly impacted for surrounding properties. The proposed alteration provides a roof cover over an existing balcony. As such, the proposed alteration is consistent with Objective B.

c) the proposed development is for additions to an existing residential strata building. The proposed development will not negatively impact the amenity for the occupants of the residential strata building. As a covering over the existing balcony is proposed, it can be concluded that the amenity of surrounding residents will be improved through an improved privacy measure being undertaken.

d) The proposed awning is to be located on the balcony of the existing residential strata building, responding to the pre-existing site. As the proposal relates to a balcony above ground, this objective is of limited relevance.

The proposed development will serve to improve the amenity of the residential flat building. The proposed development is minor in nature and is not of excessive bulk. Refer to architectural plans attached as **Figure 3** and **Attachment 1**. The proposal is consistent with neighbouring developments.

It can be concluded that the proposed alterations and additions, inclusive of the height exceedance, is consistent with the objectives of Clause 4.3 Height of Buildings. The proposed development is consistent with the height, bulk, and scale of the locale and will not result in any negative impacts on visual privacy, solar access, or view sharing.

b) Are the underlying objectives or purpose of the development standard not relevant to the development?

A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.

It has been determined the non-compliance will still allow for the objectives of the development standard to be broadly achieved. However, due to the location of the subject unit, the exceedance is required to achieve approval on site.

It is noted that the existing subject unit exceeds the maximum building height. This request to vary development standard is resultant of additions to the balcony of the unit. The unit is pre-existing, and the proposed development will not exceed the maximum height of the residential flat building. The proposed development is not likely to create excessive bulk or result in any undue environmental impacts, therefore the exceedance to HOB is not anticipated to adversely impact the existing character of the locality.

c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)

A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

Further development requiring development consent on the subject site would not be permissible if compliance with Clause 4.3 was required. The subject unit (and strata apartment block) exceed the maximum building height. Any alterations and additions to improve the amenity of the subject site will generally require a variation to Clause 4.3 due to the above.

d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?

A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

Council has approved dozens of applications in the suburb of Brookvale and throughout the Northern Beaches local government area (LGA) with height variations. Whilst Council encourages compliance with developments standards, the previous variations indicate Council has historically applied a suitable level of flexibility to the standards where appropriate. It is considered the same level of flexibility is being sought here.

The strength of the proposed development's ability to meet the objectives of the standard notwithstanding the variation, the site's characteristics, nature of the development already exceeding the development standard, and other sites along Roger and Pittwater Road, warrant a level of flexibility suited to this particular development. Therefore, the development can be supported without abandoning the standard. In this instance, compliance with the standard is unreasonable and unnecessary in light of the local context.

e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?

A fifth way is to establish that the 'zoning of particular land' was 'unreasonable or inappropriate' so that 'a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land' and that 'compliance with the standard in that case would also be unreasonable or unnecessary.

This is not applicable as the zoning of the site is appropriate. It is contended that the underlying issue for this particular case is the prescribed height of building development standard is not commensurate with the zone and objectives. As stated, the site is zoned E3 Productivity Support. Under the current LEP 2011, these residential strata buildings would not be permitted. The development typology of the surrounding area is consistently medium density residential in nature. As such, the limit of 11m is inappropriate for the site and surrounding area, and thus flexibility in the application of this development standard is justified.

11. Are there sufficient environmental planning grounds to justify contravening the development standard?

Environmental planning grounds that justify contravening the development standard are detailed below:

Architectural Design, Amenity and Visual Impact

- A compliant height is not possible for the proposed development, as the subject site (unit 401c, SP 97298) is built above the maximum building height as prescribed within the WLEP 2011.
- The proposal is for an awning structure on a pre-existing balcony, which will improve solar access and airflow. The proposed development will not impact on the privacy of adjoining residents. Further, the proposed alterations will not present adverse shadow or solar access outcomes for adjoining properties.
- The additional height will not materially impact on view sharing due to the topography of the site and locations of existing development. The proposed development will match the existing building, is architecturally designed and appropriately articulated to provide visual interest and prominence when viewed from the public domain.

Zone Objective and Public Interest

- The land use zone is E3 Productivity Support. The objective of the zone included:
- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.
- To create a pedestrian environment that is safe, active and interesting.
- To create employment environments of high visual quality that relate favourably in architectural and landscape treatment to neighbouring land uses and to the natural environment.

- To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining or nearby residential land uses.

- Despite the variation, the development is in the public interest due to consistency with the above-mentioned objectives, through:

    - Providing a development which will improve the amenity of an existing dwelling within the productivity support zone that aligns with surrounding built forms on Roger Street. The proposed awning structure will result in the ongoing residential use of the site and will not compromise the residential amenity of the site.

    - The proposed development (including the height variation) provides economic and social benefits for the community resulting from the construction and improvement of amenity of housing. The proposed development results in a high-quality architectural design that will positively contribute to the locality.

Natural Environment

- The height variation proposed does not compromise the natural environment in which the site is located and is appropriate in the context of surrounding built form and neighbourhood character. It is crucial to note that despite the proposed height variation, the development adheres to the broader principles of ecologically sustainable development by integrating economic, environmental, and social considerations into the planning process.

The development has been identified to be consistent with the relevant objectives, which provides sufficient environmental planning grounds under the LEP (Clause 4.6) for a variation to the numerical development standard.

12. Is there any other relevant information relating to justifying a variation of the development standard? *(If required)*

It is noted that the existing residential strata building and subject site (unit 401c SP97298) exceeds the maximum building height. As a result, any alterations and additions above 11m on the site which requires development consent must vary Clause 4.3 of the Warringah LEP. This presents undue limitations on the improvement of the existing residential strata building.

CONCLUSION

In summary, through this Clause 4.6 analysis it has been found that;

- Strict adherence to the numerical height of buildings development standard would be unreasonable and unnecessary in the circumstances of the case.
- The proposed height of building is appropriate when considering it in relation to the existing natural features of the site such as topography, the location of the site and existing built form established in close proximity.
- The proposed development (including additional height) integrates in with the desired contemporary built form of the area and will have no significant impact on the 'views' held by existing properties or recreational areas.
- Despite the variation, the proposed development will achieve the objectives of the development standard and the objectives of the relevant land use zone being E3 – Productivity Support.
- The proposed development provides an appropriate response to the context of the site and its location within Roger St and along Pittwater Road.
- There are negligible environmental or social impacts as a result of the proposed variation.

6 MEETING CLOSURE