



northern
beaches
council

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

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

WEDNESDAY 19 JUNE 2024

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

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

Peter Robinson
Executive Manager Development Assessment

Quorum

A quorum is three Panel members

Conflict of Interest

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

Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 19 June 2024

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ACKNOWLEDGEMENT OF COUNTRY

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

1.0 APOLOGIES & DECLARATIONS OF INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD ON 5 JUNE 2024

RECOMMENDATION

That the Panel note that the minutes of the Northern Beaches Local Planning Panel held on 5 June 2024 were adopted by the Chairperson and have been posted on Council's website.

3.0 CATEGORY 3 APPLICATIONS

ITEM 3.1	DA2023/0714 - 212 FOREST WAY, BELROSE - ALTERATIONS AND ADDITIONS TO AN EDUCATIONAL ESTABLISHMENT
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PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel to undertake an Independent Public Hearing to make recommendations and findings, to then be referred to the Sydney North Planning Panel for determination.

RECOMMENDATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the Independent Public Hearing, make their findings and recommendations for Application No. DA2023/0714 for alterations and additions to an educational establishment at Lot 101 DP1159742, Lot 1 & 2 DP725754 No.212 Forest Way, Belrose having regard to the Assessment Report and conditions.

Reporting manager	Steve Findlay
TRIM file ref	2024/416220
Attachments	↓1 Assessment Report ↓2 Site Plans & Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0714
Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 101 DP1159742, Lot 1 & 2 DP725754 No.212 Forest Way, Belrose
Proposed Development	Alterations and additions to an educational establishment
Locality:	C8 Belrose North – Warringah LEP 2000
Category of Development:	Category 3
Consent Authority:	Sydney North Planning Panel
Delegation Level:	N/A
Land and Environment Court:	No
Owner:	Trustee Covenant Christian School
Applicant:	EPM Projects
Application Lodged:	9/6/2023
Integrated Development	Yes – 100B Rural Fires Act 1997
Designated Development:	No
State Reporting Category:	Infrastructure
Notified:	23/6/2023 to 21/7/2023
Advertised:	Advertised
Submission Received:	Nil
Clause 20 Variation:	Yes – Building height and wall height
Estimated Cost of Works:	\$6,759,596.00
Recommendation:	APPROVAL

EXECUTIVE SUMMARY

The development application (DA) is referred to the Northern Beaches Local Planning Panel on the basis that it is a 'Category 3' use and must follow the procedures outlined in clause 15 of Warringah Local Environmental Plan (LEP) 2000. Category 3 uses are to be subject to an independent public hearing to enable the consent authority to consider the "findings and recommendations" prior to determination of the DA. In this case the DA is to be determined by the Sydney North Planning Panel (SNPP).

The proposed new library and staff building replaces an existing two storey library and a staff building and is in a central position on the site.

The proposal has not received any submissions of objection during the notification period and the main assessment issues relate to stormwater flooding, landscaping and LEP building height non-compliance (wall and overall height). The applicant has addressed landscaping and building height matters by way of additional information. Matters relating to stormwater flooding that affect the proposed building have required an alternative solution to satisfy the objective of Clause 47 of the LEP so that the ground floor is protected from flood water ingress due part of the existing floor and building structure being retained. For this reason the proposal cannot comply with the 500mm freeboard for a 1 in 100 year flood event,

however the design response employed will protect the building interior and ensure impact from flood risk is minimised.

There is no objection to approval of the proposal by any external referral authority (Ausgrid, RFS, TfNSW).

Overall, the proposal as a Category 3 use is considered to be consistent with the "C8 Belrose North" desired future character statement (DFC) for the reasons addressed in detail in this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for alterations and additions to the Covenant Christian School.

The proposal is to demolish the majority of the existing library and staff building for a new larger library and staff facilities, detailed as follows

- Site preparation, including demolition works and excavation. In particular the existing library building is to be demolished, with only part (approximately 35%) of the concrete floor slab being retained.
- RL 156.1 – Basement storage area
- RL 156.84 to 158.43 – Storage, meeting, library areas, amenities, staff and workspace rooms, lift and stair access, entry areas.
- RL 160.15 to 161.83 – Staff areas, learning support rooms, amenities, verandah, student study areas, meeting rooms, void space, lift and stair access, entry areas.
- Ancillary site works, for landscaping, drainage connection and incidental work.
- Roof form is a low-pitched skillion style in sections over the 3 main spans.

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.

SITE DESCRIPTION

The subject site is occupied by the “Covenant Christian School” and is located at 212 Forest Way, Belrose.

The school operates as an independent school catering for classes from kindergarten to year 12. The site is an “L” shape with frontage to Dell Street, Linden Avenue, Bundaleer Street and Forest Way. The main entrance to the school is located at the end of Dell Street, adjacent to the Wakehurst Rugby Park.

The site is gently sloping and stormwater from the site drains northwards to a detention facility within the school near a low point in Bundaleer Street. The dimensions of the site are as follows

- Eastern boundary: 113m (Wakehurst Parkway).
- Southern boundary: 282m (access from Dell Street).
- Western Boundary: 182m (Linden Street).
- Northern Boundary: 195m plus 88m (Bundaleer Street).
- Site Area: 3.5776 Hectares.

A total of 47 off-street car spaces are currently provided on site, including 37 car spaces in the schools existing main car park off Dell Street. An additional 50 line marked car spaces are publicly available in Dell Street.

The Covenant Christian School is located within a semi-rural area of mixed land uses, including nurseries, sports fields, schools (‘Rudolf Steiner’, ‘Yanginanook’ and ‘John Colet’), the Belrose Waste Transfer Station, Optus earth station, a sand and gravel supplier, rural residential land, residential uses, vacant Crown land and Garigal National Park land.



Figure - Site Map

SITE HISTORY

The following chronology details the approvals issued by Council in respect of the subject site:

- 12 October 1978 – Consent No. 78/244 for an educational establishment issued by Council.
- 11 July 1980 - Consent No. 80/206 for additional classroom block to school (Stage 2).
- 29 June 1981 – Consent No. 81/26 for erection of an educational establishment (Stages 3, 4 and 5) also amending Consent No. 78/244 by relocating and reorientating the classroom buildings.
- 23 December 1981 – Consent No. 81A/385 for erection of a temporary classroom.
- 27 September 1988 – Consent No. 88/312 for erection of a classroom building (Stage 6)
- 27 December 1989 – Consent No. 89/545 for school additions to create a staff room.
- 11 April 1990 – Modification of Consent No. 88/312 involving the temporary retention of demountable classrooms.
- 4 June 1990 – Consent No. 90/177 for a staff common room.
- 23 April 1992 – Consent No. 92/123 for additions to a school classroom.
- 12 February 1996 – Consent No. 96/44 for alterations and additions to existing library.
- 2 November 2000 – Deferred Commencement Consent No.2000/3741 for a multipurpose Hall to be used in conjunction with the school and additional carparking (This included the formalisation of existing roadside parking in Dell Street for 50 car spaces).
- 10 July 2003 – Consent No.2003/338 for the construction of a temporary portable classroom building.
- 8 May 2007 – Consent No.DA2005/0915 - Construction of New Classrooms Amenities Block Carpark New Bus Bay and Removal of Existing Demountable (Not constructed)
- 2 July 2009 – Modification No.MOD2008/0349 - Construction of New Classrooms Amenities Block Carpark New Bus Bay and Removal of Existing Demountable (to modify DA2005/0915 in relation to 'Building Block A'). This MOD includes the following condition:
 - “97. Maximum Number of Students
The school student population shall not exceed 900.
Reason: To ensure no further intensification of the use beyond the terms of the consent.”
- 8 July 2009 – Complying Development Consent No.2009/0033 – Construction of new classroom facilities. (Ref J080372 / BER Job P21-01-017) (CDC that was issued, used the design for “Building Block A in MOD2008/0349)
- 2013 to 2018 – A number of privately issued Comply Development Certificates were issued for alterations and additions to the school pursuant to SEPP
- 23 March 2023 – Pre-lodgement Meeting PLM2023/0026 was held with Council staff for demolition and construction of a new library staff building. DA2023/0714 is consistent with the advice provided.

Concluding remarks of the PLM were :

“The proposal is Integrated Development under the Rural Fires Act. Given the location of the work within the centre of the college campus Council do not raise any issues with the proposed work despite the minor breach in the height limit, subject to the submission of a Clause 20 variation.

It is not anticipated that the proposal will have any unreasonable impact on the Desired Future Character of the Belrose North Locality, the amenity of neighbours or transport subject to the submission of a comprehensive development application that addresses the requirements of the Council’s Referral Officers.”

SECTION 4.15 ASSESSMENT

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	No draft instruments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	None applicable
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement.	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>Part 4, <u>Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being addressed by condition of consent as applicable.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to landscaping, building height and stormwater flooding. Supplementary information has been provided, including a detailed flood report and revised plans.</p> <p>See amended architectural drawings DA01 to DA06 dated 30.5.2024. Additionally, amended Landscape plans 22.8.2023 Issue C.</p> <p>The amended plans involved minor technical changes to protect the building from flood ingress but do not change floor levels or building height. This included additional engineering solutions to the door openings and external steps / adjacent pathway at ground level. The amendments do not require re-notification pursuant to the <i>Community Participation Plan</i>.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. Demolition matters are</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>capable of being addressed by condition of consent, as applicable.</p> <p><u>Clause 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). Fire safety matters are capable of being addressed by condition of consent as applicable.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This is not applicable to the DA.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). BCA matters are capable of being addressed by condition of consent as applicable.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles (GP) of Development Control table in this report.</p> <p>(ii) The proposal will ensure the ongoing efficiency and capability of satellite communications. The proposed development will not therefore have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the business and economic infrastructure nature of the proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered generally suitable for the proposal from a planning perspective, subject to the design being capable of providing a building that is adequately clear (0.5m above) of the FPL.</p> <p>In this case, stormwater flooding through the site in a 1% AEP event would inundate parts of the libraries ground and lower ground floor. The design of the new building / or additional works has not been able to resolve this issue.</p> <p>Therefore, the proposal raises concerns in relation to its suitability for the proposed redevelopment of the existing structure, however the proposal has been amended to employ measures to satisfactorily address the flood risk. The proposal addresses the objective of Clause 47 of WLEP 2000 (see details provided under the heading “internal referrals” and</p>

Section 4.15 'Matters for Consideration'	Comments
	Clause 47' within this report), despite non-compliance with the particulars. This has been achieved by using alternative solutions to protect the building and minimise risk.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	There were no submissions made on this application.
Section 4.15 (1) (e) – the public interest	<p>The proposal is assessed as being consistent with the <i>desired future character</i> statement for the C8 Belrose North Locality, which is the critical assessment for this report to the IHAP. With regard to the LEP General Principles of Development addressing Clause 47 has taken the applicant some months to arrive at acceptable 'alternative solution' so that the proposed design satisfies the objective of the control and can be recommended for approval.</p> <p>In making a preliminary evaluation of the critical issues with the proposed development the SNPP members visited the site on 22 May 2024 (accompanied by Council staff and School representatives) to view the relevant parts of the school complex, including stormwater considerations in the vicinity of the proposed building.</p>

EXISTING USE RIGHTS

Existing Use Rights do not apply to this application – “Category 3” WLEP 2000 is permitted subject to the additional provisions of the WLEP 2000.

NOTIFICATION & SUBMISSIONS RECEIVED

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

No submissions were received in response to the notification of this application.

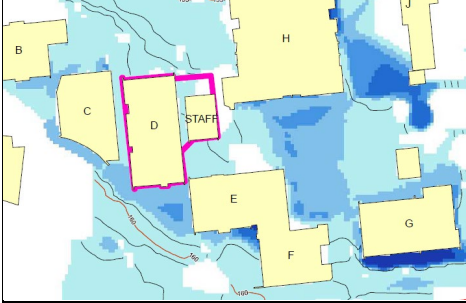
REFERRALS


Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Supported with conditions.</p> <p>The proposal seeks approval for demolition works and alterations and additions to the Covenant Christian School. The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • Planning for Bushfire Protection 2019 • Warringah LEP 2000 – Protection of existing flora • Warringah LEP 2000 - Retaining unique environmental features

Internal Referral Body	Comments
	<p>The proposal has been submitted with a Landscape plan that will need to be amended to avoid inclusion of identified weeds (e.g. <i>Raphiolepis indica</i>).</p> <p>A single exempt tree (<i>Fraxinus</i> spp.) will be removed for the works to take place and no objections are raised in relation to its removal. Two <i>Lagerstroemia indica</i> will be planted to compensate for the removal.</p> <p>No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
<p>Environmental Health (Industrial)</p>	<p>Supported without conditions</p> <p><u>General Comments</u> The proposal comprises alterations and additions to Buildings D which are required to support the refurbishment of the existing library and staff facilities. The refurbishment will be facilitated by the partial demolition of Block D, the demolition of an adjacent, single storey staff facility and the adjacent landscaped area.</p> <p>The building works will involve minor cut and fill works to the area north of the current building footprint. The refurbishment works will be supported by ancillary access and services upgrades and will include replacement landscaping.</p> <p>On ground level, the alterations and additions to Block D will include the footprint for the demolished staff room and will incorporate the former accessway between these buildings. The split-level design will use the level change provided by the natural ground level of the site to create a mezzanine level between ground and first floor.</p> <p>At first floor, the refurbishment will include a north facing staff verandah and the building will be finished with separate mono-pitched skillion and lean to roofs that would complement the rhythm and scale of the existing campus buildings.</p> <p>Internally, access to the mezzanine and first floor will be supported by a central lift core and stairs. External access would be supported by upgrades to the existing walkways and stairs from the proposed staff verandah.</p> <p>Environmental Health supports the proposal, without conditions.</p>
<p>Landscape Officer</p>	<p>Supported with conditions</p> <p>The proposal is supported with regard to landscape issues.</p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2000 Locality C8 Belrose North, and the relevant requirements.</p>

Internal Referral Body	Comments
	<p>One tree is proposed to be removed which is within 10 metres of the existing building and as such can be managed/removed under the 10/50 bushfire regulations without consent. The landscape proposal is generally supported, and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent.</p> <p><u>Planning comment:</u> Landscape comments are concurred with, and the applicant has nominated additional tree planting and will maintain the status quo of the existing approved landscape open space area.</p>
<p>Strategic Planning & Place (Urban Design)</p>	<p>Supported without conditions.</p> <p>The application seeks consent to make alterations and additions to Building Block D to enable the refurbishment of the existing library and staff facilities. The proposed development comprises of the following works:</p> <ul style="list-style-type: none"> • Minor cut and fill works • Demolition of existing staff facilities • Demolition of Block D first floor • Partial demolition of Block D ground floor including: <ul style="list-style-type: none"> o Internal partition walls o Internal and external staircase o Four (4) entrance doorways o Removal of internal partition walls and doors • Refurbishment of ground floor and creation of new learning and staff facilities • Construction of an internal mezzanine level • Reconstruction of the First Floor to provide staff facilities. <p>The proposed built forms will respond appropriately to the contextual setting of the broader school campus. Majority of the proposed roof planes would sit below the required 8.5m height limit except for a 0.5m exceedance that occurs at the end of the roof's projecting eaves. The breach is consider minor and will not have any impact on the surrounding neighbouring sites.</p> <p>Urban Design raises no objection to the proposed development.</p>
<p>Traffic Engineer</p>	<p>Supported without conditions.</p> <p>The Statement of Environmental Effects confirms that there is no increase in staff or student numbers associated with the proposed alterations and additions and as such the works will not result in changes to parking or traffic conditions around the school. There are also no internal changes to access or parking arrangements proposed in conjunction with the work.</p> <p>There are no traffic engineering concerns related to the development.</p> <p><u>Planning comment</u></p>

Internal Referral Body	Comments
	Student numbers are not proposed to change (be increased) from the approved maximum enrolment capacity.
Development Engineering	<p>Alternative solution - subject to draft conditions.</p> <p>WMA Water has submitted a Flood assessment/ study and determined the 1/100AEP flood level in the vicinity of the proposed library building to be 158.58 m AHD. The required Flood Planning Level for the development is RL159.08, however WMA have recommended the Finished Floor Level be set at RL158.43.</p> <p>Clause 47 of Warringah LEP 2000 states:</p> <p><i>47. Flood affected land Development on flood affected land is to be sited and designed to minimise impacts of flooding on property and have regard to the existing flood regime.</i></p> <p><i>In particular—</i></p> <ul style="list-style-type: none"> • <i>development is not to reduce flood storage area or impact upon the existing flood regime,</i> • <i>habitable floor areas of buildings are to be at a level of at least 500mm above the 1% annual exceedance probability flood level, and</i> • <i>buildings or works affected by flooding are to be constructed of flood compatible building materials.</i> <p><i>For the purposes of this clause, flood affected land means land below the 1 per cent annual exceedance probability flood level.</i></p> <p>The LEP seeks that habitable floor levels of the library redevelopment need to be at the FPL = RL159.08 (this is to provide a freeboard at least 500mm above the 1% AEP" level.)</p> <p>The WDCP 2011 allows for a lower freeboard of 0.3m (where depth < 0.3m and velocity x depth < 0.3m²/s), however this <u>does not apply</u> in the deferred lands.</p> <p>The primary element of the general principle is: <i>“Development on flood affected land is to be sited and designed to minimise impacts of flooding on property and have regard to the existing flood regime”.</i></p> <p>The position of the building and flood modelling water depth is shown in the image below and as can be seen water will pass by the new building (pink outline) on all sides and flow down slope to the north. Therefore, the new building will need to be protected to prevent ingress as the floor levels cannot be raised due to concrete slab connections with adjacent pathways (particularly building “C” and “E”).</p>

Internal Referral Body	Comments
	 <p data-bbox="614 741 1270 826">Image: Peak flood depth modelling around proposed new library / staff building footprint (pink outline) for 1%AEP event under existing conditions. (See <i>WMA Water</i> report dated 29.1.2024 for full details and comprehensive flood modelling information, including evacuation / shelter in place considerations)</p> <p data-bbox="614 853 810 880"><u>Planning comment:</u></p> <p data-bbox="614 882 1283 960">The applicant has provided details pertinent to NSW Planning Circular PS 24-006 Attachment A – “Further guidance and matters to consider”.</p> <p data-bbox="614 987 1251 1014">In summary, this includes measures in addressing flood risk of:</p> <p data-bbox="614 1041 1214 1093">An updated Ground Floor Plan which identifies flood design responses including:</p> <ul data-bbox="655 1095 1294 1644" style="list-style-type: none"> • No door openings on the western ground level to protect the IT rooms and library from water ingress on the western side. • Directed flow path along the western side of the library building so that water does not flow down the steps toward the lower-level rooms and therefore eliminates risk of flooding to the northern lower level (ground floor) rooms. The existing paver steps at the north-west corner will be removed and replaced with a hob wall so water is direct north away from the building (down slope open space area). • A threshold for ground floor entry in accordance with AS1428.1 • Self-actuating flood barrier at the main entry on the eastern side of the library that has a top edge 500mm above predicted 1:100 flood level at the door. • A waterproof membrane provided to a height of 500mm above the existing ground floor level. • A concrete / waterproof Hob to all ground floor windows will be provided to a height of 500mm above the existing floor level. <p data-bbox="614 1671 1155 1697">Draft conditions of consent that may be implemented:</p> <ul data-bbox="655 1700 1227 1805" style="list-style-type: none"> • Outline flood management procedures during the construction and operational phases of the proposal. • Require the preparation of a Flood Emergency Management Plan. <p data-bbox="614 1832 1286 1883">The revised details achieve an alternative solution to satisfying the objective of Clause 47.</p>

Internal Referral Body	Comments
	 <p data-bbox="614 790 1300 831">Image: New library building entry off courtyard area at south-east side of the existing library. Blue arrows indicate ground overflow path.</p> <p data-bbox="614 860 1300 987">The listed engineering plan numbers are subject to minor reference changes (see recommended conditions) due to finalisation / update of engineering drawings being undertaken to reflect the agreed details to be shown for Council Engineering requirements and the applicant's Consulting Engineer.</p>

External Referral Body	Comments
Ausgrid	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant <i>Ausgrid Network Standards</i> and <i>SafeWork NSW Codes of Practice</i> . These recommendations will be included as a condition of consent.
NSW Rural Fire Service (RFS)	The NSW Rural Fire Service has provided General Terms of Approval, dated 13 July 2023. RFS requirements address Asset Protection Zones, Construction Standards, Water and Utility Services, Landscaping Assessment and Emergency Evacuation.
Transport for NSW (TfNSW)	TfNSW provided no comments and no conditions in relation to the proposal as the works. The works do not affect the frontage to Forest Way or adjacent road / traffic intersections to Forest Way.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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.

Other Service Infrastructure Authorities

The application was referred to *Transport for NSW* and no other Service authority referral issues are raised. The requirements of *Sydney Water* are managed by separate administrative processes directly with *Sydney Water*.

Chapter 3 Educational establishments and childcare facilities

The proposal does not rely on Part 3.4 for exempt and complying development or Schedule 6 for the purpose of complying development in Schools.

The proposal has been designed in accordance with the Design quality principle in schools outlined in Schedule 8 of the SEPP. A design statement addressing *Schedule 8* has been prepared by *Bow Gould Architects*. In this case the proposal is to replace the library and staff buildings with an improved integrated single building and achieves the objectives of the General Principles. This includes use of an alternative solution to protect the building from flood water entering the building and minimizing risk from flood hazard to students and staff.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for educational (school) 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 continuing school use.

Warringah Local Environmental Plan 2011 (WLEP 2011)

The C8 Belrose North Locality (which covers the land subject to this Application) under the WLEP 2000 was proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah's standard instrument LEP. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011, the Minister for Planning and Infrastructure resolved that this area would be a "deferred matter" land in the Oxford Falls Valley and Belrose North areas from the

Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, Warringah LEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

Warringah Local Environmental Plan 2000 (WLEP 2000)

Desired Future Character

The WLEP 2000 applies to the subject land and the application is made pursuant to this instrument.

Under WLEP 2000, the subject site is situated within the *C8 Belrose North Locality* and the proposed development, being for the library and staff room (being part of the Covenant Christian School complex) is defined by WLEP dictionary' as "further education" and "primary school", being listed under Category 3.

Pursuant to Clause 12 of WLEP 2000, before granting consent for development, the consent authority must be satisfied that the development is consistent with any relevant General Principles of Development Control in Part 4 of WLEP 2000, and any relevant *State Environmental Planning Policy* described in Schedule 5 (State Policies).

Furthermore, Clause 15 gives "extra procedures" for Category 3 development to be undertaken before granting consent. This includes detailed information addressing Schedule 15 and that such development has been considered by an independent public hearing.

Finally, Clause 16 deals with existing Category 3 development and allows for alteration and additions or expansion or intensification but *only if* in the opinion of the consent authority is *minor* and does not to any significant extent change the scale or size or degree of any building or land use. Given the magnitude of work to the library / staff building the proposed DA cannot rely on clause 16.

The DFC statement for the C8 Locality statement is as follows:

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

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

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

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

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

Each element of the desired future character statement is discussed as follows:

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

The existing school has existing on site prior to WLEP 2000 and forms part of the existing character of the locality. The proposal does not change the present character.

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

The proposed building colours and materials are used to suit the existing buildings and include medium to dark colours that are not highly reflective. Window spaces are proportionate and glazed areas are used to enhance the internal amenity of the library. The library building is not near any boundaries or overlooking neighbours private open space that would be adversely affected by the outward viewing from within the library / staff / student rooms. The use of wide eaves assists to minimise glare impact to the local amenity. No significant change of any landform is proposed and minor landscaping works are required in replanting that will occur within the vicinity of the development area. No major bushland area or large canopy trees are to be removed with the works.

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

This component of the DFC requires that new development, if housing, should be “detached style” and consistent with the housing density. Other uses must be limited to *low intensity and low impact uses*. The statement “*low intensity, low impact uses*” is directly applicable to such uses other than “housing” that may be permissible in the locality. This includes the proposed development.

The terms “low intensity” and “low impact” are not defined in the dictionary of WLEP 2000. However, in the matter of *Vigor Master P/L v Warringah Council [NSWLEC 1128]*, Commissioner Hussey gave weight to the Council’s interpretation to give meaning and understanding to the term “intensity” and “impact”. In this regard, the following characterisation was given:

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

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

Further, the Commissioner made the important observation that “*any development must also satisfy a qualitative assessment as well as the quantitative controls so as to achieve a reasonable degree of consistency with the DFC for the locality*”.

The following assessment provides a detailed planning assessment of “low intensity” and “low impact” as it relates to the proposed development.

(a) Is the proposed development a “Low Intensity” use?

Further to the background information above, a “*low intensity use*” is a use which would be typified as having a low level of activities associated with it. The extent of activities associated with the operation of a particular use is largely determined by the following:

- The amount of traffic movements (cars, delivery and service vehicles),
- The number of pedestrian movements (internal and external)
- The physical size of the use (floor space, height, scale, building footprint amount of landscaping),
- The hours of operation of a use,
- The noise generation of the use,
- The light or other disturbance emitted by the use (activity, flood lighting and signage).

Based on the following assessment, the proposal is a low intensity use. The new library & staff building relies on existing parking and teaching staff of the school and does not seek further intensification. In this regard, the new library / staff facility seeks to replace the existing building with no change to staff or student numbers (as per existing approval).

(b) Is the proposed development a “Low Impact” use?

Further to the background information above, a “low impact use” is a use which would be typified as having a minimal, minor or negligible level of impact and would be unlikely to significantly change the amenity of the locality and can largely be determined by considering the following:

- The amenity of adjoining properties (in terms of privacy, solar access, and visual amenity).
- The bulk and scale of the development and how it relates to the streetscape and adjoining properties.
- The removal of any existing vegetation from the site as result of the proposed development (taking into any proposed landscaping).

The assessment of the application has found that the proposed development is ‘low impact’ for the following reasons:

- The proposal does not result in any significant impact or change to the natural features of the site in terms of visibility from residential or public spaces, distant views of the site, traffic, bushland setting, traffic, runoff or waste management.
- The scale of the new library building is consistent with the height and scale of other main buildings within the school complex.
- The non-compliances with the built form controls for height and wall height are relatively minor and addressed pursuant to Clause 20 of the LEP.
- The building design is integrated architecturally to the existing adjacent classroom and reception building and utilises building works (footprint elements) of the existing library / staff room.
- The new works do not overwhelm or appear jarring to the surroundings established school complex given the central position and adequate setbacks to the site boundaries.

(c) Conclusions on Low-Intensity and Low Impact:

The proposed new library within the school complex is therefore consistent with this element of the DFC statement relating to the requirement for the development to be a low intensity and low impact use.

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

The site is located adjoining Forest Way and additional native canopy tree planting is proposed between the oval edge and the school boundary fronting Forest Way. Selected planting is also proposed toward the south-west corner of the site. No change the existing school fencing is proposed.

For the above reason, the proposed development is consistent with this component of the DFC.

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

The proposed development is not considered likely to result in siltation or pollution of Middle Harbour as it is not close to any creek lines, the site disturbance area is surrounded by landscape area and the broad site is not steeply sloping / geotechnically hazardous.

Therefore, the development is considered to satisfy this element of the DFC statement.

Conclusions on Consistency with the DFC Statement

Based upon the above assessment, the development is found to be consistent with the DFC statement for the C8 Belrose North locality. It is found to involve an existing Category 3 use. The library and staff room does not adversely detract from the requirement of being low intensity and low impact form of development on the site. Noting that the entire site is an existing category 3 use.

Overall the new building height and scale does not create any unacceptable impacts on the character of the area or the natural landforms and native vegetation on the site as a whole.

Built Form Controls for Locality C8 Belrose Locality

The following table outlines compliance with the Built Form Controls of the above locality statement.

Built Form Standard	Permitted	Proposed	Compliance
Housing Density	1 dwelling/20ha	Not applicable	N/A
Building Height	8.5m	8.8m	No
Wall Height	7.2m	(>3.5%) 8.0m	(Clause 20)
(LEP measure is to NGL)		(>11%)	No (Clause 20)

Built Form Standard	Permitted	Proposed	Compliance
Front Building Setback	20m (Forest Way)	157.8m	Yes
	20m (Linden Avenue)	102.1m	Yes
Extractive Industry	Not applicable	Not applicable	N/A
Rear & Side Building Setback	North boundary 10m	32.0m	Yes
	South boundary 10m	47.2m	Yes
Bushland Setting	50% site area (14,289m ²)	41.5% existing 14,566sqm No change	No (As approved) Clause 20 not required as no change proposed. New replenishment trees as per LP05 Revision C
National Park Setback	20m	Park boundary is 230m southwest	Yes

The proposed development satisfies the Locality’s Built Form Controls with exception to the front setback and bushland setting.

Clause 20 Variations

Consent may be granted to proposed development even if the development does not comply with one or more development standards, providing the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State Environmental Planning Policy.

Merit Assessment

Building height and Wall height

The variation to the maximum building height is 0.3m (or 3.5%) with the apex of the roof being 8.8m above natural ground level (NGL):

The variation to the maximum wall height is 0.8m (or 11%) with the wall to the underside of the uppermost ceiling being 8.0m above natural ground level (NGL):

- ***Is the proposal consistent with the general principles of development control?***

The applicant has provided the following supporting comment:

The relevant provisions Part 4 (General Principles of Development Control) of the LEP apply and it is submitted that the proposal is consistent with the general principles identified in Part 4.

Specifically, Clauses 66 :

- *The building has variation in the wall planes and roof form with contemporary styling of the building, shape and external materials selected. The roof form has different height levels and the majority of the roof is below the 8.5m height plane.*
- *The wall planes are varied by the irregular shape of the building footprint and generally the non-compliance with the wall height is not readily visually perceptible from land adjacent the school site due to the minor non-compliance and centralised location of the library/staff building.*
- *Due to the natural topography of the land, some cut and fill is unavoidable in order to accommodate the development, as it utilised the existing library footprint.*
- *There are no canopy trees or significant native vegetation occurs within the proposed new library building space.*
- *The proposal will include some replenishment canopy tree planting toward the periphery of the site.*

Comment

It is agreed that the proposal will not result in bulk and scale to adjacent land or any unreasonable landscaping outcome in sustaining canopy trees for the school site.

- ***Is the development consistent with the desired future character of the locality?***

The proposal is considered to be consistent with the desired future character of the locality, notwithstanding the non-compliance with the building height and wall height (as well as the existing landscape control variation)

Comment

It is agreed that the new library/staff building structure is relatively a minor in terms of visual presentation and that it will effectively fit in to the landscaped setting with appropriate colours and materials.

In assessing these non-complying elements of the proposal, consideration must also be given to its consistency with the following:

General Principles of Development Control

The variation to wall height and building height and overall landscaping proposed does not create inconsistency with the general principles of development control. In order to comply with the AEP the building would need to be raised further above ground level and given the location of the building centrally in the school complex and separation from surrounding land uses however this is not required and no unreasonable amenity impacts from the wall and roof height are raised pursuant to the General Principles, DFC or adjacent land uses. Overall, the proposal satisfies the landscape open space objectives, building bulk and other built form controls as per the development control table provided below in this report. No change is proposed to the overall (as previously approved) landscape area therefore no detailed assessment to the existing variation is required.

The building height and wall height development standards are intended to ensure that buildings have a visual bulk and an architectural scale consistent with the structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise. Clause 66 is addressed as follows for the height variation:

- In this case the exterior walls are generally well below the 8.5 height plane and the building shape and appearance includes adequate setbacks to ensure no unreasonable impact on adjacent land. The surrounding school complex of associated buildings generally limits visibility of the library building from Forest Way and Linden Avenue.
- The building includes brick, metal cladding and glazing within a split-level design that allow for the roof and wall planes to be varied across the scale of the building.
- Landscape planting will be re-instated where appropriate near the building (in the form of garden beds) however due to connecting corridors and close position of the building to adjacent classrooms / school reception additional canopy tree planting is provided toward the outer periphery of the site. This is subject to bushfire requirements to maintain spacing of trees and in places where there is adequate deep soil for canopy trees.

Desired Future Character of the Locality

The proposal is consistent with the desired future character of the locality, in not detracting from the present character of the locality and retaining consistency with low intensity/low impact requirement. The proposal is consistent with the DFC regardless of the building height variation and wall height control. With respect to landscape open space control the existing landscaped area is retained as approved.

Relevant State Environmental Planning Policies

The proposal is generally consistent with the relevant State Environmental Planning Policies. The landscaped area, building height and wall height variation as per clause 20 has no impact on any SEPP or provisional strategic change in consideration to the WLEP 2000.

Accordingly, the non-compliant building height and wall height are supported pursuant to Clause 20. No change is proposed to the net landscaped area on site (as per the existing approved landscape variation from previous development consent.)

For the purposes of considering Category 3 development IHAP must be satisfied that the proposal is satisfactory with regard to the DFC for the Belrose North Locality. Additional consideration of *Clause 47 – Flood Affected Land* may be appropriately dealt with by the SNPP once the findings and recommendations of IHAP are made and the requirements of Clause 15 have been completed. A supplementary report will be provided for SNPP as required to ensure any minor flood design details are finalised prior to determination (e.g. plan annotation/supplement).

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development. The relevant general principles are addressed below.

In applying the General Principles the WLEP stipulates:

12 What matters are considered before consent is granted?

(1) Before granting consent for development the consent authority must be satisfied that the development is consistent with—

(a) any relevant general principles of development control in Part 4,

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	The colours of the external material and position of the library within the central part of the site will minimise glare and reflection in surrounding area. The colours and materials are appropriate for the DFC and natural environment / existing setting and would not give rise to unreasonable glare or reflection.	Yes
CL42 Construction Sites	Yes	The site provides for adequate space for the storage and handling of construction material and equipment. Suitable access is available from Bundaleer Avenue.	Yes
CL44 Pollutants	Yes	The proposed development will not generate any significant pollutants (odour, liquid, noise etc.) as a result of the library building. A waste management plan for construction works / demolition has been provided to address waste minimisation.	Yes
CL46 Radiation Emission Levels	Yes	The building is not in close proximity to any emission antenna.	N/A
CL47 Flood affected land	Yes	The General Principles states: <i>Development on flood affected land is to be sited and designed to minimise impacts of flooding on property and have regard to the existing flood regime.</i> <i>In particular—</i> <ul style="list-style-type: none"> • <i>development is not to reduce flood storage area or impact upon the existing flood regime,</i> • <i>habitable floor areas of buildings are to be at a level of at least 500mm above the 1% annual exceedance probability flood level, and</i> • <i>buildings or works affected by flooding are to be constructed of flood compatible building materials.</i> <i>For the purposes of this clause, flood affected land means land below the 1 per</i>	Yes Alternative solution provided. Subject to conditions. Minor design refinements may require updated engineering plan reference for (prior to) determination by SNPP.

General Principles	Applies	Comments	Complies
		<p><i>cent annual exceedance probability flood level.</i></p> <p>The flood risk at the building in a 1% AEP event is considered relatively shallow water flowing down slope past the building with flood depth being approximately 0.2m at the upstream (southern) end of the building and reducing to approximately 0.1 m around the building ground floor main entry. Similar water depth may also flow along the western side passage as water will be deflected to the eastern and western side from the southern ground floor wall. Peak flood level near the main library south-east entrance is approximately 158.3m AHD. Therefore, a floor level of at least 158.8 is required (0.5m higher).</p> <p>The applicant has provided explanatory details for the proposed non-compliance in that:</p> <p><i>“Maintaining the existing library level allows for the existing link to adjacent administration and Block E. If the ground level is raised, the entire structure will need to be demolished. This includes the existing link. Central to the retained section of the library is the main computer frame which operates the entire site. Demolition of this area will mean that needs to be relocated, including all the data cabling throughout the school. The cost of this work will be prohibitive.”</i></p> <p>Council’s Development Engineering referral provides detailed comments in relation to addressing this clause and compliance with the relevant objectives.</p> <p>In summary, the proposed lower floors of the building would be subject to minor inundation if not protected from water ingress as they are below the required floor level requirements of Clause 47. The building proposal seeks to retain part of the existing library / staff building (which includes toilet facilities) within the building footprint and maintain level pedestrian connection to adjacent school buildings. (That is approximately 295sqm of the existing floor slab elements are retained which accounts for 35% of the new building ground level areas (being split-level floor).</p>	

General Principles	Applies	Comments	Complies
		<p>The applicant has submitted additional details and information (received June 2024) relating to:</p> <ul style="list-style-type: none"> • The suitable use a flood self-actuating barrier at the main ground floor entry. • Flood risk and water ingress assessment by EPM Projects P/L (planning consultants), • Hydraulic engineering advice that the alternative solution is acceptable and effective. (Hydraulic engineering certification will be required by condition of consent that the installations are properly installed (WAE) and operate effectively) • Suitable conditions of consent for flood risk minimisation, and • Architectural details (Dwg DA-03, dated 30.5.2024). These additional details have been considered as part of this assessment. <p>A number of discussions with the applicant have been undertaken with Council staff in order to address this issue. A design response to raise the building floor level or other considerations, re-route water are not able to be reasonably achieved by the school. Council's engineers have considered a 300mm (rather than 500mm) above 1% AEP may be acceptable, but this has not been adopted in the additional information / amended plans.</p> <p>Therefore, given strict compliance against the Particulars of clause 47 cannot be achieved, the alternative solution employed is satisfactory to minimise risk to new habitable floor areas from flooding. This has included removal of 2 door openings and protecting the main entry with a self-actuating flood barrier at the door sill. Removing the northern paved steps that will ensure water passes northward to open space and not toward the lower split-level library rooms. Flood management plan / procedures and flood protection materials to ground floor walls, window spaces to protect the building.</p> <p>Importantly, the non-compliance with the flooding provision (for 500mm freeboard) does not affect consistency with the DFC for Category 3 use of the land. Council</p>	

General Principles	Applies	Comments	Complies
		assessment is satisfied that the proposed alternative solution will achieve the objective of this Clause, subject to conditions.	
CL48 Potentially contaminated land	No	The land is not identified as contaminated, and the existing building is not identified as containing asbestos material. Standard conditions may be applied in the event any building demolition material is uncovered that was pervious unidentified.	Yes
CL50 Safety & Security	Yes	The site will be adequately secured from unauthorised access, via the use of fencing, gated entry, and security cameras.	Yes
CL54 Provision and Location of Utility Services	Yes	The existing and proposed development will be connected to utility services as the new library / staff building is in the same general position.	Yes
CL56 Retaining Unique Environmental Features on Site	Yes	The plants to be removed, to enable the development to take place, will be replaced with locally occurring native species (generally this is minor garden planter box space near the building with some selected canopy trees at the periphery of the site). This will enable the semi-rural characteristic of area to be maintained in the setting of the site area and appropriate tree distribution subject to NSW RFS <i>Planning for Bushfire Protection</i> . No unique rock outcrops are affected.	Yes
CL58 Protection of Existing Flora	Yes	Council's Landscape and Natural Environment – Biodiversity sections, support the application subject to conditions. No significant trees are to be removed.	Yes
CL60 Watercourses & Aquatic Habitats	No	There are no nearby natural watercourses or aquatic habitats. The closest watercourses are at least 180m to the west and at least 130m south of the site, when measured from the property boundaries. The development has appropriate drainage and landscape areas to manage runoff.	Yes
CL61 Views	Yes	The proposal does not adversely impact views of surrounding land.	Yes
CL63 Landscaped open space	Yes	The quantum of deep soil landscaping within the site will remain unchanged. No trees are being removed and new	Yes

General Principles	Applies	Comments	Complies
		supplementary tree planting will be provided at selected points near the periphery of the school to provide additional long term canopy trees (in compliance with tree separation considerations with bushfire protection).	
CL66 Building bulk	Yes	The development is integrated to the adjacent building corridors and forecourt areas. The cladding and material selected to match or are sympathetic to other newer buildings on the site. The building non-compliance with wall height and roof height is not readily visible from the public domain and is limited to minor sections of the wall and roof pitch. The development is consistent with the predominant pattern and scale of development in the overall complex.	Yes
CL67 Roofs	Yes	The roof is a mid to dark colour and will not reflect to surrounding land as it has varied skillion sections within the central part of the site.	Yes
CL72 Traffic access and safety	Yes	The site has secure access and gate controls with fencing. Traffic access is safe for Dell Street and the on-site parking available. No change is proposed. Construction vehicle access is possible from Bundaleer Avenue. The majority of demolition and construction phase is intended to occur during a main annual school holiday period to minimise impact on school operations.	Yes
CL74 Provision of carparking	Yes	No parking change is required, and the site has adequate parking for staff and bus pick up as per previous development consent arrangements and upgrading to the carpark. The proposal is not required to address Schedule 17 as there is no change to carparking or enrolment capacity of the school proposed.	Yes
CL76 Management of stormwater	Yes	Stormwater engineering plans are provided to address this clause and can be implemented during works for library roof water runoff.	Yes

General Principles	Applies	Comments	Complies
CL77 Landfill	Yes	A minor amount of fill is required however existing soil material from excavation around the new works area is suitable.	Yes
CL78 Erosion and sedimentation	Yes	Erosion control plans are provided to address this clause and will be implemented during works.	Yes
CL83 Development of known or potential archaeological sites	Yes	No relics are recorded on the site and the building works are over the existing library building footprint. No referral required.	Yes

Schedule 5 – State Policies

The proposal is consistent with the relevant matters in Schedule 5.

- Bushland in Urban Areas – the works seek to replace an existing building and the land does not contain significant bushland area as part of the school grounds.
- Koala Habitat Protection – the site is not identified as containing koala habitat.
- Traffic – The school site has frontage to a main road (MR). *Transport for NSW* (formerly RMS) have no concerns or conditions regarding the development.

Schedule 8 - Site analysis

Adequate site analysis documentation has been submitted with this application.

Schedule 15 – Statement of environmental effects

Pursuant to Clause 15(1) adequate documentation has been submitted to address the proposal for category 3 use (for alterations and additions to an existing educational facility).

The following summary provides a detailed assessment in compliance with Schedule 15 extracted from the applicant’s submitted Schedule 15 information as applied in conjunction with the relevant LEP considerations for Category 3 development.

1.Summary of the SEE	<p><i>The development application is for improvements to the existing Covenant Christian School (CCS) library staff building at 212 Forest Way, Belrose (“the subject site”). The proposal is submitted on behalf of CCS, the owner of the subject site.</i></p> <p><i>The subject site is situated in the C8 Belrose North locality and is classified as an existing Category Three Development pursuant to the provisions of Warringah Local Environmental Plan 2000.</i></p> <p><i>The proposal comprises alterations and additions to Buildings D which are required to support the refurbishment of the existing library and staff facilities. The refurbishment will be facilitated by the partial demolition of Block D, the demolition of an adjacent, single storey staff facility and the adjacent landscaped area.</i></p>
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	<p><i>The proposal does not seek to increase school population (allowable maximum enrolment), but rather it seeks to improve the operation of the school facilities and learning resources available for students.</i></p> <p><i>This report demonstrates that the proposed development is consistent with the desired future character of the C8 Belrose North Locality, would not adversely impact the environment or the locality, and subject to conditions, satisfies the relevant statutory, environmental and development control requirements.</i></p>
<p>Assessment Summary Comment: Full details of the summary of the SEE are provided with the DA to the submitted SEE report in Section 3.1 prepared by EPM Projects. The proposal is satisfactory in this regard.</p>	
<p>2. Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.</p>	<p><i>The site is an existing “primary school” and “further education facility” within Locality C8 Belrose North as designated by WLEP 2000. As an existing Category Three development within the locality the proposal is permissible with consent.</i></p> <p><i>Impacts associated with the proposed development have been assessed and are considered to result in no adverse impacts, relating to bushfire hazard, built form, flooding or desired future character of the locality.</i></p> <p><i>Accordingly, the proposal is considered to satisfactorily respond to the opportunities and constraints of the site including general principles of development control.</i></p> <p><i>Located centrally within the school campus, the alterations and additions would be sited in an area of the school campus that primarily comprises hardstand areas for access, internal courtyards and existing buildings. The scale of the alterations would be consistent with the existing school campus and due to the site’s topography and siting of existing buildings within the campus would not affect the locality’s broader landscape character.</i></p> <p><i>The development would result in the removal of one (1) planted tree and as a planted species is not a component of the locality’s natural landscape. The loss of this tree would be offset by additional eight (8) trees including six (6) native trees, which will embellish the tree canopy along the schools eastern and western boundary as well as the Forest Way Landscape buffer.</i></p>
<p>Summary Comment: The applicant has addressed consistency with the DFC and general principles under Table 3 of the Statement of Environmental Effects. The proposal is satisfactory in this regard with the exception of Clause 47 – Flood affected land.</p> <p>Concerns with Clause 47 has been addressed by the use of alternative solutions to protect the library to an acceptable standard, given the minor flood risk. This includes the use of a self-actuating flood barrier, minimising wall openings to protect water ingress and minor change to steps and paths to direct water past and away from the building.</p> <p>(It is noted that for the Applicant, the design approach seeks to retain part of the existing library staff building and the new building seeks to match in the existing floor level and the level pedestrian access for the adjacent buildings and passageways.)</p>	

<p>3. Objectives of the proposed development</p>	<p>The intent and objectives of the proposal are to:</p> <p><i>The proposed development seeks to provide alterations and additions and landscape embellishments to the existing school campus, consistent with the design and quality principles.</i></p> <p><i>The proposed development will create a new Learning Hub for the school containing library and a range of study areas and break out areas as well as improved staff facilities.</i></p> <p><i>Block D provides an adaptable learning environment capable of meeting the future needs of the school and has been designed to minimise the apparent bulk and scale of development. With the visual bulk of the additions integrating into the school's existing roofscape,</i></p> <p><i>The proposal seeks to include additional tree planting to that will embellish the existing landscaped embankment along the Forest Way and in accordance with Planning for Bushfire Protection</i></p> <p><i>The development will incorporate suitable flood mitigation measure to manage the safe evacuation of students during flood events and would incorporate suitable measures to manage the residual flood risk associated with the ground level of the alteration to Block D.</i></p>
<p><u>Assessment Summary Comment:</u> The applicant has addressed the objectives of the proposal under sections 1 and 4 of the Statement of Environmental Effects and Appendix A (dated 5.2.2024) of the SEE. The proposal has addressed tis requirement.</p>	
<p>4. An analysis of feasible alternatives</p>	<p>(a) The consequences of not carrying out the development</p> <p>The consequences of not carrying out the development are as follows:</p> <p><i>If the development is not undertaken as proposed, the school will be required to seek an alternative location for students and staff facilities within the campus. An alternative location would likely have a greater visual impact on the future character of the locality.</i></p> <p><i>The existing building would remain and may be re-purposed even though it was not constructed to be of sustainable design construction or flood resilient.</i></p> <p>(b) The reasons justifying the carrying out of the development</p> <p>The reasons justifying why the proposal should go ahead:</p> <p><i>The existing staff / library building's internal layout is not consistent with the School's pedagogy requirements and does not meet the curriculum requirements of a contemporary school.</i></p> <p><i>The existing building fabric of Block D and the adjoining staff facility are nearing their end-of-life phase and as a consequence are no longer fit for purpose.</i></p> <p><i>Block D's design and location would consolidate facilities into a single building learning hub and would be constructed using resilient materials, such as concrete and compressed fibre sheeting, which provide</i></p>

	<p><i>durability during flood events and require comparably minimal maintenance.</i></p> <p><i>The building would also facilitate greater accessibility throughout the campus by connecting the accessible walkway of Block H and would provide opportunities to increase student welfare and learning opportunities.</i></p>
<p><u>Assessment Summary Comment:</u> The applicant has addressed the objectives of the proposal under sections 1 and 4 of the Statement of Environmental Effects and Appendix A of the SEE. The proposal has addressed this requirement.</p>	
<p>5. Analysis of the development</p>	<p>(a) Full description of the development</p> <p><i>The building works will involve minor cut and fill works to the area north of the current building footprint. The refurbishment works will be supported by ancillary access and services upgrades and will include replacement landscaping, drainage connections and ancillary site work. On ground level, the alterations and additions to Block D will include the footprint for the demolished staff room and will incorporate the former accessway between these buildings. The split-level design will use the level change provided by the natural ground level of the site to create a mezzanine level between ground and first floor.</i></p> <p><i>At first floor, the refurbishment will include a north facing staff verandah and the building will be finished with separate mono-pitched skillion and lean to roofs that would complement the rhythm and scale of the existing campus buildings.</i></p> <p><i>Internally, access to the mezzanine and first floor will be supported by a central lift core and stairs. External access would be supported by upgrades to the existing walkways and stairs from the proposed staff verandah.</i></p> <p>(b) Description of the environment likely to be affected</p> <p><i>The surrounding development adjacent to the existing school campus comprises early learning and educational facilities, detached residential dwellings as well as public recreation and bushland areas. Development to the immediate north comprises an early learning centre and detached residential dwelling with the Yanginanook School, Leonis Foundation and Kamaroi Rudolf Steiner School located to the north, on the opposite side of Bundaleer Street.</i></p> <p><i>To the east, the school is bound by the Forest Way (SP2 Classified Road) and a bushland area. The bushland contains intermittent large lot residential development and is functionally and physically separated from the school by the alignment of the Forest Way.</i></p> <p><i>To the south, the school is adjacent to the tennis courts of a residential and a RE1 zoned public recreation area. To the west, on the opposite side of Linden Ave, development comprises two (2) detached dwellings positioned on large lots with a resource recovery centre located behind the dwellings.</i></p> <p><i>The proposed development will occur within the central area of the school complex.</i></p>

	<p>(c) Description of likely impact on the environment These measures are addressed in the SEE accompanying the DA submission and the requirements to address the details of the proposed building relative to the standards of the Council LEP. <i>In summary, the proposed development will occur within the central portion of the existing school campus, with ancillary tree plantings provided adjacent to the eastern and western boundaries. Due to relative distance of the alterations from the site boundary and the existing and proposed tree plantings, the development would not have any adverse impacts to the adjoining land uses.</i></p> <p>(d) Measures to mitigate any adverse effects of the development on the environment</p> <p>The proposed alterations additions to the existing campus would not increase the capacity of the school in terms of student or staff numbers and is therefore not traffic generating development.</p> <p>Bushfire <i>A Bushfire Assessment Report has been prepared by Building Code & Bushfire Hazard Solutions in accordance with Section 4.14 of the EP&A Act and concludes that the proposed development would provide a reasonable and satisfactory level of bushfire protection.</i></p> <p>Tree removal and landscaping <i>The proposal would require the removal and demolition of the garden adjacent to the existing staff room. A landscape plan and planting schedule has been prepared by Matthew Higginson Landscape Architecture and details that a landscaped area would be reinstated following construction works.</i></p> <p><i>The planting schedule identifies that the landscaping would include a mix of native and exotic species and would include the refurbishment of artificial turf to the adjoining open space area. Additional tree plantings would also be provided at the eastern and western campus boundary.</i></p> <p>Stormwater Management <i>In accordance with the Northern Beaches Council Water Management Policy for Development (2021) a Stormwater Management Plan has been prepared by Sparks and Partners. The Stormwater Management Plan is supported by a sediment and erosion control plan.</i></p> <p>Demolition and Waste Management <i>A Waste Management Plan has been prepared by Bow Goold Architects (Appendix I) to demonstrate consistency with Australian Standard AS 2601—2001: The Demolition of Structures and details the expected volumes and management requirements for waste generated at the demolition, construction and operational phases of the proposed development.</i></p> <p>Flooding <i>The site is located within the Bare Creek catchment and has been identified as being affected by overland flow in a 1:100 AEP storm event. The site is located within a 'medium flood risk precinct'. A site-specific flood assessment has been undertaken by WMA Water.</i></p> <p><i>The Site Flood Assessment prepared by WMA Water concludes that the alterations and additions to Block D will not have an adverse impact on</i></p>
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	<p><i>flood behaviour. Whilst the finished floor level of Block D does not meet the minimum floor level requirements under the WDCP 2011, this is considered acceptable.</i></p> <p>Visual Impacts <i>There is a minor exceedance of the 8.5m height requirement for buildings located within the Belrose North locality under the WLEP 2000. However, the visual impacts are minor as Block D is predominantly screened from view Forest Way by the existing school buildings and vegetation along the site boundary. When viewed from Dell Street, the height, scale and form of Block D will be consistent with the other buildings on campus.</i></p>
<p><u>Assessment Summary Comment:</u> The above analysis of the proposal and as detailed in the applicants SEE within Section 3. The proposal satisfies this requirement of Schedule 15.</p> <p>The Category 3 use is acceptable with regard to the DFC, Clause 20 variations including Clause 66 for the overall built form given the context of the new library staff building within broader school complex and the surrounding local environment. The proposal has addressed this requirement.</p>	
<p>6. Justification for the development pursuant to the biophysical economic and social considerations and the principles of ecologically sustainable development</p>	<p><i>The proposal would facilitate building and landscape upgrades suitable to a modern school curriculum and would contribute to better student outcomes through the provision of a quality learning environment.</i></p> <p><i>The proposal would provide improved outcomes for students and teachers in terms of wellbeing and attentiveness with a focus on air quality, ventilation, natural lighting, thermal comfort and acoustic performance central to the pedagogy provided by alterations and additions to the campus.</i></p> <p><i>The proposed development would provide short term and long-term economic benefits. In the short term the proposal would support the creation of additional full-time employment in the construction industry which would in turn support vendors and allied services.</i></p>
<p><u>Assessment Summary Comment:</u> The justification for the proposed development is adequately detailed in the SEE is satisfies these requirements of Schedule 15. Details are provided by the architectural design statement and building design details on the architectural plans, including Appendix A of the SEE.</p>	
<p>7. Statement of measures to mitigate adverse effects of the development</p>	<p><i>Within the context of an existing primary school and further education facility, the alterations and additions to Block D would not, to a significant degree, change the scale of development at the site. The scale of development proposed would support improved accessibility within the school and would rationalise the height of the existing block H walkway.</i></p> <p><i>To mitigate the visual impact of previous development and to improve the tree canopy coverage across the school campus, additional trees would be planted along the school's northeastern and south-western boundaries.</i></p> <p><i>The building would have no adverse flooding impact on adjacent land.</i></p>
<p><u>Assessment Summary Comment:</u> The mitigation measures employed for the proposed development are detailed in the SEE (i.e reason to rebuild Block D in the current position and additional canopy tree planting. The proposal also relies on advice provided within the Bushfire Report and Flood Engineering consultant report. Flooding matters include evacuation plan and measures to minimise risk to the building and occupants and will appropriately mitigate risk. The proposal has addressed the requirement and</p>	

conditions are applied to ensure flood risk is minimised and managed.	
8. A list of approvals to be obtained before the development maybe lawfully carried out	Integrated Development - Bushfire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997.
<p><u>Assessment Summary Comment:</u> The proposal is satisfactory in this regard for external referral approvals.</p> <p>The proposed development is integrated development under the Rural Fires Act 1997 and a fire safety authority approval has been provided by the RFS.</p> <p>TfNSW referral raised no requirements for the proposal.</p> <p>Ausgrid referral provided standard conditions and requirements.</p>	

POLICY CONTROLS

Northern Beaches ‘Section 7.12’ Contributions Plan 2021.

The monetary contribution is based on the development cost of \$6,759,596.00. A monetary contribution of **\$67,595.96** is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to ‘section 7.12’ of the *Environmental Planning & Assessment Act 1979* and the *Northern Beaches Section 7.12 Contributions Plan 2021*.

This may be addressed by a condition of consent if the application is approved by the SNPP.

CONCLUSION

The proposed development is for a new library and staff building that replaces an existing two storey library and staff building and is in a central position on the site. As a Category 3 use, the WLEP 2000 requires the proposal to be considered by an independent hearing and assessment panel (IHAP) prior to determination, to enable the consent authority to consider the “findings and recommendations” of IHAP with respect Clause 15 of the WLEP 2000. In this case the DA is then to be determined by the *Sydney North Regional Planning Panel* (SNPP) as the consent authority.

There is no objection to approval of the proposal by any external referral authority (Ausgrid, RFS, TfNSW) is raised and no submissions from surrounding landowners have been received with regard to the proposal.

The proposal has not received any submissions of objection during the notification period and the main assessment issues relate to stormwater flooding, landscaping and LEP building height non-compliance (wall and overall height).

The applicant has addressed the landscaping and building height matters by way of additional information provided during the assessment. The variation to the building height and wall height, built form controls have been addressed pursuant to Clause 20 of WLEP 2000 and are supported for the development proposal.

The circumstances of the schools IT infrastructure remaining in situ is critical to requiring an alternative solution to Clause 47 and it is noted that the flood depths are low and the school

has adequate shelter in place areas due to the accessible second storey links to adjacent buildings. The use of alternative solutions to address Clause 47 have been employed and in principle the proposal is acceptable, subject to final specific details being provided to the satisfaction of Council's Development Engineers. The site has been inspected by Council's Development Engineers and an agreement in principle reached that the use of a self-actuating barrier, minor path regrading / removing some redundant paver stairs and minimising ground floor openings to the library are satisfactory to enable a recommendation for approval (therefore *draft* conditions are able to be provided to accompany this report). Council planning assessment is satisfied that the proposal is suitable for the intended building position in context with the broader school complex and surrounding environment.

In conclusion, the proposal is considered to assessed as being consistent with the "C8 Belrose North" desired future character statement (DFC), including landscaping requirements. Additionally, the Clause 20 variations to wall height and building height are acceptable. It should be noted that the application has required alternative solution to be proposed to address 'Clause 47 – Flood Affected Land' of WLEP 2000. Principally, this is due to the lower floor levels being below the *annual exceedance probability* flood level requirements however the proposal will be able to achieve the objective of this clause.

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 2000;
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects and all other documentation supporting the application and public submissions.

In consideration of the proposal and the merit consideration of the development, the proposal is:

- Consistent with the Desired Future Character of the Belrose North Locality Statement.
- Consistent with the outcomes envisaged by the applicable built form controls, despite the height variations which have been considered pursuant to Clause 20 of WLEP 2000, including the existing net landscaped area retained.

In consideration of the proposal and development control matters, the proposal is:

- Consistent with the objectives of WLEP 2000 and General Principles of Development Control.
- Consistent with the objects of the Environmental Planning and Assessment Act 1979.
- Consistent with NSW Department of Planning advice (PS 21-006, PS 24-001) for addressing development on flood prone land.

Accordingly, the proposal is found to be consistent with the desired future character of the C8 Belrose North Locality, and the Panel note the alternative solution provided by the applicant to address General Principle 47.

This report is submitted to the IHAP for its findings and recommendations on the issue of being a Category 3 development prior to proceeding to the SNPP for determination.

RECOMMENDATION (Approval)

Part A

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the Independent Public Hearing, make their findings and recommendations for Application No. DA2023/0714 for alterations and additions to an educational establishment at Lot 101 DP1159742, Lot 1 & 2 DP725754 No.212 Forest Way, Belrose having regard to the Assessment Report and conditions.

Part B

That the outcome of the Independent Public Hearing Panel’s findings and recommendations be reported to the Sydney North Planning Panel, being the consent authority for this draft conditions, including any supplementary engineering details and conditions from following Council’s Engineers provided to SNPP for their consideration.

DRAFT CONDITIONS:

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 (Stamped)				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-01	B	Site Works	Bow Goold Architects	30.5.2024
DA-02	B	Demolition Plans	Bow Goold Architects	30.5.2024
DA-03	D	Ground Floor	Bow Goold Architects	30.5.2024
DA-04	A	First Floor	Bow Goold Architects	17.5.2023
DA-05	A	Roof Plan	Bow Goold Architects	17.5.2023
DA-06	D	Sections	Bow Goold Architects	30.5.2024
DA-07	B	Elevations & Perspectives	Bow Goold Architects	5.2.2024

Landscape Drawings

Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
LP01	C	Landscape Plan 01	Matthew Higginson Landscape	22.8.2023
LP02	C	Landscape Plan 02	Matthew Higginson Landscape	22.8.2023
LP03	C	Elevations	Matthew Higginson Landscape	22.8.2023
LP04	C	Schedule and Details	Matthew Higginson Landscape	22.8.202
LP05	C	Native Replenishment Planting	Matthew Higginson Landscape	22.8.2023

Engineering Drawings				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA1-01	1	Cover Sheet Notes & Legend	Sparks & Partners	24.2.2023
DA2-01	1	Sediment & Erosion Control Plan	Sparks & Partners	24.4.2023
4.00	1	Stormwater Management Plan	Sparks & Partners	24.4.2023
DA4.01	1	Ground Floor Plan	Sparks & Partners	24.4.2023
DA4.02	1	First Floor Plan	Sparks & Partners	24.4.2023
DA4.03	1	Roof Plan	Sparks & Partners	24.4.2023
DA4.04	1	Details Sheet 01	Sparks & Partners	24.4.2023
DA4.05	1	Details Sheet 02	Sparks & Partners	24.4.2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Building Code of Australia Capability Report	J23- 014A	Benchmark Building Certifiers	17.5.2023
DA Access Report	-	John Evernden	3.5.2023
Bushfire Assessment Report	230862	Building Code & Bushfire Hazard Solutions	30.5.2023

Waste Management Plan	-	Andrew Lowry - CCS	28.4.2023
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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	Ausgrid Referral Response	19.6.2023
NSW Rural Fire Service	NSW RFS Referral Response	13.7.2023

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

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

3. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) Where applicable, 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) Where applicable, Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

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

(m) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following; Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$67,595.96 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 \$6,759,596.00.

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

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

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

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

6. Security Bond

A bond (determined from cost of works) of \$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

7. Building components and structural soundness

B1 - All new development below the Flood Planning Level of 158.88 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 158.88 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, 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.

8. Amendment of Landscape Plans

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

- Removal and replacement of *Raphiolepis indica* with a suitable alternative.

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

Reason: To maintain and replace habitat on the site.

9. Construction Traffic Management Plan

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

Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.

- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Specify that, due to the building works being within Covenant Christian 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 roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

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

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

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

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

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

- a) Council’s relevant development control plan,
- b) The guidelines set out in the NSW Department of Housing manual ‘Managing Urban Stormwater: Soils and Construction Certificate’ (the Blue Book) (as amended from time to time), and
- c) The ‘Do it Right On-Site, Soil and Water Management for the Construction Industry’ (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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

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

11. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the NCC - BCA Capability Report prepared by Benchmark Building Certifiers, dated 25/11/2022, Ref No. 220212 is to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

12. **Access and Facilities for Persons with Disabilities**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In particular, the recommendations contained in the DA Access Report, prepared by Accessible Public Domain dated 3/5/2023 are to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction

Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

13. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **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 Stand Plant application is required with a Traffic Management Plan for standing of construction vehicles on Council's Road Reserve

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

DURING BUILDING WORK

15. **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, including trees and vegetation nominated for retention on the approved 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 AS4970-2009 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 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 AS4970-2009 Protection of trees on development sites,

ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,

x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with 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 and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

16. **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.

17. **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.

18. **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.

19. **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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

20. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing LP01, LP02, LP05 by Matthew Higginson dated 30/05/23), and inclusive of the following conditions:

- a) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s),
- b) where the property 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.

21. **Building Components and Structural Soundness**

B2 - A suitably qualified structural engineer is to certify of the new development up to the Flood Planning Level of 158.88m 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, 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.

22. **Building and design works**

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:

(i) There are to be no doorway openings on the western ground floor side of the proposed library. All other openings or points of water ingress must be located above the FPL of 158.88m AHD.

(ii) The existing paver steps at the north-west corner of the existing building have been removed and replaced with a hob wall so water is direct north away from the building (down slope open space area).

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.

23. **Self-actuating flood gate – Restriction as to User and Positive Covenant**

The Applicant shall lodge the Legal Documents Authorisation Application with Council for the creation of a restriction as to user and a positive covenant on the Title, pursuant to Section 88B of the Conveyancing Act 1919. The application shall include a copy of the works as executed drawings, the Flood Gate Operation and Maintenance Plan and certification from a suitably qualified engineer that the flood gate functions as intended.

The restriction as to user shall be created to:

- a) Prohibit the removal or modification of the self-actuating flood gate, and,
- b) Ensure that the flood protection offered by the self-actuating flood gate is continuous and at a minimum level 158.88 AHD. The level is

to be detailed to Australian Height Datum on the Section 88B instrument

The positive covenant shall be created requiring the proprietor of the land to maintain the self-actuating flood gate in accordance with industry and manufacturing standards.

The terms of the restriction as to user and positive covenant are to be prepared to Council's standard requirements (available from Council) at the Applicant's expense and endorsed by Council prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant and restriction.

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

Reason: To ensure the self-actuating flood gate is installed and maintained to an appropriate operational standard.

20. Self-actuating flood gate – Operation and Maintenance Plan

A Flood Gate Operation and Maintenance Plan shall be prepared to ensure the proposed flood gate remains effective. This Plan must be attached to the School Emergency Management Plan / School Management Plan as applicable, and contain as a minimum the following:

- a) Works as executed drawings,
- b) Identification of maintenance and management responsibilities,
- c) Maintenance and emergency contact information,
- d) Funding arrangements for the maintenance of the flood gate,
- e) Maintenance schedule and procedure,
- f) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: To ensure the self-actuating flood gate is maintained to an appropriate operational standard.

24. **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.

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

25. **Landscape Maintenance**

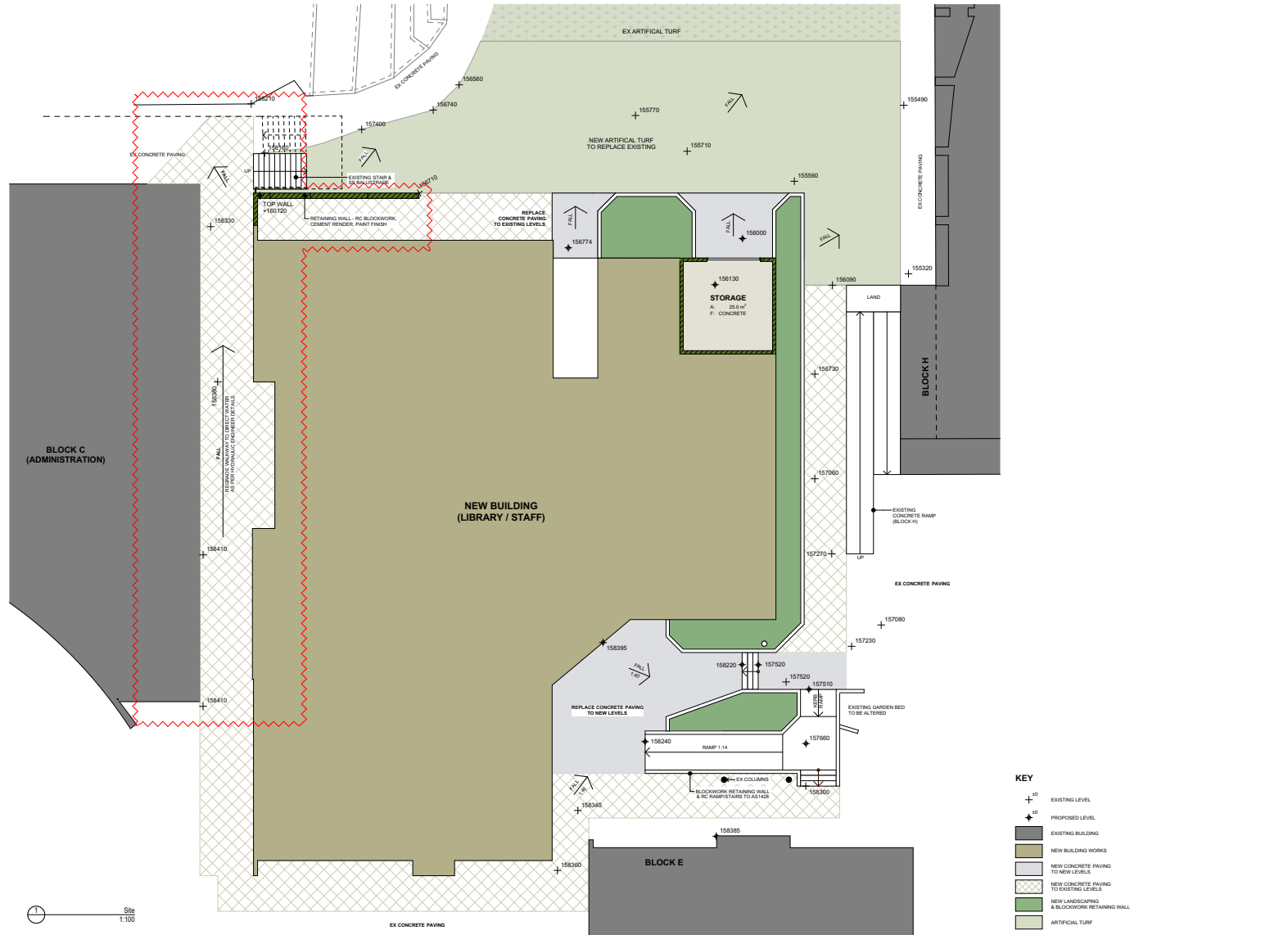
If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub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

Reason: To maintain local environmental amenity.

26. **No change to the maximum permitted Student numbers**

This consent does not permit any change to increase the maximum permitted student enrolment at the school from the existing approved capacity.

Reason: Maintain consistency with DFC requirements.



FOR DA 30 MAY 2024
NOTE: ALL DRAWINGS TO BE PRINTED IN COLOUR

NOTE
The owner must check all dimensions and notes on this plan at construction. Check with the contractor to ensure that the proposed works are in accordance with the approved DA. The contractor must ensure that the proposed works are in accordance with the approved DA. The contractor must ensure that the proposed works are in accordance with the approved DA. The contractor must ensure that the proposed works are in accordance with the approved DA.

Rev	Description	Date
1	ISSUE FOR DA	2024/05/24
2	REVISED WORKS	2024/05/24

bow goold architects
Bow Goold Pty Ltd
107 Glen Street, Glenelg SA 5015
t: 08 8338 4400 e: info@bowgoold.com.au

Drawn / Checked: VJ / SD
Plot Date: 2024/05/24
Project No: 2222
Project Status: DA
Client: Covenant Christian School
Site: 212 Forest Way, Belrose NSW 2085

DRAWING TITLE: DEVELOPMENT APPLICATION
Site Works
PROJECT NAME: Covenant Christian School

REVISION NO: **B**
DRAWING NO: **DA-01**



FOR DA 05 FEB 2024
NOTE: ALL DRAWINGS TO BE PRINTED IN COLOUR

NOTE

The owner must check all dimensions and notes on this plan against the relevant drawings and specifications. The owner must ensure that the drawings are consistent with the relevant drawings and specifications. The owner must ensure that the drawings are consistent with the relevant drawings and specifications. The owner must ensure that the drawings are consistent with the relevant drawings and specifications.

Rev	Description	Date
1	Issue for DA	19/06/2024
2	As per meeting with LGA & NPP Panel on 19/06/2024	19/06/2024

bow goold
architects

Box 6067, 17/18 Leitch
Ave, North Sydney, NSW 1585
02 9396 4422 | www.bowgoold.com.au

Drawn / Checked: V.L. SD
Plot Date: 25/02/2024
Project No: 2222
Project Status: DA

Client: Covenant Christian School
Site: 212 Forest Way, Belrose NSW 2085

DRAWING TITLE: DEVELOPMENT APPLICATION
Elevations & Perspectives
PROJECT NAME: Covenant Christian School

REVISION NO: B
DRAWING NO: DA-07

4.0 PUBLIC MEETING ITEMS

**ITEM 4.1 DA2024/0013 - 219 - 227 OCEAN STREET NARRABEEN -
ALTERATIONS AND ADDITIONS TO AN EXISTING COMMUNITY
FACILITY (NORTH NARRABEEN SURF LIFE SAVING CLUB)**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2024/0013 for alterations and additions to an existing community facility (North Narrabeen Surf Life Saving Club) at Lot B DP 376822, Lot 1 DP 339162, Lot 2 DP 339162, Lot 6 DP 5768, Lot 8 DP 5768, 219 - 227 Ocean Street NARRABEEN subject to the conditions set out in the Assessment Report.

Reporting manager	Steve Findlay
TRIM file ref	2024/416207
Attachments	↓1 Assessment Report ↓2 Site Plans & Elevations



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0013
Responsible Officer:	Danielle Deegan, External Consultant (DM Planning)
Land to be developed (Address):	Lot B DP 376822, 219 - 227 Ocean Street NARRABEEN Lot 1 DP 339162, 219 - 227 Ocean Street NARRABEEN Lot 2 DP 339162, 219 - 227 Ocean Street NARRABEEN Lot 6 DP 5768, 219 - 227 Ocean Street NARRABEEN Lot 8 DP 5768, 219 - 227 Ocean Street NARRABEEN
Proposed Development:	Alterations and additions to an existing community facility (North Narrabeen Surf Life Saving Club)
Zoning:	Warringah LEP2011 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Determination Level	NBLPP
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	Northern Beaches Council

Application Lodged:	23/01/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Community facility
Notified:	02/02/2024 – 01/03/2024
Advertised:	02/02/2024 – 01/03/2024
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$3,686,465.20
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EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to the North Narrabeen Surf Life Saving Club (SLSC) comprising an extension to the northern side of the building, enclosure of part of the existing balcony to provide for additional dining area, a new entrance foyer, a general refurbishment including façade upgrade, drainage works and a new bin store.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the Council is the landowner and Applicant. The application is subject to Council’s policy for the Management of Council related Development Applications, which provides strategies for the management of conflicts for development on Council owned or managed land. The application has been managed and assessed in accordance with this policy and satisfied the requirements under the plan.



The application was exhibited between 2 February 2024 to 1 March 2024. No submissions were received.

Critical assessment issues include potential environmental impacts, potential traffic and car parking impacts and potential residential amenity impacts. The assessment finds that as the new works are generally within the existing building footprint and any detrimental impacts are negligible.

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

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to the North Narrabeen SLSC comprising of :

Ground floor alterations and additions:

- An extension to the northern side of the building to provide;
 - a larger meeting room, with a kitchen and store, for the North Narrabeen Boardriders, and
 - a minor increase in the size of the existing gym,
- An enlarged paved area to the north of the building.

First floor alterations and additions:

- An extension to the northern side of the building to provide additional internal and external floor space,
- A new covered entrance foyer to provide access to the balcony without the need to pass through the existing cafe seating area and bar,
- Minor internal alterations, and
- New balcony balustrades

External changes:

- Designated ambulance bay,
- New finishes to the external façade of the building,
- Construction of a new bin store adjacent to the access driveway,
- Installation of rainwater tanks, and
- Stormwater drainage works.

There is no change to the internal seating capacity or existing hours of operation.

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

SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management
 Warringah Local Environmental Plan 2011 – 6.5 Coastal Hazards
 Warringah Development Control Plan – C2 Traffic, access and safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan – D7 Views
 Warringah Development Control Plan – E4 Wildlife corridors
 Warringah Development Control Plan – E5 Native vegetation

SITE DESCRIPTION

Property Description:	The North Narrabeen SLSC building is located at 225-229 Ocean Street, Narrabeen, and comprises the following five (5) allotments (the site): <ul style="list-style-type: none"> • Lots 6 and 8 Section 63, DP 5768; • Lots 1 and 2, DP339162; and • Lot B, DP376822.
Detailed Site Description:	The site forms part of Birdwood Park which extends to the north of the site. The site is irregular in shape and is bound by Narrabeen Beach to the east, Ocean Road to the west, a public car park to the south and Birdwood Park to the north. The site has a surveyed area of 0.77Ha. The site is located within the RE1 Public Recreation zone under WLEP 2011 and accommodates the surf club building, playground, car park and parkland. The existing SLSC building contains boat storage, a gym, boardriders room, café, a bar, a function area and a large deck on the first floor. Parts of the site are identified on Biodiversity Values Mapping, Wildlife Corridors mapping and Threatened Species Mapping. The vegetation occurring around the SLSC building comprises landscaping, including three Norfolk Pines and a banksia tree planted near the southern façade of the building. No impacts to threatened species are anticipated.

Map:



Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by mixed-use developments and low to medium-density residential development.

SITE HISTORY

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

- DA2005/0970 for erection of covered deck and access ramp to an existing registered club was approved by Council on 4 May 2006.
- DA2014/1083 for use of premises as a café was approved by Council on 16 December 2014.
- Pre-lodgement meeting PLM2023/0107 to discuss alterations and additions to North Narrabeen Surf Life Saving Club was held on 31 August 2023.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 02/02/2024 to 01/03/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, subject to conditions</p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p>



Internal Referral Body	Comments
	<p>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.</p>
<p>Environmental Health (Acid Sulfate)</p>	<p>Supported, subject to conditions</p> <p>This application is seeking consent for alterations and additions to North Narrabeen Surf Life Saving Club building. An Acid Sulfate Soils Assessment prepared by JK Environments dated 14 July 2023 has stated:</p> <p>Soil disturbance is expected to be limited to the extent necessary for foundation works. Bulk excavation is not proposed as part of the proposed development. Based on the weight of evidence collected and evaluated for this assessment, there is considered to be a low potential for ASS materials (AASS or PASS) to be disturbed to a depth of approximately 2mBGL during the proposed development described in Section 1.2 of this report. On this basis, an ASSMP is not considered necessary for the proposed development.</p>
<p>Environmental Health (Industrial)</p>	<p>Supported, subject to conditions</p> <p>This application is seeking consent for alterations and additions to North Narrabeen Surf Life Saving Club building.</p> <p>An acoustic report has been prepared by GHD Pty Ltd dated 6.11.2023, project number 12618094. The report has assessed the following likely noise sources:</p> <ul style="list-style-type: none"> • Noise from mechanical plant and other noise generating equipment (if any) • Noise from patrons and music within the function spaces of the SLSC, including the upstairs outdoor balcony area, and upstairs enclosed space. • Noise from the café, including patrons. • Any other relevant sources of noise. <p>The acoustic report has determined, based on the results of the noise modelling, and where noise from the proposed operations exceeds the relevant criteria, recommendations for noise mitigation have been provided in order to reduce noise emissions to compliant levels.</p> <p>The acoustic report identified live music is to be played outside on the open balcony however this currently operates and there is no expected increase to the number of outdoor live music events.</p> <p>Environmental Health recommends approval subject to conditions</p>
<p>Environmental Health (Food Premises)</p>	<p>Supported without conditions</p> <p>This application is seeking consent for alterations and additions to North Narrabeen Surf Life Saving Club building. This includes;</p> <p>- an extension to the northern side of the building to facilitate a larger meeting room, with kitchen and store, and a minor increase to the size of the existing gym.</p> <p>Clarification has been sought and this kitchen is proposed to be a kitchenette to be used by operators of the SLSC but not to prepare food or to serve food for public consumption. No further assessment is required.</p>
<p>Landscape Officer</p>	<p>Supported, subject to conditions</p> <p>The application seeks consent for alterations and additions to an existing community facility (North Narrabeen Surf Life Saving Club). The plans</p>



Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>indicate that no significant landscape features are affected by the proposed works. No trees are to be removed.</p> <p>Supported, subject to conditions</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021 clause 2.10 Development on land within the coastal environment area • Warringah Development Control Plan 2011 – Controls <ul style="list-style-type: none"> E1 Preservation of Trees or Bushland Vegetation E2 Prescribed Vegetation E3 Threatened species, populations, ecological communities listed under State or • Commonwealth legislation, or High Conservation Habitat <ul style="list-style-type: none"> E4 Wildlife Corridors E5 Native Vegetation <p>Portions of the site are now identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>However, the portions of the site added to the BV Map have been added in the last 90 days and the submitted plans and documentation indicate that the proposed works are located outside of the BV Map area and will not require the removal of native vegetation. Therefore, the proposal will not trigger entry into the BOS.</p> <p>As the proposed alterations and additions would take place in previously disturbed areas with a hardstand it is unlikely that native flora and fauna would be impacted. The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>Supported without conditions</p> <p>The proposed development is considered to be consistent with management of the coastal environment and coastal hazards as outlined in the Coastal Management Act and SEPP State Environmental Planning Policy (Resilience and Hazards). Noting that the purpose of the proposed alterations and additions is to improve the functionality of a community facility and support the activities of groups including North Narrabeen SLSC and North Narrabeen Boardriders.</p> <p>As the building is expected to have a functional life of up to 2050 before major renovations are required it is appropriate that the coastal assessment considers the impact of coastal hazards and coastal processes up to 2050 for the proposed activity. The proposed alterations and additions will not extend the building beyond its current footprint.</p> <p>As noted in the Statement of Environmental Effects as well as the Coastal Assessment and Management Report the risk to the building from coastal hazards is acceptably low. Additionally, the exposure the building and those using it to coastal hazards is not increased as a result of the proposed alterations and additions. This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021 and • Relevant LEP and DCP clauses



Internal Referral Body	Comments
	<p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to this DA. The proposed development is considered to be consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the and 'Coastal Use Area' and 'Coastal Environment' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 apply for this DA. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report the DA satisfies requirements under clauses 2.0, 2.11 and 2.12.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p>Warringah LEP 2011 and Warringah DCP 2011 The works are assessed as complying with clauses 6.5 of WLEP and E9 of WDCP</p>
NECC (Development Engineering)	Supported, subject to conditions
NECC (Riparian Lands and Creeks)	Supported, subject to conditions
NECC (Water Management)	<p>Supported, subject to conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy); and • Relevant LEP and DCP clauses <p>Proposal is for alterations and additions. It is noted that the proposal includes rainwater tanks and renewal of the existing absorption system. On review of the proposal, no objections regarding water management. The proposal is therefore supported</p>
Parks, reserves, beaches, foreshore	Supported, subject to conditions
Strategic and Place Planning (Heritage Officer)	<p>Supported without conditions</p> <p>This application has been referred as the property is in the vicinity of two locally listed significant heritage items listed in Schedule 5 of Warringah LEP 2011:</p> <p><i>Item 193 - Stone wall, Ocean Street near Malcolm Street, Narrabeen;</i></p> <p><i>Item 191 - Group of Washington Palms (Washingtonia robusta), Malcolm St and Lagoon St, Narrabeen</i></p> <p>Details of the heritage items affected by the proposal and contained within the heritage inventory as follows:</p> <p><i>Item 193 - Stone wall, Ocean Street near Malcolm Street, Narrabeen</i> <u>Statement of significance</u> A good representative example of stone retaining walls of which there are a number in the study area. Historically representative of public works in the locality.</p>



Internal Referral Body	Comments														
	<p><u>Physical Description</u> Coursed sandstone wall with a maximum height of 5 metres</p> <p>Item I91 - Group of Washington Palms (<i>Washingtonia robusta</i>), Malcolm St and Lagoon St, Narrabeen</p> <p><u>Statement of Significance</u> Historically & culturally significant as remnants of the original vegetation in the area & as the largest group of Washington Palms in the study area. Aesthetically a prominent landscape feature of the area.</p> <p><u>Physical Description</u> Group of approx. 24 <i>Washingtonia Robusta</i> (Washington Palms), 15 - 17 metres in height. Remnant planting Detail what heritage items are affected by the proposal and outline why these items are of heritage significance (include the Statement of Significance from the Heritage Inventory Sheet).</p> <table border="1" data-bbox="517 824 1093 1093"> <thead> <tr> <th colspan="2">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td>SEPP (Biodiversity and Conservation) 2021</td> <td>No</td> </tr> <tr> <td>Australian Heritage Register</td> <td>No</td> </tr> <tr> <td>NSW State Heritage Register</td> <td>No</td> </tr> <tr> <td>National Trust of Aust (NSW) Register</td> <td>No</td> </tr> <tr> <td>RAIA Register of 20th Century Buildings of Significance</td> <td>No</td> </tr> <tr> <td>Other</td> <td>No</td> </tr> </tbody> </table> <p>Consideration of the Application:</p> <p>The proposal seeks consent for alterations and additions to the North Narrabeen Surf Club building, including: a ground floor extension on the northern side to facilitate a larger meeting room with kitchen and store, a minor increase of the existing gym and an enlarged paved area; and a first floor extension on the northern side to provide additional internal and external floor space, enclosure of part of the existing balcony and a new covered entrance foyer.</p> <p>The heritage items in the vicinity are the sandstone retaining walls on adjacent Ocean Street and trees on private property, located along the edge of Narrabeen Lagoon. The proposed works, while visible from Ocean Street, will not adversely impact upon the heritage significance of the wall, which is located approximately 60 metres from the proposed works. The heritage listed trees are located even further away and have no direct visual connection with the site.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p>Consider against the provisions of CL5.10 of WLEP 2011: Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? N/A</p>	Other relevant heritage listings		SEPP (Biodiversity and Conservation) 2021	No	Australian Heritage Register	No	NSW State Heritage Register	No	National Trust of Aust (NSW) Register	No	RAIA Register of 20 th Century Buildings of Significance	No	Other	No
Other relevant heritage listings															
SEPP (Biodiversity and Conservation) 2021	No														
Australian Heritage Register	No														
NSW State Heritage Register	No														
National Trust of Aust (NSW) Register	No														
RAIA Register of 20 th Century Buildings of Significance	No														
Other	No														
Strategic and Place Planning (Urban Design)	<p>Supported without conditions</p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p>														



Internal Referral Body	Comments
	<p>1. The application seeks consent to:</p> <ol style="list-style-type: none"> 2. Alterations and additions to the ground floor of the building 3. Alterations and additions to the first floor of the building 4. New finishes to the external façade of the existing building, Construction of a new bin store adjacent to the access driveway, 5. Installation of rainwater tanks, and 6. Stormwater drainage works. <p>Urban Design raise no objection to the proposed development. Please note: Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under the evaluation of Council Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation of Council Heritage Officers, and any Landscape non-compliances will be dealt with under the evaluation of Council Landscape Officers.</p> <p>The proposal is therefore supported.</p>
Traffic Engineer	<p>Supported, subject to conditions</p> <p><u>Further comments – dated May 2024</u></p> <ul style="list-style-type: none"> • It is noted that an updated traffic report is provided to address the concerns raised in the original traffic referral comments. • The report in page 10, section 3.2, mentions that the swept path of an ambulance is shown in figure 3.3. Figure 3.3 is a half cut snippet of a vehicle (vehicle profile not shown). This swept path is not acceptable in its current form. However, Council accepts the tight manoeuvring space for ambulance, given the rare use of ambulance. • In the last paragraph of section 3.2, page 11, the traffic report states that the largest truck accessing the site is Council's waste collection vehicle, which will reverse along the access way. Other SRV trucks will also need to do so as there is insufficient overhead clearance for them to turn around at northern end of the accessway. This is acceptable given the low volume of such movements. • It is noted that 12 horizontal bicycle parking spaces within 6 double sided hoops have been provided at the south-eastern corner of the existing playground. However, no dimensions of these spaces are shown in the architectural plans. This will be conditioned. • It is noted that a parking occupancy survey has been undertaken on Sunday 21st April from 7 am till 3pm in the two carparks near the club. The occupancy survey reveals that there is an adequate amount of spaces within the two carparks to cater for any additional parking demand generated by the proposed alterations and additions <p><u>Original comments – dated April 2024</u></p> <ul style="list-style-type: none"> • The Warringah DCP 2011 applies to the subject site. The subject site is a community facility land use type consisting of café, bar, nippers room, gym and boardriders room. The DCP does not provide any rate neither for a community facility nor for a café/bar or boardriders development. However, it refers to the Roads and Traffic Authority's Guide to Traffic Generating Development for uses that do not have a parking requirement in the DCP. And, for a Community Facility, DCP mentions that the comparisons must be drawn with developments for a similar purpose. The Austroads Guide to Traffic Generating Development also does not have any rate for café and boardriders.



Internal Referral Body	Comments
	<ul style="list-style-type: none"> • The proposed development is an alteration and addition to an existing North Narrabeen Surf Life Saving Club, owned by Northern Beaches Council. The proposal includes a minor addition to the existing boardriders use in ground floor and partial enclosure of northern part of the first floor area to extend bar/café area in first floor. The Traffic report mentions that the boardriders room is being increased by 44 m2 and café dining area by 151 m2, which would result in a total increased area to be 195 m2, however the SEE report states that the total increased floor area is 182 m2 (page 41) The discrepancy in the details should be clarified and consistent information detailed on the architectural plans and the accompanying reports. • It is noted that a Traffic report has been submitted with the DA. The section 2.2 of the Traffic report mentions that “there are 123 (approximately 8 unlined parallel) regular spaces and 4 accessible parking spaces with paid parking treatment.” A site inspection suggests that the total parking includes 71 spaces in the upper carpark (including 4 disabled spaces), 49 spaces in the lower carpark, 7 parallel spaces along the site’s driveway and 1 ambulance bay. Irrespective of the above no changes to the existing parking supply are proposed and the proposed development will continue to rely upon the existing public car parks in the surrounding area. It is suggested that a parking occupancy survey be undertaken in the surrounding carparks at the peak times of operation of the surf club facilities in order to demonstrate peak parking demands and occupancy rates and to show that there is spare capacity to support the proposed alterations and additions. • It is noted that the Traffic report provides a SIDRA analysis of the Malcolm Street and Ocean Street roundabout. It is shown that the survey has been undertaken during AM and PM peaks on Friday. However, the peak times are not mentioned. The SIDRA analysis has been done for the current year (2023) and the traffic volume has been projected for 10 years time with an assumed growth rate of 1.7% per annum. This is acceptable. • It is noted that the existing ambulance bay has been relocated to the No Parking area in parallel parking spaces, for the construction of waste room. The dimensions of this ambulance bay along with an ingress and egress swept path of the ambulance must be provided together with details of proposed signposting for “No Parking Ambulance Excepted”. • Section 3.1.2 of the Traffic report must be updated to provide more details on the size of anticipated service vehicles and outline how loading and unloading will be facilitated. • It is noted that the existing bins have now been enclosed into a closed bin room and the arrangements are acceptable to the Waste Services team • It is noted that Section 2.5 of the Traffic report states that bicycle facilities are provided through the site, and it is shown on figure 2.5. According to Warringah DCP 2011, bicycle parking facilities must be provided for new buildings and for alterations or additions to existing buildings. In the case of alterations or additions to existing buildings, bicycle parking facilities are required for the additional floor area only. The architectural plans and Traffic report must be updated to show the existing locations of bicycle parking and to provide additional bicycle parking to support the proposal. • It is noted that a CTMP has been provided however as a contractor will not yet be appointed. The CTMP can be viewed as indicative only and an updated CTMP will be required prior to the construction phase.



Internal Referral Body	Comments
	<p>Traffic Impact The proposal will generate minimal vehicular traffic during the peak, and it will not have any unacceptable implications in terms of road network capacity performance.</p> <p>Conclusion The application is not supported at this stage with further information as outlined above required prior to further consideration of the proposal.</p>
Waste Officer (Council Land)	<p>Supported, subject to conditions A suitably sized and located bin storage facility has been provided.</p>



External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021,s2.48	<p>Supported, subject to conditions</p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Aboriginal Heritage Office	<p>Supported, subject to conditions</p> <ul style="list-style-type: none"> • An Aboriginal Heritage Due Diligence Assessment was completed by Coast History & Heritage in December 2023. The Aboriginal Heritage Office agrees with the recommendations outlined in the report: • An Aboriginal heritage induction should be provided for workers involved in excavation works for the new development. This should be developed and delivered by a representative from the Metropolitan LALC and archaeologist/heritage consultant. The induction will address the legal protections afforded to Aboriginal objects under the National Parks & Wildlife Act 1974. It will also include procedures for the recommended monitoring, and for 'stop work' protocols for dealing with unexpected finds (such as human or animal bone, shell material or stone artefacts). • Consideration should be given to minimise any unnecessary impact. For instance, where possible, services should be installed within existing service routes and reducing the length of the northern brick wall to the extent of the BBQ and providing a timber log barrier to the sides that matches the dune fence. • Monitoring and direction of the excavation by a suitably qualified archaeologist/heritage consultant and a representative from the Metropolitan LALC should be undertaken during any works that exceed the depth of the current ground level. This is largely contained to the northeast side of the current SLSC building. • It is assumed excavation will be undertaken by machine, however, where determined to be appropriate by the monitoring LALC representative and archaeologist, hand excavation by the contractor may be necessary. This will also be monitored by a suitably qualified archaeologist/heritage consultant and a representative from the Metropolitan LALC. • If the footprint, depth and or scope of the proposed works is amended, further investigation and assessment should be undertaken to assess the potential Aboriginal heritage impact. • If any human remains or other Aboriginal archaeological remains are encountered during site works, the 'unexpected finds' procedures set out below must be followed. • Ground disturbance outside the footprint of the proposed works should be avoided, for instance by using existing hard stand for site compounds and access.



NSW Police - Crime Prevention Office (Local Command matters)	<p>Supported, subject to conditions</p> <p>The NSW Police have a crucial interest in ensuring the safety of the community and their property. NSW Police hope that by using the recommendations contained in this document, criminal activity will be reduced, and the safety of the community and their property will be increased. It does, however, not guarantee that all risks have been identified or that the area evaluated will be free from criminal activity if its recommendations are followed. Police DO NOT OBJECT to the overall application. Police do seek conditions to address; Plan of Management, CCTV footage, Crime Scene Preservation, Venue Theme, Neighbourhood Amenity and Security, be added to the development application for the purpose of Public Safety.</p>
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ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to traffic and carparking.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building</p>



Section 4.15 'Matters for Consideration'	Comments
	<p>(including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>In summary, the development will not have any negative or detrimental impacts on the fragile coastal ecology of the site or on coastal processes.</p> <p>(ii) Social Impact The proposed development will have a beneficial social impact on the greater Northern Beaches community by providing an upgraded community facility that can serve as a SLSC, Boardriders club and community recreational facility. It is not anticipated that the development will have any adverse social impacts.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

CROWN LAND MANAGEMENT ACT 2016 and LOCAL GOVERNMENT ACT 1993

The land is owned by the Crown and is dedicated for the purpose of Public Recreation. Northern Beaches Council is the Crown Land Manager of the land.



Under section 3.21 of the Crown Land Management Act 2016, Council, as the Crown Land Manager, is authorised to classify and manage the land as if it were public land within the meaning of the Local Government Act 1993. The site is classified as 'community land' and is part of a public reserve managed by the Northern Beaches Council under the *Warringah Coastal Lands Plan of Management (POM)*.

The Action Plan for Recreational Values included in the POM states the management action for the North Narrabeen SLSC building is to '*investigate and consider extensions and/or modifications*'. The proposal is therefore consistent with the POM.

COASTAL MANAGEMENT ACT 2016

The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to this application. The proposed development is consistent with the objects as set out under Part 1 Section 3 of the Coastal Management Act 2016.

As the building is expected to have a functional life of up to 2050 before major renovations are required, it is appropriate that the coastal assessment considers the impact of coastal hazards and coastal processes up to 2050.

The proposed alterations and additions will not extend the building beyond its current footprint. As noted in the Statement of Environmental Effects and the Coastal Assessment and Management Report, the risk to the building from coastal hazards is acceptably low during the nominated design life. Additionally, the exposure the building and those using, it to coastal hazards is not increased as a result of the proposed alterations and additions.

Council's Coastal Engineer has assessed the compliance of the proposal with the NSW Coastal Management Act 2016 and finds that the proposal is consistent with the objects of the Act, as set out under Part 1, section 3.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

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 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.

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:

2.10 Development on land within the coastal environment area

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

Comment:

The proposed development is unlikely to cause any adverse impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, or marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms.

The proposed development is also unlikely to cause an adverse impact on existing public open space and safe access to and along the foreshore and beach for members of the public, including persons with a disability.

The subject site has not been identified as containing any Aboriginal cultural heritage, practices or places, however, a condition is recommended to ensure that if any Aboriginal engravings or relics are found as part of the proposed development, works will cease immediately and the relevant authorities notified.

The proposal is supported by consultant's report relating to Coastal Impacts. The proposed additions are sited on the area occupied by the existing SLSC building. The application has been reviewed by Council's technical officers with regards to the biodiversity, coastal impacts, landscape and land contamination and no objections have been raised by those technical officers. In summary, the proposal satisfies the matters for consideration.

The proposed development has been designed, sited and can be managed to avoid adverse impacts upon the relevant matters identified in section 2.10(1).



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

Comment:

The proposed development has been designed, sited and can be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause 1.

2.11 Development on land within the coastal use area

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - iii) *the visual amenity and scenic qualities of the coast, including coastal headlands, 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*
 - ii) *adverse 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*
 - i. *if that impact cannot be minimised—the development will be managed to*
 - ii. *mitigate that impact, and*
 - c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

The proposed development maintains the existing, safe access to and along the foreshore and beach.

The proposal does not result in any overshadowing of residential properties and the adjoining public open space retains excellent access to sunlight. Views from public places to the foreshore are maintained as the buildings are located on the site of the existing surf lifesaving club and associated buildings.

The proposal has been designed to complement the scenic values of the coast. It is set within the existing building footprint to reduce its visual impact. The building additions have been architecturally designed and are aesthetically attractive and appropriate in the setting.

As noted above, while the subject site has not been identified to contain any Aboriginal cultural heritage, practices or places, a condition will be recommended to require that if any Aboriginal engravings or relics are found as part of the proposed development, works will cease immediately and the relevant authorities will be notified. The proposed development will also not have an adverse impact on cultural or built environmental heritage.



Overall, if the proposed development has been designed, sited and will be managed to avoid an adverse impact on the aforementioned cultural and environmental aspects. Additionally, the proposed development is consistent with the surrounding coastal and built environment, which consists primarily of low to medium density residential development, and is of an appropriate bulk, scale and size.

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

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

Comment:

The land has been identified as being within the area of wave impact and slope adjustment, as well as an area for reduced foundation capacity, on the Coastline Hazard Map under the WLEP 2011. Council's Coastal Engineer has reviewed the proposed development and is satisfied that the development is not likely to cause increased risk of coastal hazards on the subject site or other surrounding land.

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 site is located within 'Area 1: Collaroy-Narrabeen Beach North of Devitt Street' in the 2016 *Coastal Zone Management Plan* (CZMP). The CZMP requires that development seaward of the Zone of Reduced Foundation Capacity (ZRFC) is to have piled foundations. While the site is seaward of the ZRFC, the requirement for piled foundations is intended to apply to new development and therefore not applicable.

Council's Coastal Engineer has assessed the proposal under the applicable management plans and has found the proposed development to be consistent with management of the coastal environment and coastal hazards as outlined in the Coastal Management Act and SEPP (Resilience and Hazards). Noting that the purpose of the proposed alterations and additions is to improve the functionality of a community facility and support the activities of groups including North Narrabeen SLSC and North Narrabeen Boardriders.

As the building is expected to have a functional life of up to 2050 before major renovations are required, the coastal assessment has considered the impact of coastal hazards and coastal processes up to 2050. The proposed alterations and additions will not extend the building beyond its current footprint.

The risk to the building from coastal hazards is acceptably low. Additionally, the exposure the building and those using it to coastal hazards is not increased as a result of the proposed alterations and additions.

The proposal is found to comply with the requirements of Chapter 2 – Coastal Management of the SEPP (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for community 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 community land use.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

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

Compliance Assessment

Clause	Compliance with Requirements
6.1 Acid Sulfate Soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes

Detailed Assessment

Zone RE1 Public Recreation

The proposed works are associated with the existing surf lifesaving club building, defined as a “community facility” under WLEP 2011 as follows:

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 use is permissible in the RE1 Public Recreation zone.

Objectives of the zone

- 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.

Comment:

The development is found to be consistent with the relevant objectives of the zone as follows:

- The proposal retains the existing public open space areas for recreational purposes and complements those activities.
- The proposal complements and enhances the use of the surrounding recreational activities.
- The proposal is sited within the footprint of the existing surf lifesaving club and will not have a negative impact on the natural environment.
- The proposal maintains the ecological, scientific, cultural or aesthetic values of the land.



Acid sulfate soils

The site is in an area identified as Acid Sulfate Soil Class 4, as indicated on Council's Acid Sulfate Soils Planning Map.

The development proposes only minor excavation of the site below natural ground level for drainage upgrade works. A Preliminary Acid Sulfate Soil Assessment (PSSA) has been undertaken by JK Environment. The PSAA concludes that there is a low impact for potential disturbance of Acid Sulfate Soils. Consequently, an Acid Sulfate Soil Management Plan is not required.

The PSSA was referred to Council's Environmental Health Officer who concurred with the findings and recommended a condition to require the applicant to notify the principal certifying authority of any new evidence of the presence of acid sulfate soils.

This condition and the recommendations made in the PSSA have been included in the recommendation of this report.

Earthworks

Development consent is required for earthworks unless the work is ancillary to other development for which consent has been given.

The proposal involves only minor earthworks to construct upgraded stormwater drainage. These works would be ancillary to the development.

Coastline Hazards

Parts of the site are located within the Zone of Reduced Foundation Capacity (ZRFC), as shown on the Coastline Hazard Map of WLEP 2011.

The proposed development and the continued use of the SLSC building satisfy the provisions of clause 6.5(3) as follows:

(a) will not significantly adversely affect coastal hazards

Comment: The proposal is not expected to adversely affect coastal hazards either on the site or on adjacent land, noting there would be no change to the building footprint and that the stormwater drainage upgrades are not expected to contribute to additional erosion.

(b) Will not result in significant detrimental increases in coastal risks to other development or properties

Comment: The proposal is not expected to result in increased coastal risk to other development or properties.

(c) Will not significantly alter coastal hazards to the detriment of the environment

Comment: The incorporation of rainwater tanks in the design of the proposal will reduce the amount of stormwater runoff. The associated stormwater drainage upgrades will result in stormwater from the development draining to the coastline from the northern and southern extents of the SLSC building. The stormwater upgrades are not expected to increase the risk of erosion.

(d) Incorporates appropriate measures to manage the risk to life from coastal risks

Comment: The SLSC building is projected to remain outside the active coastal zone until at least 2074. By 2050, which aligns with the building's design life, there is approximately a 1% chance of an erosion event impacting part of the SLSC due to the ZRFC. Given the critical role of the SLSC in beach surveillance and



surf life-saving, this is considered a manageable low risk. This risk can be effectively handled through the adopted Coastal Erosion Emergency Action Subplan for Beaches in Warringah, which includes advance warnings for affected landholders before and during storms.

(e) avoid or minimises exposure to coastal hazards

Comment: As noted above, exposure to coastal hazards is an acceptably low risk during the building's design life.

(f) makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks

Comment: The proposal retains the existing North Narrabeen SLSC building in its current location. The design life of the building would not be extended by the proposed works and as evaluated under Council's asset management system, is expected to correspond to the 2050 planning horizon due to the retention of the majority of the existing building. Given this low level of risk from coastal hazards, no modifications of the building (e.g. piling works) are proposed as part of the development. No specific provision has been made for relocation or removal of the building up until this time.

It is noted that the NSW Coastal Design Guidelines 2023 identify that development on coastal dunes and foreshores should be avoided unless it is for 'essential public purposes, such as surf life-saving club buildings' (DPE, 2023). As the proposal would support the ongoing use of the building as a SLSC up until the end of its design life, this is considered an acceptable level of risk.

WARRINGAH DEVELOPMENT CONTROL PLAN

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Stormwater	Yes	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
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E9 Coastline Hazard	Yes	Yes

Detailed Assessment

C2 Traffic, access and safety and C3 Parking Facilities

The proposal is accompanied by a Parking and Traffic Impact Assessment report, prepared by Barker Ryan Stewart, dated 02.04.2024, that finds the site is suitable for the proposed development in relation to the impact of traffic, car parking provision, access and safety considerations.

With regards to car parking, the report finds that the existing 129 parking spaces including 4 accessible spaces surrounding (to be retained) is ample off-street parking to cater for any additional parking demand that may be generated from the proposed alterations and additions to the SLSC building.

The existing ambulance bay has been relocated to the ‘No Parking’ area adjacent to the parallel parking spaces. The dimension of the ambulance bay is proposed to be 6200mm x 2400mm which is considered satisfactory.

As part of the proposed redevelopment, new bicycle parking racks providing 12 bicycle parking spaces have been proposed at the south-eastern corner of the existing playground. This is a sufficient amount of bicycle parking spaces to cater for the SLSC.

The proposed additional facilities are not expected to generate a significant increase in traffic demand, as the primary trip generator for the site will continue to be North Narrabeen beach, particularly during peak season. The estimated generation will not significantly affect the surrounding street network.

The proposal has been reviewed by Council’s Traffic Engineer who supports the proposal subject to conditions.

D3 Noise

The proposal is accompanied by an Acoustic Impact Assessment report, prepared by GHD, dated 06.11.2023. The report has been reviewed by Council’s Environmental Health Officer who has no objections to the proposal subject to conditions.

The report recommends several measures be undertaken to mitigate the potential acoustic impacts of the use of the proposed buildings. This includes limits on live music, closing doors between the function area and the outside deck from 10.00pm and procedures for complaints management.



Included in the recommendation of this report are conditions requiring compliance with the recommendations of the Acoustic Impact Assessment report and restrictions around live music.

D7 Views

Residential developments (including dwelling houses and residential flat buildings) on the opposite side of Ocean Street appear to enjoy ocean views in an easterly direction. Some views are obtained across and over the site.

The view analysis presented in the Statement of Environmental Effects assesses potential impacts on view corridors from five buildings (209-211, 212-214, 216, 220, 224 and 226 Ocean Street). The analysis notes that the proposed enclosed lobby and the enclosed seating area on the first floor have the potential to impact upon views currently available across the open balcony of the SLSC towards the ocean in an easterly direction.

The analysis finds that the potential impact is limited to a minor portion of the extensive views available. Given the minor nature of the works proposed, the impact on views from surrounding properties is found to be negligible and reasonable.

The proposal complies with the relevant planning controls and has been skilfully designed in terms of its siting and scale. It is concluded that the proposal provides for reasonable view sharing and satisfies the requirements of clause D7 of WDCP 2011 and the Land and Environment Court's planning principle (*Tenacity Consulting v Warringah Council* [2004] NSWEC 140).

E4 Wildlife corridors

The site is identified as being within a wildlife corridor. As the proposed development is contained within an existing disturbed area and the proposal does not involve the removal or modification of any native vegetation (which would otherwise trigger a requirement for a Biodiversity Development Assessment Report), there will be no impact on the existing wildlife corridor. The proposal has been reviewed by officers in the Council's Natural Environmental Unit who raise no objections subject to conditions included in the recommendation of this report.

E5 Native vegetation

Areas of Birdwood Park in the vicinity of the proposed development have been mapped as containing native vegetation. The proposal has been reviewed by officers in Council's Natural Environmental Unit who have raised no objections subject to conditions included in the recommendation of this report.

The proposal has been sited to avoid areas mapped as containing native vegetation and is considered satisfactory in this regard.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Areas of Birdwood Park in the vicinity of the proposed development have been mapped as containing threatened and high conservation habitats. The proposed additions have been sited to avoid those areas and is considered satisfactory in this regard.

The proposal has been reviewed by officers in Council's Natural Environmental Unit who have raised no objections subject to conditions included in the recommendation of this report.

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

7.12 CONTRIBUTIONS



No contribution is payable under the Northern Beaches Section 7.12 Contributions Plan 2019 because the proposal is for public infrastructure and Council is the applicant (clause 2.5 of Northern Beaches Section 7.12 Contribution Plan 2019).

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 does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2011, Warringah Development Control Plan 2011, the Coastal Plan of Management and the relevant codes and policies of Council.

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

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

PLANNING CONCLUSION

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the Council is the landowner. The application is subject to Council's policy for the Management of Council related Development Applications, which provides strategies for the management of conflicts for development on Council owned or managed land. The application has been managed and assessed in accordance with this policy and satisfied the requirements under the plan.

The critical assessment issues are environmental considerations, potential traffic and parking impacts and potential residential amenity impacts.

The purpose of the proposed alterations and additions is to improve the functionality of the community facility and support the activities of community groups including North Narrabeen SLSC and North Narrabeen Boardriders Club. The facility also provides an appropriate café and function facility at the beach location.

The proposed development is contained within the existing building footprint and therefore potential impacts to flora and fauna, coastal processes, views, and visual impacts are avoided.

The proposal will not increase demand for off-street car parking or generate additional traffic impacts on the surrounding street network.



The public notification resulted in no submissions.

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/0013 for Alterations and additions to an existing community facility (North Narrabeen Surf Life Saving Club) on land at Lot B DP 376822, 219 - 227 Ocean Street, NARRABEEN, Lot 1 DP 339162, 219 - 227 Ocean Street, NARRABEEN, Lot 2 DP 339162, 219 - 227 Ocean Street, NARRABEEN, Lot 6 DP 5768, 219 - 227 Ocean Street, NARRABEEN, Lot 8 DP 5768, 219 - 227 Ocean Street, NARRABEEN, Lot 1 DP 339162, 225 – 227 Ocean Street, NARRABEEN, 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.

DEVELOPMENT CONSENT OPERATIONAL 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
22467	D	Survey Plan (6 sheets)	CMS Surveyors	13.07.2023
DAS02	D	Sediment control plan	Building Assets-Planning Design and Delivery	Nov 2023
DEM01 D	D	Demolition works – existing ground floor	Building Assets-Planning Design and Delivery	Nov 2023
BCDEM 02D	D	Demolition works – existing upper floor	Building Assets-Planning Design and Delivery	Nov 2023
DA01	E	Site Plan	Building Assets-Planning Design and Delivery	Apr 2024
DA07	D	Ground floor plan	Building Assets-Planning Design and Delivery	Nov 2023
DA08	D	First floor plan	Building Assets-Planning Design and Delivery	Nov 2023
DA09	D	roof plan	Building Assets-Planning Design and Delivery	Nov 2023
DA10	D	Elevations	Building Assets-Planning	Nov 2023



			Design and Delivery	
DA11	D	Elevations	Building Assets-Planning Design and Delivery	Nov 2023
DA12	D	Detailed sections	Building Assets-Planning Design and Delivery	Nov 2023
DA13	D	Detailed sections	Building Assets-Planning Design and Delivery	Nov 2023
DA14	D	External materials and finishes	Building Assets-Planning Design and Delivery	Nov 2023
DA01	A	Stormwater Management – Notes	NB Consulting Engineers	20.10.2023
DA02	A	Stormwater Drainage	NB Consulting Engineers	20.10.2023
DA03	A	Stormwater Drainage	NB Consulting Engineers	20.10.2023
D04A	A	Drainage Details	NB Consulting Engineers	20.10.2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Statement of Environmental Effects	1	Rhelm	Jan 2024
Traffic and Parking Impact Assessment	3	Barker Ryan Stewart	02.04.2024
Coastal Assessment and Management	-	Baird	22.12.2023
Preliminary Acid Sulfate Soil Assessment	-	JK Environments	14.07.2023
BCA Compliance Assessment Report	2	Absolute	24.11.2023
Accessibility Compliance	2	Absolute	24.11.2023
Section J Energy Efficiency Report	2	Certified Energy	14.11.2023
Acoustic Assessment	0	GHD Pty Ltd	6.11.2023
Geotechnical Investigation	-	JK Geotechnics	28.07.2023
Construction and Demolition Waste Management Plan	B	Elephants Foot Consulting	July 2023

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	Response Ausgrid Referral	25 August 2021
NSW Police Force	Response NSW Referral	2 February 2024
Aboriginal Heritage Office	Response Aboriginal Heritage Office Referral	23 May 2024



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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**



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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.



- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 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 seweried 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. Operational Management Plan

An Operational Management Plan (OMP) for the North Narrabeen Surf Club development is required to be prepared and submitted to Council detailing the operation of the function areas of the club as a "community facility" as defined in Warringah Local Environmental Plan 2011. The OMP shall include, but not be limited to the following:

- a. Types of events and activities permitted.
- b. The maximum number of persons to attend the premises having regard to the requirements of the Building Code of Australia and the Acoustic Assessment by GHD dated 06.11.2023.
- c. The days per week when events can be booked, which are to be consistent with any other condition of consent.
- d. Hours of operation for the carrying out of functions/events, which are to be consistent with any other condition of consent in relation to hours.
- e. Management of the external areas of the club building and car parking areas.
- f. The types of events where security is required and details of the security to be provided.



- g. Complaints management process (maintenance of a log of complaints received, contact person for receiving and actioning any complaints and a process for dealing with the complaint).
- h. Noise management/mitigation measures, including details of restrictions on live bands and amplified music, which are to be consistent with the mitigation measures in Part 6 of the Acoustic Assessment by GHD dated 06.11.2023.
- i. Truck and/or van delivery and departure times for goods and equipment to be used for events.
- j. Waste management for events.
- k. The conditions and requirements of any liquor licence issued for the premises.

Details demonstrating compliance with the above requirements are to be submitted to Council and written approval of the OMP is to be obtained prior to the issue of any Occupation Certificate. Any changes to the OMP are to be submitted to Council for approval. The function areas of the club are to operate in accordance with the approved OMP.

Reason: To ensure that the function areas of the surf club operate only as ancillary uses to the surf club operations, meet relevant performance standards and provide minimum disruption to the nearby residential amenity, other beach goers and users of the public reserve area.

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

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

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

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

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

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

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

7. 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 Principal Certifier prior to issue of Construction Certificate.



Reason: To protect native vegetation.

8. **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.

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.

9. **Erosion and Sediment Control Plan**

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

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

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.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Boundary Identification Survey**



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

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

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

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

12. Access and Facilities for Persons with Disabilities

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the Accessibility Compliance Assessment Report prepared by Absolute BCA and Accessibility Consulting dated 24/11/2023 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

13. Building Code of Australia Fire Safety Requirements

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Compliance Assessment Report prepared by Absolute BCA & Accessibility Consulting, dated 24/11/2023, Report No 23_03_BCA including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

14. 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.

15. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).



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

16. 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 and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address the 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.
- 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
-
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
 - 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.

17. **Bicycle Parking Spaces**

The dimensions of proposed bicycle parking spaces must be annotated in the architectural plans to confirm appropriate spacing. The bicycle parking spaces must be designed in accordance with AS2890.3:2015.



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

Reason: To ensure bicycle parking spaces are designed as per Australian Standards

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

N/A

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Requirement to notify about new Acid Sulfate Soils evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person.

Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

19. Protection of Sites of Significance

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

20. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site,
 - 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 AS4970-2009 Protection of trees on development sites,
 - 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 AS4970-2009 Protection of trees on development sites, the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- x) 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 and complaint to AS4970- 2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

21. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works.

In this regard all protected trees shall not exhibit:

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

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

22. **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.

23. **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.

24. **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.

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

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

26. **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 AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

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

27. **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.

28. **Survey Certificate**

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



- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

29. 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.

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.

30. 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.

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

31. Native Landscaping

Any new landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Planting Guide available on Council's website.

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.

32. 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.

33. **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.

34. **Removal of All Temporary Structures/Materials and Construction Rubbish**

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

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

Reason: To protect reserve amenity and public safety.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

36. **Registration of food Business**

The food business must be registered with the appropriate regulatory authority, prior to the Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

37. **Kitchen Design, construction and fit out of food premises certification**

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

38. **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.

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



39. **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.

40. **Control of Domestic Dogs/Cats – Caretaker’s Flat**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

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

Reason: To protect native wildlife and habitat.

41. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

42. **Live Music**

During live music operations within the enclosed area, sliding doors to the balcony are to be partially closed after 6pm.

During live music operations within the enclosed area, sliding doors to the balcony are to be fully closed after 10pm.

The sliding doors are to be partially/fully closed as shown in Figure 4.1 of the Acoustic Report dated 6 November 2023 prepared by GHD Pty Ltd, project number 12618094.

Live music operations **within the enclosed area** should not exceed an internal reverberant sound pressure level of 90 dBA and 97 dBC (base in sound single).

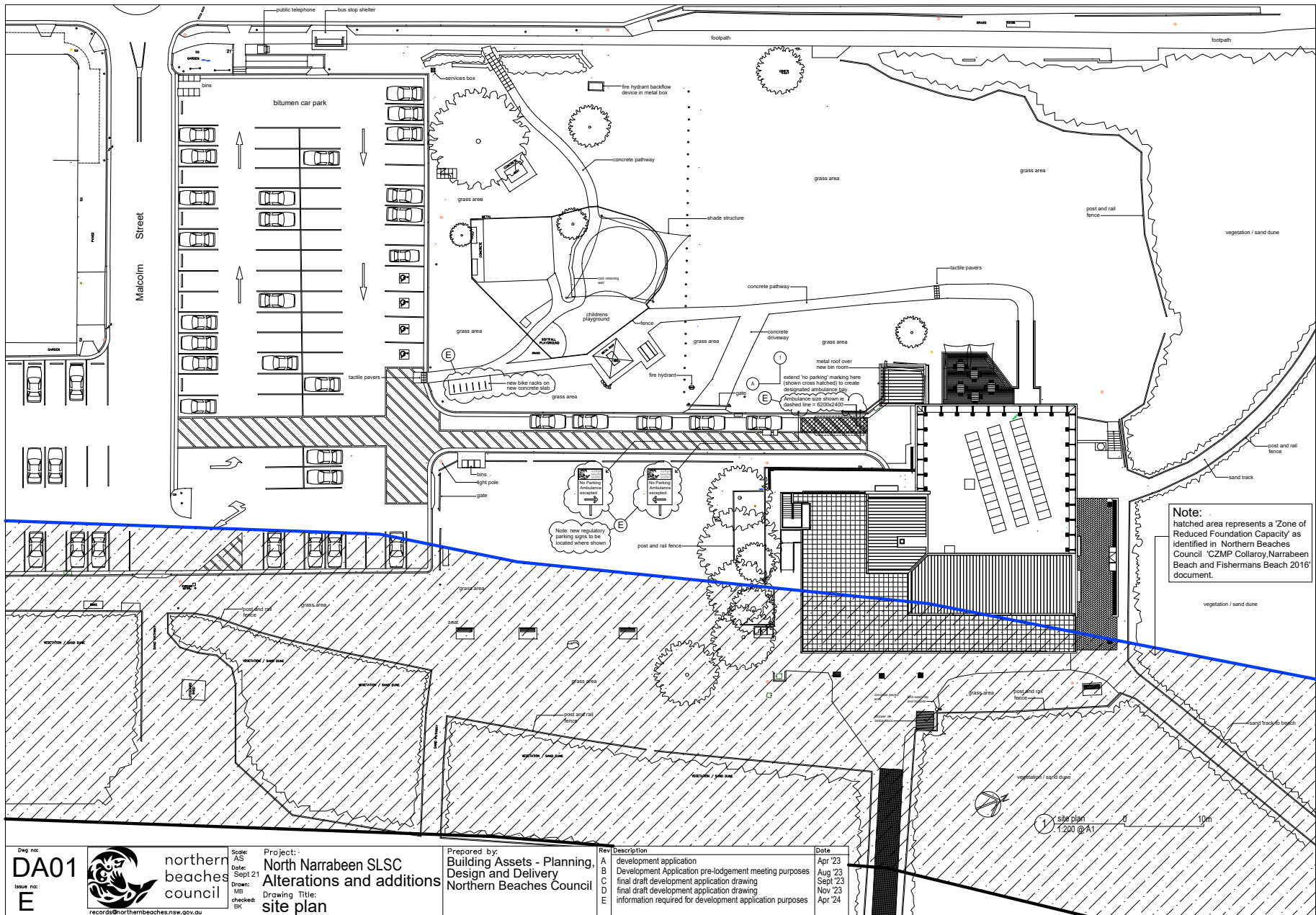
Reason: To ensure acoustic compliance in an operational situation.

FINAL DECLARATION

A handwritten signature in black ink, appearing to read "D Deegan", enclosed in a thin black rectangular border.

Consultant Name: Danielle Deegan, DM Planning

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



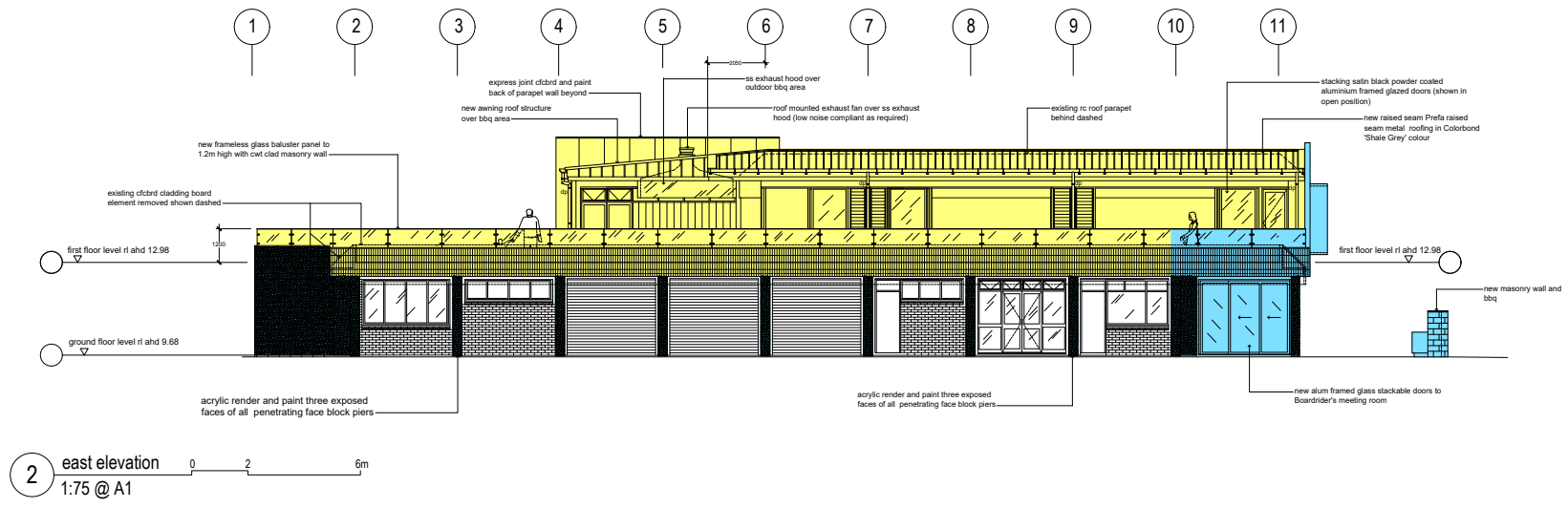
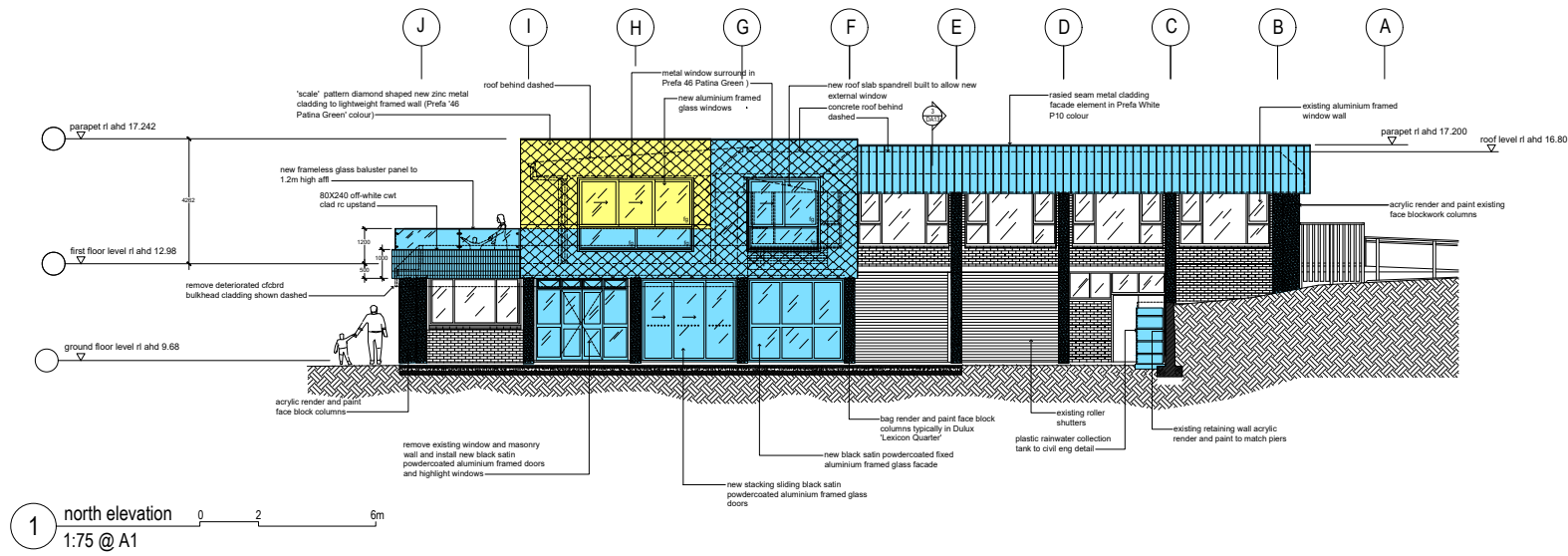
Dwg no: **DA01**
Issue no: **E**



Project: **North Narrabeen SLSC Alterations and additions**
Scale: AS
Date: Sept 21
Drawn: MB
Checked: BK
Drawing Title: **site plan**

Prepared by: **Building Assets - Planning, Design and Delivery Northern Beaches Council**

Rev	Description	Date
A	development application	Apr '23
B	Development Application pre-lodgement meeting purposes	Aug '23
C	final draft development application drawing	Sept '23
D	final draft development application drawing	Nov '23
E	information required for development application purposes	Apr '24



Rev	Description	Date
A	to consultants for information	Jul '23
B	Development Application	Aug '23
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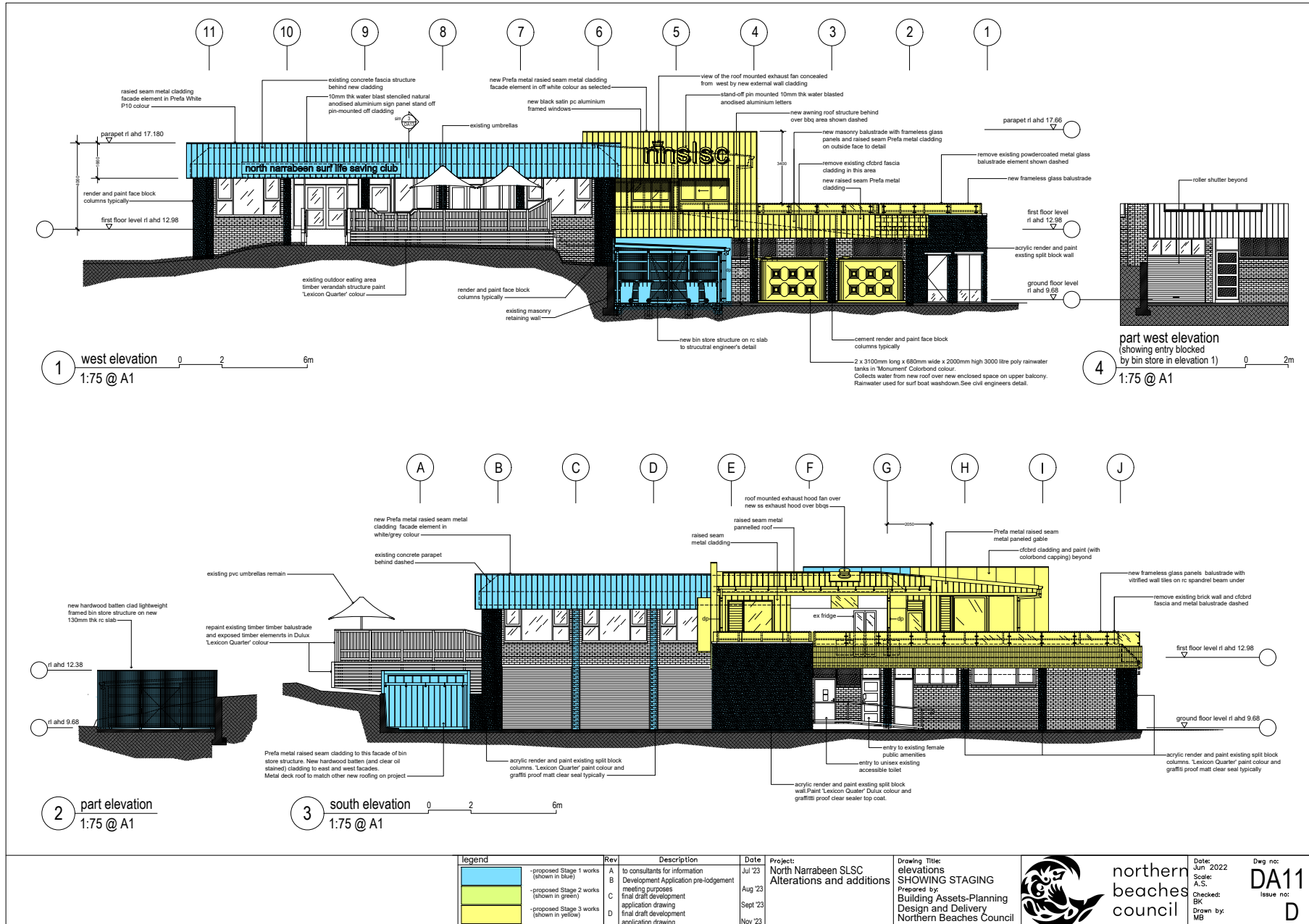
Project:
North Narrabeen SLSC
Alterations and additions

Drawing Title:
elevations
SHOWING STAGING
Prepared by:
Building Assets-Planning
Design and Delivery
Northern Beaches Council



Date:
Jun 2022
Scale:
A.S.

Dwg. no:
DA10
Issue no:
D



5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1 DA2024/0091 - 45 BOYLE STREET BALGOWLAH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2024/0091 for Alterations and additions to a dwelling house including a swimming pool at Lot 1 DP 175524, 45 Boyle Street BALGOWLAH subject to the conditions set out in the Assessment Report.

Reporting manager	Rodney Piggott
TRIM file ref	2024/416208
Attachments	↓1 Assessment Report ↓2 Site Plans & Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0091
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Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 1 DP 175524, 45 Boyle Street BALGOWLAH NSW 2093
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Peter David Smith Helen Clare Wood
Applicant:	Peter David Smith

Application Lodged:	09/02/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/02/2024 to 04/03/2024
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 902,000.00
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EXECUTIVE SUMMARY

This development application is referred to the Panel as it seeks consent for alterations and additions to a dwelling house including a swimming pool which involves demolition to a heritage item.

Assessment issues included numerical built form non-compliances relating to rear setback and total open space which have been discussed within this report and considered acceptable on merit.

Concerns raised in the objections relating to stormwater management have been addressed within the

relevant section of this report which cites a supportive assessment from Council's Development Engineer.

This report concludes with a recommendation that the NBLPP 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 dwelling including the following works:

- Demolition works to the rear of the existing dwelling
- Rear extension of the existing dwelling consisting of new living, bathroom and kitchen spaces
- New alfresco and swimming pool area

Amended plans

Some minor reconfiguration changes to the proposal have occurred during the assessment process in response to referral requirements from Council's Heritage Officer, including a recess at the amenities section between the original cottage and the new rear addition.

Notification

In accordance with Council's Community Participation Plan, demolition of a building or tree identified as an item of environmental heritage is classified advertised development. However, the CPP also states that alterations and additions to this development type may be excluded from advertising due to the minor nature and impact of the proposal. A minor portion of the item is being demolished at the rear and it is a lean to extension-to the dwelling. Given the minor nature of the demolition works and impacts from the proposed works the application was only exhibited, not advertised under the authority of the CPP.

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 Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.10 Fencing
 Manly Development Control Plan - Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

SITE DESCRIPTION

Property Description:	Lot 1 DP 175524 , 45 Boyle Street BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject allotment is described as 45 Boyle Street, Balgowlah, being Lot 1 in Deposited Plan 175524.</p> <p>The site is zoned R1 General Residential under Manly Local Environmental Plan 2013.</p> <p>The site is located on the western side of Boyle Street to the north of the intersection with Sydney Road.</p> <p>The site is rectangular in shape with a 11.07m frontage to Boyle Street and a depth of 45.415m. The property has existing vehicular access off Boyle Street.</p> <p>The site has a varying topography sloping from the south-east to the north-west.</p> <p>The existing building is a one storey residence with a metal roof.</p> <p>The existing house is listed as a heritage item of local significance.</p>

Map:



SITE HISTORY

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

Pre-lodgement **SPLM2023/0006** was held on 5 January 2024 for stormwater management options for the proposed development of a single storey extension to the existing dwelling.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent.

Section 4.15 Matters for Consideration	Comments
Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to referral requirements by Council's Heritage Officer.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 19/02/2024 to 04/03/2024 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 3 submission/s from:

Name:	Address:
Mrs Anne Louise Blackstone	PO Box 180 SEAFORTH NSW 2092
Mr Benjamin John Walstab	51 Boyle Street BALGOWLAH NSW 2093
Mr Neil Davis	33 Boyle Street BALGOWLAH NSW 2093

Three (3) submissions have been received during the community notification period by the owners of 33, 49 and 51 Boyle Street, Balgowlah.

The issue raised by all submissions related to stormwater management impacts resulting from the proposed development.

Comment

Council's Development Engineer has undertaken an assessment of the application in this context. Council's engineer has advised that the proposal to discharge flows from the site utilising a large on-site detention system with a small orifice is in compliance with Section 5.5 of Council's Water Management for Development Policy.

Referral comments provided by Council's Engineer state that the proposed development is a low level property (cannot drain directly to Council's stormwater infrastructure in the street) and the absorption of stormwater is not feasible due to existing shallow bedrock. It is also noted that an easement refusal letter from the downstream property (not any of the objecting properties) has been provided.

Reference has also been made within the submissions to an inter-allotment drainage easement, however Council records and survey information indicate that 45 Boyle Street is not the beneficiary of a downstream drainage easement to convey flows from the site.

It is also noted that a Stormwater Pre-Lodgement Meeting (SPLM2023/0006) was held with Council's engineers for this application and the recommendations of the meeting have been suitably

incorporated into the proposed development.

The proposed on-site detention and level spreader design is therefore supported by Council's Engineer, subject to recommended conditions of consent which ensure compliance with the relevant Council and Australian standards and is in accordance with the Council Policy on Water Management for Development

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Supported</p> <p>Council's Landscape Referral section have considered the application against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 (MDCP) controls (but not limited to): 3.3.1 Landscaping Design; 3.3.2 Preservation of Trees or Bushland Vegetation; and 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable.</p> <p>A Arboricultural Impact Assessment (AIA) report and Landscape Plans are submitted and are assessed under the landscape referral. The AIA submits recommendations for tree removal based on the proposed development works and consent is required for prescribed trees. The Landscape Plans provide a landscape setting in response to the proposed development works including tree replacement planting.</p> <p>It is noted that the total open space requirements / landscape area are less than the MDCP controls and the Assessing Planning Officer shall assess and determine this matter. Landscape Referral note that landscape areas are included in the calculations that are steeping pavers that serve the function of pedestrian access and the proposed 'in-between' planting of groundcovers is therefore subject to physical impact and failure or otherwise complete removal, and additional proposed landscape areas to side boundaries will service utilities including air conditioning units and garbage and other storage realistically requiring hard paved surface treatment, such that these landscape areas will not satisfy the definition of landscape areas under MLEP: means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</p> <p>Should the application be approved, Landscape Referral raise no concerns with the landscape outcomes as proposed in the Landscape Plans subject to conditions, and with conditions for tree and vegetation protection.</p>
NECC (Development Engineering)	<p>Supported</p> <p>The proposed development is on a Low Level Property. Vehicle crossing construction is not proposed. Absorption of stormwater is not feasible due to the shallow bedrock. An easement refusal letter from the downstream property was provided at PLM stage. An on-site</p>

Internal Referral Body	Comments																		
	detention and level spreader design has been submitted. This is supported subject to conditions. I have no further objections to the proposed development subject to the inclusion of the recommended engineering conditions of consent.																		
Strategic and Place Planning (Heritage Officer)	<p>Supported</p> <p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>The application has been referred to as the property is a Local Heritage item listed in Schedule 5 of Manly LEP 2013 as Item 17 Houses 33-45 Boyle Street- Balgowlah</p> <p>Details of heritage items affected</p> <p>Detail of the heritage items are affected by the proposal and contained within the heritage inventory as follows: Item 17 Houses 33-45 Boyle Street- Balgowlah <u>Statement of Significance</u> A group of seven stuccoed brick cottages. All cottages have gone various modifications. Small scale unified group of streetscape.</p> <p><u>Physical Description</u> Group of seven stuccoed brick cottages with simple hipped iron roofs bearing 'rising sun' motif in timber vents. Some original elements extant - particularly No. 37. Elements include: vermiculated stone chimneys; timber posts and valences to front verandah; coloured glass panes on top sash front windows. All houses have undergone modifications, alterations and additions.</p> <p>Other relevant heritage listings</p> <table border="1" data-bbox="571 1301 1326 1727"> <thead> <tr> <th data-bbox="571 1301 836 1391">SEPP (Biodiversity and Conservation) 2021</th> <th data-bbox="844 1301 908 1391">No</th> <th data-bbox="916 1301 1326 1391">Comment if applicable</th> </tr> </thead> <tbody> <tr> <td data-bbox="571 1395 836 1451">Australian Heritage Register</td> <td data-bbox="844 1395 908 1451">No</td> <td data-bbox="916 1395 1326 1451"></td> </tr> <tr> <td data-bbox="571 1456 836 1512">NSW State Heritage Register</td> <td data-bbox="844 1456 908 1512">No</td> <td data-bbox="916 1456 1326 1512"></td> </tr> <tr> <td data-bbox="571 1516 836 1572">National Trust of Aust (NSW) Register</td> <td data-bbox="844 1516 908 1572">No</td> <td data-bbox="916 1516 1326 1572"></td> </tr> <tr> <td data-bbox="571 1576 836 1666">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="844 1576 908 1666">No</td> <td data-bbox="916 1576 1326 1666"></td> </tr> <tr> <td data-bbox="571 1671 836 1727">Other</td> <td data-bbox="844 1671 908 1727">No</td> <td data-bbox="916 1671 1326 1727"></td> </tr> </tbody> </table> <p>Consideration of Application</p> <p>The proposal includes internal alterations and additions to the rear of the property inclusive of the addition of an external alfresco area with BBQ ,Swimming pool, cabana and new landscaping. The proposal also involves the demolition of the later additions to the rear of the property.</p>	SEPP (Biodiversity and Conservation) 2021	No	Comment if applicable	Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
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Other	No																		

Internal Referral Body	Comments
	<p>The proposal involves the demolition of the later additions to the rear of the property to be replaced with the new rear additions, which are proposed to be extended to the northern and southern side boundaries. It is noted that a skillion roof is proposed as a transition section between the original cottage and the new additions but this approach is not reflected on the proposed plans. Heritage recommends this transition section to be recessed from the side boundaries, to distinguish the original cottage and allow the interpretation of the original fabric and new additions.</p> <p>The works do not propose changes to the original cottage but the proposed extensions to the side boundaries are considered to be visible from the street and therefore impact the 'small-scale unified group of streetscape'.</p> <p>Revised comments - 20 May 2024</p> <p>Amended drawings, received on 16 May 2024, resolved some improvements, providing 300mm recess on the plans to the amenities section between the original cottage and the new rear addition. However, this recess must be followed on the low pitch section of the roof to allow the interpretation of the original building. This portion of the roof should not have any overhang in order to remain behind the main cottage, allowing a visual separation between the main cottage and the rear addition.</p> <p>Furthermore, the proposed narrow battened front fence is not supported and required to be a traditional picket fence to be complementary to the style and character of the group listed heritage cottages.</p> <p>Therefore, no objections are required on heritage grounds subject to the imposition of two conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.AAL-10784_02 dated 10 January 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no

risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	5.5m	-	Yes
Floor Space Ratio	FSR: 0.6:1	FSR: 0.33:1 (163.27m ²)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 497.4m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	N: 6.7m (based on gradient 1:30)	3.1m	-	Yes
	S: 6.7m (based on gradient 1:30)	2.75m	-	Yes
4.1.2.2 Number of Storeys	2	1	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.74m	-	Yes
	Parapet Height: 0.6m	Complies	-	Yes
	Pitch: maximum 35 degrees	Complies	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Existing	-	Yes

4.1.4.2 Side Setbacks and Secondary Street Frontages	N: 1.02m (based on wall height) S: 0.91m (based on wall height)	1.2m 1m	- -	Yes Yes
4.1.4.4 Rear Setbacks	8m	6.6m (cabana) 10.3m (pool) 17.5m(dwelling)	17.5% - -	No Yes Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	49.44% (245.9m2)	10.11%	No
	Open space above ground 25% of total open space	Complies	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	54.41% (133.8m2)	-	Yes
4.1.5.3 Private Open Space	18sqm	Complies	-	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	Complies	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	Complies	-	Yes
	1m curtilage/1.5m water side/rear setback	Complies	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 space (existing)	50%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles	No	Yes

Detailed Assessment

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

The proposed rear setback to the cabana is 6.6m, which does not comply with the control of 8m.

Despite the non-compliance, the cabana is considered to be a low-lying, lightweight structure that shall not unreasonably disturb the existing pattern of development in the rear setback area or adjoining amenity. The cabana is therefore considered to be a suitable enhancement to the proposed swimming pool and recreational decking area.

Merit consideration

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposal will continue to maintain an appropriate visual relationship with the surrounding built environment.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*

- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The works will not result in unreasonable additional overshadowing of adjoining properties or privacy concerns. The works are located to the rear of the property and shall not impact the streetscape. Overall, the proposal achieves this objective.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

Flexibility is afforded in this circumstance as the non-compliance shall not result in an incompatible visual presence in comparison to the existing arrangement.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposal does not result in an unreasonable landscape area outcome.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

The site is not bushfire prone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The control requires the site to consist of 55% total open space. The proposal achieves 49.44% (245.9m²) which is a variation of 10.11% to the numerical control.

Despite the numerical non-compliance, the proposal is considered to consist of adequate areas to

support recreational open space and deep soil planting. The proposal also complies numerically with the Landscaped Area control under subclause 4.1.5.2. Council's Landscape Officer has also reviewed the proposal and raised no objection to approval, subject to conditions.

The proposed areas of total open space are also considered to adequately support water filtration and minimise stormwater run-off. Council's Development Engineer has reviewed the application in this context and raised no objection to approval, subject to conditions.

The total open space arrangement in the front setback area is generally unchanged from existing and therefore shall result in a minimal impact upon the visual character of the streetscape.

Merit consideration:

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

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

The proposal results in a suitable extent of landscape features and vegetation.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

Although non-compliant the open space area consists of adequate landscaped areas to assist with water filtration and minimising stormwater runoff.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

The development is not expected to have any unreasonable impacts on sunlight, privacy and views enjoyed by surrounding properties.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

The proposal will provide for sufficient areas to assist with water filtration to minimise stormwater runoff.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

The proposal is not expected to result in the spread of weeds in private and public open spaces.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

Wildlife habitat and corridors will not be impacted by the proposed non-compliance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.10 Fencing

Description of non-compliance

The control states that freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point.

The proposed front fence has a maximum height of 1.2m which, to a minor extent, does not comply with the control.

The minor non-compliance is considered to be a result of moderately sloping topography at this portion of the site, which the majority of the fence being compliant with the 1m control. Despite the non-compliance, there is considered to be an existing streetscape character of fence structures of a similar size, scale and finish.

The proposed fencing is not considered to unreasonably impact the heritage character of the site or streetscape. Council's Heritage Officer has reviewed the application and raised no objection to approval, subject to conditions.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control. The control relies upon the objectives of Clause 3.1 - Streetscapes and Townscapes within the Manly DCP 2013.

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

Comment:

The height of the fence will not be out of keeping with the streetscape character.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Comment:

As noted above, the proposal will be in keeping within the streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Comment:

The proposal is reasonable in this circumstance and therefore, a soft landscape alternative is not required in this instance.

Conclusion

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

Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

Comment

The site currently accommodates one existing hardstand off-street parking space which does not comply with the requirements of the DCP (2 spaces). The existing off-street parking arrangement is unchanged by the proposal.

The proposed development is not considered to intensify the use of the site to an extent whereby the existing off-street parking arrangement shall be no longer viable. There is no increase in the number of bedrooms of the existing dwelling.

Therefore, given there is no change to the existing arrangement, the proposal is supported 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 2022

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

A monetary contribution of \$9,020 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$902,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;

- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

PLANNING CONCLUSION

This proposal, for alterations and additions to a dwelling house including a swimming pool has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to being sensitive development (development involving the demolition of a heritage item).

Assessment issues included numerical built form non-compliances relating to rear setback and total open space which have been discussed within this report and considered acceptable on merit.

Concerns raised in the objections relating to stormwater management have been addressed within the relevant section of this report which cites a supportive assessment from Council's Development Engineer.

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.

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 DA2024/0091 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 1 DP 175524, 45 Boyle Street, BALGOWLAH, 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
DA-02-01	A	Site Plan	Hancock Architects	15 May 2024
DA-02-02	A	Ground Floor Plan 1	Hancock Architects	15 May 2024
DA-02-03	A	Ground Floor Plan 2	Hancock Architects	15 May 2024
DA-03-01	A	Section A 1	Hancock Architects	15 May 2024
DA-03-02	A	Section A 2	Hancock Architects	15 May 2024
DA-04-01	A	Elevations	Hancock Architects	15 May 2024
DA-04-02	A	Elevations	Hancock Architects	15 May 2024
DA-04-03	A	Elevations	Hancock Architects	15 May 2024
DA-04-04	A	Elevations	Hancock Architects	15 May 2024
DA-04-05	A	Elevations	Hancock Architects	15 May 2024

Approved Reports and Documentation	
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Document Title	Version Number	Prepared By	Date of Document
Permeability Report	-	Rapid Geo	16 September 2023
Heritage Impact Statement	-	Sue Rosen Associates	August 2023
Arboricultural Impact Assessment	1	Heartwood Tree Consulting	15 August 2023
Stormwater Plan (SW01-SW02, SE01 - SE02)	D	Hyve Designs	12 January 2024
Landscape Plan (LPL_1101 - LPL_1102)	2	Lone Pine	29 August 2023
Waste Management Plan	-	Peter Smith	1 February 2024

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	14 February 2024

(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) 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 alternatively to Northern Beaches Council in person at a Customer Service Centre. 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) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a

manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$9,020.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$902,000.00.

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

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

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

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

6. Security Bond

A bond (determined from cost of works) of \$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

7. Tree Protection Plan

A Tree Protection Plan shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures for the Brushbox street tree located within the road reserve verge

The Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:

- i) location of tree protection fencing consisting of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and aligned to with: back of kerb to existing footpath; and edge of existing driveway to meet the common boundary location in a south direction,
- ii) root protection in the form of mulching or boards within the tree protection zone, if deemed necessary,
- iii) trunk and branch protection within the tree protection zone, if deemed necessary,
- iv) notation that NO stockpile areas and materials storage is permitted within the road reserve verge,
- v) other general tree protection measures.

Reason: Street tree protection.

8. 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 Hyve Designs, job number 23095, dated 12.01.2024. 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 Certifier for approval prior to the issue of the Construction Certificate.

9. 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 conveyed from the site to an on-site detention system and level spreader.

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.

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

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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

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

12. **Recessed roof**

The proposed low pitch roof should be recessed, as per the plans, without having any overhangs to remain behind the front building mass and allow a visual separation from the original main cottage. Details demonstrating compliance with this condition should be submitted to Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To respect the heritage item and allow the interpretation of the original cottage.

13. **Front fence**

The proposed narrow battened front fence is not supported and it is required to be a traditional picket fence to be complementary to the style and character of the group listed heritage cottages. Details demonstrating compliance with this condition should be submitted to Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To respect and support the significance of the heritage item.

14. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

15. **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.

16. **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

17. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree fronting the development site shall be protected in accordance with the approved Tree Protection Plan. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

18. **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.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendation of the approved Arboricultural Impact Assessment,
- ii) the following arboricultural requirements shall be adhered to unless authorised by an Arborist with minimum AQF level 5 qualifications: existing ground levels shall be maintained within the tree protection zone of trees to be retained; removal of existing tree roots at or >25mm (Ø) diameter is not permitted; 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; and structures are to bridge tree roots at or >25mm (Ø) diameter,
- iii) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- iv) 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,
- v) 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 compliant to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

19. **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.

20. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

21. **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.

22. **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.

23. 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.

24. 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

25. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans, unless otherwise imposed by conditions,
- c) all tree planting shall be a minimum pre-ordered planting size of 75 litres; 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 and from other trees, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,

- d) the proposed Rhapiolepis species shall not be planted and shall be substituted with a non self-spreading species of similar form and size,
- e) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

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.

26. **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.

27. **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.

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

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

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention and level spreader as to user 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 the on-site stormwater disposal system is maintained to an appropriate

operational standard.

29. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life.

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

30. **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.

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.

31. **Geotechnical Recommendations**

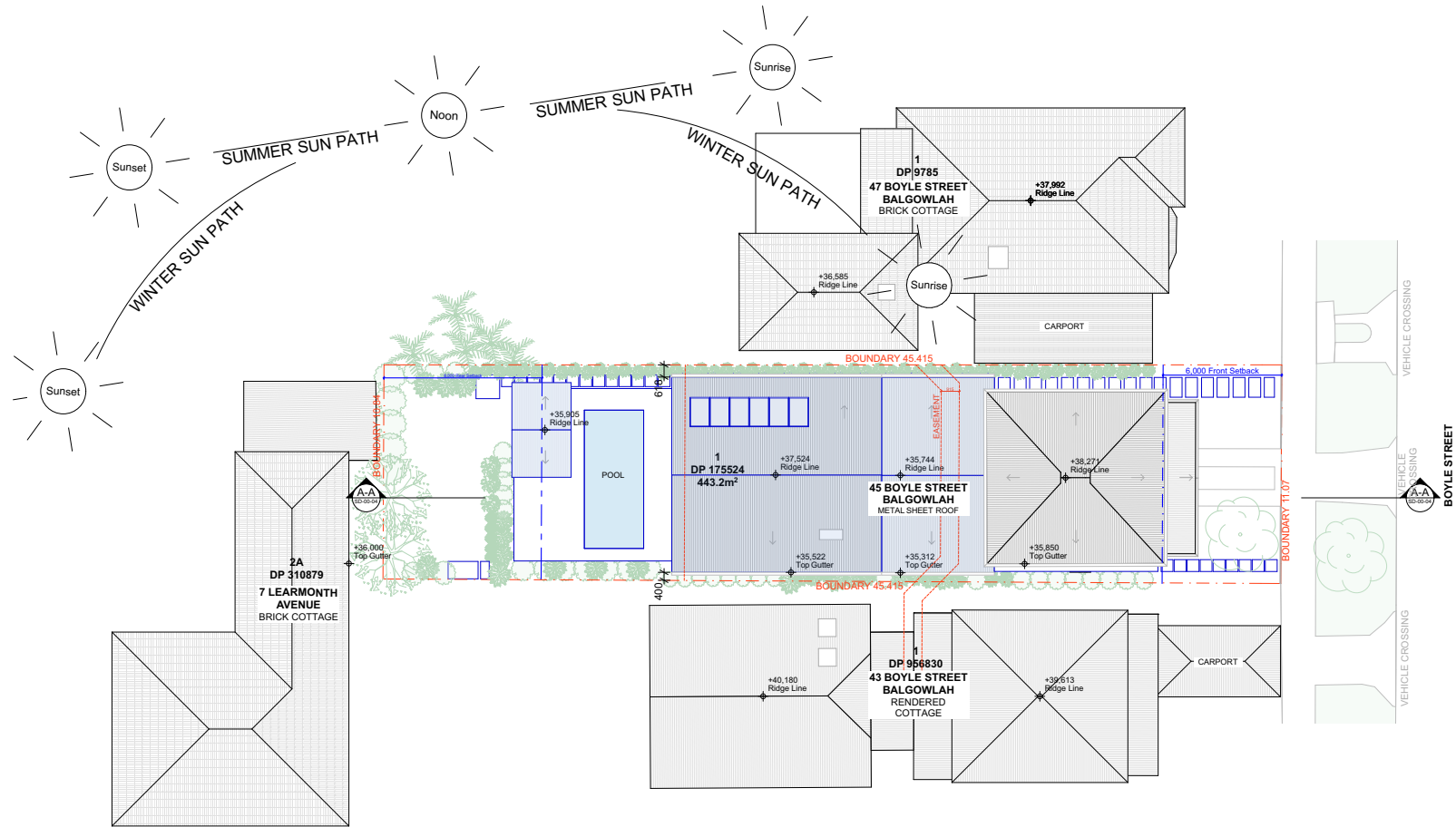
Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.



Proposed Site Plan

1:200

HANCOCK ARCHITECTS

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www.hancockarchitects.com.au | Nominated Architect - Tanya Hancock / Registration number 6929

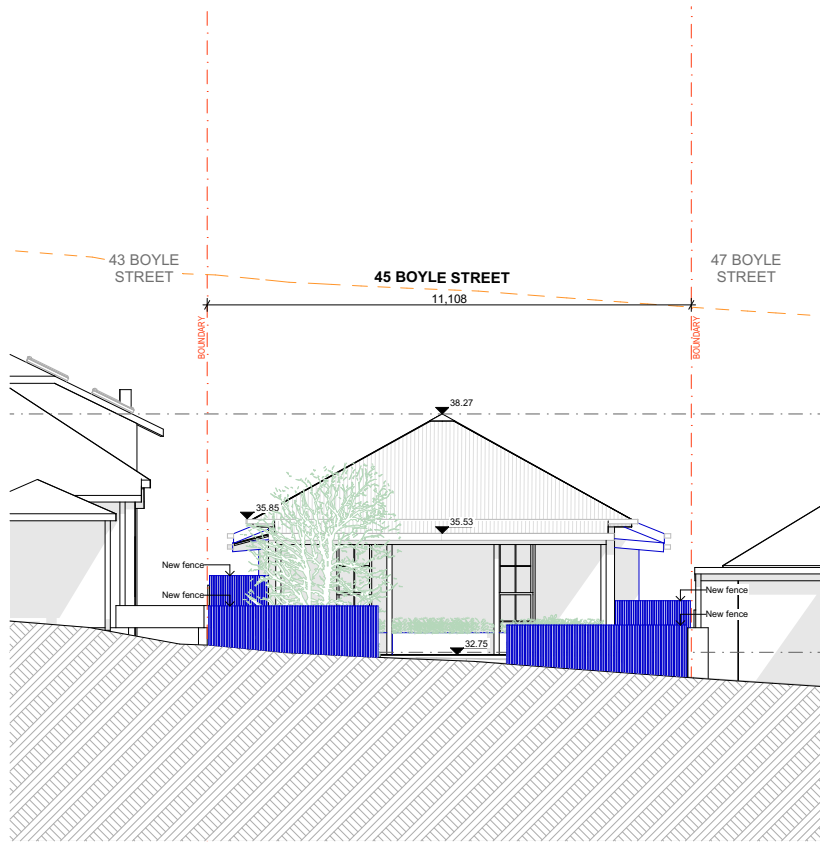
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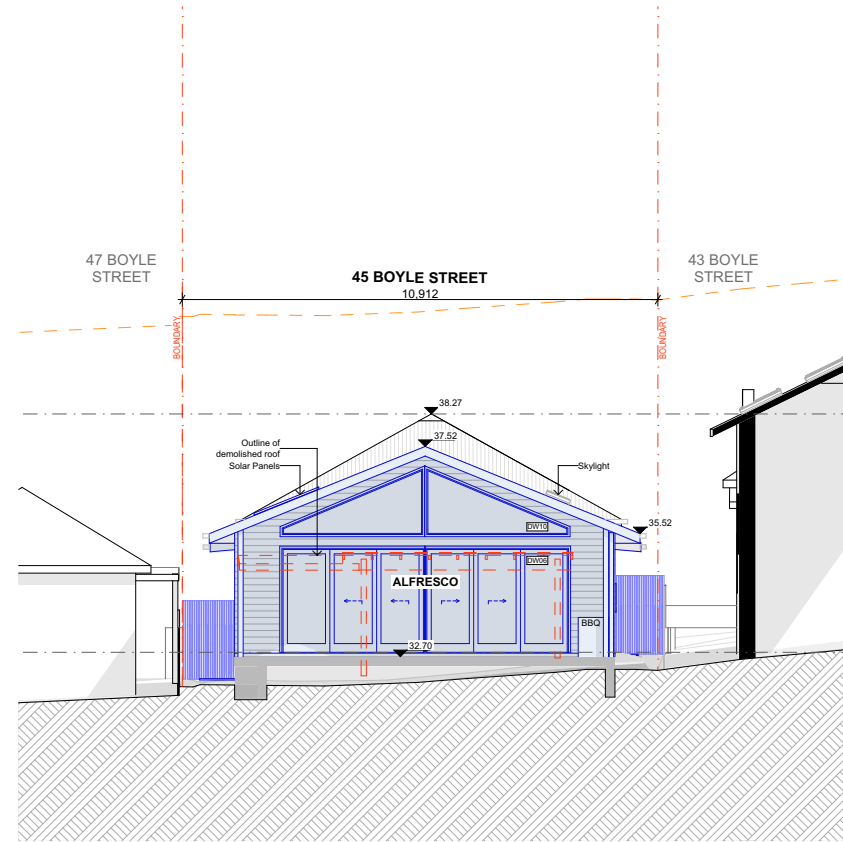


Rev	Date	Amended
A	15/05/2024	Development Application

Project	Number
45 Boyle Street, Balgowlah	24.04.335
Drawing Name	Scale
Proposed Site Plan	1:200 @ A3
Drawing Number	Revision
DA-02-01	A



Proposed Eastern Elevation 1:100



Proposed Western Elevation 1:100

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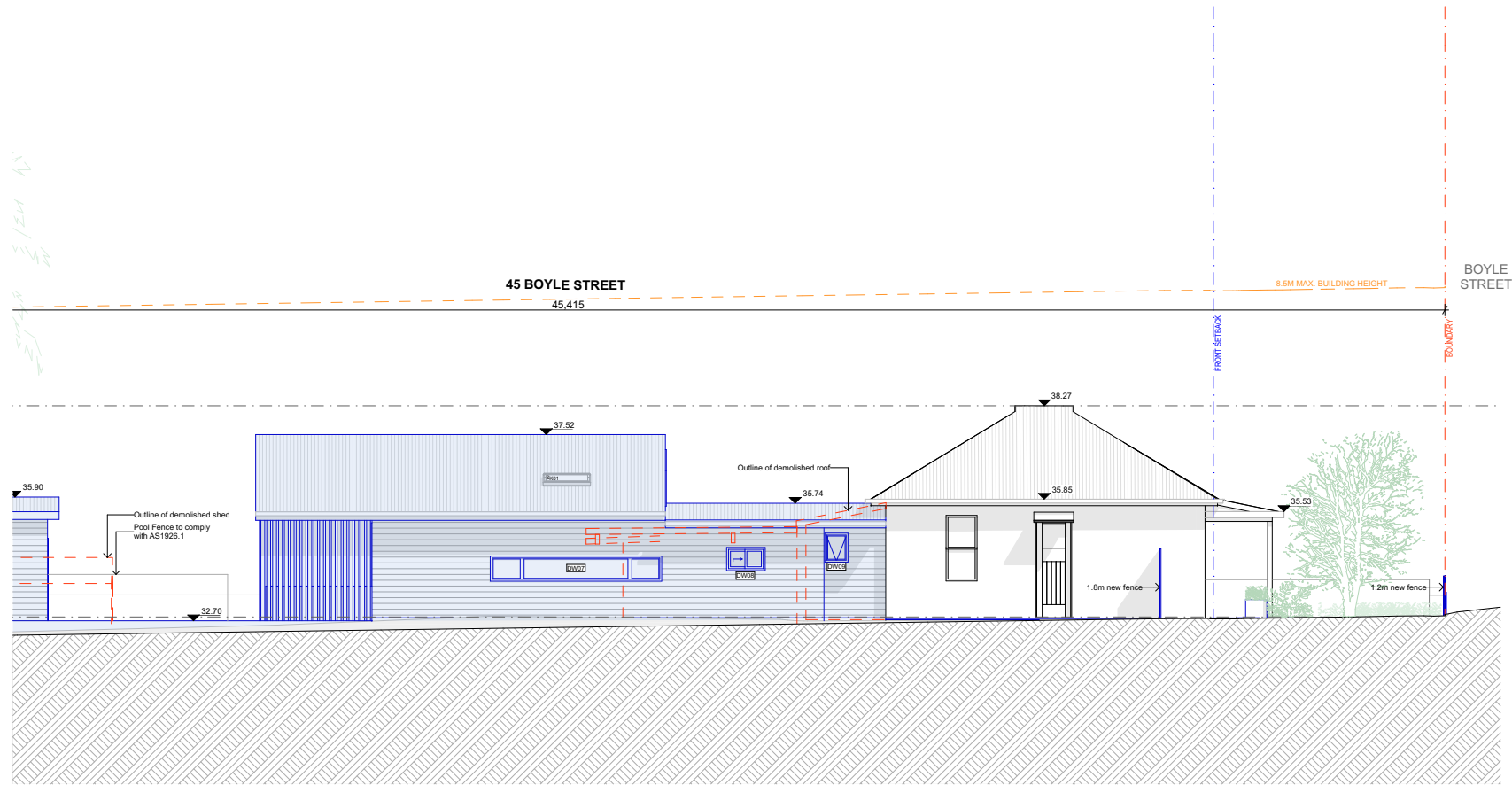
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FOR APPROVAL

Rev	Date	Amended
01	15/05/2024	Development Application

Project	Number
45 Boyle Street, Balgowlah	24.04.335
Drawing Name	Scale
Proposed Eastern & Western Elevation	1:100 @ A3
Drawing Number	Revision
DA-04-01	01



Proposed Southern Elevation

1:100

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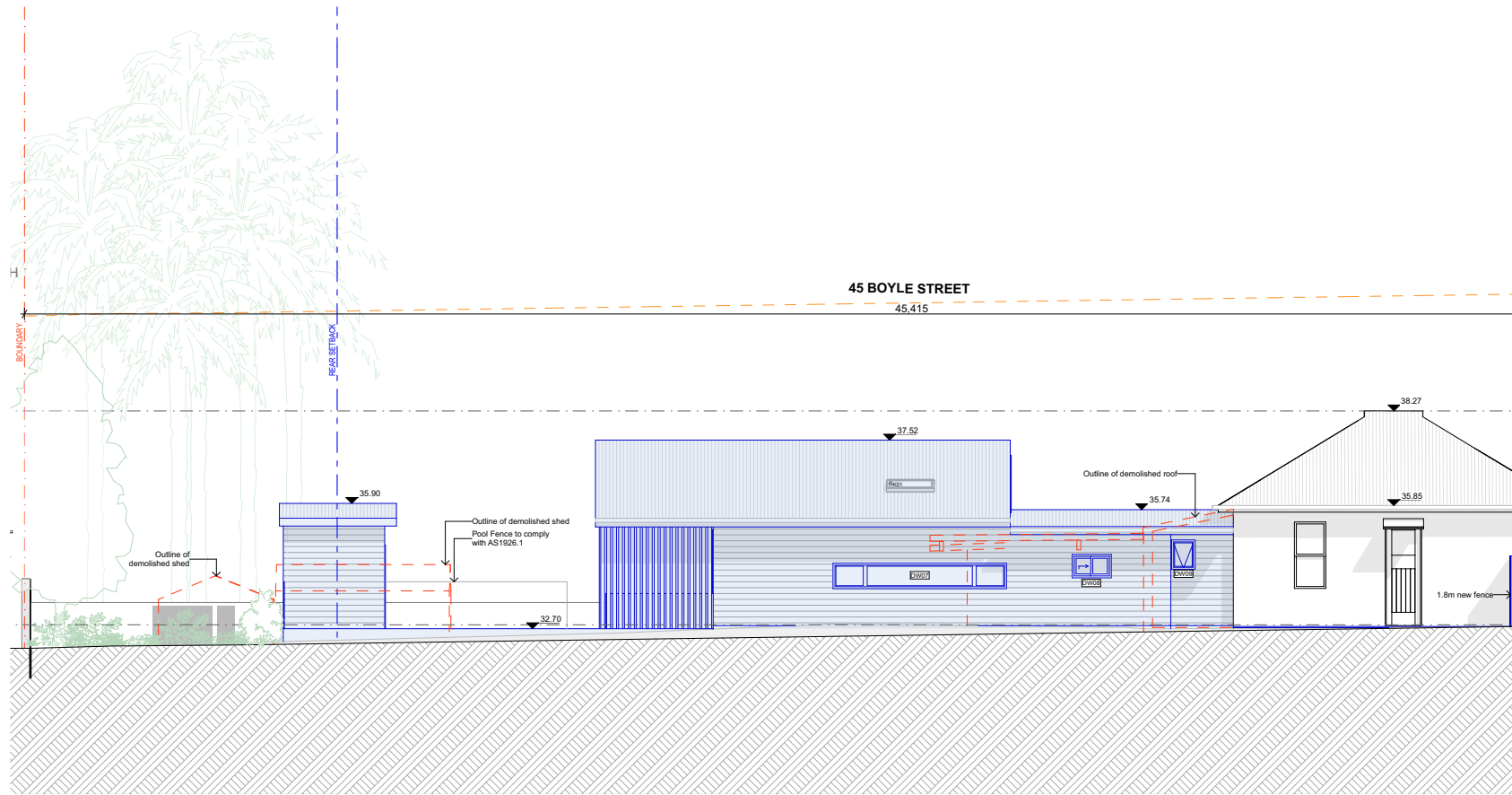
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FOR APPROVAL

Rev	Date	Amended
01	15/05/2024	Development Application

Project	Number
45 Boyle Street, Balgowlah	24.04.335
Drawing Name	Scale
Proposed Southern Elevation 1/2	1:100 @ A3
Drawing Number	Revision
DA-04-02	01



Proposed Southern Elevation

1:100

HANCOCK ARCHITECTS

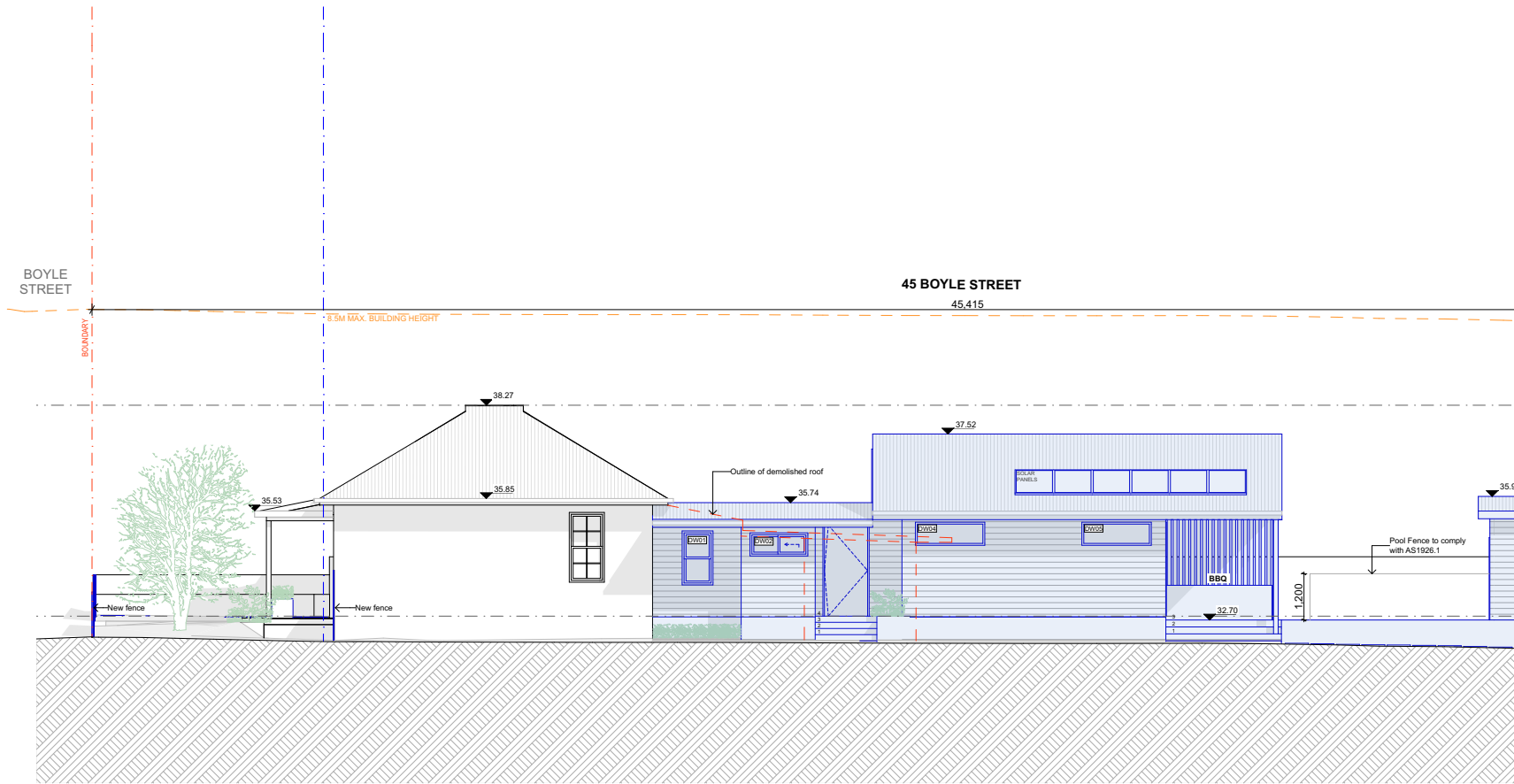
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FOR APPROVAL

Rev	Date	Amended
01	15/05/2024	Development Application

Project	Number
45 Boyle Street, Balgowlah	24.04.335
Drawing Name	Scale
Proposed Southern Elevation 2/2	1:100 @ A3
Drawing Number	Revision
DA-04-03	01



Proposed Northern Elevation

1:100

HANCOCK ARCHITECTS

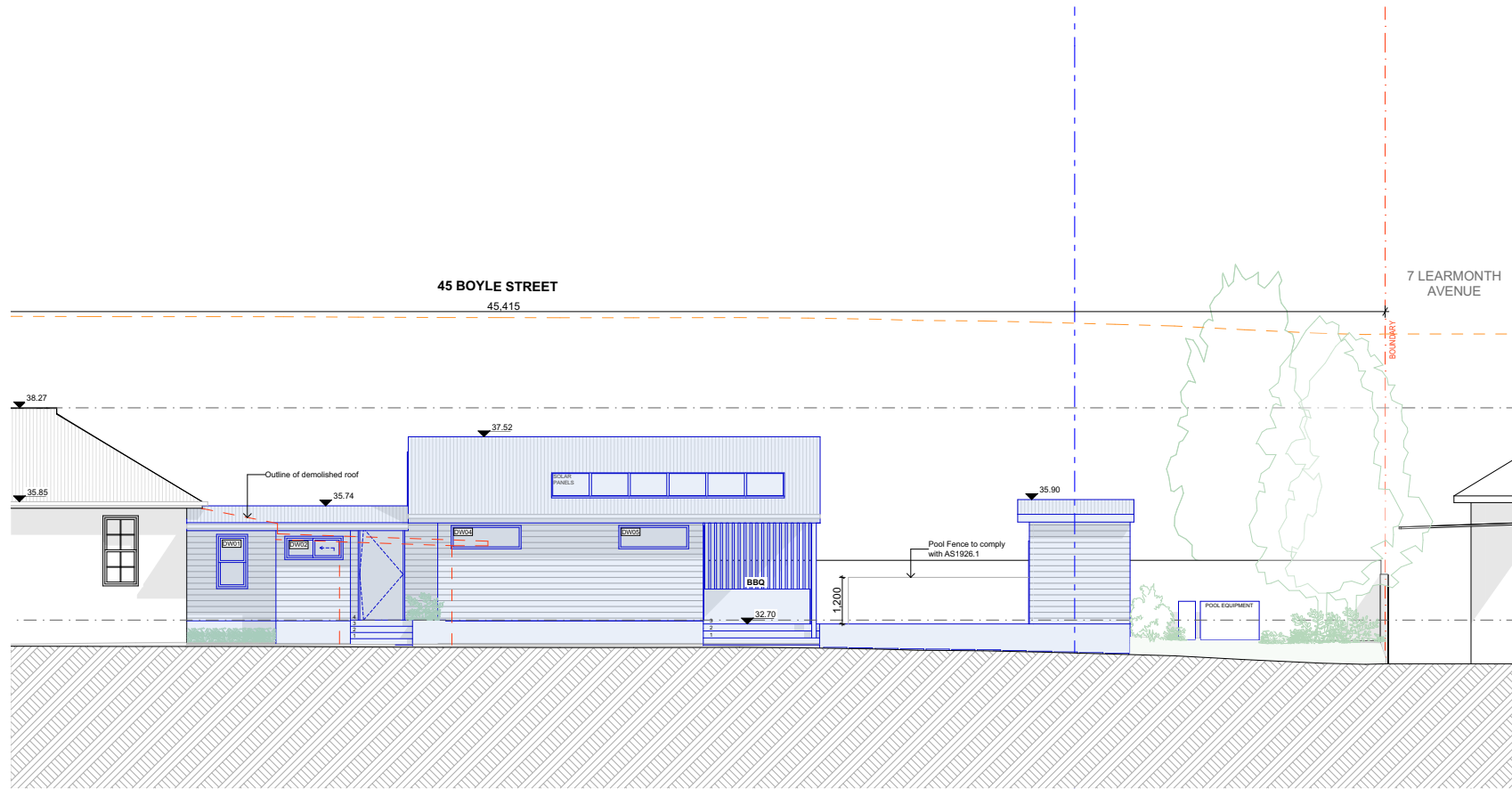
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www.hancockarchitects.com.au Nominated Architect - Tanya Hancock / Registration number 6929

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FOR APPROVAL

Rev	Date	Amended
01	15/05/2024	Development Application

Project	Number
45 Boyle Street, Balgowlah	24.04.335
Drawing Name	Scale
Proposed Northern Elevation 1/2	1:100 @ A3
Drawing Number	Revision
DA-04-04	01



Proposed Northern Elevation

1:100

HANCOCK ARCHITECTS

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Proposed Northern Elevation 2/2	1:100 @ A3
Drawing Number	Revision
DA-04-05	A

ITEM 5.2 REV2024/0012 - 207 - 217 PITTWATER ROAD MANLY - REVIEW OF DETERMINATION OF APPLICATION DA2023/0386 FOR ALTERATIONS AND ADDITIONS TO THE SERVICE STATION INCLUDING AN AUTOMATIC CAR WASH FACILITY, EXTENSION OF THE SALES AREA, A LAUNDROMAT AND SIGNAGE

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. REV2024/0012 for Review of Determination of Application DA2023/0386 for alterations and additions to the service station including an extension of the sales area, a laundromat and signage at Lot 1 DP 829523, 207 - 217 Pittwater Road MANLY subject to the conditions set out in the Assessment Report.

Reporting manager	Rodney Piggott
TRIM file ref	2024/416223
Attachments	↓1 Assessment Report ↓2 Site Plans & Elevations

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2024/0012
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 1 DP 829523, 207 - 217 Pittwater Road MANLY NSW 2095
Proposed Development:	Review of Determination of Application DA2023/0386 for Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage
Zoning:	Manly LEP2013 - Land zoned E1 Local Centre Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes - Zone R1 General Residential Yes - Zone E1 Local Centre
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	D & H Kane Investments Pty Ltd
Applicant:	The Trustee For Ultra Petroleum Trust

Application Lodged:	07/05/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	15/05/2024 to 29/05/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 427,216.00
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EXECUTIVE SUMMARY

This application is a Review of Determination under Division 8.2 of the Environmental Planning and Assessment Act 1979. The application being review is DA2023/0386 which sought consent for "Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage". The development application was refused by the Northern Beaches Local Planning Panel (NBLPP) on 21 February 2024.

The review application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the original development application was determined by the NBLPP.

Amended plans have been submitted with this review of determination which deletes the automatic car wash from the proposal which was proposed to be located in the south-western corner of the site adjoining the R1 Zoned land. As a result of the deletion of the automatic car wash the reasons for refusal of the development application in relation to overshadowing and visual impact upon the adjoining residential properties have been addressed to the satisfaction of Council. The remaining alterations to the service station, including removal of the existing mechanics workshop and extension of the sales area for the service station will not give rise to unreasonable amenity impacts on the surrounding properties. The pre-fabricated laundromat facility is ancillary to the service station and will not give rise to unreasonable impacts due to the location on the site.

One submission was received during the notification period which raised issue with proposed car wash and impacts upon traffic safety and noise. However, as stated above the proposed automatic car wash has been deleted from the proposal.

Critical assessment issues include a review of the original reasons for refusal which are discussed later in this report. The reasons for refusal are addressed by the amended plans submitted with this review application.

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

PROPOSED DEVELOPMENT IN DETAIL

The original development application consisted of 'Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage'.

As part of this review of determination, the application has been amended in the following way:

- Removal of proposed automatic car wash operation and associated plant and equipment enclosures.
- Removal of boundary acoustic walls and retention of all existing boundary fencing.
- Removal of acoustic roof structure between acoustic walls and existing building structure.
- Extension of Sales Area into existing workshop bay in place of automatic car wash
- Provision of shipping container storage at rear of building.

Therefore, the amended proposal consists of:

- Removal of the existing mechanic workshop and replace with an extended sales area for the service station;
- Demolition and removal of the existing storage area to the west of the service station. Replacement with a new storage area consisting of a shipping container with internal connection to the sales area
- New disabled bathroom.
- New and replacement signage, including window signs
- Pre-fabricated self service laundromat facility.

Should consent be granted, the development description on the notice of determination should be updated to delete reference to the 'automatic car wash facility'.

Site Operation

Trading Hours

The site currently operates in accordance with the trading hours approved by NSW Land and Environment Court Proceedings No. 11218 of 2005, in respect of Manly Council DA No. 433-2004, as follows:

Service Station

The approved service station operating hours are :

- 06.00 to 23.00 Monday to Friday.
- 07.00 to 23.00 Saturday, Sunday and public holidays.

Car Wash (the existing self service carwash)

- 07.00 to 20.00 Monday to Friday.
- 08.00 to 20.00 Saturday.
- 08.30 to 20.00 Sunday and public holidays."

There is no change to the above hours. The laundromat facility to to operate in accordance with the above hours.

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 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3

Manly Local Environmental Plan 2013 - Zone R1 General Residential

- Manly Local Environmental Plan 2013 - Zone E1 Local Centre
- Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
- Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils
- Manly Local Environmental Plan 2013 - 6.2 Earthworks
- Manly Local Environmental Plan 2013 - 6.4 Stormwater management
- Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
- Manly Development Control Plan - 4.2.3 Setbacks Controls in LEP Zones B1 and B2
- Manly Development Control Plan - 4.2.8.2 Setbacks
- Manly Development Control Plan - 4.2.8.6 Hours of Operation
- Manly Development Control Plan - 4.4.3 Signage

SITE DESCRIPTION

Property Description:	Lot 1 DP 829523 , 207 - 217 Pittwater Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 61.89m along Pittwater Road and a depth of 35.9 metres. The site has a surveyed area of 1012m².</p> <p>The site is located within the E1 Local Centre and R1 General Residential zone accommodates a service station with a covered fuel dispensing area, small sales area, two (2) bay mechanical workshop and a car washing facility.</p> <p>The site has a slight slope running from the rear to the front of the site. There is no vegetation currently on the site and there are no details of any threatened species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential flat buildings, dwelling houses, semi-detached dwellings, and commercial premises. The subject site is located in Pittwater Road Conservation Area.</p>

Map:



SITE HISTORY

DA433/2004 - Existing Service Station and Store Open 24 hours/7 days and Self Serve Carwash was Refused on 18 October 2004 for the following reasons:-

1. The proposal is not considered to satisfy the relevant objectives of the Residential Zone under the Manly LEP 1988, particularly with respect to the objective of maintaining neighbours amenity.
2. Pursuant to Section 79C(b) of the Environmental Planning and Assessment Act the proposal, which is an intensification of an existing use is considered to result in unreasonable building to the amenity of neighbouring dwellings in terms of noise levels and duration of operating hours and light spread.
3. Pursuant to Section 79C(d) of the Environmental Planning and Assessment Act the proposal is not considered to satisfactorily address issues raised in neighbours submissions.
4. Pursuant to Section 79C(e) of the Environmental Planning and Assessment Act the proposal is considered unacceptable in context of the Public Interest.

Land and Environment Court for DA No. 433/2004

NSW Land and Environment Court Proceedings No. 11218 of 2005, in respect of Manly Council DA No. 433-2004, was approved on 12 April 2005.

The site currently operates in accordance with the trading hours approved by NSW Land and Environment Court Proceedings No. 11218 of 2005, in respect of Manly Council DA No. 433-2004 and this was approved on 12 April 2005 as follows :

Service Station

The approved service station operating hours are :

- 06.00 to 23.00 Monday to Friday.
- 07.00 to 23.00 Saturday, Sunday and public holidays.

Car Wash

- 07.00 to 20.00 Monday to Friday.
- 08.00 to 20.00 Saturday.
- 08.30 to 20.00 Sunday and public holidays.

DA403/2008 - Demolition of existing fuel canopy, carwash shade structures and construction of new fuel dispensing canopy, new underground storage tank and dispensing pumps was approved on 15 June 2009. It is noted that the approved hours of operations were not altered by this application and hours of operations remain as approved via DA433/04.

DA2023/0386 - "Alterations and additions to the service station including an automatic car wash facility, a laundromat and signage" was refused by the Northern Beaches Local Planning Panel (NBLPP) on 21 February 2024. The proposal was refused due to the impacts of the proposed automatic carwash in relation to solar access due to the insufficient building separation of the carwash to the adjoining residential boundaries.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 21 February 2023 and the notice of determination was issued on 21 February 2024. The review was lodged on 7 May 2024 and is to be considered by the Northern Beaches Local Planning Panel on 16 June 2024, which is within 6 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act.

Assessment of Reasons for Refusal

The review application has been amended to respond to the reasons for refusal of the original

application. A comment is made against each of the reasons for refusal below:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly Development Control Plan.

Particulars:

The proposal fails to provide sufficient solar access to penetrate private open space on No. 4 Golf Parade. This loss of solar access is attributed to the deficient side setback on the southern side of the development site and has an unacceptable loss of amenity for the residents of 4 Golf Parade.

Comment: The proposal has been amended to delete the automatic carwash that was located in the south-western corner of the site which necessitated nil setback walls which contributed to overshadowing of the adjoining southern and western property. A small storage area (shipping container) has been provided in the south-western corner of the site however this structure has compliant setbacks and is of a size that does not result in unreasonable overshadowing impacts to the surrounding properties. The proposal involves the removal of the current roofed storage area and this is a positive outcome in terms of overshadowing for the adjoining sites.

2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.2.8.2 Setbacks of the Manly Development Control Plan.

Particulars:

i) The proposal has a non-compliant southern side setback, which is particularly evident along the southern and western sides adjacent to the carwash building. Compliant setbacks are vital for allowing for the integration of substantial landscaping, a key component in softening the overall appearance of the structure and transition of the landuse to the residential zone. Furthermore, non-compliance with solar access standards for No. 4 Golf Parade, as identified is attributed to the inadequate side setbacks.

ii) The current design, falls short in providing sufficient visual relief to the adjoining residential properties. Consequently, there is a clear imperative for further design consideration to rectify these concerns and ensure a more harmonious integration with the surrounding residential environment.

Comment: The proposal deletes the nil setback car wash and provides a more modest storage container in its place, with setbacks of 1.6m to the southern boundary and 4.1m to the western boundary. The deletion of the carwash will result in a development that does not result in a visual impact to the surrounding sites.

3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.2.8.3 Landscaping of the Manly Development Control Plan.

Particulars:

The proposal fails to provide adequate side setbacks, particularly along the southern and western sides adjacent to the carwash building. These setbacks are crucial for accommodating substantial landscaping, which plays a key role in softening the building's appearance and mitigating its visual dominance. Additionally, the proposal lacks sufficient measures to provide visual relief to neighboring residential properties, indicating a need for further consideration in the design to address these concerns.

Comment: The deletion of the carwash and replacement with a storage area with separation to the common boundary addresses the issue with regards to visual impacts. The existing boundary fencing remains in place and is not changed via this application. The amended proposal is not considered to result in visual impacts for the surrounding sites given the compliant setbacks now proposed to the storage area.

4. 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:

The 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.

Comment: The proposal has addressed the primary reasons for refusal being the design of the car wash. The proposal now complies with the relevant numerical controls and does not cause any unreasonable amenity impacts on surrounding lands.

Concluding Comment

The amended application addresses the reasons for refusal of the original application. As such, the four (4) reasons for refusal should not be upheld. The application is recommended for approval, subject to conditions of consent.

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 15/05/2024 to 29/05/2024 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:
Mr John Mesite Ms Michelle Robinson	234 Pittwater Road MANLY NSW 2095

The following issues were raised in the submissions:

- Traffic Safety
- Noise pollution

The above issues are addressed as follows:

- **Traffic Safety**

The submissions raised concerns that the position of the petrol station makes it impossible to cope with extra traffic which an automatic car wash and laundromat would generate, resulting in further traffic hazards and an increase in accidents.

Entering and exiting the petrol station is awkward because of being on a bend, in particular on exiting the petrol station due to poor vision.

Comment: The review application deletes the automatic car wash from the proposal. Council's traffic team are satisfied with the proposed development with regards to traffic safety. The alterations to the sales area do not change the existing access arrangements for the site or cause additional traffic safety issues. The vehicular access arrangement of the site are unchanged via the amended proposal.

- **Noise Pollution**

The submissions raised concerns that the surrounding residents already endure excessive noise from the petrol station.

During the day from the existing car wash and vacuum facilities and at night from petrol tanker deliveries between 2:00am and 4:00am and from the garbage truck dumpster pick up between similar hours.

Comment: As stated above, the access and servicing arrangements are unchanged from the site. The existing mechanics workshop is removed from the site and replaced with additional sales area for the service station. As such, this will result in less noise generation from the development. The small self service laundromat service is located away from the residential properties and is not considered to result in excessive noise generation. Council's EHO has reviewed the proposal in relation to noise and is satisfied no unreasonable impacts will arise.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported subject to conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Safety Department. There are no objections to approval of the development subje attached conditions of approval and consideration of the notes below.</p>

Internal Referral Body	Comments
	<p><i>Note: The proposed development may not comply with some requirements of the B Standards. Issues such as this however may be determined at Construction Certificate</i></p>
<p>Environmental Health (Contaminated Lands)</p>	<p>Supported subject to conditions</p> <p>This application is seeking consent to expand the very small sales area into the two wc southern side of the existing sales area. A small self-contained laundromat unit is to be installed on the south-eastern corner of additional service for local customers.</p> <p>There is no change of use to the site but an expansion of the existing sales area into th area</p> <p>No underground petroleum storage tanks are to be removed. A groundwater monitoring Aurora dated November 2023 states:</p> <p><i>The testing found groundwater samples in all wells at the site to be clear, with no visua of petroleum hydrocarbons.</i></p> <p>Further information from R.J Sinclair Pty Ltd Building Design has clarified thefollowing:</p> <p><i>Excavations will be limited to the area of the new Accessible WC which is located on th of the existing sales building.</i></p> <p><i>Excavation will be required for the raft slab for the new WC building area and the exca anticipated to be approx. 450mm deep.</i></p> <p><i>Additionally, there will be excavation to connect new waste drainage from the new WC waste connections and these are anticipated to be approx. 600mm deep, with a maxim</i></p> <p><i>Workshop slabs</i></p> <p><i>The existing workshop slabs will not be removed, however, recognising these slabs are the existing sales will be brought to level with the existing sales area floor by the provis toppings to achieve consistency of floor levels between the varying floor levels.</i></p> <p><i>This proposal is shown on Sections 1, 3 + 4 on Drawing No. A - 12.</i></p> <p>Environmental Health recommends approval subject to conditions.</p>
<p>Environmental Health (Industrial)</p>	<p>Supported subject to conditions</p> <p>General Comments</p> <p>This application is seeking consent to expand the very small sales area into the two wc southern side of the existing sales area. A small self-contained laundromat unit is to be installed on the south-eastern corner of additional service for local customers.</p> <p>The is a proposed laundromat to be located onsite. The Statement of Environmental Ef</p> <p><i>A new fully self contained laundromat facility will be incorporated into the service statio south-eastern corner of the site adjacent the existing ice freezer.</i></p> <p>Further information from R.J Sinclair Pty Ltd Building Design has stated the following:</p>

Internal Referral Body	Comments
	<p><i>The laundromat is a fully self contained unit, similar to a vending machine, and does not require additional security screens or fencing.</i></p> <p><i>The laundromat facility will only be available for use during the normal operating hours which are 06.00 to 23.00 Monday to Friday and 07.00 to 23.00 Saturday, Sunday and public holidays. Control of the operational hours will be effected by the site console operator who is responsible for operations to the public at the specified closing time.</i></p> <p>Environmental Health are of the opinion that the extension of the sales area and removal of the workshop will not create a noise nuisance once operational. Environmental Health recommend the proposed development be supported subject to conditions.</p>
NECC (Development Engineering)	<p>Supported subject to conditions</p> <p>The proposed development is in Zone 1 of Region 3. On-site detention is required. Vehicular access for construction is not proposed. Development engineering raises no objections to the proposed development subject to conditions.</p>
Strategic and Place Planning (Heritage Officer)	<p>Supported subject to conditions</p> <p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Heritage as the subject property is located in Pittwater Conservation Area and within the vicinity of two heritage items, listed in Schedule 5 of the Manly Environmental Plan 2013:</p> <p>Item I 212 - House - 226 Pittwater Road, Manly</p> <p>Item I211 - Group of commercial buildings - 216–218 Pittwater Road</p> <p>Details of heritage items affected</p> <p>Details of the heritage items and the conservation area, as contained within the Manly Environmental Plan 2013 are:</p> <p>C1 - Pittwater Road Conservation Area</p> <p><u>Statement of Significance</u></p> <p>This street pattern is distinctive and underpins the urban character of the area. The streets are unaltered in their alignment, although the names of Malvern, Pine and North Steyne are what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical Description</u></p> <p>The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century residential architecture of generally one or two floors - although there are exceptions such as the three storey private hotel. The streetscape provides a 19th century atmosphere due to its small number of extant Victorian structures. Within the streetscape there are a number of individual buildings which are listed separately. Adjacent streets generally comprise a consistent streetscape of two story residential cottages, with the occasional terrace. Some streets have intermittent and remnant stone kerbs. The flat topography is accentuated by the escarpment to the north which provides an important visual, vertical and vegetated backdrop.</p> <p>Item I212 -House</p> <p><u>Statement of Significance</u></p> <p>A rare example of Victorian Rustic Gothic style villa.</p>

Internal Referral Body	Comments																					
	<p><u>Physical Description</u> 2-storey Victorian Rustic Gothic style painted brick house with gabled corrugated iron elements include: pointed 'gothic' windows to first floor and ground floor window beneath pointed brickwork; front door, fanlight and sidelights (original); decorative plaster hood multi-pane coloured glass to top of main window ground floor; late Victorian Chimney to ground floor verandah.</p> <p>Item I211 - Group of commercial buildings - 216–218 Pittwater Road</p> <p><u>Statement of Significance</u> An intact example of late 19th century retail architecture which is unusual within local Pittwater Rd</p> <p><u>Physical Description</u> Two storey brick building(s) with retail outlets at ground floor level. Southern shop front Southern section: significant elements include dormer windows, gabled iron roof, shop section: original doorway with 3 course header arch over and 2 course arch over first floor. There is evidence of original tuck pointing to both buildings. The awning is not original</p> <table border="1" data-bbox="408 999 1366 1402"> <thead> <tr> <th colspan="3" data-bbox="408 999 1366 1032">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td data-bbox="408 1032 775 1099">SEPP (Biodiversity and Conservation) 2021</td> <td data-bbox="775 1032 868 1099">No</td> <td data-bbox="868 1032 1366 1099"></td> </tr> <tr> <td data-bbox="408 1099 775 1133">Australian Heritage Register</td> <td data-bbox="775 1099 868 1133">No</td> <td data-bbox="868 1099 1366 1133"></td> </tr> <tr> <td data-bbox="408 1133 775 1200">NSW State Heritage Register</td> <td data-bbox="775 1133 868 1200">No</td> <td data-bbox="868 1133 1366 1200"></td> </tr> <tr> <td data-bbox="408 1200 775 1267">National Trust of Aust (NSW) Register</td> <td data-bbox="775 1200 868 1267">No</td> <td data-bbox="868 1200 1366 1267"></td> </tr> <tr> <td data-bbox="408 1267 775 1335">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="775 1267 868 1335">No</td> <td data-bbox="868 1267 1366 1335"></td> </tr> <tr> <td data-bbox="408 1335 775 1402">Other</td> <td data-bbox="775 1335 868 1402">No</td> <td data-bbox="868 1335 1366 1402"></td> </tr> </tbody> </table> <p><u>Consideration of Application</u></p> <p>The proposal seeks consent for alterations and additions to an existing service station reconfigurations, enlarging the sales area, addition of an accessible toilet and upgrading some additional peripheral promotional images. The upgrading of the retail services and changes to the building's street presentation by replacing the existing roller doors with facade, changing the external materials and signage, but mainly remains within the existing footprint, therefore the proposed changes are considered to not have any additional impact on the significance of the conservation area or nearby heritage items. However, size of the graphics on the glazed shopfront should be reduced to be maximum 25% of the glazed area as per the controls of Manly DCP 2013:</p> <p><i>4.4.3.2 Signage on Heritage listed items and in Conservation Areas</i> <i>i) Signs on shop windows should not exceed 25 percent of the window area;</i></p> <p>Furthermore, details of the proposed external colour scheme are to be submitted for consideration.</p> <p>Therefore no objections are raised on heritage grounds, subject to two conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u></p>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
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Other	No																					

Internal Referral Body	Comments
	<p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been</p>
<p>Traffic Engineer</p>	<p>Supported subject to conditions</p> <p>Proposal description: Review of Determination of Application DA2023/0386 for Altera the service station including an automatic car wash facility, extension of the sales area, signage</p> <p>The proposal is to remove the previously proposed automatic car wash facility from the 207-217 Pittwater Road, Manly, to accompany the section 8.3 Review of Determination DA2023/0386.</p> <p>The Traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Traffic Impact Assessment report prepared by The Transport Planning Part 29 April 2024, • The Statement of Environment Effects prepared by R.J. SINCLAIR Pty Ltd dated 25 March 2024, • Waste Management Plan, prepared by R.J. SINCLAIR Pty Ltd Building De: 2024, and • Master Set, Plans, Project No. 08-045-22, designed by R.J. SINCLAIR Pty dated 30 March 2023. <p>The proposed development under this Review of Determination comprises the following:</p> <ul style="list-style-type: none"> • removal of the automatic carwash facility and replaced with retail sales are • expansion of the existing convenience store sales floor area from 32m² to • modification of the at-grade parking facilities and retention of nine (9) car p <p>Parking requirement and design:</p> <ul style="list-style-type: none"> • Application of the TfNSW Guide car parking rates (5 spaces per 100m² GF store, 6 spaces per work bay and the greater of 15 spaces per 100m² GFA space per 3 seats) to the proposed development (95m² GFA convenience no restaurant and a small-size laundromat service) would result in a parkin (5) parking spaces. Parking in excess of TfNSW requirement is proposed (additional four (4) car parking spaces would be used to accommodate park the laundromat and the car wash facility. This is considered acceptable. It i laundromat service is considered an ancillary component to the site given i it would attract only local residents within walking distance. • One (1) loading bay is proposed at the frontage of the convenience store to service vehicles up to a size of a 6.4m Small Rigid Vehicle (SRV). It is repc that servicing and deliveries would generally be undertaken outside of the hours (early morning or late evening), which would result in minimal impac roads and the service station operation. • No plots for access to and from the loading bay have been provided. It is c path plots be included to the Traffic report to demonstrate that access to th

Internal Referral Body	Comments
	<p>6.4m SRV is possible as required by AS2890.2.</p> <ul style="list-style-type: none"> The DCP requires bicycle parking at a rate of 1 space for every three (3) cars spaces required. It is reported in the TIA that a bicycle parking area will be located at the entrance to the convenience store, which is sufficient to accommodate up to 10 Bicycle parking spaces are not presented in the architectural plans. This will be addressed in the dimensioned plans. Dimensioned plans have been submitted and confirm that parking bays are appropriately sized. <p>Traffic impact</p> <ul style="list-style-type: none"> The traffic generation of the proposed redevelopment has been determined through an analysis of survey sites that include a service station and a convenience store. The proposal is therefore expected to generate similar levels of traffic during the peak periods compared to the existing operation. Therefore, it will not result in any adverse impacts on the surrounding road network. <p>Conclusion</p> <p>The Traffic report and plans can be supported on traffic grounds. Apart from the conditions proposed, new conditions are proposed with all previously imposed conditions in DA2023/0386 to</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>The application was referred to Transport for NSW given the location on a classified road (Pittwater Road). TfNSW provided a response, raising no concerns with the proposal, subject to two conditions requiring all building works to be within the property and a road occupancy license if any works are proposed that may impact traffic flow on Pittwater Road.</p> <p>The conditions will be included in any consent issued.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Sustainable Buildings) 2022

3.1 Application of Chapter

- (1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—
 - (a) *the erection of a new building \$5 million, or*
 - (b) *alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.*

Comment:

The chapter is not applicable as it does not involve the erection of a new building of more than \$5 Million or alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.

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 5.0 metres of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30 metres of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to recommended conditions, should the development be recommended for approval.

Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The application was referred to Transport for NSW who did not raise any objection to the proposal subject to recommended conditions.

SEPP (Industry and Employment) 2021

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

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

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

Matters for Consideration	Comment	Complies
<p>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?</p>	The proposal is compatible with the existing and future character of the area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no particular theme for outdoor advertising in this locality, as such this provision is not applicable.	N/A
<p>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?</p>	The proposal does not unduly detract from the amenity or visual quality of the Pittwater Road Conservation Area. Council's Heritage Team have recommended conditions for final colours to be approved by the heritage team, prior to CC.	YES
<p>3. Views and vistas Does the proposal obscure or compromise</p>	The proposed signage will not obscure or compromise any important views.	YES

important views?		
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage will not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	As the proposed signage is affixed to subject site, the signage will not impact upon the viewing rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate for the streetscape and setting.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will positively contribute to the visual impact of the streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage will not result in any significant visual clutter. The proposal includes the reinstatement of existing signage, and new signage that is considered to be simple and visually appropriate.	YES
Does the proposal screen unsightliness?	The proposal is not considered to be unsightly, as such the proposal does not screen any unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage is affixed to the existing development, and as such will not protrude above buildings, structures, or tree canopies.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is compatible with the scale and proportion of the building facades to which the proposed signage is to be affixed.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage respects the features of the site and building. The reinstatement of the existing building identification signage respects the historical features of the site.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is appropriate to the site and building.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	There are no safety devices, platforms, lighting devices or logos proposed. Therefore, this provision is not applicable.	N/A
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft,	The proposed signage is not illuminated. As such a suitable condition could be included if the	N/A

detract from the amenity of any residence or other form of accommodation?	proposed development were to be approved.	
Can the intensity of the illumination be adjusted, if necessary?	The proposed signage is not illuminated.	N/A
Is the illumination subject to a curfew?	The proposed signage is not illuminated.	N/A
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not result in reduced safety for public roads, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will not reduce the safety for pedestrians or obscure sightlines from public areas.	YES

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

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 environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The proposed development is not considered likely to cause an adverse impact on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

coastal environmental values and natural coastal processes, the water quality of the marine estate, native vegetation and fauna and their habitats, public open space or aboriginal cultural heritage.

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

Comment:

The development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1).

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
 - ii) adverse 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:

The proposed development is not within the coastal use area.

Division 5 General

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

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

Comment:

The proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

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, and if it is contaminated is satisfied that the contamination can be remediated for the land use and/or development proposed.

In response to the above requirements of Chapter 4, the applicant has submitted a 6 Monthly Groundwater Testing Results dated November 2023 and prepared by Aurora Environmental Consulting. In its conclusion, the investigation states:

"The testing found groundwater samples in all wells at the site to be clear, with no visual or olfactory evidence of petroleum hydrocarbons."

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 a service station for an extended period of time with no prior land uses.

Having regard to the ground water sampling and monitoring information submitted for the site as well as the continued use of the site for the purposes of a service station, it is considered that the extent of works are such that the likelihood of contamination is low and with regard to the extent of works and the continued primary land use no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the continued service station land use. The application has been referred to Council's Environmental Health Officer who has reviewed the information submitted with the application and is satisfied the site is suitable for the proposed alterations and additions and continued use as a service station.

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	4.9m	-	Yes
Floor Space Ratio	FSR: 1:1 (1012m ²)	FSR: 0.15:1 (155.8m ²)	-	Yes

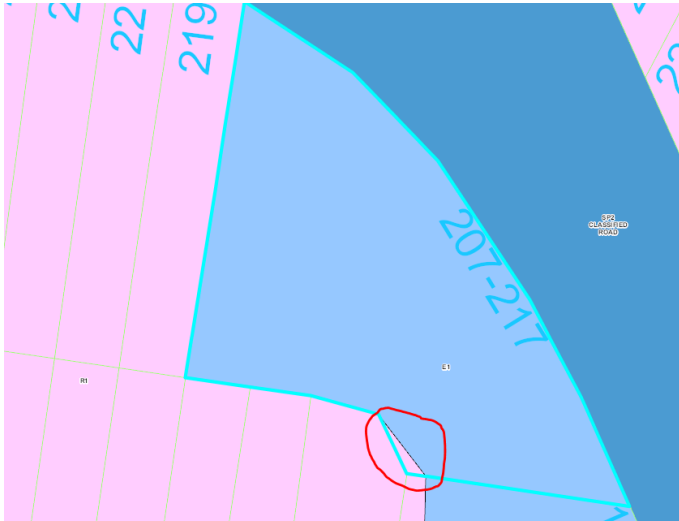
Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone R1 General Residential

There is a very minor portion of the site that is zoned R1 General Residential located at the southern boundary, extract of LEP mapping shown below:

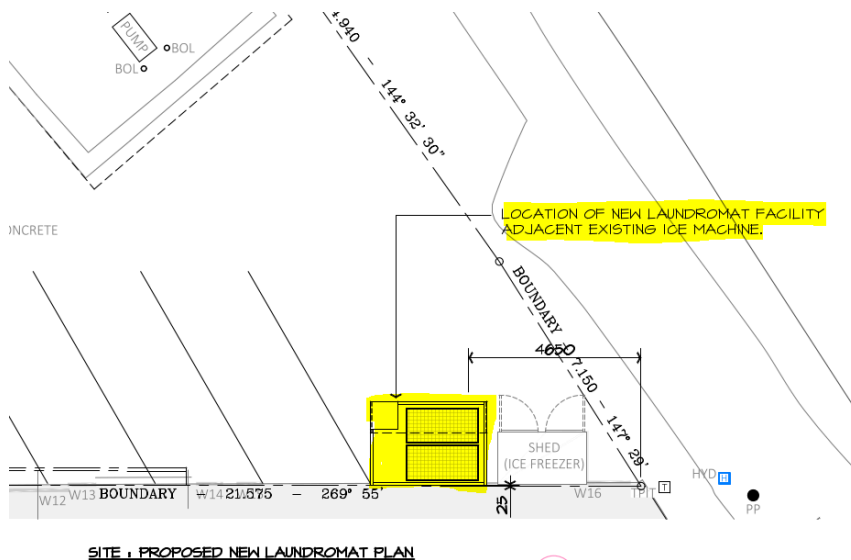


There are no new works proposed within the R1 portion of the site and all new works are contained within the E1 Zoned portion of the land.

Zone E1 Local Centre

The site has consent to operate as a 'Service Station' and the land use is permissible within the E1 Local Centre Zone under the MLEP 2013. The proposal seeks alterations and additions to a service station and remains permitted with consent.

The original development description under DA2023/0386 described the proposal to include a 'a laundromat'. The review proposal retains the a small self service laundromat in the south-eastern corner of the site. This small self service facility is considered to be ancillary to the predominant land use of a service station and and is not its own separate land use.



5.10 Heritage conservation

The application has been referred to Council's Heritage Advisor who has considered the proposal in light of the sites position within a Heritage Conservation Area. Council's Heritage advisor supports the proposal, subject to a condition requiring details of the final colours of the signage to be provided for their approval, prior to the issue of a Construction Certificate.

Council is satisfied the proposal is consistent with the heritage controls contained within Clause 5.10 given the minor nature of the changes to the existing service station. See heritage referral for details.

6.1 Acid sulfate soils

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

The site is located in an area identified as Acid Sulfate Soil Class 4, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 2.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metre below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 750mm below the natural ground level to provide new plumbing work for the bathroom. As such, no Preliminary Acid Sulfate Soil

Assessment is required to be provided with the application.

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.

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

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

(f) the likelihood of disturbing relics

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

(g) the proximity to and potential for adverse impacts on any 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, WDPC 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.

6.4 Stormwater management

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) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

Comment: The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, Council is satisfied that the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

Comment: It is not practicable to incorporate on-site stormwater retention into the development.

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Comment: The proposal has been assessed by Council's Development Engineers who have raised no objections to approval, subject to conditions. In this regard, Council is satisfied that the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1012m ²	Requirement	Proposed	% Variation*	Complies
4.2.8.1 Height	8.5m	4.9m Max	-	Yes
4.2.8.2 Setbacks	Primary Frontage (North & East):Established Building Line New structure - Shipping container (Storage) Side Setback (South): 1/3 wall height - 0.9m Side Setback (West): 1/3 wall height - 0.9m	Primary Frontage: 8.5m Side Setback (South): 1.6m Side Setback (West):4.1m	- - -	Yes Yes Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	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
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.8 Neighbourhood Centres (LEP Zone B1)	Yes	Yes
4.2.8.2 Setbacks	No	Yes
4.2.8.5 Carparking, Vehicular Access and Loading Controls	Yes	Yes
4.2.8.6 Hours of Operation	Yes	Yes
4.2.8.10 Local Character provisions	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 2 - Townscape Principles	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

Shadow diagrams have been provided with the application which demonstrate the adjoining properties private open space will maintain solar access and in some cases, solar access is improved due to the removal of the existing roofed storage area which will be replaced by a new storage area that has an increased setback to both the western and southern boundary.

The concerns with the previous development application in relation to solar access to the adjoining properties has been resolved by the deletion of the automatic carwash in the south-western corner of the site which had nil setbacks to the boundaries adjoining the R1 Zone.

4.2.3 Setbacks Controls in LEP Zones B1 and B2

As the subject site is located within a Neighbourhood Centre, the specified setback provisions are detailed under Clause 4.2.8.2 of Manly Development Control Plan 2013 within this report.

4.2.8.2 Setbacks

Clause 4.2.8.2 Setbacks

a) *"The setback from the front boundary must conform to the predominantly established building alignments in the Centre (LEP Zone B1). Buildings will be constructed with a nil setback to the side boundary except where:*

(i) it adjoins land zoned residential in the LEP (including E3 & E4), in which case consideration must be given to residential setback controls at paragraph 4.1.4 of this plan; or where

(ii) a nil setback would be undesirable in terms of the amenity of any residential uses existing on adjoining land or proposed for inclusion in the development in which case consideration must be given to provisions of this plan in relation to amenity at paragraph 3.4 Amenity of this plan."

As the south and western side boundaries adjoin a residential zone, the following setback is applicable to the new structure. In this case, the storage area is subject to a setback 1/3 of the wall height.

Clause 4.1.4.2 Side setbacks and secondary street frontages

a) *Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.*

Comment: The storage area (shipping container) has a height of 2.7m and requires a 0.9m setback. The structure is setback 1.6m from the southern boundary and 4.1m from the western boundary, compliant with the control. This will result in the maintenance of amenity for the adjoining R1 land zone.

4.2.8.6 Hours of Operation

There is no change to the approved operating hours which were established under a previous approval (NSW Land and Environment Court Proceedings No. 11218 of 2005, DA 0433/2004).

4.4.3 Signage

The proposal seeks to remove one sign (for the previous workshop), replacement of existing signage on the façade and install new window signage.

Council's Heritage Officer has undertaken an assessment of the signage and requires final colours to

be approved by Council's Heritage Advisor, prior to the issue of any Construction Certificate.

Furthermore, the size of the window signage is to be reduced to a maximum 25% of the window service in accordance with control 4.4.3.2 (c)(i). Council's Heritage Officer has dealt with this via a recommended condition of consent.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$4,272 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$427,216.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

PLANNING CONCLUSION

This application is a Review of Determination under Division 8.2 of the Environmental Planning and Assessment Act 1979. The application being review is DA2023/0386 which sought consent for "Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage". The development application was refused by the Northern Beaches Local Planning Panel (NBLPP) on 21 February 2024.

The review application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the original development application was determined by the NBLPP.

Amended plans have been submitted with this review of determination which deletes the automatic car wash from the proposal which was proposed to be located in the south-western corner of the site adjoining the R1 Zoned land. As a result of the deletion of the automatic car wash the reasons for refusal of the development application in relation to overshadowing and visual impact upon the adjoining residential properties have been addressed to the satisfaction of Council. The remaining alterations to the service station, including removal of the existing mechanics workshop and extension of the sales area for the service station will not give rise to unreasonable amenity impacts on the surrounding properties.

One submission was received during the notification period which raised issue with proposed car wash and impacts upon traffic safety and noise. However, as stated above the proposed automatic car wash has been deleted from the proposal.

Critical assessment issues include review of the original reasons for refusal which are discussed later in this report. The reasons for refusal are addressed by the amended plans submitted with this review application.

Overall, the development is a reasonable 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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to REV2024/0012 for Review of Determination of Application DA2023/0386 for Alterations and additions to the service station including an extension of the sales area, a laundromat and signage on land at Lot 1 DP 829523, 207 -217 Pittwater Road, MANLY, 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
A-00	-	Cover Sheet	R.J Sinclair Building Design	17/04/2024
A-01	DA-2	Site Analysis	R.J Sinclair Building Design	17/04/2024
A-03	DA-3	Site Demolition Plan	R.J Sinclair Building Design	25/03/2024
A-04	DA-4	Site Proposed New Works Plan	R.J Sinclair Building Design	25/03/2024
A-05	DA-3	Proposed new works setout plan	R.J Sinclair Building Design	25/03/2024
A-06	DA-5	Roof Plan	R.J Sinclair Building Design	25/03/2024
A-10	DA-3	Eastern Elevation	R.J Sinclair Building Design	25/03/2024
A-11	DA-4	Northern Elevation	R.J Sinclair Building Design	25/03/2024
A-12	DA-4	Sections	R.J Sinclair Building Design	25/03/2024
A-13	DA-2	Sections 2	R.J Sinclair Building Design	25/03/2024
A-15	DA-3	Laundromat Plan	R.J Sinclair Building Design	25/03/2024

PS-01	DA-2	Parking Management Plan	R.J Sinclair Building Design	17/04/2024
CM-01	DA-1	Construction Management Plan	R.J Sinclair Building Design	18/01/2023
CMP-02	DA-1	Safety and Site Management Plan	R.J Sinclair Building Design	18/01/2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Waste Management Plan	iii	R.J Sinclair	22/04/2024

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
Ausgrid	Ausgrid Referral Response
TfNSW	TfNSW Referral Response

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

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically

approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$4,272.16 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 \$427,216.00.

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

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

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

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

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. **National Construction Code (BCA) Access**

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the NCC 2022 - Volume One Building Code of Australia and AS 1428.1.

Details are to be provided to the Certifier prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

8. **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 Diversi Consulting, project number 23073, dated 13.11.2023. 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 Certifier for approval prior to the issue of the Construction Certificate.

9. **Vehicular Swept Paths**

Vehicular manoeuvring swept path plots should be provided for review by Council's traffic engineer. The plots to be prepared using traffic engineering software such as Autotrack/Autoturn, for:

- a 6.4m Small Rigid Vehicle (SRV) ingressing and egressing the loading area in compliance with AS/NZS 2890.2.

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.

10. **Vehicle Access & Parking**

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

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

- A minimum of two(2) bicycle parking spaces should be provided and shown on the Architectural Plans.

These amendment(s) must be clearly marked on the plans submitted to the Principal Certifier prior to the issue of a Construction Certificate.

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

11. **External colour scheme**

Details of the exterior colour scheme for the proposed works are to be submitted to Council's Heritage Advisor for approval, prior to the issue of a Construction Certificate.

Reason: To ensure the external colour scheme is appropriate for the heritage conservation area.

12. **Amendment to Signage Plan**

Details (size, colours) of the proposed signage including the vinyl window graphics are to comply with Manly DCP 2013 - 4.4.3.2 Signage on Heritage listed items and in Conservation Areas including signs on shop windows should not exceed 25 percent of the window area. Details demonstrating compliance with this condition are to be submitted to Council's Heritage Advisor for approval, prior to the issue of a Construction Certificate.

Reason: To ensure the proposed signage is appropriate for the heritage conservation area.

13. **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.

DURING BUILDING WORK

14. **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.

15. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

16. **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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

17. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

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

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

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user 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 the on-site stormwater disposal system is maintained to an appropriate operational standard.

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

19. Hours of Operation

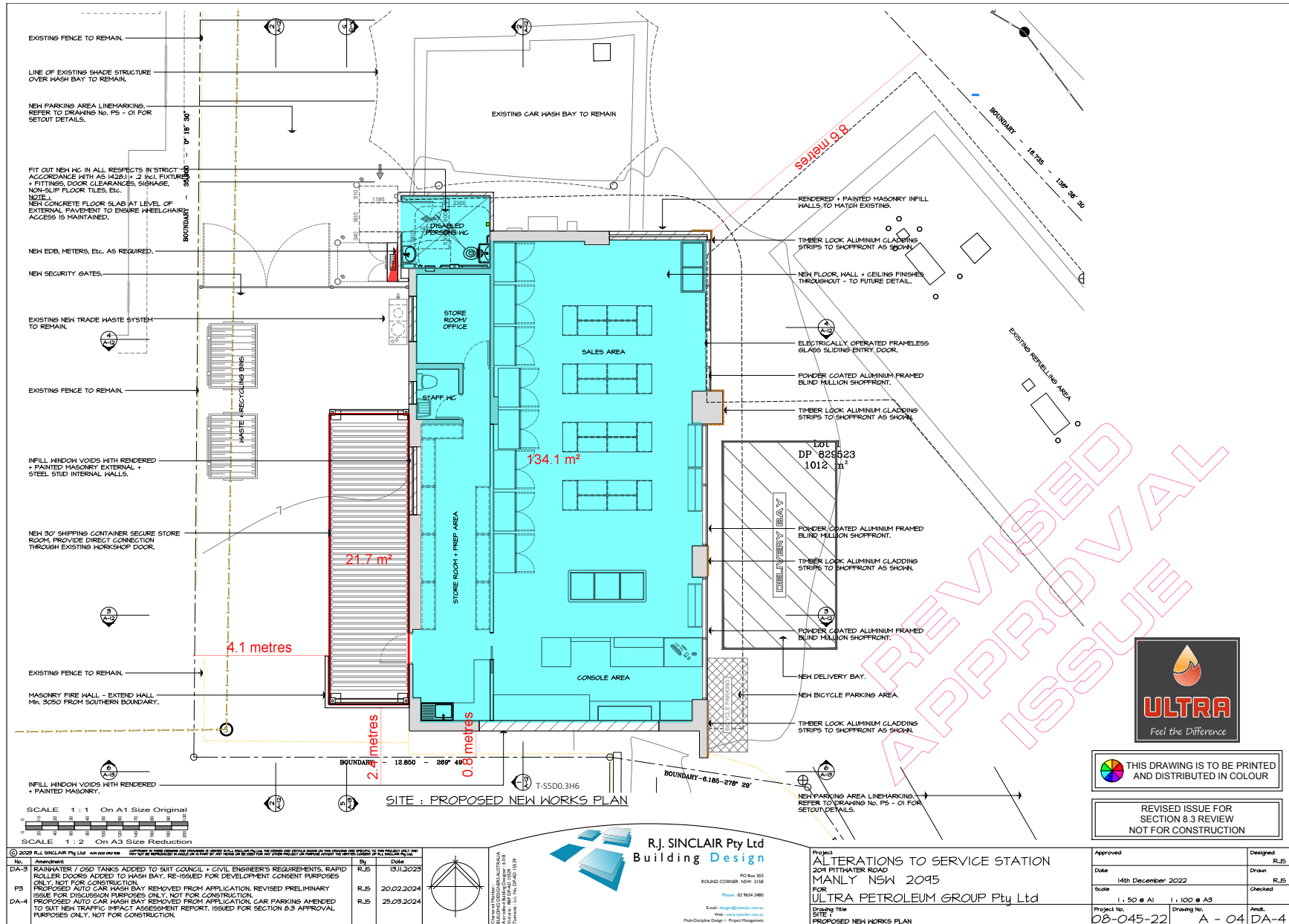
The hours of operation for the service station and laundromat are to be restricted to:

- Monday to Friday – 6am to 11pm
- Saturday, Sunday and Public Holidays – 7am to 11pm

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

The hours of operation for the existing carwash are to be in accordance with development consent DA433-2004.

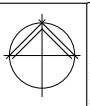
Reason: Information to ensure that amenity of the surrounding locality is maintained.



THIS DRAWING IS TO BE PRINTED AND DISTRIBUTED IN COLOUR

REVISED ISSUE FOR SECTION 8.3 REVIEW NOT FOR CONSTRUCTION

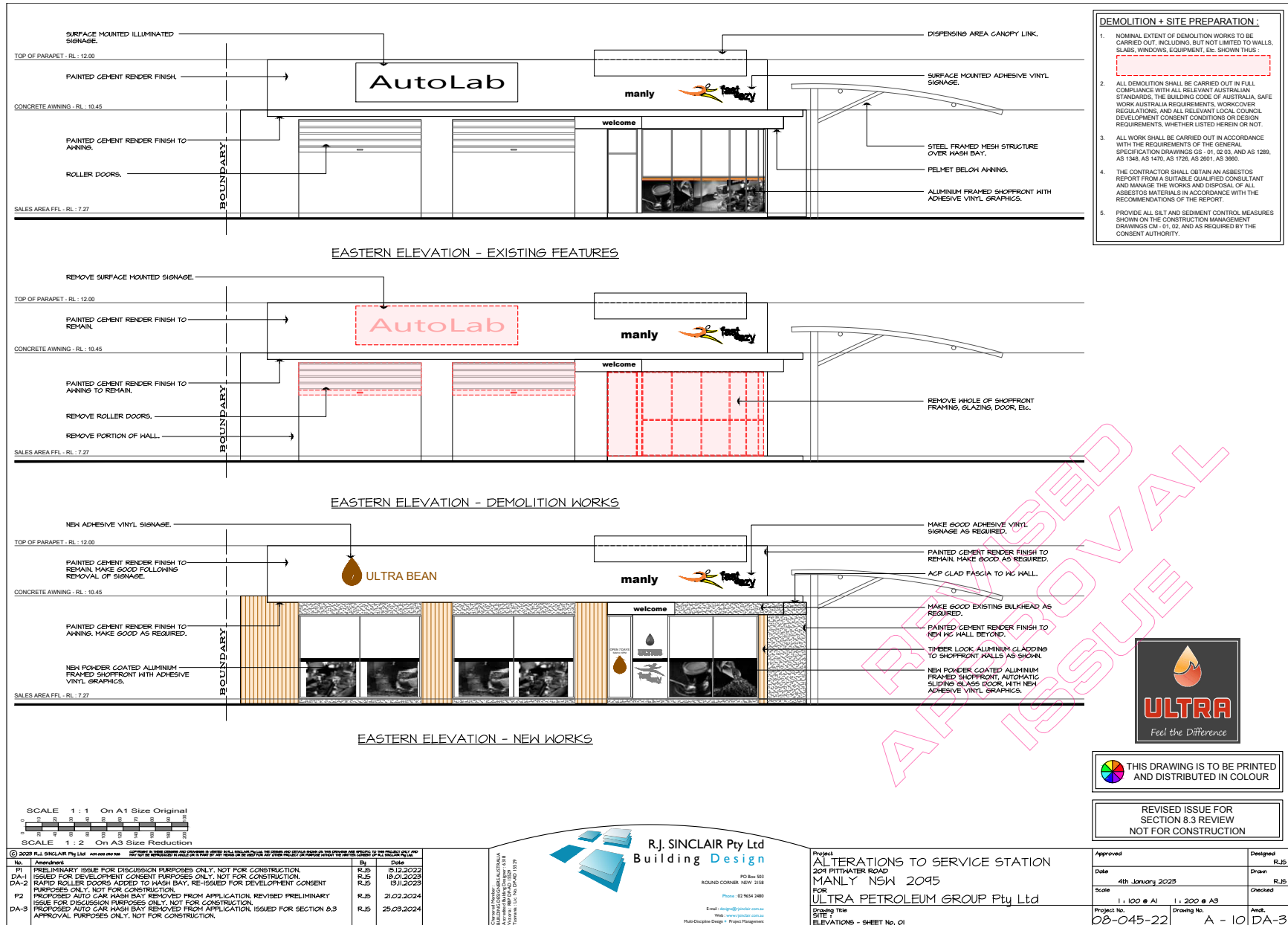
No.	Amendment	By	Date
DA-3	RAINWATER / OSD TANKS ADDED TO SUIT COUNCIL + CIVIL ENGINEER'S REQUIREMENTS, RAPID ROLLER DOORS ADDED TO WASH BAY, RE-ISSUED FOR DEVELOPMENT CONSENT PURPOSES ONLY. NOT FOR CONSTRUCTION.	RJS	18.11.2023
P3	PROPOSED AUTO CAR WASH BAY REMOVED FROM APPLICATION, REVISED PRELIMINARY ISSUE FOR DISCUSSION PURPOSES ONLY. NOT FOR CONSTRUCTION.	RJS	20.02.2024
DA-4	PROPOSED AUTO CAR WASH BAY REMOVED FROM APPLICATION, CAR PARKING AMENDED TO SUIT NEW TRAFFIC IMPACT ASSESSMENT REPORT, ISSUED FOR SECTION 8.3 APPROVAL PURPOSES ONLY. NOT FOR CONSTRUCTION.	RJS	25.03.2024

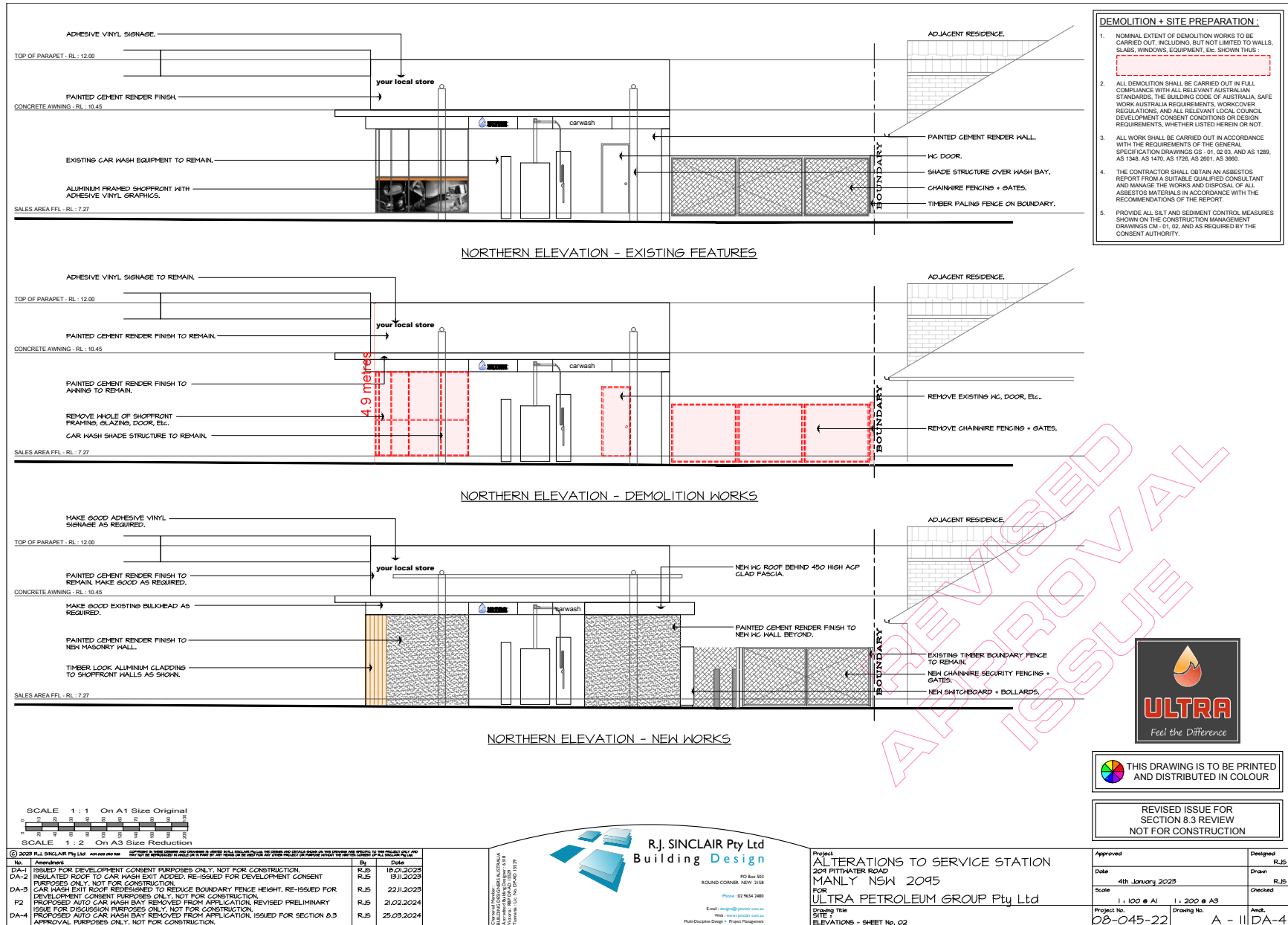


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 Multi-Discipline Design + Project Management

Project: ALTERATIONS TO SERVICE STATION
 204 PITTWATER ROAD
 MANLY NSW 2095
 FOR: ULTRA PETROLEUM GROUP Pty Ltd
 Drawing Title: PROPOSED NEW WORKS PLAN

Approved	Designed
Date: 14th December 2022	Drawn: RJS
Scale: 1:50 @ A1 1:100 @ A3	Checked: RJS
Project No: 08-045-22	Drawing No: A - 04
	Amtd: DA-4





**ITEM 5.3 DA2023/1371 - 8 ROGER STREET BROOKVALE - DEMOLITION
WORK AND CONSTRUCTION OF SHOP TOP HOUSING**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That Northern Beaches Council as the consent authority permits a contravention of clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/1371 for demolition work and construction of Shop Top Housing at Lot 1 DP 307134, 8 Roger Street BROOKVALE, subject to the conditions set out in the Assessment Report.

Reporting manager	Rodney Piggott
TRIM file ref	2024/416217
Attachments	↓1 Assessment Report ↓2 Site Plans & Elevations ↓3 Clause 4.6 ↓4 Design and Sustainability Advisory Panel Report

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1371
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Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 1 DP 307134, 8 Roger Street BROOKVALE NSW 2100
Proposed Development:	Demolition work and construction of Shop Top Housing
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
Owner:	JAJ Invest Pty Ltd
Applicant:	Chanine Design Pty. Limited

Application Lodged:	13/10/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	20/10/2023 to 17/11/2023
Advertised:	20/10/2023
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 38.09%
Recommendation:	Approval

Estimated Cost of Works:	\$ 5,627,146.00
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EXECUTIVE SUMMARY

This development application seeks consent for the demolition of existing on-site structures and the construction of a four-storey shop top housing development over one basement level.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to it constituting sensitive development (*development to which State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development applies and is 4 or more storeys in height*). In addition, the development also contravenes a development standard imposed by an environmental planning instrument by more than 10% (*Clause 4.3 Height of Buildings*), being a 38.09% variation.

Critical assessment issues included referral recommendations from the Design and Sustainability Advisory Panel (DSAP) in the context of SEPP 65 and the Apartment Design Guide. The applicant has submitted amended documentation during the assessment process which addressed the recommendations to Council's satisfaction. A detailed summary of the applicant's response to each individual DSAP recommendation is included within the relevant section of this assessment report. Additional assessment matters included a Clause 4.6 assessment of the variation to the height of buildings development standard, as well as merit assessments of the built form controls of WDCP 2011 including front, side and rear setbacks.

The proposal is considered likely to encounter groundwater resulting from proposed excavation works and therefore constitutes nominated integrated development under the Water Management Act 2000 (s90(2) - water management works approval). Concurrence has been provided by WaterNSW in this context, subject to general terms of approval which are included as recommended conditions of consent.

No objections were received during the community notification period.

The 4.6 request for the non-compliance with the height standard arises from the development proposing to maintain consistency with the existing character of development within Roger Street, which includes shop top housing developments of an identical height in the immediate vicinity. Shop top housing is also not envisaged as a land use within the wider E3 Productivity Support zone nor Area L of the Warringah Height of Buildings Map, but is permissible as an additional permitted use within this particular area under Schedule 1 WLEP 2011, which also gives rise to the numerical non-compliance.

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

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the demolition of existing on-site structures and the construction of a four-storey shop top housing development containing 12 units over one basement level, comprising:

- Basement: 15 car spaces, 6 bicycle spaces, accessible WC, fire pump room, storage,
- Ground: Retail tenancy (95m²), 7 parking spaces, residential waste room, commercial waste room, loading bay, lobby,
- Level 1: 2 x 1 bedroom units, 1 x 2 bedroom unit, 1 x 3 bedroom unit, communal open space,
- Level 2: 2 x 1 bedroom units, 1 x 2 bedroom unit, 1 x 3 bedroom unit,
- Level 3: 2 x 1 bedroom units, 1 x 2 bedroom unit, 1 x 3 bedroom unit,

Amended Information

Amended information has been provided by the applicant in response to a Council Request for Further Information. The amendments included:

- Built form reductions including reduced building height and improved front setback distance
- Detailed Site Investigation in response to referral comments from Council's Environmental Health Officer
- Reconfiguration of residential waste rooms and bulky goods rooms to address referral requirements by Council's Waste Officer

- Amendments to respond to recommendations from the the Design and Sustainability Advisory Panel (DSAP). The individual recommendation responses are addressing within the relevant section of the assessment report including:
 - reduction in bedroom yield to enhance internal amenity and functionality
 - enhancement of the ground floor commercial tenancy
 - reconfiguration of the communal open space area and wayfinding arrangement
 - deletion of snorkel windows and enhancement of skylights/lightwells
 - amended solar studies to demonstrate improved solar access to residential units
- Dewatering Management Plan in response to an integrated development referral from WaterNSW

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
 Assessment - Housing and Productivity Contribution
 Warringah Local Environmental Plan 2011 - 2.5 Additional permitted uses for particular land
 Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks
 Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks
 Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot 1 DP 307134 , 8 Roger Street BROOKVALE NSW 2100
Detailed Site Description:	The development site comprises one individual allotment, being Lot 1 of Deposited Plan 307134, commonly referred to as 8 Roger Street, Brookvale.

The site is zoned E3 Productivity Support pursuant to Warringah LEP 2011.

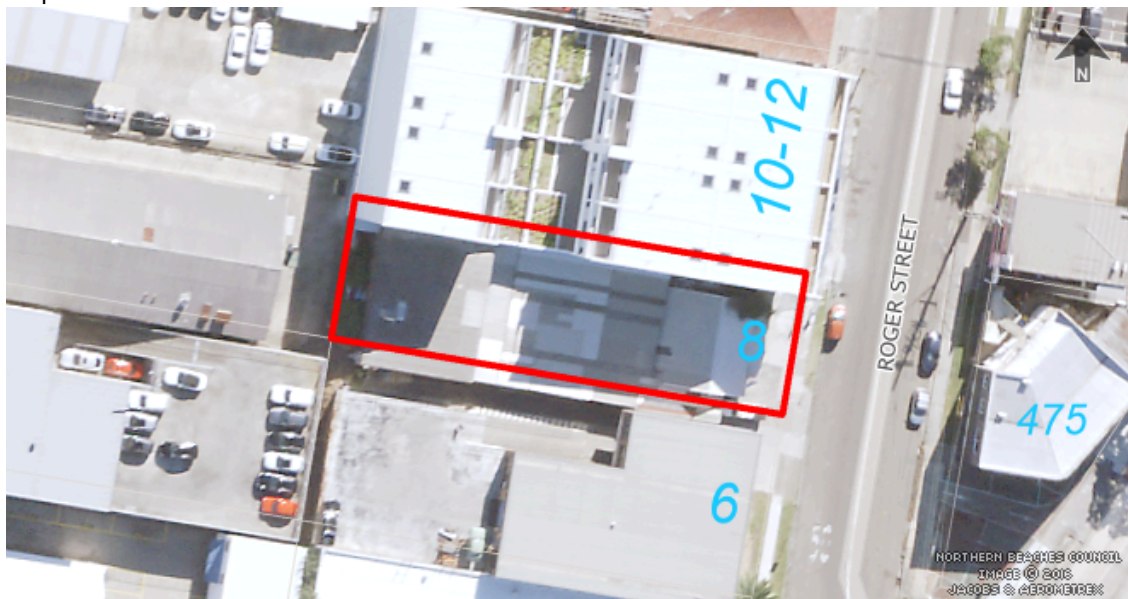
The site is rectangular in shape, with a 15.85m wide frontage to Roger Street to the east, a depth of 50.29m and a total area of 797.1m².

The site is generally level and contains a single storey building that covers the majority of the site.

Vehicular access is gained via an existing vehicle crossing and driveway to Roger Street.

The surrounding area comprises a mix of land uses and building typologies, with a four-storey shop top housing development to the north of the site, a two storey industrial development to the south, and commercial development to the east. The eastern side of Roger Street, which extends through to Pittwater Road, predominantly comprises car sales yards, with shop top housing developments emerging at the northern end of the street.

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to a Council RFI. Amended information provided by the applicant results in a reduction in environmental impact which therefore does not require additional community exhibition in accordance with Council's CPP.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

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	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 20/10/2023 to 17/11/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>AMENDMENTS SUGGESTED (Based on DA as lodged)</p> <p>The application was referred to the DSAP for consideration and comment.</p> <p>The DSAP raised a number of issues with the design of the development and did not support the proposal. The Panel made a</p>

Internal Referral Body	Comments
	<p>total of 16 recommendations at the DA review stage, to improve the design quality, contextual fit, landscape outcome and sustainability of the proposal.</p> <p>The applicant has sought to respond to the DSAP recommendations through the amended proposal (including the submission of an itemised written response).</p> <p>Each of the Panel's recommendations are listed below with commentary from the assessing planner.</p> <p><u>Recommendations</u></p> <p>Strategic context, urban context: surrounding area character</p> <p><i>1. Provide architectural analysis in context of the wider urban context.</i></p> <p><u>Comment:</u> The applicant has submitted additional site analysis plans (Drawings DA 1006 – 1009) which provide further detail of the proposal's integration within the wider urban context and relationship with its surroundings. The proposal is considered to represent a design that is commensurate with elements of the architectural expression of the surrounding locality.</p> <p><i>2. Consider the Brookvale Structure Plan and Desired Future Character outcomes. Demonstrate how these are/can be realised in proposed development – noting the merit of a variation to building height proposed needs to be demonstrated. Top floor setbacks of 4 metres are to match neighbouring 10-12 Roger Street to support future-proofing for the Roger Street Desired Future Character.</i></p> <p><u>Comment</u> The proposed development has been amended during the assessment process to increase the front setback to the external wall of Levels 1-3 to 4 metres which is consistent with the adjacent shop top housing development at 10-12 Roger Street as required by Clause B7 WDCP (Front Boundary Setback) . This has met the recommendation of the panel. The proposed building height has also been reduced by 400mm at the roof ridge and 200mm to the pop-up elements of the lift over run. The proposed amendments are considered to support future-proofing for the Roger Street Desired Future Character.</p> <p><i>3. Confirm sub-station requirements and demonstrate how this can be accommodated to satisfy the zone and Warringah DCP objectives.</i></p> <p><u>Comment</u> The applicant has submitted a response letter prepared by ACME</p>

Internal Referral Body	Comments
	<p>Automated Solutions (dated 11 March 2024) confirming that no electrical kiosk sub-station is required as per investigation/analysis within the Ausgrid GIS system and that the development shall retain suitable connection to electrical services.</p> <p><i>4. Reconfigure the ground floor to create a more viable ground floor tenancy and high-quality residential entry. Reconsider car parking allocated to this level.</i></p> <p><u>Comment</u> The proposed ground floor has been amended and reconfigured to provide an enhanced ground floor commercial tenancy with increased floor space from 43m² to 95m². The front facade of the tenancy has also been expanded to provide an active contribution and interface to the streetscape. The tenancy area is considered to have been maximised to a reasonable extent in the context of the allotment size. Additional vehicle parking to accommodate the enhanced commercial space has also been provided replacing residential parking, given the residential unit yield has also been reduced within the amended proposal.</p> <p>Scale, built form and articulation</p> <p><i>5. Building form is to satisfy DCP requirements addressing Roger Street and should match 10-12 Roger Street as follows to achieve consistent building lines at all levels:</i></p> <ul style="list-style-type: none"> - Increase eastern balcony depths - Increase top floor eastern wall setback to 4 metres and eaves alignment noting effective weather and shade protection will be expected. <p><u>Comment</u> The amended proposal has increased the front balcony depths and increased the wall setback of Levels 1-3 to 4 metres to achieve consistency with the built form characteristics of the adjoining shop top housing development at No.10-12 Roger Street. Roofing and eaves structures have also been aligned with No.10-12.</p> <p>Access, vehicular movement and car parking</p> <p><i>6. Car parking demand to be minimised by:</i></p> <ul style="list-style-type: none"> - Reducing yield (number of bedrooms and/or units) noting amendments are required to satisfy SEPP 65 minimum amenity elsewhere. - Seek further discussions with Council to consider suitability of this site to reduce car parking requirements and explore options for e-bikes and scooters, and car-share space(s). <p><u>Comment</u> The proposed bedroom yield has been reduced within the amended plans, with the proposed development now accommodating 21 total</p>

Internal Referral Body	Comments
	<p>bedrooms amongst the 12 proposed residential units in comparison to the originally proposed 26 bedrooms. The yield reduction provides improved functionality and internal amenity in the context of SEPP 65, with greater lobby/corridor sizes and natural ventilation. As a result, residential parking has been reduced to subsequently allow retail parking to the enhanced commercial tenancy space. Provisions for e-bikes, scooters and car-share spaces are also integrated into the basement design.</p> <p>Landscape</p> <p><i>7. The proposal must demonstrate how the ADG minimum provision of 7% deep soil is satisfied. It is suggested it be incorporated where light and ventilation are also required for residential amenity.</i></p> <p><u>Comment</u></p> <p>Objective 3E-1 of the Apartment Design Guide requires 7% of the site area (for allotments between 650m² - 1500m²) to be deep soil zones with minimum dimensions of 3m. The proposed communal open space area is considered to comply numerically with this requirement whilst also providing a suitable buffer for natural light, ventilation and recreation between the respective unit blocks.</p> <p><i>8. Structural depth and planters are to demonstrate adequacy for required soil depths to support adequate scaled landscape on structure over the long-term.</i></p> <p><u>Comment</u></p> <p>A suitable Landscape Plan prepared by Paul Scrivener Landscape (dated 14 May 2024) demonstrates adequate planting details to ensure long term viability of the landscaped areas within the communal open space. Council's Landscape Officer has also reviewed the proposal in this context and raised no objection to approval, subject to recommended conditions.</p> <p><i>9. Privacy conflicts are to be resolved between units and communal open space.</i></p> <p><u>Comment</u></p> <p>Proposed amendments to resolve privacy conflicts between units and communal open space are addressed below under recommendation 13.</p> <p><i>10. The podium level lift lobbies entry character, wayfinding and amenity are to be addressed.</i></p> <p><u>Comment</u></p> <p>The entry to the podium level lift lobby has been reconfigured and widened for enhanced usability and internal amenity. Furthermore,</p>

Internal Referral Body	Comments
	<p>internal pedestrian access to the streetscape has been amended via a communal pathway accessed from the internal lifts and through the ground floor. This achieves a more practical and direct wayfinding arrangement for unit tenants to access the streetscape rather than traversing the communal open space and lobby areas.</p> <p>Amenity</p> <p><i>11. A reduction in the residential units / bedrooms will be required to resolve SEPP 65 ADG deficiencies as there is insufficient frontage for the number of bedrooms particularly with the single aspect of the rear building.</i></p> <p><u>Comment</u> As mentioned elsewhere within this discussion, a reduction in residential bedrooms has been provided within the amended proposal which is considered to suitably resolve deficiencies with the ADG.</p> <p><i>12. Reconsider the entry and arrival experience for both buildings.</i></p> <p><u>Comment</u> As mentioned above, the entry, arrival and wayfinding arrangement has been amended via a pedestrian pathway through the ground floor as well as enhanced lobby character.</p> <p><i>13. Provide a POS and / or appropriate landscape treatment to the frontage of all habitable rooms facing the communal open space. Reconsider internal layouts to avoid or minimise full screening for privacy (amenity significantly impacted by proposed full screening of all Level 1 units addressing the central communal space).</i></p> <p><u>Comment</u> Suitable changes to the internal layout have been incorporated as the communal open space area has been re-configured to provide a clear vegetative buffer between the trafficable areas of the C.O.S and the habitable rooms of the Level 1 units facing the communal open space. This has been demonstrated via a suitable updated Landscape Plan (prepared by Paul Scrivener). The use of the communal space as a thoroughfare for internal tenants travelling between the unit blocks to access the streetscape and vice versa, has also been removed. Pedestrians shall now bypass the communal space via utilisation of the ground floor pedestrian pathway which shall reduce the trafficable nature of the C.O.S and resultant visual privacy impacts.</p> <p>The proposed Landscape Plan represents a suitably dense vegetative arrangement between the Level 1 units and the trafficable areas of the C.O.S which also therefore reduces the necessity for continuous privacy screens along the C.O.S-facing elevations of the Level 1 units. Suitable conditions of consent have therefore been</p>

Internal Referral Body	Comments
	<p>recommended in relation to the privacy screening of the Level 1 units. These conditions provide suitable limitation of the size and scale of the privacy screens to firstly provide adequate delineation and privacy between the C.O.S and the balconies of the adjoining Level 1 units, whilst at the same time limiting the visual bulk of the privacy screens and avoiding an enclosed or 'walled in' visual outcome.</p> <p>Façade treatment/Aesthetics</p> <p><i>14. Express as clear direction</i></p> <p><u>Comment</u> The written DSAP Report expresses support for the facade treatment and aesthetics of the proposed development. The proposed development is therefore considered acceptable in this context.</p> <p>Sustainability</p> <p><i>15. Provide a NatHERS summary complying with new requirements.</i></p> <p><u>Comment</u> An updated NatHERS Certificate has been submitted with the amended plans.</p> <p><i>16. The following aspects of design and servicing can be easily and cost effectively considered for inclusion:</i></p> <p><i>a) Decarbonisation of energy supply</i></p> <ul style="list-style-type: none"> <i>i. All services should be electric – gas for cooking, hot water and heating should be avoided.</i> <i>ii. Rooftop PV with green roofs to maximise performance and mitigate urban heat effect.</i> <i>iii. Heat pump systems for apartments or other ways of providing electric hot water should be considered. The storage of hot water can be considered a de facto battery if heated by PVs during the day.</i> <i>iv. Onsite power generation and battery storage. On site battery storage has benefits for the grid and may be a highly desirable back-up during the transition to a de-carbonised grid</i> <i>v. Unshaded roof space is a valuable resource for PV installations. Their efficacy can be greatly enhanced when placed over a green roof, which has additional ecological benefits.</i> <p><i>b) EV charging: Provide EV charging points for each unit (Min 15 amp) to suit level 1 charging</i></p> <p><i>c) Consider E bike storage, acknowledging their heavy build and need for security.</i></p> <p><i>d) Passive design and thermal performance of building fabric</i></p> <ul style="list-style-type: none"> <i>i. Higher BASIX thermal performance standards commenced on 1 October 2023 will be an average 7 stars NatHERS, with no unit below 6 stars. This is consistent with the National Construction Code</i>

Internal Referral Body	Comments
	<p><i>for 2022. Given the coastal location a very comfortable indoor environment should be achievable.</i></p> <p><i>ii. The inclusion of ceiling fans to all bedrooms and living rooms will provide comfort with minimal energy while reducing the need and energy required for air-conditioning.</i></p> <p><u>Comment</u> Rooftop solar panels (PV) have been implemented as represented on the amended roof plan, providing a sustainable electrical supply to the unit buildings. An updated BASIX Certificate has also been provided demonstrating that commitments related to water, thermal comfort and energy targets are met. It is noted the updated NatHERS Certificate provided by the applicant does not represent compliance with the National Construction Code 2022 which is noted by DSAP as requiring a minimum 6 star rating. Therefore, a suitable condition of consent is recommended for the proposal to maintain compliance with all requirements of the NCC, including the required NatHERS rating requirements. This is in addition to conditions from Council's Building Control Officer which ensure the development maintains compliance with the BCA and consistency with the BCA Reports submitted with the application. The conditions of consent are considered to provide an acceptable sustainability outcome for the development in the context of the relevant Australian Standards. E-bike and scooter facilities, as well as EV charging have all been integrated into the basement design.</p> <p>Conclusion The comments provided by the DSAP were based on the original design of the proposal when the DA was lodged, which has since been amended to respond directly to the majority of the recommendations. The amendments made improve the development's overall level of compliance and reduce impacts to the surrounding properties and public domain. The building is assessed as exhibiting a satisfactory level of design and amenity for future residents. The revised proposal is consistent with the provisions of the WLEP 2011, WDCP 2011 and SEPP 65/ADG, as detailed in this report.</p>
Building Assessment - Fire and Disability upgrades	<p>Supported</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>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.</p>

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p>Supported</p> <p>General Comments</p> <p>This application is seeking consent for the construction of a new shop top housing development at 8 Roger Street, Brookvale. The application proposes ground floor retail floor space, 12 residential apartments throughout the upper three floors and both at-grade and basement car parking for 21 cars and 5 bicycles.</p> <p>The application also includes basement storage, separate residential and commercial waste rooms, associated infrastructure and landscaping.</p> <p>A phase 1 Preliminary Site Investigation was undertaken, and recommendations provided for further site investigation.</p> <p>A Detailed Site Investigation (DSI) was prepared by eiaustralia dated March 2024. The report states: <i>The site can be made suitable for the proposed development subject to the implementation of recommendations.</i></p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Industrial)	<p>Supported</p> <p>General Comments</p> <p>This application is seeking consent for the construction of a new shop top housing development at 8 Roger Street, Brookvale. The application proposes ground floor retail floor space, 12 residential apartments throughout the upper three floors and both at-grade and basement car parking for 21 cars and 5 bicycles.</p> <p>The application also includes basement storage, separate residential and commercial waste rooms, associated infrastructure and landscaping.</p> <p>An acoustic report has been provided for the proposal and suitable conditions can be applied.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Landscape Officer	<p>Supported</p> <p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 31/05/24:</u> The amended reports and plans are noted.</p>

Internal Referral Body	Comments
	<p>The tree planting shown in the communal open space area will require soil depth of 1000mm, as per ADG requirements. The section shown on drawing Landscape site plan shows 600mm soil depth which is insufficient. Any sub-surface drainage requirements are in addition to the minimum soil depth requirements. Soil depths for all on slab landscape planters must comply with the ADG, and have been conditioned.</p> <p><u>Original Comment:</u> The application is assessed by Landscape Referral against the Apartment Design Guide (ADG), Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan 2011.</p> <p>The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. All on slab landscaping shall meet the soil depth requirements identified in the ADG.</p>
NECC (Development Engineering)	<p>Supported</p> <p>The proposed development is in Region 2. On-site detention is required and shown on submitted stormwater management plans. A geotechnical report has been provided. Vehicle crossing construction is required. I have no objections to the proposed development.</p>
NECC (Flooding)	<p>Supported</p> <p>The proposal is for the demolition of existing site structures and the construction of a new shop top housing development at 8 Roger Street, Brookvale.</p> <p>The development site is not identified as flood affected. There are no flood related objections.</p>
NECC (Water Management)	<p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy), and; • Relevant LEP and DCP clauses; <p>The proposal is for demolition and construction.</p> <p>The stormwater quality management proposed is satisfactory. Rainwater tank volume to be as per BASIX certification as a minimum size.</p> <p>Dewatering for construction subject to WaterNSW General Terms of Approval(GTA) and Council dewatering permit.</p> <p>Superseded</p> <p>The stormwater quality management proposed is satisfactory. Rainwater tank volume to be as per BASIX certification as a</p>

Internal Referral Body	Comments
	<p>minimum size. Additional geotechnical investigation is required to confirm groundwater table levels and WaterNSW requirements.</p>
Strategic and Place Planning	<p>Supported</p> <p>STRATEGIC PLANNING ASSESSMENT</p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Strategic Planning as the site is within an area for change under the draft Brookvale Structure Plan.</p> <p>The development proposes demolition of the single storey weatherboard building and construction of a four storey shop top housing development with basement parking. 12 apartments (4 x 1-bed, 2 x 2-bed, 6 x 3-bed) are proposed and 43sqm for a shop is proposed on the ground floor.</p> <p>Draft Brookvale Structure Plan</p> <p>The latest iteration of the draft Brookvale Structure Plan (draft Structure Plan) was exhibited from 1 December 2022 to 28 February 2023 and is currently under review by Council's Strategic Planning business unit. The document is available online via the 'Learn more' tab: https://yoursay.northernbeaches.nsw.gov.au/brookvale-structure-plan</p> <p>Changes are being made to the draft Structure Plan based on submission feedback.</p> <p>The draft Brookvale Structure Plan designates the subject site within the Roger Street character sub-precinct. The following desired future character statement is proposed:</p>

Internal Referral Body	Comments
	<p><i>Roger Street will maintain its light industrial identity, with a twist on the mixed use typology. Moving away from traditional ground level retail uses, ground levels will have a renewed emphasis on supporting a broader range of working spaces, such as makerspaces, creative enterprises, artisanal food and drink producers and small-scale retail that will co-locate with residential uses above. This diversity of employment uses will invite curiosity from pedestrians and be a key part of this pocket's bustling character.</i></p> <p><i>Buildings will be between 7-8 storeys with a clear distinction between residential and employment uses through variations in floor height and facade design. Dwellings will have access to high levels of residential amenity through solar access and less exposure to surrounding noise impacts.</i></p> <p><i>Street trees and landscaping will be interspersed between parking and loading bays to soften the streetscape making it a pleasant thoroughfare for pedestrians using the improved through-site links around more compact blocks.</i></p> <p>The draft Structure Plan recommends the following changes to the zoning, land use and development controls for the subject site:</p> <ul style="list-style-type: none"> · Rezoning from E3 Productivity Support to MU1 Mixed Use zoning. · Amendment to the Schedule 1 Additional Permitted Uses which currently permit office premises, retail premises and shop top housing subject to consideration of the site's impact on any adjoining land in the E4 General Industrial zone to an Additional Permitted Use for 'residential flat buildings' where the ground floor is used for light industry or creative industries. · 5% affordable housing target. · Maximum FSR of 2.4:1. · Maximum height of building of 30m (8 storeys). <p>Character and built form recommendations include:</p> <ul style="list-style-type: none"> · A three-storey street wall height.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li data-bbox="644 421 1278 533">· A 5-6m floor to floor height at the ground level to allow for flexibility to attract light industry and creative enterprise and accommodate tall ceilings and mezzanine levels. <li data-bbox="644 566 1321 678">· The ground floor of Roger Street is to provide active uses such as light industry and creative industry. The intention is that Roger Street has a greater focus on retaining employment uses that currently exist. <li data-bbox="644 712 1278 768">· Provision of upper level setbacks to reinforce the human scale and improve residential amenity. <li data-bbox="644 801 1310 857">· Incorporation of new street tree planting to enhance urban tree canopy cover. <li data-bbox="644 891 1270 947">· Improvements to stormwater drainage and flood mitigation through WSUD approaches. <li data-bbox="644 981 1278 1037">· Consideration of measures to manage noise and vibration from nearby industrial land. <p data-bbox="580 1104 759 1126">Proposed uses</p> <p data-bbox="580 1160 1286 1238">The proposed use for shop top housing is permissible under the site's current E3 Productivity Support and proposed MU1 Mixed Use zoning.</p> <p data-bbox="580 1328 1321 1440">Further consideration to the ground floor use should be investigated to better align with the desired future character to attract light industry and creative industry, which is permitted under the site's current E3 Productivity Support zone.</p> <p data-bbox="580 1529 762 1552">Building height</p> <p data-bbox="580 1585 1310 1686">The development proposes to exceed the current LEP height limit of 11m. The proposed variation to the current height control and consideration of grounds to justify this variation is a matter for development assessment.</p> <p data-bbox="580 1776 1321 1955">While the proposed development is within the proposed height limit of 30m (8 storeys) envisaged by the draft Structure Plan, the strategic intent is to require the ground floor to have a 5-6m floor to floor height to allow for flexibility to attract light industry and creative enterprise and accommodate tall ceilings and mezzanine levels. A 3 storey street wall height is also envisaged with upper</p>

Internal Referral Body	Comments
	<p>level setbacks to reinforce the human scale and improve residential amenity.</p> <p>Industrial interface</p> <p>The western rear boundary of the building does not propose any openings, balconies or windows to the adjoining industrial zoned land, which is considered acceptable to manage potential land use conflict, noise and vibration.</p> <p>Streetscape</p> <p>The submitted plans do not demonstrate an area for mail boxes, which should be incorporated into the architectural design of the building.</p> <p>The fire hydrant booster is proposed to be screened by a cabinet door and integrated into the architectural design of the building, which is considered acceptable.</p> <p>The proposed street tree contributes to the desired future character to enhance urban tree canopy cover and is supported, subject to comment from Council's Landscape Architect.</p> <p>Conclusion</p> <p>The proposed development is permissible under the site's current zoning and therefore cannot be reasonably opposed.</p> <p>Notwithstanding the above, the Applicant is encouraged to align closely with the desired future character identified in the draft Brookvale Structure Plan, which is anticipated to be reported to a Council meeting by the end of 2023. Should the draft Structure Plan be endorsed, implementation of the planning controls into the statutory framework will occur. Strategic Planning notes that additional density will be available for the subject site under the Brookvale Structure Plan and the proposed scheme potentially represents an underutilisation of the site's planning controls.</p>

Internal Referral Body	Comments							
Strategic and Place Planning (Heritage Officer)	<p>Supported</p> <p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Heritage as the subject site is in the vicinity of two heritage item, listed in Schedule 5 of Warringah LEP 2011:</p> <p>Item I1 - Tramway Staff War Memorial - Pittwater Road (bus depot), Brookvale</p> <p>Item I6 - Palm trees and plaque - Corner Pittwater Road and Cross Street, Brookvale</p> <p>Details of heritage items affected</p> <p>Details of the items as contained within the Northern Beaches Heritage Inventory are:</p> <p>Item I1 - Tramway Staff War Memorial <u>Statement of Significance</u> A representative example of simple monuments erected between the wars to commemorate those who had given service. Socially the monument is of significance demonstrating the sentiment of Tramways staff in commemorating the historical event which was WW1. <u>Physical Description</u> Monument in the form of a trachyte obelisk on a rusticated ashlar stone base. Obelisk is polished & engraved. Base steps up to obelisk. Set in concrete square within lawn area, in grounds of bus depot.</p> <p>Item I6 - Palm trees and plaque <u>Statement of Significance</u> A commemorative tree planting of social & historic significance surviving from the 1920's when the site was St Luke's Church. <u>Physical Description</u> A group of 4 mature Canary Island Palms (Phoenix canariensis). A small plaque is mounted on a boulder beneath the trees.</p> <p>Other relevant heritage listings</p> <table border="1" data-bbox="568 1774 932 1928"> <tr> <td data-bbox="568 1774 847 1865">SEPP (Biodiversity and Conservation) 2021</td> <td data-bbox="847 1774 932 1865">No</td> <td data-bbox="932 1774 1337 1865"></td> </tr> <tr> <td data-bbox="568 1865 847 1928">Australian Heritage Register</td> <td data-bbox="847 1865 932 1928">No</td> <td data-bbox="932 1865 1337 1928"></td> </tr> </table>		SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No	
SEPP (Biodiversity and Conservation) 2021	No							
Australian Heritage Register	No							

Internal Referral Body	Comments		
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
<p>The proposal seeks consent for the demolition of existing site structures and the construction of a new shop top housing development. The existing site structures include a factory building at the rear and a fibro cottage at the street frontage. The fibro cottage is not a listed heritage item, however dates back to the early 1900s. Therefore, photographic archival recording is required.</p> <p>The heritage listed trees and plaque are located to the South and the heritage listed War Memorial is located to the South-east of the subject site, opposite side of Pittwater Road. Given the physical separation afforded by the distance and two roads, the impact of the proposed works upon the significance of the heritage items is considered acceptable.</p> <p>Therefore no objections are raised on heritage grounds subject to one condition.</p> <p><u>Consider against the provisions of CL5.10 of WLEP 2011.</u> 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</p>			
Traffic Engineer	<p>Supported</p> <p>Amended comments relating to amended report and plan (03/06/2024)</p> <p>The amended Traffic and Parking Impact Assessment report, prepared by McLaren Consulting dated 15 May 2024, and the plans (Amended Master Set), Rev P4, designed by CD Architect, dated September 2023, have been reviewed by the Traffic team.</p> <p>The amendments include the following:</p> <ul style="list-style-type: none"> • New schedule of units and mix: 12 residential apartments (6 x one-bedroom, 3 x two-bedroom, 3 x three-bedroom apartments), and 92m2 retail premises; 		

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • The reconfiguration of the basement parking layout; the number of parking spaces on-site has been increased from 21 spaces to 22 spaces (15 residential, 2 visitor and 5 commercial/retail spaces); • six (6) bicycle spaces have been provided for residents/tenants and retail/commercial users; and • Vehicle access is provided at Roger Street. <p>Traffic team notes:</p> <ul style="list-style-type: none"> • Application of the Warringah DCP car parking rates (1 space per one-bedroom dwelling, 1.2 spaces per two-bedroom dwelling, 1.5 spaces per 3-bedroom dwelling, and 1 visitor space per 5 units or part of dwellings) to the amended proposal would result in a parking requirement of 14.1 residential parking spaces, 2.4 visitor parking spaces and 5.6 retail/commercial users = 22.1 spaces (round up to 23 spaces) . In response, 22 parking spaces have been proposed (15 residential parking spaces, 2 visitor parking spaces and 5 retail parking spaces) which is under DCP requirements by one (1) space. The parking shortfall of one (1) retail parking space is considered acceptable given that: <ul style="list-style-type: none"> o some relaxation of DCP requirements in this location could be considered to reduce traffic levels on the surrounding streets, given the proximity of the site to good public transport, shops and recreational uses and the high level of walking and cycling activity in the vicinity. o it is noted that the car parking spaces are allocated to the residential component of the development, to minimise the level of traffic activity on Roger Street which would be generated by staff and customers accessing five (5) commercial/retail parking spaces. More intensive levels of traffic activity would be generated by commercial/retail uses of those parking spaces. o the site is located in an area where one of the objective of the zone could be to maximise public transport patronage and encourage walking and cycling. • the amended traffic report states that <i>residential visitors have differing peak times to retail visitors such that the pool of visitor parking can be shared between retail visitors and residential visitors</i>. The report justifies this by explaining that parking for retail uses is busiest on Thursday evenings and weekends middays, while residential visitor parking demand is highest during the evenings on Friday and Saturday. This is not considered

Internal Referral Body	Comments
	<p>acceptable; it means that the spaces may often be in use by residents/visitors, making them unsuitable for retail use when they are needed.</p> <p>The council is open to approving a lower level of retail parking than the DCP rates, and a reduction of one (1) retail/ commercial space in the required parking could be considered acceptable.</p> <ul style="list-style-type: none"> • Three (3) accessible parking spaces are proposed, which meet the requirements of the BCA. The design of the accessible parking spaces are in accordance with the Australian Standard AS2890.6:2009 Parking Facilities- Off Street Parking for People with Disability. They are provided with a clear width of 2.4m and located adjacent to a shared area of 2.4m. Bollards are provided for the disabled shared area as shown in Figure 2.2 of the Australian Standard AS2890.6:2009 Parking Facilities- Off Street Parking for People with Disability. • The proposed plans detail the provision of six (6) bicycle parking spaces and storage lockers . This provision is satisfying Council’s DCP requirements and catering for alternate travel mode options. • Dimensioned plans are submitted for the parking area and confirm that all parking bays and aisles are appropriately sized. As outlined in the Traffic Engineers Referral comments dated 09/01/2024, the plan is conditioned to be amended to include dimensions for the driveway. • Swept path plots in Annexure E of the amended Traffic report have shown that the access driveway is appropriately sized to permit a B99 vehicle to pass a B85 vehicle entering or exiting the site as required by AS2890.1 clause 3.2.2. Swept path plots for access to and from loading bay have been also satisfactorily shown by a 6.4m SRV truck entering/exiting the site from Roger Street and then entering/exiting the loading bay. The B85 vehicle turning plots accessing each critical car parking space are also included in Appendix E of the report. Some of these movements would require the driver to stop and turn on spot and some movements require the driver to undertaken 4 and 5-point turns and while it demonstrates that access is constrained and a degree of inconvenience for drivers will exist, this is acceptable under Appendix B4.8 of AS/NZS 2890.1. • The internal ramp is single-width and will be no capacity for vehicles to pass on it. To overcome this, a waiting bay with Stop Lines inside the carpark and a signal system are included in the plans. • a vertical clearance assessment on the ramp has been undertaken for a 6.4m SRV entering and accessing the

Internal Referral Body	Comments
	<p>loading area and demonstrating that there is adequate overhead clearance and that scraping and bottoming does not occur.</p> <ul style="list-style-type: none"> • It is noted that a pedestrian sightline triangle of 2.0 metres by 2.5 metres, in accordance with AS2890.1:2004 are provided at the vehicular access for pedestrian visibility for exiting vehicles. • As outlined in the Traffic Engineers Referral comments dated 09/01/2024, some information regarding future deliveries/loading arrangements, together with details of the delivery arrangements for the proposed development should be included in the Traffic report. It is required to demonstrate that the development can operate effectively without any reliance on an on-street loading bay. • The proposal will generate minimal traffic (up to 11 vehicle movements) in the AM and PM peak hours; therefore, it will not have any unacceptable implications in terms of road network capacity performance. The operation of the key intersections within the study area was assessed using SIDRA INTERSECTION software. Based on the sidra modelling outputs included in Appendix D of the report, the surrounding intersections would continue to operate satisfactorily with generally only minor increases to average delay and 95th percentile queue lengths. The LOS of each intersection would operate well with spare capacity. <p>conclusion</p> <p>Subject to conditions, the application can be supported on traffic grounds, subject to the applicant changing the combined seven (7) retail/ residential visitor parking spaces to a two (2) visitor parking spaces and five (5) retail parking spaces. The council is open to approving a lower level of parking than the DCP rates, and a reduction of one (1) retail parking space in the required parking could be considered acceptable.</p> <p>-----</p> <p>comments dated 09/01/2024</p> <p>Proposal description: Demolition work and construction of Shop Top Housing</p> <p>The proposed development is for the demolition of the existing structures and construction of a shop-top housing comprising 12</p>

Internal Referral Body	Comments
	<p>residential apartments (4 x one-bedroom, 2 x two-bedroom, 6 x three-bedroom apartments), 47m² retail premises and basement carpark for 21 vehicles (16 residential, 2 visitor and 3 commercial/retail spaces). Vehicle access is provided at Roger Street.</p> <p>The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Plans (Master Set) – Job No. J21533D, Revision P1, designed by CD Architect, dated September 2023, • Traffic and Parking Impact Assessment report, Project Number 230353.01FA, prepared by McLaren Consulting dated 20 July 2023, and • Statement of Environmental Effects prepared by BBF Town Planners dated September 2023. <p><u>Parking requirement and design:</u></p> <ul style="list-style-type: none"> • The land is zoned E3 Productivity Support under the Warringah Local Environmental Plan 2011 (LEP). • Warringah DCP applies to the subject site. When calculating required parking for development, car parking rates are to be rounded up to the nearest whole number. The parking requirements for the development comprising 12 units (4 one-bedroom, 2 two-bedroom units and 6 three-bedroom units) and 47m² retail/commercial premises are 15.4 resident spaces, 2.4 visitor spaces, 2.9 retail/commercial users = 20.6 spaces (round up to 21 spaces). In response, 21 parking spaces have been proposed (16 residential parking spaces, 2 visitor parking spaces and 3 retail parking spaces), complying with the DCP. • Three (3) accessible parking spaces are proposed, which meet the requirements of the BCA. The design of the accessible parking space should be in accordance with the Australian Standard AS2890.6:2009 Parking Facilities-Off Street Parking for People with Disability. Space should be provided with a clear width of 2.4m and located adjacent to a minimum shared area of 2.4m. The width of the retail accessible parking space is 2.6m, which is in excess of the required 2.4m by 200mm. This is however considered acceptable. • Bollards are provided for the disabled shared area as shown in Figure 2.2 of the Australian Standard AS2890.6:2009 Parking Facilities-Off Street Parking for People with Disability. • Dimensioned plans are submitted for the parking area and confirm that all parking bays and aisles are appropriately sized.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • The B85 vehicle turning plots accessing each critical car parking space are shown in Appendix E of the traffic report. Some of these movements would require the driver to stop and turn on spot and some movements require the driver to undertake 4 and 5-point turns and while it demonstrates that access is constrained and a degree of inconvenience for drivers will exist, this is acceptable under Appendix B4.8 of AS/NZS 2890.1. • The WDCP requires the provision of one (1) bicycle parking space per dwelling plus 1 visitor bicycle parking space per 12 dwellings. Further, the DCP requires the provision of retail bicycle parking space at the rate of 1 per 200m² GFA high-medium security level for staff and 1 per 600m² GFA high-low security level for visitors. Bicycle parking for six (6) bikes has been shown on the plan for the basement floor. Additionally, basement storage areas can be utilized for additional bicycle parking. This provision is satisfying Council's DCP requirements and catering for alternate travel mode options. <p><u>Access driveway</u></p> <ul style="list-style-type: none"> • In the traffic and parking report, the driveway is proposed to be 6.5m in width to assist ease of access. However, on the Architectural plans, the driveway is measured to be approximately 5.5 meters wide, increasing to about 5.9 meters inside the property. The plan is conditioned to be amended to include dimensions for the driveway. • Swept path plots in Appendix E of the Traffic report have shown that the access driveway is appropriately sized to permit a B99 vehicle to pass a B85 vehicle entering or exiting the site as required by AS2890.1 clause 3.2.2. • The internal ramp is single-width and will be no capacity for vehicles to pass on it. To overcome this, a waiting bay inside the carpark and a signal system are included in the plans. • The driveway and ramp gradients appear satisfactory however a vertical clearance assessment on the ramp should be undertaken, using traffic engineering software such as Autotrack/Autoturn, for a B99 car entering and accessing the carpark to demonstrate that there is adequate overhead clearance and that show any scraping and bottoming does not occur. This will be conditioned. • It is noted that a pedestrian sightline triangle of 2.0 metres by 2.5 metres, in accordance with AS2890.1:2004 are provided at the vehicular access for pedestrian visibility for exiting vehicles. <p><u>Loading/servicing</u></p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • Provision has been made for an off-street loading bay to cater for deliveries to the proposed residential and commercial/ retail premises. The loading bay length is 9m which is sufficient length to accommodate trucks up to and including a 6.4m SRV. • Swept path plots for access to and from the development/loading bay have been satisfactorily shown by a 6.4m SRV truck entering/exiting the site from Roger Street and then entering/exiting the loading bay. • Council requires some information on the intended loading/unloading arrangements that will apply. The following issue must be considered and discussed: <ul style="list-style-type: none"> o Some information regarding future deliveries/loading arrangements, together with details of the delivery arrangements for the proposed development. This should include an analysis of future delivery frequency and the suitability of the proposed loading bay to cater for such deliveries. It is required to demonstrate that the development can operate effectively without any reliance on an on-street loading bay. <p><u>Traffic generation</u></p> <ul style="list-style-type: none"> • The proposal will generate minimal traffic (up to 9 vehicle movements) in the AM and PM peak hours; therefore, it will not have any unacceptable implications in terms of road network capacity performance. • The operation of the key intersections within the study area was assessed using SIDRA INTERSECTION software. Based on the sidra modelling outputs included in Appendix D of the report, the surrounding intersections would continue to operate satisfactorily with generally only minor increases to average delay and 95th percentile queue lengths. The LOS of each intersection would operate well with spare capacity. • It is noted that the modelling has been completed for the intersections at either end of Roger Street. Roger Street/ Pittwater Road and Cross Street/ Pittwater Road intersections are closely spaced intersections. For the development of this scale, it would normally be recommended that a network-wide process (Sirda Network Model) is developed and assessed. This determines the backward spread of congestion as queues on downstream lanes block upstream lanes (queue spillback), and applies capacity constraint to oversaturated upstream lanes, thus limiting the flows entering downstream lanes. However, as TfNSW who are the roads authority for management of signalised intersections has not requested this and as the

Internal Referral Body	Comments
	<p>modelling has not identified intersections that will perform poorly post-development, it will not be required.</p> <p><u>conclusion</u></p> <p>The plans and the Traffic report require minor amendments which will be conditioned however the amendments required are not sufficient to prevent the application from being supported.</p>
Waste Officer	<p>Supported</p> <p>Waste Management Assessment - amended plans (submitted 20/5/2024) Supported - subject to conditions.</p> <p>Waste Management Assessment - amended plans (submitted 15/5/2024) Unsupported - the proposal is unacceptable. Specifically: <u>Residential Bin Room</u> Access to the residential bin room is unacceptable. - The doors open onto a "pedestrian path" that is also shown to be a vehicle passing bay. The plans show that there is a conflict between the open bin room door and the vehicle travel path. - The "pedestrian path" ends at the front building alignment and then becomes the driveway. This is unacceptable. There must be no conflict between vehicles and waste bin service staff. The two piece door must be removed and replaced with a 1200mm wide single door that opens outwards and away from the direction of travel to the street. Suggested Solution The door be relocated (pulled back) to allow service to staff to access the bin room by walking immediately adjacent to the fire hydrant booster cupboard doors rather than on the pedestrian path/passing bay and driveway. <u>Bulky Goods Room</u> The door accessing the bulky goods room is unacceptable. The half door that opens towards the street will obstruct service staff and force them to walk onto the driveway when handling large items. The two piece door must be replaced with a 1200mm wide single door that opens outwards and away from the direction of travel to the street. Note: the size and location of the bulky goods room complies with Council requirements. The same issue exists with service staff having to walk on the passing bay and driveway when removing items from the room. This would be lessened by relocating the bin room door. <u>Commercial Waste Room</u></p>

Internal Referral Body	Comments
	<p>A commercial waste room has been provided - acceptable.</p> <p>Waste Management Assessment Unsupported - the proposal is unacceptable.</p> <p>Northern Beaches Council will provide a 'wheel out-wheel in' service to waste bins and provide 12 x 240 litre bins in the following configuration for 12 residential units. 4 x garbage 3 x Paper recycling 3 x mixed container recycling (bottles and cans) 2 x vegetation recycling</p> <p>A bulky good storage room must be provided with a separate access and can not be accessed via the bin room. The residential bin room must be within 6.5 metres of the property boundary with Roger St. Access to the bin room must be a pedestrian access not shared with traffic.</p> <p>Waste storage must otherwise be in accordance with the Northern Beaches Waste Management Guidelines chapter 4 - available here, https://www.northernbeaches.nsw.gov.au/services/rubbish-and-recycling/building-waste.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	<p>The applicant has submitted a Dewatering Management Plan prepared by EI Australia (dated 15 May 2024).</p> <p>The application was therefore referred to Water NSW for concurrence, under Section 90(2) of the Water Management Act 2000.</p> <p>In response, Water NSW has provided concurrence, subject to General Terms of Approval ('GTAs').</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational

provisions which the proposal is considered to be acceptable against.

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

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

- (a) the development consists of any of the following:
 - (i) the erection of a new building,
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
 - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of a four-storey shop top housing development plus basement car parking for the provisions of 12 self-contained dwellings.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

DESIGN REVIEW PANEL

Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report.

DESIGN QUALITY PRINCIPLES

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 site is located in the E3 Productivity Support zone which permits shop top housing as an additional permitted use. There are similar examples of shop top housing developments already existing within the Roger Street locality, including the immediate adjoining site to the north (10-12 Roger Street). The proposal applies similar design principles and built form characteristics of the adjoining shop top housing development to ensure the resultant design is commensurate with the existing and desired character of the locality.

The development satisfies this Principle.

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:

The proposal is appropriate in terms of its bulk and scale when compared to similar developments and the existing character of the area. Furthermore, the articulated built form, which includes the progressive setting back of the upper floor levels, detailed façade fenestration to incorporate upper floor balconies, the use of subtle materials and finishes will ensure that the development maintains a human scale within the zone.

The development satisfies this Principle.

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:

The building alignments, proportions and types are considered to be of a character, scale and intensity appropriately suited to the area and to the neighbouring industrial area.

The proposed building alignments along Roger Street define the public domain through the setting back of buildings to align with the street which, in turn, contributes towards the future character of the streetscape within the Brookvale industrial/residential environment.

The development satisfies this Principle.

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:

Given the absence of a density Development Standard, density is controlled by how the development responds to the Design Quality Principles of SEPP 65, the relevant Development Standards of the WLEP 2011 and the relevant controls within the WDCP. This assessment has found that the development, as proposed achieves a satisfactory level of compliance and consistency with these Principles, Standards and controls.

The proposed density is not considered to be contrary to the future regional context, the availability of infrastructure, public transport, community facilities and environmental quality.

The development satisfies this Principle.

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:

A communal open space area is provided in the central portion of the site with deep soils areas and landscaped planter boxes designed to operate together as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for the occupants of the development.

With regards to co-ordinating water and soil management, the application was referred to Council's Development Engineer who did not raise any objection subject to conditions. These conditions have been included in the Recommendation of this report.

The development satisfies this Principle.

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:

Good amenity is provided through the physical, spatial and environmental quality of the development. The amenity is optimised by appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

The development satisfies this Principle.

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:

All units provide optimum passive surveillance and internal security is achieved by providing lockable entry doors at street level and a gated car park entrance.

In this regard, the proposal is considered to adequately achieve safety and security for future occupants of the development providing good casual visual surveillance of the public and private domains.

In this regard, the proposal is considered to adequately achieve safety and security for future occupants of the development providing good casual visual surveillance of the street and the private domain.

The development satisfies this Principle.

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 apartments which will vary in size and affordability. This mix suits the social evolution of the community as purchasers will choose to buy because of the proximity of the site to Brookvale Park, accessibility to shopping being Warringah Mall and services, and the high

frequency public transport route along Pittwater Road.

The development satisfies this Principle.

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 development provides a highly articulated built form, which includes the detailed façade fenestration to incorporate upper floor balconies, the use of suitable materials and finishes. In this regard, the development is considered to incorporate an appropriate composition of building elements, textures, materials and colours to reflect the mixed-use nature, internal design and structure of the development and which achieves an appropriate urban form that is considered to relate favourably in both architectural scale and landscape treatment to neighbouring mixed-use.

The development satisfies this Principle.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the ‘Apartment Design Guide’ as required by SEPP 65.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	The proposed development is considered to be commensurate with the character of similar developments existing within the Roger Street locality.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	The development is orientated to Roger Street with suitable solar access achieved to the internal areas of the units and communal open space. The visibility of the entrance to the units is well defined with suitable accessibility from Roger Street.

<p>Public Domain Interface</p>	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>A suitable interface between the private and public domain is considered to be provided with a commensurate building access and lobby arrangement, passive surveillance, as well as ground floor commercial space which actively contributes to the streetscape.</p>												
<p>Communal and Public Open Space</p>	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 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) 	<p>A suitable communal open space area envisaged by the requirements of the ADG is provided in the central portion of the site. Direct sunlight to ground level C.O.S area is achieved during winter solstice.</p>												
<p>Deep Soil Zones</p>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="501 1167 1031 1671"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>A communal open space area is provided in the central portion of the site with deep soil areas and landscaped planter boxes designed to operate together as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for the occupants of the development.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m ²	-	7%												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													
<p>Visual Privacy</p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="501 1827 1031 1928"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms				<p>As the development is built directly against the boundary, visual privacy is achieved with the adjacent buildings as no windows and setbacks are evident in the northern and southern boundary.</p>						
Building height	Habitable rooms and balconies	Non-habitable rooms												

	<table border="1" data-bbox="501 383 1032 584"> <tr> <td data-bbox="501 383 679 450">Up to 12m (4 storeys)</td> <td data-bbox="679 383 855 450">6m</td> <td data-bbox="855 383 1032 450">3m</td> </tr> <tr> <td data-bbox="501 450 679 517">Up to 25m (5-8 storeys)</td> <td data-bbox="679 450 855 517">9m</td> <td data-bbox="855 450 1032 517">4.5m</td> </tr> <tr> <td data-bbox="501 517 679 584">Over 25m (9+ storeys)</td> <td data-bbox="679 517 855 584">12m</td> <td data-bbox="855 517 1032 584">6m</td> </tr> </table> <p data-bbox="488 618 1037 703">Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p data-bbox="488 734 1010 853"><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p data-bbox="1050 383 1318 591">This allows complete privacy within the two residential blocks. Adequate spatial separation is provided between the respective proposed unit buildings.</p>
Up to 12m (4 storeys)	6m	3m									
Up to 25m (5-8 storeys)	9m	4.5m									
Over 25m (9+ storeys)	12m	6m									
<p data-bbox="229 857 456 920">Pedestrian Access and entries</p>	<p data-bbox="488 857 1031 954">Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p data-bbox="488 983 1031 1039">Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p data-bbox="1050 857 1345 1066">The development provides pedestrian access throughout the property from the lift lobby on Roger Street, and from the basement car parking area.</p>									
<p data-bbox="229 1077 416 1111">Vehicle Access</p>	<p data-bbox="488 1077 995 1196">Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p data-bbox="1050 1077 1345 1552">The development provides a driveway arrangement that is considered to be appropriate in providing safe vehicle access/egress for both customers, delivery vehicles and pedestrian sightlines. Council's Traffic and Development Engineers have reviewed the application and raised no objection to approval, subject to recommended conditions of consent.</p>									
<p data-bbox="229 1563 424 1626">Bicycle and Car Parking</p>	<p data-bbox="488 1563 963 1597">For development in the following locations:</p> <ul data-bbox="517 1653 1023 1861" style="list-style-type: none"> <li data-bbox="517 1653 1023 1738">• On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or <li data-bbox="517 1738 1023 1861">• On land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p data-bbox="488 1912 951 1946">The minimum car parking requirement for</p>	<p data-bbox="1050 1563 1345 1951">Suitable bicycle and car parking required to service the site is considered to be provided. Council's Traffic and Development Engineers have reviewed the application and raised no objection to approval, subject to recommended conditions of consent. Access to basement parking is well</p>									

	<p>residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>defined and equipped to enhance security.</p>				
Part 4 Designing the Building						
Amenity						
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> 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. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	<p>75% or (9 of 12) of apartments will receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter.</p>				
Natural Ventilation	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> 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. Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	<p>66% (8 of 12) of apartments are capable of providing natural through ventilation with suitable building depths afforded.</p>				
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="502 1854 1031 1933"> <tr> <th colspan="2">Minimum ceiling height</th> </tr> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> </table>	Minimum ceiling height		Habitable rooms	2.7m	<p>The development consists of mixed uses with retail/business use on the ground floor levels. All spaces to are considered to represent consistency</p>
Minimum ceiling height						
Habitable rooms	2.7m					

	<table border="1"> <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>	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	with the ADG requirements.		
Non-habitable	2.4m											
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area											
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use											
<p>Apartment Size and Layout</p>	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>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.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>All bedrooms and habitable rooms are considered to represent consistency with the requirements for depth, layout and internal area envisaged by the ADG. All windows to habitable rooms are suitably visible and contribute to natural ventilation.</p>
Apartment type	Minimum internal area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedroom	70m ²											
3 bedroom	90m ²											

	<p>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.</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>																
<p>Private Open Space and Balconies</p>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="501 913 1029 1171"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>Minimum balcony areas and depths are provided in accordance with ADG requirements.</p>
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
<p>Common Circulation and Spaces</p>	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>Complies.</p>															
<p>Storage</p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="501 1704 1029 1928"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <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> </tbody> </table>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	<p>Suitable internal and basement storage are provided to the units.</p>							
Dwelling Type	Storage size volume																
Studio apartments	4m ²																
1 bedroom apartments	6m ²																
2 bedroom apartments	8m ²																

	<table border="1"> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </table>	3+ bedroom apartments	10m ²	
3+ bedroom apartments	10m ²			
	At least 50% of the required storage is to be located within the apartment.			
Acoustic Privacy	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.	Complies.		
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	A suitable Acoustic Report has been submitted with the application and it is considered that acceptable acoustic amenity is demonstrated by the development.		
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.	A suitable mix of apartment type and size is provided internally.		
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Amenity and safety is provided to ground floor residents.		
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	The development is suitably articulated and designed to be commensurate with the existing streetscape and pattern of development.		
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.	The proposed roof is suitably designed with a solar panel PV system to promote sustainability.		
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	A suitable Landscape Plan has been submitted demonstrating a suitable and viable landscape outcome for the development. Council's Landscape Officer has reviewed the application and raised no objection to approval, subject to recommended conditions.		

Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes:				A communal open space area is provided in the central portion of the site with deep soil areas and landscaped planter boxes designed to operate together as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for the occupants of the development.	
	Plant type	Definition	Soil Volume	Soil Depth		Soil Area
	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm		10m x 10m or equivalent
	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm		6m x 6m or equivalent
	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm		3.5m x 3.5m or equivalent
	Shrubs			500-600mm		
	Ground Cover			300-450mm		
	Turf			200mm		
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features				Complies.	
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.				Complies.	
Mixed Use	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>				The site is conveniently accessed by public transport and provides an active contribution to the public domain. All residential uses are located at upper levels.	
Awnings and Signage	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.				Appropriate awnings and signage are provided to enhance pedestrian amenity and activity.	

	Signage must respond to the existing streetscape character and context.	
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Complies.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Complies. Council's Development Engineer has reviewed the application and raised no objection to approval, subject to conditions.
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?	Complies. Council's Waste Officer has reviewed the application and raised no objection to approval, subject to conditions.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Complies

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Comment:

- (a) The proposal includes a compliant number of car parking spaces in accordance with the Warringah DCP requirements.
- (b) The proposal achieves the minimum internal area for each of the apartments.
- (c) The proposal achieves the minimum required ceiling height for each of the apartments.

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and
- (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.

Note. The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.

Comment:

The proposed development is considered to have given adequate regard to the design quality principles of SEPP 65 and the objectives of the ADG.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.1405709M_02 dated 6 May 2024).

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

SEPP (Housing) 2021

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,
 - (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.

As previously outlined the proposed development is for the erection of a four-storey shop top housing development plus basement car parking for the provisions of 12 self-contained dwellings. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing 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 SEPP Housing 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.

Referral to design review panel for modification applications

Clause 146 of SEPP Housing requires:

(2) If the statement by the qualified designer required to accompany the modification application under the Environmental Planning and Assessment Regulation 2021, section 102(1) does not verify that the qualified designer designed, or directed the design of, the original development, the consent authority must refer the modification application to the relevant design review panel for advice before determining the modification application.

Comment: The application is accompanied by a statement from the qualified designer that design or directed the design of the original development application. As such, referral of the modification application to the design panel is not required,\

(3) The consent authority may also refer a modification application for residential apartment development to the relevant design review panel for advice before determining the modification application.

Comment: Sub clause (3) allows Council to refer the modification to the design panel if they wish (even if accompanied by a statement by the original designer. However, Council has chosen to refer the modification to the Design Panel for advice given the nature of the changes.

In referring the application, the design review panel must advise whether the modification:

- (a) diminishes or detracts from the design quality of the original development, or*
- (b) compromises the design intent of the original development.*

The design panel have reviewed the development and provided recommendations to restore the design quality of the development. These recommendations have been incorporated into the development.

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).

Overall, the proposal meets the design quality principles of Schedule 9. The proposal appropriately responds to the design guidelines within the ADG and where strict compliance is not achieved numerical requirements, reasonable alternative solutions are provided to meet the objectives of the ADG.

The consent authority has considered the advice received from the DSAP and the applicant has amended the proposal where necessary to respond to the DSAP advice.

Non-discretionary development standards for residential apartment development

Clause 148 of SEPP Housing 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.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for industrial purposes for a significant period of time. In this regard, Council's Environmental Health Officer has reviewed the application and requested a Detailed Site Investigation Report. The report has been provided by the applicant and supported by Council's Officer, subject to recommendation conditions. Sub-section 4.6 (1)(b) and (c) of this Chapter has been considered and the land is considered to be suitable for the proposed residential and commercial land use.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	15.19m (lift over run)	38.09%	No
		13.79m (roof ridge)	25.36%	No

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes

Clause	Compliance with Requirements
6.2 Earthworks	Yes

Detailed Assessment

2.5 Additional permitted uses for particular land

The proposed development is located within Area 5 of the Warringah LEP 2011 Additional Permitted Uses Map.

Schedule 1 (5) of Warringah LEP 2011 states the following:

- (1) This clause applies to land in the vicinity of Pittwater Road and Roger Street, Brookvale, shown as “Area 5” on the Additional Permitted Uses Map.
- (2) Development for the following purposes is permitted with consent—
 - (a) office premises,
 - (b) retail premises,
 - (c) shop top housing.
- (3) Consent must not be granted under this clause to development for the purposes of shop top housing unless the consent authority is satisfied that the development will not have a significant adverse impact on any adjoining land in Zone E4 General Industrial.

Comment

As per the clause, shop top housing is permitted with consent on the subject site. The proposal is considered to be contextually consistent with the existing pattern of development within Roger Street and shall not result in a significant adverse impact on any adjoining land in Zone E4 General Industrial. The proposal satisfies the objectives of the E3 Productivity Support zone as discussed within this report.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	15.19m (lift over run) 13.79m (roof ridge)
Percentage variation to requirement:	38.09% 25.36%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- The proposed development is consistent and compatible with the height of contemporary development within the immediate context of the site
- The variation enables a better outcome by encouraging architectural flexibility to design a development which is compatible with other existing mixed-use development in the locality.
- The front elevation is suitably articulated with the inclusion of recessed verandahs and balconies to provide a greater setback of the outer wall and spatial separation to the streetscape.
- The pop-up lift over run elements which result in the greatest encroachment are located deep in the roof plan and are not visible from the public domain

Figure 1: Proposed development in comparison to adjoining development to the north



Planner Comment

It is agreed that the proposed development is contextually consistent with height of the adjoining existing shop top housing developments to the north at 10-12 Roger Street, there are two approvals for the northern end of Roger Street for shop top housing with variations greater than 13%, 23 Roger has been completed and 26 Roger Street which has not been constructed. The adjoining shop top housing at 10-12 Roger Street (approved under DA2013/1010) features an identical roof ridge height to the proposed development (RL26.00). The respective sites are generally flat and located on a similar topographical ground level, whilst also possessing similar built form characteristics including front setback distance and presentation to the streetscape. The proposed development is therefore considered to represent a visual continuity with 10-12 Roger Street and therefore the contextual character of the existing locality. It is also agreed that the pop-up elements of the lift over-run shall not be visible from the public domain due to being located deep in the roof plan and shall not result in any unreasonable visual or amenity impact.

In this regard, the applicant’s written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant’s written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E3 Productivity Support zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposal is commensurate with the height and scale of surrounding development.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The proposal does not disrupt local amenity including views, privacy and solar access.

c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,

Comment:

The scenic quality of Warringah's coastal and bush environments is maintained.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

There is no unreasonable visual impact to the public domain.

Zone objectives

The underlying objectives of the E3 Productivity Support zone are:

- *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.*

Comment

The proposed development is considered to be compatible with surrounding development and land uses, as well as the contextually consistent with pervading character of the existing locality. The proposed land use is considered to provide opportunities to meet the day to day needs of the surrounding community, businesses and industries and provide a viable economic contribution to the locality. The proposal does not detract from pedestrian amenity and provides a high quality design that is integrated into the architectural and landscape pattern of the streetscape.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E3 Productivity Support zone.

Exception to Development Standards conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development and it is therefore considered appropriate that in this instance, flexibility in the application of the development standard be applied. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	Merit Assessment	Nil (North and South)	-	Yes - See Discussion
B7 Front Boundary Setbacks	Consistent with adjacent buildings	Ground Floor - 4m Level 1 to 3 - 1.4m to balcony, 4m to wall	- -	Yes Yes
B9 Rear Boundary Setbacks	Merit Assessment	Nil	-	Yes - See Discussion

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
B10 Merit assessment of 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
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B6 Merit Assessment of Side Boundary Setbacks

The Objectives of Clause B6 - 'Merit Assessment of Side boundary Setbacks' seeks to have development:

- *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.*

Consistency with the requirements of the Clause are assessed as follows:

- *Side boundary setbacks will be determined on a merit basis and have regard to:*

- *Streetscape.*

Comment: The development proposes a zero side setback along the northern and southern side boundaries. This proposed setback is entirely consistent with all building setbacks along the commercial/industrial strip that defines the Brookvale Locality.

The proposal satisfies this Requirement.

- *Amenity of surrounding properties.*

Comment: The development although proposes a zero setback but has a open central courtyard, which allows for a sense of openness to the adjoining northern and southern boundaries. It is considered that the development will not create any unreasonable impact upon the amenity of the neighbouring property due to the unit configuration and layout which enables a continued outlook and equitable sharing of views.

The proposal satisfies this Requirement.

- *Setbacks of neighbouring development.*

Comment: As noted above, the development proposes a zero side setback along the northern and southern side boundaries which is entirely consistent with all building setbacks along this strip of Roger street. Furthermore, the proposed development by providing an open central courtyard will not unreasonably impact on the redevelopment of the adjoining sites for a similar or otherwise other

permitted use.

- *Generally, side boundary setback areas are to be landscaped and free of any above or below ground structures, car parking or site facilities other than driveways and fences.*

Comment: The construction of the northern and southern side walls to the property boundaries, which has been found to be consistent with the existing setbacks along the commercial/industrial strip that defines the Brookvale Locality, do not enable the planting of landscape features or provide reasonable grounds to prevent the construction of above or below ground structures.

The proposal satisfies this Requirement.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives and requirements of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B10 Merit assessment of rear boundary setbacks

The Objectives of Clause B10 - 'Merit Assessment of Rear boundary Setbacks' seeks to have development:

- *To ensure opportunities for deep soil landscape areas are maintained.*
- *To create a sense of openness in rear yards.*
- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*
- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*
- *To provide opportunities to maintain privacy between dwellings.*

Consistency with the requirements of the Clause are assessed as follows:

- *Rear boundary setbacks will be determined on a merit basis and have regard to:*

- *Streetscape.*

Comment: The development proposes a nil setback to the rear boundary. This proposed setback is entirely consistent with all building setbacks along the commercial/industrial strip that defines the Brookvale Locality.

The proposal satisfies this Requirement.

- *Amenity of surrounding properties.*

Comment: It is considered that the development will not create any unreasonable impact upon the amenity of neighbouring properties due to the unit configuration and layout which enables a continued outlook and equitable sharing of views.

The proposal satisfies this Requirement.

- *Setbacks of neighbouring development.*

Comment: As noted above, the development proposes a nil setback to the rear boundary which is entirely consistent with all building setbacks along this strip of Roger street. Furthermore, the proposed development by providing an open central courtyard will not unreasonably impact on the redevelopment of the adjoining sites for a similar or otherwise other permitted use.

- *Development adjacent to Narrabeen Lagoon in the B2 Local Centre zone is to address the water and parkland. Buildings are not to dominate the parkland setting and will incorporate generous setbacks where necessary to achieve this.*

Comment: This requirement does not apply to the proposed development.

The proposal satisfies this Requirement.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives and requirements of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Merit consideration

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

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Shop-top housing	14.1 residential parking spaces 2.4 visitor parking spaces 5.6 retail/commercial	23 (Rounded up from 22.1)	22	-1

The application is accompanied by a traffic and parking impact assessment in support of the application and which seeks to justify the shortfall of car parking in accordance with the Warringah DCP. Council's traffic engineer has provided an assessment of the car parking spaces provided within the development and raises no objections to the 1 space shortfall given the location of the development in proximity to adequate public transport.

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

Comment:

The proposed parking facilities are located within the subject site and can be enclosed by a garage roller door. Therefore, the proposed car parking spaces will result in minimal visual impact on the street frontage.

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

Comment:

The proposed parking will not readily visible from the street.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$56,271 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$5,627,146.

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The subject site is a shop top housing and is sited within the Greater Sydney region. As such, the contribution is \$10,000 per dwelling and \$30 per square metre of new GFA for commercial development. The proposed development consists of 12 units and the proposed area of the ground floor commercial tenancy is 95m². As such, the contribution payable is \$122,850.

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:

1) The Applicant’s written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

This proposal, for for the demolition of existing on-site structures and the construction of a four-storey shop top housing development over one basement level, has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to constituting sensitive development (development to which State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development applies and is 4 or more storeys in height). In addition, the development also contravenes a development standard imposed by an environmental planning instrument by more than 10% (Clause 4.3 Height of Buildings).

Critical assessment issues included referral recommendations from the Design and Sustainability Advisory Panel (DSAP) in the context of SEPP 65 and the Apartment Design Guide. The applicant has submitted amended documentation during the assessment process which addressed the recommendations to Council's satisfaction. Additional assessment matters included a Clause 4.6 assessment of the variation to the height of buildings development standard, as well as merit assessments of the built form controls of WDCP 2011 including front, side and rear setbacks.

No objections were received during the community notification period.

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.

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 permits a contravention of clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant’s written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/1371 for Demolition work and construction of Shop Top Housing on land at Lot 1 DP 307134, 8 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
DA1010	P1	Demolition Plan	CD Architects	26 July 2023
DA1101	P3	Basement Floor Plan	CD Architects	23 April 2024
DA1102	P4	Ground Floor Plan	CD Architects	23 April 2024
DA1103	P4	Level 1 Floor Plan	CD Architects	23 April 2024
DA1104	P4	Level 2 Floor Plan	CD Architects	23 April 2024
DA1105	P4	Level 3 Floor Plan	CD Architects	23 April 2024
DA1106	P4	Roof Plan	CD Architects	23 April 2024
DA2001	P4	North & South Elevations	CD Architects	23 April 2024
DA2002	P4	East & West Elevations	CD Architects	23 April 2024
DA2003	P3	Internal Elevations	CD Architects	23 April 2024
DA3001	P3	Section A	CD Architects	23 April 2024
DA3002	P3	Section B	CD Architects	23 April 2024
DA3003	P3	Driveway & Ramp Section	CD Architects	23 April 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Preliminary Geotechnical Assessment	1	EI Australia	20 July 2023
Preliminary Site Investigation	1	EI Australia	20 July 2023
Detailed Site Investigation	0	EI Australia	15 March 2024
Dewatering Management Plan	0	EI Australia	15 May 2024
Statement of Compliance	-	Accessible Building Solutions	31 May 2023
BCA 2022 Indicative Compliance Report	1	Building Innovations Australia	27 July 2023
Fire Engineering Report	-	BCA Innovations	20 September 2023
Acoustic Report	-	ANAVS	15 June 2023
Traffic and Parking Impact Assessment	-	McLaren Engineering	15 May 2024
BASIX Certificate (1405709M_02)	-	Taylor Smith Consulting	6 May 2024
Landscape Plan (Drawing 1 and 2)	D	Paul Scrivener	14 May 2024
Waste Management Plan	2	MultiPro	18 July 2023

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	2 November 2023

WaterNSW	WaterNSW General Terms of Approval (IDAS1154160)	29 May 2024
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(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 a shop top housing, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Note—

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

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. 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 alternatively to Northern Beaches Council in person at a Customer Service Centre. 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) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$56,271.46 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 \$5,627,146.00.

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.

7. Security Bond

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

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

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

8. 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	\$122,850
Total:	\$122,850

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:

highest PPI number

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:
- the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - 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 2023 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.

9. **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 \$10,000.00

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 \$30,000.00

Road Works

As security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works required as part of this consent a bond of \$10,000.00

Security Bond

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of \$10,000.00.

Maintenance for Civil Works

A maintenance bond of \$20,000.00 for the construction of footpath, kerb & gutter, road pavement and drainage works. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council prior to issuing of practical completion.

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

10. **On Slab Landscape Works**

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, and services connections. The following soil depths are required to support landscaping: 300-450mm for groundcovers, 500-600mm for shrubs; 800mm for small trees (6-8m high); and 1000mm for medium trees (8-12m high).

b) Any sub-surface drainage requirements are in addition to the above minimum soil depths.

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.

11. **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 LMW Design Group, job number 2145.23, dated 29.05.2023. 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.

The drainage plans must address the following:

- i. Provision of a safe emergency overland flow path in the event of orifice outlet blockage.
- ii. The emergency overflow capacity from the on-site detention as shown on Drawing No. 04 shall be doubled by utilising a 225 mm diameter pipe, twin 150 mm diameter pipes or rectangular section with a minimum dimension of 150 mm.
- iii. The connection from the ultimate pit on private property to Council pit, shall be a minimum of 225 mm diameter pipe.
- iv. The on-site detention system shall not be located underneath any habitable areas.
- v. The floor levels of all habitable areas are to be located a minimum of 300 mm above the on-site detention storage and the water surface level of overflow from the on-site detention system.
- vi. Provide a minimum of 0.5% fall on the floor of the on-site detention tank.
- vii. Provide a minimum of 27 cubic metres of storage on the on-site detention system.

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

12. **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 conveyed from the site to Council stormwater 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.

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

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

14. **Off Street Parking Design**

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

15. **Erosion and Sediment Control Plan**

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

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

- stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

16. 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 prepared by LMW Design Group rev A dated 29 May 2023 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.

17. 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 and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- 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.
- 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.

18. **Vehicle Access & Parking**

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

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

- dimensioned plans must be prepared showing the access driveway widths.

Plans prepared by a suitably qualified Engineer shall 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.

19. **Amendments to the approved plans**

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

- The proposed privacy screen to the balcony of Unit A101 adjoining the dining and rumpus room, shall have a height of 1.2m above FFL.
- The proposed privacy screen to the balcony of Unit A102 adjoining the dining room, shall have a height of 1.2m above FFL.
- The proposed privacy screen to the balcony of Unit B101, shall have a height of 1.2m above FFL.
- The proposed privacy screen to window W07 of Unit B102 adjoining the dining room, shall have a height of 1.2m above FFL.
- The proposed privacy screen to the balcony of Unit B102, shall have a height of 1.8m above FFL for the northern elevation and 1.2m above FFL for the eastern elevation.

- Any privacy screening along the southern elevation shall be deleted.
- The proposed external privacy screens which connect the walkway of the lobby of Building A to the Communal Open Space walkway, shall have a height of 1.8m above FFL.

All privacy screens shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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. **Building Code of Australia Requirements and Fire Safety Matters**

The Building Code of Australia works and fire safety measures to the proposed building as detailed and recommended in the Building Code of Australia Compliance Report prepared by Building Innovations Australia, dated 27/7/2023, Report Ref No. PRO-0835-P4Y5, Issue V 1.0, are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

21. **Building Code of Australia requirements and Fire Safety Matters**

The Building Code of Australia works and fire safety measures to the proposed building as detailed and recommended in the Building Code of Australia Fire Engineering Report prepared by BCA Innovations P/L dated 20/9/2023, Report Ref No. PRO-08318-X2K0 are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate. Fire Engineering Report

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

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22. **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 all works on Council's 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. Design of stormwater connection from private property to Council stormwater pit. The plans shall address the following requirements:

- Provide engineering survey data of existing Council pipe and pit on road.
- Stormwater connection shall provide for the most direct connection to the nearest

Council gully pit on the property frontage.

C. Provide longitudinal sections for existing stormwater pipe on the road.

D. Provide longitudinal section of proposed stormwater connection to Council pit, showing all crossing utility services.

E. Provide detailed design drawings.

2. Design of kerb & gutter, footpath and pavement.

A. Provide detailed plans of kerb & gutter, 1.5 m wide footpath and road pavement restoration works design.

B. Provide longitudinal sections for proposed footpath and kerb & gutter.

C. Provide cross-sections of proposed footpath and kerb & gutter at 5 m intervals.

C. Provide pavement design.

3. Vehicle crossing design.

A. Provide plans of proposed vehicle crossing which shall be a minimum of 5.5 and a maximum of 6.0 metres wide.

B. Provide longitudinal section of proposed vehicle crossing in accordance with Standard Profile A4 3330/1 N.

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.

23. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of Water NSW are to be complied with and a copy of the approval must be submitted to the Certifier.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

24. **Sub-Soil Seepage**

The Applicant is to submit plans demonstrating that all sub-soil seepage drainage is discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being SPI19819 and is to be carried out in accordance with relevant Australian Standards.

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

- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and drainage - Stormwater drainage.

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

Reason: To ensure appropriate drainage and Stormwater management on site to protect amenity of residents.

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

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

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

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

26. **Photographic Archival Recording**

A full photographic archival recording of the site is to be made of the fibro cottage (including interiors and exteriors). This record is to be prepared generally in accordance with the guidelines issued by NSW Heritage and must be submitted to Council's Heritage Officer for approval, prior to the issue of a Construction Certificate.

The photographic record should be made using digital technology and should include:

- o Location of property, date of survey and author of survey;
- o A site plan at a scale of 1:200 showing all structures and major landscape elements;
- o Floor plans of any buildings at a scale of 1:100;
- o Photographs which fully document the site (including items of moveable heritage), cross referenced in accordance with recognised archival recording practice to catalogue sheets.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To provide an archival photographic record of the historic cottage, prior to the commencement of any works.

27. **Remedial Action Plan**

A Remedial Action Plan (RAP) is to be prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997

The RAP is to detail the methodology and procedures required to effectively remediate the site. Refer to the Detailed Site Investigation prepared by eiaustralia dated 15 March 2024, reference E26069.E02_Rev0.

Council does not support the encapsulation of contamination onsite as a remediation option.

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

Construction Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

28. **Mechanical Plant**

An acoustic assessment is to be completed by a suitably qualified person to assess potential noise impacts from selected mechanical plant for the development. The report is to include a noise assessment considering the location of mechanical plant, positioning to sensitive receivers and use of acoustic silencing materials/screens/barriers.

The report is to be provided to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure noise is effectively managed.

29. **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://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2>

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.

30. **Pre-Commencement Dilapidation Report**

The applicant must prepare and submit a dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

31. **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.

32. **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.

33. **National Construction Code 2022**

The proposed development shall retain compliance with all relevant requirements and standards of the National Construction Code 2022.

The NatHERS requirements of the proposal shall also be amended to ensure all proposed units shall retain a minimum star rating of 6. Separate development consent shall be sought by the owners should any external or internal physical design changes to the development be required to achieve this star rating.

Reason: To ensure compliance with the relevant Australian standards.

34. **Boundary Fencing**

No approval for side boundary fencing is given under this consent, as this is a matter for civil negotiation between relevant property owners. Plans are to be amended to remove reference to all side and rear boundary fencing.

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

Reason: To ensure consistency with the relevant legislation under the Dividing Fences Act 1991.

35. **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

36. **Utilities Services**

Prior to the commencement of demolition works, 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 commencement of demolition works.

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

37. Work Zones and Permits

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

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

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

38. Demolition Traffic Management Plan

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

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:-

- o Make provision for all construction materials to be stored on site, at all times.
- o The DTMP is to be adhered to at all times during the project.
- o Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- o 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.
- o Specify that, due to the proximity of the site adjacent to ##### 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).
- o 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”, RMS’ Manual – “Traffic Control at Work Sites”.

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

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

39. Hazardous Materials Survey

A Hazardous Material Survey (HMS) is to be completed by a suitably qualified consultant to confirm the presence/location of any hazardous material within the existing building fabrics.

All identified hazardous materials must be appropriately managed, to maintain worker health and safety during future demolition works and prevent the spread of hazardous substances into the site (soil) surfaces.

An asbestos clearance inspection and certificate is to be completed by a suitably qualified professional (Safework NSW Licensed Asbestos Assessor) following the removal of asbestos containing materials if identified by the HMS.

Where the clearance inspection indicates the presence of hazardous material remaining on site, further removal and validation or further clearance inspection works must be undertaken.

Details demonstrating compliance is to be provided to the Principal Certifying

Reason: To ensure safe identification and removal of hazardous material.

DURING BUILDING WORK

40. 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.

41. **Dewatering Management**

A permit from Council is required prior for any dewatering of groundwater. Contact catchment@northernbeaches.nsw.gov.au for more information about permits. The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW, Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council dewatering permit and in accordance with Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

The dewatering activity during construction must follow the recommendation of the Dewatering Management Plan E26069.E16 REV0 15 MAY 2027 from EI Australia.

Adaptive management to achieve the water quality and quantity outcome at the discharge point must be validated by a qualified groundwater specialist.

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

Reason: Protection of the receiving environment and groundwater resources.

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

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

43. **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.

44. **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.

45. **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.

46. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

47. **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.

48. **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.

49. **Survey Certificate**

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

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

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

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

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

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

50. **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.

51. **Traffic Control During Road Works**

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

Reason: Public Safety.

52. **Footpath Construction and Kerb & Gutter**

The applicant shall construct 1.5 metres wide concrete footpath and kerb & gutter along the entire

street frontage (turf remaining areas) . The works shall be in accordance with the following:

(a) All footpath and kerb & gutter works are to be constructed in accordance with Council's minor works policy

(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath, kerb & gutter and drainage. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

53. **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.

54. **Off-site Disposal of Contaminated Soil - Chain of Custody**

'Chain of Custody' documentation shall be kept and submitted for the transport of the material from the site at 8 Roger Street, Brookvale, to the licensed waste facility.

Details demonstrating compliance are to be submitted to the Principal Certifier and Council within seven (7) days of transport.

Reason: For protection of environment.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan by Multipro Consultants PTY LTD dated July 2023.

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

56. **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

57. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

58. **Mechanical Plant**

All acoustic treatment recommended in the acoustic reports are to be implemented into the development for mechanical plant.

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

Reason: To ensure the proper installation of acoustic treatments to manage noise effectively.

59. **Street Tree Planting**

a) Street tree planting shall be installed in accordance with the approved Landscape Plan (drawing Planting plan, detail & notes issue D by Paul Scrivener dated 14/05/24), and inclusive of the following conditions:

i) all street trees shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees. All street trees shall be 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, 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.

b) 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.

60. **Landscape Completion**

a) landscape works are to be implemented in accordance with the approved Landscape Plan (drawing Planting plan, detail & notes issue D by Paul Scrivener dated 14/05/24), and inclusive of the following conditions:

i) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,

ii) 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 Natspec - Specifying Trees; mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 1.5 metres from common boundaries,

iii) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

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.

61. **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://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

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.

62. **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.

63. **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.

64. **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 plan. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

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

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

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

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

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

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

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

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

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

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing
 - a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements

- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

67. **Allocation of parking spaces (strata title / retail/commercial)**

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

With respect to this:

- o 15 residential parking spaces, 2 visitor spaces and 5 commercial/retail spaces should be signposted on the Architectural Plans.

Reason: To ensure parking availability for residents in accordance with section C3 of Warringah Council's Development Control Plan, and to ensure parking availability for visitors and retail users.

68. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

69. **Shared Zone Bollard**

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

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

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

71. **Reinstatement of Kerb**

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

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

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

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

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

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

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

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

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

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user 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 the on-site stormwater disposal system is maintained to an appropriate operational standard.

74. Certification of Off Street Parking Works

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

75. Post-Construction Dilapidation Report

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

76. Validation for Remediation

A validation and site monitoring report, including a survey of all sites used for landfill disposal is to be prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.

The plan must identify the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

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

Reason: To ensure environmental amenity is maintained.

77. Acoustic Design

All outdoor air-conditioning units are to be acoustically enclosed or set away by more than 3.0m from any boundary with a sound power level of each unit no more than 65 dB(A).

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

Reason: To ensure potential noise disturbances are managed effectively.

78. **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.

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

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.

80. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

81. **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.

82. 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.

83. 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.

84. 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.

85. 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

86. Future use

The use of the ground level commercial/retail premises is subject to a further application to Council.

Reason: To assess potential impacts from noise, odour and vibration and determine

compliance with legislation.

87. 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.

88. Maintenance of Stormwater Treatment Measures

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

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

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

Reason: Protection of the receiving environment.

89. 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 1m.

Reason: To maintain unobstructed sight distance for motorists.

90. Sight lines within carparks

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

Reason: To maintain unobstructed sight distance for motorists.

91. Geotechnical Recommendations

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be

maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

92. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.



REFERENCES
DRAWINGS TO BE READ IN CONJUNCTION WITH BUT NOT LIMITED TO ALL STRUCTURAL ENGINEERING, STORMWATER ENGINEERING, LANDSCAPE ARCHITECTS, AND OTHER ASSOCIATED PLANS & REPORTS REFER TO THE BASIS REPORT FOR ADDITIONAL REQUIREMENTS.

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Scale
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1:200 at A1 1:400 at A3

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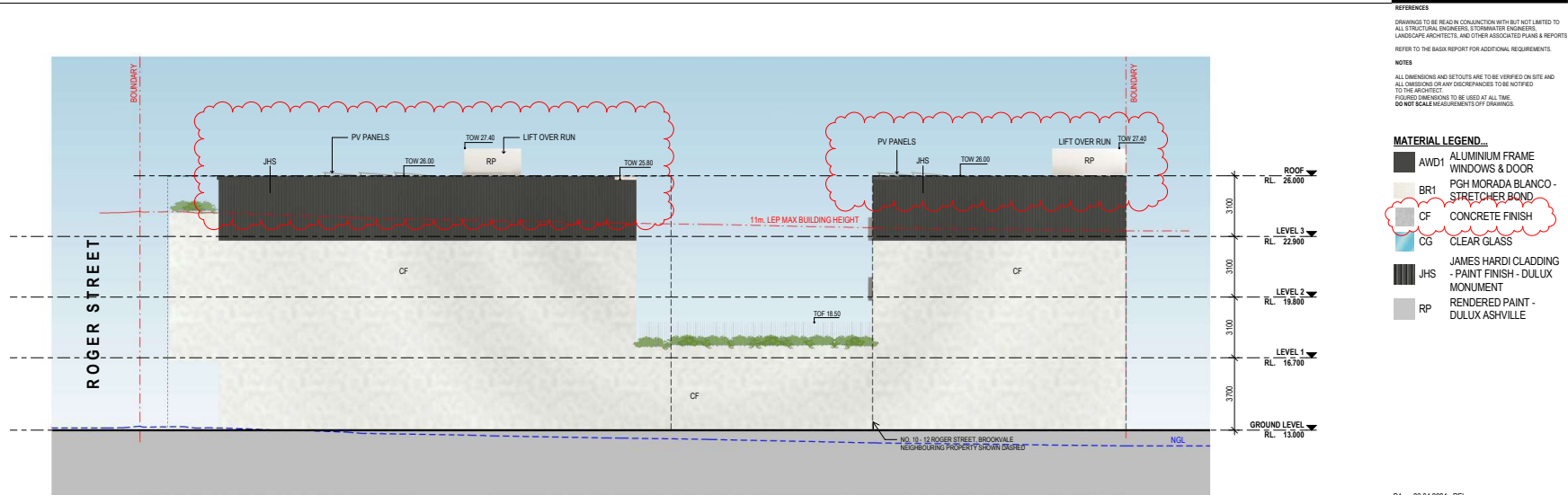


Project
PROPOSED SHOP TOP HOUSING DEVELOPMENT
8 ROGER STREET,
BROOKVALE, 2100
Drawing Title
SITE PLAN

DA SUBMISSION

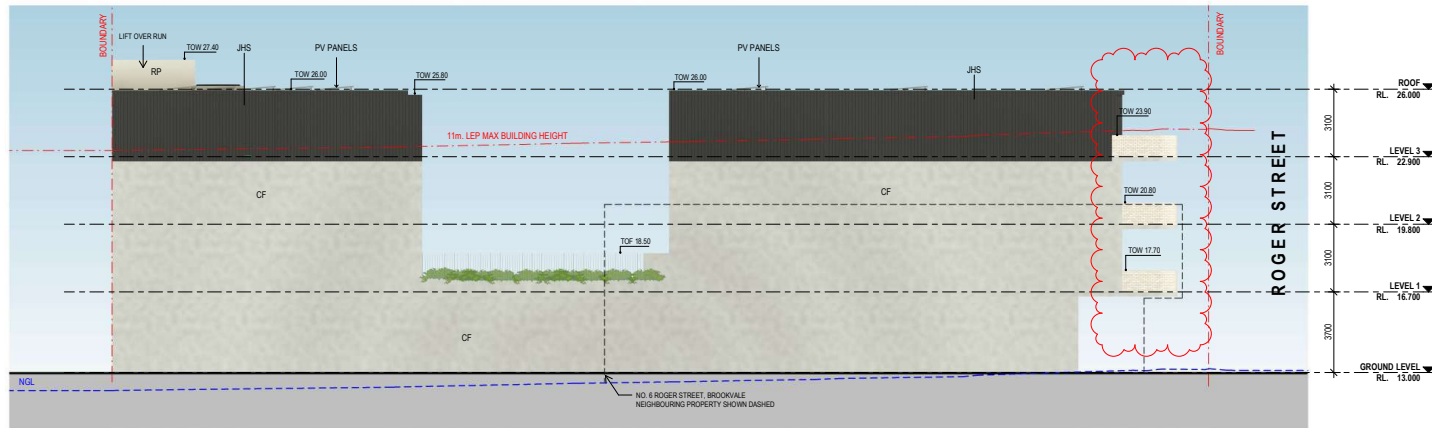
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HM	RJ	ZC
		SEPT. 2023

1 SITE PLAN
1:200 at A1 1:400 at A3



1 NORTH ELEVATION

1:100 at A1 1:200 at A3



2 SOUTH ELEVATION

1:100 at A1 1:200 at A3

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MATERIAL LEGEND

AWD1	ALUMINIUM FRAME WINDOWS & DOOR
BR1	PGH MORADA BLANCO - STRETCHER BOND
CF	CONCRETE FINISH
CG	CLEAR GLASS
JHS	JAMES HARDI CLADDING - PAINT FINISH - DULUX MONUMENT
RP	RENDERED PAINT - DULUX ASHVILLE

Rev.	Date	Description
P4	23.04.2024	RFI
P3	18.03.2024	RFI
P2	19.02.2024	RFI
P1	26.07.2023	DA SUBMISSION

Scale: 0 1 2 4 6 8
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Project
PROPOSED SHOP TOP HOUSING DEVELOPMENT
8 ROGER STREET, BROOKVALE, 2100
Drawing Title
NORTH & SOUTH ELEVATION

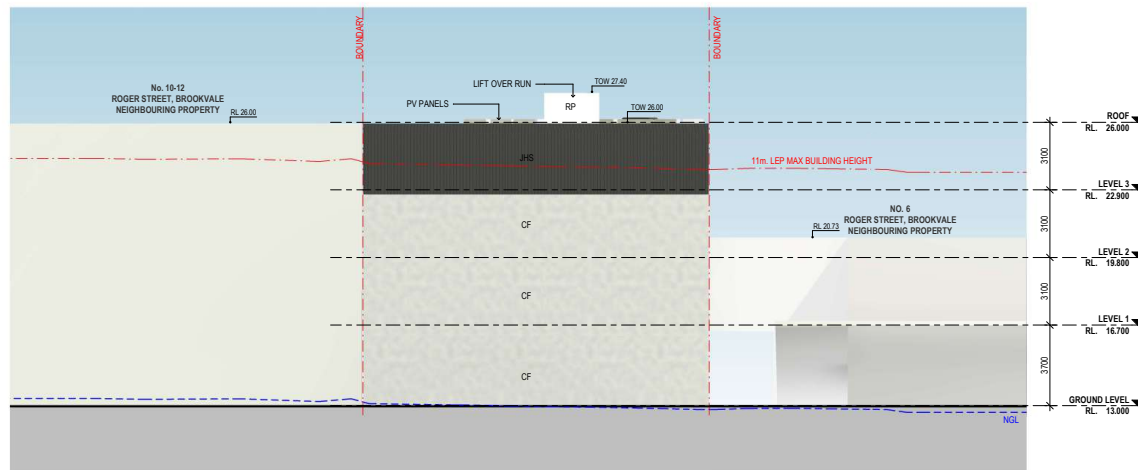
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1 EAST ELEVATION

1:100 at A1 1:200 at A3



2 WEST ELEVATION

1:100 at A1 1:200 at A3

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JHS	JAMES HARDI CLADDING - PAINT FINISH - DULUX MONUMENT
RP	RENDERED PAINT - DULUX ASHVILLE

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P1	26.07.2023	DA SUBMISSION

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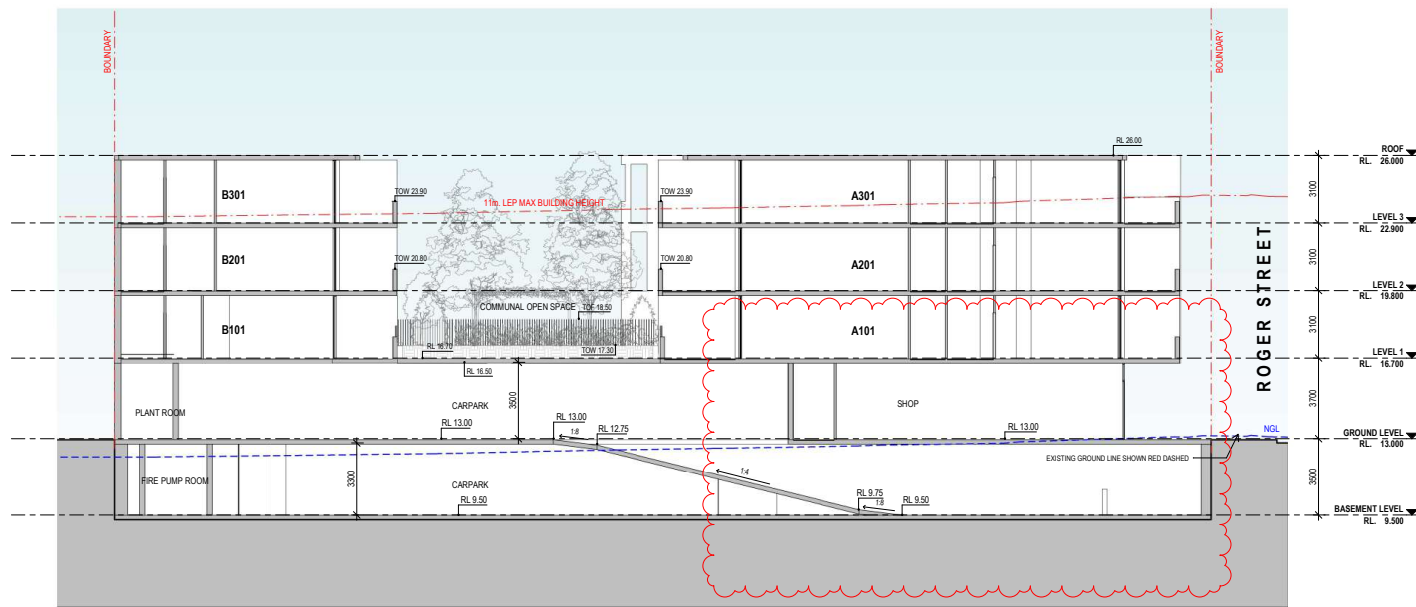
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Project
PROPOSED SHOP TOP HOUSING DEVELOPMENT
8 ROGER STREET, BROOKVALE, 2100
Drawing Title
EAST & WEST ELEVATION

DA SUBMISSION

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J21533D	DA 2002	P4
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1 BUILDING SECTION A
1:100 at A1 1:200 at A3

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Project
PROPOSED SHOP TOP HOUSING DEVELOPMENT
8 ROGER STREET,
BROOKVALE, 2100
Drawing Title
BUILDING SECTION

DA SUBMISSION

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		Date
		SEPT. 2023

1 Clause 4.6 variation request – Height of Buildings

1.1 Introduction

this updated clause 4.6 variation request has been prepared having regard to the following plans prepared by CDArchitects:

DRAWING LIST

	DRAWING No.	DRAWING NAME	REVISION
DA	1001	COVER SHEET	P4
DA	1002	COMPLIANCE TABLE	P3
DA	1003	UNIT SCHEDULE	P3
DA	1004	BASIX REQUIREMENTS	P2
DA	1005	SITE PLAN	P3
DA	1006	OVERALL SITE CONTEXT	P1
DA	1007	SITE ANALYSIS PLAN	P2
DA	1008	EXISTING FRAMEWORK	P1
DA	1009	BUILT FORM	P1
DA	1010	DEMOLITION PLAN	P1
DA	1101	BASEMENT LEVEL FLOOR PLAN	P3
DA	1102	GROUND FLOOR PLAN	P4
DA	1103	LEVEL 01 FLOOR PLAN	P4
DA	1104	LEVEL 02 FLOOR PLAN	P4
DA	1105	LEVEL 03 FLOOR PLAN	P4
DA	1106	ROOF PLAN	P4
DA	2001	NORTH & SOUTH ELEVATION	P4
DA	2002	EAST & WEST ELEVATION	P4
DA	2003	INTERNAL BUILDING ELEVATION	P3
DA	3001	BUILDING SECTION	P3
DA	3002	BUILDING SECTION	P3
DA	3003	DRIVEWAY & RAMP SECTION	P3
DA	5001	PRE + POST ADAPTABLE UNIT LAYOUT	P3
DA	6001	SHADOW DIAGRAMS	P3
DA	6011	SUN ANGLE VIEW 9am - 21JUNE	P4
DA	6012	SUN ANGLE VIEW 10am - 21JUNE	P4
DA	6013	SUN ANGLE VIEW 11am - 21JUNE	P4
DA	6014	SUN ANGLE VIEW 12pm - 21JUNE	P4
DA	6015	SUN ANGLE VIEW 1230pm - 21 JUNE	P1
DA	6016	SUN ANGLE VIEW 1pm - 21JUNE	P4
DA	6017	SUN ANGLE VIEW 2pm - 21JUNE	P4
DA	6018	SUN ANGLE VIEW 230pm - 21JUNE	P1
DA	6019	SUN ANGLE VIEW 3pm - 21JUNE	P4
DA	6020	SOLAR SCHEDULE	P3
DA	6021	SPECIFIC SOLAR VIEWS	P3
DA	7001	SOLAR ACCESS PLAN	P4
DA	7011	VENTILATION DIAGRAMS	P4
DA	7021	3D VIEWS	P4
DA	7031	FINISHES SCHEDULE	P4
DA	7041	LEP HEIGHT BLANKET	P3
DA	7042	WINDOW ELEVATIONS	P4

This clause 4.6 variation has been prepared with respect to a proposed shop top housing development at 8 Roger Street, Brookvale, 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.

1.2 Warringah Local Environmental Plan 2011 (WLEP 2011)

1.2.1 Clause 4.3 – Height of Buildings

Pursuant to Clause 4.3 of WLEP 2011, the height of buildings on the subject land is not to exceed 11m. 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 proposed development reaches a maximum height of 15.415m, representative of a 4.415m or a 40% variation of the 11m building height development standard. This maximum exceedance is limited to the western lift over-run, with a slightly reduced extent of non-compliance associated with the eastern lift over-run.

However, with a roof parapet height of RL 26.30, the height of the majority of the building ranges from 13.205m – 14.315m, representative of a 2.205m – 3.315m or 20% – 30.1% variation of the 11m building height development standard.

The extent of non-compliance is depicted in the Architectural Plans by CD Architects, with an extract of the North Elevation at Figure 1, the South Elevation at Figure 2 and the Height Blanket Plan Diagram at Figure 3.

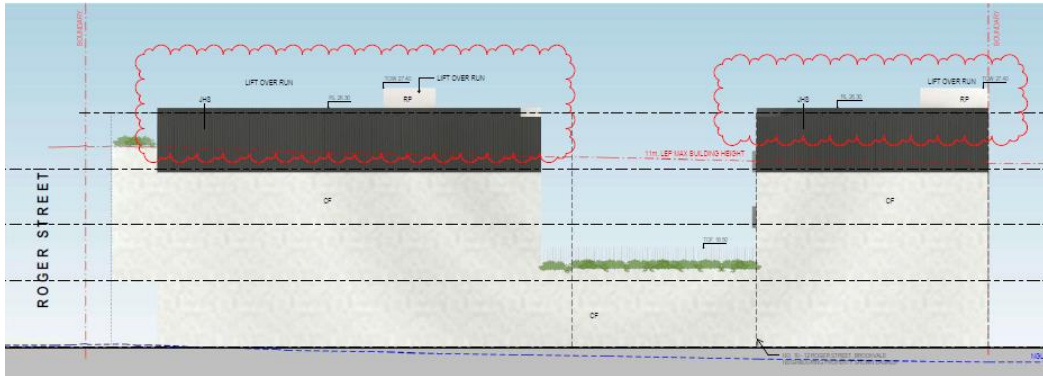


Figure 1 - North Elevation by CD Architects with extent of height breach above red line

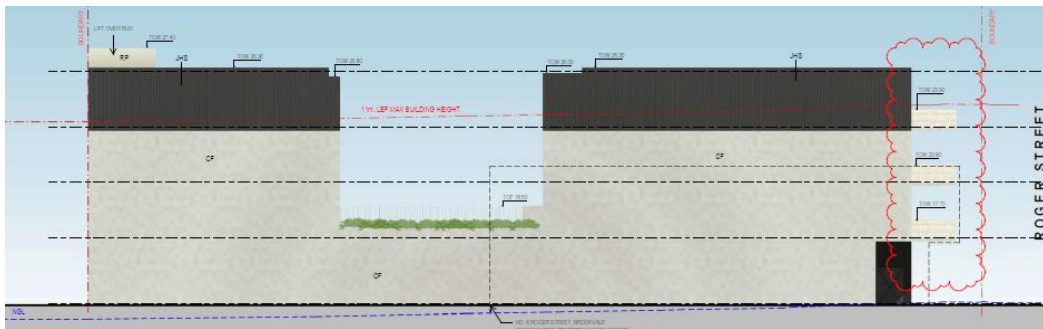


Figure 2 – South Elevation by CD Architects with extent of height breach above red line

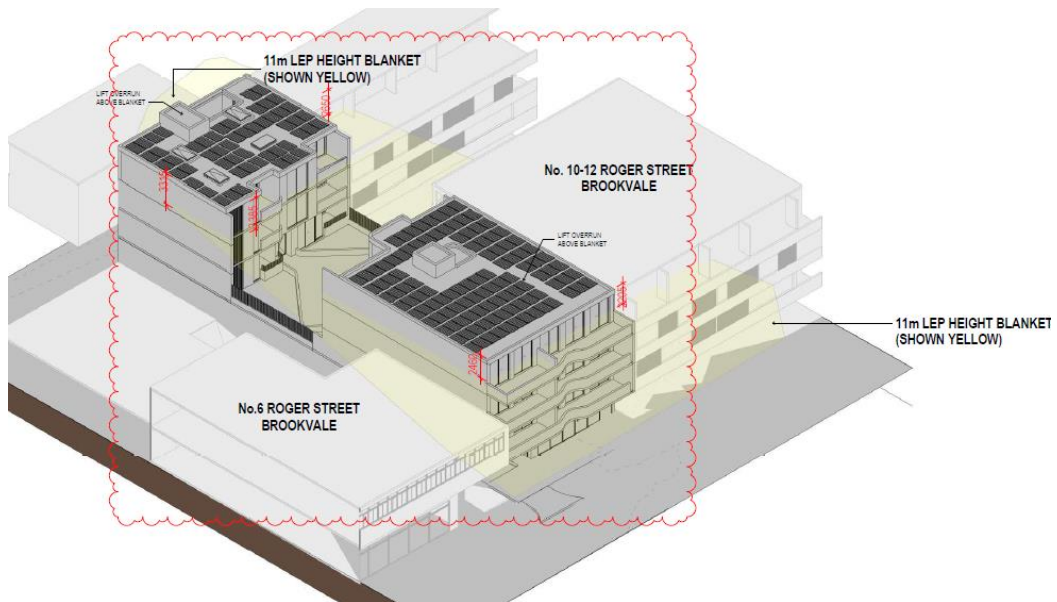


Figure 3 – Height Blanket Diagram by CD Architects

1.2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of WLEP 2011 provides:

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 clause 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 2011 provides:

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 building height development standard in clause 4.3 of WLEP 2011.

Clause 4.6(3) of WLEP 2011 provides:

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 building height development standard at clause 4.3 of WLEP 2011 which specifies a maximum building height of 11m. However, strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case, with sufficient environmental planning grounds to justify contravening the development standard.

The relevant arguments are set out later in this written request.

Clause 4.6(4) of WLEP 2011 provides:

Development consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Planning Secretary has been obtained.*

In *Initial Action* the Court found that clause 4.6(4) required the satisfaction of two preconditions ([14] & [28]). The first precondition is found in clause 4.6(4)(a), which requires the formation of two positive opinions of satisfaction by the consent authority.

The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) (*Initial Action* at [25]). The second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out (*Initial Action* at [27]).

The second precondition is found in clause 4.6(4)(b). The second precondition requires the consent authority to be satisfied that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (*Initial Action* at [28]).

The 'Variations to development standards' Planning Circular issued by the NSW Department of Planning, Industry and Investment on 5 May 2020 confirms that the Secretary's concurrence can be assumed by the Local Planning Panel for applications involving contravention of a numerical development standard by more than 10%.

Clause 4.6(5), which relates to matters that must be considered by the Secretary in deciding whether to grant concurrence is not relevant, as the Council has the authority to determine this matter. Clause 4.6(6) relates to subdivision and is not relevant to the development. Clause 4.6(7) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation. Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.3 of WLEP 2011 from the operation of clause 4.6.

1.3 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:

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].

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].

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].

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].

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.

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 2011 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
3. Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 of WLEP 2011 and the objectives for development in the zone?
4. Has the concurrence of the Secretary of the Department of Planning and Environment been obtained?
5. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.3 of WLEP 2011?

1.4 Request for variation

1.4.1 Is clause 4.3 of WLEP 2011 a development standard?

The definition of “development standard” at clause 1.4 of the EP&A Act includes a provision of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*

Clause 4.3 of WLEP 2011 prescribes a height limit for development on the site. Accordingly, clause 4.3 of WLEP 2011 is a development standard.

1.4.2 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 approach is relevant in this instance, being 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.

Consistency with objectives of the building height development standard

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*

Comment: The height of the proposed shop top housing development is consistent with that of neighbouring development and development along Roger Street and the wider E3 zone. As demonstrated in the East Elevation by CD Architects (Figure 4), the height and scale of the proposed four-storey shop top housing development is generally consistent with that of the neighbouring four-storey shop top housing development at 10 Roger Street.

Further, the height and scale of the proposal is also consistent with other shop top housing development approved in the vicinity of the site subject to the same 11m height limit, including the four-storey shop top housing development approved at 26 Roger Street pursuant to DA2015/1151, as amended (Figure 5).

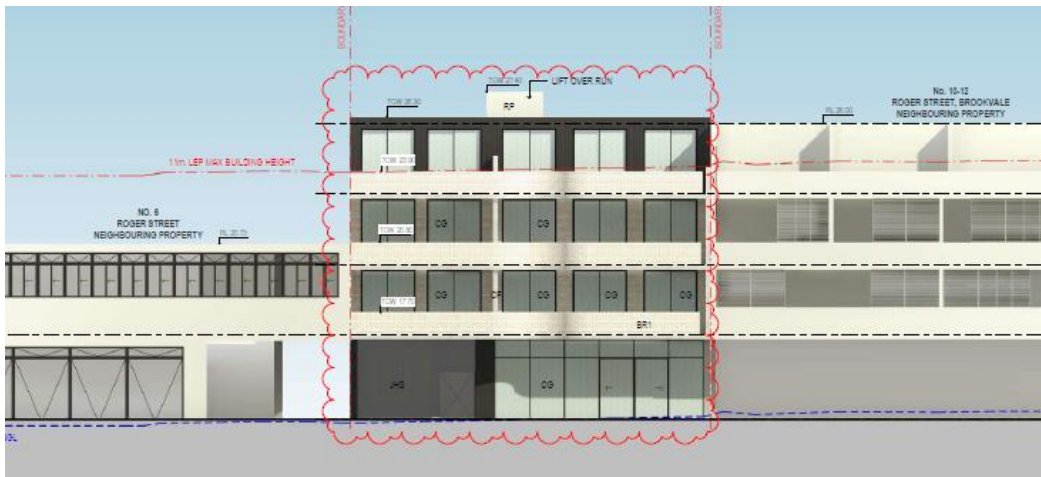


Figure 4 –East Elevation by CD Architects

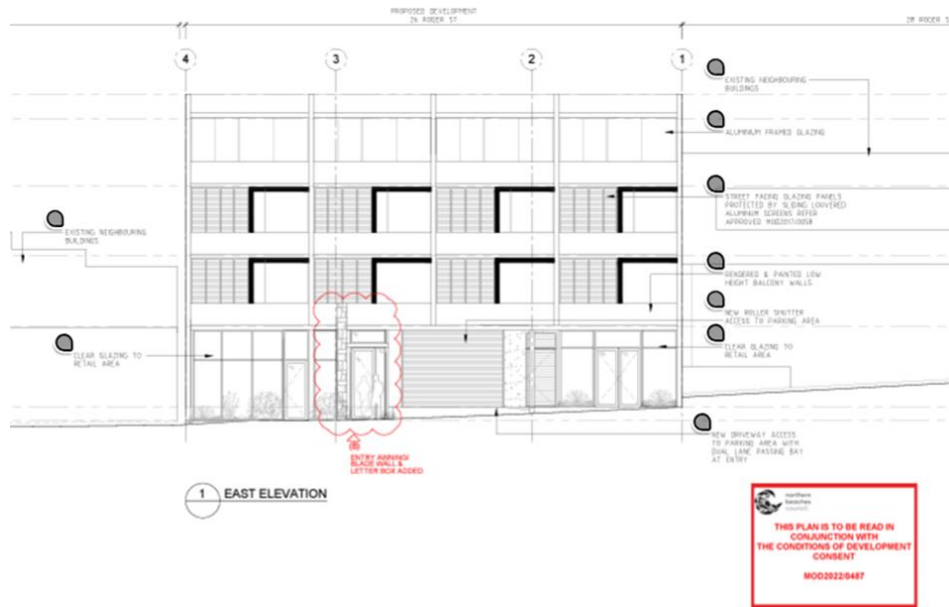


Figure 5 – Approved four-storey shop top housing development at 26 Roger Street

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 bulk and scale offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the visual catchment of the site. In my opinion, this is best demonstrated by the accompanying perspective image photomontage (Figure 6).



Figure 6 – Perspective image of the proposed development as seen from Roger Street

- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment: The proposed development is well articulated with a bulk and scale that is commensurate with surrounding and nearby development, as demonstrated in the photomontage at Figure 6.

The height non-compliance is associated with Level 3 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. The non-compliance associated with the lift overruns are centrally located and will not be readily visible from Roger Street.

The height non-compliance will not result in any adverse impacts upon views, with no known view corridors available or obtained over the site.

Further, the proposed height non-compliance does not result in any adverse privacy or solar access impacts, with the height and general massing of the development consistent with that established at 10 Roger Street to the north and no residential development to the south.

- (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*

Comment: 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.*

Comment: The proposed development is a high-quality architectural response for the site, that will positively contribute to the streetscape and the wider Brookvale Locality. The proposed shop top housing development is well articulated, with varied setbacks and materiality to ensure that the apparent size of the development is appropriately reduced.

Level 3 is setback from the front boundary and is visually recessive. Further, the non-compliance will not be readily perceived in circumstances where the development is the same height as the contemporary development on the adjacent site.

Consistency with zone objectives

The subject property is zoned E3 Productivity Support pursuant to WLEP 2011. The developments consistency with the relevant objectives of the E3 zone is as follows:

- *To provide a range of facilities and services, light industries, warehouses and offices.*

Comment: The proposed development comprises a retail shop on the ground floor, which contributes to the range of facilities in the wider zone.

- *To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*

Comment: The proposed shop top housing development is compatible with the locality, particularly noting the increased prevalence of shop top housing development within the immediate area.

- *To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*

Comment: The proposed development comprises a retail shop on the ground floor, which is expressly permitted within the zone.

- *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.*

Comment: Not applicable.

- *To provide opportunities for new and emerging light industries.*

Comment: Not applicable.

- *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.*

Comment: Not applicable.

- *To create a pedestrian environment that is safe, active and interesting.*

Comment: The proposed development will activate the streetscape, particularly at night-time, and will increase casual surveillance of the public domain. Further, the proposed development will positively contribute to the streetscape and will significantly improve the aesthetic appearance of the site.

- *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.*

Comment: The proposed development appropriately responds to the context of the site, with high-quality materiality and landscaping proposed to significantly increase the visual quality of the streetscape.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining or nearby residential land uses.*

Comment: The proposed development has been sensitively designed to ensure high levels of amenity for future residents, without compromising the amenity of adjoining sites. Further, the proposed development will not result in conflict with adjoining sites, particularly the E4 zoned land to the rear/west, with no openings to the side or rear boundaries.

The non-compliant development, as it relates to building height, demonstrates consistency with objectives of the zone and the building height development standard objectives. Adopting the first option in *Wehbe*, strict compliance with the height of buildings standard has been demonstrated to be unreasonable and unnecessary in the circumstances of this application.

1.4.3 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]-[25] that:

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 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.

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 - Contextually responsive building design

Despite non-compliance with the 11m building height development standard, the proposed development is consistent and compatible with the height of contemporary development within the immediate context of the site, including:

- The four-storey shop top housing development at 10 Roger Street (DA2013/1010), with a height of 13.77m (RL 26.00)
- The four-storey shop top housing development at 26 Roger Street (DA2015/1151), with a height of 13.07m.

Council's acceptance of the proposed height variation will ensure the orderly and economic development of the site, in so far as it will ensure conformity with the scale and character established by other shop top housing developments approved under the provisions of WLEP 2011 within the visual catchment of the site, consistent with Objective 1.3(c) of the EP&A Act. The proposed development has been sensitively designed to respond to both the location of the site and also the form and massing of adjoining development. The building is of high design quality with the variation facilitating a height that provides for contextual built form compatibility, consistent with Objective 1.3(g) of the Act.

Ground 2 – Brookvale Structure Plan

The Draft Brookvale Structure Plan was publicly exhibited from 1 December 2022 through to 28 February 2023, and identifies the provision of additional dwelling and building height increases to provide more housing options throughout the Brookvale area. Roger Street is one of the areas nominated for increased building heights and is identified as being able to support mixed-use buildings of between seven-eight storeys in height, with a three storey street wall height.

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 draft Structure Plan, being that additional building height is appropriate along Roger Street.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

1.4.4 Clause 4.6(a)(iii) – Is the proposed development in the public interest because it is consistent with the objectives of clause 4.3 and the objectives of the E3 Productivity Support Zone

The consent authority needs to be satisfied that the proposed development will be in the public interest. A development is said to be in the public interest if it is consistent with the objectives of the particular standard to be varied and the objectives of the zone.

Preston CJ in Initial Action (Para 27) described the relevant test for this as follows:

The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

As demonstrated in this request, the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

Accordingly, the consent authority can be satisfied that the proposed development will be in the public interest.

1.4.5 Secretary's concurrence

The 'Variations to development standards' Planning Circular issued by the NSW Department of Planning, Industry and Investment on 5 May 2020 confirms that the Secretary's concurrence can be assumed by the Local Planning Panel for applications involving contravention of a numerical development standard by more than 10%.

1.5 Conclusion

Pursuant to clause 4.6(4)(a) of WLEP 2011, the consent authority can be satisfied that this 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 highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

9.5.24



Design + Sustainability Advisory Panel Meeting Report Date 14 December 2023

Item 3 - DA2023/1371 – 8 Roger Street BROOKVALE

PANEL COMMENT AND RECOMMENDATIONS

General

The application proposes the demolition of the existing buildings and erection of a four (4) storey shop top housing consisting of:

- four (4) x one-bedroom units
- two (2) x two-bedroom units
- six (6) x three-bedroom units
- ground floor retail tenancy consisting of additional parking spaces, lobby, loading bay and waste storage
- basement level consisting of vehicle/bicycle parking, WC, fire pump room and storage

Considerations

- Non-compliant height under existing LEP permitting 11m – note context with the Brookvale Structure Plan and LEP consolidation timeline late 2025 that foresees 8 storeys as 3-storey street-wall podium with 5-storeys above set back from the street boundary.
- SEPP 65 issues for mixed use development including natural & cross ventilation (snorkel windows, horizontal skylights), communal open space amenity, visual and acoustic privacy, entry and common spaces amenity, solar access.
- For completeness, the DVS needs to be with the ADG compliance table as a single document to be consistent with NSWLEC jurisdictional requirements. Noting:
 - 3A-1 Site Analysis ignores the new Brookvale Structure Plan or existing interface conditions, and provides no information about how the development might consider the new 'constraints' and opportunities with associated implications for SEPP 65 performance.

Strategic context, urban context: surrounding area character

The following is noted by way of future planning context under the Structure Plan. The relevant section is noted on p20-21 of the Structure Plan as follows:

Desired future character

Roger Street will maintain its light industrial identity, including the existing motor vehicle sales and servicing industry which is a key characteristic of this precinct. Motor vehicle uses may transition towards more mixed use formats such as the inclusion of residential uses above. Other uses which may be suitable for this precinct include a broader range of working spaces, such as maker-spaces, creative enterprises, artisanal food and drink producers and small-scale retail that will co-locate with residential uses above. This diversity of employment uses will invite curiosity from pedestrians and be a key part of this pocket's bustling character.

Buildings will be up to 8 storeys with a clear distinction between residential and employment uses through variations in floor height and facade design. Dwellings will have access to high levels of residential amenity through solar access and less exposure to surrounding noise impacts.



Street trees and landscaping will be interspersed between parking and loading bays to soften the streetscape making it a pleasant thoroughfare for pedestrians using the improved through-site links around more compact blocks.

Actions

- *Support mixed-use buildings up to 8 storeys in height with a single-storey street wall height for the Pittwater Road character sub-precinct and three-storey street wall height for the Roger Street character sub-precinct, accommodating a mix of showroom uses, commercial, creative and maker spaces on the ground level*
- *Adopt 5-6m floor to floor heights on ground level in the mixed use areas (Roger Street and Pittwater Road character sub-precincts) to allow for flexibility to attract showroom uses and creative enterprise and accommodate tall ceilings and mezzanine levels*
- *Provide for through site links increasing the permeability and walkability of Brookvale, and connections to public open spaces (i.e. Allenby Park and Green Street Park)*

Key issues

Brookvale Structure Plan

- The Panel notes the Brookvale Structure Plan has been adopted by Council. While it has no formal EPI status until completion of the LEP consolidation, it sets the framework for future actions to enact it.
- The Panel considers a sound design approach would be for all future development to facilitate the clearly expressed Roger Street Desired Future Character while still complying with the existing LEP provisions until the expected completion of the LEP consolidation.
- Proposed development, therefore, should prioritise the street-wall podium form, resolution of the ground floor streetscape and top floor setbacks all of which will support the future building form of the Desired Future Character along Roger Street (3-storey podium/street wall with increased ground floor ceiling heights, and future 5-storey tower form above).
- The site location (albeit a single lot with limited frontage) will be an anomaly with future redevelopment opposite, neighbouring to the south, and then as redevelopment occurs along Roger St to the north if not responding to the Desired Future Character, complying with setback requirements, and responding to the top floor building form at 10-12 Roger Street.

Site analysis

- Submitted information is incomplete:
 - site is presented as somewhat isolated/inward focussed rather than understood in a wider significant strategic change area; its broader character outcomes.
 - water and canopy networks
 - implications for building form with the E4 zone interface to the west, the existing smash repairs neighbouring to the south and the like.
 - implications of its location near the highly visible corner and the oblique street geometry.

Site arrangement

- Proposed site layout effectively replicates the arrangement on the neighbouring site at 10-12 Roger Street largely driven by the combination of existing height controls and no FSR controls applied to a shop top housing typology.
- The Panel notes the Desired Future Character would likely see a site arrangement that transfers the rear building's GFA to a single tower/street wall form to the east. Amendments are required to better deliver a podium consistent with future Desired Future Character and to adequately respond to the neighbouring building form under existing WDCP provisions, noting the development is seeking variations to setbacks to be considered on merit, and exceedances of height.
- SEPP 65 performance – flowing from the site arrangement, the proposed development internal layouts require further consideration to resolve ground floor street character, natural ventilation, cross ventilation, possibly solar amenity, building entry and common spaces amenity and



CPTED, communal open space amenity and resident privacy conflicts. See comments at *Amenity*.

Streetscape address

- Setback variations - are impactful in the streetscape and require amendments.
- Shop configuration - appears as an ancillary space, subservient to the car park and basement requirements and residential development above. Ground floor outcomes should be prioritised in the zone. The retail/commercial/light industrial space configuration is awkward.
- Streetscape impacts of substation – further information is required to confirm substation requirements. Should a substation be required, the Roger Street streetscape outcome will present an unacceptable public domain interface and prevent a active commercial street address due to the constraints of being a single lot frontage.
- Residential building entry - presents clearly in the street but is poorly resolved internally. CPTED issues are raised by the narrowing of the lobby and obstructed sightlines to the lift. The lift location requires reconsideration to resolve safety and entry character. This should be further considered with the location of and orientation of fire stairs and their egress and may lead to further consideration of car parking allocation at this level.

Recommendations

1. Provide architectural analysis in context of the wider urban context.
2. Consider the Brookvale Structure Plan and Desired Future Character outcomes. Demonstrate how these are/can be realised in proposed development – noting the merit of a variation to building height proposed needs to be demonstrated. Top floor setbacks of 4 metres are to match neighbouring 10-12 Roger Street to support future-proofing for the Roger Street Desired Future Character.
3. Confirm substation requirements and demonstrate how this can be accommodated to satisfy the zone and Warringah DCP objectives.
4. Reconfigure the ground floor to create a more viable ground floor tenancy and high-quality residential entry. Reconsider car parking allocated to this level.

Scale, built form and articulation

Building form

- The proposed development generally adopts the building form of the shop-top development neighbouring to the north (10-12 Roger Street) including an additional storey above the permitted building height (a maximum 40% departure with average of 27.5% is sought).
- The Panel notes the arrangement of GFA into two buildings above a shared ground floor podium is driven by the current LEP height of 11 metres in context of no applicable FSR applied to a shop-top housing typology.
- Proposed density as yield (number of units and bedrooms) appears is excessive resulting in ADG non-compliances for *minimum* amenity:
 - snorkel windows
 - natural and natural cross-ventilation performance
 - number of single aspect dwellings,
 - privacy conflicts,
 - ground floor streetscape outcome
 - entry lobbies with poor amenity and wayfinding
 - substantial basement requirements (driven by associated car parking)
 - setback variations resulting in a building form inconsistent with the DCP
 - solar access amenity to be clarified for living rooms and private open space.



- The Panel notes DBP Act compliance to reconsider 3.1m FL-FL heights with accepted industry practice seeing 3.15-3.2m increasingly proposed. Additional height for DBP Act compliance would be supported where SEPP 65 and public domain outcomes are also demonstrated.
- See comments at *Amenity*.

Street wall and rear setbacks

- The reduction in the setbacks to Roger Street is impacting the streetscape character.
- Rear building setbacks may require further consideration to address SEPP 65 amenity and interface with the E4 zone behind.
- Amendments to proposed setbacks will facilitate future redevelopment anticipated by the Brookvale Structure Plan to the north and south of the site that is both consistent with existing streetscape development requirements and the Future Desired Character.

Recommendations

5. Building form is to satisfy DCP requirements addressing Roger Street and should match 10-12 Roger Street as follows to achieve consistent building lines at all levels:
 - Increase eastern balcony depths
 - Increase top floor eastern wall setback to 4 metres and eaves alignment noting effective weather and shade protection will be expected.

Access, vehicular movement and car parking

Car parking allocation

- Warringah's relatively high car parking requirements applies noting proximity of the site to the B-Line and all services within Brookvale and Warringah Mall in immediate walking distance.
- Ground floor car parking quantum and configuration of vehicle movements, car spaces and servicing as a combination is impacting on the ground floor development outcomes as experienced in the streetscape and internal amenity commencing at the tenancy and entry lobby with flow-on implications transferring vertically through the building.
- Swept paths are to be confirmed. The proposed appears may have unresolved issues for the waiting area and creates other spatial inefficiencies.
- The Panel notes excessive yield further increases demands for car spaces, whereas minimising car parking on a constrained site (single lot frontage) should be prioritised.
- The Panel suggests considering e-bike and scooter facilities, and car share opportunities – The Commons, Brunswick in Melbourne as a guide.

Recommendations

6. Car parking demand to be minimised by:
 - Reducing yield (number of bedrooms and/or units) noting amendments are required to satisfy SEPP 65 minimum amenity elsewhere.
 - Seek further discussions with Council to consider suitability of this site to reduce car parking requirements and explore options for e-bikes and scooters, and car-share space(s).



Landscape

Deep soil

- Lost opportunities with the proposed site arrangement and 100% site coverage.
- Soil depths on structure need to be demonstrated along with details that will deliver viable plantings of an appropriate scale over the long-term.
- Street tree inclusion is consistent with intended future character of the public domain Roger Street sub-precinct. Note AUSGRID requirements have implications for canopy opportunities increasing pressure to accommodate deep soil within the site.
- Opportunities for incorporating courtyards with deep soil should be considered.

Communal open space

- Communal open space centrally located aligns with the neighbours (10-12 Roger Street) and receives natural light and solar access.
- This central courtyard space serves multiple functions – communal open space for all residents, the public address for the rear building, an entry pathway linking the front and rear buildings to the street below, and providing an interface between the privacy of units and communal open space use.
- Amendments are required to address:
 - privacy conflicts between the communal open space, entry path and Units A101, B101 and B102
 - Entry sequence for clear lines of sight, wayfinding and CPTED between lifts (not just their lobby doors).

Recommendations

7. The proposal must demonstrate how the ADG minimum provision of 7% deep soil is satisfied. It is suggested it be incorporated where light and ventilation are also required for residential amenity.
8. Structural depth and planters are to demonstrate adequacy for required soil depths to support adequate scaled landscape on structure over the long-term.
9. Privacy conflicts are to be resolved between units and communal open space.
10. The podium level lift lobbies entry character, wayfinding and amenity are to be addressed.

Amenity

Entry and lobby

- Lobby character of both buildings is poor with very narrow corridors, indirect routes and lack of visual clarity. Both these raise CPTED issues and a poor streetscape and entry experience.
- Roger Street residential lobby (Building A) provides no direct line of sight from the street to the lift and has a narrowed, doglegged corridor.
- Rear lift (Building B) is accessed from the podium. Wayfinding is convoluted requiring people to exit Building A, follow a path through the central courtyard space and unit habitable rooms to Building B then via a narrow, doglegged corridor to the lift.



- Amendments to internal layouts are required to demonstrate required amenity and safe common spaces and entries.

Ground floor tenancy configuration

- The tenancy space appears as if left after ground floor car parking and servicing has been prioritised.
- The configuration is awkward with minimal frontage available given the single lot frontage.
- Internal layouts are required to maximise the ground floor tenancy offering including reconsidering the quantum of car parking at the ground floor level, the location of the lift, and confirming substation requirements. The panel notes a WC also may be required for this space.

Natural daylight and ventilation - Snorkel windows

- Snorkel windows:
 - are not permitted by the ADG for habitable rooms due to inadequate natural ventilation and daylight amenity.
 - affects 5 of 12 units (41.6%) of the development.
 - impacts further exacerbated in single aspect units with snorkels within narrow, (approximately 300mm wide), deep recesses (approximately 6.5 metres) resulting in poor performance and low resident amenity.
 - Increase energy demands by forcing residents to use artificial lighting and mechanical ventilation for day-time tasks and use.
- Lightwells
 - Are not permitted as primary sources of daylight and ventilation for habitable rooms. They may be useful for daylight and ventilation to lift lobbies, however their
 - Proposed may be useful for daylight and ventilation of lift lobbies, however, the proposed are small size and should be reconsidered in addressing landscape outcomes, and units natural daylight and ventilation amenity.

Natural cross ventilation - Skylights

- Proposed skylights require amendments to demonstrate natural cross ventilation is achievable. They need to demonstrate the following:
 - be located deep within the floor plan
 - be pop-up roof type for weather protection
 - vertical glazed face with operable windows
 - the openings are oriented in a direction more than 90 degrees to the primary openings of the habitable room(s).
 - distance from the boundaries satisfies fire separation distance for openings to be operable.

Solar access

- Note ADG requirements are a minimum 1m² of direct sunlight, measured at 1m above floor level for 15minute increments for a total minimum of 2hrs solar access to living rooms *and* private open spaces.
- Submitted schedule appears 8 of 12 units (66%) of the development confirms adequate minimum solar amenity. The Panel questions compliance for the following units:
 - A201 – living room at 1pm
 - A201 – balcony at 1pm
 - A302 – living rooms at 1pm
 - B301 balcony at 11am.



- Shading is required for east and west oriented habitable rooms that are not protected by balconies.

Visual and acoustic privacy

- Privacy conflicts arise with the proposed resolution of the central communal and common open space.

Recommendations

11. A reduction in the residential units / bedrooms will be required to resolve SEPP 65 ADG deficiencies as there is insufficient frontage for the number of bedrooms particularly with the single aspect of the rear building.
12. Reconsider the entry and arrival experience for both buildings.
13. Provide a POS and / or appropriate landscape treatment to the frontage of all habitable rooms facing the communal open space. Reconsider internal layouts to avoid or minimise full screening for privacy (amenity significantly impacted by proposed full screening of all Level 1 units addressing the central communal space).

Façade treatment/Aesthetics

Acceptable

Recommendations

14. express as clear direction

Sustainability

- The role of the Panel is to advise on 'design (quality) and sustainability' and is not confined to existing legislation or the approaches of the past. Accordingly, the Panel believes it is appropriate and necessary for it to provide 'forward-thinking advice' to both proponents and to council staff involved in the assessment of development.
- With the regulatory environment changing now – for efficiency, electrification, zero emissions and mandatory disclosure – these investments at this time will be worthwhile both for future residents and the developers' reputation, market position and marketability of the units.

Development performance

- The Panel notes that all services appear to be electric, and supports this initiative.
- The Panel notes the proposed development does not achieve NatHERS minimum requirements for an average of 7-stars and none below 6 stars, effective from 1 October 2023.
- A minority of units appear to achieve 6-stars and the majority only 5-stars or less.
- No information is provided regarding sustainability commitments for rooftop PV, EV charging, green roofs for urban heat mitigation.
- SEPP 65 amenity issues demonstrate an over-development of the site (yield and number of bedrooms) that impacts on life-cycle building performance and sustainability, and increased costs to residents.



Recommendations

15. Provide a NatHERS summary complying with new requirements.
16. The following aspects of design and servicing can be easily and cost effectively considered for inclusion:
 - a) Decarbonisation of energy supply
 - i. **All services should be electric** – gas for cooking, hot water and heating should be avoided.
 - ii. Rooftop PV with green roofs to maximise performance and mitigate urban heat effect.
 - iii. Heat pump systems for apartments or other ways of providing electric hot water should be considered. The storage of hot water can be considered a de facto battery if heated by PVs during the day.
 - iv. Onsite power generation and battery storage. On site battery storage has benefits for the grid and may be a highly desirable back-up during the transition to a de-carbonised grid
 - v. Unshaded roof space is a valuable resource for PV installations. Their efficacy can be greatly enhanced when placed over a green roof, which has additional ecological benefits.
 - b) EV charging: **Provide EV charging points for each unit** (Min 15 amp) to suit level 1 charging
 - c) Consider E bike storage, acknowledging their heavy build and need for security.
 - d) Passive design and thermal performance of building fabric
 - i. Higher BASIX thermal performance standards commenced on 1 October 2023 will be an **average 7 stars NatHERS, with no unit below 6 stars**. This is consistent with the National Construction Code for 2022. Given the coastal location a very comfortable indoor environment should be achievable.
 - ii. The inclusion of ceiling fans to all bedrooms and living rooms will provide comfort with minimal energy while reducing the need and energy required for air-conditioning.

PANEL CONCLUSION

The Panel does not support the proposal in its current form. Substantial redesign and reduction in the number of bedrooms and units is required to address SEPP 65 and DCP performance outcomes. Any breaching of the height controls would need to be supported by an analysis of the benefits compared to a complying scheme including for context in facilitating the adopted Brookvale Structure Plan future expected Desired Future Character and resident amenity.

The Panel refers the applicant to the Apartment Design Guide for aspects related to amenity and internal planning of apartments.