From:	[redacted]
Sent:	11/08/2025 12:15:21 PM
To:	Council Northernbeaches Mailbox
Cc:	Phil Donnelly; anthony fontana; brucegbaird@gmail.com; Barbara Ghabrial; Felicity North
Subject:	TRIMMED: DA 2025/0923 92 NORTH STEYNE MANLY WRITTEN SUBMISSION: LETTER OF OBJECTION SUBMISSION: TULLOCH
Attachments:	92 NORTH STEYNE WS.pdf;

Kind regards,

Bill Tulloch BSc[Arch]BArch[Hons1]UNSW RIBA Assoc RAIA
DA Objection Pty Ltd
Director
[redacted]

SUBMISSION

a written submission by way of objection

BILL TULLOCH BSC [ARCH] BARCH [HONS1] UNSW RIBA Assoc RAIA
Director
DA Objection Pty Ltd

prepared for

PHILLIP & DARRIANNE DONNELLY, UNIT 5/91 NORTH STEYNE MANLY
ANTHONY & ANNETTE FONTANA, UNIT 4/91 NORTH STEYNE MANLY
BRUCE BAIRD, UNIT 3/91 NORTH STEYNE MANLY
BARBARA GHABRIAL, UNIT 2/91 NORTH STEYNE MANLY
FELICITY & DOUG NORTH, UNIT 1/91 NORTH STEYNE MANLY
SP90330

8 AUGUST 2025

CEO
NORTHERN BEACHES COUNCIL
725 PITTWATER ROAD,
DEE WHY
NSW 2099

council@northernbeaches.nsw.gov.au

RE: DA 2025/0923
92 NORTH STEYNE MANLY
WRITTEN SUBMISSION: LETTER OF OBJECTION
SUBMISSION: TULLOCH

Dear Sir,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

I have been instructed to prepare an objection to this DA.

I have critically reviewed the plans and documentation prepared in support of the above development application and to provide advice in relation to policy compliance and potential residential amenity impacts.

Having considered the subject property and its surrounds and the details of the development application currently before Council, I am of the opinion that the proposal, in its present form, does not warrant support. In addition, I am of the view that amendments would need to be made to the development proposal before Council is in a position to determine the development application by way of approval.

My client's main concerns are:

1. VISUAL BULK & SCALE
2. STREETSCAPE
3. ALL SETBACKS
4. DEVASTATING SOLAR LOSS
5. PRIVACY
6. VIEW SHARING
7. LANDSCAPING
8. ENGINEERING
9. FENCE IN ROAD WIDENING ZONE
10. WIND TUNNEL EFFECTS & SENSE OF ENCLOSURE
11. REDUCTION OF UNITS CONTRARY TO SEPP
12. HERITAGE

For Council's information, my client's strata building consists of 5 apartments being 3 x 3 bed whole floor apartments and 2 x 2 bed split floor apartments. The rooftop pool and entertaining area is part of the Unit 5 Penthouse.

There is inadequate information provided with the application to enable Council to make a proper assessment of the application. There are a number of matters not properly addressed that are identified in further detail in this submission.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask Council to REFUSE this DA.

Image rotated for greater clarity

CONTENTS

A. EXECUTIVE SUMMARY

The design of the proposed development does not ensure that the existing high levels of amenity to the neighbouring property are retained.

Having reviewed the documentation prepared in support of the application and determined the juxtaposition of adjoining properties I feel compelled to object to the application in its current form.

The proposal is considered to be inappropriate within the streetscape.

The bulk, scale, density and height of the proposed development is excessive and inconsistent with the established and desired future streetscape character of the locality.

There is no reason, unique or otherwise why a fully compliant solution cannot be designed on the site.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on neighbouring property.

This DA is made pursuant to the Chapter 6 Low and Mid-Rise Housing (LMR) provisions of *State Environmental Planning Policy (Housing) 2021* (SEPP Housing) which came into effect on 28 February 2025.

The proposal is permissible and compliant with the nondiscretionary LMR development standards applicable to this form of development on this particular site.

However, the proposed development is NOT COMPLIANT with the built form and environmental outcomes anticipated by Manly Development Control Plan as reasonably applied.

The variations to the side, front and rear boundary setback and total open space controls are totally unacceptable, as they cause devastating amenity impacts to my client's property.

The proposed development also presents unreasonable storey heights at 3.5m that present an unacceptable outcome to the streetscape. Coupled with the DCP variations sought, the proposed development as presented can only be considered *offensive, jarring or unsympathetic to its context or surrounds.*

In respect to LMR projects, the Department states:

Projects will not be automatically approved. Council must still conduct a merit-based assessment. Nothing stops Council from assessing heritage significance [in a heritage conservation area] as well as matters like building materials and colours, front and side setbacks, amount and location of landscaping and gardens, streetscape character, location of car parking, subdivision pattern and the bulk and scale of buildings. These are all matters that would be part of a merit assessment and if the impact of new

development was unacceptable Council can refuse a DA. If the DA meets all the standards and there are no unacceptable impacts, then it should be approved.

UNACCEPTABLE OUTCOMES

The proposal fails to achieve acceptable outcomes regarding:

1. VISUAL BULK & SCALE: unacceptable visual bulk caused by the non-compliant built form; Visual analysis from the neighbouring property is incomplete;
2. STREETSCAPE: unacceptable streetscape outcomes with dominate parapet heights not aligned caused by unreasonable 3.5m storey height, and excessive built form above the dominant parapet;
3. ALL SETBACKS; rear and side setback cause devastating outcomes in solar loss, daylight access, sense of enclosure, and poor visual bulk outcomes;
4. DEVASTATING SOLAR LOSS: detailed analysis of solar impacts on a Unit-by-Unit basis has not been carried out by the applicant. All half hour diagrams have not been completed. Equinox diagrams are requested to understand the full solar impacts. Loss of winter solar access to my client's north facing windows and private open spaces are totally unacceptable, and is directly caused by the variations sought to the side, front and rear boundary setback and total open space controls. The proposal has not identified how the maintenance of at least two hours of solar access between 9am and 3pm on 21 June is achieved, or not reduce to below 2 hours of sunlight in accordance with the ADG requirements.
5. PRIVACY: insufficient privacy devices deployed on windows and decks facing side boundaries; Operable privacy devices are unacceptable facing side boundaries.
6. VIEW SHARING: South-East corner is non-compliant in front and side setbacks. The proposed dwelling and landscaping will result in excessive view impacts to adjoining properties and does not constitute a satisfactory view sharing outcome. In this regard, it is contrary to the provisions of the DCP. The Applicant has not provided adequate photomontages on the impact of the proposal on views;
7. LANDSCAPING: insufficient areas provided
8. ENGINEERING: architectural drawings do not accord with the recommendations within the JK Geotechnical Report. Insufficient stormwater pits in side boundary zones;
9. FENCE IN ROAD WIDENING ZONE. Requires to be deleted.
10. WIND TUNNEL EFFECTS & SENSE OF ENCLOSURE caused by inadequate setbacks. Expert Report requested on Wind Tunnel effects;
11. REDUCTION OF UNITS CONTRARY TO SEPP: The application proposes the demolition of the existing 6 dwellings located on the subject site and their replacement with 3 apartments of varying size. The reduction of Units is not in keeping with the NSW SEPP objectives to increase dwelling numbers.
12. HERITAGE. The proposed development does not conserve the environmental heritage of the local area of Manly Beach Reserve and does not conserve the heritage significance of Manly Beach Reserve including settings and views.

FAILS TO MEET COUNCIL'S PLANNING CONTROLS, THE OBJECTIVES AND THE MERIT ASSESSMENT

The proposed development fails to meet Council's planning controls, the objectives and the merit assessment provisions relating to:

- INSUFFICIENT SIDE SETBACK: Does not accord with DCP controls; 1/3 Wall Height;
- INSUFFICIENT FRONT SETBACK: Does not align with neighbour's setbacks;
- INSUFFICIENT REAR SETBACK: Does not align with SEPP setbacks at 6m;
- TOTAL OPEN SPACE: fails to accord with DCP controls by providing only 8.8% of the site that is greater than 3m, compared with the control at 45%. This is a result of non-complaint setbacks at ground level.
- SEPP: Fails to accord with SEPP setback controls;
- EXCESSIVE STOREY HEIGHTS: @ 3.5m

The combined non-compliance represents a significant overdevelopment of a very small site.

REQUEST FOR AMENDED PLANS TO BE SUBMITTED TO BETTER ADDRESS IMPACTS UPON ADJOINING PROPERTIES

I ask Council to seek modifications to this DA as the proposed development does not comply with the planning regime, by non-compliance to standards and controls, and this non-compliance leads directly to neighbouring property amenity loss. A compliant building design would reduce the amenity impacts identified.

Reduce the proposed development as follow:

A. REDUCTION OF BUILT FORM

1. Increase Side Setback to better address the DCP controls, as identified below, with additional setbacks to match neighbour to the south, to generally accord with 1/3 wall height control;
2. Increase Rear Setback to SEPP controls @ 6m
3. Increase Front Setback to DCP controls, to align with neighbouring buildings, both wall zones and balconies at all levels;
4. Delete Upper Level;
5. Increase Total Open Space to DCP controls;
6. Decrease Storey Heights to 3.1m;
7. Relocate Lift & Stair Core to the centre of the site or the north, to allow for a tiered built form at the upper level;
8. Earthworks, show all retaining walls and piled zones in DA drawings to southern boundary, including a 500mm zone for back wall drainage;
9. Delete above ground carparking;
10. Further reductions of built form to achieve a reasonable outcome in respect to view sharing and solar access.

B. PRIVACY DEVICES

1. All opening and fixed windows facing the neighbouring property to have windows sills increased to a minimum height of 1.7m measured from the internal floor FFL level, or are to be fitted with translucent/obscure/frosted glazing to a height of not less than 1.7m measured from the internal floor FFL level, and fixed louvred privacy screens over all openings;
2. All windows facing the side boundaries to be reduced in width to 600mm;
3. The edge of all balconies facing neighbouring property shall have 1.7m high fixed louvred privacy screens;
4. Fixed louvred privacy screens shall be fixed and angled at a 20-degree acute angle to the angle of the proposed development. All privacy screens are to have fixed louvre blades with a maximum spacing of 25mm, and shall be constructed of materials and colours that complement the finishes and character of the building.
5. Use of the Upper Terrace. There are to be no permanent structures located on the upper terrace. Any temporary shade structures are to be taken down daily when not in use so as to be not visible from private properties.

C. LANDSCAPE

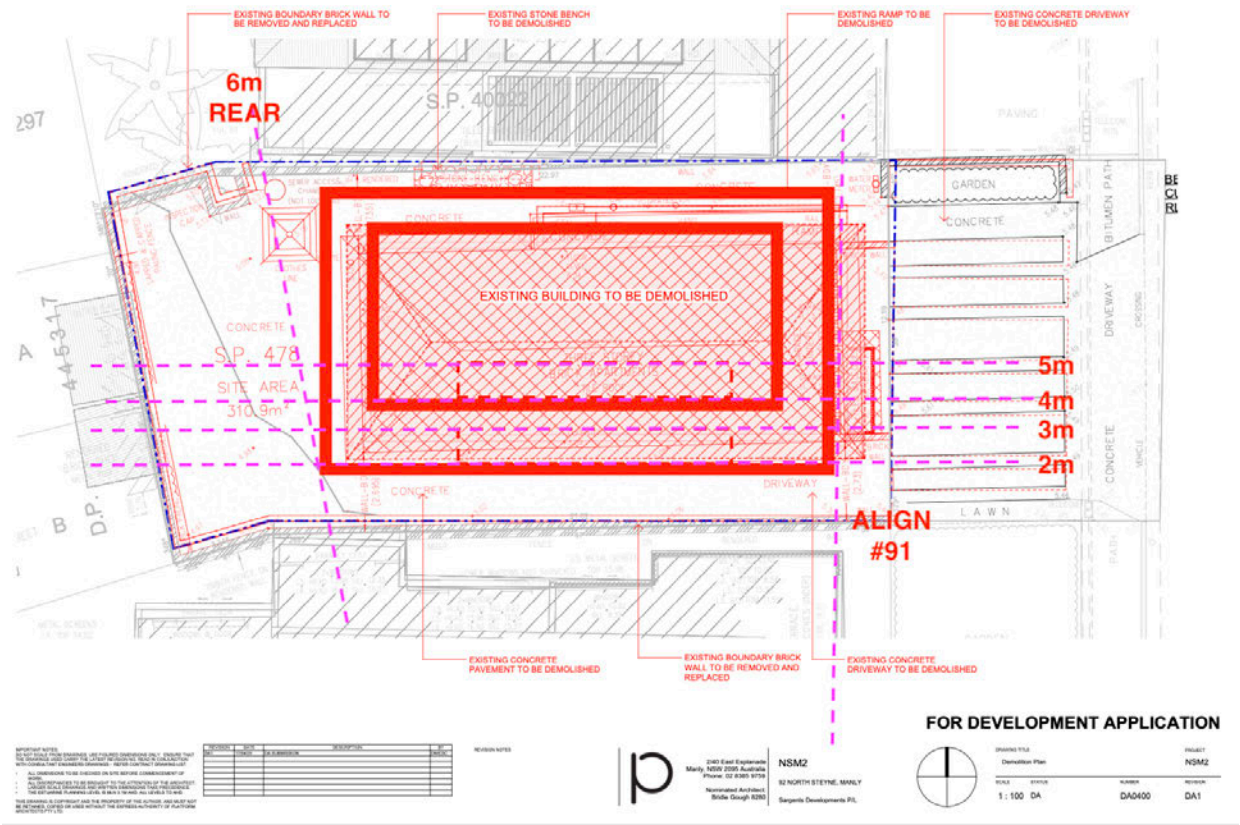
1. To maintain solar access & view sharing, the proposed trees and plants over 2m in height shall be deleted in the landscape plan to the southern boundary. Delete two Cabbage Tree Palms to the south-west corner, as these trees will remove the limited solar access available to the units adjacent. Tree planting shall be located to minimise impacts on solar loss & view loss. All trees and hedges trimmed annually to a maximum height of 2m so as not to obscure solar access or views;
2. Tree canopy planting must be located at least 3m from buildings and 5m from common boundaries, to avoid excessive canopy protruding over neighbour's property. All canopy protruding over neighbour's boundaries trimmed annually

ALTERNATIVE DESIGN APPROACH:

- Proposed Development must respect the predominant heights of the neighbour's building parapets, by reducing the storey heights to 3.1m, and reducing Level 3 FFL to match the neighbouring parapet heights.
- Level 3 must be equal the setbacks of 91 NORTH STEYNE MANLY at this level.
- Any Level 4 is unacceptable
- The Lift & Stair core must be located to the north, so that the built form can be layered back to the south to reduce the bulk and the solar impact.
- The 'red blocks' identify the solution. The dotted red line [the sloping line from the boundary] defines the DCP side setback control from each side boundary
- Increase setbacks to front, side and rear.

I attach marked up DA drawings [in red] defining the envelope that my clients request to be amended.

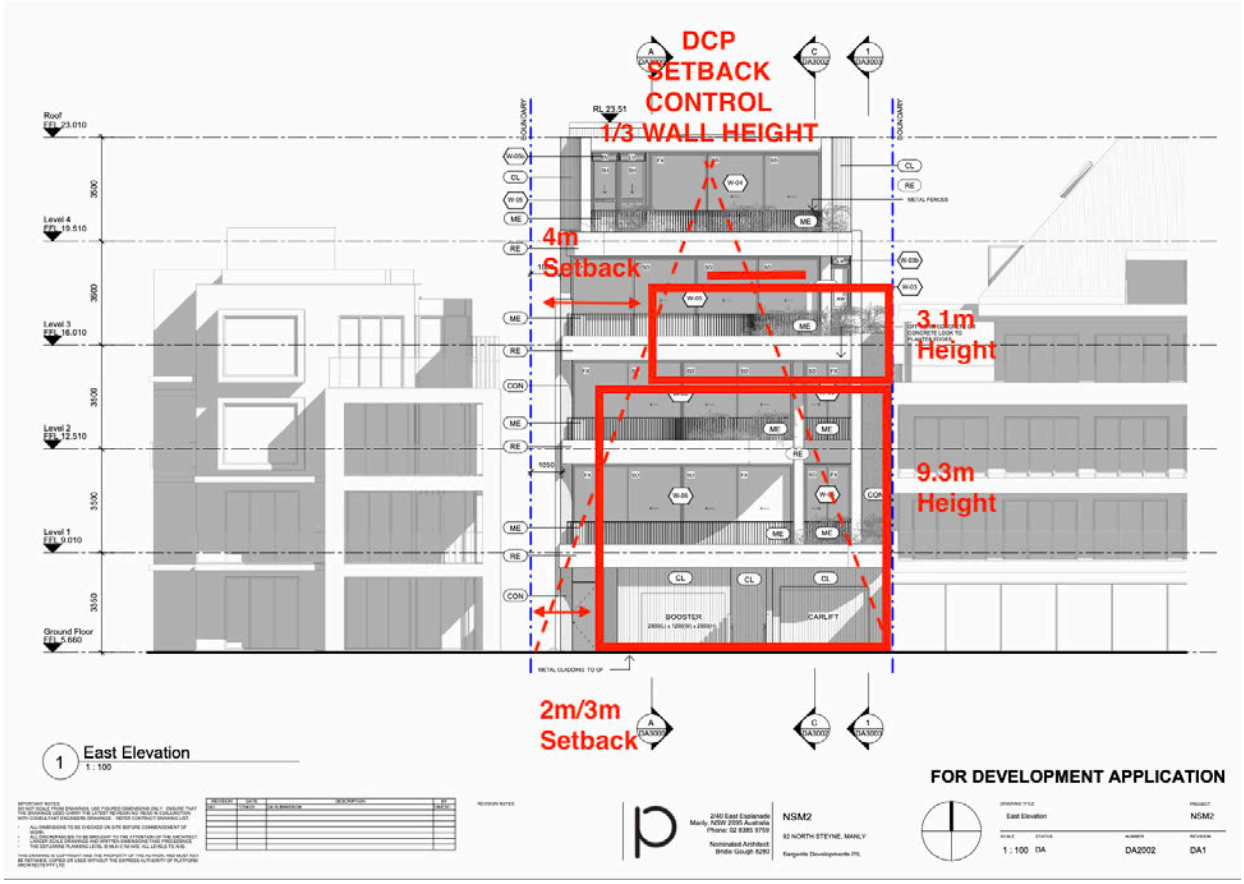
PLAN SETOUT



The marked-up Plan [in red], shows an envelope defined by:

- Front Setback: in full alignment with #91
- Rear Setback: 6m Rear Setback to accord with the SEPP;
- Southern Side Setbacks;
- Ground/First/Second: 2m, with additional setbacks at 3m to resolve solar access;
- Third Floor: 4m, with additional setbacks at 5m to resolve solar access;
- Roof: setback so as not to create any solar loss

EAST ELEVATION



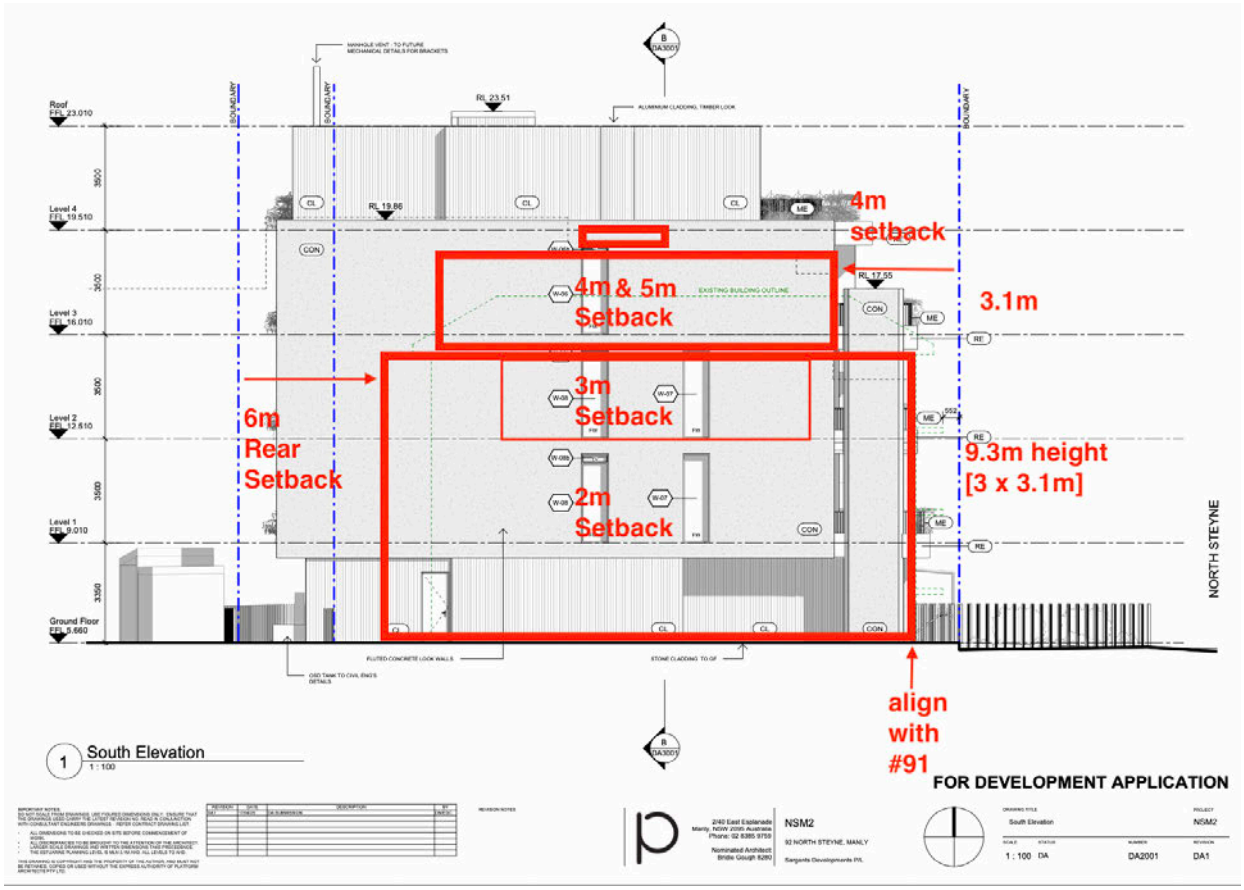
The marked-up Elevation [in red].

The dotted angles lines show the DCP Setback Control that defines a A-Frame type envelope that represents a complaint envelope to DCP controls.

The marked-up Elevation, shows an envelope defined by:

- 3.1m Storey Heights
- Front Setback: in full alignment with #91
- Southern Side Setbacks;
- Ground/First/Second: 2m, with additional setbacks at 3m to resolve solar access;
- Third Floor: 4m, with additional setbacks at 5m to resolve solar access;
- Roof: setback so as not to create any solar loss

SOUTH ELEVATION



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- Rear Setback: 6m Rear Setback to accord with the SEPP;
- Southern Side Setbacks;
- Ground/First/Second: 2m, with additional setbacks at 3m to resolve solar access;
- Third Floor: 4m, with additional setbacks at 5m to resolve solar access;
- Roof: setback so as not to create any solar loss

SITE IS NOT SUITABLE

The site is not suitable for the proposed development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979. The site is not considered suitable for the proposed development in terms of its size, scale and design, despite it being residential development in the zone.

NOT IN THE PUBLIC INTEREST

Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest. The extent of issues identified with the proposed development are such that the public's interest is not served by way of approval of the development application.

The proposed development represents an unreasonably large building design, for which there are design alternatives to achieve a reasonable development outcome on the site without having such impacts.

COMPLY WITH THE PLANNING REGIME

A compliant building design would reduce the amenity impacts identified.

I agree with Roseth SC in NSWLEC Pafbum v North Sydney Council:

"*People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime.*"

The '*legitimate expectation'* that neighbours, was for a development that would not result in very poor amenity outcomes caused directly from the non-compliance to building envelope controls.

Neighbours wish to emphasise the fact that they take no pleasure in objecting to their neighbour's DA.

The proposed DA has a deleterious impact on the amenity of their property caused by the DA being non-compliant to controls.

Council and NSWLEC Commissioners regularly concede that development standards and building envelopes provide for maximums and that there is no entitlement to achieve those maximums.

It does seem unreasonable that the Applicants wish to remove the neighbouring properties amenity to improve their own, and is proposing non-compliant outcomes that would seriously adversely affect neighbouring property amenity.

Council's development controls relating to managing building bulk and scale are designed to ensure that buildings are consistent with the height and scale of the desired character of the locality, are compatible with the height and scale of surrounding and nearby development, respond sensitively to the natural topography and allow for reasonable sharing of views and visual amenity.

Council's DCP with respect to the locality, requires that development respond to the natural environment and minimise the bulk and scale of buildings. The proposed development in its current form does not achieve this and provides inadequate pervious landscaped area at ground level.

The proposal does not succeed when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, does not succeed on merit and is not worthy of the granting of development consent.

INCOMPLETE INFORMATION

The proposed development is incapable of consent, as there is a substantial list of incomplete information that has yet to be provided. I refer Council to Section C of this submission - *Contentions that relate to Insufficient Information.* The main concerns:

- Solar Diagrams at half hour intervals to my client's property to the maintenance of at least two hours of solar access between 9am and 3pm on 21 June is achieved. This has not been provided in full or clearly defined by schedule to each window of each Unit. Equinox diagrams requested to identify 6-month winter outcomes. A surveyed elevation of my client's northern façade is required to ensure that the solar diagrams are accurate and based from survey.

- VIA to NSWLEC Photomontage Policy to define loss at SE corner of proposed development that is non-compliant in side and front setback;

- Montages from my client's main private open spaces to the proposed poor bulk and scale outcomes;

- Architectural Drawings updated to reflect Geotechnical Report

RE-NOTIFICATION

If any Amended Plan Submission is made by the Applicant, and re-notification is waived by Council, I ask Council to inform neighbours immediately by email of those amended plans, so that neighbours can inspect those drawings on the Council website.

DETAILED LIST OF CONDITIONS OF CONSENT

Section D of this submission titled *'Detailed List of Conditions of Consent'*, addresses the conditions that I seek to any consent.

REASONS FOR REFUSAL

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask Council to REFUSE this DA, in accordance with Section E '*Reasons for Refusal'* of this submission.

B. CONTENTIONS THAT THE APPLICATION BE REFUSED

1. SEPP [HOUSING] 2021 CHAPTER 6 LOW & MID-RISE HOUSING. [LMR]

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the SEPP.

The Department states:

Projects will not be automatically approved. Council must still conduct a merit-based assessment. Nothing stops Council from assessing heritage significance [in a heritage conservation area] as well as matters like building materials and colours, front and side setbacks, amount and location of landscaping and gardens, streetscape character, location of car parking, subdivision pattern and the bulk and scale of buildings. These are all matters that would be part of a merit assessment and if the impact of new development was unacceptable Council can refuse a DA. If the DA meets all the standards and there are no unacceptable impacts, then it should be approved.

The Department of Planning, Housing and Infrastructure's website states that where a proposal complies with the non-discretionary standards (such is the case here), all other existing provisions in SEPPs, Local Environment Plans (LEPs), and Development Control Plans (DCPs) will continue to be relevant to the merit assessment of development applications.

Heritage Implications:

The Department states:

It remains the case that any DA proposal, must maintain or enhance the heritage value of the [heritage conservation area] in order to be approved.

The proposal fails when assessed against these controls:

- streetscape and local character;
- heritage
- heights;
- setbacks;
- envelope controls;
- excavation;
- earthworks;
- landscape area;
- private views;
- overshadowing;
- daylight access;
- visual privacy;
- acoustic privacy;

- visual impact;
- sense of enclosure
- stormwater

2. SEPP [HOUSING] 2021 CHAPTER 4 DESIGN OF RESIDENTIAL APARTMENT DEVELOPMENT: ADG

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the SEPP.

Schedule 9: Design Principles for Residential Apartment Developments, and the Apartment Design Guide.

The proposed development is inconsistent with the Aims of Chapter 4 and contrary to the design principles set out under Schedule 9 specifically relating to:

- Design Principle 1: Context & Neighbourhood Character
- Design Principle 2: Built Form and Scale
- Design Principle 3: Density
- Design Principle 4: Sustainability
- Design Principle 5: Landscape
- Design Principle 6: Amenity
- Design Principle 7: Safety
- Design Principle 8: Housing Diversity & Social Interaction
- Design Principle 9: Aesthetics

The proposed development is inconsistent with the relevant aims and considerations of Part 2 of the Apartment Design Guide in relation to:

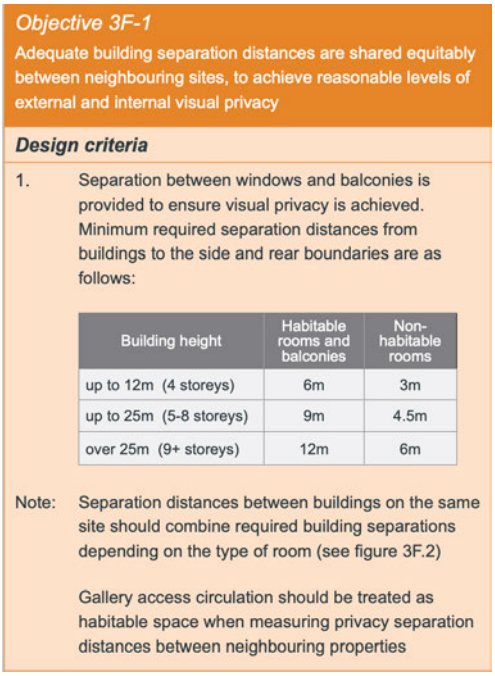
- 2A Primary controls
- 2B Building envelopes
- 2F Building separation
- 2G Street setbacks
- 2H Side and rear setbacks

The proposed development is inconsistent with the relevant objectives and design guidance of Part 3 of the Apartment Design Guide, in particular to neighbour's residential amenity.

- 3A Site analysis
- 3B Orientation
- 3C Public domain interface
- 3D Communal and public open space
- 3E Deep soil zones
- 3F Visual privacy

Particular concern is raised to non-compliance to 3F Visual Privacy Objective 3F-1, in providing adequate building separation distances, and shared equitably between

neighbouring sites, to achieve reasonable levels of external and internal visual privacy. I refer to the ADG table below:



Objective 3F-1

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy

Design criteria

1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties

3. SEPP (TRANSPORT AND INFRASTRUCTURE) 2021

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of this SEPP.

Concern is raised on:

Section 2.119(2) requires the consent authority to consider the following prior to the grant of consent to development on that land.
(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.

My clients ask Council to fully assess the compliance required, and impose conditions as necessary to any consent.

Concern is raised on:

Section 2.120(3) applies to the residential component of the proposed development and requires the consent authority to be satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

My clients ask Council to fully assess the compliance required, and impose conditions as necessary to any consent.

4. SEPP [RESILIENCE & HAZARDS] 2021

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of this SEPP.

Concern is raised on:

- Coastal Management

My clients ask Council to fully assess the compliance required, and impose conditions as necessary to any consent.

5. EPAA SECTION 4.15[1][b] AMENITY IMPACTS ON NEIGHBOURING PROPERTIES

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Section 4.15[1][b].

The proposed development will result in impacts on the amenity of neighbouring properties, in particular in relation to loss of views and access to daylight and sunlight. The view impacts are caused by the envelope breaches and contribute to unacceptable amenity impacts in relation to loss of access to daylight, sunlight, visual impact and a sense of enclosure.

6. CONTRARY TO AIMS OF LEP

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the aims under the LEP.

7. CONTRARY TO ZONE OBJECTIVES

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the objectives of the zone of *the LEP*.

ZONE R3 MEDIUM DENSITY RESIDENTIAL

• To provide for the housing needs of the community within a medium density residential environment.
• To provide a variety of housing types within a medium density residential environment.

8. HERITAGE CONSERVATION CONCERNS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate heritage conservation outcomes, presenting non-compliant envelope controls that are visible from the heritage listed Manly Beach Reserve.

The subject property is not heritage listed or located within a heritage conservation area however is located within the vicinity of the heritage listed Manly Beach Reserve.

The proposed development does not respond to or complement adjoining heritage and contributory buildings, does not respond to Manly Beach Reserve and is not in keeping with the unique character of the locality.

The proposal is inconsistent with the objectives of the LEP and DCP.

- The development application should be refused because approval of the proposal will have an adverse and unacceptable impact on Manly Beach Reserve pursuant to the LEP.
- The overall bulk of the proposal is not sympathetic to Manly Beach Reserve.

The proposed development does not conserve the environmental heritage of the local area of Manly Beach Reserve and does not conserve the heritage significance of Manly Beach Reserve including settings and views.

9. BUILDING BULK & SCALE

The proposed development should be refused due to its excessive bulk and scale and its failure to comply with the numerical standards and controls.
The application will result in an unacceptable loss of visual amenity from adjoining private properties, and from Manly Beach Reserve.

The loss of visual amenity is due to the excessive bulk and scale of the proposed development. The breaches of the building envelope will result in an adverse visual impact when viewed from private and public domains.

The numerical non-compliances result in a cumulative impact, that increases the built form, resulting in an overdevelopment of the site. The proposal will present excessive bulk and scale that is not representative of the type of development anticipated by the zone or the applicable controls. The proposal will result in unreasonable bulk and scale for the type of development anticipated in the zone.

The proposal does not allow for enough open space and landscaping to suitably reduce the bulk and scale of the development.

The proposal does not provide adequate articulation of the built form to reduce its massing.

The proposal fails to encourage good design and innovative architecture to improve the urban environment.

The proposal fails to minimise the visual impact of development when viewed from adjoining properties and streets.

10. CHARACTER & STREETSCAPE

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate streetscape outcome, presenting non-compliant envelope controls that are visible from the street.

The failure to produce a design that equals the two adjoining parapets is a major flaw in the design. This is caused by the excessive 3.5m storey heights.

The built form above this predominant parapet level requires substantial setback on all boundaries.

The proposed development is inconsistent with the provisions relating to the desired future character. The proposal, due to its excessive bulk, its impact on the amenity of adjoining properties and users of the public domain, its poor relationship with the subject property and the environment is inconsistent with the objectives of the desired future character provisions of the locality.

The proposed development will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual bulk impact.

The proposed development should be refused due to its excessive bulk, scale and resulting impacts upon the amenity of adjoining properties and the character of the surrounding locality. The proposal does not meet the streetscape character and key elements of the precinct and desired future character. The proposal is excessive in scale, has adverse impacts on the visual amenity of the environment, does not positively contribute to the streetscape in terms of an adequately landscaped setting. The proposal is visually dominant, and is incompatible with the desired future townscape area character. The development has excessive bulk and scale and fails to comply with Development Standards, resulting in a building which has unacceptable adverse impacts on neighbouring properties and the locality.

The non-compliant building envelope will lead to unacceptable visual bulk impact to neighbours. The multiple non-compliances arising from the proposed upper floor level and the non-compliant setbacks indicates that the proposed development cannot achieve the underlying objectives of this control, resulting in an unacceptable building bulk when viewed from adjoining and nearby properties.

The development presents an inappropriate response to the site and an unsatisfactory response to the desired future character of the area. The proposed development should be refused because it is incompatible with the desirable elements of the current character of the locality and is inconsistent with the standards and controls:

- The design of the proposal does not recognise or complement the desirable elements of the subject site's current character.
- The proposal offers little visual relief of the resultant building bulk. Such building bulk is not compatible in scale with adjacent and surrounding development.
- The proposal will present as a large building with insufficient building articulation and landscaping to break up and visually reduce the building bulk.
- The proposal will not appear as medium density and, therefore, does not achieve consistency or compatibility with the general built form within the locality or the zone. The development does not present as detached in style with distinct building separation and areas of landscaping.

I contend that the development inappropriately responds to the design principles contained at clause within the DCP:

- The design quality and visual aesthetic of development on this site is not significantly enhanced as a consequence of the contemporary building design proposed;
- The landscape quality of the development on this site is not significantly enhanced as a consequence of the integrated landscape regime proposed;
- The height, form and massing of the development is not complimentary and not compatible with that established by adjoining development generally within the site's visual catchment;
- The height, bulk and scale of the development will give rise to many adverse streetscape impacts and will detract from the scenic amenity of the area when viewed from surrounding public and private land;
- The proposed front, rear and side boundary setbacks are not consistent with those established by recently approved and constructed development along North Steyne;
- The development does not maintain appropriate levels of privacy, sunlight and view sharing to surrounding development as detailed in this Submission.

Council cannot be satisfied that the development responds appropriately to the Design Principles contained in the DCP.

11. INSUFFICIENT SETBACKS

The proposed development should be refused as it is significantly non-compliant with setback of the DCP.

- Side
- Front
- Rear

The impacts are not consistent with the impacts that would be reasonably expected under the controls.

In Project Venture Developments v Pittwater Council (2005) NSW LEC 191, NSW LEC considered character:

"…whether most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment".

The non-compliant elements of the proposed development, particularly caused from non-compliant excessive heights would have most observers finding *'the proposed development offensive, jarring or unsympathetic'.*

The proposed development does not provide appropriate setbacks. This leads to inconsistency with the character of the area and unreasonable amenity impacts.

The proposal is inconsistent with the objectives of the DCP.

The non-compliance fails:

- To reduce amenity impacts on neighbours, including solar loss/view loss/visual bulk
- To provide 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.

The proposed development results in an encroachment beyond the prescribed building envelope. This non-compliance is indicative of an unacceptable built form and contributes to the severe amenity loss.

The non-compliant side boundary setback provisions require a setback equal to 1/3rd the wall height. The proposal does not comply and significantly fails with the objectives of the control as follows:

1) To maintain and enhance the existing streetscape;

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.*

I note that flexibility in relation to DCP controls may be acceptable where the outcomes of the control are demonstrated to be achieved. In this case, the control is unable to do so because:

- The design cannot achieve the desired future character as demonstrated earlier in this submission; and,
- The width and height of the design is significantly overbearing in relation to the spatial characteristics of the natural environment, and is not sensitive to this important visual catchment.
- By virtue of the unmitigated height breach and extensive building envelope breach, it is not possible to say that the bulk and scale of the built form has been minimised.
- View loss results from the non-compliant design and a reasonable and equitable sharing of views is not achieved.

The proposal will result in an unsatisfactory scale of built form that will be disproportionate and unsuitable to the dimensions of the site and neighbouring residential development.

The height and bulk of the development will result in unreasonable impacts upon the amenity of neighbouring properties with regard to visual dominance.

The excessive built form of the proposal results in a development where the building mass becomes visually dominant and imposing, particularly when viewed from the visual catchment of neighbouring properties

The cumulative effect of the non-compliances with setback and other development standards results in an over development of the site with the site being not suitable for the scale and bulk of the proposal.

12. FORESHORE SCENIC PROTECTION

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it is inconsistent with the provisions of Foreshore Scenic Protection Area, as the built form and scale of the proposed development exceeds the expected form of new development in the foreshore scenic protection area.

The proposal does not achieve the normal outcomes expected to achieve the desired future character of the locality.

The proposal does not achieve the normal control that development shall minimise any visual impact on the natural environment when viewed from any waterway, road or the heritage Manly Beach Reserve.

The proposal detrimentally affects the visual or aesthetic amenity of land in the foreshore scenic area.

Having regard to the provisions I contend that the proposed development will result in any actual and perceivable impact on the Foreshore Scenic Protection Area in that:

- The height, scale and architectural presentation of the development are NOT contextually appropriate having regard to the built form characteristics established by adjoining development;
- Having regards to the Land and Environment Court of NSW planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers WOULD find the proposed building offensive, jarring or unsympathetic to its context or surrounds;
- The development will give rise to many adverse physical or amenity impacts on the foreshore areas and will not enhance the visual amenity of the area generally.

For these reasons, Council cannot be satisfied that the development will NOT give rise to unacceptable impact on the Foreshore Scenic Protection Area having regard to the Clause 6.9 considerations.

13. IMPACTS UPON ADJOINING PROPERTIES: ADVERSE VIEW SHARING IMPACTS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to achieve an appropriate view sharing outcome to neighbours.

The proposal is inconsistent with the objectives of the DCP.

The proposed dwelling and landscaping will result in excessive view impacts to adjoining properties and does not constitute a satisfactory view sharing outcome. In this regard, it is contrary to the provisions of the DCP. The Applicant has not provided adequate photomontages on the impact of the proposal on views, in particular views from the living areas, entertainment terraces, and highly used rooms of the neighbouring property.

View loss is assessed on a Planning Principle established by the NSWLEC within *Tenacity Consulting v Warringah Council [2004] NSWLEC 140.*

In *Tenacity,* NSWLEC considered Views. *Tenacity i*s now the NSWLEC Planning Principle that defines the reasonableness of a proposal to view sharing.

Tenacity states:

"A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable."

The development application should be refused as it results in unacceptable view loss from adjoining and nearby residential dwellings.

Tenacity, states the test for reasonableness:

> *Point 1 - Compliance, or otherwise, with planning controls.*
>
> *Point 2 - If there is a non-compliance, then even a moderate impact may be considered unreasonable.*
>
> *Point 3 - For complying proposals: (a) "whether a more skilful design could provide the Applicant with the same development potential and amenity and reduce the impact on the views of neighbours ", and (b) "if the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The development breaches multiple planning controls and is unreasonable.

FAILURE TO PROVIDE PHOTOMONTAGES

THE Applicant has not provided Photomontages in accordance with NSWLEC Guidelines for Photomontages, that Council would expect to be submitted when view loss occurs.

I ask Council to have the Applicant prepare Photomontages on the following NSWLEC basis:

Use of photomontages

The following requirements for photomontages proposed to be relied on as or as part of expert evidence in Class 1 appeals will apply for proceedings commenced on or after 1 October 2013. The following directions will apply to photomontages from that date:

Requirements for photomontages:

1. Any photomontage proposed to be relied on in an expert report or as demonstrating an expert opinion as an accurate depiction of some intended future change to the present physical position concerning an identified location is to be accompanied by: Existing Photograph. a) A photograph showing the current, unchanged view of the location depicted in the photomontage from the same viewing point as that of the photomontage (the existing photograph); b) A copy of the existing photograph with the wire frame lines depicted so as to demonstrate the data from which the photomontage has been constructed. The wire frame overlay represents the existing surveyed elements which correspond with the same elements in the existing photograph; and c) A 2D plan showing the location of the camera and target point that corresponds to the same location the existing photograph was taken. Survey data. d) Confirmation that accurate 2D/3D survey data has been used to prepare the Photomontages. This is to include confirmation that survey data was used: i. for depiction of existing buildings or existing elements as shown in the wire frame; and ii. to establish an accurate camera location and RL of the camera.

2. Any expert statement or other document demonstrating an expert opinion that proposes to rely on a photomontage is to include details of: a) The name and qualifications of the surveyor who prepared the survey information from which the underlying data for the wire frame from which the photomontage was derived was obtained; and b) The camera type and field of view of the lens used for the purpose of the photograph in (1)(a) from which the photomontage has been derived.

The development application should be refused as the Applicant has not provided photomontages to define the view loss.

14. IMPACTS UPON ADJOINING PROPERTIES: SOLAR ACCESS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to solar access and excessive overshadowing by the non-compliant built form.

The proposal is inconsistent with the objectives of the DCP.

The proposed development presents unacceptable amenity impacts to adjoining properties by way of solar access impacts that arise because of the excessive bulk and scale of the proposal and numerical non-compliance.

The Applicant has not provided adequate Solar Access Diagrams, at half hourly interval, in plan and elevation of the neighbour's property, to assess the loss of solar access at mid-winter, of the neighbouring properties windows, private open space, and the location of existing or future PV Solar Panels to accord with DCP controls and NSWLEC planning principles

I believe that further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for Council's reasonable assessment.

Shadow diagrams have not included the additional shadow cast by the non-complaint envelope, in plan and elevation. The elevational shadow diagrams must show the position of windows on adjoining properties.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of adjoining properties, specifically with regard to overshadowing.

The proposed development will result in unreasonable overshadowing of the windows of the neighbour's property and the private open space of the neighbour's property, resulting in non-compliance with the provisions of DCP.

A variation to the DCP is not supported as the objectives of the clause are not achieved.

In The Benevolent Society v Waverley Council [2010] NSWLEC 1082 the LEC consolidated and revised planning principle on solar access is now in the following terms:

"Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours."

I contend that the overshadowing arises out of poor design. The design does not respect envelope controls, and must be considered 'poor design'.

The Applicant has not submitted hourly solar diagrams to fully assess the solar loss. I ask Council to obtain these diagrams.

The loss of sunlight is directly attributable to the non-compliant envelope.

The planning principle The Benevolent Society v Waverley Council [2010] NSWLEC 1082 is used to assess overshadowing for development application. An assessment against the planning principle is provided as follows:

• The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.

The density of the area is highly controlled. Building envelope controls have been exceeded.

• The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.

The solar diagrams are not complete, but what has been provided shows that the proposed development will overshadow the adjoining dwellings. The amount of sunlight that will be lost will only be able to be fully considered once solar elevational drawings are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

• Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.

The proposed development has been designed without considering the amenity of the neighbouring properties. It is considered that a more skilful design, with a compliant envelope control, could have been adopted that would have reduced the impact on the neighbouring properties. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

• To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5o or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.

This can only be fully assessed once elevational solar drawings at hourly intervals are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

• Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

There is no major overshadowing as a result of vegetation

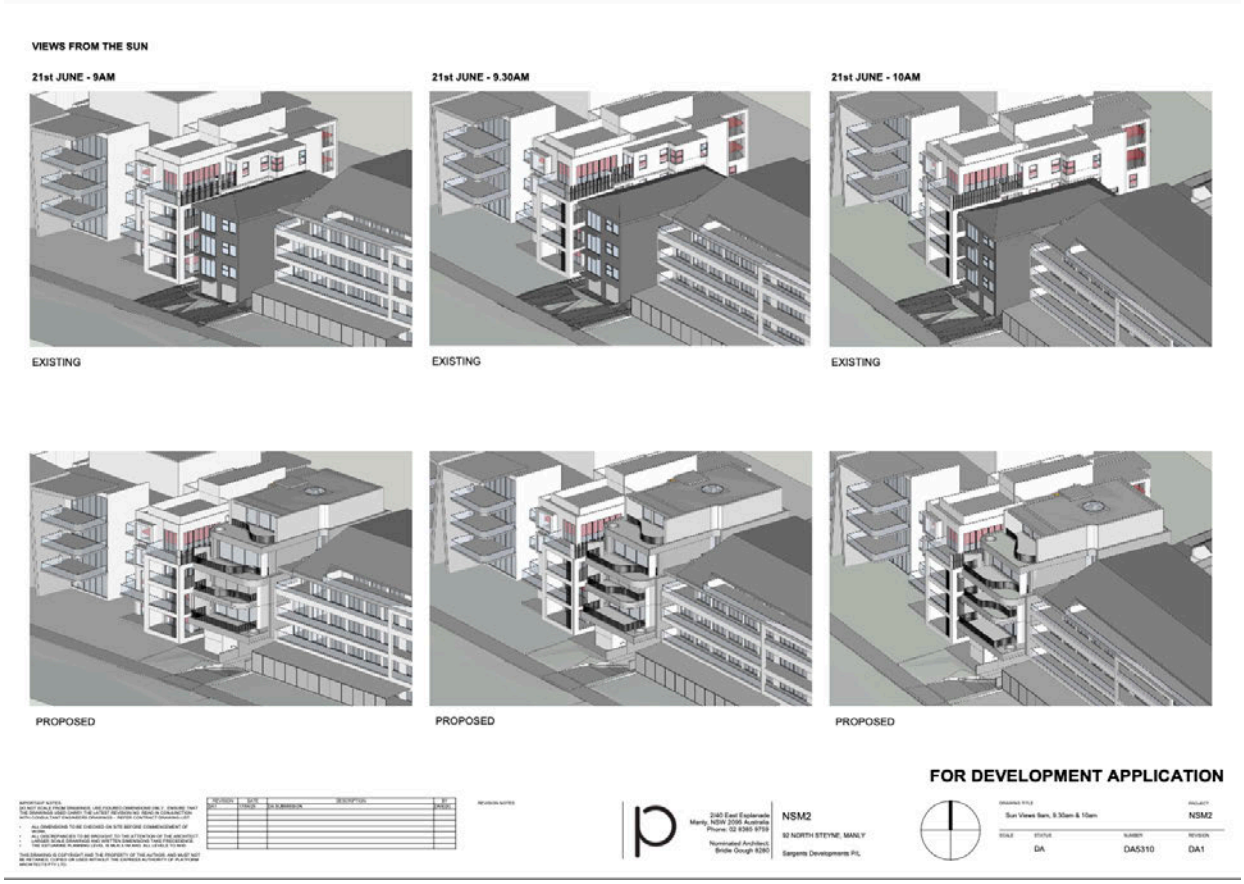
• In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as Well as the existing development.

The area is not currently undergoing change, the DCP controls have not altered for many years.

The assessment of the development against the planning principle results in the development not complying with the solar access controls and therefore amended plans should be requested to reduce the overshadowing impact on the adjoining neighbour. It is suggested that a more skilful design of the development, with a compliant envelope control, would result in less impact in regard to solar access. It is requested that Council seek amended plans for the development to reduce the impact of the development, and these matters are addressed elsewhere in this Written Submission.

I object to solar loss to the neighbour's private open space, and to the neighbour's windows that fails to allow mid-winter solar access into highly used room by non-compliant development controls.

The Applicant's Solar Diagrams:

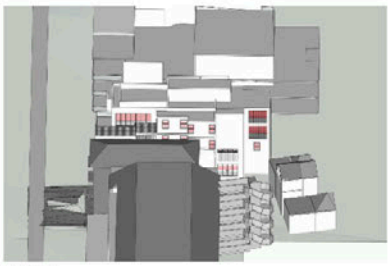


VIEWS FROM THE SUN

21st JUNE - 11AM

EXISTING

21st JUNE - 12PM

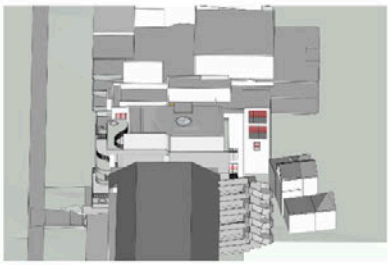


EXISTING

21st JUNE - 1PM

EXISTING

PROPOSED



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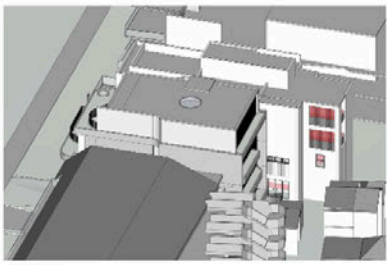
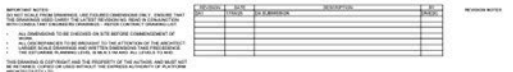


PROPOSED

FOR DEVELOPMENT APPLICATION



2/40 East Esplanade
Manly, NSW 2095 Australia
Phone: 02 9395 9759

Nominated Architect:
Bridie Gough 8280

NSM2

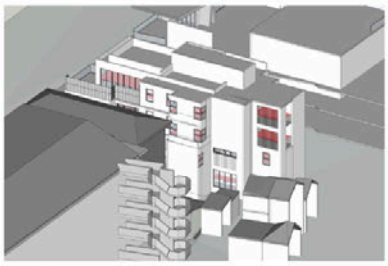
92 NORTH STEYNE, MANLY

Sergents Developments P/L

DRAWING TITLE			PROJECT
Sun Views 11am, 12pm & 1pm			NSM2
SCALE	STATUS	NUMBER	REVISION
	DA	DA5311	DA1

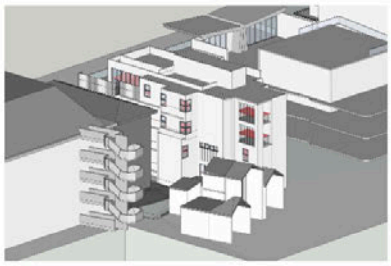
VIEWS FROM THE SUN

21st JUNE - 2PM

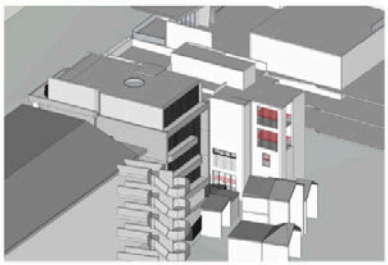


EXISTING

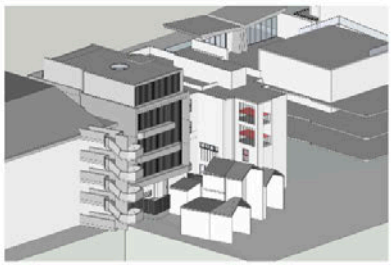
21st JUNE - 3PM



EXISTING

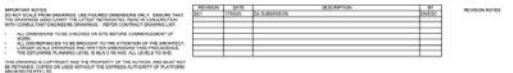


PROPOSED



PROPOSED

FOR DEVELOPMENT APPLICATION



2/40 East Esplanade
Manly, NSW 2095 Australia
Phone: 02 9395 9759

Nominated Architect:
Bridie Gough 8280

NSM2

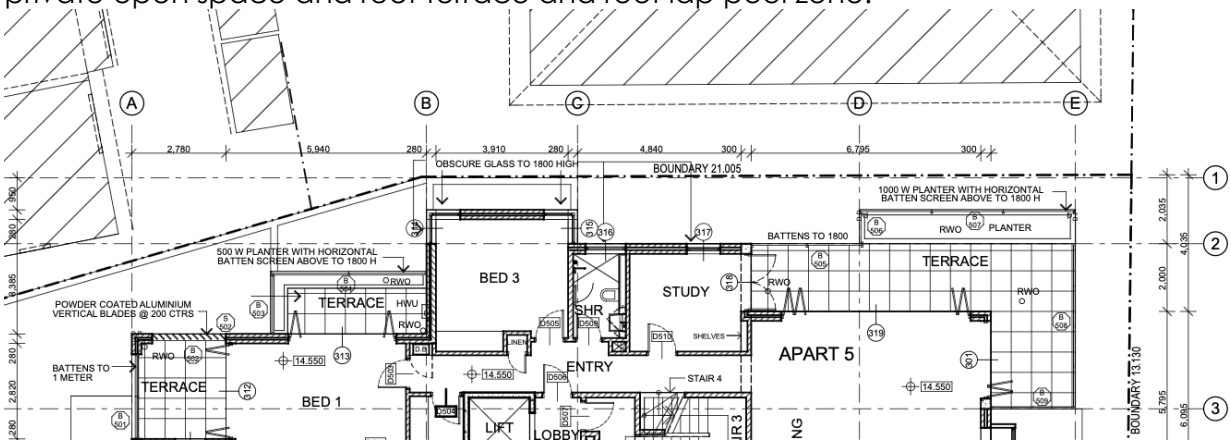
92 NORTH STEYNE, MANLY

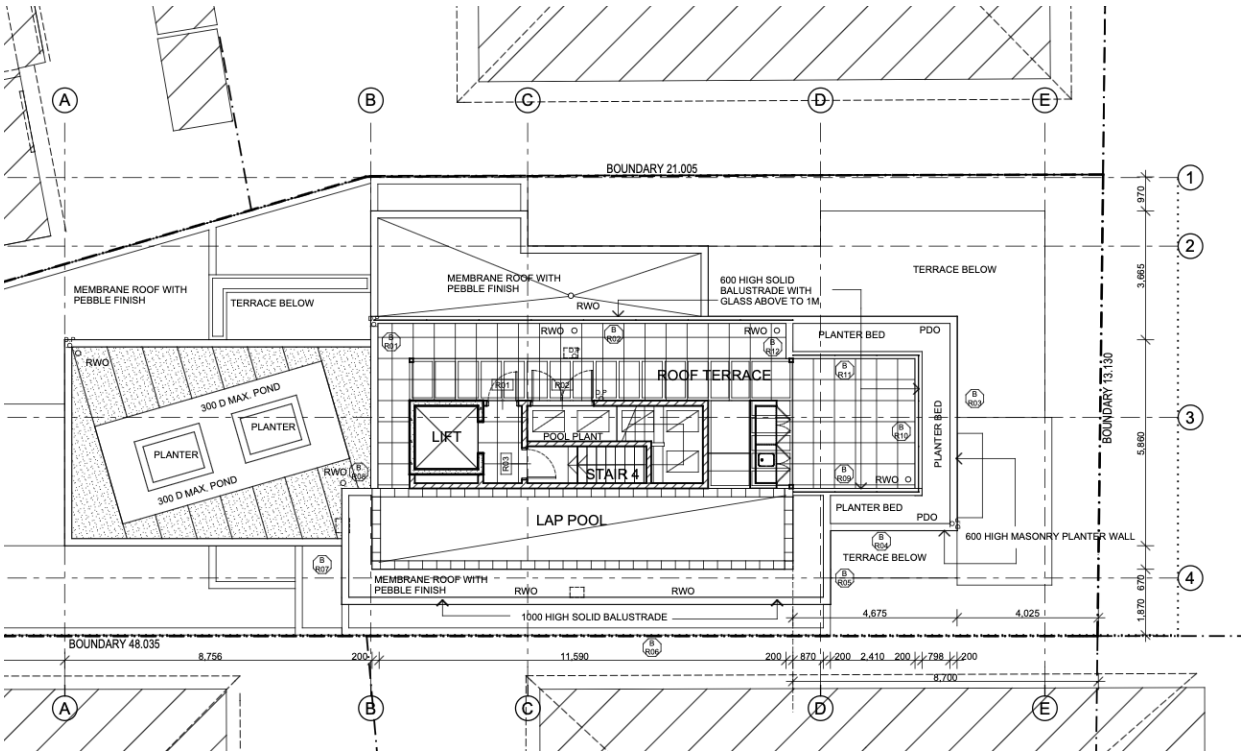
Sergents Developments P/L

DRAWING TITLE			PROJECT
Sun Views 2pm & 3pm			NSM2
SCALE	STATUS	NUMBER	REVISION
	DA	DA5312	DA1

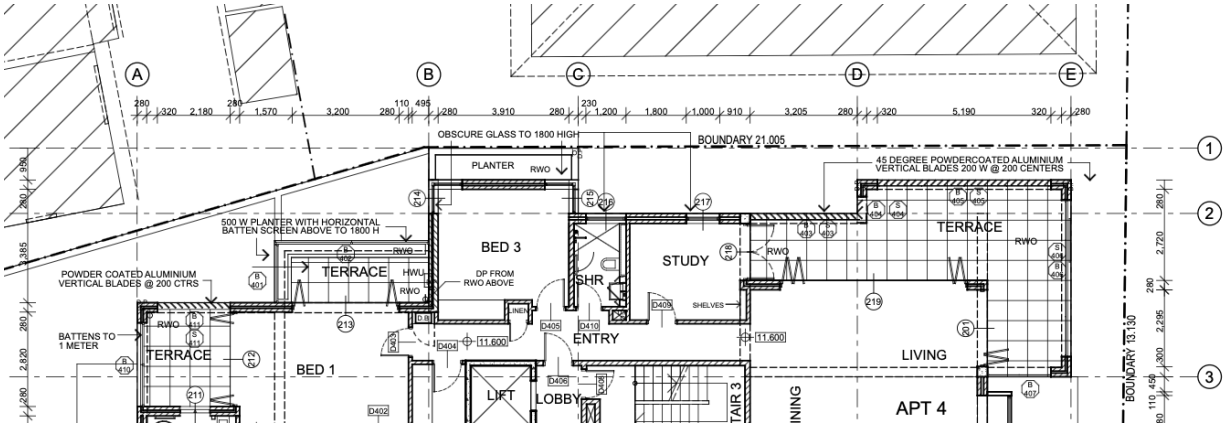
DEVASTATING SOLAR LOSS: detailed analysis of solar impacts on a Unit-by-Unit basis has not been carried out by the applicant. All half hour diagrams have not been completed. Equinox diagrams are requested to understand the full solar impacts. Loss of winter solar access to my client's north facing windows and private open spaces are totally unacceptable, and is directly caused by the variations sought to the side, front and rear boundary setback and total open space controls. The proposal has not identified how the maintenance of at least two hours of solar access between 9am and 3pm on 21 June is achieved, or not reduce to below 2 hours of sunlight in accordance with the ADG requirements. Drawings provided of my clients Units to assist in assessment.

PHILLIP & DARRIANNE DONNELLY, UNIT 5/91 NORTH STEYNE MANLY
Devastating outcomes caused by non-compliant built form. Percentage loss not defined by the applicant, however substantial losses to all north facing windows, private open space and roof terrace and roof lap pool zone.

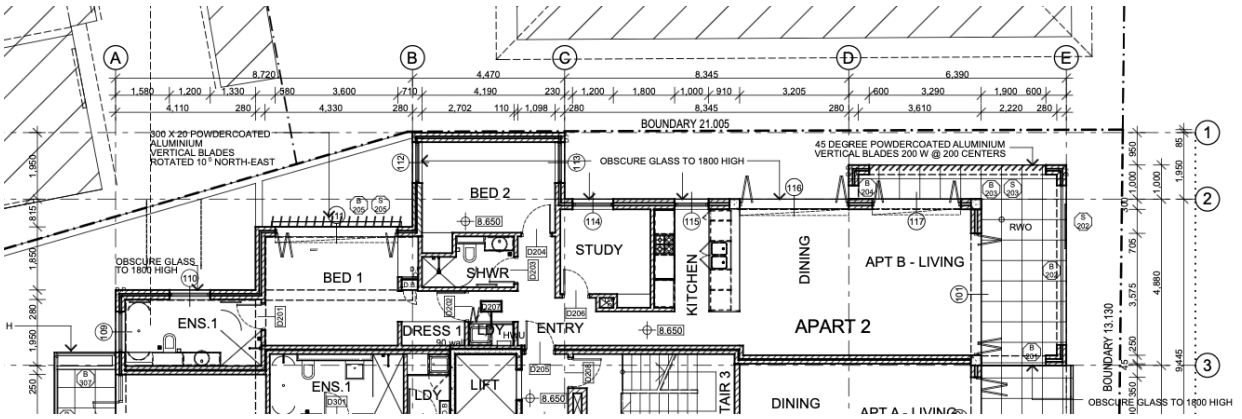


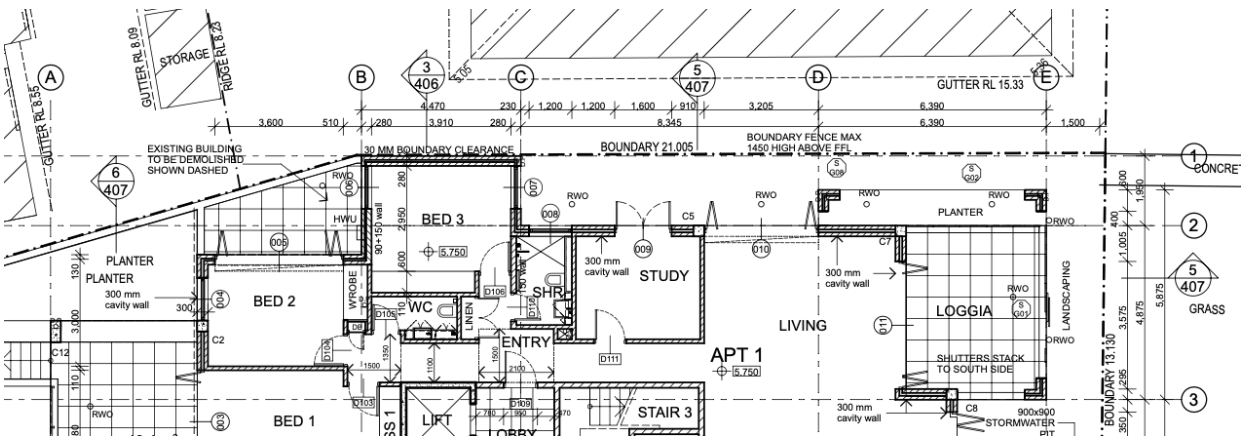


ANTHONY & ANNETTE FONTANA, UNIT 4/91 NORTH STEYNE MANLY
Devastating outcomes caused by non-compliant built form. Percentage loss not defined by the applicant, however substantial losses to all north facing windows, private open space.



BRUCE BAIRD, UNIT 3/91 NORTH STEYNE MANLY [on southern side of Unit 2]
BARBARA GHABRIAL, UNIT 2/91 NORTH STEYNE MANLY
FELICITY & DOUG NORTH, UNIT 1/91 NORTH STEYNE MANLY
Devastating outcomes caused by non-compliant built form. Percentage loss not defined by the applicant.





All Owners request Winter and Equinox Diagrams at half-hour intervals to define the solar loss window-by-window, and full compliance to the DCP.

15. IMPACTS UPON ADJOINING PROPERTIES: PRIVACY

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual privacy.

The proposal is inconsistent with the objectives of the DCP.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of the neighbour's property, specifically with regard to visual privacy.

The proposed development will result in unacceptable overlooking of the adjoining dwelling and associated private open space, resulting in inconsistency with the provisions of the DCP and the objectives of the DCP.

The location and design of the proposed balcony and terraces at the upper floor levels and the excessive glazed windows facing the side boundary will result in unacceptable visual and acoustic privacy impacts to adjoining properties.

The Applicant has not provided an adequate Privacy Impact Analysis which details the extent to which privacy at the neighbour's property will be adversely impacted by the proposal.

The proposed development should be refused because it will result in unacceptable visual privacy impact contrary to the DCP:

- The proposal is inconsistent with the DCP as it does not use appropriate site planning with respect to the location and design of windows and balconies, such that it results in unreasonable visual privacy impacts to the dwellings of neighbouring properties;
- The proposal does not comply with requirement set out in the DCP as it is not designed to optimise privacy for the occupants of the neighbouring dwellings
- The proposal does not comply with requirement set out in the DCP as it does not orientate living areas, habitable rooms, and windows to limit overlooking.
- The proposal orientates the living areas and main private open space to neighbours
- The floor level of the upper levels, would result in looking over and beyond. The difference in levels will result in direct viewing into the private open spaces of neighbour's dwellings.
- The proposal includes raised private open spaces to the rear, increasing opportunity for overlooking to neighbours.
- The proposal relies on landscaping to the rear to assist with privacy, which should not be used in place of good design, as per the planning principle set by *Super Studio v Waverley Council [2004] NSWLEC 91*.
- The proposal is not consistent with the following objective of the DCP, to ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.

An assessment of the privacy impact against the planning principle Meriton v Sydney City Council [2004] NSWLEC 313 follows:

Principle 1: The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.

Response: The development could be easily protected, but it fails that test.

Principle 2: Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)

Response: The proposed development results in a privacy impact with the proposed windows facing neighbours without sufficient screening devices being provided, considering the proposed windows are directly opposite the neighbour's windows and balconies.

Principle 3: The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.

Response: The windows in question are windows of the main circulation zones and living areas, it is considered that the living areas will result in an unacceptable privacy breach. The proposed windows and decks face the private open spaces for the neighbouring dwelling and will result in an unacceptable level of privacy impact.

Principle 4: Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the Applicant at no additional cost, has a reduced impact on privacy.

Response: The proposed development is a new development and the proposed windows have been designed without any consideration to the privacy of the neighbouring property.

Principle 5: Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.

Response: It is considered that the private open space of the neighbouring dwellings could be better protected. I ask Council to consider the most appropriate privacy screening measures to be imposed on windows and decks facing the neighbour's property, including landscaping

Principle 6: Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.

Response: As mentioned above, the use of privacy devices would reduce the impact of the dwelling.

Principle 7: Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.

Response: Additional landscaping may assist in addition to privacy devices.

Principle 8: In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.

Response: The area is not undergoing change that would warrant privacy impact such as the one presented.

Comment: As the development is considered to result in an unacceptable privacy impact due to the design, it is requested that the proposed development be redesigned to reduce amenity impact on the neighbouring properties.

In the context of the above principles, the application can be considered to violate the reasonable expectation that the habitable rooms and private open space at the neighbour's property will remain private. It is therefore reasonably anticipated that the application does not comply with the DCP.

The above non-compliance will give rise to unreasonable amenity impacts upon the adjoining properties. In this instance, the proposal is not considered to achieve compliance with this control.

16. IMPACTS UPON ADJOINING PROPERTIES: ENGINEERING

EARTHWORKS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979.*

The architectural drawings do not accord with the recommendations within the JK Geotechnical Report that states:

- *shoring on all four sides of the excavation will be required. Appropriate shoring systems include contiguous continuous flight auger (CFA) piles and cutter soil mix (CSM) walls*
- *we consider piled footings, founded in the medium dense sands below 14m depth, will likely be one of the appropriate foundation solutions for the proposed development. For piled footings, CFA techniques would be required*

Council will note that Acor Consultants designed the structural works on my client's property. Shoring Piles have been used. I do note ground anchors on the Acor structural drawings under the subject site. JK provided the Geotechnical Report. Different engineering details were used where the ground floor slab was below natural ground level, at or above natural ground level, and in cantilever in certain areas. Different pile solutions were used along the common boundary with the subject site.

The architectural drawings must accord with the recommendations within the JK Geotechnical Report.

STORMWATER CONCERNS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate stormwater control outcomes.

The proposal is inconsistent with the objectives of the LEP and DCP.

I ask Council to consider the stormwater design and the OSD.

I am concerned that the proposed stormwater drawings do not show adequate collection of storm water along the boundaries of the subject site, to retain the stormwater washing across the subject site onto the neighbouring property.

I request that the onsite stormwater system is increased with large pits, cut off drains and large pipework to collect all stormwater on the subject site to accord with the 1% AEP.

17. PUBLIC INTEREST

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

The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest.

The proposed development is contrary to the provisions of relevant environmental planning instruments, development control plans and design guidelines. The proposed development represents numerous non-compliances and inconsistencies with State and Council policy. No circumstances exist that would justify the non-compliances and inconsistencies with these policies.

C. CONTENTIONS THAT RELATE TO INSUFFICIENT & INADEQUATE INFORMATION

The Applicant has not submitted sufficient and/or adequate information under Part 6, Division 1 Clause 54 of the EPA Regulation 2000 to enable a reasonable assessment under the applicable legislation.

The application lacks sufficient detail to make an informed assessment particularly with respect to determining the extent of the following matters and the relationship and impact to adjoining neighbours.

INSUFFICIENT INFORMATION

- Architectural drawings: Insufficient dimensions from boundaries and levels of all proposed works. Front setbacks not adequately defined;
- Survey: Insufficient detail to define Neighbours windows and decks, particularly at the upper level and lower level of #91;
- Failure to provide photomontages to NSWLEC Photomontage Policy standards
- Solar access diagrams: half-hourly of #91 at mid-winter and equinox;
- Privacy impact analysis: Privacy screen details unacceptable as being operable;
- Visual bulk analysis: montages from western rear yard of neighbours and all private open spaces of Units;
- Basement piling zones and drained cavities not shown to all boundaries as advised by JK Report;
- Insufficient Stormwater design to southern setback zone;
- Location of all Mechanical Plant.

FAILURE TO PROVIDE PHOTOMONTAGES

THE Applicant has not provided Photomontages in accordance with NSWLEC Guidelines for Photomontages, that Council would expect to be submitted when view loss occurs.

A view loss analysis for all affected properties has not been conducted in accordance with Land and Environment Court Policy: Use of Photomontages and Visualisation Tools.

A view loss assessment was not conducted in accordance with the Tenacity Consulting v Warringah Council [2004] Planning Principle.

Insufficient information was provided for the respondent to conduct a view loss assessment in accordance with the abovementioned Planning Principle.

Height poles should be erected by a suitably qualified professional to confirm the view loss, bulk and scale of the proposal.

I ask Council to have the Applicant prepare Photomontages on the following NSWLEC basis:

Use of photomontages

The following requirements for photomontages proposed to be relied on as or as part of expert evidence in Class 1 appeals will apply for proceedings commenced on or after 1 October 2013. The following directions will apply to photomontages from that date:

Requirements for photomontages:

1. Any photomontage proposed to be relied on in an expert report or as demonstrating an expert opinion as an accurate depiction of some intended future change to the present physical position concerning an identified location is to be accompanied by:

Existing Photograph.
a) A photograph showing the current, unchanged view of the location depicted in the photomontage from the same viewing point as that of the photomontage (the existing photograph);
b) A copy of the existing photograph with the wire frame lines depicted so as to demonstrate the data from which the photomontage has been constructed. The wire frame overlay represents the existing surveyed elements which correspond with the same elements in the existing photograph; and
c) A 2D plan showing the location of the camera and target point that corresponds to the same location the existing photograph was taken.
Survey data.
d) Confirmation that accurate 2D/3D survey data has been used to prepare the Photomontages. This is to include confirmation that survey data was used:

i. for depiction of existing buildings or existing elements as shown in the wire frame; and
ii. to establish an accurate camera location and RL of the camera.

2. Any expert statement or other document demonstrating an expert opinion that proposes to rely on a photomontage is to include details of:

a) The name and qualifications of the surveyor who prepared the survey information from which the underlying data for the wire frame from which the photomontage was derived was obtained; and

b) The camera type and field of view of the lens used for the purpose of the photograph in (1)(a) from which the photomontage has been derived.

The Applicant has not provided an adequate View Impact Analysis which details the extent to which existing water views from the neighbour's property are obstructed under the current proposal, from the proposed built form and the proposed trees, to accord with DCP controls and NSWLEC planning principles

SOLAR ACCESS DIAGRAMS

The application fails to provide sufficient information to demonstrate that the neighbouring dwellings will receive the minimum number of hours set out within the DCP of direct sunlight to windows and private open space areas on 21 June.

The Applicant has not provided adequate Solar Access Diagrams, at 30-minute intervals, in plan and elevation of the neighbour's property, to assess the loss of solar access at mid-winter, to accord with DCP controls and NSWLEC planning principles.

The applicant could use Autodesk Revit software that prepares the shadow projections by reference to accurate solar geometry. Because of the complexity of demonstrating the quantification of solar access to glazing and private open space of various orientations, detailed analysis must be performed primarily by using projections known as 'View from the Sun' taken at half hourly intervals. A view from the sun shows all sunlit surfaces at a given time and date. It therefore allows a very precise count of sunlight hours on any glazing or horizontal surface, with little or no requirement for secondary calculations or interpolation.

For the purpose of calculating the compliance with the control, the Applicant must examine sun patches on the relevant glazing line of each window and private open space. Because of its key importance in the determination of what is 'effective sunlight' for characterisation of compliance, for both glazing and private open space, the applicant must quantify as complying all sun patches of 'reasonable size', which generally take to be a minimum of approximately 1sqm. The applicant should ignore very large angles of incidence to the glazing surface, and unusably small areas of sunlit glazing. There is no accepted standard for the absolute limit of acceptable area of the sun patch on partly shaded glazing. In accordance with NSWLEC Planning Principle, Council should consider this to be 1sqm as a minimum (on the basis that it exceeds 50% of the area of a standard window 1500mm x 1200mm high which would normally be accepted as complying).

The proposed development provides insufficient information to adequately assess whether the development complies or otherwise with the controls. The solar and shadow diagrams appear to be incorrect and do not adequately demonstrate the shadow cast over the site and neighbouring property. The length of the winter shadows appears to be underestimated and the solar diagrams do not appear to take into consideration the topography of the site. In order to properly calculate the solar access to the proposed development and any overshadowing impacts to neighbouring sites 3-D modelling of views from the sun at 30-minute intervals must be submitted illustrating the overshadowing impacts of the neighbouring residential units.

I believe that further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for Council's reasonable assessment.

The proposed solar panels have not been shown on the architectural drawings and it is unclear the location of the panels or the angle of the panels.

PRIVACY IMPACT ANALYSIS

Details of privacy devices deployed have not been provided.

The Applicant has not provided an adequate Privacy Impact Analysis, to accord with DCP controls and NSWLEC planning principles.

The architectural drawings do not provide side setback dimensions nor identify the nature of the rooms on the adjoining properties to enable a proper assessment of the impacts of the proposed development and consequently the application has failed demonstrate that the development is suitable for the site and that it will have acceptable environmental impacts on the built environment. Additional dimensions are required to be provided with adequate level of information clearly indicated depicting the separation of buildings and internal layouts of rooms on adjoining properties in order to confirm compliance with objectives and controls.

VISUAL BULK ANALYSIS

The Applicant has not provided adequate montages from the neighbour's property to assess the visual bulk assessment from the proposed non-compliant envelope.

Insufficient information has been provided to determine the visual impact of the development from the rear yards of the neighbours' properties with particular regards to the non-compliant elements

SURVEY.

Details of neighbouring/surrounding properties, including window/door openings to determine if there will be any privacy, overshadowing or amenity impacts. Registered Surveyors levels transferred to all DA drawings. Incomplete dimensioning on DA plans, and incomplete levels on all elevations to all elements. Council should note that spot survey levels and contour lines from the Registered Surveyors drawings have not been adequately transferred to the proposed DA drawings of plans, sections, and elevations to enable an assessment of height and the relationship and impact to adjoining neighbours. Neighbour's dwellings have not been accurately located on plans, sections and elevations, including windows and decks, to enable a full assessment of the DA. The plans and documentation are misleading as they do not clearly portray the true extent of works proposed. The plans include inaccuracies and inconsistencies and insufficient information has not been provided in order to enable a detailed assessment, including incomplete dimensional set-out and incomplete levels on drawings to define the proposed building envelope. There is incomplete analysis provided including view loss, solar loss and privacy loss. I ask Council to request that the Applicant superimpose the Registered Surveyors plan detail with all spot levels and contours onto the Roof Plan, with all proposed RLs shown, so that a full assessment can be made on HOB.

GEOTECHNICAL

Basement piling zones and drained cavities not shown on DA drawings to southern boundary.

D. DETAILED LIST OF CONDITIONS OF CONSENT

CONDITIONS OF ANY CONSENT

Deferred Commencement Conditions:

1. Complete all amendments as identified within '*Request for Amended Plans to Be Submitted To Better Address Impacts Upon Adjoining Properties'* within Executive Summary, including reductions in built form, additional privacy devices, and improved landscaping

2. Complete all amendments to achieve a reasonable view sharing

3. Complete all amendments to achieve a reasonable solar access outcome;

4. Complete all amendments to achieve a reasonable privacy outcome;

5. Complete all amendments to achieve engineering outcomes, with all conditions noted within *Impacts Upon Adjoining Properties: Engineering* to be included in Engineering Reports, or made conditions of consent.

The neighbouring properties asks for a complete set of Conditions to be included within any consent, to those Conditions outlined within Appendix A, B & C.

E. REASONS FOR REFUSAL

I ask Council to refuse the DA as the proposal is contrary to the Environmental Planning and Assessment Act:

Contentions that the application be refused as listed within this submission.

1. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of SEPP: SEPP [Housing] 2021

- Chapter 4 Design of Residential Apartment Development: ADG
- Chapter 6 Low- and mid-rise housing.

2. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of LEP:

- Aims of Plan
- Zone Objectives
- Heritage Conservation
- Earthworks
- Stormwater

3. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of DCP:

- View Sharing
- Solar Access
- Visual Bulk
- Visual Privacy
- Acoustic Privacy
- Setbacks
- Visual intrusion
- Resident and neighbour amenity
- Streetscape & Visual Impacts
- Visual character of the site and locality
- Open Space
- Geotechnical
- Stormwater
- Scenic Protection

4. Insufficient Information

- Architectural drawings: Insufficient dimensions from boundaries and levels of all proposed works
- Survey: Insufficient detail to define Neighbours windows and decks
- Failure to provide photomontages to NSWLEC Photomontage Policy standards
- Solar access diagrams: half-hourly, plan & elevation
- Privacy impact analysis: Privacy screen details
- Visual bulk analysis: montages from streetscape and rear yard of neighbours
- Basement piling zones and drained cavities not shown
- Stormwater design
- Location of all Mechanical Plant

5. The proposal is contrary to Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* in that the plans and documentation are misleading as they do not clearly portray the true extent of works proposed. The plans include inaccuracies and inconsistencies and insufficient information has been provided in order to enable a detailed assessment. Dimensions to boundaries have not been shown in all locations of all proposed built elements. Levels on all proposed works have not been shown.
6. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
7. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
8. The proposal is not considered suitable for the site in its current form pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
9. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*. The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest. The proposed development will have a detrimental impact on the amenity of adjoining residential properties, and for this reason is contrary to the public interest.

F. CONCLUSION

The proposed development is not consistent with the intent of the controls as they are reasonably applied to the proposal.

The variations to DCP controls are considered unreasonable in this instance. The cumulative effect on these non-compliances causes considerable amenity loss to the neighbour's property.

The development will not sit well within the streetscape with non-compliance to DCP controls causing considerable concern. In this regard, the proposal is considered excessive in bulk and scale and would be considered jarring when viewed from the public domain.

Commissioner Moore revised the NSWLEC planning principle for assessing impacts on neighbouring properties within Davies v Penrith City Council [2013] NSWLEC 1141

"The following questions are relevant to the assessment of impacts on neighbouring properties:

- *How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*
- *How reasonable is the proposal causing the impact?*
- *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*
- *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*
- *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?"*

I contend that the proposed development severely impacts the neighbour's property, and in terms of amenity, there is excessive sunlight, view or privacy loss. The loss is unreasonable. Neighbours' property is not vulnerable to the loss that is presented. The loss arises out of poor design, either through non-compliance to envelope controls or poorly located built form.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this DA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development.
- The proposed development is incompatible with the existing streetscape and development in the local area generally.
- The proposed development will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties.
- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements.

It is considered that the public interest is not served.

The proposed development does not follow the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are multiple matters which would prevent Council from granting consent to this proposal in this instance.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts all of which would result in adverse impacts on the neighbour's property. Primarily,

- The development compromises amenity impacts on neighbours
- The development does not minimise visual impact

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

- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the DCP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the EPAA1979

The proposed development does not satisfy the appropriate controls. Furthermore, the proposal would result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community, and is therefore not in the public interest. The proposal therefore must be refused. It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have not been satisfactorily addressed.

I ask that if Council in their assessment of this application reveals unsupported issues, which prevent Council from supporting the proposal in its current form, and writes to the Applicant describing these matters, I ask for that letter to be forwarded to me.

I trust that Council will support this neighbour's submission and direct the proponent to modify the DA plans, as outlined above. I ask Council Officers to inspect the development site from neighbour's property so that Council can fully assess the DA.

It is requested that Council inform us, of any amended plans, updates or Panel meeting dates.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, I ask Council to REFUSE this DA.

Yours faithfully,

Bill Tulloch

Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA Assoc RAIA
Director
DA Objection Pty Ltd
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APPENDIX A

Conditions which must be satisfied prior to the demolition of any building or construction

- Acoustic Certification of Mechanical Plant and Equipment
- Arborists Documentation and Compliance Checklist
- BASIX Commitments
- Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water
- Construction Certificate Required Prior to Any Demolition
- Electric vehicle circuitry and electric vehicle charging point requirements
- Engineer Certification
- Establishment of Tree Protection Zone (TPZ) Fence
- Geotechnical and Hydrogeological Design, Certification and Monitoring
- Ground Anchors
- Identification of Hazardous Material
- Light and Ventilation
- No Underpinning works
- Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant
- Parking Facilities
- Payment of Long Service Levy, Security, Contributions and Fees
- Professional Engineering Details
- Public Road Assets Prior to Any Work/Demolition
- Road and Public Domain Works
- Soil and Water Management Plan – Submission and Approval
- Stormwater Management Plan
- Tree Management Plan
- Ventilation - Internal Sanitary Rooms
- Utility Services Generally
- Waste Storage – Per Single Dwelling
- Noise Control - Swimming pool/spa pool pumps and associated equipment [if consented]
- Swimming and Spa Pools – Backwash [if consented]
- Swimming and Spa Pools – Child Resistant Barriers [if consented]

Conditions which must be satisfied prior to the commencement of any development work

- AC Units be to located away from the neighbouring property.
- All Solar Panels and PV systems are to be treated with antireflective glass. Solar glass is to be stippled and light-trapping, with photon-absorbent solar cell attached to the rear side. Angle of reflectivity to neighbours must be considered within final detailed design at construction certificate stage, considering the view from neighbours to the subject site.
- Adjoining Buildings Founded on Loose Foundation Materials
- Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principle Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)
- Compliance with Building Code of Australia and insurance requirements
- Dilapidation Reports for Existing Buildings: A photographic survey and dilapidation report of adjoining property detailing the physical condition of the property, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of any Construction Certificate.
- Geotechnical Report: Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following: a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum; b) the appropriate means of

excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended; c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site); d) the existing groundwater levels in relation to the basement structure, where influenced; e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered, there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages. The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydrogeological engineer with previous experience in such investigations and reporting. It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows: a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure; b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure; c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure; d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development; e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage. The report, satisfying the requirements of this condition, must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

- Erosion and Sediment Controls – Installation
- Establishment of Boundary Location, Building Location and Datum
- Home Building Act 1989
- Notification of Home Building Act 1989 requirements
- Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection
- Site Signs
- Engineer's Certification of Plans
- Structural adequacy & Excavation work
- Toilet Facilities
- Works (Construction) Zone – Approval and Implementation
- Sites in the vicinity of a heritage item. A protection strategy for the duration of the construction works, is to be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate. The Strategy is to detail how the proposed works will ensure that the adjoining dwellings are to be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water runoff, vibration or structural disturbance or damage.
- Demolition, excavation and construction noise and vibration management plan. A site-specific noise management plan must be submitted to the council for comment and approval prior to issue of any construction certificate.

- Landscape of the site. a landscape design documentation package and technical specification for construction by a registered landscape architect, must be submitted to and approved by council's area coordinator planning assessments / area planning manager prior to the issue of a construction certificate.
- Reflectivity. Prior to issue of the Construction Certificate the Registered Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.
- Notification of excavation works or use of high noise emission appliances/plant. The immediately adjoining neighbours must be given a minimum of 48 hours' notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

Conditions which must be satisfied during any development work

- Asbestos Removal Signage
- Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- Survey. All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work. Reason To ensure the development does not encroach onto neighbouring properties.
- Classification of Hazardous Waste
- Compliance with Australian Standard for Demolition
- Compliance with BCA and Insurance Requirements under the Home Building Act 1989
- Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works,
- Compliance with Geotechnical / Hydrogeological Monitoring Program
- Road Works and, Work within the Road and Footway
- Critical Stage Inspections
- Disposal of Site Water During Construction
- Disposal of Asbestos and Hazardous Waste
- Dust Mitigation
- Erosion and Sediment Controls – Maintenance
- Footings in the vicinity of trees
- Hand excavation within tree root zones
- Hours of Work –Amenity of the Neighbourhood
- Installation of stormwater pipes and pits in the vicinity of trees
- Level changes in the vicinity of trees
- Notification of Asbestos Removal
- Maintenance of Environmental Controls
- Placement and Use of Skip Bins
- Prohibition of Burning
- Public Footpaths – Safety, Access and Maintenance
- Replacement/Supplementary trees which must be planted
- Requirement to Notify about New Evidence
- Site Cranes
- Site Waste Minimisation and Management – Construction
- Site Waste Minimisation and Management – Demolition
- Support of Adjoining Land and Buildings
- Tree Preservation
- Vibration: Monitoring Construction Vibration. Vibrations associated with demolition, excavation and construction works are limited to a tolerance of 3mm/s PPV (peak particle velocity) at the property boundaries (or at sea cliff or cliff adjacent to the subject property). Vibration monitoring equipment is to be installed by a registered Geotechnical Engineer throughout the site and along the boundaries to verify that vibration is within the limits of the maximum tolerance. The vibration monitoring equipment must include a light/alarm, so the site foreman and equipment operator are alerted to the fact that vibration limits have been exceeded. Where the vibration tolerances have been exceeded, works shall cease until a change in construction / excavation methodology are implemented to ensure compliance. It also must log and record vibrations throughout the excavation and construction works so that

compliance may be verified. Any monitoring devices are to be installed at the footing level of any adjacent structures. Reason: To restrict vibration impacts.

Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

- Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with the consent, to the satisfaction of the Principal Certifier. Reason. To ensure the constructed development complies with the approved height.
- Amenity Landscaping
- Certification of Electric Vehicle Charging System
- Commissioning and Certification of Public Infrastructure Works
- Commissioning and Certification of Systems and Works
- Occupation Certificate (section 6.9 of the *Act*)
- Letter Box
- Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters [if consented]
- Swimming Pool Fencing [if consented]

Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

- Fulfillment of BASIX Commitments – clause 154B of the Regulation
- Landscaping
- Positive Covenant and Works-As-Executed Certification of Stormwater Systems
- Removal of Ancillary Works and Structures
- Road Works (including footpaths)
- Compliance with the acoustic report prior to construction and or occupation certificates

Conditions which must be satisfied during the ongoing use of the development

- Maintenance of BASIX Commitments
- Noise Control
- Noise from mechanical plant and equipment, including swimming pool plant
- Ongoing Maintenance of the Onsite Stormwater Detention (OSD) System, Rain Garden and Rainwater Tank
- Outdoor Lighting – Residential
- Outdoor Lighting – Roof Terraces [if consented]
- Swimming and Spa Pools – Maintenance [if consented]

Advising

- Asbestos Removal, Repair or Disturbance
- Builder's Licences and Owner-builders Permits
- Building Standards - Guide to Standards and Tolerances
- Commonwealth Disability Discrimination Act 1992
- Criminal Offences – Breach of Development Consent and Environmental Laws
- Dial Before You Dig
- Dilapidation Report
- Dividing Fences
- Lead Paint
- NSW Police Service and Road Closures
- Pruning or Removing a Tree Growing on Private Property
- Recycling of Demolition and Building Material
- Release of Security
- Roads Act 1993 Application
- SafeWork NSW Requirements
- Workcover requirements

APPENDIX B

Prior to issuing the construction certificate a Construction Methodology Report (CMR) must be prepared and submitted for the review and approval of the Council

Prior to issuing the construction certificate a Construction Methodology Report (CMR) must be prepared and submitted for the review and approval of the Council

i. The CMR must be prepared or reviewed by a senior Geotechnical Engineer/Engineering Geologist and Structural Engineer (CP Eng or equivalent and with at least 10 years relevant experience).

ii. The CMR must include a review of, but not be limited to, the full detailed design including the temporary and permanent excavation, shoring support systems, dewatering (if applicable), footing design, earthworks, drainage, pavements and any other relevant items.

iii. The CMR must include a review of the geotechnical report and advise on the need of any further assessment work such as additional geotechnical investigation, groundwater monitoring, further assessment of the stability of the slope or cliff line. The CMR must be followed in its entirety unless otherwise agreed by the authors of the CMR (or their organisation).

iv. The CMR must include the methodology to be adopted in undertaking excavation, measures to reduce vibrations, shoring works and measures to maintain the stability of the neighbouring structures and the slope.

v. The CMR must include an appropriate monitoring plan to confirm that ground surface movement on the site boundaries (and beyond) including Wilga Street Reserve and deflections of shoring systems fall within acceptable limits and identify hold points and contingency plans for any exceedances.

vi. The CMR must include proposed excavation techniques to be undertaken to reduce vibrations and prepare a Vibration Monitoring Plan which identifies hold points and contingency plans for any exceedances. The vibration monitoring must ensure that the peak vibration velocity (Vi, max) or Maximum Peak Particle Velocity falls within 'safe' limits as defined in the German Standard DIN 4150-3, dated 2016: Structural vibration – Part 3: Effects of vibration on structures.

vii. The CMR must include a statement confirming that the proposed development is suitable for the site and will maintain the stability of the site, any slopes or cliff lines and the neighbouring buildings and structures.

viii. The CMR must be submitted to the Principle Certifying Authority and Council for review and approval. The approved CMR is to be submitted to Council's Infrastructure Services Department for records.

(d) Where groundwater is encountered and dewatering is expected to be required, prior to issuing the construction certificate a hydrogeological investigation must be carried out that includes a minimum of three wells to be installed for future groundwater monitoring purposes in accordance with the NSW Department of Planning, Industry and Environments (DPIE) document: 'Minimum Requirements for Building Site Groundwater Investigations and Reporting', dated October 2022 (or the current revised version).

(e) The groundwater investigation, monitoring, inflow (seepage) analysis and reporting must be in accordance with the NSW Department of Planning, Industry and Environments document, Titled 'Minimum Requirements for Building Site Groundwater Investigations and Reporting', dated October 2022, or the most recent version. Groundwater level monitoring must be carried out for a minimum of three months as required by DPIE/WaterNSW requirements.

(f) In accordance with DPIE/WaterNSW requirements, where the seepage analysis demonstrates a seepage volume of less than 3ML/year then only a Water Supply Works approval must be obtained, unless otherwise directed by DPIE/WaterNSW. Where the seepage analysis demonstrates a seepage volume in excess of 3ML/year then a Water Access Licence (WAL) will also need to be obtained from WaterNSW. This is likely to require the purchase of 'water shares' in accordance with DPIE/WaterNSW requirements.

(g) Prior to the issue of any Construction Certificate, if required based on items d and e, an application pursuant to the Water Management Act 2000 shall be made with WaterNSW to obtain Water Supply Works (WSW) approval. A copy of the aforementioned approval must be submitted to Waverley Council or details confirming (by WaterNSW) why a WSW is not required.

(h) During the bulk excavation stages, a qualified supervising engineer will be required to be present on site from time to time. A daily log is to be kept on site and submitted to the Principle Certifying Authority (PCA).

(i) Inspections of any unsupported vertical excavations into bedrock are required by a qualified geotechnical engineer/engineering geologist (tertiary qualified with at least 5 years relevant experience) and must be completed in accordance with the Monitoring Program detailed in the CMR.
Inspections must be completed or reviewed by a qualified geotechnical engineer/engineering geologist (as defined in 'g' above) during shoring works to confirm socket requirements below the bulk excavation level have been achieved for the shoring and during the excavation/drilling of high level footings/pile footings to confirm that the foundation materials are in accordance with the requirements of the structural drawings and/or geotechnical report, as applicable.

Conditions of consent to cover the following matters:

DILAPIDATION REPORT – COUNCIL ASSETS

To assist with an assessment of claims for the refund of the security deposit over Council's property, a dilapidation report must be submitted to Council. The report must document and provide photographs and defect descriptions that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development. The defect descriptions must describe the location, length, width shape etc of the defect. Any damage not shown in this report will be taken to have been caused
as a result of the site works undertaken, unless an alternative cause can be identified. Any damage must either be rectified at the Applicant's expense or deducted from the security deposit. The Dilapidation Report must be carried out prior to the issue of the Construction Certificate. The Dilapidation Reports are to be prepared by a suitably Qualified Chartered (CPEng) Professional Civil, Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER). A PDF copy of this Report must be submitted to Council as a record.

DILAPIDATION REPORT – PRIVATE ASSETS

Dilapidation Reports are to be undertaken on all the adjoining properties, and all properties within 10m of the subject site boundary. The report shall document and provide photographs and defect descriptions that clearly depict any existing damage. The defect descriptions shall describe the location, length, width, shape etc of the defect. Any damage not shown in these reports will be taken to have been caused as a result of the site works undertaken, unless an alternative cause can be identified. The Dilapidation Reports shall be carried out prior to the issue of the Construction Certificate. The Dilapidation Reports are to be prepared by a suitably Qualified Chartered (CPEng) Professional

Civil, Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER). A copy of the relevant reports shall be submitted to the owners of all properties inspected and to Council as a record. Where two documented attempts have been made to gain access to a property and the owner has failed to respond, this is considered to represent refusal of access by the owner. If an owner refuses access, or is deemed to refuse access for the purposes of this condition, this condition is deemed to be satisfied in respect of that property. Condition reason: Protection of adjoining properties.

VIBRATION LIMIT THRESHOLD

The vibration limit threshold for older dwellings greater than 50yo and heritage items is to be 3mm/s Peak Particle Velocity unless alternative thresholds can be demonstrated following completion of dilapidation reports and assessment of vibration analysis. The vibration limit threshold for all other residential dwellings around the remainder of the site shall be 5mm/s Peak Particle Velocity.

SUPPORT AND PROTECTION FOR ADJOINING BUILDINGS

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent shall, at the person's own expense, comply with the requirements of clause 74 of the Environmental Planning and Assessment Regulation 2021, articulated at Condition 4(e). Details shall be submitted to the Certifier prior to the issue of a Construction Certificate.

NUMERICAL ANALYSIS OF PROPOSED RETENTION SYSTEM

Following completion of dilapidation surveys and the Builder's Work Method Statement, if the dilapidation surveys reveal any pre-existing conditions in the adjoining buildings which are likely to be adversely impacted by predicted movements, or the Builder's work methodology assessed is different from methodologies assessed in the geotechnical reports, the numerical analysis and associated documentation must be reviewed and updated, if required. The review and any further analysis must be completed by a suitably Qualified Chartered (CPEng) Professional Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER). The results of the analysis must be presented in a report and must assess the potential impact of the proposed development on adjoining structures and demonstrate the suitability of the proposed retention system and construction sequencing.
The numerical analysis and report must be carried out prior to the issue of the Construction Certificate. Condition reason: To confirm the design intent remains valid for protection of adjoining structures.

GEOTECHNICAL MONITORING AND CONTINGENCY PROGRAM

Following completion of dilapidation surveys and the Builder's Work Method Statement, if the dilapidation surveys reveal any pre-existing conditions in the adjoining buildings which are likely to be adversely impacted by predicted movements, or the Builder's work methodology assessed is different form methodologies assessed in the geotechnical reports, the Geotechnical Monitoring and Contingency Plan and associated documentation must be reviewed and updated, if required. The review and updating of the Geotechnical Monitoring and Construction Plan must be prepared by a suitably Qualified Chartered (CPEng) Professional Geotechnical Engineer who is registered on the National Engineers Register (NER). The results of the review must be presented in an updated report and take account of dilapidation survey and the Builders Work Method Statement. The review of the Geotechnical Monitoring and Construction Plan must be carried out prior to the issue of the Construction Certificate.

The Geotechnical Monitoring & Contingency Plan, must include full details relating to: geotechnical monitoring; monitoring requirements: inclinometer & vibration; dilapidation surveys; vibration monitoring; vibration limits; proposed monitoring locations; vibration monitoring instrumentation; monitoring frequency; work procedure; temporary embankment earthworks; geotechnical inspection and testing authority; inspection and approval of material to be placed; observation of the placement of engineered fill; placement of geogrids; gita reporting requirements; perimeter shoring pile walls; excavation; installation of slabs; groundwater; behind wall services; visual monitoring of road pavements and stormwater drains; monitoring of induced movements; footings.

The Implementation Plan, must include full details relating to: Monitoring program including various pre-set acceptable limits, location and type of monitoring systems and recommended hold points;

Contingency Plan including details of measures to be adopted to restore groundwater level or to provide any necessary additional support; Construction Methodology to address all aspects of the construction process relating to the geotechnical and hydrogeological requirements. This includes: A design statement and supporting drawings that shows the design measures proposed to minimise risks and to ensure that no adverse impacts will occur; Structural report of the proposed support and retention measures that confirms the structural adequacy of any adjacent structure including any necessary additional support for the structure; All the above reports shall be prepared by a suitably qualified and experienced structural engineer based on the findings of the geotechnical investigation report. In summary, the reports shall include the following details: Location of nearby foundations/footings (site and neighbouring properties) including any existing boundary walls and structures - the engineer must provide design solutions showing that the footings of all existing structures will not be disturbed or undermined by the proposed excavation; Recommendations on methods of excavation and appropriate construction techniques, to ameliorate any potential adverse impacts to adjoining properties;
Recommendations as to appropriate temporary and permanent site support and retention measures – all support and retention measures shall be wholly located within the subject site; Prediction of ground settlements in areas adjacent to the development site resulting from temporary and permanent site support and retention measures – the engineer shall demonstrate that the proposed settlement will have no adverse impact on the surrounding properties and infrastructure; Prediction of potential vibration caused by methods of excavation and recommendations on appropriate plant, equipment and construction methods to limit vibration; Permanent earth or rock anchors will not be consented by the neighbouring properties on or below their property; Method and rate of dewatering where required; Certification to confirm that the structural adequacy of all adjoining structures will not be adversely affected and compromised; Should underpinning works be determined to be carried out to the footing of any neighbouring structures including any boundary walls, details and procedures of such underpinning works shall be included in the reports. In addition, written owner consent from the adjoining property owners is also required to be submitted in order for these works to be carried out; Alternatively, the structural engineer shall provide an engineering solution to preclude the necessity to underpinning works caused by the proposal and certify that underpinning works to neighbouring structures are not required.

RETENTION AND EXCAVATION METHODOLOGY

A retention and excavation methodology shall be prepared to clearly define the proposed retention and excavation techniques that will be adopted during construction. This methodology shall be prepared by the builder in conjunction with the retention and excavation contractors and shall clearly specify the proposed staging of the works and the equipment proposed to be used. This methodology shall also incorporate the requirements of the Geotechnical Monitoring and Construction Plan. The preparation of the monitoring program shall be carried out prior to the issue of the Construction Certificate. This is to confirm that the design sequencing will be adopted during construction and to manage the constructability risks associated with the construction of the retention system and the completion of excavation.

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.

CONDITIONS WHICH MUST BE SATISFIED DURING ANY DEVELOPMENT WORK

Compliance with Geotechnical Monitoring and Contingency Plan
The Geotechnical Monitoring and Contingency Plan must be complied with during construction. Amendment of the program may be made where agreed to by the author and documented by the author. If amendment is required, a copy of the amendments to the Geotechnical Monitoring and Contingency Plan shall be submitted to Council. Condition reason: To confirm that construction requirements are being met.

REVIEW OF EXCAVATION AND RETENTION METHODOLOGY

The excavation and retention methodology shall be reviewed by a suitably Qualified Chartered (CPEng) Professional Geotechnical Engineer who is registered on the National Engineers Register (NER). The review and approval of the retention and excavation methodology shall be carried out prior to the issue of the Construction Certificate. Condition reason: To confirm that the design sequencing will be adopted during construction and to manage the constructability risks associated with the construction of the retention system and the completion of excavation.

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 are to be incorporated into the construction plans. A detailed construction methodology for the retention of the southern boundary is to be included in the structural drawings. Prior to issue of the Construction Certificate, All Council Forms is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principle Certifying Authority prior to the issue of the Construction Certificate. Reason: To ensure geotechnical risk is mitigated appropriately.

COMPLIANCE WITH GEOTECHNICAL METHODOLOGY REPORT
The Geotechnical Methodology Report must be complied with during construction.
Amendment of the program may be made where agreed to by the author and documented by the author. If amendment is required, a copy of the amendments to the Geotechnical Methodology Report shall be submitted to Council (for approval prior to the works for which the amendment is proposed). Condition reason: To confirm that construction requirements are being met.

REVIEW OF EXCAVATION AND RETENTION METHODOLOGY
The excavation and retention methodology shall be reviewed by a suitably Qualified Chartered (CPEng) Professional Geotechnical Engineer who is registered on the National Engineers Register (NER). The review and approval of the retention and excavation methodology shall be carried out prior to the issue of the Construction Certificate. Condition reason: To confirm that the design sequencing will be adopted during construction and to manage the constructability risks associated with the construction of the retention system and
the completion of excavation.

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 Reports are to be incorporated into the construction plans. A detailed construction methodology for the retention of all boundaries and excavations is to be included in the structural drawings. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy
for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principle Certifying Authority prior to the issue of the Construction Certificate.
Reason: To ensure geotechnical risk is mitigated appropriately.

STRUCTURAL ADEQUACY AND EXCAVATION WORK
Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer (Qualified Chartered (CPEng) Professional Structural Engineer who is registered on the National
Engineers Register (NER). Details demonstrating compliance are to be submitted to the Principle Certifying Authority prior to the issue of the Construction Certificate.
Reason: To provide public and private safety.

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 to the Certifier.
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, unless an alternate method for temporary dewatering works is proposed that does not require

a bore license. Any bore license required to be obtained 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.

COMPLIANCE WITH MONITORING PROGRAM
The monitoring program prepared shall be complied with during construction. Amendments of the program may be made where agreed and documented by the author. Condition reason: To confirm that construction requirements are being met.

COMPLIANCE WITH RETENTION AND EXCAVATION METHODOLOGY
The retention and excavation methodology prepared to fulfil Condition 47G Retention and Excavation Methodology shall be complied with during construction. Amendment of the methodology may be made where agreed and documented by a suitably Qualified Chartered (CPEng) Professional Civil, Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER). Condition reason: To confirm that the methodology is being followed.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

HAZARDOUS BUILDING MATERIALS SURVEY
A clearance inspection and certificate are to be provided following the site building demolition and removal of all asbestos impacted fill

APPENDIX C

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 a suitably accredited person and submitted to and approved by the 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: -

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- 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".

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.

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 Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction work 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 rates 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
- 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".

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.