Suite 1 No.9 Narabang Way Belrose NSW 2085 • acn 121 577 768
t (02) 9986 2535 • f (02) 99863050 • www.bbfplanners.com.au

Boston Blyth Fleming
Town Planners

Statement of Environmental Effect

Proposed residential flat building

54 – 58 Beaconsfield Street
Newport

Statement of Environmental Effects

Proposed residential flat building

54 – 58 Beaconsfield Street, Newport

JAK Newport Pty Limited

Greg Boston
B Urb & Reg Plan (UNE) MPIA

Boston Blyth Fleming Pty Ltd
Town Planners
(ACN 121 577 768)
Suite 1/9 Narabang Way
Belrose NSW 2085
Tel: (02) 99862535

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1.0 INTRODUCTION

This document forms a component of a development application that proposes the demolition of the existing site structures and the construction of a residential flat building containing 13 x 3 bedroom apartments with basement car parking for a total of 32 vehicles comprising 27 residential spaces and 5 visitor spaces (including car wash bay). The application also proposes the implementation of an enhanced site landscape regime.

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of the site including the height, proximity and orientation of adjoining residential development, available view lines across the site and the sites interface with the adjoining R2 Low Density Residential zone.

The final design provides for a building of exceptional design quality which steps down the site in response to topography in a highly articulated and modulated building form which provides appropriate deep soil landscape opportunity around the perimeter of the site to ensure that the building sits within a landscaped setting. The development will provide diversity in housing choice on a site ideally suited to medium density housing given its R3 Medium Density Residential zoning, its immediate proximity to the Kalinya Street Local Centre and in circumstances where the desired future character statement for the Newport Locality identifies the suitability of land immediately adjoining local centres for increased residential densities.

Consideration has also been given to the matters arising from formal pre-DA discussions (PLM2023/0084) with Northern Beaches Council and its Design and Sustainability Advisory Panel (DSAP) with the final design representing a considered response to the issues raised. In this regard, the final design incorporates a single consolidated basement and adjusted driveway location to accommodate a 6 metre deep soil landscape buffer to the eastern R2 Low Density Residential zone boundary interface, perimeter deep soil landscape opportunity, roof top communal open space and enhanced internal layouts which facilitate both north and south facing private open space for all flow-through apartments.

The building façades have been articulated and modulated in both the horizontal and vertical planes to emphasise the buildings low horizontal massing and enable the development to respond to the topographical characteristics of the site. The proposed roof terraces have been designed and located with integrated perimeter landscaping to ensure that they do not contribute to unacceptable overlooking to surrounding development.

This submission demonstrates that the proposal will not give rise to inappropriate or jarring streetscape, residential amenity or broader environmental consequences. In preparation of the document consideration has been given to the following statutory planning regime:

- Environmental Planning and Assessment Act, 1979 (the Act),
- Pittwater Local Environmental Plan 2014 (PLEP),
- Pittwater 21 Development Control Plan 2011 (P21DCP),
- State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65),
- State Environmental Planning Policy (Resilience and Hazards) 2021, and
- State Environmental Planning Policy (BASIX) 2004.

Architectural drawings including floor plans, elevations and sections have been prepared in relation to the development proposed. The application is also accompanied by SEPP 65 Architectural design verification statement, boundary survey, shadow diagrams, traffic impact assessment, landscape plans, arborist report, accessibility report, geotechnical investigation report, BCA report, stormwater management plans, schedule of finishes, BASIX Certificate, waste management plan, QS report, montages and electronic model.

The proposal is permissible and generally in conformity with the development standards applicable to this form of development on this particular site and compliant with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan. The minor variation to the side boundary setback control has been acknowledged and appropriately justified having regards to the associated objectives. Such variation succeeds pursuant to section 4.15(3A) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

Whilst the proposal requires the consent authority to give favourable consideration to variations to the building height and residential density standards strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the topography of the land which makes strict compliance with the building height standard difficult to achieve whilst providing for the orderly and economic use and development of land and a contextually appropriate increase in residential density on a site ideally suited to increased residential densities and within an otherwise compliant building envelope as it relates to habitable floor space.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Act. It is considered that the application, the subject of this document succeeds on merit and is worthy of the granting of development consent.

2.0 SITE DESCRIPTION AND LOCALITY

2.1 The Site

The development site comprises the following allotments:

- Lot 7B, DP162021, 54 Beaconsfield Street,
- Lot 6, DP1096088, 56 Beaconsfield Street, and
- Lot 5B, DP158658, 58 Beaconsfield Street, Newport

The consolidated development site has a frontage to Beaconsfield Street of 62.37 m, variable depth of between 31.155 and 38.975 m and a total area of 2113.5m². The site has a cross fall of approximately 3 metres in a westerly direction and a fall of approximately 5 metres towards its street frontage. The properties contain a number of trees as detailed within the accompanying arborist report prepared by Ezigrow. An aerial location/context photograph is at Figure 1 below.

Figure 1 - Aerial location/context photograph

The subject properties are occupied by one and two-storey dwelling houses with pitched roofs and driveway access from the Beaconsfield Street frontage. The existing dwelling is to not exhibit any remarkable architectural features as depicted in the survey extract and photograph at Figures 2 and 3.

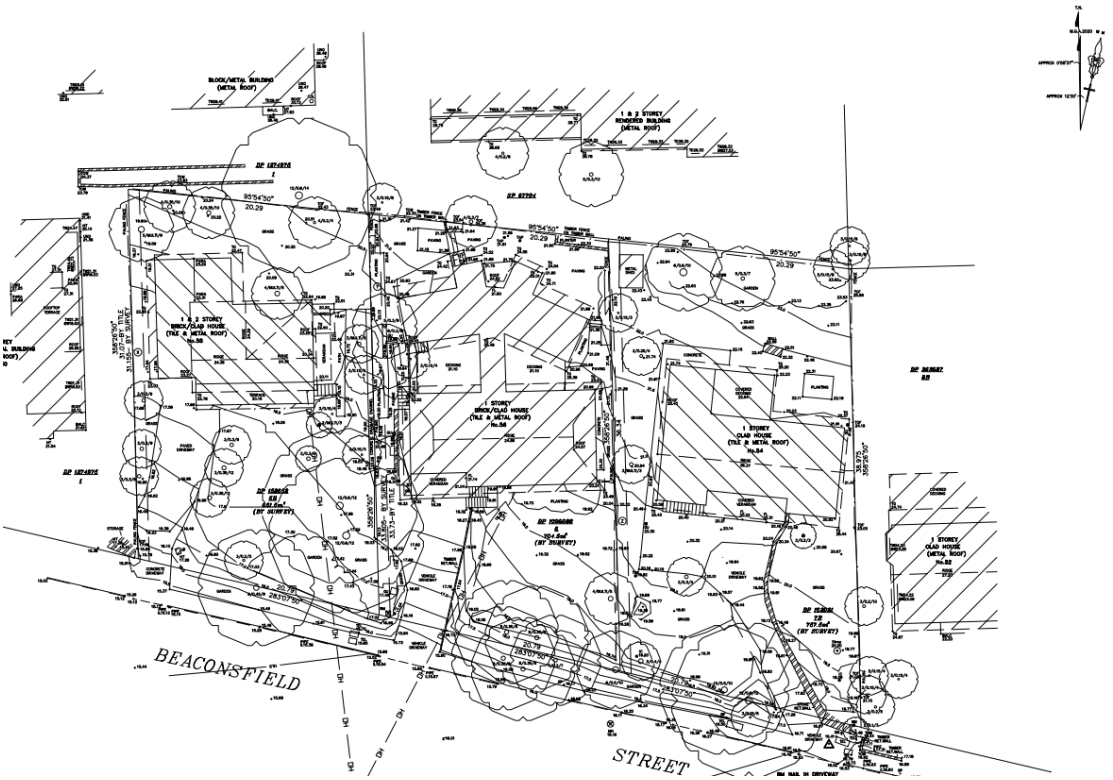

Figure 2 - Survey extract of development site

Figure 3 - Subject development site as viewed from Beaconsfield Street

2.2 The Locality

The Newport Locality was occupied by farming settlements from the early 1800s, and was a port for coastal steamers in the latter part of the nineteenth century. The Newport Hotel built in 1880 attracted visitors from Manly by coach and Sydney by steamer. As the road improved and beach holidays became popular, Newport expanded. Until the 1950s, Newport remained largely a holiday location with few permanent residents. Residential development and permanent occupation of dwellings increased from the 1950s.

Since this time, the locality has developed into a predominantly low-density residential area, with dwellings built along valley floor, plateau and slopes. The locality is characterised mainly by one and two-storey detached dwellings on 500-1,300 square metre allotments (some blocks may be smaller), increasing to 950-1,600 square metres on the plateau and slopes. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes. Medium-density housing adjoins the Newport Commercial Centre along Ocean and Foamcrest Avenues, and in pockets along Kalinya Road, Gladstone Street, Livingston Place, and Queens Parade.

The locality is serviced by the Newport Commercial Centre on Barrenjoey Road, north of Bardo Road and South of Coles Parade, and neighbourhood retail centre at Kalinya Street. The locality also contains the Newport Primary School, Newport Arms Hotel, and recreational facilities including the Newport Bowling Club and several reserves.

The eastern side of the locality is dominated by the beach and adjoining headlands, with its recreational facilities including Newport Surf Life Saving Club. Whilst the western side is dominated by the Pittwater waterway and its nautical uses. Public pedestrian access around the Pittwater frontage is difficult and should be enabled and enhanced in future developments. Houses and vegetation in the vicinity of Burke Street, Bungan Head Road, Prince Alfred Parade, Queens Parade and Myola Road, indicative of early settlement in the locality, have been identified as heritage items.

The locality is characterised by the steep slopes to the north and south, and valley floor. Due to the topography, significant views can be obtained through all points of the compass. Conversely, the slopes and ridge tops of the locality are visually prominent.

Substantial tree growth has been established, although the locality contains few natural reserves and bushland areas. The natural features of the locality result in a high risk of bushfire, landslip, flood, coastal (bluff) hazard, and estuary wave action and tidal inundation.

The major roads within the locality are Barrenjoey Road, Prince Alfred Parade, Beaconsfield Street, Irrubel Road and Myola Road. Barrenjoey Road which forms a distinct barrier between the east and western sides of the locality, is the primary access road to the northern suburbs of Pittwater. Few pedestrian/cycle links and pathways exist within the locality.

The property to the east of the subject development site is occupied by a single storey detached dwelling house located within the adjacent R2 Low Density Residential zone. The property to the west is occupied by a recently constructed four storey residential flat building with basement car parking accessed from the Beaconsfield Street frontage. This property wraps around the rear of the portion of the subject site comprising 58 Beaconsfield Street. The balance of the properties to the north are occupied by a residential flat development at 15 - 17 Queens Parade, Newport and a detached dwelling house further to the east along Queens Parade. The properties located on the southern side of Beaconsfield Street are occupied by a variety of residential building typologies and densities including detached style housing and residential flat development.

The Kallinya Street E1 Local Centre zone is located further to the west of the site with land within the zone occupied by a range of retail and business uses including The Newport Hotel and adjacent conference facilities. Regular bus services operate along Beaconsfield Street providing access to Newport Local Centre to the north and Mona Vale Town Centre to the south. Land further to the north of the subject property is located in the same are R3 Medium Density Residential zone as the subject property. The Newport Public School is located further to the east along Beaconsfield Street. The site is within immediate proximity of a plethora of open space recreational areas.

Figure 4 - Photograph of recently completed western adjoining residential flat building 60 Beaconsfield Street

Figure 5 - Photograph showing western boundary interface of the subject property with 60 Beaconsfield Street

Figure 6 - Photograph of adjoining dwelling house to the east 52 Beaconsfield Street

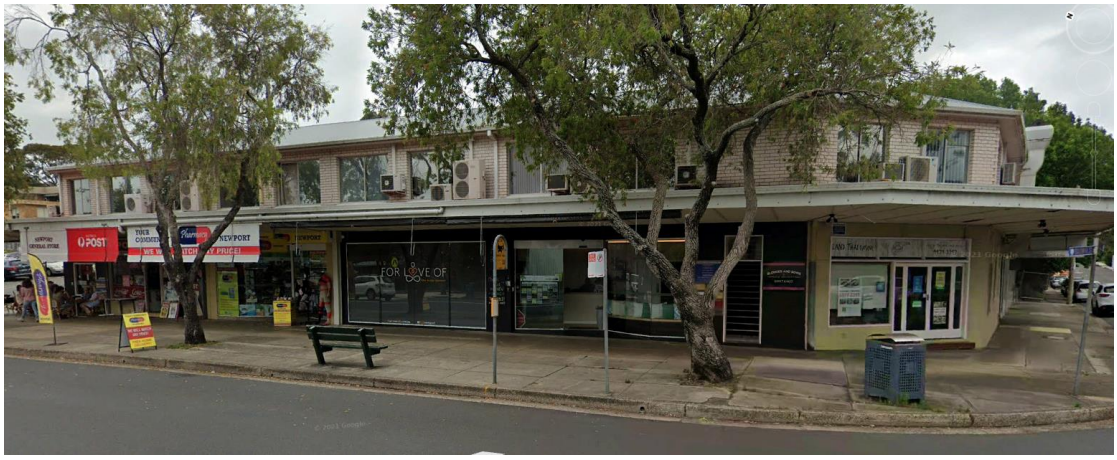

Figure 7 - Photograph of shops located on the corner of Beaconsfield Street and Kallinya Street to the west of the subject property

Figure 8 - Photograph of adjoining residential flat building to the rear of the site 60 Beaconsfield.

Figure 9 - Photograph of adjoining residential flat building to the rear of the site 15-17 Queens Parade

3.0 DEVELOPMENT PROPOSAL

The proposal involves the demolition of the existing site structures and the construction of a residential flat building containing 13 x 3 bedroom apartments with basement car parking for a total of 32 vehicles comprising 27 residential spaces and 5 visitor spaces (including car wash bay). The proposed development is depicted on the following accompanying architectural plans prepared by PBD Architects:

Drawing List

DA000	Cover Page	DA411	Photomontage
DA001	Project Information	DA500	NSA
DA002	Demolition Plan	DA510	Landscape Area
DA003	Site Analysis	DA520	Height Limit Diagram
DA004	Site Plan	DA530	Cross Ventilation Diagram
DA100	Ground Floor Plan	DA540	Private Open Spaces
DA101	First Floor Plan	DA541	Communal Open Space
DA102	Second Floor Plan	DA550	Unit Mix Diagram
DA103	Roof Plan	DA550	Excavation Diagram
DA104	Basement	DA560	Storage Calculation Diagram
DA200	Elevation Sheet 1	DA580	Site Coverage
DA201	Elevation Sheet 2	DA600	Solar Access Diagram
DA300	Section Sheet 1	DA601	Solar Access Diagram 2
DA301	Section Sheet 2	DA610	Shadow Diagram
DA302	Driveway Section	7 DA700	Adaptable Unit
DA400	Schedule of Colours and Materials		
DA410	Photomontage		

Specifically, the application provides for the following built form outcome:

Basement Plan

This floor plate contains the basement carparking for 32 vehicles comprising 27 residential spaces and 5 visitor spaces (including car wash bay and accessible space) access from the Beaconsfield Street frontage. Designated areas for residential storage, waste and bulky waste storage, bicycle parking and plant room/ service areas are also nominated.

This floor plate contains 3 x 3 bedroom courtyard apartments accessed via 2 pedestrian cores from the Beaconsfield Street frontage. All apartments have open plan kitchen living and dining areas and direct access to the south facing terraces. The eastern and western apartments are naturally cross ventilated. A large plant room is located to the rear of the eastern lobby. Lift and stair access is provided to the residential floor plates above.

A holding bin area is located immediately adjacent to the property frontage as is an integrated hydrant booster.

Level 1 and 2 Plans

These floor plates each contains 5 x 3 bedroom open plan living apartments with balconies orientated either to the street and/ or towards the rear boundary of the property. All apartments are naturally cross ventilated and benefit from large naturally lit lobbies. Lift and stair access is provided to the residential floor plates and the communal roof terrace.

Whilst the proposal requires the removal of a number of trees as detailed within the accompanying arborist report such tree removal is reasonably anticipated given the R3 Medium Density Residential zoning of the land and their location relative to a logical building footprint. Such tree loss is appropriately compensated for through the implementation of the enhanced site landscape regime as depicted on the accompanying landscape plans prepared by Wyer and Co. These landscape plans incorporate both deep soil and on slab landscape treatments which will soften and screen the development as viewed in the round and ensure that the building sits within a landscaped setting.

All stormwater will be collected and disposed of directly into the existing stormwater pit located adjacent to the site in Beaconsfield Street noting that a number of easements to drain stormwater benefiting properties to the north of the site will be consolidated and redirected to the western boundary of the property to facilitate the development of the land as depicted on the accompanying stormwater management plans prepared by Goldfish and Bay.

The acceptability of the proposed excavation is detailed in the accompanying geotechnical investigation prepared by EI Australia with the extent of excavation deemed acceptable subject to the imposition of standard conditions regarding construction management. Finally, the acceptability of the car parking design arrangement and the development's level of accessibility are detailed in the accompanying Traffic and Parking Assessment Report prepared by Genesis Traffic and the Access Design Assessment Report prepared by Accessibility Building Solutions.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Pittwater Local Environmental Plan 2014

4.1.1 Zone and Zone Objectives

The subject property is zoned R3 Medium Density Residential pursuant to the provisions of PLEP 2014 with residential flat buildings permissible with consent in the zone. The zone objectives are as follows:

- *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.*

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

- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

The residential flat building is defined as follows:

> ***residential flat building*** *means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.*

The application proposes the construction of 13 residential apartments with the resultant building appropriately defined as a residential flat building and therefore permissible with consent in the zone.

The development will provide for the housing needs of the community within a medium density residential environment and to that extent is consistent with the zone objectives as outlined. Accordingly, there is no statutory impediment to the granting of consent.

4.1.2 Height of buildings

Pursuant to clause 4.3 PLEP 2014 the height of any building on the land shall not exceed 8.5 metres above existing ground level. The stated objectives of this clause are as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

(c) to minimise any overshadowing of neighbouring properties,

(d) to allow for the reasonable sharing of views,

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The dictionary to the LEP defines building height to mean:

> ***building height*** (or ***height of building***) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

We note that Council has recently adopted the interpretation of ground level (existing) as that established in the matter of *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582* where at paragraphs 73 and 74 O'Neill C found:

> *73. The existing level of the site at a point beneath the existing building is the level of the land at that point. I agree with Mr McIntyre that the ground level (existing) within the footprint of the existing building is the extant excavated ground level on the site and the proposal exceeds the height of buildings development standard in those locations where the vertical distance, measured from the excavated ground level within the footprint of the existing building, to the highest point of the proposal directly above, is greater than 10.5m. The maximum exceedance is 2.01m at the north-eastern corner of the Level 3 balcony awning.*

> *74. The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014.*

In this regard, it has been determined that all habitable floor space and roof forms sit comfortably below the 8.5 metre building height standard with the building height breaching elements confined to the upper portion of the eastern and western lift structures and associated overruns. The lifts have been extended to roof level to provide disabled access to the proposed roof top communal open space.

Architectural plan DA520 confirms that the western lift overrun breaches the height standard by between 620mm and 1.315 metres (15.4%) whilst the eastern lift overrun breaches the height standard by between 1.160 metres and 1.5 metres (17.6%). A plan extract is at Figure 10 below.

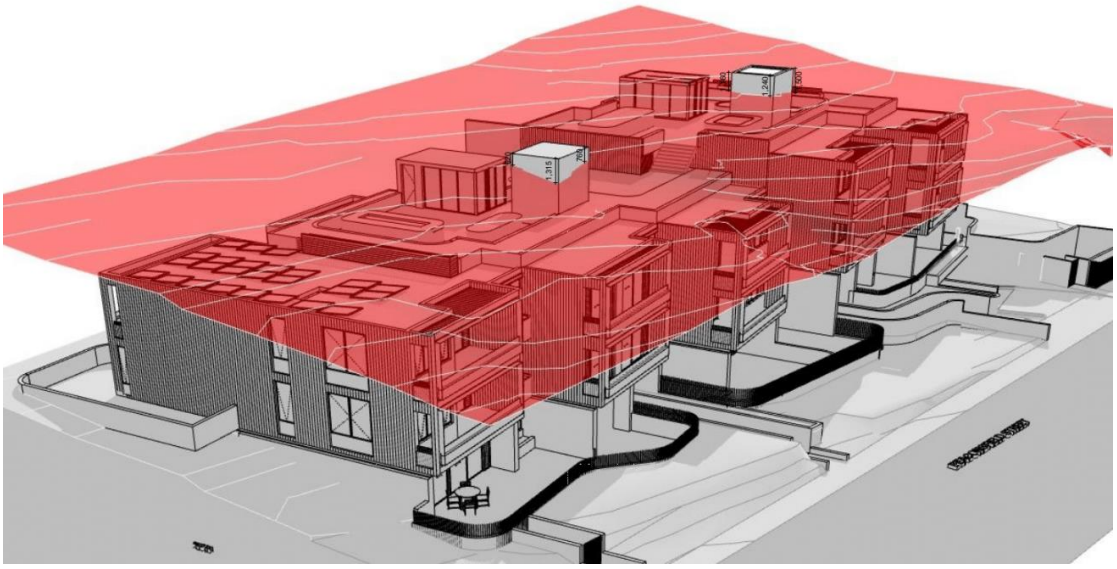

Figure 10 - Plan extract showing 8.5 metre building height standard breaching elements.

Clause 4.6 of PLEP 2014 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Having regard to these provisions, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the ability to satisfy the objectives of the zone and the objectives of the development standard. Sufficient environmental planning grounds exist to support the variation proposed, as outlined in the accompanying clause 4.6 variation request at **ANNEXURE 1**.

4.1.3 Density controls for certain residential accommodation

Pursuant to clause 4.5A(2) of PLEP 2014 for a residential flat building on land zoned R3 Medium Density Residential unless the development complies with a maximum dwelling density of 1 dwelling per 200m² of site area. The stated objectives of this control are as follows:

(a) to achieve planned residential density in certain zones,

(b) to ensure building density is consistent with the desired character of the locality.

The subject property has a site area of 2113.5m² and accordingly a maximum residential dwelling density of 10.56 dwellings, rounded up to 11 dwellings, is allowable for development on the land. The application proposes the construction of 13 dwellings which represents a dwelling density of 1 dwelling per 162.57m² of site area representing a variation to the dwelling density standard of 37.43m² per dwelling or 18.7%.

Again, clause 4.6 of PLEP provides a mechanism by which a development standard can be varied with a clause 4.6 variation request in relation to this standard attached at **ANNEXURE 2**.

We consider the clause 4.6 variation to be well founded as it has been demonstrated that the proposal is consistent with the zone objectives and consistent with the objectives of the standard and therefore strict compliance is both unreasonable and unnecessary under the circumstances. Further, the clause 4.6 variation request demonstrates that there are sufficient environmental planning grounds to justify the variation sought.

4.1.4 Acid Sulfate Soils

Pursuant to clause 7.1 PLEP 2014 the site is mapped Acid Sulphate Soil Class 5. In accordance with the considerations at clause 7.1(2) PLEP as the proposed works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land no further investigation is warranted in this instance.

4.1.5 Earthworks

In accordance with the clause 7.2 PLEP 2014 the application is accompanied by a Geotechnical Investigation prepared by EI Australia which assessed the acceptability of the earthworks proposed. Such report contains a number of recommendations which are to be complied with through the construction process and no objection is raised to an appropriately worded condition in this regard.

We consider that this report demonstrates compliance with the 7.2 PLEP 2014 provision.

4.2 Pittwater 21 Development Control Plan

This policy document came into effect on 1st February 2004. Pittwater 21 DCP contains development controls for the design and construction of buildings and the development of land in Pittwater. The proposed development has been assessed against the relevant provisions of Pittwater 21 DCP as outlined in the following sections of this report.

4.2.1 Newport Locality

The property is located within the Newport Locality. The desired future character of the locality is identified as being:

> *The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Secondary Dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations.*
>
> *Any dual occupancy dwellings will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any multi unit housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.*
>
> *Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*
>
> *Future development will maintain a height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.*

> *A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*
>
> *Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*
>
> *Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.*
>
> *Newport's coastal setting is what contributes most to the distinctive character of the commercial centre. Responsive, energy efficient buildings will support and enhance this relaxed, beachfront character and its outdoor lifestyle, contributing to a unique sense of place. Contemporary design solutions within the commercial centre will respond to Newport's climate and setting, including providing shade and shelter to streets and entries, generous private outdoor spaces, openings that capture ocean breezes, and shade elements.*

In accordance with the Newport desired future character statement the building, with the exception of the lift breaching elements, is compliant with the 8.5 metre height of buildings development standard. The building façades have been articulated and modulated in both the horizontal and vertical planes to emphasise the buildings low horizontal massing and enable the development to respond to the topographical characteristics of the site. The proposed roof terraces have been designed and located with integrated perimeter landscaping to ensure that they do not contribute to unacceptable overlooking to surrounding development.

The development strikes a balance between keeping the building low into the site to reduce its visual prominence and excavation with the resultant building form and height ensuring the development will sit below the height of surrounding tree canopy level. The contemporary and highly articulated building design incorporates a palette of natural materials and finishes and substantial landscaping which will enable the development to blend into the vegetated escarpment which forms a backdrop to the site.

The proposal provides for the implementation of an enhanced site landscape regime where the building will sit within a landscaped setting. To that extent the proposed dwelling will not be perceived as inappropriate or jarring in a streetscape or suburban context.

The building has been designed to respects the natural features on the site consistent with the desired future character statement for the Newport Locality.

4.2.2 General Controls

Preservation of Trees

Whilst the proposal requires the removal of a number of trees as detailed within the accompanying arborist report such tree removal is reasonably anticipated given the R3 Medium Density Residential zoning of the land and their location relative to a logical building footprint. Such tree loss is appropriately compensated for through the implementation of the enhanced site landscape regime as depicted on the accompanying landscape plans prepared by Wyer and Co.

These landscape plans incorporate both deep soil and on slab landscape treatments which will soften and screen the development as viewed in the round and ensure that the building sits within a landscaped setting.

Stormwater Management

All stormwater will be collected and disposed of directly into the existing stormwater pit located adjacent to the site in Beaconsfield Street noting that a number of easements to drain stormwater benefiting properties to the north of the site will be consolidated and redirected to the western boundary of the property to facilitate the development of the land as depicted on the accompanying stormwater management plans prepared by Goldfish and Bay.

Off-street Vehicular Parking Requirements

The acceptability of the car parking design arrangement and the development's level of accessibility are detailed in the accompanying Traffic and Parking Assessment Report prepared by Genesis Traffic and the Access Design Assessment Report prepared by Accessibility Building Solutions. The report contains the following conclusions:

> *The traffic and parking assessment undertaken for the proposed residential development at 54-58 Beaconsfield Street, Newport has concluded that:*

- *the traffic generation of the proposed development will not present any adverse traffic implications,*

- *the proposed parking provision will comply with the Council's DCP criteria and will adequately serve the development, and*

- *the proposed access, internal circulation and parking arrangements will be appropriate to AS design criteria.*

Site Works Management

In accordance with Part B8 appropriate measures are to be undertaken to address the issues of construction and demolition impacts, erosion and sedimentation management, waste minimisation, site fencing and security, works in the public domain and traffic management where required.

Normal site management practices will be adopted to prevent public access during demolition and construction of the new building and to prevent erosion and sedimentation. As the majority of works and within the established building footprint and as the site is of adequate size, it is envisaged that all construction materials will be stored on site throughout the demolition and construction processes.

4.2.3 Development Type Controls

Design Criteria for Residential Development

Landscaping

Pursuant to clause C1.1 all canopy trees and a majority of other vegetation shall be locally native species. A range of low lying shrubs and canopy trees shall be provided to soften the built form. Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and natural features such as rock outcrops.

As previously indicated, the proposal requires the removal of a number of trees as detailed within the accompanying arborist report such tree removal is reasonably anticipated given the R3 Medium Density Residential zoning of the land and their location relative to a logical building footprint. Such tree loss is appropriately compensated for through the implementation of the enhanced site landscape regime as depicted on the accompanying landscape plans prepared by Wyer and Co.

These landscape plans incorporate both deep soil and on slab landscape treatments which will soften and screen the development as viewed in the round and ensure that the building sits within a landscaped setting.

Safety and Security

In accordance with clause C1.2 building design should allow visitors who approach the front door to be seen without the need to open the door. Buildings and the public domain are to be designed to allow occupants to overlook public places and communal areas to maximise casual surveillance. Building entrances are to be clearly visible from the street, easily identifiable and appropriately lit.

The proposed residential flat building has been designed such that the main entrances are well defined and clearly visible from the street with casual surveillance opportunities to the adjacent public domain available from the street facing apartments.

View Sharing

Having inspected the site and its immediate surrounds, and noting that generally compliant building height proposed, we have formed the considered opinion that the proposed development will not give rise to unacceptable view impacts to surrounding properties.

Council can be satisfied that a view sharing outcome is achieved in accordance with the view sharing principles established in the matter of Tenacity Consulting Pty Ltd v Warringah Council [2004] NSWLEC140.

Solar Access

The accompanying shadow diagrams demonstrate that the proposed development will not cast any shadowing on the adjoining property to the north and will maintain well in excess of 2 hours of solar access to the apartments and associated private open space located to the west of the subject site between 10am and 12 noon on 21st June.

Whilst the proposal will cast additional shadowing onto the front yard of the eastern adjoining property at 3:00pm the north facing principal living areas and adjacent rear open space will continue to receive well in excess of 3 hours of solar access between 9am and 3pm on 21st June.

Accordingly, the proposed development maintains appropriate solar access to surrounding development in accordance with the DCP provision.

Visual Privacy

Pursuant to clause C1.5 private open space, recreation areas and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation. Elevated decks, verandas and balconies should incorporate privacy screens where necessary and should, where possible, be located at the front or rear of the building. Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The development has been carefully designed to limit side boundary facing fenestration with primary living room windows and associated balconies/terraces orientated to the front and rear of the property to prevent direct overlooking opportunities into adjoining properties. Where side boundary facing windows and balcony elements are proposed, integrated privacy attenuation measures have been provided or setbacks increased well beyond the minimum setbacks required by the DCP. Such design response coupled with the integrated landscape design proposed provides appropriately for privacy between adjoining development.

Potential visual privacy impacts from the use of the roof top communal open space areas have been addressed through the centralisation of the trafficable areas and the provision of integrated perimeter landscaping to prevent downward views into adjoining properties. Where horizontal viewing will occur the spatial separation afforded is well in excess of that anticipated through strict compliance with the ADG such that a reasonable level of visual privacy is maintained between all surrounding development.

In this regard, we have formed the considered opinion that the development provides for the retention of an appropriate level of visual privacy consistent with that reasonably anticipated for development located in the R3 Medium Density Residential zone. The proposal maintains appropriate visual and aural privacy between adjoining development in strict accordance with the control.

4.2.4 Locality Specific Development Controls

Character as Viewed from Public Place

The three dimensional form of the proposed building, and its relationship with adjoining development, has been dictated through detailed site and view loss analysis and compliance with the applicable built for controls. The building presents as an appropriately articulated and modulated building form to the street and to that extent will not be perceived as inappropriate, jarring or antipathetic in a streetscape context or having regard to the desired future character of the Locality. The proposal integrates with the natural landform and will sit within a landscaped setting as depicted in the montage extract below.

Figure 11 - Photographic montage of the development as viewed from Beaconsfield Street.

Building Colours, Materials and Construction

The architectural form incorporates a combination of natural materials and colours ensuring the development will blend into the vegetated escarpment which forms a backdrop to the site.

Front Building Line

In accordance with clause D10.7 the minimum front building line shall be 6.5 metres or established whichever is the greater. The proposal maintains a minimum 6.5 metre front setback in strict accordance with the DCP control noting that the temporary waste collection holding area is an allowable encroachments within the front setback.

We also note that the proposed front setbacks are substantially greater than those recently approved and constructed in association with the residential flat building to the west of the site 60 Beaconsfield Street with the proposed landscaping also substantially better than the landscaping established within the front setback on this immediately adjoining property. This is depicted in Figure 12.

Figure 12 - Photograph of existing development at 60 Beaconsfield Street showing front setbacks and landscape treatments

Side and Rear Building Line

Pursuant to clause D10.8 where the wall height is more than 3 metres above ground level (existing), the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:

$$S = 3 + \frac{H - 2}{4}$$

where

S = the distance in metres
H = the height of the wall at that point measured in metres above existing ground level

The desired outcomes of these controls are to reduce the bulk and scale of the built form, maintain equitable view sharing, maintain a reasonable level of privacy, amenity and solar access and the retention and planting of additional landscaping.

The proposal provides for a 4.5 m setback to the rear boundary of the property with such setback exceeding the minimum setback control based on the wall height above ground level (existing) at the rear of the site.

The eastern façade of the development has a variable wall height of between 4.1 and 7.2 metres when measured above ground level (existing) which would require a side boundary setback of between 3.525 and 4.3 metres when calculated in accordance with the above setback formula. The proposal incorporates a variable side boundary setback of between 4.0 and 6.0 metres as depicted on the architectural plans and extract of which is over page.

In this regard, we note that a majority of the building façade maintains a side setback well in excess of the minimum required with the portion of the development located 4 metres from the property boundary characterised by blank wall which facilitates the provision of front and rear boundary facing bedroom windows. That is, the minor setback breaching elements provide for enhanced privacy outcomes between adjoining development without compromising the amenity of the proposed apartments.

Under such circumstances we are satisfied that the minor setback breaching element, being the blank wall located within 4.3 metres of the eastern boundary facilitates the provision of reasonable privacy between adjoining development without contributing unacceptably to bulk and scale, overshadowing or view impact.

The resultant side boundary setback is available for deep soil landscaping as detailed on the accompanying landscape plan. The minor setback breaching elements are more than adequately compensated for through the increased setback provided to the balance of the eastern building façade with the objectives of the side boundary setback control are achieved notwithstanding the minor variation proposed.

Figure 13 - Plan extract showing variable setback of between 4.0 and 6.0 metres to the eastern boundary.

Such variation succeeds pursuant to section 4.15(3A) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

The western façade of the development has a variable wall height of between 6.2 and 8.4 metres when measured above ground level (existing) which would require a side boundary setback of between 4.05 and 4.6 metres when calculated in accordance with the setback formula.

The proposal incorporates a setback of between 4.0 metres as depicted on the architectural plans which is considered appropriate given the juxtaposition of surrounding development and the ability to satisfy the objectives of the control. In this regard, the resultant side boundary setback is available for deep soil landscaping as detailed on the accompanying landscape plan with the setback breaching elements not giving rise to unacceptable privacy, overshadowing, bulk and scale or view impacts with the objectives of the side boundary setback control are achieved notwithstanding the variation proposed.

Again, such variation succeeds pursuant to section 4.15(3A) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

The side and rear boundary setbacks proposed respond positively to site circumstance including its geometry and context, provide for an appropriate spatial relationship between adjoining properties and achieves the desired outcomes associated with the setback control.

Building Envelope

Control D10.11 requires all development to be sited within a building envelope, which is determined by projecting planes at 45 degrees from a height of 4.2 metres above natural ground level at the side boundaries. The stated outcomes of the control are as follows:

- *To achieve the desired future character of the Locality.*
- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*
- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*
- *The bulk and scale of the built form is minimised.*
- *Equitable preservation of views and vistas to and/or from public/private places.*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*
- *Vegetation is retained and enhanced to visually reduce the built form.*

As depicted on the accompanying plan DA521 the development sits comfortably within the prescribed building envelope with an extract of the envelope compliance diagram at Figure 14.

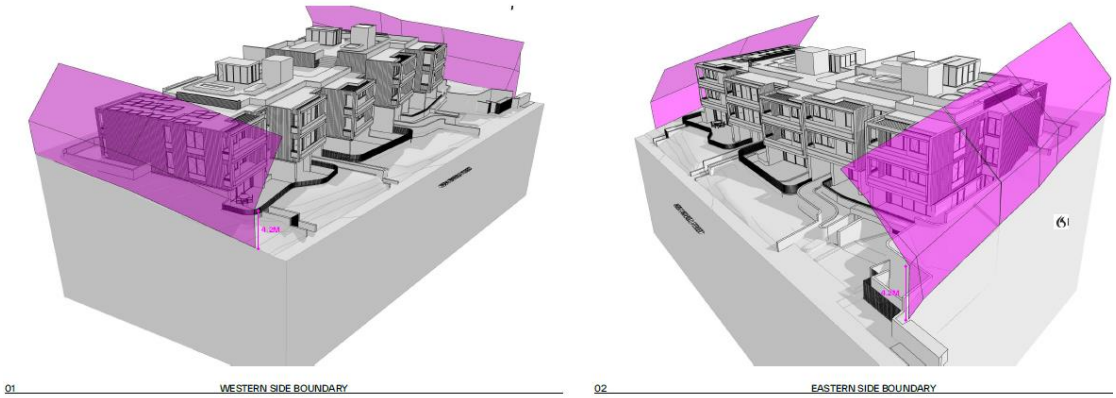

Figure 14 - Plan extract showing the developments compliance with the building envelope control

The development complies with the numerical provision and to that extent is deemed to comply with the associated objectives.

Landscaped Area

Pursuant to clause D10.12 the total landscaped area on land zoned R3 Medium Density Residential shall be 50% of the site area. Landscaped area is defined as follows:

> *Landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.*

The stated outcomes of such control are as follows:

- *Achieve the desired future character of the Locality.*
- *The bulk and scale of the built form is minimised.*
- *A reasonable level of amenity and solar access is provided and maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Conservation of natural vegetation and biodiversity.*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*
- *To preserve and enhance the rural and bushland character of the area.*
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

The applicable variation provisions state that provided the outcomes of this control are achieved, and the bulk and scale of the development is not increased, the following may be permitted:

- *Areas with soil depth greater than 800mm above built structures (excluding drainage and waterproof membranes) may be included as landscaped area. Soil depths above built structures less than this will not be included as landscaped area.*

The application is accompanied by Landscaped Calculation Plan DA510 which demonstrates that the proposal provides for a landscaped area, as defined, of 1123.3m² representing 53% of the site area in strict accordance with the control.

These landscape plans incorporate both deep soil and on slab landscape treatments which will soften and screen the development as viewed in the round and ensure that the building sits within a landscaped setting consistent with the desired future character of the Newport Locality.

4.3 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The site has been used for residential purposes for an extended period of time with no known prior land uses. In this regard, the potential for contamination is considered to be extremely unlikely.

The site is not identified as a contaminated site on the NSW EPA's list of notified sites, nor is it in the vicinity of any listed sites. The consent authority can be satisfied that the subject site is suitable for the proposed development.

As such, the proposed development is consistent with the provisions of Chapter 4 of this policy.

4.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential flat developments to provide sustainable housing in social and environmental terms that is a long-term asset to the community and presents a better built form within the streetscape.

It also aims to better provide for a range of residents, provide safety, amenity and satisfy ecologically sustainable development principles. In order to satisfy these aims the plan sets design principles in relation to context, scale, built form, density, resources, energy and water efficiency, landscaping, amenity, safety and security, social dimensions and aesthetics to improve the design quality of residential flat building in the State.

SEPP 65 applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

> *"Residential flat building means a building that comprises or includes:*
>
> *a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
>
> *b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."*

The proposed development is for the erection of a part 2/part 3 storey building, as defined, containing 9 dwellings. As per the definition of a 'Residential Flat Building' and the provisions of Clause 4 outlining the application of the Policy, the provisions of SEPP 65 are applicable to the proposed development.

Clause 28(2)(b) SEPP 65 requires any development application for residential flat development to be assessed against the 9 design quality principles contained in Schedule 1. The proposal's compliance with the design quality principles is detailed in the accompanying Architect Design Verification Statement.

Pursuant to clause 28(2)(c) of SEPP 65 in determining a development application for consent to carry out residential flat development the consent authority is required to take into consideration the Apartment Design Guide. In this regard an Apartment Design Guide compliance table is attached to the accompanying Architect Design Verification Statement.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

4.6 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the Act.

The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.

The proposal is permissible and generally in conformity with the development standards applicable to this form of development on this particular site and compliant with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan.

Whilst the proposal requires the consent authority to give favourable consideration to variations to the building height and residential density standards strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the topography of the land which makes strict compliance with the building height standard difficult to achieve whilst providing for the orderly and economic use and development of land and an increase in the residential density standard on a site ideally suited to increased residential densities given its proximity to the Kalinya Street Local Centre, Newport Town Centre and available public transport.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Context and Setting

i) What is the relationship to the region and local context on terms of:

- *the scenic qualities and features of the landscape?*
- *the character and amenity of the locality and streetscape?*
- *the scale, bulk, height, mass, form, character, density and design of development in the locality?*
- *the previous and existing land uses and activities in the locality?*

These matters have been discussed in detail in the body of the report.

ii) What are the potential impacts on adjacent properties in terms of:

- *relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)?*
- *visual and acoustic privacy?*
- *views and vistas?*
- *edge conditions such as boundary treatments and fencing?*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be acceptable and within the scope of the built form controls.

Access, transport and traffic

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *travel demand?*
- *dependency on motor vehicles?*
- *traffic generation and the capacity of the local and arterial road network?*
- *public transport availability and use (including freight rail where relevant)?*
- *conflicts within and between transport modes?*
- *traffic management schemes?*
- *vehicular parking spaces?*

These issues have been discussed in detail in the report. It has been determined that the development provides adequate carparking facilities and will not significantly increase traffic generation.

Public domain

The proposed development will have no additional impact on the public domain (ie roads, parks etc.).

Utilities

This matter has been discussed in detail in the body of this report.

Flora and fauna

These issues have been discussed in detail in the body of the report. The landscape concept plans accompanying this application proposes additional planting and landscaping treatments which will maintain the landscape quality of the site and locality generally.

Waste

Normal domestic waste collection applies to this development with a waste collection area provided within 6 metres of the Beaconsfield Street frontage to facilitate Council waste collection as detailed within the accompanying waste management plan prepared by Elephants Foot Consulting.

Natural hazards

The proposal will be safe from hazards.

Economic impact in the locality

The proposed development will not have any significant impact on economic factors within the area other than short term employment opportunities during construction.

Site design and internal design

i) Is the development design sensitive to environmental conditions and site attributes including:

- *size, shape and design of allotments?*
- *the proportion of site covered by buildings?*
- *the position of buildings?*
- *the size (bulk, height, mass), form, appearance and design of buildings?*
- *the amount, location, design, use and management of private and communal open space?*
- *landscaping?*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the policy controls.

ii) How would the development affect the health and safety of the occupants in terms of:

- *lighting, ventilation and insulation?*
- *building fire risk – prevention and suppression/*
- *building materials and finishes?*
- *a common wall structure and design?*
- *access and facilities for the disabled?*
- *likely compliance with the Building Code of Australia?*

The proposed development can comply with the provisions of the Building Code of Australia as detailed in the accompanying report prepared by Steve Watson and Partners. The proposal complies with the relevant standards pertaining to health and safety.

Construction

i) What would be the impacts of construction activities in terms of:

- *the environmental planning issues listed above?*
- *site safety?*
-

The application is accompanied by a waste management plan prepared by Elephants Foot in accordance with Council requirements. We anticipate Council applying standard conditions with regards to the amelioration of construction related impacts.

The suitability of the site for the development.

Does the proposal fit in the locality?

- *are the constraints posed by adjacent developments prohibitive?*
- *would development lead to unmanageable transport demands and are there adequate transport facilities in the area?*
- *are utilities and services available to the site adequate for the development?*

The adjacent development does not impose any unusual or impossible development constraints. The site is well located with regards to public transport and utility services. The development will not cause excessive or unmanageable levels of transport demand.

Are the site attributes conducive to development?

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed development.

Any submissions received in accordance with this Act or the regulations.

It is envisaged that the consent authority will appropriate consider any submissions made in relation to the proposed development.

The public interest.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes contained within the adopted legislative framework.

The development is of a high quality architectural design that provides a positive contribution to the streetscape and is compatible with the form and character established by development within the sites visual catchment. For these reasons the development is considered to be in the public interest.

5.0 CONCLUSIONS

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of the site including the height, proximity and orientation of adjoining residential development, available view lines across the site and the sites interface with the adjoining R2 Low Density Residential zone.

The final design provides for a building of exceptional design quality which steps down the site in response to topography in a highly articulated and modulated building form which provides appropriate deep soil landscape opportunity around the perimeter of the site to ensure that the building sits within a landscaped setting. The development will provide diversity in housing choice on a site ideally suited to medium density housing given its R3 Medium Density Residential zoning, its immediate proximity to the Kalinya Street Local Centre and in circumstances where the desired future character statement for the Newport Locality identifies the suitability of land immediately adjoining local centres for increased residential densities.

Consideration has also been given to the matters arising from formal pre-DA discussions (PLM2023/0084) with Northern Beaches Council and its Design and Sustainability Advisory Panel (DSAP) with the final design representing a considered response to the issues raised. In this regard, the final design incorporates a single consolidated basement and adjusted driveway location to accommodate a 6 metre deep soil landscape buffer to the eastern R2 Low Density Residential zone boundary interface, perimeter deep soil landscape opportunity, roof top communal open space and enhanced internal layouts which facilitate both north and south facing private open space for all flow-through apartments.

The building façades have been articulated and modulated in both the horizontal and vertical planes to emphasise the buildings low horizontal massing and enable the development to respond to the topographical characteristics of the site. The proposed roof terraces have been designed and located with integrated perimeter landscaping to ensure that they do not contribute to unacceptable overlooking to surrounding development. This submission demonstrates that the proposal will not give rise to inappropriate or jarring streetscape, residential amenity or broader environmental consequences.

The proposal is permissible and generally in conformity with the development standards applicable to this form of development on this particular site and compliant with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan. The minor variation to the side boundary setback control has been acknowledged and appropriately justified having regards to the associated objectives. Such variation succeeds pursuant to section 4.15(3A) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

Whilst the proposal requires the consent authority to give favourable consideration to variations to the building height and residential density standards strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the topography of the land which makes strict compliance with the building height standard difficult to achieve whilst providing for the orderly and economic use and development of land and a contextually appropriate increase in residential density on a site ideally suited to increased residential densities and within an otherwise compliant building envelope as it relates to habitable floor space.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Act. It is considered that the application, the subject of this document succeeds on merit and is worthy of the granting of development consent.

Greg Boston
B Urb & Reg Plan (UNE) MPIA
Director

ANNEXURE 1

Clause 4.6 variation request - Height of buildings

Separately Attached

ANNEXURE 2

Clause 4.6 variation request - Density controls for certain residential accommodation residential density

Separately Attached